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For other telephone numbers, see the Reader Aids section at the end of this issue.

Contents

Federal Register

Vol. 56, No. 168

Thursday, August 29, 1991

Agency for International Development
PROPOSED RULES
Disaster relief, economic development, and other assistance; food commodities transfer for food use, 42766

Agriculture Department
See also Commodity Credit Corporation; Forest Service; Rural Electrification Administration; Soil Conservation Service
RULES
Organization, functions, and authority delegations:
Assistant Secretary for Economics et al.; agricultural statistics collection, etc., 42682
NOTICES
Agency information collection activities under OMB review, 42717

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
September; correction, 42741

Antitrust Division
NOTICES
National cooperative research notifications:
Bell Communications Research, Inc., 42757
Microelectronics & Computer Technology Corp., 42757
Open Software Foundation, Inc., 42757
PolyUrethanes Recycle & Recovery Council of Society of Plastics Industry, Inc., 42758
Portable Power Equipment Manufacturers Association, 42758
Southwest Research Institute, 42758
Spray Drift Task Force, 42759

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Coast Guard
RULES
Ports and waterways safety:
Saranac River and Lake Champlain, NY; safety zone, 42687
Regattas and marine parades:
Blackbeard Pirate Jamboree, 42687
NOTICES
Meetings:
Coast Guard Academy Advisory Committee, 42763
Oil Pollution Act of 1990; implementation, 42763

Commerce Department
See Export Administration Bureau; Foreign-Trade Zones Board; International Trade Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration

Commodity Credit Corporation
RULES
Loan and purchase programs:
Wheat, feed grains, rice, oilseeds, and farmstored peanuts price support program
Correction, 42683

Commodity Futures Trading Commission
RULES
Contract market rules; review procedure, 42683

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Indian education program—
Indian children planning, pilot, and demonstration projects and educational personnel development, 42722

Energy Department
See also Federal Energy Regulatory Commission
NOTICES
Natural gas exportation and importation:
MidCon Marketing Corp., 42728
Texaco Gas Marketing Inc., 42729

Environmental Protection Agency
RULES
Toxic substances:
Health and safety data reporting rule—
List additions, 42688
PROPOSED RULES
Toxic substances:
Significant new uses—
Carboxyl alkyl silyl salt, etc., 42714
NOTICES
Hazardous waste:
Mixed radioactive/hazardous wastes storage prohibition; enforcement policy, 42730
Toxic and hazardous substance control:
Premanufacture notices receipts, 42734
Water pollution; discharge of pollutants (NPDES):
Florida, 42735

Export Administration Bureau
RULES
Commodity control list revision, 42824

Family Support Administration
See Refugee Resettlement Office

Federal Communications Commiss
RULES
Common carrier services:
Jurisdictional separations process; direct assignme role; interpretation letter, 42706
Practice and procedure:
International Telecommunications Union (ITU) Orbital Conference (Orb–85 and Orb–88); space services and geostationary satellite orbit; Final Acts implementation, 42702

Television broadcasting:
Children's Television Act; implementation by broadcasting and cable services, 42707
NOTICES
Public safety radio communications plans:
Kansas, 42739
Applications, hearings, determinations, etc.:
Newsouth Broadcasting, Inc., et al., 42740

Federal Energy Regulatory Commission
PROPOSED RULES
Natural Gas Policy Act:
Interstate pipelines—
Sales and transportation services; mitigation measures staff paper availability, 42712
NOTICES
Environmental statements; availability, etc.:
Idaho Power Co., 42724
Southern California Edison Co., 42724
Hydroelectric applications, 42724

Federal Maritime Commission
NOTICES
Agreements filed, etc., 42740

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Marie, Murray C., 42740
West One Bancorp et al., 42741

Fish and Wildlife Service
RULES
Migratory bird hunting:
Seasons, limits, and shooting hours; establishment, etc., 42806

Food and Drug Administration
RULES
Food additives:
Adjuvants, production aids, and sanitizers—
Dimethyldialkylammonium chloride, 42685

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Texas, 42719

Forest Service
NOTICES
Environmental statements; availability, etc.:
Santa Fe National Forest, NM, 42717
Sequoia National Forest, CA, 42717

Health and Human Services Department
See Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Resources and Services Administration; Indian Health Service; Public Health Service; Refugee Resettlement Office

Health Resources and Services Administration
See also Public Health Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Family medicine—
Predoctoral training, 42741

Housing and Urban Development Department
RULES
Mortgage and loan insurance programs:
Retirement service center program termination, 42798

Indian Health Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Indian health service research program, 42743

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
RULES
Employment taxes and collection of income taxes at source:
Temporary employment tax under Interest and Dividend Tax Compliance Act; CFR correction, 42687

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
NOTICES
Antidumping and countervailing duties:
Administrative protective orders; violations sanctions, 42720
Meetings:
Automotive Parts Advisory Committee, 42720

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Norfolk & Western Railway Co., 42756

Judicial Conference of the United States
NOTICES
Meetings:
Judicial Conference Advisory Committee on—
Appellate, Civil, Criminal, and Bankruptcy Rules, 42756

Justice Department
See also Antitrust Division; Juvenile Justice and Delinquency Prevention Office
NOTICES
Pollution control; consent judgments:
BASF-Inmont Corp. et al., 42756
Taylor, Nell, et al., 42756

Juvenile Justice and Delinquency Prevention Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Missing Children's Assistance Act; program priorities, 42914

Land Management Bureau
NOTICES
Alaska Native claims selection.
Doyon, Ltd., 42751
Meetings:
Canon City District Grazing Advisory Board, 42751
Motor vehicles; off-road vehicle designations:
Montana, 42751
Transportation plans:
Henry Mountain Resource Area, UT, 42752

Minerals Management Service
NOTICES
Outer Continental Shelf operations:
Cook Inlet—
Lease sale, 42752

Minority Business Development Agency
NOTICES
Business development center program applications:
Connecticut, 42720

National Aeronautics and Space Administration
NOTICES
Meetings:
Advisory Council, 42759

National Communications System
NOTICES
Meetings:
National Security Telecommunications Advisory Committee, 42759

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Design Arts Advisory Panel, 42760

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Rearview mirrors; passenger side convex mirrors; petition denied, 42715

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Mexico reef fish, 42711
NOTICES
Meetings:
Caribbean Fishery Management Council, 42721
Gulf of Mexico Fishery Management Council, 42722
Mid-Atlantic Fishery Management Council, 42722
North Pacific Fishery Management Council, 42722

National Park Service
RULES
Special regulations:
Fire Island National Seashore, NY; Federal zoning standards, 42788
NOTICES
Environmental statements; availability, etc.:
Acadia National Park, ME, 42755
Meetings:
Acadia National Park Advisory Commission, 42755
Farmington River Study Committee, 42755

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Georgia Power Co. et al., 42760
Tennessee Valley Authority, 42760

Oversight Board
NOTICES
Meetings; regional advisory councils:
Regions 1 through 6, 42761

Personnel Management Office
RULES
Combined Federal Campaign (CFC); undesignated funds distribution, 42677
NOTICES
Agency information collection activities under OMB review, 42761

Postal Rate Commission
PROPOSED RULES
Practice and procedure rules:
Proceedings improvement; suggestions from public, 42713

Public Health Service
See also Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Resources and Services Administration; Indian Health Service
RULES
Grants:
Health education assistance loan program; bankruptcies, 42696

Refugee Resettlement Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Social services for refugees; State allocations, 42745

Rural Electrification Administration
NOTICES
Environmental statements; availability, etc.:
Alabama Electric Cooperative, Inc., et al., 42718

Small Business Administration
NOTICES
Disaster loan areas:
New York et al., 42761
Pennsylvania et al., 42762
Washington et al., 42762
Meetings; regional advisory councils:
Indiana, 42762
Louisiana, 42762
South Carolina, 42763

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
Baraga Village Watershed, MI, 42719

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Federal lands program; surface coal mining and reclamation operations:
Congressionally prohibited mining areas; coal exploration; valid existing rights
Hearings, 42712
Permanent program and abandoned mine land reclamation plan submissions:
Wyoming, 42712
NOTICES
Agency information collection activities under OMB review, 42755

Transportation Department
See Coast Guard; National Highway Traffic Safety Administration

Treasury Department
See also Internal Revenue Service

NOTICES
Agency information collection activities under OMB review.
42763, 42764
(2 documents)

Separate Parts In This Issue

Part II
International Cooperation Development Agency, Agency for International Development, 42766

Part III
Department of the Interior, National Park Service, 42788

Part IV
Department of Housing and Urban Development, 42798

Part V
Department of the Interior, Fish and Wildlife Service, 42806

Part VI
Department of Commerce, Bureau of Export Administration, 42824

Part VII
Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 42914

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
950 42677

7 CFR
2 42682
1421 42683

15 CFR
799 42824

17 CFR
1 42683

18 CFR
Proposed Rules:
284 42712

21 CFR
172 42685
173 42685

22 CFR
Proposed Rules:
211 42766

24 CFR
207 42798
221 42798
231 42798
241 42798

26 CFR
35a 42687

30 CFR
Proposed Rules:
740 42712
761 42712
772 42712
950 42712

33 CFR
100 42687
165 42687

36 CFR
28 42788

39 CFR
Proposed Rules:
3001 42713

40 CFR
712 42688
716 42688
Proposed Rules:
721 42714

42 CFR
60 42696

47 CFR
2 42702
25 42702
36 42706
73 42707

49 CFR
Proposed Rules:
552 42715

50 CFR
20 42806
641 42711

Rules and Regulations

Federal Register
Vol. 56, No. 168
Thursday, August 29, 1991

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 950

Solicitation of Federal Civilian and Uniformed Service Personnel for Contributions to Private Voluntary Organizations

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: These regulations revise the distribution of undesignated money collected in the Combined Federal Campaign (CFC) and revoke the regulatory prohibition on dual solicitation. Many new groups have become eligible to participate in the CFC since the formula for the distribution of undesignated funds was established in 1987; in response to a Congressionally mandated directive OPM developed a new approach to the distribution of undesignated funds that ensures that the donor is informed and knows what will happen to his or her contribution. This method ensures a more equitable opportunity for voluntary agencies to attract donations from Federal employees.

The U.S. District Court for the District of Columbia has held that the portion of the CFC regulations regarding the prohibition of dual solicitations is invalid. OPM modified the regulations to conform to the Court's ruling.

EFFECTIVE DATE: March 31, 1992.

FOR FURTHER INFORMATION CONTACT: Jeremiah J. Barrett, Director, CFC Operations, 202–606–2564.

SUPPLEMENTARY INFORMATION:

Undesignated funds. As required by Public Law 100–202, undesignated funds in the 1990 Combined Federal Campaign (CFC) were distributed by a formula mandated by Congress. The formula specified that in 1990 these funds were to be distributed to the below-named groups in the following percentages: Local United Way—82 percent, International Service Agencies federation—7 percent, National Voluntary Health Agencies federation—7 percent, Other eligible agencies as determined by the Local Federal, Coordinating Committee (LFCC)—4 percent.

As the Congress required, the Office of Personnel Management (OPM) reviewed our experiences with the formula for the distribution of undesignated funds to try to develop a more equitable method of distribution of these funds. In attempting to devise a new formula, OPM took into account the fact that, since the more encompassing legislation was passed in December 1987, many additional charitable organizations have joined the CFC. These groups, or course, were not considered or included in the formula when Congress developed it in 1987 and this was one of the factors considered with OPM developed the proposal. OPM also followed the Congressional guidance to seek a result that reflected the Federal donors' wishes and expectations, encouraged designations and, further, that encouraged federations as CFC participants.

OPM held eight public meetings across the country to hear from all interested parties—especially the Federal donors—regarding the distribution of undesignated funds. It became apparent that most Federal donors did not understand that undesignated funds were distributed by a pre-set formula to specific groups.

A principal goal in developing this proposal was to better serve the donors—Federal employees—by informing and educating them about the distribution of undesignated funds and the role of federations in the CFC. OPM wished to offer a solution that reflected the donors' wishes and expectations. OPM also wanted a solution that would be fair and equitable for all the participating charities.

Some federations commented that OPM should retain the current formula mandated by Congress because the method set forth in the proposed regulations would be an abrupt change for agencies currently receiving a share of the undesignated money from the present formula. They felt that anticipated losses in "assured" undesignated funds would be devastating to local charities providing services in the local community. OPM notes that for 3 years agencies have been aware of the Congressional mandate to review and perhaps adjust the distribution of undesignated funds. In addition, OPM, during the past year, has stated clearly and frequently that the issue of undesignated funds would be addressed after the 1990 campaign. This served as more than adequate notice to prepare for change. However, to avoid any potential disruption of the 1991 campaign planning, OPM has decided to designate March 31, 1992, the effective date for implementing these regulatory changes. Therefore, the present Congressional formula will remain in place for the 1991 campaign.

Commeters also mentioned that local charities that are not well known deserve to receive a portion of undesignated money currently distributed by the Local United Way (LUW). Others said that by allowing for the possibility of decreasing the International Service Agencies' (ISA's) share of the funds through a change from the set formula, OPM was acting contrary to the Government's policy to assist victims of international disasters.

The above two positions seem to be based on the premise that the CFC is organized for the benefit of the voluntary agencies that are seeking the Federal donor's support. A United Way of America (UWA) representative said that "One fundamental purpose of the Combined Federal Campaign—or any charitable campaign for that matter—is to provide for those that can not provide for themselves." However, through legislative and Executive order history it is clear that the CFC was not established to support any particular agency or federation or any particular type of agency, or to ensure any agency's provision of services in a particular locale. It was created solely to permit eligible voluntary agencies to solicit Federal employees' donations in the workplace during a single timeframe. OPM's sole responsibility is to ensure that the solicitation is accomplished as effectively and efficiently as possible.

As OPM stated at the public meetings, OPM's criteria in developing these regulatory changes were to ensure that the Federal donor is fully informed about the CFC's structure and operations and to develop a process that

is fair and even-handed to all participating agencies. The continued existence of a particular agency, type of agency, or the agency's provision of service in a particular locale—no matter how worthy the service—is not the factor that should decide the policy for distributing undesignated funds.

There are numerous varied and worthwhile services and benefits being provided by the many voluntary agencies in the CFC. For the past decade, Congress required that the CFC be open for a wide variety of diverse groups to seek the support of the Federal donor. It is clear that neither Congress nor the President intended that the CFC favor one or more voluntary agencies over other organizations or purposes. It is the responsibility of the voluntary agencies to attract donations from the Federal donors. In response to the specific comment that many small local agencies that provide needed services in the community would be hurt by changing the Congressionally mandated formula for distributing undesignated funds, there are many small local non-United Way agencies that currently are not included under that formula for a share of those funds. These new regulations open up, for the first time, the opportunity for giving all local agencies participating in the CFC a share of undesignated funds.

Also, in a 1990 analysis of the 50 largest CFC's and the percentage of the LUW total receipts that the CFC undesignated funds comprised, in all except one case, CFC undesignated funds were five percent or less of LUW receipt. In the one exception, it was six percent.

In response to the comment that changing the formula would go against the Government's policy of international assistance, there are currently more international agencies that either are unaffiliated agencies or are members of other federations than there are in the entire ISA federation. Currently only those international agencies that are a member of ISA are eligible to receive a portion of the undesignated funds. This regulation opens and expands the possibility of undesignated funds reaching organizations with an international component which are now excluded by the current formula. Rather than exclude donations to international efforts, the regulation expands the possibility of them receiving funds. In addition, ISA would be eligible for a specific designation and its listing would be prominently displayed on the introductory pages.

Another suggestion was to establish a Presidential commission to review all CFC regulations, and postpone implementing any changes to the method for distributing undesignated funds until the entire CFC had been reviewed. OPM agrees that it is appropriate for the CFC regulations to undergo a complete review but does not believe that changes in the distribution of undesignated funds must await that reexamination. Such a reexamination will be lengthy and complex and no commenter has furnished any definitive rationale for delaying the change. These regulations follow a review mandated by Congress, and OPM is implementing needed changes in the distribution of undesignated funds as indicated by that review.

Several commenters suggested that OPM should retain the present Congressional formula until all the results of the 1990 campaign are known and all the national federations can reach agreement on a new formula. Public Law 100–202 required that any future changes to the formula be based on the experience gained in the 1988, 1989, and 1990 campaigns. OPM's new method for distributing undesignated funds indeed is based on experience in those campaigns. Results from the 1990 campaign were compiled simultaneously with OPM's review process. OPM disagrees with the commenters' implication that a formula change can be developed or adopted only after all the results of the 1990 campaign have been fully reported to OPM. The law did not require either expressly or implicitly that all results of the 1990 campaign be received before OPM could identify problems, analyze issues, propose solutions, or reach conclusions with respect to changing the formula for distributing undesignated funds. By December 1990, OPM had the benefit of experience in the 3 years mentioned. At the time of publication of the proposed regulations on April 15, 1991, OPM had received results from 425 campaigns, about four-fifths of the total. OPM has had ample experience from the campaigns to inform the review and decision making process.

OPM also disagrees with some commenters' suggestion that a change to the formula be delayed until all the national federations can reach agreement on a new formula. Approximately 18 months ago, OPM advised the executive directors of the national federations to work together to develop joint ideas about the future distribution of undesignated funds. Despite this call for joint input, there never was any indication that the federations seriously attempted to agree on a joint position. Rather, various federations, whether in small aggregations or individually, presented their various positions early on; and their respective positions have not changed substantially. OPM believes that the competing interests of the federations argue against any prospects for mutual agreement in the near future.

Commenters suggested that the pledge card, as represented in the proposed regulations, be redesignated with the federations listed on the card and the two general designated options, "8888" and "9999," be eliminated. Acceptance of this suggestion would give additional prominence to the federations and, in addition, enable Federal donors to use only the pledge card to make their designations rather than reviewing the CFC brochure. While this suggestion would appear to be consistent with the revised brochure format that gives prominence to federations, it is counter to another important objective to this regulatory initiative that is to ensure that the Federal donor has the opportunity to be informed about the CFC and the organizations seeking his or her support and that the donor will know how his or her donation will be distributed, all of which is described in the brochure. Therefore, OPM believes the suggestion to list the federations on the pledge card would be counterproductive to serving the donors.

Many commenters suggested modification to the "general designation options." A commenter suggested including a designation for international agencies. Others preferred eliminating the "local designation" option or having an option for all agencies on the national list. Another suggestion was to have only one general option, an "all agency designation." The initial proposal for the "general designation options" was based on the fact that Federal donors often believe their undesignated gifts were divided among all agencies on the CFC list or all agencies in their community. However, the initial proposal did give local agencies an advantage because they would receive funds from the "All Agency" designation as well as the "All Local Agency" designation. The final regulations have been changed to include three general designation options: "All Agencies," "All Agencies on the Local List," and "All Agencies on the National List." OPM believes this creates a new level of equity for all agencies as well as providing the donors greater choice.

In addition, the wording of the original proposal for designations to be distributed to agencies on the national list was misleading. The wording has been changed to clarify that international agencies are included in

this option because they are included in the "National Agencies" section of the Agency Listing.

Some commenters said that the distribution of undesignated funds was made unnecessarily complex by adding additional procedures to reflect agencies' proportionate shares of the proposed "All Agency Option" and "All Local Agency Option." This proposal also gave local agencies two opportunities to receive a share of the undesignated funds. With the addition of the "All Agencies on the National List Option," keeping our proposed distribution method of undesignated funds would indeed add a totally unnecessary complexity to the distribution process, a complexity that could easily be removed and still accomplish the same objective.

Therefore, OPM has decided to simplify the distribution of undesignated funds. They will be added to the "All Agency Option" and distributed to all of the agencies in the brochure in the same proportion that the agencies and federations received designations in the CFC.

Serious consideration was given to the proposal for a rolling 5-year formula. Under this proposal, the distribution would be calculated on the basis of the prior 5-year averages of funds received. During an unspecified period of time, a new distribution of undesignated funds would be phased in. The commenter also proposed that the two general designation options be dropped.

This process would be very complex and time consuming for the local campaigns. But more importantly, with this method, the three federations currently named in the formula would retain almost 92 percent of the undesignated funds. This approach would also bar any unaffiliated agencies from receiving a share of these funds. Since unaffiliated agencies are required to pay their proportionate share of campaign expenses, it is unreasonable to bar them any longer from a share of the undesignated campaign receipts.

Five federations suggested that there be a threshold on the amount of designations that any agency or federation received in the CFC to be eligible for a share of the funds designated to the general options and undesignated funds. Establishing a designation threshold to be eligible for receiving a share of the undesignated funds would be arbitrary. Since every agency that receives designations has had subtracted from those receipts its proportionate share of campaign expenses, it is unreasonable to prohibit those same agencies from receiving their proportionate share of undesignated campaign receipts.

Four federations also encouraged OPM to retain the concept of undesignated funds and objected to an all-designation campaign. OPM agrees, as an all-designation campaign would limit donor choice.

Another suggestion was to establish a committee of Federal employees to decide on the distribution of the undesignated funds. The CFC was designed to minimize the cost of operation to the Government. Requiring the LFCC or a subcommittee of it to make allocation decisions would be time consuming and costly. Because the CFC is also bound by laws and regulations, these decisions could lead to appeals to OPM and even to court challenges. The result would be additional direct administrative costs to CFC campaigns, and at a minimum, additional hidden overhead costs to the American taxpayer who pays the cost of Federal employees' involvement in the CFC at various levels.

Some commenters felt the CFC should be an all-designation campaign but allow the donor to designate his or her contribution to a category of services, such as homelessness or drug addiction. The categories would be determined by a volunteer committee. OPM believes this proposal is unworkable under current structures. In addition to categorizing agencies into one field of service when in fact they may be involved in several, there is a further problem of settling on the categories of service themselves. This approach, however, is a topic worthy of additional discussion when an overall review of the CFC program, in its entirety, is undertaken.

OPM considered requiring that voluntary agencies provide a toll-free telephone number for donors to contact the organizations but decided that even though this might be desirable for the donor, it raised the costs of the voluntary agencies' operating expenses unnecessarily.

Dual Solicitation. The U.S. District Court for the District of Columbia has held in the case of *Planned Parenthood of Metropolitan Washington* v. *Constance Horner* that those portions of the CFC regulations prohibiting dual solicitation are invalid. Therefore, those portions of the regulations are modified to conform to the Court's holding.

E.O. 12291, Federal Regulation

After a careful review of the proposed rulemaking, including the analysis set forth below for purposes of the Regulatory Flexibility Act, OPM has determined that this is not a major rule for purposes of Executive Order 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in the 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.

Regulatory Flexibility Act

(1) Reasons Why Action by Agency Is Being Considered

OPM proposed these revisions because Executive Order 12404 and Public Law 100–202 require OPM to promulgate rules for charitable solicitation in the Federal workplace.

(2) Objectives and Legal Basis for Rule

These revisions are issued under Executive Orders 12353 and 12404, and Public Law 100–202. The objective of these revisions is to establish a new and fairer method for the distribution of the undesignated funds raised in the CFC.

(3) Number of Small Entities Covered Under the Rule

This revision would apply to all philanthropic groups that participate in the CFC.

(4) Reporting, Recordkeeping and Other Compliance Requirements of the Rule

These revisions continue, for the most part, the reporting, recordkeeping, and other requirements that have been a part of the campaign operations since the 1984 CFC. The paperwork burden is kept to a minimum necessary to be consistent with the governing Executive orders and the statute.

List of Subjects in 5 CFR Part 950

Charitable contributions, Government employees, Nonprofit organizations.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending 5 CFR Part 950 as follows:

PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICE PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATIONS

1. The authority citation for 5 CFR part 950 continues to read as follows:

Authority: E.O. 12353 (March 23, 1982), Charitable Fundraising, 47 FR 12785; E.O. 12404 (February 10, 1982), Charitable Fundraising, 48 FR 6685; and Section 618 of the Treasury, Postal Service, and General Government Appropriations Act for FY 1988, Public Law 100–202.

2. In § 950.101, the definitions of "All Agencies on the Local List Option," "All Agencies on the National List Option," "All Agency Option," and "General Designation Option" are added alphabetically and the definitions of "Designated Funds" and "Undesignated Funds" are revised to read as follows:

§ 950.101 Definitions.

* * * * *

All Agencies on the Local List Option means that the donor wishes that his or her gift be distributed to all of the local agencies in the local section of the campaign brochure in the same proportion as all of the local agencies received designations in the local CFC. This option will have the code "LLLL."

All Agencies on the National List Option means that the donor wishes that his or her gift be distributed to all of the national and international agencies listed in the national section of the campaign brochure in the same proportion as all of the national and international agencies received designations in the local CFC. This option will have the code "NNNN."

All Agency Option means that the donor wishes his or her gift to be distributed to all of the agencies listed in the campaign brochure in the same proportion as all of the agencies received designations in the local CFC. This option will have the code "AAAA."

* * * * *

Designated Funds means those contributions which the contributor has designated to a specific voluntary agency(ies), federation(s), or general option(s).

* * * * *

General Designation Option means the three methods that a donor may select to give wide distribution of his or her gift. These three options, "All Agencies on the Local List," "All Agencies on the National List," or "All Agencies" refer to the agencies that are listed in the entire agency listing or the relevant portion of the agency listing.

* * * * *

Undesignated Funds means those contributions which the contributor has not designated to a specific voluntary agency(ies), federation(s), or the general options.

3. Section 950.104 is amended by revising paragraph (c)(11) to read as follows:

§ 950.104 Local Federal Coordinating Committee.

* * *

(c) * * *

(11) Insuring that contributions are distributed in accordance with the method described in these regulations.

* * * * *

4. In § 950.201, paragraph (c) (1), (2), and (3) are revised and (c)(4) is added to read as follows:

§ 950.201 National eligibility.

* * * * *

(c) * * *

(1) The national organization must send a letter to the local affiliate or submit in that particular CFC waiving its listing on the national agency list in favor of its eligible local affiliate or subunit.

(2) The local affiliate or subunit will include in its application to the LFCC a copy of the letter authorizing the removal of the national group and all the required materials for completing a local agency application.

(3) Upon finding the local agency eligible the waiver letter from the national group authorizes the LFCC to delete the national organization from the national list.

(4) This is the only way that an LFCC or PCFO may change the national agency list.

§ 950.204 [Amended]

5. In § 950.204, paragraph (e) is removed.

6. In § 950.401, paragraphs (g)(1)(i) and (g)(2) are revised as set out below:

* * * * *

§ 950.401 Campaign and Publicity Materials.

* * * * *

(g) * * *

(1) * * *

(i) This will be the primary informational material distributed to the individual contributors. It will describe the CFC arrangement; explain the payroll deduction privilege; and explain the method for the distribution of undesignated monies. It will clearly state that the Federal donor can direct his or her gift to specific voluntary agency(ies), federation(s), or the general option(s) of his or her choice by designating in the boxes provided up to five organizations, and urge them to do so. It will further explain that failure to designate a specific agency, federation, or option will result in the undesignated donation being added to the funds designated to the "All Agency Option" and distributed accordingly.

* * * * *

(2) *Agency Listing.* (i) The listing of agencies shall be in three major divisions. The first is referred to as "introductory pages" and is described in Appendix A, the second shall be labelled "National Agencies" and will consist of a faithful reproduction of the list provided by OPM as described in § 950.201(b) of this part. The third division will consist of "Local Agencies." The order of the listing of the federated and unaffiliated organizations will be determined by a random drawing. The order of agencies within a federation subgroup will be determined by the federation. The order of agencies within the unaffiliated list will be alphabetical. Each participating agency and federated group may include a description, not to exceed 25 words, of their services and programs, plus a telephone number for the Federal donor to request further information about the group's services, benefits, and administrative expenses. The description will include a statement of the percent of the organization's total receipts and revenues that are used for administration and fundraising.

(ii) Each national federation and voluntary agency will be assigned a code number by OPM. Local federations and local voluntary agencies will be assigned code numbers by the LFCC. At the beginning of each federated group's listing will be listed the federation's name. The sections of the brochure where the unaffiliated agencies are listed will begin with the titles "National Unaffiliated Agencies" and "Local Unaffiliated Agencies" respectively. The federation's code number, 25-word statement, percent of administrative and fundraising expenses, and telephone number will only be listed once on the first page of the Agency Listing. See Appendix A to this subpart for a sample of this page.

(iii) Preceding any other listing of the eligible agencies, the Agency Listing will begin with the heading "Definition of a Federation" followed by this definition of a federation: "A federation is a group of voluntary charitable human health and welfare agencies established for the purpose of providing common fundraising, administrative, and management services to its members. Federations may be either national, representing national or international agencies, or local, representing local or regional agencies. If you wish to designate all or some portion of your contribution to a federation, record that federation's corresponding code number in one of the boxes on your pledge card. Contributions designated to a federation

will be shared in accordance with the federation's policy."

(iv) Immediately following the definition of a federation will be the heading "National Federations" which will be followed by the list of all the national federations. Immediately following the end of that list the following heading, "Local Federations" will begin the list of local federations. Each federation listing will consist of its code number, name, 25-word statement, its administration and fundraising percentage, and a telephone number where the donor can receive further information about the federation. Each federation individual listing will be followed by the statement, "Federation member agency listings begin on page _____."

(v) Immediately following the list of federations will be the heading, "Unaffiliated Agencies." This section will inform the donor on which pages the list of national and local unaffiliated agencies begins.

(vi) Immediately following the unaffiliated section will be the heading, "General Designation Options." This will include the three general designation options that permit an employee to designate either that his or her gift be shared by all agencies, all local agencies, or by all national agencies in the same proportion that each group received designations in the campaign. These options will include the explanation of each option and code for designating them.

"AAAA—All Agencies" I request that my gift be shared among all the agencies in the "Agency Listing" in the same proportion that they received designations.

"LLLL—All Agencies on the Local List" I request that my gift be shared among all the local agencies listed in the "Local Section" of the Agency Listing in the same proportion that they received designations.

"NNNN—All Agencies on the National List" I request that my gift be shared among all the national and international agencies listed in the "National Section" of the Agency Listing in the same proportion that they received designations.

(vii) Immediately following the three options will be the heading "Undesignated Funds." This will consist of the following explanation of the distribution of undesignated funds:

Even if you choose not to designate to a specific agency or federation, your contribution will still be accepted. These undesignated funds will be distributed by adding them to any funds that were designated to the "All Agency Option—AAAA" and distributed to all agencies in the brochure in the same proportion that the agencies and federations received designations in the CFC.

(viii) All of these sections on the introductory pages will be printed in the same format and font as the agencies listed in the brochure. No special prominence or emphasis may be placed on the federations listed.

(ix) All other requirements of § 950.401 will be followed.

* * * * *

7. In § 950.402, paragraph (b) is revised to read as follows:

§ 950.402 Miscellaneous.

* * * * *

(b) Dual listing is permitted. However, a national organization may waive its listing in the national section of the brochure in favor of its eligible local affiliate. The local affiliate must include in its application the written waiver from its national organization.

* * * * *

8. Appendix A to subpart D is added to read as follows:

Appendix A to Subpart D of Part 950—New Introductory Pages to the List of Eligible Charitable Organizations

This is a sample of the new introductory pages to the list of eligible charitable organizations in the (1992) Combined Federal Campaign (CFC). These pages include listings for each of the national and local federations participating in your (1992) CFC and three new designation options. Each section of the introductory pages will be identified with the highlighted and underlined section headings. The required information for the introductory pages begins immediately below.

Definition of a Federation

A federation is a group of voluntary charitable human health and welfare organizations established for purposes of supplying common fundraising, administrative, and management services to its members. The national federations in the CFC representing "national" and "international" charitable organizations follow immediately below and the federations representing "local" organizations immediately follow them. If you wish to designate all or some portion of your contribution to a federation, please record that federation's corresponding code number on your pledge card. Contributions designated to a federation will be shared in accordance with the federation's policy. The page number on which each federation's listing of its member agencies begins is provided.

National Federations

CFC code number
National Federation Name
25-word description
% of funds for administration and fundraising
Telephone number
Page where list of member agencies begins
Information on Other National Federations

Local Federations

CFC code number
Local Federation Name
25-word description
% of funds for administration and fundraising
Telephone number
Page where list of member agencies begins
Information on Other Local Federations

Unaffiliated Agencies

You may wish to designate to a specific agency or agencies not affiliated with a federation (unaffiliated agencies). The listings of national unaffiliated agencies begins on page XX and local unaffiliated agencies on page YY.

General Designation Options

Three new general options, described below, accommodate those federal donors who prefer not to designate their charitable gift to a specific group or groups. If you wish to have your contribution distributed in the method described in one of these options, please record its corresponding code letters on your pledge card.

AAAA I request that my gift be shared among all the agencies listed in the "Agency Listing" in the same proportion that they received designations.

NNNN I request that my gift be shared among all the national and international agencies listed in the "National Section" of the Agency Listing in the same proportion that they received designations.

LLLL I request that my gift be shared among all the local agencies listed in the "Local Section" of the Agency Listing in the same proportion that they received designations.

Undesignated Funds

Even if you choose not to designate to a specific agency or federation, your contribution will still be accepted. These undesignated funds will be added to the "All Agency Designation Option—AAAA" and distributed accordingly.

9. Section 950.501 is revised to read as follows:

§ 950.501 Applicability.

The distribution of undesignated funds described in § 950.401(g)(2)(vii) and § 950.502 of this part applies to all domestic area campaigns. It does not apply to the DOD Overseas Campaign.

10. Section 950.502 is revised to read as follows:

* * * * *

§ 950.502 Distribution of undesignated funds.

Undesignated funds will be distributed by adding them to any funds that were designated to the "All Agency Option—AAAA" and distributed to all of the agencies in the brochure in the same proportion that the agencies and federations received designations in the CFC.

§ 950.503 [Removed]

11. Section 950.503 is removed and reserved.

12. In § 950.504, paragraph (b) is revised to read as follows:

§ 950.504 Review by the Director

* * * * *

(b) To enforce the distribution method described in §§ 950.401(g)(2)(vii) and 950.502 of this part.

[FR Doc. 91–20542 Filed 8–28–91; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Delegations of Authority by the Secretary of Agriculture and General Officers of the Department

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture and the General officers of the Department to clarify the authority of the Assistant Secretary for Economics and the Administrator, National Agricultural Statistics Service, to collect agricultural statistics and to prepare crop and livestock estimates and estimates of production, supply, price, and other aspects of the U.S. agricultural economy.

EFFECTIVE DATE: August 29, 1991.

FOR FURTHER INFORMATION CONTACT: Keith W. Anderson, Chief, Management Analysis Branch, Administrative Services Division, Economics Management Staff, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250–1400; telephone (202) 447–7590.

SUPPLEMENTARY INFORMATION: The delegations of authority of the Department of Agriculture are amended to clarify the delegation of authority to the Assistant Secretary for Economics and the Administrator, National Agricultural Statistics Service, to collect agricultural statistics and to prepare crop and livestock estimates and estimates of production, supply, price, and other aspects of the U.S. agricultural economy.

The existing delegation of authority by the Secretary to the Assistant Secretary for Economics at 7 CFR 2.27(a)(4) and the corresponding delegation of authority by the Assistant Secretary for Economics to the Administrator, National Agricultural Statistics Service, at 7 CFR 2.85(a)(1) delegate the authority vested in the Secretary to prepare crop and livestock estimates and administer reporting programs, including estimates of production, supply, price, and other aspects of the U.S. agricultural economy, collection of statistics, conduct of enumerative and objective measurement surveys, construction and maintenance of sampling frames, and related activities. The existing delegations cite the specific authorities to collect and publish agricultural statistics contained in 7 U.S.C. 411a, 475, 476 and 951, but fail to cite the general authority vested in the Secretary pursuant to 7 U.S.C. 2204 to collect and publish agricultural statistics. This document corrects this oversight by including a citation to 7 U.S.C. 2204 in 7 CFR 2.27(a)(4) and 7 CFR 2.85(a)(1). This document also corrects a typographical error in the citation of 7 U.S.C. 411a contained in 7 CFR 2.27(a)(4) and 7 CFR 2.85(a)(1).

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order No. 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, Public Law No. 96–354, and, thus, is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, part 2, title 7, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.27(a)(4) is revised to read as follows:

§ 2.27 Delegations of authority to the Assistant Secretary for Economics.

* * * * *

(a) *Related to economic research and statistical reporting.* * * *

(4) Prepare crop and livestock estimates and administer reporting programs, including estimates of production, supply, price, and other aspects of the U.S. agricultural economy, collection of statistics, conduct of enumerative and objective measurement surveys, construction and maintenance of sampling frames, and related activities. Prepare reports of the Agricultural Statistics Board of the Department of Agriculture covering official state and national estimates (7 U.S.C. 411a, 475, 476, 951, and 2204).

* * * * *

Subpart K—Delegations of Authority by the Assistant Secretary for Economics

3. Section 2.85(a)(1) is revised to read as follows:

§ 2.85 Administrator, National Agricultural Statistics Service.

(a) *Delegations.* * * *

(1) Prepare crop and livestock estimates and administer reporting programs, including estimates of production, supply, price, and other aspects of the U.S. agricultural economy, collection of statistics, conduct of enumerative and objective measurement surveys, construction and maintenance of sampling frames, and related activities. Prepare reports of the Agricultural Statistics Board of the Department of Agriculture covering

official state and national estimates (7 U.S.C. 411a, 475, 951, and 2204).

* * * * *

Dated: August 13, 1991.

For Subpart C:

Roland R. Vautour,

Acting Secretary of Agriculture.

Dated: August 8, 1991.

For Subpart K:

Bruce L. Gardner,

Assistant Secretary for Economics.

[FR Doc. 91-20748 Filed 8-28-91; 8:45 am]

BILLING CODE 3410-35-M

Commodity Credit Corporation

7 CFR Part 1421

Grain and Similarly Handled Commodities

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This action corrects a provision which was erroneously stated in the final rule published on May 2, 1991 (FR Doc. 91-10314). Generally, that final rule amended the manner in which producers may participate in CCC price support programs for wheat, feed grains, rice, oilseeds (including soybeans) and farm-stored peanuts and the terms. This final rule also set forth the conditions of CCC price support programs for wheat, feed grains, rice, oilseeds, and farm-stored peanuts, and specified the CCC price support loan eligibility quality requirements for the 1991 and subsequent year's crops.

EFFECTIVE DATE: August 29, 1991.

FOR FURTHER INFORMATION CONTACT: Burdetta Rossow, Program Specialist, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013, (202) 447-8223.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under United States Department of Agriculture (USDA) procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and it has been determined to be "non-major" because these program provisions will not 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 governments, 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.

The title and number of the federal assistance program, as found in the catalogue or Federal Domestic Assistance, to which this final rule applies is Commodity Loans and Purchases, 10.051.

It has been determined that the Regulatory Flexibility Act is not applicable because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of these determinations.

It has been determined by environmental evaluations for the wheat, feed grain, rice, oilseed, and farm-stored peanuts CCC price support programs that these programs will have no significant impact on the quality of the human environment.

These programs are not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, and 48 FR 29115 (June 24, 1983).

Public reporting burden for the information collections contained in this final rule with respect to price support programs for wheat, feed grain, rice, oilseeds, and farm-stored peanuts is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The information collection has previously been cleared by OMB, assigned number 0560-0087.

Background

A final rule was published in the **Federal Register** on May 2, 1991, at 56 FR 20101 which would amend regulations found at 7 CFR part 1421 with respect to the price support program for wheat, feed grains, rice, oilseeds, and farm-stored peanuts which is conducted by CCC. In amending the provisions which govern the CCC price support program, CCC erroneously stated the price support loan eligibility grade requirements for warehouse-stored rye. The grade requirements on page 20115, in the second column, § 1421.18(b)(6)(i) "Rye must grade No. 2 or better except that the rye may grade No. 3 because of 'Thin' rye, or grade No. 3 or No. 4 on the factors of test weight or damaged kernels (total) or both;" is corrected to read "Rye must grade No. 2 or better except that the rye may grade No. 3 because of 'Thin' rye."

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Price support programs, Warehouses.

Correction to Final Rule

Accordingly, 7 CFR part 1421 is corrected as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1. The authority citation for 7 CFR part 1421 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1441z, 1444f-1, 1445b-3a, 1445c-3, 1445e, and 1446f; 15 U.S.C. 714b and 714c.

2. Section 1421.18 is amended by correcting paragraph (b)(6)(i) to read as follows:

§ 1421.18 Warehouse-stored loans.

* * * * *

(b) * * *

(6)(i) Rye must grade No. 2 or better except that the rye may grade No. 3 because of "Thin" rye.

* * * * *

Signed at Washington, DC, on August 22, 1991.

John A. Stevenson,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 91-20742 Filed 8-28-91; 8:45 am]

BILLING CODE 3410-05-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Contract Market Rule Review Procedures

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending regulation 1.41(l) to expand its application to certain routine changes in contract market rules relating to trading months that are deemed approved by the Commission pursuant to section 5a(12) of the Commodity Exchange Act. Specifically, the current restriction that only those changes in contract market rules relating to trading months not listing a month more than 18 months in future are eligible for expedited treatment will be eliminated. Thus, changes in trading months will be deemed approved by the Commission, provided they satisfy conditions currently set forth in Commission regulation 1.41(l), but without limitation on the length of time that a trading

month may be listed in the future. The Commission is also amending paragraph (i) of regulation 1.41(l) to include a requirement that proposed changes in contract market rules relating to trading months must be consistent with the Act and the Commission's regulations.

EFFECTIVE DATE: September 30, 1991.

FOR FURTHER INFORMATION CONTACT: Clarence R. Sanders, Attorney, Division of Trading and Markets, or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955 or (202) 254–6990, respectively.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12), provides that all rules [1] of a contract market which relate to terms and conditions [2] in futures or option contracts traded on or subject to the rules of such contract market must be submitted to the Commission for its prior approval. The Commission has recognized, however, that certain contract market proposals relating to terms and conditions do not usually require review and therefore may appropriately merit treatment which is different from the normally afforded contract market rule changes. 48 FR 49003, 49007 (October 24, 1983); 50 FR 30135–38 (July 24, 1985). Thus, the Commission has established procedures to expedite implementation of such rule changes. See Commission regulations 1.41(h)–(n).

The Commission has received from the Chicago Board of Trade ("CBT") a request that it review, and consider amendment of, regulation 1.41(l), which grants expedited implementation for certain routine changes in contract market rules relating to trading months.[3] Upon review, the Commission has determined that it is appropriate to expand the applicability of Commission regulation 1.41(l). Expansion of expedited treatment for these routine changes in trading months will provide exchanges with greater flexibility in conducting their operations. In addition, the expanded applicability of expedited procedures for changes in trading months will conserve resources, both at the Commission and at the exchanges.

II. Amendments to Regulation 1.41

Regulation 1.41(l) currently provides an expedited procedure for changes in trading months which (i) are consistent with a previously approved rule of the contract market governing the listing of trading months, (ii) do not list a month more than 18 months in the future, (iii) do not list a month outside the currently established cycle, and (iv) are submitted by written notice labeled to identify paragraph (l) of § 1.41. Changes in contract market rules meeting these criteria are deemed approved by the Commission ten days after written notice of such a change is received by the Commission.

As part of its request for review, the CBT disclosed that commercial firms frequently have requested that "new crop" contract months, extending 24 months in the future, be listed for grain futures trading. Thus, the CBT requested that the Commission consider increasing from 18 months to 24 months the period over which trading months are granted expedited implementation.

The Commission has determined that it is appropriate to expand the applicability of Commission regulation 1.41(l). Under amended regulation 1.41(l), the expedited procedures will be extended to changes in contract market rules relating to trading months without limitation regarding the length of time that a trading month may be listed in the future. In reaching this decision, the Commission has considered its experience in recent years regarding various proposals of the exchanges to list months more than 18 months in the future, which were reviewed under regulation 1.41(b). The Commission found that no adverse effects on the economic functions of the futures or option markets have been identified, either at the time such proposals were approved or subsequently. Therefore, the Commission has concluded that a case-by-case review of such proposals serves no significant regulatory purposes.

The Commission is also amending paragraph (i) of regulation 1.41(l) to include a requirement that the proposed changes in contract market rules relating to trading months also must be consistent with the Act and the Commission's regulations. Amendment of paragraph (i) is intended to conform the requirements of regulation 1.41(l) with those found in Regulations 1.41(k)(1)(i) relating to trading hours, 1.41(m)(1)(ii) relating to contract terms established by independent third parties, and 1.41(n)(1)(ii) relating to other terms eligible for expedited review. Regulation 1.41(l) will continue to limit exchange discretion to well defined bounds and retain the usual review procedure for more significant changes in the listing of contract months.

III. Related Matters

A. Notice and Comment

The Administrative Procedure Act, 5 U.S.C. 553(b), requires in most instances that a notice of proposed rulemaking be published in the **Federal Register** and that opportunity for comment be provided when an agency promulgates new regulations. Section 553(b) sets forth an exception, however, for rules of agency organization, procedure or practice. The instant amendments provide expedited procedures for the approval of certain contract market rules. The Commission has determined that these amendments relate to internal Commission procedure and therefore that notice and comment is not required.

Section 553(b) also sets forth an exception to the requirement of notice and opportunity for public comment when the Commission for good cause finds such notice and public comment are unnecessary or contrary to the public interest. The Commission finds that notice and public comment on the rule changes announced herein are unnecessary because the changes do not limit any person's substantive rights and do not establish any new obligations under the Act. To the contrary, these changes simplify compliance with the Act by reducing contract markets'

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[1] Commission regulation 1.41(a)(1) defines *rule* of a contract market to mean:

Any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, stated policy, or instrument corresponding thereto, in whatever form adopted, and any amendment or addition thereto or repeal thereof, made or issued by a contract market, or by the governing board thereof or any committee thereof.

[2] Commission regulation 1.41(a)(2) defines *terms and conditions* to mean:

Any definition of the trading unit or the specific commodity underlying a contract for the future delivery of a commodity or commodity option contract, specification of settlement or delivery standards and procedures, and establishment of buyers' and sellers' rights and obligations under the contract. Terms and conditions shall be deemed to include provisions relating to the following:

(i) Quality or quantity standards for a commodity and any applicable exemptions or discounts;

(ii) Trading hours, trading months and the listing of contracts;

(iii) Minimum and maximum price limits and the establishment of settlement prices;

(iv) Position limits and position reporting requirements;

(v) Delivery points and locational price differentials;

(vi) Delivery standards and procedures, including alternatives to delivery and applicable penalties or sanctions for failure to perform;

(vii) Settlement of the contract; and

(viii) Payment or collection of commodity option premiums or margins.

[3] See letter to Jean A. Webb, Secretary of the Commission, dated November 12, 1990, from Thomas R. Donovan, President.

existing obligations under section 5a(12) thereof.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in adopting rules, consider their impact on small businesses. The RFA defines the term "rule" to mean "any rule for which the agency publishes a general notice of proposed rulemaking pursuant to (5 U.S.C.) 553(b)." As noted above, however, section 553(b) does not require that the Commission publish a notice of proposed rulemaking for the amendments to § 1.41, and a flexibility analysis of these amendments is therefore not required. See section 601(2). See also sections 603 and 604.[4]

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In reviewing this final rule the Commission has determined that it does not impose any information collection requirements as defined by the Paperwork Reduction Act.

Persons wishing to comment on this determination of no information collection burden should contact Joe F. Mink, CFTC Clearance Officer, 2033 K Street NW., Washington, DC 20581; and The Office of Management and Budget, Paperwork Reduction Project (3038–XXXX), Washington, DC 20503.

List of Subjects in 17 CFR Part 1

Brokers, Commodity futures, Consumer protection, Reporting and recordkeeping requirements.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and in particular, sections 4c, 5a and 8a thereof, 7 U.S.C. 6c, 7a and 12a, the Commission hereby amends chapter I of title 17 of the Code of Federal Regulations by amending § 1.41 as follows:

[4] A flexibility analysis would not be required in any case in this matter, since the amendments would affect contract markets, which the Commission previously has determined are not "small entities" for purposes of the RFA. Thus, these rule amendments would not have a significant economic impact on a substantial number of "small entities." See section 605(b).

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, and 24, unless otherwise noted.

2. Section 1.41 is amended by revising paragraphs (l)(1)(i), (l)(1)(ii), and (l)(1)(iii) to read as follows, and removing paragraph (l)(1)(iv):

§ 1.41 Contract market rules; submission of rules to the Commission; exemption of certain rules.

* * * * *

(l) * * *

(1) * * *

(i) The change is consistent with a rule of the contract market governing the listing of trading months which has been approved by the Commission, and with the Act and the Commission's regulations;

(ii) The change does not provide for the listing of a trading month outside the currently established cycle of trading months; and

(iii) The contract market labels the written notice as being submitted pursuant to paragraph (l) of this section.

* * * * *

Issued in Washington, DC, on August 23, 1991, by the Commission.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 91–20754 Filed 8–28–91; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 172 and 173

[Docket No. 88F–0176]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Dimethyldialkylammonium Chloride

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of dimethyl(2-ethylhexyl) hydrogenated tallow ammonium chloride as a decolorizing agent in the clarification of refinery sugar liquors. This action is in response to a petition filed by AKZO Chemie America.

DATES: Effective August 29, 1991; written objections and requests for a hearing by September 30, 1991. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications at 21 CFR 173.400, effective August 29, 1991.

ADDRESSES: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rosalie M. Angeles, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 9, 1988 (53 FR 21728), FDA announced that a food additive petition (FAP 7A3992) had been filed by AKZO Chemie America, McCook, IL 60525, proposing that part 172 (21 CFR part 172) be amended to provide for the safe use of dimethyl(2-ethylhexyl) hydrogenated tallow ammonium chloride as a decolorizing agent in the clarification of refinery sugar liquors.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended as set forth below. In reviewing § 172.712 and the petitioned compound (also a dimethyldialkylammonium chloride), the agency determined that both substances are clearly processing aids and are best considered as secondary direct food additives and regulated in subpart D of part 173. Therefore, the order set forth below removes § 172.712 and adds new § 173.400 to accommodate both dimethyldialkylammonium chlorides for use as decolorizing agents in the clarification of refinery sugar liquors. The transfer of the authority set forth in current § 172.712 to part 173 (21 CFR part 173) is intended to be an editorial change only and is not intended to expand or contract the uses currently authorized by § 172.712. The agency also found that the chemical name currently used in § 172.712 is not in accord with current convention. Thus, in amending the regulation, the agency has changed the chemical names accordingly.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the

information contact person listed above. As provided in 21 CFR 171.(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this section. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before September 30, 1991 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR

Part 172

Food additives, Reporting and recordkeeping requirements.

Part 173

Food additives, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 172 and 173 are amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: Secs. 201, 401, 402, 409, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 348, 371, 376).

§ 172.712 [Removed]

2. Section 172.712 *Dimethyl dialkyl ammonium chloride* is removed.

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

3. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: Secs. 201, 402, 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348).

4. Section 173.400 is added to subpart D to read as follows:

§ 173.400 Dimethyldialkylammonium chloride.

Dimethyldialkylammonium chloride may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive is produced by one of the following methods:

(1) Ammonolysis of natural tallow fatty acids to form amines that are subsequently reacted with methyl chloride to form the quaternary ammonium compounds consisting primarily of dimethyldioctadecylammonium chloride and dimethyldihexadecylammonium chloride. The additive may contain residues of isopropyl alcohol not in excess of 18 percent by weight when used as a processing solvent.

(2) Ammonolysis of natural tallow fatty acids to form amines that are then reacted with 2-ethylhexanal, reduced, methylated, and subsequently reacted with methyl chloride to form the quaternary ammonium compound known as dimethyl(2-ethylhexyl) hydrogenated tallow ammonium chloride and consisting primarily of dimethyl(2-ethylhexyl)octadecylammonium chloride and dimethyl(2-ethylhexyl)hexadecylammonium chloride.

(b) The food additive described in paragraph (a)(1) of this section contains not more than a total of 2 percent by weight of free amine and amine hydrochloride. The food additive described in paragraph (a)(2) of this section contains not more than 3 percent by weight, each, of free amine and amine hydrochloride as determined by A.O.C.S. method Te 3a–64, "Acid Value and Free Amine Value of Fatty Quaternary Ammonium Chlorides," 2d printing including additions and revisions 1990, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, and from the American Oil Chemists' Society, P.O. Box 5037, Station A, Champaign, IL 61820, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC.

(c) The food additive is used as a decolorizing agent in the clarification of refinery sugar liquors under the following limitations:

(1) The food additive described in paragraph (a)(1) of this section is added only at the defecation/clarification stage of sugar liquor refining in an amount not to exceed 700 parts per million by weight of sugar solids.

(2) The food additive described in paragraph (a)(2) of this section is used under the following conditions:

(i) The additive is adsorbed onto a support column composed of suitable polymers that are regulated for contact with aqueous food. Excess nonadsorbed additive shall be rinsed away with potable water prior to passage of sugar liquor through the column.

(ii) The residue of the additive in the decolorized sugar liquor prior to crystallization shall not exceed 1 part per million of sugar as determined by a method entitled "Colorimetric Determination of Residual Quaternary Ammonium Compounds (Arquad HTL8) in Sugar and Sugar Solutions," June 13, 1990, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC.

(d) To assure safe use of the additive, the label and labeling of the additive shall bear, in addition to other information required by the Federal

Food, Drug, and Cosmetic Act, adequate directions to assure use in compliance with paragraph (c) of this section.

Dated: August 21, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91-20706 Filed 8-28-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 35a

RIN 1545-APOO

Temporary Employment Tax Regulations Under the Interest and Dividend Tax Compliance Act of 1983

CFR Correction

In title 26 of the Code of Federal Regulations, parts 30 to 39, revised as of April 1, 1991, the following changes should be made:

§ 35a.3406-1 [Corrected]

1. In § 35a.3406-1, portions of the old text of paragraphs (c)(3)(vi) and (d)(1) were inadvertently printed. On page 339, beginning in the first column, in § 35a.3406-1 paragraphs (c)(3)(vi)(A) through (c)(3)(vi)(C) should be removed.

2. In § 35a.3406-1, on pages 340 and 341, beginning in the first column, paragraphs (d)(1)(i) through (d)(1)(iii) should be removed.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[OGD 05-91-39]

Special Local Regulations for Marine Events; Blackbeard Pirate Jamboree; Town Point, Elizabeth River, Norfolk and Portsmouth, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation of 33 CFR 100.501.

SUMMARY: This notice implements 33 CFR 100.501 for the Blackbeard Pirate Jamboree to be held on the Elizabeth River at Town Point Park, Norfolk and Portsmouth, Virginia. The regulations in 33 CFR 100.501 are needed to control vessel traffic within the immediate vicinity of the event due to the confined nature of the waterway and the expected congestion at the time of the event. The regulations restrict general navigation in the area for the safety of life and property on the navigable waters during the event.

EFFECTIVE DATES: The regulations in 33 CFR 100.501 are effective from 11 a.m. to 2:30 p.m., September 7, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Phillips, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 (804) 398-6204.

DRAFTING INFORMATION: The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and Captain Michael K. Cain, project attorney, Fifth Coast Guard District Legal Staff.

DISCUSSION OF REGULATION: Norfolk Festevents, Ltd. submitted an application to hold the Blackbeard Pirate Jamboree on the Elizabeth River at Town Point Park, Norfolk and Portsmouth, Virginia. The event will consist of a parade of sail at noon followed by an orchestrated water drama with cannon fire between two vessels. Since many spectator vessels are expected to be in the area to watch the jamboree, the regulations in 33 CFR 100.501 are being implemented for these events. Since the waterway will be closed for an extended period, commercial traffic should not be severely disrupted.

In addition to regulating the area for the safety of life and property, this notice of implementation also authorizes the Patrol Commander to regulate the operation of the Berkley drawbridge in accordance with 33 CFR 117.1007, and authorizes spectators to anchor in the special anchorage areas described in 33 CFR 110.72aa. 33 CFR 110.72aa establishes the spectator anchorages in 33 CFR 100.501 as special anchorage areas under Inland Navigation Rule 30, 33 U.S.C. 2030(g). 33 CFR 117.1007 closes the draw of the Berkley Bridge to vessels during and for one hour before and after the effective period under 33 CFR 100.501, except that the Coast Guard Patrol Commander may order that the draw be opened for commercial vessels.

Dated: August 19, 1991.

W. T. Leland,

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

[FR Doc. 91-20734 Filed 8-28-91; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD1 91-127]

Safety Zone Regulations: Saranac River and Lake Champlain, Plattsburgh, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Saranac River Basin at Plattsburgh, New York. This zone is needed to protect the maritime community from the possible dangers and hazards associated with low level aerial spraying of chemical dust toxic to lamprey eels. Entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, New York.

EFFECTIVE DATES: This regulation becomes effective at 7 a.m., 11 September, 1991, it terminates at 8:30 p.m., 11 September, 1991.

FOR FURTHER INFORMATION CONTACT: MST1 S. Whinham of Captain of the Port, New York (212) 668-7934.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazards.

DRAFTING INFORMATION: The drafters of this regulation are LTJG C. W. Jennings, project officer, Captain of the Port New York, and Lt. John B. Gately, project attorney, First Coast Guard District Legal Office.

DISCUSSION OF REGULATION: The circumstances requiring this regulation result from the possible dangers and hazards associated with low level aerial spraying of a chemical dust toxic to lamprey eels. This project is being undertaken by the New York State Department of Environmental Conservation as part of an eight year lamprey eel eradication program in Lake Champlain. This regulation is effective from 7 a.m., 11 September 1991 to 8:30 p.m., 11 September 1991.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation: In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5.

2. A new 165.T1127 is added to read as follows:

§ 165.T1127 Safety Zone: Saranac River and Lake Champlain, Plattsburgh, New York

(a) *Location.* The following area is a Safety Zone: All waters of the Saranac River Basin bounded by a line connecting the following points:

Latitude	*Longitude*
44°42'30"N	73°26'35"W
44°42'30"N	73°26'00"W
44°41'45"W	73°26'00"W
44°41'45"N	73°26'28"W

and thence, along the shoreline to the point of the beginning.

(b) *Effective date.* This regulation becomes effective at 7 a.m., 11 September, 1991, it terminates at 8:30 p.m., 11 September, 1991.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part entry into or movement within this zone is prohibited unless authorized by the Captain of the Port.

Dated: August 7, 1991.

R. M. Larrabee,

Captain, U.S. Coast Guard Captain of the Port, New York.

[FR Doc. 91–20739 Filed 8–28–91; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 712 and 716

[OPTS–82036; FRL–3881–7]

Preliminary Assessment Information and Health and Safety Data Reporting; Addition of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Interagency Testing Committee (ITC) in its Twenty-seventh Report to EPA revised the Toxic Substances Control Act (TSCA) Section 4(e) Priority List by designating two chemical substances that were previously in the "recommended with intent-to-designate" category and by adding one chemical substance and four categories of chemical substances. The ITC recommendations must be given priority consideration by EPA in promulgating test rules. EPA is adding the substance and the four categories to two model information-gathering rules: the Toxic Substances Control Act (TSCA) section 8(a) Preliminary Assessment Information Rule (PAIR) and the TSCA section 8(d) Health and Safety Data Reporting Rule. These model rules will require manufacturers, importers, and processors of the specific substances and members of the categories to report production, use, unpublished health and safety data, and exposure-related information to EPA.

DATES: This rule will become effective on September 30, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, TSCA Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Rm. E–543, Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: This rule adds one substance and four categories of substances to the PAIR and the section 8(d) Health and Safety Data Reporting Rule. Manufacturers, processors, and importers of these chemicals will be required to report unpublished health and safety data and/or end use, exposure, and production volume data to EPA.

I. Background

Section 4(e) of TSCA established the ITC and authorized it to recommend to EPA chemical substances and mixtures (hereafter "chemicals") to be given priority consideration in proposing test rules under section 4. For some of these chemicals, the ITC may designate that EPA must respond to its recommendations within 12 months. In this time, EPA must either initiate a rulemaking to test the chemical or publish in the **Federal Register** its reasons for not doing so.

On November 19, 1990, EPA announced the receipt of the Twenty-seventh Report from the ITC. It was then published by EPA on March 6, 1991 (56 FR 9534). The Twenty-seventh Report revises the Committee's priority list of chemicals by upgrading two chemical substances previously listed in the "recommend with intent-to-designate" category to a "designated" position, and by adding one chemical substance and four categories to the section 4(e) priority list (for a total of 161 chemical substances). More specifically, the ITC is designating for response within 12 months two substances and part of a category of IRIS chemicals. Additionally, the ITC recommends with intent-to-designate a category of aldehydes; and recommends without designating for response one substance and three categories of substances. The latter three categories are sulfones, IRIS chemicals, and substantially produced chemicals in need of subchronic tests. For a complete listing of the substances, see the ITC's Twenty-seventh Report published in the **Federal Register** of (56 FR 9534) March 6, 1991. This rule adds one of the three chemical substances and the four categories of substances to the PAIR and to the section 8(d) Health and Safety Data Reporting Rule. These two rules are model information gathering rules which assist EPA in responding to the ITC recommendations.

EPA promulgated the PAIR under section 8(a) of TSCA (15 U.S.C. 2607(a)), and it is codified at 40 CFR part 712. This model section 8(a) rule establishes standard reporting requirements for manufacturers and importers of the chemicals listed in the rule at 40 CFR 712.30. These manufacturers and importers are required to submit a one-time report on general volume, end use, and exposure related information using the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710–35). EPA uses this model section 8(a) rule to gather current information on chemicals of concern quickly. EPA promulgated the model Health and Safety Data Reporting Rule under section 8(d) of TSCA (15 U.S.C. 2607(d)), and it is codified at 40 CFR part 716. The section 8(d) model rule requires past, current, and prospective manufacturers, importers, and processors of listed chemicals to submit to EPA copies and lists of unpublished health and safety studies on the listed chemicals that they manufacture, import, or process. These studies provide EPA with useful information and have provided significant support for EPA's decisionmaking under TSCA sections 4, 5, 6, 8, and 9.

Both model rules provide for the automatic addition of ITC priority list chemicals. Whenever EPA announces the receipt of an ITC report, EPA may, at the same time without further notice and comment, amend the two model information-gathering rules by adding the recommended chemicals. The amendment adding these chemicals to the PAIR and the Health and Safety Data Reporting Rule becomes effective 30 days after publication.

II. Chemicals To Be Added

In its Twenty-seventh Report to EPA, the ITC recommended for priority

consideration three substances and four categories of substances. EPA is adding the ITC's designated and recommended substances to the PAIR and the section 8(d) Health and Safety Data Reporting Rule, subject to the following exceptions:

(1) As mentioned in unit I, two substances designated for a response in 12 months were listed in an earlier ITC report as "recommended with intent-to-designate." These two chemicals, 4-vinylcyclohexene (CAS No. 100–40–3) and sodium cyanide (CAS No. 143–33–9) will not be added to either the PAIR or the section 8(d) rule because they are already listed on these rules in response to the previous recommendation by the ITC.

(2) Also, EPA will not add to the section 8(d) Health and Safety Data Reporting rule six of the substances listed in the ITC report because the substances are already on the section 8(d) rule and subject to a 10–year reporting period. These six substances are: 2-furancarboxaldehyde (CAS No. 98–01–1) (52 FR 16022, May 1, 1987); 4-(1,1-dimethylethyl) benzaldehyde (CAS No. 939–97–9), (51 FR 17336, May 12, 1986); N-butyl methacrylate (CAS No. 97–88–1, (54 FR 8484, February 28, 1989); cyclohexene, 4-ethenyl, (CAS No. 100–40–3), (54 FR 51131, December 12, 1989); sodium cyanide (CAS No. 143–33–9), (55 FR 39780, September 28, 1990); and phenol (CAS No. 108–95–2), (52 FR 16022, May 1, 1987). [Note: EPA is adding to the PAIR two substances, N-butyl methacrylate (CAS No. 97–881) and isobutyl acrylate (CAS No. 106–63–8), which are in the category of substantially produced chemicals in need of subchronic tests, even though these substances were previously placed on the PAIR on June 22, 1982 (47 FR 26992), because current data are needed.]

(3)The six IRIS chemicals designated for a response in 12 months will not be placed on the PAIR or the section 8(d) rule. The six IRIS chemicals are: acrylic acid (CAS No. 79–10–7), acetophenone (CAS No. 98–86–2), phenol (CAS No. 108–95–2), N,N-dimethylaniline (CAS No. 121–69–7), ethyl acetate (CAS No. 141–78–6), and 2,6-dimethylphenol (CAS No. 576–26–1). EPA has adequate information on these high production volume chemicals so that reasoned testing decisions may be made. However, the two IRIS chemicals recommended without being designated, 2,4-dinitrophenol (CAS No. 51–28–5) and 3,4-dimethylphenol (CAS No. 95–65–8), will be placed on the PAIR and the section 8(d) rule because more information is needed on these substances.

III. Reporting Requirements

A. Preliminary Assessment Information Rule

All persons who manufactured or imported the chemical substances named in this rule during their latest complete corporate fiscal year must submit a Preliminary Assessment Information Manufacturer's Report (EPA Form No. 7710–35) for each manufacturing or importing site at which they manufactured or imported a named substance. A separate form must be completed for each substance and submitted to the Agency no later than November 27, 1991. Persons who have previously and voluntarily submitted a Manufacturer's Report to the ITC or EPA may be able to submit a copy of the original Report to EPA or to notify EPA by letter of their desire to have this voluntary submission accepted in lieu of a current data submission. See § 712.30(a)(3).

Details of the reporting requirements, the basis for exemptions, and a facsimile of the reporting form, are provided in 40 CFR part 712. Copies of the form are available from the TSCA Environmental Assistance Division at the address listed under **FOR FURTHER INFORMATION CONTACT**.

B. Health and Safety Data Reporting Rule

Listed below are the general reporting requirements of the section 8(d) model rule.

1. Persons who, in the 10 years preceding the date a substance is listed, either have proposed to manufacture, import, or process, or have manufactured, imported, or processed, the listed substance must submit to EPA: A copy of each health and safety study which is in their possession at the time the substance is listed.

2. Persons who, at the time the substance is listed, propose to manufacture, import, or process; or are manufacturing, importing, or processing the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time the substance is listed.

b. A list of health and safety studies known to them but not in their possession at the time the substance is listed.

c. A list of health and safety studies that are ongoing at the time the substance is listed and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the date the substance is listed and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete regardless of completion date.

3. Persons who, after the time the substance is listed, propose to manufacture, import, or process the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time they propose to manufacture, import, or process the listed substance.

b. A list of health and safety studies known to them but not in their possession at the time they propose to manufacture, import, or process the listed substance.

c. A list of health and safety studies that are ongoing at the time they propose to manufacture, import, or process the listed substance, and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the time they propose to manufacture, import, or process the listed substance, and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete regardless of the completion date.

The bulk of reporting is required at the time the substance is listed. Persons described in categories 1 and 2 do all or most of their health and safety data reporting at the start of the reporting period. The remaining reporting requirements, specifically categories 2(d), 2(e), and 3, continue prospectively.

Detailed guidance for reporting unpublished health and safety data is provided in the **Federal Register** of September 15, 1986 (51 FR 32720). Also found there are the reporting exemptions.

C. Submission of PAIR Reports and Section 8(d) Studies

PAIR reports and section 8(d) health and safety studies must be sent to:

TSCA Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, ATTN: (insert either PAIR or 8(d) Reporting).

D. Removal of Chemical Substances from the Rules

Any person who believes that section 8(a) or 8(d) reporting required by this rule is unwarranted, should promptly submit to EPA in detail the reasons for that belief. EPA, in its discretion, may remove the substance from this rule for

good cause (40 CFR §§ 712.30 and 716.105). When withdrawing a substance from the rule, EPA will issue a rule amendment for publication in the Federal Register.

IV. Release of Aggregate Data

EPA will follow procedures for the release of aggregate statistics as prescribed in the Federal Register notice of June 13, 1983 (48 FR 27041). Included in the notice are procedures for requesting exemptions from the release of aggregate data. Exemption requests concerning the release of aggregate data on any chemical substance must be received by EPA no later than November 27, 1991.

V. Economic Analysis

A. Preliminary Assessment Information Rule

EPA estimates the PAIR reporting cost of this rule is $717,328. To calculate this figure, EPA used information from the 1986 TSCA Inventory Update and SRI *Directory of Chemical Producers* to generate a list of manufacturers and importers of one substance and four categories listing 160 substances. None of the companies identified qualify as a small business as defined in 40 CFR 712.25(c), thus, EPA expects 285 firms to generate a total of 428 reports.

Reporting Costs (dollars)

(a) 428 reports estimated at $914 per report	$391,192
(b) 428 sites at $762 per site	326,136
Total Cost	$717,328
Mean cost per site = $717,328/428 sites	$1,676
Mean cost per firm = $717,328/285 firms	$2,517

Reporting Burden (hours)

(a) Rule familiarization: 18 hrs/site x 428 sites	7,704
(b) Reporting: 16 hrs/report x 428 reports	6,848
Total Burden Hours	14,552
Average burden per site = 14,552 hours/428 sites	34
Average burden per firm = 14,552/285 firms	51
EPA Costs (dollars)	
Processing cost = 428 reports x $103/report	$44,084

B. Health and Safety Data Reporting Rule

EPA estimates the total reporting costs for establishing section 8(d) reporting requirements for 161 chemicals will be $574,828. This cost estimate is high because the Agency is uncertain about the likely number of respondents to the rule. Although EPA has used the best available data to make its economic projections, much of the information is based upon the 1986 TSCA Inventory Update and secondary information from industry sources. Therefore, EPA tends to overestimate rather than underestimate reporting burden. The estimated reporting costs are broken down as follows:

Initial corporate review	$ 88,852
Site identification	76,069
File searches at site	156,399
Photocopying existing studies	26,349
Title listing	7,925
Managerial review for CBI	153,490
Reporting on newly-initiated studies	3,342
Submissions after initial reporting period	62,402
Total	$574,828

Reporting Burden (hours)

(a) Initial review: 2 hours/firm x 855 firms	1,710 hrs
(b) Reporting: 25.44 hours/firm x 488 firms	12,415 hrs
Total reporting burden hours	14,125 hrs

VI. Rulemaking Record

The following documents constitute the record for this rule (docket control number OPTS–82036). All of these documents are available to the public in the TSCA Public Docket Office from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Public Docket Office is located at EPA Headquarters, Rm. NE–G004, 401 M St., SW., Washington, DC.

1. This final rule.
2. The economic analysis for this rule.
3. The Twenty-seventh Report of the ITC.

VII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This rule is not major because it will not result in an effect on the economy of $100 million or more, an increase in costs or prices, or any of the adverse effects described in the Executive Order.

This amendment was not submitted to the Office of Managementand Budget (OMB) for review, because the automatic listing of substances recommended by the ITC is provided for in 40 CFR 712.30(c) and 716.18(b).

B. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. and have been assigned OMB control numbers 2070–0054 for PAIR reporting and 2070–0004 for TSCA section 8(d) reporting.

Public reporting burden for this collection of information is estimated to average 16 hours for PAIR per response and 25.44 hours for section 8(d), including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St., SW, Washington, DC, 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503, marked "Attention: Desk Officer for EPA.

List of Subjects in 40 CFR Parts 712 and 716

Chemicals, environmental protection, hazardous substances, health and safety data, recordkeeping and reporting requirements

Dated: August 19, 1991.

Frank D. Kover,

Acting Director, Existing Chemical Assessment Division, Office of Toxic Substances.

Therefore, 40 CFR chapter I is amended as follows:

PART 712—[AMENDED]

1. In part 712:

a. The authority citation for part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

b. Section 712.30 is amended by adding in CAS number sequence one substance to the list in paragraph (w) and adding four categories alphabetically in paragraph (x) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(w) * * *

CAS Number	Substance	Effective date	Reporting date
* *	* * * * *		
90-30-2	N-Phenyl-1-naphthylamine	9/30/91	11/27/9
* *	* * * * *		

(x) * * *

CAS Number	Substance	Effective Date	Reporting Date
Aldehydes:			
66-77-3	1-Naphthalenecarboxaldehyde	9/30/91	11/27/9
75-07-0	Acetaldehyde	9/30/91	11/27/9
75-87-6	Acetaldehyde, trichloro-	9/30/91	11/27/9
78-84-2	Propanal, 2-methyl-	9/30/91	11/27/9
78-85-3	2-Propenal, 2-methyl-	9/30/91	11/27/9
80-54-6	Benzenepropanal,4-(1,1-dimethylethyl)-.alpha.-methyl-	9/30/91	11/27/9
84-83-3	Acetaldehyde, (1,3-dihydro-1,3, 3-trimethyl-2H-indol-2-ylidene)		
89-98-5	Benzaldehyde, 2-chloro-	9/30/91	11/27/91
90-02-8	Benzaldehyde, 2-hydroxy-	9/30/91	11/27/9
93-02-7	Benzaldehyde, 2,5-dimethoxy-	9/30/91	11/27/9
93-53-8	Benzeneacetaldehyde, .alpha.-methyl-	9/30/91	11/27/91
95-01-2	Benzaldehyde, 2,4-dihydroxy-	9/30/91	11/27/91
97-51-8	Benzaldehyde, 2-hydroxy-5-nitro-	9/30/91	11/27/91
98-01-1	2-Furancarboxaldehyde	9/30/91	11/27/91
98-03-3	2-Thiophenecarboxaldehyde	9/30/91	11/27/91
99-72-9	Benzeneacetaldehyde, 4-methyl-	9/30/91	11/27/91
100-10-7	Benzaldehyde, 4-(dimethylamino)-	9/30/91	11/27/91
100-50-5	3-Cyclohexene-1-carboxaldehyde	9/30/91	11/27/91
100-52-7	Benzaldehyde	9/30/91	11/27/91
101-39-3	2-Propenal, 2-methyl-3-phenyl-	9/30/91	11/27/91
101-86-0	Octanal, 2-(phenylmethylene)-	9/30/91	11/27/91
103-95-7	Benzenepropanal, .alpha.-methyl-4-(1-methylethyl)-	9/30/91	11/27/91
104-55-2	2-Propenal, 3-phenyl-	9/30/91	11/27/91
104-87-0	Benzaldehyde, 4-methyl-	9/30/91	11/27/91
104-88-1	Benzaldehyde, 4-chloro-	9/30/91	11/27/91
106-23-0	6-Octenal, 3,7-dimethyl-	9/30/91	11/27/91
106-26-3	2,6-Octadienal, 3,7-dimethyl-, (Z)-	9/30/91	11/27/91
106-72-9	5-Heptenal, 2,6-dimethyl-	9/30/91	11/27/91
107-02-8	2-Propenal	9/30/91	11/27/91
107-20-0	Acetaldehyde, chloro-	9/30/91	11/27/91
107-22-2	Ethanedial	9/30/91	11/27/91
107-75-5	Octanal, 7-hydroxy-3,7-dimethyl-	9/30/91	11/27/91
110-41-8	Undecanal, 2-methyl-	9/30/91	11/27/91
110-62-3	Pentanal	9/30/91	11/27/91
111-30-8	Pentanedial	9/30/91	11/27/91
111-71-7	Heptanal	9/30/91	11/27/91
112-31-2	Decanal	9/30/91	11/27/91
112-44-7	Undecanal	9/30/91	11/27/91
112-45-8	10-Undecenal	9/30/91	11/27/91
112-54-9	Dodecanal	9/30/91	11/27/91
120-14-9	Benzaldehyde, 3,4-dimethoxy-	9/30/91	11/27/91
120-21-8	Benzaldehyde, 4-(diethylamino)-	9/30/91	11/27/91
120-57-0	1,3-Benzodioxole-5-carboxaldehyde	9/30/91	11/27/91
121-32-4	Benzaldehyde, 3-ethoxy-4-hydroxy-	9/30/91	11/27/91
121-33-5	Benzaldehyde, 4-hydroxy-3-methoxy-	9/30/91	11/27/91
122-40-7	Heptanal, 2-(phenylmethylene)-	9/30/91	11/27/91
122-78-1	Benzeneacetaldehyde	9/30/91	11/27/91
123-05-7	Hexanal, 2-ethyl-	9/30/91	11/27/91
123-08-0	Benzaldehyde, 4-hydroxy-	9/30/91	11/27/91
123-11-5	Benzaldehyde, 4-methoxy-	9/30/91	11/27/91
123-38-6	Propanal	9/30/91	11/27/91
124-13-0	Octanal	9/30/91	11/27/91
124-19-6	Nonanal	9/30/91	11/27/91
126-15-8	4a(4H)-Dibenzofurancarboxaldehyde, 1,5a,6,9,9a,9b-hexahydro-	9/30/91	11/27/91
135-02-4	Benzaldehyde, 2-methoxy-	9/30/91	11/27/91
141-27-5	2,6-Octadienal, 3,7-dimethyl-, (E)-	9/30/91	11/27/91
143-14-6	9-Undecenal	9/30/91	11/27/91
455-19-6	Benzaldehyde, 4-(trifluoromethyl)-	9/30/91	11/27/91

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CAS Number	Substance	Effective Date	Reporting Date
505-57-7	02-Hexenal	9/30/91	11/27/91
552-89-6	Benzaldehyde, 2-nitro-	9/30/91	11/27/91
590-86-3	Butanal, 3-methyl-	9/30/91	11/27/91
597-31-9	Propanal, 3-hydroxy-2,2-dimethyl-	9/30/91	11/27/91
939-97-9	Benzaldehyde, 4-(1,1-dimethylethyl)-	9/30/91	11/27/91
1121-60-4	2-Pyridinecarboxaldehyde	9/30/91	11/27/91
1200-14-2	Benzaldehyde, 4-butyl	9/30/91	11/27/91
1331-92-6	2-Propenal, 3-phenyl-, monopentyl deriv.	9/30/91	11/27/91
1334-78-7	Benzaldehyde, methyl-	9/30/91	11/27/91
1423-46-7	3-Cyclohexene-1-carboxaldehyde, 2,4,6-trimethyl-	9/30/91	11/27/91
1504-74-1	2-Propenal, 3-(2-methoxyphenyl)-	9/30/91	11/27/91
2591-86-8	1-Piperidinecarboxaldehyde	9/30/91	11/27/91
3132-99-8	Benzaldehyde, 3-bromo-	9/30/91	11/27/91
3268-49-3	Propanal, 3-(methylthio)-	9/30/91	11/27/91
3613-30-7	Octanal, 7-methoxy-3,7-dimethyl-	9/30/91	11/27/91
4501-58-0	3-Cyclopentene-1-acetaldehyde, 2,2,3-trimethyl-	9/30/91	11/27/91
5435-64-3	Hexanal, 3,5,5-trimethyl-	9/30/91	11/27/91
5780-07-4	1,3-Benzodioxole-5-carboxaldehyde, 7-methoxy-	9/30/91	11/27/91
5949-05-3	6-Octenal, 3,7-dimethyl-, (S)-	9/30/91	11/27/91
5988-91-0	Octanal, 3,7-dimethyl-	9/30/91	11/27/91
10031-82-0	Benzaldehyde, 4-ethoxy-	9/30/91	11/27/91
13586-68-0	2-Propenal, 3- 4-(1,1-dimethylethyl)phenyl-2-methyl-	9/30/91	11/27/91
17754-90-4	Benzaldehyde, 4-(diethylamino)-2-hydroxy-	9/30/91	11/27/91
26266-68-2	Hexenal, 2-ethyl-	9/30/91	11/27/91
27939-60-2	3-Cyclohexene-1-carboxaldehyde, dimethyl-	9/30/91	11/27/91
28602-27-9	Benzaldehyde, (dimethylamino)-	9/30/91	11/27/91
31906-04-4	3-Cyclohexene-1-carboxaldehyde, 4-(4-hydroxy-4-methylpentyl)-	9/30/91	11/27/91
37677-14-8	3-Cyclohexene-1-carboxaldehyde, 4-(4-methyl-3-pentenyl)-	9/30/91	11/27/91
39515-51-0	Benzaldehyde, 3-phenoxy-	9/30/91	11/27/91
52475-86-2	3-Cyclohexene-1-carboxaldehyde, 1-methyl-4-(4-methyl-3-pentenyl)-	9/30/91	11/27/91
66327-54-6	3-Cyclohexene-1-carboxaldehyde, 1-methyl-4-(4-methylpentyl)-	9/30/91	11/27/91
* *	* * * * * *		
IRIS Chemicals:			
51-28-5	2,4 Dinitrophenol	9/30/91	11/27/91
79-10-7	Acrylic acid	9/30/91	11/27/91
95-65-8	3,4 Dinethylphenol	9/30/91	11/27/91
98-86-2	Acetophenone	9/30/91	11/27/91
108-95-2	Phenol	9/30/91	11/27/91
121-69-7	N,N-Dimethylaniline	9/30/91	11/27/91
141-78-6	Ethyl acetate	9/30/91	11/27/91
576-26-1	2,6-Dimethylphenol	9/30/91	11/27/91
* *	* * * * * *		
Substantially produced chemicals in need of subchronic tests:			
80-51-3	p,p'-Oxybis(benzenesulfonylhydrazide)	9/30/91	11/27/91
81-84-5	Naphthalenedicarboxylic anhydride	9/30/91	11/27/91
84-51-5	2-Ethylanthraquinone	9/30/91	11/27/91
87-02-5	7-Amino-4-hydroxy-2-naphthalenesulfonic acid	9/30/91	11/27/91
90-15-3	1-Naphthol	9/30/91	11/27/91
92-70-6	3-Hydroxy-2-naphthoic acid	9/30/91	11/27/91
94-28-0	Triethylene glycol bis(2-ethylhexanoate)	9/30/91	11/27/91
95-32-9	2-(4-Morpholinyldithio)-benzothiazole	9/30/91	11/27/91
97-88-1	N-Butyl methacrylate	9/30/91	11/27/91
98-48-6	1,3-Benzenedisulfonic Acid	9/30/91	11/27/91
99-54-7	3,4-Dichloronitrobenzene	9/30/91	11/27/91
99-63-8	Isophthaloyl chloride	9/30/91	11/27/91
100-20-9	Terephthaloyl chloride	9/30/91	11/27/91
100-29-8	4-Ethoxynitrobenzene	9/30/91	11/27/91
102-01-2	Acetoacetanilide	9/30/91	11/27/91
106-31-0	Butyric anhydride	9/30/91	11/27/91
106-63-8	Isobutyl acrylate	9/30/91	11/27/91
111-96-6	Diethylene glycol dimethyl ether	9/30/91	11/27/91
112-15-2	Carbinol acetate	9/30/91	11/27/91
116-81-4	Bromamine acid	9/30/91	11/27/91
119-33-5	4-Methyl-2-nitro-phenol	9/30/91	11/27/91
121-60-8	4-(Acetylamino)benzenesulfonyl chloride	9/30/91	11/27/91
123-54-6	2,4-Pentanedione	9/30/91	11/27/91
123-62-6	Propanoic anhydride	9/30/91	11/27/91
142-16-5	Bis(2-ethylhexyl)-2-butenedioate	9/30/91	11/27/91
311-89-7	Perfluorotributylamine	9/30/91	11/27/91
355-42-0	Perfluoro-N-hexane	9/30/91	11/27/91
594-42-3	Trichloromethanesulfenyl chloride	9/30/91	11/27/91
616-21-7	1,2-Dichlorobutane	9/30/91	11/27/91
626-17-5	1,3-Dicyanobenzene	9/30/91	11/27/91
760-23-6	3,4-Dichlorobutene	9/30/91	11/27/91
1929-06-6	2-(2-Aminoethoxy)-ethano	9/30/91	11/27/91
1047-16-1	Quinacridone	9/30/91	11/27/91
1111-78-0	Ammonium carbamate	9/30/91	11/27/91
3089-11-0	Hexa(methoxymethyl) melamine	9/30/91	11/27/91

—Continued

CAS Number	Substance	Effective Date	Reporting Date
Sulphones:			
67-71-0	Dimethylsulfone	9/30/91	11/27/91
77-79-2	Sulfolene	9/30/91	11/27/91
80-07-9	Sulfonyl bis-[4-chlorobenzene)	9/30/91	11/27/91
80-08-0	4,4'-Diaminodiphenyl sulfone	9/30/91	11/27/91
80-09-1	Bisphenol A	9/30/91	11/27/91
98-30-6	2-Amino-4-(methylsulfonyl)phenol	9/30/91	11/27/91
126-33-0	Sulfolane	9/30/91	11/27/91
127-63-9	Diphenylsulfone	9/30/91	11/27/91
2580-77-0	2,2'-Sulfonyl bis-ethanol	9/30/91	11/27/91
3278-22-6	1,1'-[Methylene bis(sulfonyl)]bisethene	9/30/91	11/27/91
5246-57-1	2-[(3-Aminophenyl)sulfonyl]ethanol	9/30/91	11/27/91
16588-67-3	3-[N-Ethyl-4-[[6-(methylsulfonyl)-2-benzothiazolyl] azo]-m-toluidino]- propionitrile.	9/30/91	11/27/91
17557-67-4	6-(Methylsulfonyl)-2-benzothiazolamine	9/30/91	11/27/91
17601-96-6	2-Amino-4-[(2-hydroxyethyl) sulfonyl]phenol	9/30/91	11/27/91
17688-68-5	4-Phenylthiomorpholine, 1,1-dioxide	9/30/91	11/27/91
17741-62-7	4-[4-[(2,6-Dichloro-4-nitrophenyl) azo]phenyl]thiomorpholine, 1,1-dioxide-	9/30/91	11/27/91
18760-44-6	3-(Decyloxy)tetrahydrothiophene 1,1-dioxide	9/30/91	11/27/91
20018-09-1	1-(Diiodomethyl) sulfonyl-4-methyl benzene	9/30/91	11/27/91
26750-50-5	1,1'-[Oxybis(methylenesulfonyl)] bisethene	9/30/91	11/27/91
36724-43-3	2,2'-[Oxybis(methylenesulfonyl)]bisethanol	9/30/91	11/27/91
41123-59-5	1,1'-[Methylenebis(sulfonyl)]bis-2-chloroethane	9/30/91	11/27/91
41123-69-7	2,2'-[Methylenebis(sulfonyl)]bisethanol	9/30/91	11/27/91
41687-30-3	2-[(3-Nitrophenyl)sulfonyl]ethanol	9/30/91	11/27/91
52218-35-6	2-[(6-Amino-2-naphthalenyl)sulfonyl]ethanol	9/30/91	11/27/91
53061-10-2	1,1'-[Oxybis(methylenesulfonyl)]bis-2-chloroethane	9/30/91	11/27/91
63134-33-8	4-[[4-(Phenylmethoxy)phenyl]sulfonyl]phenol	9/30/91	11/27/91

PART 716—[AMENDED]

2. In part 716:

a. The authority citation for part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

b. Section 716.120 is amended by adding in CAS number sequence one substance to the list in paragraph (a) and adding four categories alphabetically to paragraph (d) to read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

* * * * *

(a) * * *

CAS No.	Substance	Special exemptions	Effective date	Sunset date
*	* * * * * *			
90-30-2	N-Phenyl-1-naphthylamine		9/30/91	9/30/01
*	* * * * * *			

(d) * * *

Category	CAS No. (examples for category)	Special exemptions	Effective date	Sunset date
Aldehydes:				
Acetaldehyde	75-07-0		9/30/91	9/30/01
Acetaldehyde, chloro-	107-20-0		9/30/91	9/30/01
Acetaldehyde, (1,3-dihydro-1,3,3-trimethyl-2*H*-indol-2-ylidene)	84-83-3		9/30/91	9/30/01
Acetaldehyde, trichloro-	75-87-6		9/30/91	9/30/01
Benzaldehyde	100-52-7		9/30/91	9/30/01
Benzaldehyde, 3-bromo-	3132-99-8		9/30/91	9/30/01
Benzaldehyde, 4-butyl-	1200-14-2		9/30/91	9/30/01
Benzaldehyde, 2-chloro-	89-98-5		9/30/91	9/30/01
Benzaldehyde, 4-chloro-	104-88-1		9/30/91	9/30/01
Benzaldehyde, 4-(diethylamino)-	120-21-8		9/30/91	9/30/01
Benzaldehyde, 4-(diethylamino)-2-hydroxy-	17754-90-4		9/30/91	9/30/01
Benzaldehyde, 2,4-dihydroxy-	95-01-2		9/30/91	9/30/01
Benzaldehyde, 2,5-dimethoxy-	93-02-7		9/30/91	9/30/01
Benzaldehyde, 3,4-dimethoxy-	120-14-9		9/30/91	9/30/01
Benzaldehyde, (dimethylamino)-	28602-27-9		9/30/91	9/30/01
Benzaldehyde, 4-(dimethylamino)-	100-10-7		9/30/91	9/30/01
Benzaldehyde, 4-ethoxy-	10031-82-0		9/30/91	9/30/01

—Continued

Category	CAS No. (examples for category)	Special exemptions	Effective date	Sunset date
Benzaldehyde, 3-ethoxy-4-hydroxy-	121-32-4		9/30/91	9/30/01
Benzaldehyde, 2-hydroxy-	90-02-8		9/30/91	9/30/01
Benzaldehyde, 4-hydroxy-	123-08-0		9/30/91	9/30/01
Benzaldehyde, 4-hydroxy-3-methoxy-	121-33-5		9/30/91	9/30/01
Benzaldehyde, 2-hydroxy-5-nitro-	97-51-8		9/30/91	9/30/01
Benzaldehyde, 4-methoxy-	123-11-5		9/30/91	9/30/01
Benzaldehyde, 2-methoxy-	135-02-4		9/30/91	9/30/01
Benzaldehyde, methyl-	1334-78-7		9/30/91	9/30/01
Benzaldehyde, 4-methyl-	104-87-0		9/30/91	9/30/01
Benzaldehyde, 2-nitro-	552-89-6		9/30/91	9/30/01
Benzaldehyde, 3-phenoxy-	39515-51-0		9/30/91	9/30/01
Benzaldehyde, 4-(trifluoromethyl)-	455-19-6		9/30/91	9/30/01
Benzeneacetaldehyde	122-78-1		9/30/91	9/30/01
Benzeneacetaldehyde, .α.-methyl-	93-53-8		9/30/91	9/30/01
Benzeneacetaldehyde, 4-methyl-	99-72-9		9/30/91	9/30/01
Benzenepropanal, 4-(1,1-dimethylethyl)-.α.-methyl-	80-54-6		9/30/91	9/30/01
Benzenepropanal, .α.-methyl-4-(1-methylethyl)-	103-95-7		9/30/91	9/30/01
1,3-Benzodioxole-5-carboxaldehyde	120-57-0		9/30/91	9/30/01
1,3-Benzodioxole-5-carboxaldehyde, 7-methoxy-	5780-07-4		9/30/91	9/30/01
Butanal, 3-methyl-	590-86-3		9/30/91	9/30/01
3-Cyclohexene-1-carboxaldehyde	100-50-5		9/30/91	9/30/01
3-Cyclohexene-1-carboxaldehyde, dimethyl-	27939-60-2		9/30/91	9/30/01
3-Cyclohexene-1-carboxaldehyde, 4-(4-hydroxy-4-methylpentyl)-	31906-04-4		9/30/91	9/30/01
3-Cyclohexene-1-carboxaldehyde, 1-methyl-4-(4-methyl-3-pentenyl)-	52475-86-2		9/30/91	9/30/01
3-Cyclohexene-1-carboxaldehyde, 1-methyl-4-(4-methylpentyl)-	66327-54-6		9/30/91	9/30/01
3-Cyclohexene-1-carboxaldehyde, 4-(4-methyl-3-pentenyl)-	37677-14-8		9/30/91	9/30/01
3-Cyclohexene-1-carboxaldehyde, 2,4,6-trimethyl-	1423-46-7		9/30/91	9/30/01
3-Cyclopentene-1-acetaldehyde, 2,2,3-trimethyl-	4501-58-0		9/30/91	9/30/01
Decanal	112-31-2		9/30/91	9/30/01
4a(4*H*)-Dibenzofurancarboxaldehyde, 1,5a,6,9,9a,9b-hexahydro-	126-15-8		9/30/91	9/30/01
Dodecanal	112-54-9		9/30/91	9/30/01
Ethanedial	107-22-2		9/30/91	9/30/01
Heptanal	111-71-7		9/30/91	9/30/01
Heptanal, 2-(phenylmethylene)-	122-40-7		9/30/91	9/30/01
5-Heptenal, 2,6-dimethyl-	106-72-9		9/30/91	9/30/01
Hexanal, 2-ethyl-	123-05-7		9/30/91	9/30/01
Hexanal, 3,5,5-trimethyl-	5435-64-3		9/30/91	9/30/01
2-Hexenal	505-57-7		9/30/91	9/30/01
Hexenal, 2-ethyl-	26266-68-2		9/30/91	9/30/01
1-Naphthalene carboxaldehyde	66-77-3		9/30/91	9/30/01
Nonanal	124-19-6		9/30/91	9/30/01
2,6-Octadienal, 3,7-dimethyl-, (*E*)-	141-27-5		9/30/91	9/30/01
2,6-Octadienal, 3,7-dimethyl-, (*Z*)-	106-26-3		9/30/91	9/30/01
Octanal	124-13-0		9/30/91	9/30/01
Octanal, 3,7-dimethyl-	5988-91-0		9/30/91	9/30/01
Octanal, 7-hydroxy-3,7-dimethyl-	107-75-5		9/30/91	9/30/01
Octanal, 7-methoxy-3,7-dimethyl-	3613-30-7		9/30/91	9/30/01
Octanal, 2-(phenylmethylene)-	101-86-0		9/30/91	9/30/01
6-Octenal, 3,7-dimethyl-	106-23-0		9/30/91	9/30/01
6-Octenal, 3,7-dimethyl-, (*S*)-	5949-05-3		9/30/91	9/30/01
Pentanal	110-62-3		9/30/91	9/30/01
Pentanedial	111-30-8		9/30/91	9/30/01
1-Piperidinecarboxaldehyde	2591-86-8		9/30/91	9/30/01
Propanal	123-38-6		9/30/91	9/30/01
Propanal, 3-hydroxy-2,2-dimethyl-	597-31-9		9/30/91	9/30/01
Propanal, 2-methyl-	78-84-2		9/30/91	9/30/01
Propanal, 3-(methylthio)-	3268-49-3		9/30/91	9/30/01
2-Propenal	107-02-8		9/30/91	9/30/01
2-Propenal, 3- 4-(1,1-dimethylethyl)phenyl -2-methyl-	13586-68-0		9/30/91	9/30/01
2-Propenal, 3-(2-methoxyphenyl)-	1504-74-1		9/30/91	9/30/01
2-Propenal, 2-methyl-	78-85-3		9/30/91	9/30/01
2-Propenal, 2-methyl-3-phenyl-	101-39-3		9/30/91	9/30/01
2-Propenal, 3-phenyl-	104-55-2		9/30/91	9/30/01
2-Propenal, 3-phenyl-, monopentyl deriv.	1331-92-6		9/30/91	9/30/01
2-Pyridinecarboxaldehyde	1121-60-4		9/30/91	9/30/01
2-Thiophene carboxaldehyde	98-03-3		9/30/91	9/30/01
Undecanal	112-44-7		9/30/91	9/30/01
Undecanal, 2-methyl-	110-41-8		9/30/91	9/30/01
9-Undecenal	143-14-6		9/30/91	9/30/01
10-Undecenal	112-45-8		9/30/91	9/30/01
* * * * * * *				
IRIS Chemicals:				
Acetophenone	98-86-2		9/30/91	9/30/01
Acrylic acid	79-10-7		9/30/91	9/30/01
N,N-Dimethylaniline	121-69-7		9/30/91	9/30/01
2,6-Dimethylphenol	576-26-1		9/30/91	9/30/01
3,4-Dimethylphenol	95-65-8		9/30/91	9/30/01
2,4-Dinitrophenol	51-28-5		9/30/91	9/30/01
Ethyl acetate	141-78-6		9/30/91	9/30/01

—Continued

Category	CAS No. (examples for category)	Special exemptions	Effective date	Sunset date
* * * * *	* *			
Substantially produced chemicals in need of subchronic tests:				
Acetoacetanilide	102-01-2		9/30/91	9/30/01
4-(Acetylamino)benzenesulfonyl chloride	121-60-8		9/30/91	9/30/01
2-(2-Aminoethoxy)-ethano	I929-06-6		9/30/91	9/30/01
7-Amino-4-hydroxy-2-naphthalenesulfonic acid	87-02-5		9/30/91	9/30/01
Ammonium carbamate	1111-78-0		9/30/91	9/30/01
1,3-Benzenedisulfonic Acid	98-48-6		9/30/91	9/30/01
Bis(2-ethylhexyl)-2-butenedioate	142-16-5		9/30/91	9/30/01
Bromamine acid	116-81-4		9/30/91	9/30/01
Butyric anhydride	106-31-0		9/30/91	9/30/01
Carbinol acetate	112-15-2		9/30/91	9/30/01
1,2-Dichlorobutane	616-21-7		9/30/91	9/30/01
3,4-Dichlorobutene	760-23-6		9/30/91	9/30/01
3,4-Dichloronitrobenzene	99-54-7		9/30/91	9/30/01
1,3-Dicyanobenzene	626-17-5		9/30/91	9/30/01
Diethylene glycol dimethyl ether	111-96-6		9/30/91	9/30/01
4-Ethoxynitrobenzene	100-29-8		9/30/91	9/30/01
2-Ethylanthraquinone	84-51-5		9/30/91	9/30/01
Hexa(methoxymethyl) melamine	3089-11-0		9/30/91	9/30/01
3-Hydroxy-2-naphthoic acid	92-70-6		9/30/91	9/30/01
Isobutyl acrylate	106-63-8		9/30/91	9/30/01
Isophthaloyl chloride	99-63-8		9/30/91	9/30/01
4-Methyl-2-nitro-phenol	119-33-5		9/30/91	9/30/01
2-(4-Morpholinyldithio)-benzothiazole	95-32-9		9/30/91	9/30/01
Naphthalenedicarboxylic anhydride	81-84-5		9/30/91	9/30/01
1-Naphthol	90-15-3		9/30/91	9/30/01
p,p'-Oxybis(benzenesulfonylhydrazide)	80-51-3		9/30/91	9/30/01
2,4-Pentanedione	123-54-6		9/30/91	9/30/01
Perfluoro-*N*-hexane	355-42-0		9/30/91	9/30/01
Perfluorotributylamine	311-89-7		9/30/91	9/30/01
Propanoic anhydride	123-62-6		9/30/91	9/30/01
Quinacridone	1047-16-1		9/30/91	9/30/01
Terephthaloyl chloride	100-20-9		9/30/91	9/30/01
Trichloromethanesulfenyl chloride	594-42-3		9/30/91	9/30/01
Triethylene glycol bis(2-ethylhexanoate)	94-28-0		9/30/91	9/30/01
Sulphones:				
2-Amino-4-[(2-hydroxyethyl)sulfonyl]phenol	17601-96-6		9/30/91	9/30/01
2-Amino-4-(methylsulfonyl)phenol	98-30-6		9/30/91	9/30/01
2-[(6-Amino-2-naphthalenyl)sulfonyl]ethanol	52218-35-6		9/30/91	9/30/01
2-[(3-Aminophenyl)sulfonyl]ethanol	5246-57-1		9/30/91	9/30/01
Bisphenol A	80-09-1		9/30/91	9/30/01
3-(Decyloxy)tetrahydrothiophene 1,1-dioxide	18760-44-6		9/30/91	9/30/01
4,4'-Diaminodiphenyl sulfone	80-08-0		9/30/91	9/30/01
4-[4-[(2,6-Dichloro-4-nitrophenyl)azo]phenyl]thiomorpholine, 11,1-dioxide	17741-62-7		9/30/91	9/30/01
1-(Diiodomethyl)sulfonyl-4-methyl benzene	20018-09-1		9/30/91	9/30/01
Dimethylsulfone	67-71-0		9/30/91	9/30/01
Diphenylsulfone	127-63-9		9/30/91	9/30/01
3-[*N*-Ethyl-4-[[6-(methylsulfonyl)-2-benzothiazolyl]azo]-*m*-toluidino]propionitrile	16588-67-3		9/30/91	9/30/01
1,1'-[Methylenebis(sulfonyl)]bis-2-chloroethane	41123-59-5		9/30/91	9/30/01
2,2'-[Methylenebis(sulfonyl)]bisethanol	41123-69-7		9/30/91	9/30/01
1,1'-[Methylenebis(sulfonyl)]bisethene	3278-22-6		9/30/91	9/30/01
6-Methylsulfonyl)-2-benzothiazolamine	17557-67-4		9/30/91	9/30/01
2-[(3-Nitrophenyl)sulfonyl]ethanol	41687-30-3		9/30/91	9/30/01
1,1'-[Oxybis(methylenesulfonyl)]bis-2-chloroethane	53061-10-2		9/30/91	9/30/01
2,2'-[Oxybis(methylenesulfonyl)]bisethanol	36724-43-3		9/30/91	9/30/01
1,1'-[Oxybis(methylenesulfonyl)]bisethene	26750-50-5		9/30/91	9/30/01
4-[[4-(Phenylmethoxy)phenyl]sulfonyl] phenol	63134-33-8		9/30/91	9/30/01
4-Phenylthiomorpholine, 1,1-dioxide	17688-68-5		9/30/91	9/30/01
Sulfolane	126-33-0		9/30/91	9/30/01
Sulfolene	77-79-2		9/30/91	9/30/01
Sulfonyl bis(4-chlorobenzene)	80-07-9		9/30/91	9/30/01
2,2'-Sulfonyl bisethanol	2580-77-0		9/30/91	9/30/01

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 60

RIN: 0905-AC75

Health Education Assistance Loan Program

AGENCY: Public Health Service, HHS.

ACTION: Final regulation.

SUMMARY: This rule amends existing regulations governing the Health Education Assistance Loan (HEAL) program to include revised procedures for handling HEAL bankruptcies. Under the revisions, an insurance claim will no longer be paid when a HEAL borrower files for bankruptcy under chapter 7 of the Bankruptcy Act. Claims for filings under chapters 11 and 13 of the Bankruptcy Act will continue to be eligible for payment. This final rule also clarifies the calculation of time periods referenced in the HEAL regulations, the documentation requirements for bankruptcy claims, and the timeframes within which a lender or holder of a loan must submit a default claim when a judgment has been obtained against the borrower.

EFFECTIVE DATE: This regulation is effective August 29, 1991.

FOR FURTHER INFORMATION CONTACT: Ellen Volpe, Special Assistant, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number: 301 443-1173.

SUPPLEMENTARY INFORMATION: On March 29, 1990, the Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, published in the **Federal Register** (55 FR 11620), a Notice of Proposed Rulemaking (NPRM) to amend the HEAL regulations to include revised procedures for handling HEAL bankruptcies. The public comment period on the proposed regulations closed on May 29, 1990. The Department received six public comments on this NPRM from two lenders, two holders, one school, and one professional association. Previously, on July 25, 1988, the Department published an NPRM (53 FR 27950) to amend the provisions of the HEAL regulations which require lenders to litigate prior to filing a default claim. The Department received 10 public comments on this NPRM from four lenders, two holders, and four professional associations.

Subsequent to the publication of the July 25, 1988 proposed rule, but prior to the development of final regulations, the Health Professional Reauthorization Act of 1988 (Title VI of Pub. L. 100-607) was enacted (November 4, 1988). This law amended the HEAL statute to require that lenders and holders litigate prior to filing a default claim except in specified circumstances. Most provisions in the July 25, 1988 proposed rule were superseded by Public Law 100-607. However, the proposal to establish timeframes for the submission of default claims with judgments was not addressed by the statutory amendments. Accordingly, this final regulation provides more specific regulatory guidance on this issue.

The comments received on the proposed rules and the Department's responses to the comments are discussed below according to the subparts, section numbers, and headings of the HEAL regulations affected.

Subpart A—General Program Description

Section 60.1 What is the HEAL program?

Three respondents opposed paragraph (c) of this section, which would exclude routine chapter 7 bankruptcies from the category of loans for which claims are paid. These respondents doubted that a borrower's filing for bankruptcy would increase the probability of repayment, suggesting instead that such a borrower is highly likely to default at a later time. As a result, they were concerned that the primary effect of the proposal would be to lengthen the period before a claim is paid and thus guarantee that the amount paid at a later date would be substantially larger. For this reason, the proposal was considered counterproductive to the long-term viability of the HEAL program.

One respondent stated that the proposal contravenes the existing framework of the program as set forth in statute and regulations. This respondent suggested as an alternative that the Department seek a statutory amendment to reinstate the guarantee on chapter 7 bankruptcy claims that go into repayment and offer them for sale on the secondary market.

In response to these comments, the Department finds that borrowers who have been provided relief from other debts through chapter 7 bankruptcy are likely to be in a better position to repay their HEAL loans and to respond positively to a lender or holder's collection efforts. Therefore, the Department has retained this provision as proposed.

Section 60.35 HEAL loan collection.

Three respondents opposed the first sentence of proposed paragraph (g) of this section, which states that, if a borrower files for bankruptcy under chapter 7 of the Bankruptcy Act, the lender or holder is responsible for determining what steps, if any, it must take to assure that it retains the right to pursue collection of the loan after the bankruptcy proceedings have been completed. The respondents were concerned that there was no guidance given on the type of actions the Department has in mind, and that the proposed language left lenders and holders subject to uncertain requirements. It was suggested that the Department either state that no action is required, specify actions to take to comply with this provision, or provide a more specific description of how to determine whether any action is necessary under this provision.

In response to these comments, the Department clarifies that under current bankruptcy law no action is required to retain the right to pursue collection of the loan after the bankruptcy proceedings have been completed. Therefore, the lender or holder of the note is simply required to monitor the case to ensure that it will continue collection action after dismissal of the bankruptcy case.

One respondent requested that the Department amend the proposed language in the first sentence to clarify that this applies only to chapter 7 bankruptcies where there is no complaint seeking dismissal. The Department has amended the language accordingly.

Two respondents requested that the Department provide assurance of the insurability of the loan if, despite compliance with required procedures, the loan is discharged. In this case, the respondents indicated that any appeal of the discharge should be filed by the Department. The Department agrees that if the loan otherwise qualifies for insurance, and the loan is discharged in spite of the lender or holder's compliance with required procedures, a claim should be filed and any appeal should be handled by the Department. The provision has been modified accordingly.

Four respondents opposed the remainder of paragraph (g) of this section, which states that if an automatic stay is placed on the

collection of a HEAL loan, due to circumstances such as bankruptcy, only periods of delinquency following the end of the automatic stay can be included in determining default, as described in § 60.40(c)(1)(i). After the automatic stay is lifted, the lender or holder would be required to attempt to obtain repayment from the borrower through written and telephone contacts in accordance with the intervals established in § 60.35(a)(1), and to perform the other HEAL loan collection activities required in § 60.35, before filing a default claim.

One respondent asserted that there was no support for the Department's position that a chapter 7 petition negates delinquency or default status, since default is defined in the HEAL statute. This respondent contended that the bankruptcy filing and the automatic stay make litigation fruitless. Therefore, if a lender or holder files a default claim, it must be paid under 42 U.S.C. 294f(a).

The Department clarifies that a borrower who files for bankruptcy has a different standing legally, by virtue of the protection afforded under bankruptcy law, than a defaulter. Since the lender or holder is precluded by law from attempting collection of the debt during this time, it is appropriate to suspend any determination of default status until after the bankruptcy proceedings have been completed. Accordingly, the Department has made no change in response to this comment.

Another concern focused on the point in time at which the lender or holder would be expected to resume its collection efforts, and from which default would be determined. The respondents noted that there is inevitably a delay between the lifting of the automatic stay and the lender or holder's receipt of the discharge of debtor notice. Because bankruptcy proceedings may last many months, it is impossible to anticipate the day on which the stay will be lifted. Further, because of the nature of a judicial stay, a lender or holder must receive formal notice of the lifting of the stay before recommencing collection efforts. Finally, commenters indicated that courts are frequently reluctant to provide information requested by a lender or holder, preferring instead that the lender wait for formal notice from the court. For these reasons, they considered it unfair and unreasonable to hold the lender or holder responsible for performing collection activities prior to receipt of the discharge notice or notice from the bankrupt's attorney that the stay has been lifted.

One respondent also suggested, if the resumption of collection efforts is based on receipt of notification of the lifting of the stay, that the regulations should address how long a lender or holder is to wait for a discharge notice. This respondent explained that, for its own loans, if notification of discharge is not received within 1 year of the bankruptcy, collections are automatically resumed. The need for establishing a point at which collections will automatically resume was stressed, with the explanation that there will be some percentage of loans for which a discharge notice is never received.

In response to these comments, the Department has amended this provision to require that the lender or holder resume its collection efforts upon receipt of the discharge notice or written notice from the borrower's attorney that the stay has been lifted, with a requirement that the initial date of receipt of this notification be documented by a date stamp. In addition, the provision requires that, if no notification has been received within 12 months of the date that the borrower filed for bankruptcy, the lender or holder must contact the court and the borrower's attorney (if known) within 30 days to determine if the discharge has been granted. If no response is received within 30 days of the date of this contact, the lender or holder must resume its collection efforts at that time. If a written response from the court or the borrower's attorney indicates that the bankruptcy proceedings are still underway, the lender or holder is not to pursue further collection efforts until receipt of written notice of discharge, except that follow-up must be done at least once every 12 months until the bankruptcy proceedings have been completed.

Several respondents also indicated that it is not desirable to consider the borrower delinquent when the stay is lifted, or to make a payment immediately due with no time to enter into a repayment schedule, since this could undermine efforts to return the borrower to active repayment and could preclude renegotiation. As an alternative, it was suggested that lenders and holders be allowed to treat the period of the automatic stay as forbearance, and perform all activities associated with a borrower reentering active repayment when notified of the end of the stay, including the following: (1) Capitalize interest that has accrued during the stay and prior to the stay, up to the capitalization disclosure date; (2) redisclose loan terms to the borrower, based on the updated balance; (3) offer graduated repayment; and (4) bill the borrower for the new amount. Under this approach, the borrower would not be considered delinquent unless a payment required by the revised repayment schedule were missed. It was suggested that this would assist in reducing defaults by giving an opportunity to repay under terms that are least onerous to the borrower.

In response to these comments, the Department has amended this provision to authorize lenders to consider the period of the stay as an extended forbearance authorized by the Secretary, in addition to the 2-year period which lenders and holders can grant without prior approval. The revised provision requires that the lender or holder attempt to reestablish repayment terms with the borrower in writing no more than 30 days after receipt of notification of the discharge, in accordance with the procedures followed when a borrower otherwise ends a period of forbearance.

One respondent commented that a new delinquency cycle should not be initiated because of the automatic stay. Instead, since the automatic stay precludes performing due diligence, including litigation, the claim should be immediately eligible for payment.

In response to this comment, the Department notes that by treating the period of the stay as an extended forbearance, it is appropriate that the borrower be returned to active repayment, with a new due diligence cycle if necessary, after the stay is lifted.

Respondents also suggested that the period of the automatic stay not count as part of the 25- and 33-year maximum repayment period, since it might not be possible to offer the most appropriate repayment alternatives if the length of the court proceedings severely shortened the repayment period. Since the 25- and 33-year limits on the repayment period are statutory, the Department has no authority to extend them.

Two respondents requested guidance regarding the treatment of late fees and, in the event litigation had begun prior to the borrower's filing for bankruptcy, attorney fees and court costs. It was suggested that lenders and holders be allowed to capitalize these costs at the end of the stay.

In response, the Department clarifies that, since the stay is to be treated as a period of forbearance, late fees would not be assessed during this period. Any legal fees associated with the collection of the loan prior to the bankruptcy could be charged to the borrower, as authorized by the HEAL promissory note, but could not be capitalized, since the statute does not authorize such.

There was also concern that if litigation had begun prior to the stay,

and was dismissed when the stay was lifted in favor of treating the borrower as if he or she is not in default, the dismissal of the suit may preclude the subsequent filing of a suit in the event the borrower defaults again. In response to this concern, the Department has amended this provision to allow that, if a lender or holder had begun litigation prior to the automatic stay, the lender or holder may continue the litigation proceedings when the stay is lifted rather than recommencing its collection efforts.

Section 60.38 Assignment of a HEAL loan.

Four respondents opposed new paragraph (d) of this section, which would address situations in which a lender or holder assigns a HEAL loan to a new holder, or a new holder acquires a HEAL loan under 20 U.S.C. 1092a (the Combined Payment Plan authority), and the previous holder subsequently receives court notice that the borrower has filed for bankruptcy. In these cases, the previous holder would be required to forward the bankruptcy notice to the new holder within 10 days of the initial date of receipt, as documented by a date stamp. The previous holder also would be required to file a statement with the court notifying it of the change of ownership. One respondent asked what the penalty for non-compliance would be. The Department clarifies that lenders or holders who fail to comply with this requirement as finalized could be subject to limitation, suspension, and/or termination, in accordance with 42 CFR 60.43.

Three respondents indicated that the 10-day time limit for notifying the current holder of the bankruptcy is unrealistic and unreasonable, since the prior holder must research its records, often manually, to determine the holder to whom the loan was sold. It was noted that the HEAL regulations do not require lenders to keep complete records of assigned loans. If records are retained, the lender generally archives the physical files and does not keep computer records, making it impossible to forward the court notice within 10 days as proposed.

One respondent suggested that the 10-day timeframe be changed to 20 days. Another noted that in a chapter 7 bankruptcy where the borrower has not filed a complaint for discharge, there is no legal need for a short timeframe. In these cases, if a prior holder advises the current holder within a reasonable timeframe (e.g., 60 days), the respondent indicated that there would be no chance that current holder rights could be jeopardized.

In response to these comments, the Department notes that, except in the case of routine chapter 7 bankruptcies, the 10-day timeframe is necessary so that the current holder can file a claim with the Department in time for the Department to take the necessary action to oppose the bankruptcy and protect the financial interests of the United States. However, for routine chapter 7 bankruptcies, the provision has been amended to allow the lender to file the notice with the purchaser within 30 days of receipt.

Two respondents were concerned that the provision, as written, assumes that there is only one previous owner. It was suggested that instead of the term "new holder," the regulations refer to the "purchaser of the loan" and to the previous "holder(s)." The Department has amended the provision accordingly.

One respondent requested that the current holder be held harmless for the failure of the prior holder to meet the deadline for giving notice, and that any time-sensitive requirement of the current holder be based solely on the time elapsed once the current holder receives notice from the prior holder or the court. In response to this concern, the Department has amended the provision to clarify that the current holder will not be held responsible for any loss due to the failure of the prior holder(s) to meet a deadline for giving notice, provided that that failure occurs after the purchase of the loan.

Section 60.40 Procedures for filing claims.

One respondent objected to the proposed amendment to paragraph (c)(1)(i) of this section which would state that when an automatic stay is imposed on collection activities, by a bankruptcy court, the 120- or 180-day period during which the borrower must have failed to make payments to be considered to be in default does not include any period of time prior to the end of the automatic stay. The respondent stated that the Department should not use the end of the stay as the beginning of the delinquency period, since the lender/holder and borrower need time to reestablish repayment terms. In response, the Department clarifies that this provision does not require that the 120- or 180-day period be calculated immediately upon the end of the stay, but merely prohibits including any period prior to the stay in determining the 120- or 180-day period.

This respondent also was concerned that the Department has not thought through the ramifications of "starting again" in cases where litigation was pending at the time of bankruptcy. Concern was raised again that if the lender or holder must dismiss the lawsuit, it may be precluded from commencing a new suit in the future. Consistent with changes made to § 60.35 above, the Department has amended this provision to allow an exception in the case of any loan for which the lender or holder began litigation prior to the imposition of the automatic stay.

Six commenters opposed the language in proposed new paragraph (c)(1)(ii), which stated that if a lender or holder obtains a judgment against a borrower and does not pursue collection of the judgment, it must file a default claim with the Department within 30 days of obtaining the judgment. Two commenters indicated that it would be difficult for lenders to comply with this provision, since the process of receiving paperwork associated with litigation and preparing the claim for submission would be lengthy. Others commented that 30 days was inappropriate, unworkable, too short, and unrealistic. Several commenters gave specific examples illustrating why a 30-day filing period would be difficult. For example, in some jurisdictions, the courts provide the borrower with 30 days to respond after the judgment is rendered. It then takes 30 days to abstract the judgment and 30 days to prepare the claim for submission to the Department. Further, in cases where the lender or holder must record the judgment in a foreign jurisdiction, this is a time-consuming activity, involving much correspondence and paperwork. Respondents were also concerned about their inability to control the courts, and about the lag that can occur while the judgment is being transmitted from the court, to the attorney, to the servicer, to the lender or holder.

Three respondents suggested that the length of time be expanded to 60 days, one suggested 90 days, and others suggested that the time period for filing the claim be measured from the date that the judgment and/or all necessary information is received by the lender or holder. Finally, one respondent requested clarification of what was meant by the word "obtain," explaining that it can be interpreted to refer to the date the judgment is rendered, issued, or received.

In response to these comments, the Department has amended this provision to state that if a lender or holder obtains a judgment against a borrower and does not pursue collection of the judgment, it must file a default claim with the Department within 60 days of the date of issuance of the judgment. Because of the confusion regarding when the proposed

timeframes for filing claims with judgments would begin to run, the Department has amended the provision further to clarify that, if a lender or holder performs post-judgment collection activities, these activities must begin within 60 days of the date of issuance of the judgment. If the lender or holder is unable to collect the full amount of principal and interest owed, a claim must be filed within 30 days of completion of the post-judgment collection activities.

These respondents objected to the proposal to add a new subparagraph (F) to existing paragraph (c)(1)(ii) of this section, which is being redesignated as paragraph (c)(1)(iii). This paragraph would require that, for a defaulted borrower who previously filed for bankruptcy under chapter 7 of the Bankruptcy Act, the lender or holder must submit with its default claim appropriate documentation which shows the period of the bankruptcy proceedings and indicates that the lender or holder handled the bankruptcy properly and expeditiously. These respondents objected to the vague and subjective language of the provision, expressing concern that it was unreasonable to expect lenders and holders to meet unknown standards and provide undefined documentation. They requested clarification of what needed to be documented other than the period of the bankruptcy proceedings, and asked that "appropriate documentation" and "proper and expeditious handling" be clearly defined.

In response to these comments, the Department clarifies that currently this requirement could be met by providing copies of all documents sent to or received from the bankruptcy court, including evidence of when the bankruptcy proceedings began and when the lender or holder was notified that the automatic stay was lifted. The reference to documentation which indicates "proper and expeditious handling" of the bankruptcy has been deleted.

Three respondents objected to the proposed amendment to existing paragraph (c)(1)(iii) of this section, redesignated as paragraph (c)(1)(iv), which would state that, if a lender or holder files a default claim on a loan and subsequently receives court notice that the borrower has filed for bankruptcy, the lender or holder must file that notice with the Secretary within 10 days of the date that the lender or holder initially receives the court notice, as documented by a date stamp.

One respondent requested clarification of whether the Department will pay the default claim if notice of bankruptcy is received after the claim has been filed, or if the Department will require the lender or holder to take the claim back and reattempt collections after the stay is lifted.

The Department clarifies that when the lender or holder receives a bankruptcy notice after due diligence has been completed and a claim has been filed, and the claim is otherwise eligible for payment, the lender or holder will not be required to take the claim back.

Two respondents indicated that the 10-day timeframe is unreasonably restrictive, explaining that the bankruptcy notice could be received years after the default claim has been filed with and paid by the Department, and significant research may be required to locate the borrower's file. For example, one respondent archives claim paid accounts annually and does not maintain these loans on an automated servicing system, making location of the file more difficult. One suggested that the 10-day requirement should not apply after payment of the claim has been received. Since HEAL loans are nondischargeable, it was asserted that failure to appear in court would not injure the enforceability of the claim against the debtor.

In response to these comments, the Department notes that, except for routine chapter 7 bankruptcies, the 10-day timeframe is necessary for the Department to object to the discharge on a timely basis and protect the financial interests of the United States. However, since there is not the same urgency associated with routine chapter 7 bankruptcies, the provision has been amended to require that the court notice in these cases be filed with the Department within 30 days of the initial date of receipt. It should be noted that this provision is consistent with § 60.40(c)(1)(iii) of the former regulations, which required lenders and holders to forward to the Secretary a notice of the first meeting of creditors within 10 days of receipt if the lender or holder had filed a default claim for the loan.

Three respondents objected to proposed paragraph (c)(4), which would require that, for bankruptcy under chapter 11 or 13 of the Bankruptcy Act, and for a chapter 7 bankruptcy where the debtor files a complaint to determine the dischargeability of the HEAL loan, the lender or holder must file a claim within 10 days of the initial date of receipt of court notice that the borrower has filed for bankruptcy under chapter 11 or chapter 13, or has filed a complaint to determine the dischargeability of the HEAL loan under chapter 7.

Respondents requested that "court notice" be clarified to include a notice received from the borrower's attorney notifying the lender or holder of the bankruptcy filing, and that the provision be clarified to indicate that the 10-day period for filing the claim begins when the "current holder" receives this notification. The Department has modified the provision accordingly.

Two respondents objected to applying the 10-day filing period to all types of bankruptcies, noting that chapter 11 bankruptcies are currently allowed a 30-day filing period. One questioned why the Department was establishing a 10-day period if the nondischargeability of HEAL loans has been firmly established in bankruptcy law. The Department clarifies that most of the case law currently available addresses chapter 7 bankruptcies, and that the Department is still in the process of establishing case law for chapter 11 and 13 bankruptcies. As indicated previously, the 10-day timeframe is necessary to allow Federal attorneys to file pleadings in the bankruptcy court on a timely basis. Accordingly, this has been retained as proposed.

Two respondents objected to the proposal to add new paragraphs (c)(4)(viii) and (ix) to this section to require that the lender or holder submit the following documentation with each bankruptcy claim:

(1) In cases where there is defective service, a declaration or affidavit attesting to the fact that the lender or holder was not directly served with the notice of meeting of creditors. This declaration or affidavit must also indicate when and how the lender or holder learned of the bankruptcy; and

(2) In cases where there is defective service due to the borrower's failure to list the proper creditor, a copy of the letter sent to the borrower at the time of purchase of the HEAL loan by the current holder, or a sample letter with documentation indicating when the letter was sent to the borrower.

One respondent questioned the need for an "affidavit" or "declaration" before someone authorized to administer oaths, and suggested that the Department require instead a statement from a responsible official of the loan holder as to the defective service. The other indicated that these were excessive documentation requirements, and suggested elimination of item (2) above.

In response to these comments, the Department clarifies that, while an affidavit requires notarization, a declaration is a statement similar to an affidavit but does not require

notarization. Either an affidavit or a declaration would be needed by the attorneys representing the Federal Government in the bankruptcy proceedings. Accordingly, this provision has been retained as proposed.

Other Comments

Two respondents stated that any changes made by these regulations should be prospective—i.e., they should apply only to loans made to first-time borrowers on or after publication of the final regulations. Otherwise, they indicated that the changes would unfairly alter the insurance of existing loans. In response to these comments, the Department notes that, in accordance with standard regulatory procedures, the amended regulations will apply to loans for which lenders and holders receive notification of bankruptcy on or after the date of publication of the final regulations. While this changes the point at which lenders or holders will file claims for borrowers who declare bankruptcy under chapter 7 and subsequently default, it does not alter the Department's commitment to pay claims on these loans in the event that lenders or holders are unable to collect from the borrowers.

The proposed rule also indicated that the Secretary may consider developing in the future a similar rule that would cover bankruptcy petitions filed under chapters 11 and 13, and offered respondents an opportunity to comment on this possibility. One respondent indicated that it would be very troubling if the policy were extended to chapters 11 and 13. The respondent explained that lenders and holders could then be holding non-earning assets for extended, indeterminate periods of time during which a borrower would be making no payments or only token payments. In addition, lenders and holders would be required to meet court-imposed administrative requirements, perhaps including multiple court appearances. It was asserted that lenders and holders are ill-suited to represent the United States Government in these cases, and that regardless of the ultimate result of case law regarding chapters 11 and 13, the Department should handle them to properly and fully protect the Federal Government and present its views. These comments will be considered as the Department determines the most appropriate method for handling chapter 11 and 13 bankruptcies.

Regulatory Flexibility Act and Executive Order 12291

The Department expects that the resources required to implement the requirements in these regulations are minimal in comparison to the overall resources of lenders and holders. Under this final rule, lenders and holders are responsible for handling routine chapter 7 bankruptcies. Since, as indicated above, the nondischargeability provision which applies to HEAL loans is self-effectuating, the additional resources required to handle routine chapter 7 bankruptcies should be minimal. Therefore, in accordance with the requirements of the Regulatory Flexibility Act of 1980, the Secretary certifies that these regulations will not have a significant impact on a substantial number of HEAL lenders or holders.

The Department has also determined that this rule does not meet the criteria for a major rule as defined by section (b) of Executive Order 12291. In addition, costs will not exceed the threshold criteria of $100 million for major rules, therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

Sections 60.40(c)(1)(iii)(F) and 60.40(c)(4) (vii), (viii), and (ix) of these regulations contain information collection requirements which have been approved under 42 CFR 60.40(c)(4) by the Office of Management and Budget under section 3507 of the Paperwork Reduction Act of 1980. These collection requirements and the burden hours associated with them are included in OMB control number 0915–0108. This final rule does not impose additional information collections.

List of Subjects in 42 CFR Part 60

Educational study programs, Health professions, Loan programs-education, Loan programs-health, Medical and dental schools, Reporting requirements, Student aid.

(Catalog of Federal Domestic Assistance, No. 13.108, Health Education Assistance Loan Program)

Accordingly, 42 CFR part 60 is amended as set forth below:

Dated: November 21, 1990.

James O. Mason,

Assistant Secretary for Health.

Approved: April 3, 1991.

Louis W. Sullivan,

Secretary.

PART 60—HEALTH EDUCATION ASSISTANCE LOAN PROGRAM

1. The authority citation for 42 CFR part 60 continues to read as follows:

Authority: Section 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 727–739 of the Public Health Service Act, 90 Stat. 2243, as amended, 93 Stat. 582, 99 Stat. 529–532 (42 U.S.C. 294–294*l*).

2. Section 60.1, in subpart A, is amended by revising paragraph (c) and adding a new paragraph (e) to read as follows:

Subpart A—General Program Description

§ 60.1 What is the HEAL program?

* * * * *

(c) The Secretary insures each lender or holder for the losses of principal and interest it may incur in the event that a borrower dies; becomes totally and permanently disabled; files for bankruptcy under chapter 11 or 13 of the Bankruptcy Act; files for bankruptcy under chapter 7 of the Bankruptcy Act and files a compliant to determine the dischargeability of the HEAL loan; or defaults on his or her loan. In these instances, if the lender or holder has complied with all HEAL statutes and regulations, and with the lender's or holder's insurance contract, and the Secretary pays the amount of the loss to the lender or holder, the borrower's loan is then assigned to the Secretary. Only at that time, the United States Government becomes the borrower's direct creditor and will actively pursue the borrower for repayment of the debt, including reporting the borrower's default on the loan to consumer credit reporting agencies or to the Internal Revenue Service for purposes of locating such taxpayer or for income tax refund offset, and referral to the Department of Justice for litigation.

* * * * *

(e) *Calculating time periods.* In counting the number of days allowed to comply with any provisions of these regulations, Saturdays, Sundays, and holidays are to be included. However, if a due date falls on a Saturday, Sunday, or Federal holiday, the due date is the next Federal work day.

3. Section 60.14, in subpart C, is amended by revising paragraph (a)(1) to read as follows:

Subpart C—The Loan

§ 60.14 The insurance premium.

(a) *General.* (1) The Secretary insures each lender or holder for the losses of principal and interest it may incur in the event that a borrower dies; becomes totally and permanently disabled; files for bankruptcy under chapter 11 or 13 of the Bankruptcy Act; files for bankruptcy under chapter 7 of the Bankruptcy Act and files a complaint to determine the dischargeability of the HEAL loan; or

defaults on his or her loan. For this insurance, the Secretary charges the lender an insurance premium. The insurance premium is due to the Secretary on the date of disbursement of the HEAL loan.

* * * * *

4. Section 60.32, in subpart D, is amended by revising the heading of the section and paragraph (a)(1) to read as follows:

Subpart D—The Lender

§ 60.32 The HEAL lender or holder insurance contract.

(a)(1) If the Secretary approves an application to be a HEAL lender or holder, the Secretary and the lender or holder must sign an insurance contract. Under this contract, the lender or holder agrees to comply with all the laws, regulations, and other requirements applicable to its participation in the HEAL program and the Secretary agrees to insure each eligible HEAL loan held by the lender or holder against the borrower's default, death, total and permanent disability, bankruptcy under chapter 11 or 13 of the Bankruptcy Act, or bankruptcy under chapter 7 of the Bankruptcy Act when the borrower files a complaint to determine the dischargeability of the HEAL loan. The Secretary's insurance covers 100 percent of the lender's or holder's losses on both unpaid principal and interest, except to the extent that a borrower may have a defense on the loan other than infancy.

* * * * *

5. Section 60.35 is amended by adding a new paragraph (g) to read as follows:

§ 60.35 HEAL loan collection.

* * * * *

(g) *Collection of chapter 7 bankruptcies.* (1) If a borrower files for bankruptcy under chapter 7 of the Bankruptcy Act and does not file a complaint to determine the dischargeability of the HEAL loan, the lender or holder is responsible for monitoring the bankruptcy case in order to pursue collection of the loan after the bankruptcy proceedings have been completed.

(i) For any loan for which the lender or holder had not begun to litigate against the borrower prior to the imposition of the automatic stay, the period of the automatic stay is to be considered as an extended forbearance authorized by the Secretary, in addition to the 2-year period of forbearance which lenders and holders are authorized to grant without prior approval from the Secretary. Only periods of delinquency following the date of receipt (as documented by a date stamp) of the discharge of debtor notice (or other written notification from the court or the borrower's attorney of the end of the automatic stay imposed by the Bankruptcy Court) can be included in determining default, as described in § 60.40(c)(1)(i). The lender or holder must attempt to reestablish repayment terms with the borrower in writing no more than 30 days after receipt of the discharge of debtor notice (or other written notification from the court or the borrower's attorney of the end of the automatic stay imposed by the Bankruptcy Court), in accordance with the procedures followed at the end of a forbearance period. If the borrower fails to make a payment as scheduled, the lender or holder must attempt to obtain repayment through written and telephone contacts in accordance with the intervals established in paragraph (a)(1) of this section, and must perform the other HEAL loan collection activities required in this section, before filing a default claim.

(ii) For any loan for which the lender or holder had begun to litigate against the borrower prior to the imposition of the automatic stay, the lender or holder must, upon written notification from the court or the borrower's attorney that the bankruptcy proceedings have been completed, either resume litigation or treat the loan in accordance with paragraph (g)(1)(i) of this section.

(2) If the lender or holder has not received written notification of discharge within 12 months of the date that the borrower filed for bankruptcy, the lender or holder must contact the court and the borrower's attorney (if known) within 30 days to determine if the bankruptcy proceedings have been completed. If no response is received within 30 days of the date of these contacts, the lender or holder must resume its collection efforts, in accordance with paragraph (g)(1) of this section. If a written response from the court or the borrower's attorney indicates that the bankruptcy proceedings are still underway, the lender or holder is not to pursue further collection efforts until receipt of written notice of discharge, except that follow-up in accordance with this paragraph must be done at least once every 12 months until the bankruptcy proceedings have been completed.

(3) If, despite the lender or holder's compliance with required procedures, a loan subject to the requirements of paragraph (g)(1) of this section is discharged, the lender or holder must file a claim with the Secretary within 10 days of the initial date of receipt (as documented by a date stamp) of written notification of the discharge from the court or the borrower's attorney, in accordance with the procedures set forth in § 60.40(c)(4). The lender or holder also must file with the bankruptcy court an objection to the discharge of the HEAL loan, and must include with the claim documentation showing that the bankruptcy proceedings were handled properly and expeditiously (e.g., all documents sent to or received from the bankruptcy court, including evidence which shows the period of the bankruptcy proceedings).

6. Section 60.38 is amended by adding a new paragraph (d) to read as follows:

§ 60.38 Assignment of a HEAL loan.

* * * * *

(d) *Bankruptcy.* If a lender or holder assigns a HEAL loan to a new holder, or a new holder acquires a HEAL loan under 20 USC § 1092a (the Combined Payment Plan authority), and the previous holder(s) subsequently receives court notice that the borrower has filed for bankruptcy, the previous holder(s) must forward the bankruptcy notice to the purchaser within 10 days of the initial date of receipt, as documented by a date stamp, except that if it is a chapter 7 bankruptcy with no complaint for dismissal, the previous holder(s) must file the notice with the purchaser within 30 days of the initial date of receipt, as documented by a date stamp. The previous holder(s) also must file a statement with the court notifying it of the change of ownership. Notwithstanding the above, the current holder will not be held responsible for any loss due to the failure of the prior holder(s) to meet the deadline for giving notice if such failure occurs after the current holder purchased the loan.

7. Section 60.40 is amended by redesignating paragraphs (c)(1)(ii) and (iii) as paragraphs (c)(1)(iii) and (iv); by revising paragraphs (c)(1) introductory text, (c)(1)(i), newly redesignated (c)(1)(iii)(D) and (E), newly redesignated (c)(1)(iv), (c)(4) introductory text, and the parenthetical phrase at the end of the section text; by adding to newly redesignated (c)(1)(iii) a paragraph (c)(1)(iii)(F); and by adding new paragraphs (c)(1)(ii), (c)(4)(vii), (c)(4)(viii), and (c)(4)(ix) to read as follows:

§ 60.40 Procedures for filing claims.

* * * * *

(c) * * *

(1) *Default claims. Default* means the persistent failure of the borrower to make a payment when due or to comply with other terms of the note or other written agreement evidencing a loan under circumstances where the

Secretary finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay the loan. In the case of a loan repayable (or on which interest is payable) in monthly installments, this failure must have persisted for 120 days. In the case of a loan repayable (or on which interest is payable) in less frequent installments, this failure must have persisted for 180 days. If, for a particular loan, an automatic stay is imposed on collection activities by a Bankruptcy Court, and the lender or holder receives written notification of the automatic stay prior to initiating legal proceedings against the borrower, the 120- or 180-day period does not include any period prior to the end of the automatic stay.

(i) If a lender or holder determines that it is not appropriate to file suit against a defaulted borrower pursuant to § 60.35(c)(3), it must file a default claim with the Secretary within 30 days after a loan has been determined to be in default.

(ii) If a lender files suit against a defaulted borrower and does not pursue collection of the judgment obtained as a result of the suit, it must file a default claim with the Secretary within 60 days of the date of issuance of the judgment. If a lender or holder files suit against a defaulted borrower, and pursues collection of the judgment obtained as a result of the suit, these collection activities must begin within 60 days of the date of issuance of the judgment. If the lender or holder is unable to collect the full amount of principal and interest owed, a claim must be filed within 30 days of completion of the post-judgment collection activities. In either case, the lender or holder must assign the judgment to the Secretary as part of the default claim.

(iii) * * *

(D) The original or a copy of all correspondence relevant to the HEAL loan to or from the borrower (whether received by the original lender, a subsequent holder, or an independent servicing agent);

(E) A claims collection litigation report; and

(F) If the defaulted borrower filed for bankruptcy under chapter 7 of the Bankruptcy Act and did not file a complaint to determine the dischargeability of the loan, all documents sent to or received from the bankruptcy court, including evidence which shows the period of the bankruptcy proceedings.

(iv) If a lender or holder files a default claim on a loan and subsequently receives written notice from the court or the borrower's attorney that the borrower has filed for bankruptcy under Chapter 11 or 13 of the Bankruptcy Act, or under chapter 7 with a complaint to determine the dischargeability of the loan, the lender or holder must file that notice with the Secretary within 10 days of the lender or holder's initial date of receipt, as documented by a date stamp. If the borrower is declaring bankruptcy under chapter 7 of the Bankruptcy Act, and has not filed a complaint to determine the dischargeability of the loan, the lender or holder must file the written notice with the Secretary within 30 days of the lender's or holder's initial date of receipt, as documented by a date stamp. If the Secretary has not paid the claim at the time the lender or holder receives that notice, upon receipt of the notice, the lender or holder must file with the bankruptcy court a proof of claim, if applicable, and an objection to the discharge or compromise of the HEAL loan. If the Secretary has paid the claim, the lender or holder must file a statement with the court notifying it that the loan is owned by the Secretary.

* * * * *

(4) *Bankruptcy claims.* For a bankruptcy under chapter 11 or 13 of the Bankruptcy Act, or a bankruptcy under chapter 7 of the Bankruptcy Act when the borrower files a complaint to determine the dischargeability of the HEAL loan, the current holder must file a claim with the Secretary within 10 days of the initial date of receipt of court notice or written notice from the borrower's attorney that the borrower has filed for bankruptcy under chapter 11 or chapter 13, or has filed a complaint to determine the dischargeability of the HEAL loan under chapter 7. The initial date of receipt of the written notice must be documented by a date stamp. The lender or holder must file with the bankruptcy court a proof of claim, if applicable, and an objection to the discharge or compromise of the HEAL loan. In addition to the documentation required for all claims, with its claim the lender or holder must submit to the Secretary at least the following:

* * * * *

(vii) The notice of the first meeting or creditors, or an explanation as to why this is not included;

(viii) In cases where there is defective service, a declaration or affidavit attesting to the fact that the lender or holder was not directly served with the notice of meeting of creditors. This declaration or affidavit must also indicate when and how the lender or holder learned of the bankruptcy; and

(ix) In cases where there is defective service due to the borrower's failure to list the proper creditor, a copy of the letter sent to the borrower at the time of purchase of the HEAL loan by the current holder, or a sample letter with documentation indicating when the letter was sent to the borrower.

(Reporting and recordkeeping requirements in paragraph (c) have been approved by the Office of Management and Budget under control number 0915-0108)

8. Section 60.41 is amended by revising paragaph (e)(1) to read as follows:

§ 60.41 Determination of amount of loss on claims.

* * * * *

(e) * * *

(1) If the lender or holder failed to submit a claim within the required period after the borrower's default; death; total and permanent disability; or filing of a petition in bankrupty under chapter 11 or 13 of the Bankruptcy Act, or under chapter 7 where the borrower files a complaint to determine the dischargeability of the HEAL loan; the Secretary does not pay interest that accrued between the end of that period and the date the Secretary received the claim.

* * * * *

[FR Doc. 91-20683 Filed 8-28-91; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 25

[FCC 91-69]

Implementing the Results of the International Telecommunications Union (ITU) Orbital Conference, Held in Two Sessions, in 1985 and 1988 (Orb-85 and Orb-88)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action the Commission amends parts 2 and 25 of its rules to implement the Final Acts of the 1985/1988 specialized World Administrative Radio Conference (WARC) of the ITU, which addressed space services and the geostationary satellite orbit. This action requires U.S. licensees to operate in accordance with the Final Acts of the conference.

EFFECTIVE DATE: August 29, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Raymond LaForge, telephone (202) 653-8117.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 91-69, Adopted March 12, 1991 and Released April 1, 1990.

Summary of the Rule

1. The ITU World Administrative Radio Conference, Geneva, 1979, resolved that a specialized WARC be held in two sessions to address the equitable access to the geostationary-satellite orbit by all countries and the frequency bands allocated to space services. The two sessions (Orb-85) and (Orb-88) were held in Geneva in 1985 and 1988. This international conference adopted several changes to the International Table of Allocations contained in the Radio Regulations of the ITU.

2. The Commission amended its Table of Frequency Allocations, § 2.106 of the rules, to reflect the revised international allocations made by the conference. Certain of the Orb-85 and Orb-88 modifications do not affect the United States Table, and pertain only to international allocations. These changes modify footnotes 837, 842, 847, 858, 863, 868, and 869; and delete footnote 792. The Commission amended the International Table in its rules to reflect these changes to the ITU table. The remaining Orb-85 and Orb-88 changes reflect international agreements that apply to Region 2 and, therefore, require revisions to both the International Table and the United States Table. Specifically, the tables are revised by modifying footnotes 839, 844, and 884; deleting footnotes 840, 841, 843, and 792; and adding footnote 792A.

3. The Commission also, consistent with the conference, revised the part 2 definition of Deep Space to include the moon. The intent is to use Deep Space as a category of the Space Research Service and to include the study of the moon in Space Research. Further, consistent with the conference, the Commission revised the definitions of Feeder Link in part 2 and Fixed-Satellite Service in parts 2 and 25 to include transportable earth stations.

4. Pursuant to section 553(b)(B) of the Administrative Procedure Act, the Commission found that good cause exists for implementing these modifications to the rules without notice and comment. Because the changes implemented by this Report and Order were adopted at international conferences without the United States taking a reservation and are already being complied with domestically, the Commission concluded that they are non-controversial and that prior notice and comment, are unnecessary.

Ordering Clause

5. Accordingly *it is ordered* That §§ 2.1, 2.106, and 25.201 be amended as specified below.

List of Subjects

47 CFR Part 2

Frequency allocations, General rules and regulations, Radio, Radio treaty matters.

47 CFR Part 25

Radio, Satellite communications, Satellites.

Rule Changes

Part 2 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. sections 154, 302, 303, and 307, unless otherwise noted.

2. Section 2.1(c) is amended by revising the following definitions to read as follows:

§ 2.1 Terms and definitions.

* * * * *

Deep Space. Space at distance from the Earth equal to, or greater than, 2×10^6 kilometers. (RR)

* * * * *

Feeder Link. A radio link from an earth station at a given location to a space station, or vice versa, conveying information for a space radiocommunication service other than for the fixed-satellite service. The given location may be at a specified fixed point, or at any fixed point within specified areas. (RR)

Fixed-Satellite Service. A radiocommunication service between earth stations at given positions, when one or more satellites are used; the given position may be a specified fixed point or any fixed point within specified areas; in some cases this service includes satellite-to-satellite links, which may also be operated in the inter-satellite service; the fixed-satellite service may also include feeder links for other space radiocommunication services. (RR)

* * * * *

3. Section 2.106, the international table, is amended as follows:

a. Footnote 792 is removed from column 2 of the band 4500–4800 MHz and its text is removed from the list of international footnotes;

b. Footnote 792A is added to columns 2 and 5 in band 4500–4800 MHz; to column 2 in band 5925–7075 MHz; to column 5 in bands 6525–6875 MHz and 6875–7075 MHz; to columns 1, 2, and 5 in band 10.7–11.7 GHz; to columns 2 and 5 in band 12.75–13.25 GHz; and its text is added to the list of international footnotes;

c. Footnote 837 is added to column 5 in band 11.7–12.2 GHz;

d. Footnote 840 is removed from columns 1, 2, 3, 4, and 5 of band 11.7–12.75 GHz and its text is removed from the list of international footnotes;

e. Bands 12.1–12.3 GHz and 12.3–12.7 GHz in column 2 are removed. New bands 12.1–12.2 GHz and 12.2–12.7 GHz are added.

f. The text of footnote 841 is removed from the list of international footnotes.

g. The text of footnote 843 is removed from the list of international footnotes;

h. Footnote 884 is added to column 5 of the 31.0–31.3 GHz band;

i. Footnotes 836, 837, 839, 842, 844, 846, 847, 858, 863, 868, 869 and 884 are revised.

§ 2.106 Table of Frequency Allocations.

International table			United States table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government Allocation MHz	Non-government Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
•	•	•	•	•	•	•
4500–4800			4500–4800	4500–4800		

International table			United States table		FCC use designators	
			Government	Non-government		
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Allocation MHz	Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	FIXED FIXED-SATELLITE (space-to-Earth). MOBILE 792A		FIXED MOBILE US245	FIXED-SATELLITE (space-to-Earth) 792A US245		
*	*	*	*	*	*	
5925–7075	FIXED FIXED-SATELLITE (Earth-to-space) MOBILE		5925–7125	5925–6425 FIXED	DOMESTIC PUBLIC FIXED (21) SATELLITE COMMUNICATIONS (25)	
	791 792A 809		791 NG41	NG41 6425–6525 FIXED-SATELLITE (Earth-to-space) MOBILE	AUXILIARY BROADCAST (74) CABLE TELEVISION (78) DOMESTIC PUBLIC FIXED (21) PRIVATE OPERATIONAL-FIXED MICROWAVE (94)	
				791 809		
*	*	*	*	*	*	
				6525–6875 FIXED-SATELLITE (Earth-to-space).	PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
				792A–809 6875–7025 FIXED FIXED-SATELLITE (Earth-to-space). MOBILE	AUXILIARY BROADCAST (74). CABLE TELEVISION (78) DOMESTIC PUBLIC FIXED (21).	
				792A 809 NG118		
*	*	*	*	*	*	
10.7–11.7 FIXED FIXED-SATELLITE (space-to-Earth) (Earth-to-space) 835 MOBILE except aeronautical mobile	10.7–11.7 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile		10.7–11.7	10.7–11.7 FIXED FIXED-SATELLITE (space-to-Earth)	DOMESTIC PUBLIC FIXED (21)	
792A	792A		US211	792A US211 NG41 NG104		
*	*	*	*	*	*	
11.7–12.5 FIXED BROADCASTING BROADCASTING-SATELLITE Mobile except aeronautical mobile	11.7–12.1 FIXED 837 FIXED-SATELLITE Mobile except aeronautical mobile 836 839 12.1–12.2 FIXED-SATELLITE (space-to-Earth)	11.7–12.2 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	11.7–12.2	11.7–12.2 FIXED FIXED-SATELLITE (space-to-Earth) Mobile except aeronautical mobile	DOMESTIC PUBLIC FIXED (21) SATELLITE COMMUNICATIONS (25)	
	836 839 842	838	839	839 NG143 NG145		
	12.2–12.7 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING SATELLITE	12.2–12.5 FIXED MOBILE except aeronautical mobile. BROADCASTING	12.2–12.7	12.2–12.7 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	INTERNATIONAL PUBLIC (23) PRIVATE OPERATIONAL-FIXED MICROWAVE (94) DIRECT BROADCAST SATELLITE (100)	

International table			United States table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government	Non-government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
838	839 844 846	838 845	839 844	839 844 NG139		
*	*	*	*	*	*	
12.5–12.75 FIXED SATELLITE (space-to-Earth) (Earth-to-space)	12.7–12.75 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE except aeronautical mobile	12.5–12.75	12.7–12.75 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE except aeronautical mobile	12.7–12.75 AUXILIARY BROADCASTING (74) CABLE TELEVISION RELAY (78) PRIVATE OPERATIONAL-FIXED MICROWAVE (94)		
848 849 850		847		NG53 NG118		
12.75–13.25	FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Space Research (deep space) (space-to-Earth).		12.75–13.25	12.75–13.25 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE	AUXILIARY BROADCASTING (74) CABLE TELEVISION RELAY (78) DOMESTIC PUBLIC FIXED (21) PRIVATE OPERATIONAL-MICROWAVE (94)	
	792A		US251	792A US251 NG53 NG104 NG118		
*	*	*	*	*	*	
31.0–31.3			31.0–31.3 Standard Frequency and Time Signal-Satellite (space-to-Earth).	31.0–31.3 FIXED MOBILE Standard Frequency and Time Signal-Satellite (space-to-Earth)	AUXILIARY BROADCASTING (74) DOMESTIC PUBLIC FIXED (21) CABLE TELEVISION RELAY (78) GENERAL MOBILE RADIO (95) PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
	FIXED MOBILE Standard Frequency and Time Signal (space-to-Earth) Space Research 884					
	885 886		884 886 US211	886 US211		

International Footnotes

* * * * *

792A The use of the bands 4 500–4 800 MHz, 6 725–7 025 MHz, 10.7–10.95 GHz, 11.2–11.45 GHz and 12.75–13.25 GHz by the fixed-satellite service shall be in accordance with the provisions of Appendix 30B.

* * * * *

836 In Region 2, in the band 11.7–12.2 GHz, transponders on space stations in the fixed-satellite service may be used additionally for transmissions in the broadcasting-satellite service, provided that such transmissions do not have a maximum e.i.r.p. greater than 53 dBW per television channel and do not cause greater interference or require more protection from interference that the coordinated fixed-satellite service frequency assignments. With respect to the space services, this band shall be used principally for the fixed-satellite service.

837 Different category of service: in Canada, Mexico and the United States, the allocation of the band 11.7–12.1 GHz to the fixed service is on a secondary basis (see No. 424).

* * * * *

839 The use of the bands 11.7–12.2 GHz by the fixed-satellite service in Region 2 and 12.2–12.7 GHz by the broadcasting-satellite service in Region 2 is limited to national and subregional systems. The use of the band 11.7–12.2 GHz by the fixed-satellite service in Region 2 is subject to previous agreement between the administrations concerned and those having services, operating or planned or operate in accordance with the table, which may be affected (see Articles 11, 13 and 14). For the use of the band 12.2–12.7 GHz by the broadcasting-satellite service in Region 2, see Article 15.

* * * * *

842 Additional allocation: the band 12.1–12.2 GHz in Brazil and Peru, is also allocated to the fixed service on a primary basis.

844 In Region 2, in the band 12.2–12.7 GHz, existing and future terrestrial radiocommunication services shall not cause harmful interference to the space services operating in conformity with the Broadcasting-Satellite Plan for Region 2 contained in Appendix 30 (Orb-85).

* * * * *

846 In Region 2, in the band 12.2–12.7 GHz, assignments to stations of the broadcasting-satellite service in the Plan for Region 2 contained in Appendix 30 (Orb-85) may also be used for transmissions in the fixed-satellite service (space-to-Earth), provided that such transmissions do not cause more interference or require more protection from interference than the broadcasting-satellite service transmissions operating in conformity with the Region 2 Plan. With respect to the space services, this band shall be used principally for the broadcasting-satellite service.

847 The broadcasting-satellite service in the band 12.5–12.75 GHz in Region 3 is limited to community reception with a power flux-density not exceeding -111 dB(W/m^2) as defined in Annex 5 of Appendix 30 (Orb-85). See also Resolution 34.

* * * * *

858 The band 14–14.5 GHz may be used, within the fixed-satellite service (Earth-to-space), for feeder links for the broadcasting-satellite service, subject to coordination with other networks in the fixed-satellite service.

Such use of feeder links is reserved for countries outside Europe.

* * * * *

863 The use of the band 14.5–14.8 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service. This use is reserved for countries outside Europe.

* * * * *

868 Additional allocation: in Afghanistan, Algeria, the Federal Republic of Germany, Angola, Saudi Arabia, Austria, Bahrain, Bangladesh, Cameroon, Costa Rica, El Salvador, the United Arab Emirates, Finland, Guatemala, Honduras, India, Indonesia, the Islamic Republic of Iran, Iraq, Israel, Japan, Kuwait, Libya, Nepal, Nicaragua, Oman, Pakistan, Qatar, Sudan, Sri Lanka, Sweden, Thailand, and Yugoslavia, the band 17.3–17.7 GHz is also allocated to the fixed and mobile services on a secondary basis. The power limits given in Nos. 2505 and 2508 shall apply.

869 The use of the band 17.3–18.1 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service. For the use of the band 17.3–17.8 GHz in Region 2 by the feeder links for the broadcasting-satellite service in the band 12.2–12.7 GHz, see Article 15A.

* * * * *

884 In the band 31–31.3 GHz the power flux-density limits specified in No. 2582 shall apply to the space research service.

* * * * *

Part 25 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation part 25 continues to read as follows:

Authority: Sec. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

2. Section 25.201 is amended by revising the definition for Fixed-Satellite Service to read as follows:

§ 25.201 Definitions.

* * * * *

Fixed-Satellite Service. A radiocommunication service between earth stations at given positions, when one or more satellites are used; the given position may be a specified fixed point or any fixed point within specified areas; in some cases this service includes satellite-to-satellite links, which may also be operated in the inter-satellite service; the fixed-satellite service may also include feeder links of other space radiocommunication services. (RR)

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–20374 Filed 8–28–91; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 36

[DA 91–1059; File Number AAD 91–48]

Role of Direct Assignments in the Jurisdictional Separations Process

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule; interpretation letter.

SUMMARY: The FCC's Common Carrier Bureau, pursuant to delegated authority, has issued an interpretation of the FCC's part 36 jurisdictional separations rules which clarifies the role of direct assignments in the jurisdictional separations process and corrects a prior interpretation of the part 36 rules by the Common Carrier Bureau. This action is necessary because certain carriers appear to be apportioning costs to jurisdictions on bases other than the procedures prescribed by the part 36 rules. This action should ensure that carriers understand the proper role of direct assignments in the jurisdictional separations process and abide by the allocations procedures specified in the part 36 rules.

EFFECTIVE DATE: August 29, 1991.

FOR FURTHER INFORMATION CONTACT: Chuck Needy, Accounting and Audits Division, Common Carrier Bureau, (202) 632–7500.

SUPPLEMENTARY INFORMATION: This is the full text of the Common Carrier Bureau's Letter of Interpretation, DA 91–1059, File Number AAD 91–48, released August 21, 1991:

Letter of Interpretation

Released: August 21, 1991.

Director of Regulatory Affairs
All Communications Common Carriers Subject to Part 36 of the Commission's Rules.

Subject: Clarification of the Role of Direct Assignments in the Jurisdictional Separations Process (AAD 91–48).

This letter clarifies the limited role that direct assignment of costs is intended to play in the jurisdictional separations process and corrects a prior interpretation of the Commission's part 36 rules by the Common Carrier Bureau. Such action is necessary because our evaluation of data submitted by carriers in ARMIS reports indicates that many carriers are currently apportioning costs to jurisdictions on bases other than the procedures prescribed by part 36. The carriers' departure from the prescribed procedures appears to have resulted from the widespread general application of an incorrect interpretation included in the Bureau's 1987 Tariff Waiver Order in response to two relatively minor waiver requests. See Annual 1988 Access Tariff Filing Petitions for Waiver, 2 FCC Rcd 5659 (Com.Car.Bur. 1987).

In the first of these two requests, a carrier sought a waiver of the requirement in § 36.353 that network testing expense be allocated between the state and interstate jurisdictions based on the apportionment of certain related plant costs. The carrier sought permission to assign a portion of this expense directly to the interstate jurisdiction and to apply the prescribed allocation procedure only to the remaining unassigned portion. In response, the Bureau found such a waiver to be unnecessary. The Bureau interpreted § 36.1(c) of the rules to imply that "* * * any costs that can be directly assigned to a jurisdiction should be; remaining costs, *i.e.*, those that cannot be assigned directly, are to be assigned according to use factors." Tariff Waiver Order, 2 FCC Rcd at 5662, para. 22.

Section 36.1 outlines general principles underlying the separations procedures found in part 36. As a general proposition, paragraph (c) of that section states that the cost of the plant in each category is to be apportioned among the operations by direct assignment where possible and that all remaining costs are to be assigned by the application of appropriate use factors. This general provision is intended to supplement, but not override, the more detailed procedures prescribed elsewhere in part 36 for apportioning specific costs. It provides guidance necessary in applying certain of the separations procedures which give carriers the option of using either direct assignment or allocation. See e.g., § 36.124(b). Thus, § 36.1(c) is not applicable to any cost category for which part 36 specifically requires the use of an allocation factor, with no option of direct assignment. Because network testing expense is included in such a category, the interpretation in the Tariff Waiver Order incorrectly applied the general provision in § 36.1(c) to that type of expense.

Similarly, in response to a second waiver request in the above proceeding, this general provision also was incorrectly applied to packet switching equipment. The Bureau effectively determined that such equipment, unlike other types of Local Switching Equipment, need not be separated based on the allocation factor prescribed by § 36.125 but, rather, could be directly assigned to the interstate Special Access Element. Tariff Waiver Order, 2 FCC Rcd at 5668, para. 64.

This response extended the previous misapplication of the general provision to imply carriers may directly assign this investment not only to a particular jurisdiction but also to a particular interstate access element, without regard to the requirements of part 69. In this case, the resulting assignment of packet switching equipment to the Special Access Element conflicts with the requirement in § 69.306(d) that such investment be assigned to the Local Switching Element. The general provision in § 36.1(c) is not intended to permit carriers, at their own discretion, to use direct assignment in the separations process as a means of avoiding allocation factors prescribed by part 36 or access charge procedures prescribed by part 69.

In reviewing the carriers' 1990 ARMIS reports, we have determined that a substantial number of carriers have used direct assignment of costs for many categories having prescribed allocation

procedures with no option of direct assignment. This practice appears to stem from these two erroneous interpretations in the Tariff Waiver Order. Consequently, we hereby rescind these interpretations and require that, effective immediately, carriers use the allocation procedures specified in the part 36 rules unless the use of direct assignment is explicitly allowed in the rules or, as is the case for sales agency expense, is explicitly required in a Commission order. See Sales Agency Reconsideration Order, 59 RR 2d 309 (1985), at para. 34.

This letter of interpretation is issued pursuant to authority delegated under § 0.291 of the Commission's rules, 47 CFR 0.291. Applications for review under § 1.115 of the Commission's rules, 47 CFR 1.115, must be filed within 30 days of the date this letter is released to the public. See 47 CFR 1.4(b)(2).

If you have any questions concerning this matter, please contact Chuck Needy in the Bureau's Accounting and Audits Division at (202) 632–7500.

Sincerely,

Gerald P. Vaughan,

Deputy Chief, Operations, Common Carrier Bureau.

[FR Doc. 91–20769 Filed 8–28–91; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 90–570, 83–670; FCC 91–248]

Broadcast and Cable Services; Children's Television Programming

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: The Commission responds to several petitions for reconsideration of its Report and Order (56 FR 19611, April 29, 1991) (April 12 Order), *Erratum*, 56 FR 28824 (June 25, 1991). The April 12 Order gave effect to the Children's Television Act of 1990, by (1) implementing commercial limits of 10.5 minutes per hour on weekend and 12 minutes per hour on weekday children's programs aired on broadcast and cable television; (2) effectuating the requirement that the Commission review at renewal the extent to which a television broadcast licensee has served the educational and informational needs of children; and (3) clarifying the regulatory treatment of program-length children's commercials.

DATES:

Effective Date: October 1, 1991.

Compliance Date: October 1, 1991 for imposition of the commercial limits, programming renewal review requirement and policies and rules pertaining to program-length children's commercials, except that commercial limits will not be applied to children's programs aired pursuant to barter contracts executed prior to April 12, 1991, until January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Gina Harrison, Mass Media Bureau, Policy and Rules Division (202) 632–7792.

SUPPLEMENTARY INFORMATION: The public reporting burden for FCC Form 303–S (3060–0110) is estimated to vary from 40 minutes to 3 hours 10 minutes per response with an average of 48 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of Managing Director, Paperwork Reduction Project, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060–0214/3060–0110), Washington, DC 20503. This is a synopsis of the Commission's Memorandum Opinion and Order in MM Docket Nos. 90–570 and 83–670, adopted August 1, 1991, released August 26, 1991. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, Downtown Copy Center (202) 452–1422, 1114 21st Street, NW., Washington, DC 20036.

Synopsis of Memorandum Opinion and Order

1. The Commission, through this action, reaffirms, with certain clarifications and modifications, its April 12 Order. In particular, the Commission declines to modify the adopted definition of program-length children's commercial. The Commission also clarifies various aspects of the April 12 Order, including application of the Act to home shopping stations, implementation of the commercial recordkeeping requirement, and the contribution that short-segment programming may make in serving children's educational and informational needs. In addition, the Commission modifies the April 12 Order in limited respects, including the extent to which the commercial limits are to be prorated for programs of under a half-hour in length, and the separation that is required between a children's program and a related commercial. Furthermore, the Commission concludes that noncommercial stations have a statutory obligation to serve children's educational and informational needs. However, it tolls application of specific record compilation, filing and submission requirements to noncommercial stations. Finally, the Commission grants a request to extend the October 1, 1991 effective date for imposition of the commercial limits on programs airing pursuant to barter contracts executed prior to April 12, 1991, but only until January 1, 1992.

2. The Act restricts the amount of commercial matter that both television broadcasters and cable operators may air on children's programs. The April 12 Order found that cable operators were responsible for compliance with the commercial limits on locally originated programming and on cable network programming, but not responsible for compliance on passively transmitted broadcast stations or on access channels. The April 12 Order also held that cable operators were responsible for adhering to the limits on cable network programs. On reconsideration, the Commission reaffirms its determination that cable operators are responsible for cable network programming compliance with the commercial limits. The Commission also declines to permit cable operators a grace period beyond the October 1, 1991, effective date to allow for amendment of cable network affiliation agreements.

3. The April 12 Order clarified that the Commission would deem broadcast and cablecast material to be "commercial matter" if the station or cable operator received consideration directly or indirectly for airing the material and the material was used to sell a product or service. The April 12 Order explained that barter contracts, depending on their terms, may involve consideration furnished as a inducement to air commercial matter. The Commission clarifies that, absent extraordinary circumstances, if a station gives more than nominal consideration in return for the right to air a program, the station will not be deemed to have received consideration as an inducement to air the program. The April 12 Order stated that air time sold for purposes of presenting educational and informational material, including "spot" announcements, with the only sponsorship mention a "sponsored by," would not be deemed commercial matter. The Commission clarifies that the visual appearance of a sponsor's standard corporate logo during such a required sponsorship identification will

not turn it into "commercial matter", as long as the logo appears when the sponsor is verbally identified and lasts only as long as the required sponsorship identification.

4. The Commission also clarifies that provision of a promotional announcement to a station by the producer or distributor of that program would not, by itself, be regarded as "consideration" to run the announcement requiring it to be treated as an advertisement. The Commission continues to believe, however, as reflected in the April 12 Order, that a program promotion must be considered "commercial matter" if it promotes a product or service related to the program, program sponsor, program producer or an advertiser, rather than the program itself. In addition, the Commission clairifies that a promotional announcement will not be considered commercial matter simply because it includes a mere identification of a product to be used as a prize.

5. The Commission reaffirms its two-step test for commercial matter,—receipt of consideration and promotional purpose. It explains that the requirement that a station directly or indirectly receive consideration for airing the material serves as a useful check on whether the material in fact is commercial in nature. The Commission clarifies, however, that its definition of commercial matter is not restricted to material of any particular length, and could apply to program-length material as well as to spot announcements. It also states that the consideration requirement will not affect the determination that the solicitations aired on home shopping stations will be deemed commercial matter for purposes of applying the commercial limits.

6. The April 12 Order defined "children's programming" subject to the commercial limits as programs originally produced and broadcast primarily for an audience of children 12 years of age and under. The record does not permit the Commission to make a general ruling concerning the intended audience of all music videos, as one petitioner requests. However, music video programs which are produced and broadcast for children 12 years of age and under will be considered "children's programming" for purposes of the Commission's rules.

7. The commercial limits apply on a "clock-hour" basis. Although the Act does not explicitly require it, because children's programming is so often aired in half-hour segments, the Commission decided in the April 12 Order to prorate the commercial limits when applying them to half-hour children's programs not part of an hour-long block of children's programming. The Commission stated that it would not prorate for segments of shorter duration, unless such segments were part of a half-hour or hour block of children's programming. Upon further reflection, the Commission believes that it would best further the intent of the Act by applying the commercial limits pro rata to segments of five minutes or longer duration. The Commission would begin counting commercial time for such segments (which do not, by definition, conform to standard hour or half-hour time periods) at the start of the program and allocate half of the commercial time at any break at the beginning or end of the program to the immediately preceding program and half to the next program.

8. The Commission states that the proration requirement applies not only to children's programs bounded at both ends by an adult program, but also to a children's program bounded at one end by an adult program and at the other by a children's program, where the program in issue is not part of an hour-long children's programming block. For example, a licensee airing an hour and a half of children's programming beginning at 10 a.m. would apply the statutory limits to the hour of programming airing between 10 a.m. and 11 a.m., and prorate the statutory limits to apply to the half-hour of children's programming beginning at 11 a.m. The Commission clarifies that it imposes no restrictions on how commercials within the statutory limits are configured within an hour's block of children's programming, even where there are two or more separate programs within the hour. The Commission also clarifies that with the exception of an unusual case in which a program is not scheduled on the hour or half-hour, the Commission will begin counting commercials associated with a particular hour of children's programming at the start of the hour and finish counting at the end of that clock hour. Thus, commercials in adjacent positions immediately outside a program's clock hour will not be attributed to that hour.

9. The Commission declined to consider as *de minimis* a foreseeable overage occurring in the following circumstances: Where a weekend network broadcast of a live sporting event causes preemption in the western time zones of one half-hour of an hour's block of children's programming, resulting in a half hour of children's programming that contains 5.5 minutes of commercials, .25 minutes over the half-hour weekend limit. As stated in the April 12 Order, however, where the facts demonstrate that a slight overage is caused by a last-minute, emergency scheduling change, the Commission will consider such a lapse to be *de minimis*.

10. The Commission stresses that home shopping stations must comply with both the programming renewal review requirement and the commercial limits. The Act imposes commercial limits on "children's programs." The Commission defined such programs, in accordance with legislative intent, as programs directed to children 12 years of age and under. The Act does not explicitly address the case of a home shopping station with a format that generally does not contain "programs", but consists primarily of advertising. The April 12 Order clarified that if a home shopping station directed commercials for children's products to adult viewers/purchasers, these would not be subject to the commercial limits. The Commission clarifies that if a station airs a program-length show (of five minutes or longer in duration) consisting of advertising for only children's products, whether that program is subject to the commercial limits depends on whether it is primarily directed to children. If so, the program would be subject to the commercial limits. If the program were not directed at the 12 and under audience, the limits would not apply.

11. Host-selling prohibits the use of program talent or other identifiable program characteristics to deliver commercials. This policy would prohibit, for example, use of a cartoon character depicted in a children's program to sell a product in a commercial aired in close proximity to the program. The Commission states that it would not prohibit an unrelated program host from selling products that are not associated with a preceding or subsequent children's program.

12. The Children's Television Act requires that the Commission review television broadcast renewal applications for compliance with the commercial limits. Accordingly, the April 12 Order required commercial television broadcast licensees to certify their compliance with the limits in their renewal applications. Although the Commission retains the right to institute a program of random audits to monitor compliance, at this point it does not do so. In the absence of a statutory requirement that the Commission review cable operator compliance, and in light of the record-keeping requirements the Commission imposed on operators, the April 12 Order relied on public monitoring to enforce cable operator compliance with the commercial limits. It did not impose a certification

requirement. The Commission does not reconsider this ruling.

13. The April 12 Order required television licensees and cable operators to maintain records sufficient to verify compliance with the commercial limits. The Commission clarifies that stations and cable operators may, but are not obliged to, keep program logs in order to meet the record-keeping requirement. Tapes of children's programs, provided they are made available for viewing by the public, will also satisfy the requirement. The Commission clarifies that the following types of documentation will also satisfy the record-keeping obligation, provided that such records are reviewed on a routine basis by responsible station or cable system officials: (1) Lists of the number of commercial minutes per hour aired during identified children's programs: Or (2) certified documentation that the station and/or network/syndicator, as a standard practice, formats and airs identified children's program(s) within the statutory limit of commercials, together with a detailed listing of any overages. Any documentation maintained pursuant to the commercial record-keeping requirement must identify the specific programs which the broadcaster or cable operator believes are subject to the commercial limits. In addition, both broadcasters and cable operators may rely on network records or other information, provided such records meet the standards described in this paragraph.

14. The Commission also clarifies that commercial records should be placed in the station or cable system's public file no later than the tenth day of the quarter following the quarter in which they aired. The Commission reiterates that cable operators must maintain commercial records until the applicable statute of limitations has run. Cable operators generally do not hold "broadcast station licensees" within the meaning of 47 U.S.C. 503(b)(6)(B). Therefore, that statute of limitations, which runs for one year, applies to them.

15. The Commission reaffirms that broadcasters and those cable operators subject to a public file requirement must make these records part of their public inspection file. The Commission also declines to adopt the suggestion that it permit cable network records to be kept in a central clearinghouse, rather than in each operator's public file.

16. The April 12 Order defined program-length children's commercial as a program associated with a product, in which commercials for that product are aired. The Commission found that this definition struck the best balance between the competing public interests involved. The Commission adheres to this definition. The April 12 Order stated that the Commission would require a 60-second separation between the close or commencement of a children's program and related commercial matter. The Commission is modifying this rule to require instead that commercial material be separated from a children's program to which it is related by intervening and unrelated program material.

17. The Commission reaffirms its definition of educational and informational programming as "programming that furthers the positive development of the child in any respect, including the child's cognitive/intellectual or emotional/social needs." The Commission also explains that Congress intended that the Commission afford broadcasters discretion in fulfilling the programming renewal review requirement and that the Commission would defer to the "reasonable programming judgments of licensees in this field." The Commission clarifies that it would only expect a broadcaster to defend the basis for its programming decisions in the event a nonfrivolous allegation of noncompliance is made or the reasonableness or good faith of the licensee's determination is otherwise drawn into question.

18. The April 12 Order adopted certain factors as "permissive guidelines" that licensees were free to use in determining how to meet the educational and information needs of children in their community. The Commission suggested that a licensee might take into account: (1) Circumstances within the community; (2) other programming on the station; (3) programming aired on other broadcast stations within the community; and (4) the availability of other programs for children in the community of license. The Commission clarifies that these are permissive guidelines which the Commission believes will be particularly useful to licensees in the event of challenge. These permissive guidelines are by no means, therefore, a formal ascertainment requirement. In addition, in light of Congressional intent to leave the "mix" of programming to licensee discretion, the Commission declines to impose even a limited targeting requirement (*i.e.*, one that would not require that all age groups be targeted). The Commission also declines to modify the different definitions of "children": that of ages 12 and under for purposes of applying the commercial limits, and that of ages 16 and under for purposes of applying the educational and informational programming requirement.

19. The April 12 Order stated that licensees must air some educational and informational programming "specifically designed" for children ages 16 and under in order to satisfy renewal review. The Commission declined to adopt minimum quantitative criteria, and reaffirms that determination on reconsideration. The Commission clarifies, however, that sort-segment programming, including vignettes and PSAs, cannot fully satisfy the requirement to air educational and informational programming "specifically designed" for children, although such programming may contribute towards satisfying the licensee's programming obligation.

20. The April 12 Order found that application of the Act's programming provisions to noncommercial stations is not required by the statute, its legislative history or the public interest. The Commission now modifies this decision. The Commission holds that the purpose of the Act, and the Act's fundamental policies, imply that all broadcasters, commercial and noncommercial alike, have a general obligation to serve children's educational and informational needs. However, the Commission tolls application of specific record-compilation, filing and submission requirements to noncommercial stations. In light of the Congressional intent to avoid unnecessary constraints on broadcasters, and the commitment noncommercial stations in general have demonstrated to serving children, the Commission believes that such obligations are inappropriate. The Commission believes that it can accomplish the programming renewal review of noncommercial stations required by the Act by means of less detailed administrative requirements. Accordingly, the Commission requires noncommercial stations to maintain documentation sufficient to show compliance at renewal time with the Act's programming obligations in response to a challenge or to specific complaints.

21. The April 12 Order required commercial television broadcast licensees to keep records demonstrating the extent to which the licensees have responded to the educational and informational needs of children in their overall programming, including programming specifically designed to serve such needs. These records must include a summary of the licensee's programming response, nonbroadcast efforts and support for other stations' programming directed to the educational and informational needs of children, and

reflect the most significant programming related to such needs which the licensee has aired. As the legislative history suggests, licensees must submit all of their children's program lists at renewal time. Commercial licensees need not submit documents identical to those contained in the public file with their renewal application, and may reformat the information. However, the factual information and data submitted to the Commission should be identical to that contained in the public file. The renewal submission should not contain information other than that in the public file. In addition, any reformatted information that is part of licensees' renewal applications must be placed in their public files as part of the requirement that such applications be made part of licensees' public files.

22. The April 12 Order adopted October 1, 1991 as the effective date for the rules regarding commercial limits, program-length children's commercials, and the programming renewal review requirement. The Commission declined a request for a blanket temporary waiver of the commercial limits for children's programming acquired pursuant to long-term barter contracts, finding the record deficient in a number of respects. On reconsideration, the Commission denies a request for complete grandfathering of barter contracts for children's programming entered into prior to the adoption of the Commission's children's television rules. However, uncontroverted evidence in the record now shows that losses from immediate compliance may be substantial. Moreover, it is unlikely that stations with pre-existing barter contracts can renegotiate these contracts with suppliers. Finally, in the current economic climate, the Commission finds that stations are unlikely to be in a position to raise rates to compensate for these losses.

23. Therefore, for a brief transition period the Commission will extend the effective date of its commercial limits in the following circumstances. The new commercial limits shall not apply until January 1, 1992 to advertising appearing during and adjacent to children's programming, which was separately contracted for prior to April 12, 1991, the date of the release of the Commission's rules implementing the Children's Television Act. This extension shall apply to children's programming acquired either individually or in a children's program package. Extension of the effective date shall not apply to children's programming purchased solely on a cash basis.

24. Finally, Form 303–S will be amended to reflect that the commercial limits apply to program segments of 5 minutes or longer duration that are part of a larger block of children's programming.

Final Regulatory Flexibility Analysis Statement

25. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that this decision will have a significant impact on a substantial number of small entities because it imposes restrictions and recordkeeping requirements on television broadcast licensees and on cable operators. The Commission, in adopting these restrictions and requirements, sought to balance fulfillment of the goals intended by the Children's Television Act, with a minimum of unnecessary burden on broadcast licensees and cable operators. The Commission also addressed a contention by one petitioner that the Final Regulatory Flexibility Analysis Statement in the April 12 Order failed to discuss the burden placed on licensees by the requirement that the public have access to station records substantiating compliance with the commercial limitations. The Commission found that public monitoring by reviewing a station or cable operator's commercial records in its public file was complementary and not mutually exclusive to public monitoring by viewing programs, and not an unnecessary regulation as one petitioner alleged. The Commission also found that the burden placed on licensees by allowing the public access to their records verifying compliance with the children's television commercial limits should be minimal because licensees have long been required to make available to the public documents of a similar nature.

26. The Secretary shall send a copy of this Memorandum Opinion and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. section 601 *et seq.* (1981)).

27. Accordingly, *It is Ordered That,* Pursuant to the authority contained in sections 4 and 303 of the Communications Act of 1934, 47 U.S.C. 154 and 303, as amended, and the Children's Television Act of 1990, 47 U.S.C. 303a, 303b, 394, the Petitions for Reconsideration and/or Clarification filed by NAB, NABB, ACT, INTV, APA, CATA, and TRAC, are granted to the extent indicated herein and otherwise denied.

28. *It is Further Ordered,* That FCC Form 303–S is amended as set forth below and that part 73 of the Commission's Rules, 47 CFR part 73, is amended as set forth below, effective October 1, 1991.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Amendatory Text

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

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

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

2. A new § 73.520 is added to read as follows:

§ 73.520 Educational and information programming for children on noncommercial television.

(a) Each noncommercial television broadcast station licensee has an obligation to serve, over the term of its license, the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs.

(b) Any special nonbroadcast efforts which enhance the value of children's educational and informational television programming, and any special effort to produce or support educational and informational television programming by another station in the licensee's marketplace, may also contribute to meeting the licensee's obligation to serve, over the term of its license, the educational and informational needs of children.

Note: For purposes of this section, educational and informational television programming is any television programming which furthers the positive development of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–20703 Filed 8–28–91; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 910512-1180]

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. The Secretary has determined that the commercial allocation for red snapper will be reached on August 23, 1991. This closure is necessary to protect the red snapper resource.

EFFECTIVE DATES: Closure is effective August 24, 1991, through December 31, 1991.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813-893-3161.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico was prepared by the Gulf of Mexico Fishery Management Council under the authority of the Magnuson Fishery Conservation and Management Act, and is implemented by regulations at 50 CFR part 641. Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 2.04 million pounds (56 FR 33883; July 24, 1991) for the current fishing year, January 1–December 31, 1991.

Under 50 CFR 641.26, the Secretary is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by publishing a notice in the Federal Register. The Secretary, based on current statistics, has determined that the commercial quota of 2.04 million pounds for red snapper will be reached on August 23, 1991. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper is closed effective August 24, 1991, through December 31, 1991, the end of the fishing year.

During the closure, the bag limit applies to all harvests of red snapper from the EEZ in the Gulf of Mexico and the purchase, barter, trade, or sale of red snapper taken from the EEZ is prohibited. This prohibition does not apply to trade in red snapper that were harvested, landed, and bartered, traded, or sold prior to the closure and were held in cold storage by a dealer or processor. The daily bag limit for red snapper is seven per person.

Other Matters

This action is required by 50 CFR 641.26 and complies with Executive Order 12291.

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

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and Recordkeeping requirements.

Dated: August 23, 1991.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91-20675 Filed 8-23-91; 4:05 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 168
Thursday, August 29, 1991

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 ENERGY

Federal Energy Regulatory Commission

[Docket No. RM91-11-000]

18 CFR Part 284

In Re Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations; Notice of Availability of Staff Paper on Possible Mitigation Measures

August 22, 1991.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking; availability of staff paper on possible mitigation measures.

SUMMARY: On July 31, 1991, the Commission issued a notice of proposed rulemaking (NOPR) which proposed changes to its regulations to restructure both the sales and transportation services provided by interstate natural gas pipelines. (56 FR 38372, August 13, 1991). The notice stated that the Commission would make available an appendix prepared by the staff illustrating some potential mitigation measures discussed in the Rate Masters section of the NOPR. The staff paper is now available for inspection and copying in the Commission's Public Reference Room. The complete workpapers in Lotus 1-2-3 format may also be purchased from the Commission's Copy Contractor.

DATES: The staff paper was made available on August 22, 1991.

ADDRESSES: The Commission's Public Reference Room is located at: 941 North Capitol Street, NE., room 3308, Washington, DC 20426. The Commission's Copy Contractor, La Dorn Systems Corporation is located at the same address.

FOR FURTHER INFORMATION CONTACT: Wayne Guest, Office of Pipeline and Producer Regulation, (202) 208-0375.

Lois D. Cashell,
Secretary.

[FR Doc. 91-20689 Filed 8-28-91; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 740, 761 and 772

Federal Lands Program; Areas Unsuitable for Mining; Areas Designated by Act of Congress; Requirements for Coal Exploration

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of public hearings.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior (DOI) published a proposed rule that would address the circumstances which constitute valid existing rights to mine coal in areas where Congress has otherwise prohibited mining under section 522(e) of the Surface Mining Act. OSM has received requests to hold public hearings on the proposed rule and is announcing that two public hearings will be held.

DATES: Public hearings are scheduled for September 12, 1991, in Morgantown, West Virginia and in Knoxville, Tennessee. The hearings will begin at 7 p.m. local time in both cities.

ADDRESSES: The public hearings will be held at the Ramada Inn, Route 119 South and Interstate 68 (formerly U.S. 48), Morgantown, West Virginia; and at the Radisson Hotel, 401 West Summit Hill Drive, Knoxville, Tennessee.

FOR FURTHER INFORMATION CONTACT: Patrick W. Boyd, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: (202) 208-2564.

SUPPLEMENTARY INFORMATION: OSM published a proposed rule on July 18, 1991, that would amend those portions of its permanent program regulations which address the circumstances that constitute valid existing rights (VER) to mine in areas where Congress has otherwise prohibited mining under section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (56 FR 33152). OSM proposed that VER would exist when an applicant for a permit to conduct surface coal mining operations has obtained, or has made a good faith effort to obtain, all necessary permits, or the application of the section 522(e) prohibitions would effect a compensable taking of the property covered by the application. The proposed rule would reorganize the existing regulations for clarity and would change OSM's procedures for making VER determinations. OSM proposed to change the Federal lands program to indicate that OSM will make VER determinations affecting Federal lands within the boundaries of section 522(e) (1) and (2) areas using the Federal regulatory definition of VER. OSM also proposed to require VER for coal exploration activities where the coal will be commercially used or sold.

OSM has scheduled public hearings on the VER proposed rule in Morgantown, West Virginia and Knoxville, Tennessee. Both hearings will be held on September 12, 1991 and will begin at 7 p.m. local time. The hearings will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSM requests that persons who testify at a hearing give the transcriber a written copy of their testimony.

Dated: August 23, 1991.

Brent Wahlquist,
Assistant Director, Reclamation and Regulatory Policy, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 91-20685 Filed 8-28-91; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Part 950

Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Department of Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: OSM is announcing receipt of a request for an extension of a comment period pertaining to a previously proposed amendment to the Wyoming permanent regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and

Reclamation Act of 1977 (SMCRA). The proposed amendment would revise statutory provisions pertaining to the review of mine permit applications, land use definitions, and standards for the Wyoming Game and Fish Commission in providing consultation on an approval of the reclamation of surface mined land for fish and wildlife habitat. The proposed amendment is intended to revise the State program to clarify ambiguities and improve operational efficiency.

This notice sets forth the times and locations that the Wyoming program and proposed amendment to that program are available for public inspection and the comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received by 4 p.m., m.d.t., September 10, 1991.

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett at the address listed below. Copies of the Wyoming program, the proposed amendment, the additional explanatory information, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, room 2128, Casper, WY 82601–1918; Telephone: (307) 261–5776.

Wyoming Department of Environmental Quality, Land Quality Division, Herschler Building—Third Floor West, 122 West 25th Street, Cheyenne, WY 82002; Telephone: (307) 777–7756.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Director, Casper Field Office, at the address listed in "**ADDRESSES**" or telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Wyoming program can be found in the November 26, 1980, **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.12, 950.15, 950.16, and 950.20.

II. Discussion of Request for Extension of Comment Period for Proposed Amendment

By letter dated March 21, 1991 (administrative record No. WY–15–1), Wyoming submitted a proposed amendment to its program pursuant to SMCRA. Wyoming submitted the proposed amendment at its own initiative to clarify ambiguities and improve operational efficiency of its program.

Wyoming proposes to amend the following provisions of the Wyoming Environmental Quality Act: W.S. 35–11–406(h) (new language has been proposed for insertion that would preclude the Administrator from raising as issues any items not previously identified as deficient at the close of the first 150-day review period, unless the applicant in subsequent revisions significantly modifies the application); W.S. 35–11–103 (proposes the addition of definitions for fish and wildlife habitat and grazing land); and W.S. 35–11–402 (proposal would establish standards to be used by the Wyoming Game and Fish Commission in providing consultation on and approval of the reclamation of surface mined land for fish and wildlife habitat).

OSM published a notice in the April 5, 1991, **Federal Register** (56 FR 14041) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (administrative record No. WY–15–7). The public comment period closed May 6, 1991. A public meeting was requested and held on June 14, 1991. The summary notes for that meeting (administrative record No. WY–15–18) are available for public review at the locations listed under "**ADDRESSES.**"

During its review of the amendment, OSM identified some concerns relating to the proposed statutory changes at W.S. 35–11–406(h), 35–11–103, and 35–11–402. OSM notified Wyoming of the concerns by letter dated July 1, 1991 (administrative record No. WY–15–19). Wyoming responded by submitting, in a letter dated July 30, 1991, additional explanatory information (administrative record No. WY–15–20).

OSM published a notice in the August 9, 1991, **Federal Register** (56 FR 37873) announcing receipt of the additional information and reopening public comment on the adequacy of the proposed amendment (administrative record No. WY–15–24). The public comment period closed August 26, 1991. By letter dated August 14, 1991, the Wyoming and National Wildlife Federations requested an extension of time, until September 23, 1991, in which to review and possibly provide additional comments on the additional explanatory information (administrative record No. WY–15–25). Since Wyoming's response was reflective of comments it made at the June 14, 1991, public meeting, and in order to maintain timeliness in the rulemaking process, OSM is extending the reopened comment period for 15 days.

III. Public Comment Procedures

OSM is extending the reopened comment period on the proposed Wyoming amendment to provide the public additional opportunity to reconsider the adequacy of the amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendments satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Wyoming program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 22, 1991.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 91–20684 Filed 8–28–91; 8:45 am]

BILLING CODE 4310–05–M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM91–1]

Rules of Practice and Procedure

AGENCY: Postal Rate Commission.

ACTION: Proposed rulemaking; extension of time.

SUMMARY: The Commission has solicited suggestions from interested persons for improvements in the Commission's rules of practice. The Commission is granting

the Postal Service's request for additional time to file comments.

DATES: Comments responding to advance notice of proposed rulemaking must be submitted on or before October 25, 1991.

ADDRESSES: Comments and correspondence should be sent to Charles L. Clapp, Secretary of the Commission, suite 300, 1333 H Street, NW., Washington, DC 20268–0001 (telephone: 202/789–6840).

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, Postal Rate Commission, suite 300, 1333 H Street, NW., Washington, DC 20268–0001 (telephone: 202/789–6820).

SUPPLEMENTARY INFORMATION: The Commission issued an advance notice of proposed rulemaking on June 14, 1991, inviting interested parties to submit comments on possible ways of improving the Commission's rules of practice. 56 FR 28850 (June 25, 1991). On August 20, 1991, the Postal Service filed a request for an extension of time in which to comment. Citing the workload now facing the Commission and the Postal Service, it argues that an extension of 60 days would allow more thoughtful responses. Having considered the Postal Service's assertions, we are extending the date for the receipt of comments. Comments are now due October 25, 1991.

Issued by the Commission on August 23, 1991.

Charles L. Clapp,

Secretary.

[FR Doc. 91–20756 Filed 8–28–91; 8:45 am]

BILLING CODE 7710–FW–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS–50580A; FRL–3893–1]

Carboxy Alkyl Silyl Salt and Formaldehyde, Polymer with Bisphenol A and Substituted Phenol; Proposed Revocation of Significant New Use Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke significant new use rules (SNURs) at 40 CFR 721.1060 and 721.1890 that were promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the above two chemical substances based on receipt of new data. The data indicate that for purposes of TSCA section 5, further regulation under section 5 of TSCA is not warranted at this time.

DATES: Written comments must be submitted to EPA by September 30, 1991.

ADDRESSES: Since some comments may contain confidential business information (CBI), all comments must be sent in triplicate to: TSCA Document Receipt Office (TS–790), Office of Toxic Substances, Environmental Protection Agency, room E–105, 401 M St., SW., Washington, DC 20460. Comments should include the docket control number. The docket control number for each of the new chemical substances covered in this SNUR is OPTS–50580A, followed by the last four digits of the number of the proposed CFR section covering that chemical substance. Nonconfidential versions of comments on this proposed rule will be placed in the rulemaking record and will be available for public inspection. Unit IV. of this preamble contains additional information on submitting comments containing CBI.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, rm. EB–44, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 26, 1990, (55 FR 26092) EPA issued SNURs establishing significant new uses for carboxy alkyl silyl salt (P–89–292) and formaldehyde, polymer with bisphenol A and substituted phenol (P–89–279). Because of additional data EPA has received for these substances, EPA is proposing to revoke these SNURs.

I. Rulemaking record

The record for the rules which EPA is proposing to revoke was established in docket number OPTS–50580 (P–89–279 and P–89–292). This record includes information considered by the Agency in developing this rule and includes the test data to which the Agency has responded with this proposal.

II. Background

EPA is proposing to revoke the significant new use and recordkeeping requirements for the following chemical substances under 40 CFR part 721 subpart E. In this unit, EPA provides a brief description for each substance, including its PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number, basis for the revocation of the section 5(e) consent order for the substance (including the statutory citation and specific finding), and the CFR citation deleted in the regulatory text section of this rule. Further background information for the substances is contained in the rulemaking record referenced above in Unit I.

PMN Number P–89–279

Chemical name: (generic) Formaldehyde, polymer with bisphenol A and substituted phenol.
CAS number: Not available.
Effective date of revocation of section 5(e) consent order: December 4, 1990.
Basis for revocation of section 5(e) consent order: The order was revoked based on actual monitoring of environmental releases conducted by the PMN submitter after signing the section 5(e) order. The new data indicate substantially smaller quantities of the PMN substance released to the environment than was estimated in the PMN submission and review. EPA has determined that the resulting release per year does not represent a substantial release to the environment. Therefore, EPA has concluded that further regulation under section 5 is not warranted at this time.
CFR citation: 40 CFR 721.1060.

PMN Number P–89–292

Chemical name: (generic) Carboxy alkyl silyl salt.
CAS number: Not available.
Effective date of revocation of section 5(e) consent order: November 1, 1990.
Basis for revocation of section 5(e) consent order: The order was revoked based on test data submitted under the terms of the consent order. Based on the Agency's analysis of the submitted data, EPA found for purposes of TSCA section 5 that this substance will not present an unreasonable risk of injury to the environment and concludes that further regulation under section 5 is not warranted at this time. Toxicity testing results: The 96–h lowest observed effect level for algae was 0.03 mg/L. The 48–h no observed effect concentration for daphnia was 90 mg/L. The 96–h no observed effect concentration for fish was 98 mg/L.
CFR citation: 40 CFR 721.1890.

III. Objectives and Rationale of Proposing Revocation of the Rules

During review of the PMNs submitted for the chemical substances that are the subject of this proposed revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the environmental effects of the substances, and EPA identified the tests

considered necessary to evaluate the risks of the substances. The basis for such findings is referenced in Unit II. of this preamble. Based on these findings, section 5(e) consent orders were negotiated with the PMN submitters and SNURs were promulgated. EPA reviewed the testing conducted by the PMN submitters for the substances and determined that the information available was sufficient to make a reasoned evaluation of the environmental effects or releases of the substances. With respect to P–89–292, EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk. With respect to P–89–292, EPA concluded that, for the purposes of TSCA section 5, the substance will not be released in substantial quantitites. Accordingly, EPA subsequently revoked the section 5(e) consent orders. The proposed revocation of SNUR provisions for these substances designated herein is consistent with the revocation of the section 5(e) orders. In light of the above EPA is proposing a revocation of SNUR provisions for these chemical substances. Should this revocation become final, EPA would no longer require notice of any company's intent to manufacture, import, or process these substances.

IV. Comments Containing Confidential Business Information

Any person who submits comments claimed as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any party submitting comments claimed to be confidential must prepare and submit a public version of the comments that EPA can place in the public file.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: August 16, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 will continue to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

§ 721.1060 [Removed]

2. By removing § 721.1060.

§ 721.1890 [Removed]

3. By removing § 721.1890.

[FR Doc. 91–20749 Filed 8–28–91; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 552

Rearview Mirrors; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking submitted by Mr. Raymond Kesler, requesting that Federal Motor Vehicle Safety Standard No. 111, *Rearview Mirrors*, be amended to delete the provision permitting passenger side convex mirrors to have a radius of curvature of 35 to 65 inches and require instead that the radius be 25 inches. Decreasing the radius would give the mirrors a wider field of view. In addition, the petitioner requested that a plastic label be applied to these mirrors. The agency has decided to deny the petition for the following reasons. First a safety need for wider field of view for passenger side convex mirrors has not been established. Second, the petitioner's suggested mirror system would increase distortion and would reduce a driver's depth perception and judgment about another vehicle's closing speed. Accordingly, the agency is denying this petition because there is no reasonable possibility that the requested amendment would be issued at the conclusion of a rulemaking proceeding.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Boyd, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–6346.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard (FMVSS) No. 111, *Rearview mirrors*, establishes performance and location requirements for rearview mirrors installed in new vehicles. Several of its provisions concern the installation of convex outside rearview mirrors. Under FMVSS No. 111, only those passenger cars with inside rear view mirrors having an insufficient field of view are required to have passenger side mirrors. Those passenger side mirrors are not required to be convex. If convex mirrors are used, they must have a radius of curvature between 35 and 60 inches and they must be marked with the warning: "Objects in Mirror Are Closer Than They Appear." FMVSS No. 111 also requires a minimum reflectivity of 35 percent for all mirrors. The reflectivity provision has been interpreted to refer to the average over the mirror surface, allowing markings because the rest of the surface usually is more reflective than the minimum.

On March 25, 1991, the agency received a petition from Mr. Raymond Kesler, requesting that FMVSS No. 111 be amended to require passenger side convex mirrors to have a radius of curvature of 25 inches. In addition, the petitioner requested that a plastic label be applied to these mirrors. The label is the petitioner's patented "Caution Ring Sensor" which is stick-on transparency label with a circle representing the size of the image of a car about 20 feet behind in a adjacent lane. It contains the warning—"Caution: When Vehicles Appear as Large as Ring"—which would replace the current warning.

While convex mirrors increase the field of view, they have several shortcomings. These mirrors reduce the size of images, distort the image linearity, cause objects to appear farther away than they actually are, and cause objects to appear to move more slowly than they actually do. As the radius of curvature decreases, the field of view and the undesirable distortion both increase. The current minimum allowable radius of curvature is based on agency tests and tests cited in previous public comment about FMVSS No. 111. The tests indicated that the minimum radii of curvature of 35 inches required by FMVSS No. 111 would provide a wide field of view while limiting the image distortion which, if serious enough, could lead to crashes caused by errors in judgment about the proximity and closing speed of vehicles approaching from the rear. The agency's decision is supported by the following research:

Ref. (1) Rowland, G.E. "A Comparison of Plane and Convex Rear View Mirrors for Passenger Automobiles," Final Report DOT Contract No. FH–11–7382, August, 1970.

Ref. (2) Sugiura, S. and Kimura, K. "Outside Rearview Mirror Requirement for Passenger Cars—Curvature, Size and Location," Society of Automobile Engineers paper 780339, February 1978.

The petitioner's ring sensor label is clearly an effort to remedy one of the problems of convex mirrors, namely

their adverse effect on distance judgment. However, the label has not been shown to be effective enough in solving the problems associated with small radii of curvature mirrors to alter the agency's judgment about the necessity for specifying a larger minimum radius of curvature than that sought by the petitioner. If used correctly, the ring sensor label would provide an indication of whether a car in the adjacent lane is closer than a predetermined distance threshold. The sales literature furnished in the petition indicated a threshold of about 20 feet. Use of the device could have the effect of substituting the manufacturer's judgment that a 20 foot gap is safe for lane changing for the driver's judgment about safe lane changing conditions in a particular driving situation. The agency believes that a fixed distance check is an inadequate criterion for safe lane changes because it neglects factors, such as traffic speed and road features, which a driver must consider before making a safe lane change.

NHTSA has further determined that the petitioner's device would raise other problems. While the ability to view traffic in a distant lane was cited by the petitioner as an advantage of the requested mirror system, this ability would also be problematic. The ring sensor label would yield a different caution distance threshold for a far lane that an adjacent lane because a small radii of curvature convex mirror provides a significant non-linear image. Another potential problem with the ring sensor label is that it would do nothing to aid the driver in judging the closing speed of vehicles in adjacent lanes. Closing speed is just as important as distance in judging a safe lane change, and the distortion of speed judgment produced by the small radii of curvature convex mirror would remain a hazard.

In summary, the agency notes that the petitioner's ring sensor label would not be prohibited by the present regulations as long as the average reflectivity of the mirror remained at least 35 percent. In addition, convex mirrors with 25 inch radius of curvature are permitted as supplements to required mirrors. However, given the standard's minimum radius of curvature limit of 35 inches for required passenger side mirrors, the petitioner's requested 25 inches radius of curvature mirror system with the ring sensor label would be prohibited. NHTSA believes that this decision is reasonable because of the severe distortion of speed and distance judgment caused by convex mirrors with small radii of curvature. The agency does not believe that mirror markings, such as the "CAUTION RING SENSOR", adequately offset the effects of the more distorted images of such mirrors.

In accordance with 49 CFR part 552, the agency has completed its technical review of the petition, and has determined that there is no reasonable possibility that the requested amendment would be issued at the conclusion of a rulemaking proceeding. Therefore, the petition is denied.

Authority: 5 U.S.C. 1410a; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: August 22, 1991.

Barry Felrice,

Associate Administrator for Ruelmaking.

[FR Doc. 91-20697 Filed 8-28-91; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 56, No. 168
Thursday, August 29, 1991

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

Forms Under Review by Office of Management and Budget

August 23, 1991.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250 (202) 447–2118.

Extension

- Agricultural Marketing Service.

Onion Grown in South Texas, Marketing Order No. 959.

Recordkeeping; On occasion; Monthly; Annually.

Farms; Businesses or other for-profit; Small businesses or organization; 731 responses; 56 hours, Robert F. Matthews (202) 447–2431.

New

- Farmers Home Administration.

7 CFR Part 1942–G, Industrial Development Grants—Addendum 1.

On occasion.

State or local governments; Non-profit institutions; Small businesses or organizations; 10 responses; 20 hours, Jack Holston (202) 382–9736.

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 91–20698 Filed 8–28–91; 8:45 am]

BILLING CODE 3410–01–M

Forest Service

Creek Diversity Unit, Santa Fe National Forest San Miguel County, NM; Environmental Impact Statement Cancellation Notice

On May 10, 1991, members of the New Mexico Congressional Delegation's Timber Task Force signed an agreement designed to address timber supply and environmental concerns on the Santa Fe National Forest. As one of the Task Force members, the Forest Service agreed to complete a reanalysis of the Santa Fe National Forest's timber management program by the end of 1993, and at the same time defer any timber sales in the Creek Diversity Unit until the reanalysis is completed.

The Notice of Intent, published in the **Federal Register** of March 8, 1990, is hereby rescinded.

Neither the Task Force Agreement or this Notice are intended to preclude or predetermine the nature of management activities which might occur in the Creek Diversity Unit as the result of future planning effort.

For further information contact: Douglas P. Schleusner, Forest Planning Officer, Santa Fe National Forest, P.O. Box 1689, Santa Fe, NM 87504; telephone 505–988–6946.

Dated: August 21, 1991.

Alan S. Defler,

Forest Supervisor.

[FR Doc. 91–20716 Filed 8–28–91; 8:45 am]

BILLING CODE 3410–11–M

Lake Isabella Management Plan, Sequoia National Forest Kern County, CA; Intent To Prepare an Environmental Impact Statement

Pursuant to the Memorandum of Understanding and Joint Order between the Department of the Army and the Department of Agriculture that transferred jurisdiction of certain land together with appurtenant rights at Lake Isabella to the Forest Service on May 15, 1991, the USDA Forest Service will be preparing a management plan and accompanying environmental impact statement to determine future management practices for Lake Isabella.

As further agreed in the Memorandum of Understanding and Joint Order, the maintenance and operation of the two dams and associated lands and facilities at Lake Isabella, built for the purpose of flood control and irrigation, will remain within the jurisdiction of the Department of the Army, Army Corps of Engineers.

In preparing the environmental impact statement, a range of alternatives will be considered. These alternatives will analyze various management practices and policies and their potential effects on recreation, resources and other current uses.

Federal, State, and local agencies, and individuals or organizations who may be interested in or who may be affected by the decisions of this analysis, have been invited to participate in the scoping process. This process includes:

1. Identification of potential concerns and opportunities.
2. Elimination of insignificant issues or those which have been covered by a previous environmental review.
3. Identification of significant issues to be analyzed in depth.
4. Determination of potential cooperating agencies and assignment of responsibilities.

Public comments have been, and will continue to be, solicited in a variety of ways including requests for written comments, information mailings and public meetings, including on-site field trips.

Philip Bayles, Acting Forest Supervisor, Sequoia National Forest, Porterville, California, is the responsible official.

The analysis is expected to take approximately two years to complete. The draft environmental impact statement (DEIS) will be filed with the Environmental Protection Agency (EPA) and should be available for a 45 day public review period by May 1993. At that time, EPA will publish a notice of availability of the DEIS in the **Federal Register**. It is important that those interested in the management of Lake

Isabella participate at that time. To be most helpful, comments on the DEIS should be specific as possible and may address adequacy of the statement or the merits of the alternatives discussed (see Council on Environmental Quality Regulations 40 CFR 1503.3, for implementing the procedural provisions of the National Environmental Policy Act). In addition, Federal court decisions have established that reviewers of the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519,553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement (FEIS), Wisconsin Heritages, Inc. v. Harris, 490 F Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

After the comment period ends on the DEIS, comments will be analyzed and considered by the Forest Service in preparing the FEIS. The FEIS is scheduled to be completed by September 1993. In the final EIS, the Forest Service is required to respond to comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in a Record of Decision. That decision will be subject to appeal.

Written comments and suggestions concerning the analysis should be sent to Gene Blankenbaker, District Ranger, Cannell Meadow District, Sequoia National Forest, P.O. Box 6, Kernville, California 93238.

Questions about the proposed action and environmental impact statement should be directed to David M. Freeland, District Planner, at the above address, phone (619) 376–3781.

Dated: August 20, 1991.

Philip H. Bayles,

Acting Forest Supervisor.

[FR Doc. 91–20717 Filed 8–28–91; 8:45 am]

BILLING CODE 3410–11–M

Rural Electrification Administration

Alabama Electric Cooperative, Inc.; South Mississippi Electric Power Association Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of No Significant Impact related to the Rural Electrification Administration approval of a 230 kV transmission line project in southwest Alabama and southwest Mississippi.

SUMMARY: Notice is hereby given that the Rural Electrification Administration, pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and the Rural Electrification Administration Environmental Policies and Procedures (7 CFR part 1794) has made a Finding of No Significant Impact with respect to a 230 kV transmission line project in southwest Alabama and southeast Mississippi. Alabama Electric Cooperative, Inc., and South Mississippi Electric Power Association will participate in the construction and operation of the project.

The Rural Electrification Administration's Federal action related to this project may include the approval of financing assistance to Alabama Electric Cooperative, Inc., and South Mississippi Electric Power Association for each system's share of the project costs and/or provide other approvals that would lead to the construction of the project.

FOR FURTHER INFORMATION CONTACT: Mr. Alex M. Cockey, Jr., Director, Southeast Area—Electric, Room 0270, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382–8436.

SUPPLEMENTARY INFORMATION: The 230 kV transmission line will begin at the proposed 230/115 kV McIntosh Switching Station to be located in Washington County, Alabama, south of McIntosh. The line will traverse in a westerly direction into Mobile County, Alabama, and into Greene County, Mississippi. The length of the Alabama portion of the transmission line is about 27 miles. Alabama Electric Cooperative, Inc., will be responsible for this portion of the transmission line. In addition, Alabama Electric Cooperative, Inc., will construct a 115 kV transmission line from the proposed McIntosh Switching Station to its Compressed Air Energy Storage generating plant south of McIntosh. The length of this line will be about 3 miles. The 230 kV transmission line will continue in a westerly direction in Mississippi crossing from Greene County into George County and terminate at the South Mississippi Electric Power Association's existing Benndale Substation located approximately 1 mile east of Benndale. Improvements at the Benndale Substation will be necessary to accommodate the 230 kV facilities. The approximate length of this portion of transmission line is about 27 miles. South Mississippi Electric Power Association will construct this portion of the project.

Alternatives considered to the project as proposed included no action, upgrading the existing intertie between Alabama Electric Cooperative, Inc., and South Mississippi Electric Power Association, alternate termination points, alternate transmission line corridors and alternative voltages.

The Rural Electrification Administration has determined that the McIntosh to Benndale project is needed to provide adequate transmission paths for the interchange of power and enhance future shared generation facilities between Alabama Electric Cooperative, Inc., and South Mississippi Electric Power Association. The transmission line will also be needed to wheel power from Mississippi Power and Light to Alabama Electric Cooperative, Inc.

The Rural Electrification Administration has prepared an Environmental Assessment of the McIntosh to Benndale project and has concluded therefrom that its action related to this project will have no significant impact on the quality of the human environment and has subsequently reached a Finding of No Significant Impact.

Although there will be no significant impact to the 100-year floodplain or wetlands, both are within the project area and will be crossed by the transmission line. The Rural Electrification Administration has concluded that there is no practicable alternative that completely avoids the 100-year floodplain or wetlands.

Copies of the Environmental Assessment and Finding of No Significant Impact can be obtained from the Rural Electrification Administration at the address provided herein or from Mr. Mike Noel, Alabama Electric Cooperative, Inc., P.O. Box 550, Andalusia, Alabama 36420, telephone number (205) 222–2571.

There will be a 30-day comment period which will begin on either the date this notice is published in the

Federal Register or it is published in newspapers with general circulation in the project area, whichever is later. Those wishing to comment on the Finding of No Significant Impact should do so within this 30-day comment period to ensure their comments are taken into consideration prior to the Rural Electrification Administration's final action related to the project. The Rural Electrification Administration will take no action that would approve clearing or construction activities prior to the expiration of the 30-day comment period. Comments should be sent to the Rural Electrification Administration at the address given in this notice.

Dated: August 23, 1991.

George E. Pratt,

Deputy Administrator-Program Operations.

[FR Doc. 91-20758 Filed 8-28-91; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Barage Village Watershed Flood Prevention Plan, Michigan

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Baraga Village Watershed, Baraga County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, room 101, 1405 South Harrison Road, East Lansing, Michigan 48823-5202; Telephone (517) 337-6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional or national impacts on the environment. A contract has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project encounter archaeological sites, features or materials. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation and treatment of practices for flood prevention and watershed protection. The practices will include: sediment basins, diversion, erosion control structures, grassed waterway, dike, open channels, critical area treatment and streambank stabilization. Total financial assistance cost is estimated to be $1,336,900; $1,267,500 Public Law 566 funds and $69,400 local funds.

The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken on or before September 30, 1991.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Dated: August 22, 1991.

Homer R. Hilner,

State Conservationist.

[FR Doc. 91-20718 Filed 8-28-91; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 49-91]

Foreign-Trade Zone 168—Dallas-Fort Worth, Texas; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Dallas-Fort Worth Maquila Trade Development Corporation (MTDC), grantee of FTZ 168, requesting authority to expand its zone in the Dallas-Fort Worth area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 21, 1991.

FTZ 168 was approved on November 1, 1990 (Board Order 491, 55 FR 46974, 11/8/90), and currently consists of 3 sites in the Dallas-Fort Worth area: Site 1 (766 acres) at the LBJ Southport Center in south Dallas; Site 2 (24 acres) at Alta Mesa and Will Rogers Boulevards in southern Fort Worth; and Site 3 (260 acres) within the CentrePort industrial development south of DFW International Airport.

The grantee is now requesting authority to expand the zone to add a fourth site (195 acres), located at the Fossil Creek Business Park at I-35W and I-820 in north Fort Worth. The owner/developer of the park is Woodbine Development Corporation (subsidiary of Hunt Oil Company). No manufacturing requests are being made at this time. Such approvals would be requested from the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Jay Ahern, Regional Director, U.S. Customs Service, Southwest Region, suite 500, 5850 San Felipe Street, Houston, TX 77057-3012; and Colonel John A. Mills, District Engineer, U.S. Army Engineer District Fort Worth, P.O. Box 17300, Fort Worth, TX 76102-0300.

Comments concerning the proposed expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before October 15, 1991.

A copy of the application is available for inspection at each of the following locations:

U.S. Department of Commerce, District Office, room 7A5, 100 Commerce Street, Dallas, TX 75242.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue NW., Washington, DC 20230.

Dated: August 23, 1991.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 91-20759 Filed 8-28-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Sanctions for Violation of an Administrative Protective Order

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

ACTION: Notice of status of investigation into charge of violation of administrative protective orders in antidumping and countervailing duty proceedings.

SUMMARY: This is a notice of the status of an investigation into a charge of violation of an administrative protective order in an antidumping proceeding.

EFFECTIVE DATE: August 29, 1991.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell, Chief Counsel for Import Administration, Department of Commerce. Tel: (202) 377–1434.

SUPPLEMENTARY INFORMATION: The International Trade Administration, U.S. Department of Commerce (ITA), wishes to remind those members of the bar who appear before it in antidumping and countervailing duty proceedings of the extreme importance of protecting the confidentiality of business proprietary information obtained pursuant to administrative protective order ("APO") during the course of those proceedings. In order that the gravity with which ITA views violations of its APO's might be better appreciated, ITA is publishing the following report on a recent allegation that the provisions of an ITA APO have been violated.

An individual violated an APO by serving a document containing the business proprietary information of two respondents on counsel for each respondent, who did not have access to the information of the other respondent pursuant to an administrative protective order. The APO-covered information was not publicly disclosed. By failing to properly protect business proprietary information, the individual violated the terms of the APO.

In this case, the individual involved was (1) issued a private reprimand which warned that future violations by him/her would be treated more severely; (2) required to send a letter to counsel for the affected respondents which explains and apologizes for the circumstances surrounding the violation; (3) denied access to proprietary information for a period of ninety days.

We consider these sanctions appropriate for the following reasons: First, the violation was the second violation of an APO by this individual. Second, there appears to be no harm caused by the unauthorized use of the proprietary information. Third, the individual cooperated with the ITA's investigation.

Serious harm can result from the failure to adequately protect business proprietary information received under APO. ITA will continue to investigate vigorously allegations that the provisions of APO's have been violated, and is prepared to impose sanctions commensurate with the nature of the violations, including letters of reprimand, denial of access to proprietary information, and debarment from practice before the ITA.

Dated: August 22, 1991.

Timothy J. Hauser,

Deputy Under Secretary for International Trade.

[FR Doc. 91–20760 Filed 8–28–91; 8:45 am]

BILLING CODE 3510–DS–M

Auto Parts Advisory Committee; Closed Meeting

AGENCY: International Trade Administration; Department of Commerce

ACTION: Notice of Closed Executive Meeting of Auto Parts Advisory Committee.

SUMMARY: The U.S. Automotive Parts Advisory Committee (the "Committee") advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Auto Parts Act of 1988. The Committee: (1) Reports annually to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets; (2) assists the Secretary in reporting to the Congress on the progress of U.S.-made auto parts in Japanese markets, including the formation of long-term supplier relationships; (3) reviews and considers data collected on sales of U.S.-made auto parts to Japanese markets; (4) advises the Secretary during consultations with the Government of Japan on these issues; and (5) assists in establishing priorities for the Department's initiatives to increase U.S.-made auto parts sales to Japanese markets, and otherwise provide assistance and direction to the Secretary in carrying out these initiatives. At the meeting, committee members will receive briefings on the status of ongoing consultations with the Government of Japan and will discuss specific trade and sales expansion programs related to U.S.-made automotive parts policy.

DATE AND LOCATION: The meeting will be held on Thursday, September 19, 1991 from 9:30 a.m. to 5 p.m. in room 3407, Department of commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Stuart Keitz, Office of Automotive Industry Affairs, Automotive Affairs and Consumer Goods Sector, Trade Development, Main Commerce, room 4036, Washington, DC 20230, telephone: (202) 377–0669.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on June 24, 1991, pursuant to section 10(d) of the Federal Advisory Act, as amended, that the series of meetings or portions of meetings of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the act relating to open meeting and public participation therein because these items will be concerned with matters that are within the purview of 5 U.S.C. 552b (c) (4) and (9) (B). A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the International Trade Administration Records Inspection Facility, Room 4104, Main Commerce.

Dated: August 23, 1991.

Henry Misisco,

Director, Office of Automotive Industry Affairs.

[FR Doc. 91–20761 Filed 8–28–91; 8:45 am]

BILLING CODE 3510–DR–M

Minority Business Development Agency

Business Development Center Applications: State of Connecticut (Service Area)

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performances for the first budget period (12 months) is estimated as $184,260 in Federal funds, and a minimum of $32,516 in non-Federal (cost sharing) contribution, from January 1, 1992 to December 31, 1992. Cost-sharing

contributions, may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The MBDC will operate in the Connecticut SMSA geographic service area.

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 identify and coordinate public and private sector 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 initially by regional staff 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 methodologies) 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. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further purpose of the MBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. 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.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. 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 performance, the availability of funds and the Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance with OMB Circular A–129, "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate of inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free-workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreements" and SF–LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with section 319 of Public Law 101–121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Goverment in connection with a specific contract, grant or loan.

CLOSING DATE: The closing date for applications is September 30, 1991. Applications must be postmarked on or before September 30, 1991.

Proposals will be reviewed by the Washington Regional Office. Mailing address for submission is:

ADDRESS: Gina A. Sanchez, Regional Director, Washington Regional Office, Minority Business Development Agency, 14th & Constitution Ave. NW., room 6711, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: John F. Iglehart, Regional Director, New York Regional Office at (212) 264–3263.

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 New York address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: August 22, 1991.

William R. Fuller,

Regional Director (Deputy) New York Regional Office.

[FR Doc. 91–20701 Filed 8–28–91; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council (Council) will hold an Administrative Committee meeting on August 29, 1991, at the Conference Room of the Pierre Hotel, San Juan, Puerto Rico. The meeting will begin at 10 a.m.

The Committee will discuss the CY 1991 Budget, the 1992–93 Budget Petition, and other issues pertaining to the administrative operations of the Council.

For more information contact Miguel A. Rolon, Executive Director, Caribbean

Fishery Management Council, Banco de Ponce Building, suite 11008, Hato Rey, Puerto Rico 00918–2577; telephone: 809–766–5926.

Dated: August 23, 1991.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–20671 Filed 8–28–91; 8:45 am]

BILLING CODE 3510–22–M

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council and its Committees will meet on September 16–19, 1991, at the Hyatt Regency New Orleans at Louisiana Superdome, Poydras at Loyola Avenue, New Orleans, Louisiana.

Council: The Council will begin its meeting on September 18 at 8:30 a.m., and recess at 5 p.m. The agenda is as follows: (1) From 8:45 a.m. to 9:30 a.m., consider Bycatch in the Groundfish Fishery; (2) from 9:30 a.m. to 11 a.m., hear public testimony on Amendment #4 the Reef Fish Fishery Management Plan; (3) from 11 a.m. to 2:30 p.m., address Committee Recommendations on Amendment #4 to the Reef Fish Fishery Management Plan; (4) from 2:30 p.m. to 3 p.m., discuss the Vessel Safety Issue; (5) from 3 p.m. to 4:30 p.m., review the Draft Mackerel Amendment #6 Options Paper; and (6) from 4:30 p.m. to 5 p.m., receive the Shrimp Management Committee Report.

The Council meeting will continue on September 19, as follows: (1) From 9 a.m. to 9:30 a.m., continue reviewing the Shrimp Management Committee Report, and discuss Stocking Estuaries with Shrimp; (2) receive the Data Collection Committee Report, followed by Law Enforcement Reports and the Director's Reports; and (3) Election of Chairman and Vice Chairman. Adjournment is scheduled for 12 p.m.

Committees: On September 16 at 8 a.m., the Shrimp Management Committee will meet followed by Orientation for new Council members, with adjournment at 5 p.m. On September 17 at 8 a.m., the Reef Fish Management Committee; Joint Reef Fish/Mackerel/Law Enforcement Committee; Mackerel Management Committee; and the Data Collection Committee will meet. Adjournment is scheduled for 5:30 p.m.

For more information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 881, Tampa, FL; telephone: 813–228–2815.

Dated: August 23, 1991.

David S. Crestin,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–20673 Filed 8–28–91; 8:45 am]

BILLING CODE 3510–22–M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council and its Ad Hoc Data Committee (AHDC) and Finance Committee (FC) will meet on September 3, 1991, at the Airport Hilton Hotel, 10th & Packer Avenue, Philadelphia, PA; telephone: 215–755–9500. The AHDC will begin its meeting on September 3 at 1 p.m., and the FC meeting will begin at 3 p.m.

The Council will begin its regular meeting on September 4 at 8 a.m. and will adjourn on September 5 at approximately 3 p.m. The session will begin with the election of officers. The Council will also vote on possible adoption of Amendment #2 to the Summer Flounder Fishery Management Plan; hear committee reports; set quotas, specifications, and management measures for 1992 for squid, mackerel, butterfish, surf clam/ocean quahog, and bluefish fisheries; and discuss other fishery management matters. The Council may also hold a closed session (not open to the public) to discuss personnel and/or national security matters.

For further information contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover DE 19901; telephone: 302–674–2331.

Dated: August 23, 1991.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–20674 Filed 8–28–91; 8:45 am]

BILLING CODE 3510–22–M

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Groundfish Plan Teams for the Gulf of Alaska and the Bering Sea/Aleutian Islands groundfish fishery management plans will hold public meetings on September 3–6, 1991. The meetings will begin on September 3 at 8:30 a.m., at the Alaska Fisheries Science Center, Building 4, in room 2039, 7600 Sand Point Way NE., Seattle, Washington.

The teams will review available stock assessments and catch statistics and begin preparation of the Stock Assessment and Fishery Evaluation documents for the 1992 fisheries. The teams will also review proposed amendments to the groundfish fishery management plans and develop recommendations of priorities for Council consideration.

For more information contact Chris Oliver or Brent Paine, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: 907–271–2809.

Dated: August 23, 1991.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–20672 Filed 8–28–91; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF EDUCATION

Office of Indian Education

Planning, Pilot, and Demonstration Projects for Indian Children; and Educational Personnel Development

AGENCY: Department of Education.

ACTION: Notice of proposed priorities for fiscal year (FY) 1992.

SUMMARY: The Secretary of Education proposes to establish absolute priorities for fiscal year (FY) 1992 grant competitions under the following Indian education programs: Planning, Pilot, and Demonstration Projects for Indian Children; and Educational Personnel Development. The Secretary takes this action to focus Federal financial assistance on an identified national need. These priorities are intended to (1) increase the availability had effectiveness of services for children by providing them in an integrated fashion, and (2) provide on-site development of teachers and other educational personnel on reservations or rural areas.

DATES: Comments must be received on or before September 30, 1991.

ADDRESSES: All comments concerning these proposed absolute priorities should be addressed to John W. Tippeconnic, III, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202–6173.

FOR FURTHER INFORMATION CONTACT: Cathie Martin, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202–6173. Telephone (202) 401–1902. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION:

Planning, Pilot, and Demonstration Projects for Indian Children

The Planning, Pilot, and Demonstration Projects for Indian Children program provides financial assistance for projects to design, test, and demonstrate the effectiveness of programs for improving educational opportunities for Indian children. The proposed absolute priority would apply to each of the three separate competitions (Planning projects, Pilot projects, and Demonstration projects) conducted under this program. The proposed absolute priority proposed for this program would require coordination among agencies that provide educational and social services through service integration. For the purposes of the proposed priority, service integration is defined as an approach to improving the lives of at-risk Indian children by bringing together education, health, and social services in a comprehensive system for child and family assessment, service delivery, and follow-up monitoring and evaluation. Because the needed services may originate in many agencies, service integration would require collaboration, information sharing, and a possible relocation of services to ensure that the services are convenient and accessible.

A recent study of integrated services for at-risk children conducted for the Departments of Education and Health and Human Services suggests that access to integrated services can be very beneficial to disadvantaged children and their families, especially those who live in communities characterized by extreme poverty, family dissolution, and lack of reasonable access to services. Programs offering comprehensive integration of services have found that highly disadvantaged children often have difficulties with important developmental characteristics of the middle childhood years, primarily between the ages of four through twelve. Because many Indian children fall into the disadvantaged category, the Secretary proposes an absolute priority to demonstrate the effectiveness of projects offering integrated services for Indian children and their families.

Priority

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to Planning, Pilot, and Demonstration Projects that meet the following priority. The Secretary proposes to fund under the competition for each program only projects that meet this absolute priority:

Service Integration. Projects that are designed to achieve all of the following objectives:

(1) Coordination of educational activities with other entities, such as local educational agencies, Indian tribes, State educational agencies, or institutions of higher education;

(2) Integration of Indian Education Act activities with educational activities supported by State, local, tribal, or other Federal funds; and

(3) Integration of school activites with health, social or other family services.

Within this absolute priority, each planning, pilot, or demonstration project must also address one or more of the following areas:

(1) Innovative approaches to keeping students in school until they successfully graduate (e.g., targeting dropout and attendance concerns);

(2) Early childhood and family education; or

(3) Strengthening instruction in the five core curriculum areas of English, mathematics, science, history, and geography, through strategies that include the development of curriculum and materials that incorporate appropriate aspects of the culture of the Indian children to be served. Projects must address the basis for determining how the materials to be developed relate to the Indian culture.

Educational Personnel Development

The Educational Personnel Development program includes two programs supporting projects for:

(1) Preparing persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(2) Improving the qualifications of persons serving Indian students in these capacities.

Reservations and rural areas in which Indian students reside have traditionally had a difficult time recruiting and retraining qualified teachers. The proposed absolute priority for the two Educational Personnel Development programs would address this problem by supporting projects that provide on-site training for persons who already reside on a reservation or in a rural area and who are likely to remain in their communities once their training has been completed.

Priority

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to Educational Personnel Development projects that meet the following priority. The Secretary proposes to reserve a portion of the funds available under each of the two separate competitions for this program only for projects that meet this absolute priority:

"On-site" training to prepare teachers of Indian children. The training must:

(1) Lead to a bachelor's degree or above within five years or less, or meet requirements for teacher certification or both;

(2) Be offered in a reservation or rural community, at least during the school year, in which the participants, and the schools in which they are likely to be employed, are located; and

(3) Involve coordination of activities with other entities, such as institutions of higher education, local educational agencies, tribal colleges, or Indian tribes.

Intergovernmental Review

These programs are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, at 400 Maryland Avenue, SW., room 2177, Washington, DC between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

The Secretary will announce the final priorities in a notice in the **Federal Register.** The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends

on the availability of funds, the nature of the final priorities, and the quality of the applications received. The publication of these proposed absolute priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note:

This notice of proposed priorities does *not* solicit applications. A notice inviting applications under these competitions will be published in the **Federal Register** concurrent with or following publication of the notice of final priorities.

Applicable Program Regulations

34 CFR Parts 254 and 256.

Program Authority: 25 U.S.C. 2621 (a)(1), (b), (d), 2622.

(Catalog of Federal Domestic Assistance Number 84.061 Parts C, D, and E, Planning, Pilot and Demonstration Projects for Indian Children; and 84.061F, Educational Personnel Development)

Dated: August 22, 1991.

Lamar Alexander,

Secretary of Education.

[FR Doc. 91-20686 Filed 8-28-91; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 503-009, Idaho]

Idaho Power Co.; Availability of Environmental Assessment

August 23, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application to amend the license for the Swan Falls Project to construct a new operators village consisting of five single family homes. The project is located on the Upper Snake River in Ada and Owyhee County, Idaho. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, staff concludes that approval of the amendment of license would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Offices at North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91-20688 Filed 8-28-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 298-000 California]

Southern California Edison Co.; Availability of Environmental Assessment

August 22, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for new license for the existing Kaweah Project, located on the Kaweah River and its tributaries in Tulare County, California, near the towns of Three Rivers, Hammond, Oakgrove, and Tulare, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91-20691 Filed 8-28-91; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 2100-045, et al.]

Hydroelectric Applications (California Department of Water Resources, et al.); Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* Amendment of License.

b. *Project No:* 2100-045.

c. *Dates Filed:* April 20, 1990, January 23, 1991, and July 3, 1991.

d. *Applicant:* California Department of Water Resources.

e. *Name of Project:* Feather River Project.

f. *Location:* Feather River in Butte County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) 825(r).

h. *Applicant Contact:* Mr. Mike Ford, California Department of Water Resources, 1416 9th Street, Sacramento, CA 95802, (916) 324-6164.

i. *FERC Contact:* Jon Cofrancesco, (202) 219-2650.

j. *Comment Date:* September 20, 1991.

k. *Description of Amendment:* The California Department of Water Resources, licensee for the Feather River Project, proposes to revise the approved recreation plan for the project. The existing recreation facilities at the project differ in part from the facilities identified in the approved recreation plan. The licensee has filed a revised recreation plan to more accurately identify all existing recreation facilities at the project and its current and future plans to make additions or improvements to the facilities. The revised plan contains a description of existing and proposed recreation facilities, a description of the methodology and resource data used in developing the revised plan, a drawing showing all existing and proposed recreation facilities, a development schedule, and documentation of consultation with specific resource agencies (a copy of the application may be obtained by interested parties directly from the licensee).

l. *This plan also consists of the following standard paragraphs:* B, C, and D2.

2 a. *Type of Application:* Amendment of Recreation Plan.

b. *Project No:* 2814-013.

c. *Date Filed:* June 20, 1991.

d. *Applicant:* Paterson Municipal Utilities Authority and Great Falls Hydroelectric Company.

e. *Name of Project:* Great Falls Project.

f. *Location:* Passaic County, New Jersey.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Ms. Elizabeth Ward, Counsel for Great Falls Hydroelectric Company, Flood and Ward, Suite 402, 1000 Potomac Street, NW., Washington, DC 20007, (202) 298-6910.

i. *FERC Contact:* Mr. Dan Hayes, (202) 219-2660.

j. *Comment Date:* September 20, 1991.

k. *Description of Amendment:* Article 40 of the Great Falls Project license currently requires the licensees to construct and maintain sanitary facilities at the project site as part of the project's recreation plan. The licensees

have filed an application to remove this requirement, citing high incidence of vandalism in the area and destruction of similar facilities in city run parks nearby. Restroom facilities would be provided during business hours at the Rogers Building, which the licensee states is two blocks from the project site in the Town of Paterson's historic district.

1. *This notice also consists of the following standard paragraphs:* B, C, and D2.

3 a. *Type of Filing*: Requests for Extensions of Time to Commence Project Construction.

b. *Project No.*: P–4204–018, White River Lock & Dam No. 1, located on the White River near the City of Batesville, Independence County, Arkansas. Licensee: City of Batesville, Arkansas.

c. *Project No.*: P–4660–022, White River Lock & Dam No. 2, located on the White River in the Cities of Locust Grove and Batesville, Independence County, Arkansas. Licensee: Independence County, Arkansas.

d. *Project No.*: P–4659–020, White River Lock & Dam No. 3, located on the White River in the City of Marcella, Stone County, Arkansas. Licensee: Independence County, Arkansas.

e. *Date Filed*: August 7, 1991.

f. *Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)-825(r) and Public Law No. 101–155, 103 Stat. 935 (1989).

g. *Applicants Contact*: Wilkinson, Barker, Knauer & Quinn Law Offices, 1735 New York Avenue, NW., Washington, DC 20006, (202) 783–4141, Attention: Donald H. Clarke.

h. *FERC Contact*: Mr. Lynn R. Miles, (202) 219–2671.

i. *Comment Date*: September 20, 1991.

j. *Description of the Request*: The licensees for the subject projects have requested that the deadlines for commencement of construction at FERC Project Nos. 4204, 4660, and 4659, be extended for an additional two-year period. The licensees state that the current deadlines of November 7, 1991, (P–4660) and February 27, 1992, (P–4204 and P–4659) do not afford the licensees sufficient time to (1) finalize their current ongoing discussions with a regional utility regarding arrangements for supplemental energy and marketing the projects; (2) present the proposal to potential power purchasers; and (3) finalize the terms of power purchase arrangements with the interested power purchaser.

k. *This notice also consists of the following standard paragraphs:* B, C, and D2.

4 a. *Type of Application*: Surrender of Exemption.

b. *Project No.*: 5541–001.

c. *Date filed*: July 22, 1991.

d. *Applicant*: Norton Hydro Company.

e. *Name of Project*: Norton Hydro Project.

f. *Location*: On the Coaticoak River in the Town of Norton, in Essex County, Vermont.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contract*: Matthew J. Bonaccorsi, Norton Hydro Company, HC 64 Box 185C Methodist Hill Road, Lebanon, NH 03766, (603) 448–3245.

i. *FERC Contact*: Mary Golato (202) 219–2804.

j. *Comment Date*: September 20, 1991.

k. *Description of Project*: The exemption for this project was issued March 30, 1982. The exemptee has stated that the dam has been breached and the project is no longer operating. The exemptee has determined that the project is no longer economically feasible to operate based on the estimated cost of rehabilitation work and the current value of power produced from the project.

l. *This notice also consists of the following standard paragraphs*: B & C.

5 a. *Type of Application:* Transfer of License.

b. *Project No.:* 5728–009.

c. *Date filed:* July 9, 1991.

d. *Applicant:* Sandy Hollow Hydro Associates.

e. *Name of Project:* Sandy Hollow Hydroelectric Project.

f. *Location:* On the Indian River in Jefferson County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Sandy Hollow Power Company, Inc., c/o Mr. Paul C. Preble, 683 Route 3A, Bow, NH 03304, (603) 224–2010.

i. *FERC Contact:* Mary Golato (202) 219–2804.

j. *Comment Date:* September 20, 1991.

k. *Description of Project:* Sandy Hollow Hydro Associates proposes to transfer its license for the Sandy Hollow Hydroelectric Project No. 5728 to Sandy Hollow Paper Company, Inc. The purposes of the transfer is to permit the sale of the licensed project facilities of the transferee which intends to increase the financing flexibility of the project and complete repairs to the project facilities as well as be responsible for project operation.

l. *This notice also consists of the following standard paragraphs:* B & C.

6 a. *Type of Application:* Amendment to Major License Application.

b. *Project No.:* 9401–000.

c. *Date filed:* April 25, 1991.

d. *Applicant:* The Halecrest Company.

e. *Name of Project:* Mount Hope Pumped Storage.

f. *Location:* In Rockaway Township, Morris County, New Jersey.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Paul Rodzianko, 321 Talmadge Road, Edison, NJ 08817, (201) 361–1072.

i. *FERC Contact:* Jim Haimes (202) 219–2780.

j. *Comment Date:* September 26, 1991.

k. *Description of Amendment:* The original proposal would have utilized the existing Mount Hope Lake as the upper reservoir, enlarged from its present size by the construction of a new dam. The amended proposal would utilize an upper reservoir to be excavated west of Mount Hope Lake.

The project, as currently proposed, would consist of: (1) a newly excavated upper reservoir having a 57-acre surface area and a 5,500 acre-foot storage capacity at normal maximum 2,800-foot-long, 25-foot-diameter concrete-lined vertical intake shaft bifurcating into five 11-foot-diameter penstocks; (3) a new 60-foot-wide, 400-foot-long, 120-foot-high underground powerhouse at elevation 2072 below m.s.l. containing 5 pump/turbine units with a total installed generating capacity of 2,000 MW at a new head of 2,500 feet; of 5,500 acre-feet at maximum operating surface elevation 1628 below m.s.l.; (5) two parallel 500–kV, 11.7-mile-long transmission lines to the future Jefferson substation; and (6) appurtenant facilities.

l. *This notice also consists of the following standard paragraphs:* A4, B, C, and D1.

7. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11097–000.

c. *Date filed:* February 26, 1991.

d. *Applicant:* Seneca Hydro Acquisition Corporation.

e. *Name of Project:* Seneca Hydro Expansion Project.

f. *Location:* On the Seneca River, in Baldwinsville, Onandago County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Paul V. Nolan, 6219 North 19th Street, Arlington, VA 22205, (703) 534–5509.

i. *FERC Contact:* Mary Golato (202) 219–2804.

j. *Comment Date:* October 10, 1991.

k. *Description of Project:* The exempted Seneca Hydroelectric Project No. 4296 has an existing 400-foot-long, 14-foot-high concrete gravity dam, an existing impoundment with a surface area of less than 4 square miles and an elevation of 374 feet mean sea level, and an existing powerhouse containing three

turbines having a total installed capacity of 950 kilowatts.

The proposed project would develop additional capacity at the exempted Seneca Hydroelectric Project No. 4296, operated by the Seneca Hydroelectric Company, and would consist of: (a) a new gated intake structure to control flow to the powerhouse, (b) a proposed 25-foot-wide and 55-foot-long powerhouse addition to be located adjacent to the east wall of the existing powerhouse, (c) one trubine/generator unit having an installed capacity of 300 kilowatts, (d) a proposed enhancement of the existing tailrace of Project No. 4296 involving widening the tailrace to a maximum width of 85 feet, (e) a proposed addition to the current switchyard for Project No. 4296, (f) use of either 4.8-kilovolt (kV) or 13.2-kV transmission lines, and (g) 6-inch flashboards; and (h) appurtenant facilities. The dam is onwed by the New York State Department of Transportation. The average annual generation would be 1.20 gigawatthours. The applicant estimates that the cost of the studies would be $150,000.00.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, & D2.

8. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11104–000.

c. *Date filed:* March 14, 1991.

d. *Applicant:* City of Oswego, New York.

e. *Name of Project:* Spier Falls.

f. *Location:* Hudson River, Warren & Saratoga Counties, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Paul V. Nolan, 6219 North 19th Street, Arlington, VA 22205, (703) 534–5509.

i. *FERC Contact:* Robert Bell (202) 219–2806.

j. *Competing Application:* Project No. 10641–000, Date Filed: 8/10/88.

k. *Comment Date:* September 20, 1991.

l. *Description of Project:* Applicant proposes to study the feasibility of installing additional generating units to use water resources in excess of 7,600 cfs at the Spier Falls development of Niagara Mohawk Power Corporation's Project No. 2482. The proposed project would consist of: (1) a new intake/forebay/gate structure at the south end of the dam; (2) a new powerhouse with an installed capacity of 21 MW; (3) a new tailrace and; (4) appurtenant facilities. The estimated annual generation is 130 GWh and the cost of the studies under the permit would be $125,000. Power would be sold to a local utility.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B & C.

9. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11105–000.

c. *Date filed:* March 14, 1991.

d. *Applicant:* City of Oswego, New York.

e. *Name of Project:* Fulton.

f. *Location:* Oswego River, Oswego County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Paul V. Nolan, 6219 North 19th Street, Arlington, VA 22205, (703) 534–5509.

i. *FERC Contact:* Paul Bell (202) 219–2806.

j. *Competing Application:* Project No. 10637–000, Date Filed: 8/10/88.

k. *Comment Date:* September 20, 1991.

l. *Description of Project:* Applicant proposes to study developing excess water resources capacity at the Fulton development of Niagara Mohawk Power Corporation's Project No. 2474. The proposed project would consist of: (1) a new forebay gate structure west of the dam; (2) a new powerhouse with an installed capacity of 1.44 MW; (3) a new tailrace and; (4) appurtenant facilities. The estimated annual generation is 3.285 GWh. The dam is owned by the New York State Department of Transportation. The cost of the studies under the permit is estimated to be $125,000. Power would be sold to a local utility.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B & C.

10. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11106–000.

c. *Date filed:* March 14, 1991.

d. *Applicant:* City of Oswego, New York.

e. *Name of Project:* Sherman Island.

f. *Location:* On Hudson River, Warren & Saratoga Counties, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Paul V. Nolan, 6219 North 19th Street, Arlington, VA 22205, (703) 534–5509.

i. *FERC Contact:* Robert Bell (202) 219–2806.

j. *Competing Application:* Project No. 10638–000, Date Filed: 8/10/88.

k. *Comment Date:* September 20, 1991.

l. *Description of Project:* Applicant proposes to study the feasibility of installing additional capacity using excess water resources at the Sherman Island development of Niagara Mohawk Power Corporation's (NIMO) Project No. 2482. The proposed project would consist of: (1) a new intake; (2) a new power canal west of the existing NIMO facilities; (3) a new powerhouse with an installed capacity of 1.7 MW; (4) a new tailrace; and (5) appurtenant facilities. The estimated average energy generation is 70 GwH. The cost of the studies under the permit is $125,000. Power would be sold to a local utility.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B & C.

11 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11117–000.

c. *Date filed:* March 29, 1991.

d. *Applicant:* Town of Moreau, New York.

e. *Name of Project:* Spier Falls.

f. *Location:* Hudson River, Warren and Saratoga Counties, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)—825(r).

h. *Applicant Contact:* Mr. Richard M. Wagner, National Energy Resource Corp., 91 Stratton Forest Way, Simsbury, CT 06070, (203) 651–0576.

i. *FERC Contact:* Robert Bell (202) 219–2806.

j. *Competing Application:* Project No. 10641–000, Date Filed: 8/10/88.

k. *Comment Date:* September 20, 1991.

l. *Description of Project:* Applicant proposes to study the feasibility of installing additional generating units to use water resources in excess of that developed at the Spier Falls development of Niagara Mohawk Power Corporation's Project No. 2482, which is 7,600 cfs. The proposed project would consist of: (1) an intake; (2) a new powerhouse on an existing foundation housing two generating units rated at 40.25 MW installed capacity; and (3) appurtenant facilities. The estimated annual energy generation is 124,000 MWh. The cost of the studies under the permit would be $200,000. The power would be sold to Niagara Mohawk Power Corp.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B & C.

12 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11137–000.

c. *Date filed:* May 1, 1991.

d. *Applicant:* Gem Irrigation District.

e. *Name of Project:* Banks Hydroelectric Project.

f. *Location:* Partially on lands administered by the Bureau of Land Management and Forest Service on the North Fork of the Payette River and Little Squaw Creek in Valley, Boise, and Gem Counties, Idaho. T11N, R3E; T10N, R3E; T10N, R2E; T9N, R3E; and T9N, R2E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)—825(r).

h. *Applicant Contact:* E. Robert Mooney, A.B. Energy, 1555 Shoreline Boulevard, Suite 200, Boise, ID 83702, (208) 338–2604.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* October 24, 1991.

k. *Description of Project:* The proposed project would consist of: (1) a diversion structure on the North Fork of the Payette River 2.3 miles downstream of Smith's Ferry which would raise the present river level approximately six feet creating a 100-acre impoundment; (2) a pumphouse; (3) a 2.6-mile-long buried pipeline and tunnel connecting the pumphouse to the headwaters of Little Squaw Creek in High Valley; (4) a 4.2-mile-long weir system on the Little Squaw Creek creating seven impoundments with a combined surface area of 300 acres; (5) a 45-foot-high dam immediately downstream of the weir system forming a 900-acre reservoir; (6) an intake structure in the reservoir; (7) an 8-mile-long tunnel leading through Dry Buck Mountain to an underground powerhouse in Banks; (8) a powerhouse containing four 125–MW generators; (9) a 2000-foot tailrace returning water from the powerhouse to the North Fork of the Payette River; (10) a 10-mile-long, 230–kV transmission line interconnecting with an existing 69–kV Emmett-Stibnite transmission line; and (11) appurtenant facilities.

l. *This notice also consists of the following standard paragraphs:*

13 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11156–000.

c. *Date Filed:* June 5, 1991.

d. *Applicant:* Shoshone Irrigation District.

e. *Name of Project:* Iron Creek Power Project

f. *Location:* On an unnamed tributary of the Shoshone River in Park County, Wyoming. T54N, R100W in sections 5, 6, 7, 8, 17, 19, and 20. T55N, R100W in sections 21, 28, 32, and 33.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Clarence A. Colyn, Tudor Engineering Company, 165 South Union Blvd., Suite 802, Lakewood, CO 80228, (303) 986–8017.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* October 11, 1991.

k. *Description of Project:* The proposed project would utilize the flows from the existing Bureau of Reclamation's Corbett reservoir, downstream of its tunnel exit on an unnamed tributary of the Shoshone River, and would consist of: (1) an intake structure; (2) two eight-foot-diameter, 350-foot-long penstocks; (3) a powerhouse containing two, 2-MW generators; (4) a tailrace returning water to the Shoshone River; (5) an 8-mile-long, 34.5 kV transmission line interconnecting with the existing Western Area Power Administration Ralston Substation; and (6) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies under the permit would be $100,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

14 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11159–000.

c. *Date Filed:* June 10, 1991.

d. *Applicant:* Pondera County Canal & Reservoir Company.

e. *Name of Project:* Swift Dam Hydroelectric Project.

f. *Location:* Partially on Bureau of Land Management property on Birch Creek in Pondera County, Montana. T28N, R10W in sections 22, 23, 27, 28, 33, and 34.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* William S. Fowler, Project Manager, Sigma Consultants, Inc., 74 Bent Road, Sudbury, MA 01776, (508) 443–5660.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* October 15, 1991.

k. *Description of Project:* The proposed project would consist of: (1) the existing 205-foot-high Swift dam and 506-acre Swift Reservoir currently owned by the applicant; (2) two 4-foot-diameter, 20-foot-long penstocks; (3) a powerhouse containing two 1.41-MW generators; (4) a 150-foot-long transmission line interconnecting with an existing 14.4/24.9–kV Glacier Electric Cooperative transmission line; and (5) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies under the permit would be $65,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D 2.

15 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11162–000.

c. *Date Filed:* June 28, 1991.

d. *Applicant:* Wisconsin Power and Light Company.

e. *Name of Project:* Prairie du Sac Hydroelectric Project.

f. *Location:* On the Wisconsin River, Columbia and Sauk Counties, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Norman E. Boys, Wisconsin Power & Light Company, P.O. Box 192, 222 West Washington Avenue, Madison, WI 53701–0192, (608) 252–3086.

i. *FERC Contact:* Mary Golato (tag) (202) 219–2804.

j. *Comment Date:* September 23, 1991.

k. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing 1,775-foot-long earth dike; (2) an existing reservoir with a surface area of 9,000 acres, a normal storage capacity of 119,950 acre-feet, and a normal surface elevation of approximately 774 feet NGVD; (3) an existing 1,010-foot-long concrete spillway with 41 taintor gates; (4) a navigation lock; (5) an existing concrete and masonry powerhouse with integral intake; (6) an existing short earth dike; (7) four 69-kilovolt transmission lines; and (8) appurtenant facilities. The powerhouse would contain eight generating units having a combined installed capacity of 30 megawatts. The dam is owned by the Wisconsin Power & Light Company. The average annual generation would be 147,683 megawatthours. The applicant estimates that the cost of the studies under permit would range from $400,000 to $200,000.

l. This notice also consists of the following standard paragraphs: A3, A5, A7, A9, A10, B, C, and D2.

Standard paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of

intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring of file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Product Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027 (810 1st), at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. Agency Comments—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. Section 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: August 23, 1991, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 91–20692 Filed 8–28–91; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 91–56–NG]

MidCon Marketing Corp.; Application for Blanket Authorization To Export Natural Gas to Canada and Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Canada and Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on July 30, 1991, of an application filed by MidCon Marketing Corporation (MidCon), requesting blanket authorization to export up to a total of 300 Bcf of natural gas from the United States to Canada and/or Mexico over a two-year period beginning on the date of first delivery. MidCon intends to use existing pipeline facilities at the international borders the U.S. shares with Canada and Mexico. MidCon states that it will notify DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed in Washington, DC, at the address listed below no later than 4:30 p.m., Eastern time, September 30, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9394.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: MidCon is a Delaware corporation with its principal place of business in Lombard, Illinois. MidCon requests blanket export authorization to make short-term and spot market sales with terms of up to two years. MidCon proposes to act as agent for the purchase or sale of gas owned by others. The company states that the terms of each transaction will be negotiated at arms-length and will reflect competitive market conditions.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA compliance. The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public comment procedures. In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR Sec. 590.316.

A copy of MidCon's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on August 22, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–20752 Filed 8–28–91; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–52–NG]

Texaco Gas Marketing Inc.; Application to Export Natural Gas To Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on July 22, 1991, of an application filed by Texaco Gas Marketing Inc. (TGMI) requesting blanket authorization to export up to 80 Bcf of natural gas to Canada over a two-year period commencing with the date of first delivery. TGMI intends to use existing U.S. pipeline facilities which interconnect with Canadian pipeline facilities at various points on the U.S./Canadian border. TGMI states that it will submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, September 30, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:
Charles E. Blackburn, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7751,
Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0503.

SUPPLEMENTARY INFORMATION: TGMI, a Delaware corporation with its principal place of business in Houston, Texas, is a wholly owned subsidiary of Texaco Exploration and Producing Inc., which in turn is wholly owned by Texaco Inc.

TGMI states that it will generally sell the requested natural gas volumes on a short-term basis, but some export agreements may extend for the term of the export authorization. The contractual arrangements will be the product of arms-length negotiations with an emphasis on competitive prices and contract flexibility. TGMI requests authorization to export for its own account as well as to act as agent for other U.S. suppliers and for Canadian purchasers.

The export application will be reviewed under section 3 of the NGA and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA compliance. The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public comment procedure. In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of TGMI's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on August 22, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–20753 Filed 8–28–91; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3991–3]

Policy on Enforcement of RCRA Section 3004(J) Storage Prohibition at Facilities Generating Mixed Radioactive/Hazardous Wastes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Policy statement.

SUMMARY: EPA is announcing its policy on the civil enforcement of the storage prohibition in section 3004(j) of the Resource Conservation and Recovery Act (RCRA) at facilities which generate "mixed wastes" regulated under both the RCRA subtitle C hazardous waste program and the Atomic Energy Act (AEA). The policy affects certain mixed wastes that are prohibited from land disposal under the RCRA Land Disposal Restrictions, and for which there are no available options for treatment or disposal. The policy explains how EPA considers violations of the section 3004(j) storage prohibition at such facilities to fit within the Agency's civil enforcement priorities.

EFFECTIVE DATE: August 29, 1991.

FOR FURTHER INFORMATION CONTACT: Richard LaShier, State and Regional Programs Branch, Office of Solid Waste; telephone (202) 260–2210.

SUPPLEMENTARY INFORMATION:

I. Overview

"Mixed wastes" are wastes that contain both a hazardous waste component regulated under subtitle C of RCRA and a radioactive component consisting of source, special nuclear, or byproduct material regulated under the AEA. In this document, EPA is announcing its policy on the civil enforcement of the storage prohibition in section 3004(j) of RCRA at certain facilities which generate mixed wastes. EPA reserves the right to enforce all RCRA provisions at hazardous waste facilities and against persons who handle hazardous waste. The intent of this policy is to explain how EPA considers section 3004(j) storage

violations involving certain mixed wastes to fit within the Agency's civil enforcement priorities. The affected wastes are land disposal prohibited mixed wastes for which there is no available treatment or disposal capacity. Generators and storers of these wastes may find it impossible to comply with the section 3004(j) storage prohibition if there are no available options for treatment or disposal of the wastes. Nevertheless, generators of these mixed wastes may, if they pursue prudent waste management practices, be capable of storing their mixed wastes for the limited duration of this policy in a manner that poses minimal risk to public health or the environment. Responsible management practices should minimize the environmental risks from these section 3004(j) storage violations.

For those mixed waste generators who are operating their storage facilities in an environmentally responsible manner as described in this policy, EPA considers the violations of section 3004(j) involving relatively small volumes of waste to be reduced priorities among EPA's potential civil enforcement actions. Any enforcement activity arising from violations of section 3004(j) at these facilities will generally focus on determining whether these generators are managing their mixed wastes in an environmentally responsible manner. EPA's primary concern is with the generally more significant violations of section 3004(j) committed by larger (>1,000 cubic ft/yr) mixed waste generators as well as by generators who are not pursuing environmentally responsible management of their stored mixed wastes.

The policy is limited in duration, and terminates on December 31, 1993. During the period that this policy is in effect, EPA will evaluate data that become available on generation, treatability, and treatment capacity for the mixed wastes affected by this policy. If sufficient, lawful treatment capacity becomes available before December 31, 1993, EPA will terminate this policy. If necessary, EPA may also renew this policy beyond 1993.

The policy applies to mixed waste facilities which generate no more than 1,000 cubic feet/year of land disposal prohibited mixed wastes. That is, the policy does not apply to any facility that generated more than 1,000 cubic feet of prohibited mixed wastes during the calendar year that ended December 31, 1989, or that does so during any succeeding calendar year that this policy is in effect. This amount relates only to the annual generation rate, and not to the mixed waste inventory in storage.

EPA will consider a variety of indicators of environmentally responsible operation in determining the civil enforcement priority of section 3004(j) storage violations at particular mixed waste generator facilities. These indicators include, but are not limited to:

- Whether the facility has conducted an inventory of its mixed waste storage areas to assess and assure its compliance with all other applicable RCRA storage facility standards,
- Whether the facility has identified and kept records of its mixed wastes, including sources, waste codes, generation rates and volumes in storage,
- Whether the facility has developed a mixed waste minimization plan, or can demonstrate (through documentation) that waste minimization is not technically feasible for its wastes,
- Whether the facility can document periodically that it has made good faith efforts to ascertain the availability of treatment capacity for its mixed wastes,
- Whether the facility (if contacted in connection with the ongoing joint EPA/NRC profile of mixed waste generators) has cooperated with the Agencies in providing complete and accurate information about their mixed wastes upon request.

II. Scope of Policy

A. Limitations on Scope

This policy affects only the civil judicial and administrative enforcement priorities that would arise solely from the act of storing prohibited mixed wastes in contravention of RCRA section 3004(j). The policy is also limited in scope to those mixed waste streams for which the effective dates of land disposal prohibitions have passed, and for which authorized treatment or disposal capacity is not available. The mixed wastes covered by this policy must be mixed wastes when generated; e.g., a generator may not commingle distinct hazardous and radioactive waste streams in order to come within the scope of this policy.

Wastes newly identified as hazardous, wastes currently subject to national capacity variances, and wastes which may be granted case-by-case extensions to the LDR effective dates are not covered by this policy unless EPA concludes that these wastes should also be governed by this policy.

EPA intends that this policy apply both to the mixed wastes generated during the term of the policy, and to existing inventories of mixed wastes already in storage. The policy does not cover other violations of RCRA storage requirements, such as the storage facility standards of subparts I through L of 40 CFR parts 264 or 265, or their State equivalents. EPA emphasizes that this policy does not affect any requirement under RCRA to obtain a storage permit, which is generally required if mixed wastes are stored for greater than 90 days. The policy does not extend to potential criminal violations of RCRA, for which prosecutorial discretion rests solely with the United States Attorney General.

B. Effect of Other Violations

This policy affects only the civil enforcement priority that EPA will generally assign to section 3004(j) storage violations. Allegations of another RCRA violation(s) should generally not affect that priority, as long as the generator is otherwise managing its mixed wastes in an environmentally responsible manner. If, however, a facility inspection or other information reveals significant RCRA violations (other than of section 3004(j)) or a pattern of violations which evidence a disregard for compliance with the RCRA hazardous waste regulations, EPA may attach a greater priority to all violations—including storage of mixed waste in violation of section 3004(j)—at that facility.

III. Applicability

This policy applies to EPA enforcement activities in all States in which mixed waste falls within the jurisdiction of RCRA. It is not relevant in States where mixed waste is not regulated under RCRA. In those States where the State as well as EPA has authority to enforce the LDRs, this policy affects only the EPA enforcement programs.

RCRA mixed waste jurisdiction applies in States which are unauthorized for the "base" RCRA program. As of April, 1991, there were 9 such States and Territories (Alaska, American Samoa, California, Hawaii, Iowa, Mariana Islands, Puerto Rico, Virgin Islands, and Wyoming). In these States and Territories, the EPA Regional Offices administer both the base RCRA mixed waste program and the Land Disposal Restrictions, so this policy applies in these States.

RCRA mixed waste jurisdiction extends as well to authorized States that have been authorized specifically for RCRA mixed waste programs. As of April 30, 1991, there were 24 States and Territories authorized to implement RCRA mixed waste programs. These States and Territories are: Arkansas,

Colorado, Connecticut, Florida, Georgia, Guam, Idaho, Illinois, Kansas, Kentucky, Michigan, Minnesota, Nebraska, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, and Washington. The RCRA 3004(j) storage prohibition is an element of the Land Disposal Restrictions (LDRs) enacted in the Hazardous and Solid Waste Amendments (HSWA) of 1984. HSWA requires EPA to implement the LDR provisions as they apply to mixed waste until the authorized States receive approval from EPA to implement them in lieu of the Agency. EPA therefore implements the LDRs, and this policy applies, in the States with authorized RCRA mixed waste programs, until the States have also been authorized for their LDR programs.

As of April 30, 1991, 6 States (Georgia, Michigan, Minnesota, Texas, North Dakota, and Idaho) with mixed waste programs were also authorized to implement the solvent and "California List" LDRs in lieu of EPA. Since these States have independent authority to enforce the LDRs, EPA's enforcement policy affects EPA's enforcement of the LDRs, but is not binding on these 6 States. Therefore, facility owners and operators should consult with the responsible officials in these States for clarification on these States' policy with respect to storage of LDR prohibited mixed wastes.

During the term of this policy, additional States are likely to receive authorization for mixed waste and LDR programs. Facility owners and operators should track the authorization status of their State program in order to ascertain whether they are covered by this policy, or whether other restrictions based on State law might apply to mixed waste storage.

IV. Background

A. Regulatory Status of Mixed Wastes

"Mixed wastes" are a special category of wastes, because they contain a hazardous waste component regulated under Subtitle C of RCRA and a radioactive waste component regulated under the AEA. Although section 1004(27) of RCRA excludes "source," "special nuclear," and "byproduct material" from the definition of RCRA "solid waste," EPA issued a notice on July 3, 1986 (51 FR 24504) which clarified that RCRA applies to wastes which contain both a hazardous waste component and a component consisting of source, byproduct, or special nuclear material. The hazardous waste components of mixed wastes are subject to RCRA management standards for hazardous wastes, whereas the regulation of the radionuclides (and their radiological hazards) are addressed under AEA authority. The Nuclear Regulatory Commission (NRC) and the Department of Energy (DOE) have concurred with the position that RCRA applies to the hazardous waste component of mixed wastes.

B. Applicability of LDRs

Like other hazardous wastes, mixed wastes are subject to the land disposal restrictions (LDRs). The LDRs currently apply to all the hazardous waste components of mixed wastes if those components were listed or identified by November 8, 1984. LDRs and corresponding treatment standards for mixed wastes containing solvents and dioxins went into effect on November 8, 1986 and November 8, 1988. In addition, LDR disposal prohibitions on "California List" wastes were effective on July 8, 1987. For the remaining listed or identified wasts, HSWA directed EPA to establish a 3-phased schedule for the effective date of LDR prohibitions and the promulgation of treatment standards by EPA. For the "scheduled wastes" that were also mixed wastes, EPA deferred issuing treatment standards until the issuance of the last phase (the "Third Third") of the HSWA-scheduled LDR regulations. The final Third Third Rule (55 FR 22520) was published on June 1, 1990. This rule established a national capacity variance for mixed wastes identified as hazardous because they contained a component that was a First Third, Second Third, or Third Third scheduled waste. The national variance for the scheduled mixed wastes was based on the finding that there was inadequate treatment capacity for these mixed wastes (55 FR 22532). The effect of the national capacity variance was to extend the effective date of the LDR prohibitions for these mixed wastes until May 8, 1992. This national capacity variance did not extend, however, to mixed wastes containing solvents, dioxins, or California List wastes. These wastes already received national capacity variances in earlier rulemakings, and HSWA precludes the Agency from issuing further national capacity variances in such cases. (RCRA 3004(h)(2). However, EPA is aware that there is inadequate treatment capacity for many mixed wastes containing solvents or California List components.

C. The LDR Storage Prohibition

The aspect of the LDRs affected by this policy is the "storage prohibition" enacted in HSWA section 3004(j). This provision prohibits any storage of a land disposal prohibited waste (including mixed waste) except "for the purpose of the accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal." The provision has relevance to mixed waste management, since there are currently no facilities providing disposal capacity for commercially generated mixed wastes. Also, there are limited treatment options for much of the mixed waste generated by commercial generators (NRC fuel cycle and materials licensees) and by DOE.

EPA has previously concluded that storage of a waste pending development of treatment capacity does not constitute storage to accumulate sufficient quantities to facilitate proper treatment or disposal. Under section 3004(j), generators must rely on the capacity variances and case-by-case extensions authorized by section 3004(h) to deal with treatment capacity shortages. In enacting section 3004(j), Congress intended to eliminate the hazards associated with long-term storage. The "treat-as-you-go" approach is critical to the effectiveness of the LDRs, and the storage prohibition promotes expeditious development and use of treatment processes. *Hazardous Waste Treatment Council* v. *EPA*, 886 F.2d 355, 357 (D.C. Cir. 1989). During the development of the Third Third Rule, EPA solicited comment on alternative approaches that might have broadened the allowable bases for storing prohibited wastes. In the final rule, however, the Agency rejected the suggested alternatives and instead affirmed the strict interpretation of the storage prohibition, while leaving open the possibility of developing another position on the mixed waste storage issue (see 55 FR 22672–22673). This document announces the policy anticipated in the June 1, 1990 rule notice.

D. Mixed Waste Treatment Capacity Shortage

The shortage of treatment capacity for mixed wastes generated by DOE facilities is well documented, particularly in the data submitted to EPA to support the May 8, 1990 national capacity variance, and in the January, 1990 National Report on Prohibited Wastes and Treatment Options ("National Report") prepared by DOE as part of the Rocky Flats Federal Facilities Compliance Agreement. EPA believes that the mixed waste treatment capacity shortage documented by DOE is also affecting commercial generators. Indeed, for the waste volumes that remain after discounting liquid scintillation cocktail (LSC) volumes and "storage-for-decay"

volumes, the treatment prospects appear even more limited for commercial generators than for DOE sites. In addition, surveys conducted by States and regional low-level waste compacts indicate that the bulk of the commercially generated mixed wastes contain spent solvents and California List constituents for which the LDRs are already effective.

Without available treatment or disposal capacity for many mixed wastes, generators of these wastes are faced with little choice but to violate the LDR storage prohibition, since the development of treatment on-site is frequently not feasible. Also, in order to avoid continuing violations of the storage prohibition, generators could in some cases be forced to curtail the activities that generate these wastes. The latter could result in the cessation of such activities as facility and environmental monitoring with radioisotope levels, pharmaceutical manufacturing and testing, diagnostic testing, nuclear medicine, and the manufacture of the sealed sources and radioisotope formulations used in connection with the aforementioned activities.

E. Designation of Generation Rate

EPA is setting a generation rate of 1,000 cubic feet/year to define the class of mixed waste generators covered by this enforcement policy. This amount was selected on the basis of annual generation rate data reported in the DOE National Report and in commercial data contained in state surveys and reports submitted by states in connection with their 1990 Governors' Certifications under the Low-level Radioactive Waste Policy Amendments Act (LLRWPAA). EPA may subsequently adjust the amount upward or downward, once the Agency obtains better data on generation rates, waste treatability, and the effects of the amount set at this level.

EPA believes that the 1,000 cubic feet/yr amount will exclude from this policy only about 5% of the total number of mixed waste generators. However, the large generator facilities excluded by this amount may account for about 98% of the volume of LDR prohibited mixed wastes. The generation rate relates only to LDR-prohibited volumes of wastes for which there is no available treatment or disposal capacity. LSC fluids which are exempt from NRC-licensed disposal and "stored-for-decay" volumes (discussed below) will not be counted in calculating the generation rate, since they are currently treatable.

The generation rate future of this policy will focus the Agency's enforcement resources and the technology-forcing burdens of section 3004(j) on those larger mixed waste generators who are in a better position to procure and/or develop treatment capacity.

Only wastes that are LDR-prohibited are counted for this purpose, because wastes that are not currently prohibited (e.g., wastes subject to the national capacity variance issued May 8, 1990) are not prohibited from storage by section 3004(j). Currently, the mixed wastes that are LDR-prohibited contain hazardous components that are spent solvents (F001–F005), dioxins (F020–F028), or California List wastes.

Liquid Scintillation Cocktail (LSC) fluids are generally not to be included in the calcuation of the generation rate, except for those volumes that are not eligible for the NRC's medical waste exemption (i.e., they contain C–14 or H–3 in excess of the 0.05 uCi/g limits spelled out at 10 CFR 20.306). The LSC fluids that are exempted from NRC disposal requirements by 10 CFR 20.306 are typically burned for energy recovery in RCRA boilers or industrial furnaces, so they are not affected by this policy.

Stored-for-decay wastes are another class of mixed waste that should not be included in the calculation of the generation rate for eligible generators. For the purposes of this policy, the term "stored-for-decay" wastes is to be interpreted consistently with the NRC's definition of "decay-in-storage" at 10 CFR 35.92. That is, it refers to mixed wastes which contain radioisotopes (byproduct material) with physical half-lives of less than 65 days, so that storage for the period measured by at least 10 half-lives will cause their radioactivity to diminsh to background levels. At the conclusion of the decay period, they may be managed solely as hazardous wastes, and not as mixed wastes. Therefore, these wastes are not at that time subject to the constraints on treatment and disposal that apply to other mixed wastes.

V. Steps To Ensure Environmentally Responsible Operation

In order to demonstrate that they are pursuing environmentally responsible management of their mixed wastes (and therefore should be accorded a reduced enforcement priority for section 3004(j) violations), persons and facilities managing mixed wastes should be undertaking at least the following steps.

A. Inventory and Compliance Assessment of Storage Areas

Generators should maintain a record identifying each physical location or unit where mixed waste is stored, and identifying the method of storage (i.e., container or tank). They should also perform regularly an assessment of these storage areas for compliance with applicable RCRA standards for storage methods, including an assessment of compliance with the storage facility standards of 40 CFR part 264 or part 265 (interim status), subparts I–J, or the State counterparts to these standards. The facility records should contain a certification that the assessment has been conducted, and a summary of the compliance status of each mixed waste storage area. EPA encourages facility owner/operators to take action promptly to correct any deficiencies, since EPA expects to focus its enforcement efforts regarding section 3004(j) violations on those situations where a subsequent inspection or other information reveals significant RCRA violation(s), or a pattern of violations that indicate a disregard for compliance with the RCRA Subtitle C requirements.

B. Identification of Mixed Wastes

Generators should record sufficient information to identify their mixed wastes. The identification should include the RCRA waste codes for the hazardous components, the source of the hazardous constituents and discussion of how the waste was generated (if known), the generation rate and volumes of mixed wastes in storage, and any process information relied upon to identify mixed wastes or make determinations that wastes are prohibited by the LDRs. The information on generation rates should include annual generation rates for all mixed wastes, as well as a separate calculation demonstrating that the facility's annual generation rate does not exceed 1,000 cubic ft/yr, based on the volumes and types of mixed wastes that this policy specifies should be counted in performing that calculation.

C. Waste Minimization Plans

EPA understands that many mixed waste generators are undertaking active measures to avoid the generation of mixed wastes. For example, "environmentally benign" liquids consisting of non-listed solvents are being substituted as LSC fluids, while operators of nuclear reactors have substituted trivalent chromates for the hexavalent chromate in corrosion inhibitors used in cooling systems. Each environmentally responsible mixed waste generator should develop a mixed waste minimization plan, and retain the plan at the facility. The plan should address process changes that can be made to reduce or eliminate mixed

wastes, methods to minimize the volume of regulated wastes through better segregation of materials, and substitution of non-hazardous materials. The plan should include a schedule for implementation, projections of volume reductions to be achieved, and assumptions that are critical to the accomplishment of the projected reductions.

EPA recognizes, however, that there may be cases where it is not technically feasible to minimize mixed waste generation. For example, a user of radioisotopes may be a "materials licensee" whose AEA license merely confers the rights to possess and use materials fabricated under another's specific license. Such a user may have little or no opportunity to substitute or segregate materials to avoid generating regulated wastes. In other instances, the benefits attributed to volume reduction may be offset by the greater radiological hazard associated with managing more concentrated waste forms. A generator's wastes may also be subject to a required treatment process (e.g., stabilization) which would inevitably increase the volume of the waste. In these and other such cases of technical infeasibility, the waste minimization plan should include a written explanation of the basis for the technical infeasibility.

D. Good Faith Efforts

This policy is limited in scope to those LDR-prohibited mixed wastes for which sufficient, lawful treatment capacity is not available. As stated earlier, EPA recognizes that commercial treatment and disposal capacity does not exist for many types of mixed wastes. However, since treatment or disposal capacity may become available in the future, generators should document periodically the good faith efforts they have undertaken to ascertain whether treatment capacity is available for their mixed wastes. EPA further recognizes that the availability of a process may not always translate into adequate capacity available to each generator, and such circumstances should be identified in the documentation.

E. Participation in EPA/NRC Profile

Both the management and regulation of mixed wastes have been hampered to a large extent by the lack of reliable data on the mixed waste universe. While some data have been collected recently by DOE, there has not been a corresponding aggregation of data describing the volumes, characteristics, inventories, and treatability of the wastes generated by the commercial sector. To rectify this situation, EPA and NRC are undertaking a "National Profile on Commercially Generated Low-level Radioactive Mixed Waste." After evaluating the adequacy of existing surveys and data collections, the two Agencies may determine that it is necessary to survey or study some subset of the more than 24,000 NRC and Agreement State fuel cycle and materials licensees. In that event, any generator selected for the EPA/NRC profile should cooperate fully with any study or other information request. The data compiled by the Agencies for the National Profile will contribute to EPA's determination whether to revise, revoke, or renew the policy at the end of the policy's term on December 31, 1993.

Dated: August 13, 1991.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

Raymond B. Ludwiszewski,

Acting Assistant Administrator, Office of Enforcement.

[FR Doc. 91-20741 Filed 8-28-91; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51769; FRL 3943-1]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 22 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 91-1297, 91-1298, November 6, 1991.

P 91-1300, 91-1301, 91-1302, 91-1303, November 9, 1991.

P 91-1304, October 29, 1991.

P 91-1305, 91-1306, 91-1307, 91-1308, November 10, 1991.

P 91-1309, 91-1310, 91-1311, 91-1312, 91-1313, 91-1314, 91-1315, 91-1316, 91-1317, 91-1318, 91-1319, November 11, 1991.

Written comments by:

P 91-1297, 91-1298, October 7, 1991.

P 91-1300, 91-1301, 91-1302, 91-1303, October 10, 1991.

P 91-1304, September 29, 1991.

P 91-1305, 91-1306, 91-1307, 91-1308, October 11, 1991.

P 91-1309, 91-1310, 91-1311, 91-1312, 91-1313, 91-1314, 91-1315, 91-1316, 91-1317, 91-1318, 91-1319, October 12, 1991.

ADDRESSES: Written comments, identified by the document control number "(OPTS-51769)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., room L-100, Washington, DC, 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. EB-44, 401 M St., SW., Washington, DC, 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 91-1297

Manufacturer. Donlar Corporation.

Chemical. (S) Potassium salt of polyaspartic acid.

Use/Production. (S) Anti-redeposition agent in detergent. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 5 g/kg species (rat).

P 91-1298

Manufacturer. Donlar Corporation.

Chemical. (S) Ammonium salt of polyaspartic acid.

Use/Production. (S) Anti-redeposition agent in detergent. Prod. range: Confidential.

P 91-1300

Importer. Ausimont USA, Inc.

Chemical. (G) Fluorinated polyurethane.

Use/Import. (S) Seals. Import range: Confidential.

P 91-1301

Manufacturer. E.I. Du Pont De Nemours Co., Inc.

Chemical. (G) Benzoic acid, 2-substituted-3-methyl-, methyl ester.

Use/Production. (S) Industrial intermediate. Prod. range: Confidential.

P 91-1302

Manufacturer. E.I Du Pont De Nemours & Company, Inc.

Chemical. (G) Benzoic acid, 2-substituted-3-methyl-, methyl ester.

Use/Production. (S) Industrial intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: Slight species (rabbit). Skin irritation: Moderate species (rabbit). Mutagenicity: Negative.

P 91-1303

Manufacturer. Confidential.

Chemical. (G) A polymer of adipic & fumaric acids, dihydroxydiethyl ether reacted with ethoxylated and propoxylated and propoxylated polyols.

Use/Production. (G) A coupling agent and/or binder for glass fibers to be used as a reinforcing matrix for plastic. Prod. range: 25,000–250,000 kg/yr.

P 91-1304

Manufacturer. Confidential.

Chemical. (G) Polyamide graft copolymer.

Use/Production. (S) Molding. Prod. range: Confidential.

P 91-1305

Manufacturer. Confidential.

Chemical. (G) Aziridiene derivative.

Use/Production. (S) Resin modifier. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 250 mg/kg species (rat).

P 91-1306

Manufacturer. Henkel Corporation, Emery Group.

Chemical. (S) Trimethylolpropane, complex ester with dimer acid and oleic acid.

Use/Production. (S) Lubricant basestock. Prod. range: 5,000–80,000 kg/yr.

P 91-1307

Manufacturer. Henkel Corporation, Emery Group.

Chemical. (S) Trimethylolpropane, complex esters with dimer acid, oleic acid, and neodecanoic acid, oxiranyl methylester.

Use/Production. (S) Lubricant basestock. Prod. range: 5,000–80,000 kg/yr.

P 91-1308

Importer. Xerox Corporation.

Chemical. (G) Vinyl-acrylate graft modified polyester.

Use/Import. (G) Component in xerographic toner. Import range: Confidential.

Toxicity Data. Mutagenicity: Negative. Skin sensitization: Negative species (human).

P 91-1309

Manufacturer. Confidential.

Chemical. (G) High solids long-oil alkyd resins.

Use/Production. ( ) Resin for mineral spirits - thinned architectural finishes with VOC of 250 or lower. Prod. range: Confidential.

P 91-1310

Manufacturer. Confidential.

Chemical. (G) Polyester of alkanediol and aliphatic mon- and dicarboxylic acids.

Use/Production. (G) Intermediate. Prod. range: 4,800–12,000 kg/yr.

P 91-1311

Manufacturer. Confidential.

Chemical. (G) Amine salt of polymer aliphatic modified polyols, carboxylic acid diamine, and diisocyanate.

Use/Production. (G) Component of coating. Prod. range: 15,000–40,000 kg/yr.

P 91-1312

Manufacturer. Confidential.

Chemical. (G) Amine salt of polymer of aliphatic modified polyols, polyesters, carboxylic acid diamine, and diisocyanate.

Use/Production. (G) Component of coating. Prod. range: 15,000–40,000 kg/yr.

P 91-1313

Manufacturer. Confidential.

Chemical. (G) Amine salt of polymer of aliphatic modified polyols, polyesters, carboxylic acid diamines, and diisocyanate.

Use/Production. (G) Component of coating. Prod. range: 15,000–40,000 kg/yr.

P 91-1314

Manufacturer. Confidential.

Chemical. (G) Isocyanate-terminated polyester polyurethane.

Use/Production. (G) Component of a formulated adhesive. Prod. range: Confidential.

Toxicity Data. Mutagenicity: Negative. Skin sensitization: Negative species (guinea pig).

P 91-1315

Manufacturer. Dow Corning Corporation.

Chemical. (S) Organosiline.

Use/Production. (S) Electronic coating. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1539 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Inhalation toxicity: LC50 > 4.55 mg/l species (rat). Mutagenicity: Negative.

P 91-1316

Importer. Confidential.

Chemical. (G) Substituted isothiazole.

Use/Import. (G) Dye. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1276 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Static acute toxicity: Time LC50 96H > 60 mcg/l species (trout). Eye irritation: Slight species (rabbit). Skin irritation: Strong species (rabbit). Mutagenicity: Negative. Skin sensitization: Negative species (guinea pig).

P 91-1317

Importer. Confidential.

Chemical. (G) Substituted azothiopene.

Use/Import. (G) Dye. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Static acute toxicity: Time LC50 96H 60 mcg/l species (trout). Eye irritation: Slight species (rabbit). Skin irritation: Slight species (rabbit). Mutagenicity: Positive. Skin sensitization: Negative species (guinea pig).

P 91-1318

Manufacturer. Confidential.

Chemical. (G) Styrene diene copolymer.

Use/Production. (G) General purpose solid elastomer. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 1 g/kg species (rat). Acute dermal toxicity: LD50 > 2 g/kg species (rabbit). Skin irritation: Negligible species (rabbit). Mutagenicity: Negative.

P 91-1319

Importer. Goldschmidt Chemical Corporation.

Chemical. (G) Silicone acrylate.

Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Dated: August 23, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-20751 Filed 8-28-91; 8:45 am]

BILLING CODE 6560-50-F

[NPDES No. FLG830000; FRL-3990-7]

Final Modification to the NPDES General Permit For Petroleum Fuel Contaminated Ground/Storm Waters in the State of Florida

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rule—Change permit number, correct printing and typographical errors, and modification of the types of discharges covered by the general permit.

SUMMARY: The Regional Administrator, EPA, Region IV is today issuing the final notice that amends the July 17, 1989 (54 FR 29986) notice and modifies the final National Pollutant Discharge Elimination System (NPDES) General Permit for Petroleum Fuel Contaminated Ground/Storm Waters in the State of Florida, and to correct printing and typographical errors.

Due to varying hydrological conditions and the proximity of the ground water table to the surface in various areas of the State of Florida, construction-related excavation and many other activities have the need to discharge ground/storm water to waters of the U.S. for very short periods of time, in most cases, less than 10 days. This general NPDES permit does not cover storm water discharges from other construction industrial activity areas. The Clean Water Act (CWA) requires that point source discharges of pollutants to waters of the United States be covered by NPDES permits. These short-term discharges are necessary to facilitate initiation and completion of subsurface activities or the long-term maintenance of ground water levels for other purposes. This final modification to the general permit allows coverage of certain discharges that meet the criteria set in the modification. The final permit requires analytical tests of the proposed discharge water to determine whether there is contamination from sources other than petroleum fuels. Discharges of waters that have been tested to show no other source of contamination will be covered by the general permit with no exchange of correspondence between the operator and EPA, Region IV.

DATES: This general permit modification shall be effective on Thursday, August 29, 1991 at 1 p.m. Eastern Daylight Savings Time. Notification of coverage for those facilities requiring coverage by the general permit modification will be by certified mail from the Director, Water Management Division, EPA, Region IV. The date for coverage under the general permit modification will be the date of the Director's letter assigning the NPDES number for general permit coverage.

In accordance with 40 CFR 23.2, the Region hereby specifies that this permit modification shall be considered the final agency action, for purposes of judicial review, on the date specified above. The administrative record, including draft permit modification, fact sheet, state certification, comments received, and additional information are available by writing the EPA, Region IV, or for review and copying at 345 Courtland St., NE., Atlanta, Georgia 30365, between the hours of 8:15 A.M. and 4:30 P.M., Monday through Friday. Copies will be provided at a nominal charge per page. Additional information concerning the permit may be obtained at the address and during the hours noted above: Ms. Alice Crosby, Public Notice Coordinator, 404/347–3004.

ADDRESSES: Notifications required under this permit should be sent to: Director, Water Management Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

Request for Coverage: Written notification of intent to be covered by this general permit modification (if required) shall be provided as described in the permit Part II Section F.c.

FOR FURTHER INFORMATION CONTACT: Larry Cole, Environmental Engineer, Facilities Performance Branch, Water Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 347–3012.

SUPPLEMENTARY INFORMATION:

I. Introduction

On Monday, July 17, 1989 (54 FR 29986), EPA, Region IV issued the Final NPDES General Permit for Petroleum Fuel Contaminated Ground/Storm Waters in the State of Florida. On Friday, February 22, 1991, (56 FR 7379) EPA, Region IV published a notice of the proposed modification to the NPDES General Permit for Petroleum Fuel Contaminated Ground/Storm Waters in the State of Florida (56 FR 7379). On Thursday, March 21, 1991, EPA, Region IV public noticed the draft permit modification in the State of Florida (Public Notice No. 91FL018) in order to receive comments on the permit modification that is being issued in final form today. All the public comments received during this period are included in the administrative record and were considered by Region IV in the formulation of a final determination of the conditions in today's final general permit modification. The Region published a detailed fact sheet with the draft general permit modification (56 FR 7380).

The Region is incorporating by reference that fact sheet and other information as part of the final fact sheet for today's final permit modification. The discussions presented in these sections should be consulted in reviewing the applicability and scope of the final general permit modification to different sites of concern. A formal hearing is available to challenge any NPDES permit issued under 124.15 except for a general permit. Persons affected by a general permit may not challenge the conditions of a general permit as a right in further agency proceedings. They may instead either challenge the general permit in court, or apply for an individual permit under 122.21 as authorized at 122.28 and then request a formal hearing on the issuance or denial of an individual permit. Additional information regarding these procedures is available by contacting Mr. Kevin Smith, Office of Regional Counsel at the address above or at (404) 347–2335.

II. Other Legal Requirements

A. Executive Order 12291

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12291 pursuant to section 8[b] of that order.

B. Paperwork Reduction Act

EPA has reviewed the requirements imposed on the regulated facilities in this final general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of this permit have already been approved by the Office of Management and Budget in submissions made for the NPDES permit program under the provisions of the Clean Water Act (the Act).

C. State Certification Requirements

Section 301(b)(1)(c) of the Act requires that NPDES permits contain conditions which ensure compliance with applicable State water quality standards or limitations. Under section 401(a)(1) of the Act, EPA may not issue or modify an NPDES permit until the State in which the discharge will originate grants or waives certification to ensure compliance with appropriate requirements of the Act and State law. EPA requested certification on the amendments and modification regarding this general permit on January 29, 1991. On August 12, 1991, the Florida Department of Environmental Regulation waived certification of the general permit modification.

D. Effective Date

The final NPDES general permit modification issued today is effective on Thursday, August 29, 1991.

E. Regulatory Flexibility Act

After review of the facts presented in this document, I hereby certify, pursuant

to the provisions of 5 U.S.C. 605(b), that this NPDES general permit modification will not have a significant impact on a substantial number of small entities. Moreover, the permit reduces a significant burden on regulated sources.

Greer C. Tidwell,

Regional Administrator.

Summary of Comments

Appendix A—Public Comments

Public notice of the draft permit modification was published at 56 FR 7379 (February 22, 1991). Additionally, the permit was public noticed in the State Of Florida on March 21, 1991 (Public Notice No. 91FL018) to allow an additional 30-day comment period from interested parties within Florida which would be considered in the formulation of a final decision regarding the proposed permit modification.

The following parties responded with written comments on the general permit modification: Florida Power & Light Company, Florida Power Corporation, BellSouth, Broward County Board of County Commissioners and the U.S. Department of Interior Fish & Wildlife Service.

(1) *Comment:* Two commenters stated that there is a need to dewater for the installation of cables, power lines, foundations and piping which are usually short-term activities associated with uncontaminated water. One commenter stated that the proposed rule would aid in obtaining a simplified approval for these construction related dewatering activities when waters from a point source would be discharged to waters of the U.S. However, the 10 days delineated in the proposed General Permit is not an adequate amount of time for some dewatering activities involving short-term construction related dewatering of uncontaminated water and believed that a more appropriate duration of time would be 90 days. This amount of time would enable companies who have to dewater long sections of narrow trenches to perform the work in segments, would not affect the overall quantity or quality of the water being discharged; however, it would enable companies to perform the work under the General Permit in a segmented manner.

Response: The 10 days delineated by EPA in the summary section were only general (e.g., short term tank replacements) in nature and were not intended to impose a maximum amount of time that construction related activities could discharge. As long as tests verify that the water is uncontaminated, based on the results of the analytical tests required by the permit, the segmented work could continue for these types of activities; however, water from dewatering activities of this nature that cover long stretches should be tested at scheduled points to ensure that no contamination exists. Any discharge from dewatering of trenches or similar activities to the same surface water body or to a municipal separate storm sewer system serving the same surface water body shall be considered to be one project subject to coverage under this permit. However, the operator of the project shall consider the discharge length of time and whether or not the discharge is contaminated to determine the appropriate monitoring and/or Notice of Intent requirements of this permit. This permit does not give an operator any designated or implied authority to use a municipality's storm sewer system. We recommend that municipalities be notified in advance of any proposed discharges to their systems.

(2) *Comment:* One commenter supported the proposed modification to include the discharge of uncontaminated groundwater from dewatering operations and believed it would reduce the paperwork for both EPA and local project managers.

(3) *Comment:* The Fish & Wildlife Service stated that the discharges allowed under the modified permit should have no adverse impact on species or habitats under Service trusteeship.

(4) *Comment:* One commenter stated that it was unclear whether the phrase "construction related activity" would include excavation work related to the repair or damaged telecommunications cable. Delays in restoring critical telephone service to a hospital or government facility could be hampered by delays associated with laboratory turnaround time and would not be feasible for these types of operations. The commenters stated that the analytical requirements should be modified to include site tests, such as color change to minimize financial impact and eliminate delays caused by laboratory turnaround time. Also, having to apply for an individual permit in such situations is even less feasible.

Response: This permit modification is intended to cover any dewatering activity, regardless of the purpose. The final general permit has language in part II, section B that addresses the concerns of this comment. All dischargers complying with the requirements of this permit are covered by this language, and application for an individual NPDES permit will not be necessary. The only alternative to obtaining coverage under this general permit is to submit an application for an individual permit, which would require at least 60 days to issue on a fast-track approach after the application is received. Discharging to waters of the U.S. under any circumstances without NPDES coverage is a violation of the Act.

(5) *Comment:* One commenter stated that during installation of underground telecommunications, dewatering could occur in several locations in a stretch of right-of-way which may measure several miles, and sampling should be limited to one set of samples per project rather than one set for every point source which may result from that project.

Response: See response to comment (1).

(6) *Comment:* One commenter stated that the proposed modified general permit would require analysis for TOC, pH, Total Mercury, Total Cadmium, Total Copper, Total Lead, Total Zinc, Total or Hexavalent Chromium, Benzene and Naphthalene before discharge begins. The commenter questioned the rationale for requiring such extensive analytical work for groundwater and storm water which is not expected to be contaminated in the first place. Also, the general permit conditions associated with cleanup of petroleum contamination does not require extensive analysis for metals and since ground water at service stations or other underground storage tank sites are more likely to be contaminated with heavy metals than the ground water beneath a right-of-way, this is not a fair requirement.

Response: The modified general permit addresses extensive analysis for metals in petroleum fuel contaminated groundwater sites which, according to the amended F.A.C. "Section 17–770.600(8)(a-d), of February 20, 1990, modifies the test procedures of Part I.C.(a) that were issued on Monday, July 17, 1989. Therefore, the metals are addressed, particularly at sites where the origin of contamination is not identified, plus additional priority pollutant scans using EPA Method 624 and 625.

Therefore, these tests are not more severe than the sampling required for known petroleum fuel contaminated groundwater. EPA believes the analysis required for these dewatering projects serves to verify whether the groundwater is contaminated from other sources. This general permit will reduce the administrative burden on the discharger and EPA. Any potential discharger that does not agree with the requirements of the general permit can submit an individual NPDES application

and have site-specific considerations given to permit issuance.

(7) *Comment:* One commenter stated that it was unclear what levels would be used to determine when petroleum contamination is present and recommended that the Total Petroleum Hydrocarbon (TPH) test be used instead of benzene, naphthalene and Total Organic Carbon (TOC). Also, naturally occurring organics would make the TOC test meaningless and that analytical requirements should be very basic for short-term discharges which last three (3) days or less. Very short-term operations do not have the same environmental impact as operations which last several days or weeks.

Response: EPA has identified water quality criteria levels, established in Florida Administrative Code Section 17–770.730, as thresholds to indicate potential contamination for benzene and naphthalene which is greater than 1.0 ug/1 and 100.0 ug/1 respectively. As for pH, levels exceeding the water quality standards of Chapter 17–302 would be the indicator of contamination. For Total Mercury, Total Cadmium, Total Copper, Total Lead, Total Zinc, and Total or Hexavalent Chromium, indicators of contamination from metals would be analytical results exceeding Chapter 17–302 fresh and marine waters criteria. For Total Organic Carbon (TOC) the indicator would be levels greater than 10.0 mg/1, which is based on EPA, Region IV, Environmental Services Division data on natural background surface water samples not greater than 4.4 mg/1 and Standard Methods Tests indicating typical municipal wastewater effluents for TOC in the 5.0–6.0 mg/1 range. Additionally, TOC samples from streams and creeks from various areas of Florida indicate TOC levels not greater than 56 mg/1 which could be reflective of industrial discharge contamination. Storm water discharges that have been determined to be uncontaminated with petroleum fuels from dike drains at bulk storage terminals have reported TOC levels around 14.0 mg/1.

Therefore, EPA has determined that the TOC test be maintained as a screen to indicate contamination. EPA does not concur with using the Total Petroleum Hydrocarbon (TPH) test instead of benzene, naphthalene and TOC since data has verified that the analytical procedures used to conduct the TPH test are not as sensitive as the method used to perform the tests on benzene or naphthalene and is not recommended to be used in place of the other tests, since the TPH test alone may miss potential contamination of aromatic compounds. It should be emphasized that these are screening levels of the proposed discharge water and should be performed prior to discharging to a surface body. If excessive levels of these contaminants are verified, the facility is not allowed to discharge to a surface water body under this general permit modification.

(8) *Comment:* One commenter stated that the final storm water NPDES permitting requirements allow similar facilities to qualify for general permits, thus allowing facilities to limit the number of samples taken. Commenter stated that for storm water requirements, only 10% of the facilities are required to collect samples and for facilities in the same general permit group, no more than 100 samples are required. The commenter stated that a similar general permitting scheme could be established for routine, short-term discharges which result from excavation work.

Response: The commenter is referring to the group application requirements for storm water discharges associated with industrial activity, whereby in Part 1 of the group application, 10% of the group members are identified for the purpose of submitting analytical data in Part 2 of the application (November 16, 1990, 55 FR 47990). The group application concept is a tool to reduce the administrative burden on NPDES permitting authorities that will not exist after the application deadline passes. This requirement cannot be applied to the storm water discharges covered by this general permit since these discharges are not specifically identified as one of the eleven (11) categories of storm water discharges. Also, ground water discharges are not storm water.

III. Other Changes to Final Permit Modification

1. In Part I A.3(a), this sentence was added: For discharges contaminated by petroleum fuels that last for less than a week, daily monitoring will be required for the applicable parameters.

2. In Part I A.3(d), the sentence was revised to read: All discharges covered by 3(a) and 3(b) of this section must submit a Notice of Intent (NOI) in accordance with Part II, Section F. Also, in Part I A.3(d), this sentence was added: Additionally, no Discharge Monitoring Reports (DMR) forms are required to be submitted to EPA, Region IV.

3. The coverage of this modification has been clarified to eliminate the reference to "construction-related activities" as being the source of regulated discharges of ground water. The language in part I.A.3 has been revised to state that produced ground water from "any activity" is covered by this permit as applicable. Additionally, indicator parameters are listed in Part I.A.3 with recommended screening levels to determine potential contamination.

Appendix B—General Permit To Discharge Under The National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act (CWA or Act), as amended, 33 U.S.C. 1251 et seq., discharges of treated ground water and storm water incidental to ground water cleanup operations which are contaminated with petroleum fuels are authorized to discharge to waters of the United States within the State of Florida in accordance with effluent limitations, monitoring requirements and other conditions set forth herein. This NPDES general permit became effective on July 17, 1989 (54 FR 29986) and consists of part I, part II, part III, part IV and part V.

This general limit is being modified to change the general permit number, correct typographical errors and to allow any activity that may cause point source discharge of ground waters to waters of the U.S. after performing analytical tests required by this modification. It also allows the discharge of ground water which has been treated to the levels required in part I, A.1 or A.2 for discharges less than thirty (30) days.

This proposed modification shall become effective on August 29, 1991, or upon notification of coverage. (See part II, Section F for application and coverage requirements of the general permit and the amended part II, Section F requirements of this modification.)

This permit and the authorization to discharge shall expire at midnight, July 16, 1994.

W. Ray Cunningham,

Director, Water Management Division.

Modification to the Final NPDES General Permit For Petroleum Fuel Contaminated Ground/Storm Waters in the State of Florida

General Modifications to the General Permit

I. Change the General Permit Number

The general permit number is changed from FLG040001 to FLG830000. This change is necessary to make the numbering system for this general permit category consistent with the nationwide system developed by EPA Headquarters.

Specific Modifications to Parts of the General Permit

II. Correction of Printing and Typographical Errors Plus Revisions in References to State Regulations

Part I A.1: In the effluent limitations chart under "Effluent Characteristic," the unit of measure for Total Lead, which reads "μl," is revised to read "μl."

Part I A.2: In the effluent limitations chart under "Discharge limitations," the Daily Maximum limit for Naphthalene which reads "100 0," is revised to read "100.0."

Part I of the general permit is being modified as specified below:

A. Effluent Limitations and Monitoring Requirements

Existing Sources and New Dischargers

3. During the period beginning on the effective date of the permit and lasting through the term of this permit, the permittee is authorized to discharge produced ground water from any activity by a point source to waters of the United States. The effluent limitations and/or monitoring conditions applying to each allowable discharge is dependent on the duration of the discharge as outlined below:

Analytical tests on samples of the proposed discharge water are required to determine if contamination exists from other sources. The parameters to be measured include TOC, pH, Total Mercury, Total Cadmium, Total Copper, Total Lead, Total Zinc, Total or Hexavalent Chromium, Benzene and Naphthalene.

Analytical test results exceeding the values below shall be considered an indication of contamination from other sources:

Parameter	Indicator if discharge is into	
	Fresh waters	Marine water
TOC	10.0 mg/l	10.0 mg/l
pH, std. units	6.0–8.5	6.5–8.5 mg/l
Total Mercury	0.20 μg/l	0.10 μg/l
Total Cadmium	0.80 μg/l	5.0 μg/l
Total Coppper	0.03 mg/l	0.015 mg/l
Total Lead	0.03 mg/l	0.05 mg/l
Total Zinc	0.03 mg/l	1.0 mg/l
Total Chromium	1.0 mg/l	1.0 mg/l or
Hexavalent Chromium	0.50 mg/l	0.50 mg/l
Benzene	1.0 μg/l	1.0 μg/l
Naphthalene	100.0 μg/l	1000.0 μg/l

All discharges must comply with permit requirements:

(a) If contamination exists from petroleum fuels and the discharge will occur for less than thirty (30) days, the permittee shall comply only with the applicable effluent limitations and monitoring requirements in part I, A.1 or A.2 for Benzene, pH and/or Naphthalene and Total Lead. One (1) grab sample per seven (7) days is required during the discharge period and the total volume discharged recorded. Monitoring results shall be submitted to EPA within thirty (30) days of termination of the discharge. For discharges contaminated by petroleum fuels that last for less than a week, daily monitoring will be required for the applicable parameters.

(b) If contamination exists from petroleum fuels and the discharge will occur for more than thirty (30) days after commencement of discharge, the permittee shall comply with all conditions and requirements in part I, A.1 or A.2 of this general permit.

(c) If contamination from other sources does exist, as indicated by the results of the analytical tests required by this Section, the discharge will not be covered by this general permit, and the operator shall apply for an individual NPDES permit at least 90 days prior to the date a discharge to waters of the U.S. is expected.

(d) All dischargers covered by 3(a) and 3(b) of this section must submit a Notice of Intent (NOI) in accordance with Part II, Section F. However, if contamination from petroleum fuels or other sources is not shown, the discharge is covered by this general permit without having to submit a request for coverage to EPA, Region IV. EPA may at any time request the data resulting from the analytical tests. Additionally, no Discharge Monitoring Reports (DMR) forms are required to be submitted to EPA, Region IV.

Part I.C—Test Procedures: In part I.C which reads "Section 17–70.008(9)(a-e) of the petroleum site cleanup criteria rule," shall be revised to read as "Section 17–770.600(8)(a-d) of the Petroleum Contamination Cleanup Criteria, amended February 20, 1990."

Part I.C.a—Test Procedures: In part I.C.a, which reads "Section 17.70.008(9)(d) of the State Underground Petroleum Environmental Response Program," is revised to read as "Section 17–770.600(8)(c)1, of the Petroleum Contamination Cleanup Criteria, amended February 20, 1990."

Part II Section F.a(4)—Application Requirements: In part II Section F.a(4), which reads "Florida Administrative Codes (FAC) 17–70.006, 17–70.008 and 17–70.010, respectively," is revised to read, "Florida Administrative Code (FAC) 17–770.300, 17–770.600 and 17–770.700, respectively, amended February 20, 1990."

Part II Section F.c.—This Section of the General permit is being modified to continue the paragraph as noted below: However, dischargers seeking coverage under part I A.3(a) will be required to submit the date the discharge is expected to cease, and the same information in Section F.a. above, except items (2), (3) and (4). Dischargers meeting the conditions set forth in part I.A.3(d) are not required to submit a Notice of Intent (NOI).

Part II Section G.5— Additional General Permit Conditions: In the Part which reads "Special Protection, Outstanding Florida Waters, as set forth by FAC 17–3.043," shall be revised to read, "Special Protection, Outstanding Florida Waters, Outstanding National Resource Waters, as set forth by FAC 17–302.700, amended February 20, 1990."

Part IV—Two references to "NPDES Guidance Document" are corrected to read "NPDES Best Management Practices Guidance Document." Also, the correct address to submit written requests to obtain a copy is: Director, Water Management Division, U.S. EPA, Region IV, 345 Courtland St., NE., Atlanta, Georgia 30365.

[FR Doc. 91–20630 Filed 8–28–91; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[PR Docket No. 91–162; DA 91–1001]

Private Land Mobile Radio Services; Kansas Public Safety Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Chief, Private Radio Bureau and the Chief Engineer released this Order accepting the Pubic Safety Radio Plan for Kansas (Region 16). As a result of accepting the Plan of Region 16, licensing of the 821–824/866–869 MHz band in that region may begin immediately.

EFFECTIVE DATE: August 16, 1991.

FOR FURTHER INFORMATION CONTACT: Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632–6497.

SUPPLEMENTARY INFORMATION:

Order

Adopted: August 8, 1991.

Released: August 16, 1991.

By the Chief, Private Radio Bureau and the Chief Engineer:

1. On March 12, 1991, Region 16 (Kansas) submitted its pubic safety plan to the Commission for review. The plan

sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in Kansas. On May 20, 1991, Kansas filed revisions to the plan, based on conversations with the Commission's staff.

2. The Kansas plan was placed on Public Notice for comments on June 12, 1991, FR 28155 (June 19, 1991). The Commission received no comments in this proceeding.

3. We have reviewed the plan submitted for Kansas and find that it conforms with the National Public Safety Plan. The plan includes all the necessary elements specified in the Report and Order in Gen. Docket No. 87–112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in Kansas.

4. Therefore, we accept the Kansas Public Safety Radio Plan. Furthermore, licensing of the 821–824/866–869 MHz band in Kansas may commence immediately.

Fedeal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 91–20770 Filed 8–28–91; 8:45 am]

BILLING CODE 6712–01–M

Revocation Hearing

1. The Commission has before it the following applications for assignment of license and transfer of control.

Applicant	City and State	File No.	MM Docket No.	FCC No.
Newsouth Broadcasting, Inc.	Albany, GA	BTCCT–900305LD, BTCCT–910308KE	MM 91–227	91–235
	Valdosta, GA	BMPTVL–900125IA, BMPTVL–891208R4, BLTVL–900125IB, BAPTVL–900703IE.		
Timothy S. Brumlik	Orlando, FL	BLTVL–891107JE, BAPTVL–900105IA, BAPTVL–910607IB.		
	Cocoa, FL	BAPTVL–900105IB, BMPTVL–910301JG, BAPTVL–910607IC.		
Newsouth Media Corporation	Altamonte Springs, FL	BMPTVL–900129IA, BAPTVL–900105IC		
	Lumber City, GA	BPTVL–870702TX		

2. Pursuant to section 312(a) of the Communications Act of 1934, as amended, Timothy S. Brumlik, NewSouth Media Corporation and New South Broadcasting, Inc. are directed to show cause, why the license of WFXL(TV), Albany, Georgia, and why the construction permits of low power television stations W07BZ, Orlando, Florida, W12CD, Altamonte Springs, Florida, W13B0, Valdosta, Georgia, and W12CC, Cocoa, Florida, should not be revoked, at a hearing to be held at a time and place to be specified in a subsequent Order, upon the following issue:

(a) To determine, in light of Timothy S. Brumlik's conviction for violating title 18, United States Code, section 1956(a)(3)(B), whether Brumlik, NewSouth Broadcasting, Inc. or NewSouth Media Corporation possess the requisite qualifications to be or remain a licensee and/or permittee of the above-captioned television and low power television stations.

In addition, if it is determined that revocation of the above-referenced stations is not warranted:

(b) to determine, pursuant to section 309(e) of the Communications Act, whether grant of the captioned applications, if any will serve the public interest, convenience and necessity.

3. A copy of the complete Order in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, Down Town Copy Center, 1919 M Street, NW., Washington, DC 20037, Telephone No. (202) 452-1422.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 91–20771 Filed 8–28–91; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Polish Ocean Lines et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 232–011344.

Title: POL/CMA Reciprocal Space Charter and Sailing Agreement.

Parties: Polish Ocean Lines (POL), Compagnie Maritime D'Affretement (CMA).

Synopsis: The proposed Agreement would permit the parties to charter space from each other in the trade between the U.S. Atlantic and Gulf Coasts and North Europe ports. It would also permit the parties to agree on sailing schedules, ports to be served and serviced frequently.

By Order of the Federal Maritime Commission.

Dated: August 23, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91–20676 Filed 8–28–91; 8:45 a.m.]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Murray C. Marie; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of

the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than September 17, 1991.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Murray C. Marie, Carthage, Texas; to acquire 69.88 percent of the voting shares of Carthage Bancshares, Inc., Carthage, Texas, and thereby indirectly acquire The First National Bank of Carthage, Carthage, Texas.

Board of Governors of the Federal Reserve System, August 23, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–20699 Filed 8–28–91; 8:45 am]

BILLING CODE 6210–01–F

West One Bancorp; Application To Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 17, 1991.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company and International Regulation) 101 Market Street, San Francisco, California 94105:

1. West One Bancorp, Boise, Idaho; West One Bancorp, Washington, Bellevue, Washington; and West One Trust Company, Bellevue, Washington; to engage *de novo* in performing functions and activities that may be performed by a trust company in the manner authorized by federal or state law, pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 23, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–20700 Filed 8–28–91; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meeting in September

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Correction of meeting notice.

SUMMARY: The public notice given in the **Federal Register** on August 8, 1991, Volume 56, No. 153 on page 37703 listed the "open" and "closed" portions of the September 10–11 meeting of the Advisory Committee on Substance Abuse Prevention incorrectly. The meeting will be open on September 10 from 9 a.m.–12 noon and on September 11 from 9 a.m.–3 p.m. The meeting will be closed otherwise.

Dated: August 26, 1991.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 91–20772 Filed 8–28–91; 8:45 am]

BILLING CODE 4160–20–M

Health Resources and Services Administration

Program Announcement and Proposed Funding Preference and Priorities for Grants for Predoctoral Training in Family Medicine

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1992 Grants for Predoctoral Training in Family Medicine are being accepted under the authority of section 786(a), title VII, of the Public Health Service Act, as amended by the Health Professions Reauthorization Act of 1988, title VI of Public Law 100–607.

Comments are invited on the proposed funding preference and priorities stated below. This authority will expire on September 30, 1991. This program announcement is subject to reauthorization of this legislative authority and to the appropriation of funds.

The Administration's budget request for FY 1992 does not include funding for this program. Applicants are advised that this program announcement is a contingency action being taken to assure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Section 786(a) of the Public Health Service Act authorizes the award of grants to assist in meeting the cost of planning, developing and operating or participating in approved predoctoral training programs in the field of family medicine. Grants may include support for the program only or support for both the program and the trainees.

To receive support, programs must meet the requirements of regulations as set forth in 42 CFR part 57, subpart Q.

Eligible applicants are accredited public or nonprofit private schools of medicine or osteopathic medicine.

The period of Federal support will not exceed 5 years.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Grants for Predoctoral Training in Family Medicine Program is related to the priority area of

Educational and Community-Based Programs.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service supported education and service programs which provide comprehensive primary care services to the underserved.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The potential effectiveness of the proposed project in carrying out the training purposes of section 786(a) of the Act;

2. The degree to which the proposed project adequately provides for the project requirements;

3. The administrative and management ability of the applicant to carry out the proposed project in a cost-effective manner; and

4. The potential of the project to continue on a self-sustaining basis after the period of grant support.

In addition, the following mechanisms may be applied in determining the funding of approved applications.

1. Funding Preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuation projects ahead of new projects.

2. Funding priorities—favorable adjustment of aggregate review scores when applications meet specified objective criteria.

3. Special considerations—enhancement of priority scores by merit reviewers based on the extent to which applicants address special areas of concern.

Proposed Funding Preference and Priorities for Fiscal Year 1992

It is proposed that the following funding preference and priorities be used in making grant awards in fiscal year 1992.

A funding preference will be given to applicants that have an established, required third year family medicine clerkship (of at least four weeks in duration) or provide credible evidence that such a clerkship will be initiated no later than academic year 1993–94.

Schools that are sufficiently committed to family medicine to have a required clerkship will produce more family medicine careers.

A *funding priority* will be given to:

1. Applicants that provide substantial training experience in: Community Health Centers currently supported under the PHS Act, section 330; Migrant Health Centers supported under the PHS Act, section 329; Homeless Health Centers supported under the PHS Act, section 340; facilities that have formal arrangements to provide primary health services to public housing communities; or hospitals and/or health care facilities of the Indian Health Service; and/or health care centers that serve a substantial number of patients from (1) a Health Professional Shortage Area (HPSA), designated under the PHS Act, section 332 or (2) a Medically Underserved Area (MUA) designated under provisions of the PHS Act, section 330(b)(3).

This priority is consistent with a HRSA strategy to enhance the teaching capabilities in the above areas and to provide training experiences with underserved populations.

Section 330 authorizes support for community health care services to medically underserved populations.

Section 329 authorizes support for migrant health facilities nationwide and comprises a network of health care services for migrant and seasonal farm workers.

Section 340 authorizes Health Care for the Homeless Program, as used here, means a community-based program of comprehensive primary health care and substance abuse services brought to the homeless population.

Public Housing Communities means the residents of low income public housing projects that receive Federal assistance, usually through a local public housing agency, under the provisions of the U.S. Housing Act of 1937.

Section 332 establishes criteria to designate geographic areas, population groups, medical facilities, and other public facilities in the States as Health Professional Shortage Areas.

Section 330(b)(3) establishes Medically Underserved Areas which are areas designated by the PHS, based on four criteria:

(1) Infant mortality rate;

(2) Percentage of the population below the poverty level;

(3) Percentage of the population over age 65; and

(4) Number of practicing primary care physicians per 1,000 population.

2. Applicants that documents that 20 percent or more of the previous medical school graduating class entered accredited family medicine residency training programs or internship training programs in osteopathic medicine which emphasize family medicine and are approved by the American Osteopathic Association.

This priority will reward those schools with proven track records and encourage others to improve their records.

Statutory Special Consideration

Speical consideration will be given to applicants that demonstrate to the satisfaction of the Secretary a commitment to family medicine in their medical education training programs.

The proposed funding preference and priorities do not preclude funding of other eligible approved applications. Accordingly entities which do not qualify for or elect the proposed funding preference or priorities are encouraged to submit applications.

Interested persons are invited to comment on the proposed funding preference or priorities. Normally, the comment period would be 60 days. However, due to the need to implement any changes for the FY 1992 award cycle, the comment period has been reduced to 30 days. All comments received on or before September 30, 1991, will be considered before the final funding preference or priorities are established. No funds will be allocated or final selections made until a final notice is published stating when the final funding preference or priorities will be applied.

Written comments should be addressed to: Marc L. Rivo, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 4C–25, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Medicine, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Requests for application materials, questions regarding grants policy and business management aspects should be directed to: Ms. Judy Bowen (D–15), Grants Management Specialist, Residency and Advanced Grants Section, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 8C–26, Rockville, Maryland 20857, Telephone: (301) 443–6960.

Completed applications should be forwarded to the Grants Management Officer at the above address.

If additional programmatic information is needed, please contact: Mr. Donald Buysse, Chief, Primary Care Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 4C–16, Rockville, Maryland 20857, Telephone: (301) 443–3614.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

Public Law 100–607, section 633(a), requires that for grants authorized under sections 780, 784, 785 and 786 for FY 1990 or subsequent fiscal years, the Secretary of Health and Human Services shall, not less than twice each fiscal year, issue solicitations for applications for such grants if amounts appropriated for such grants and remaining unobligated at the end of the first solicitation period are sufficient with respect to issuing a second solicitation.

The deadline date for receipt of applications is October 21, 1991. Applications shall be considered as meeting the deadline date 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 postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to applicant.

This program is listed at 93.896 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: July 26, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 91–20708 Filed 8–28–91; 8:45 am]

BILLING CODE 4160–15–M

Indian Health Service

Indian Health Research Program for American Indians/Alaska Native Grants Application Announcement

AGENCY: Indian Health Service, HHS.

ACTION: Notice of competitive grant application for the Indian Health Service Research Program.

SUMMARY: The Indian Health Service (IHS) announces that competitive applications for Fiscal Year 1992 are now being accepted for the Indian Health Service Research Program authorized by Section 208 of the Indian Health Care Improvement Act, as amended, 25 U.S.C. 1621g. There will be only one funding cycle during Fiscal Year 1992.

DATES: An original and two (2) copies of the completed grant application must be received by the Grants Management Branch, Division of Acquisitions and Grants Operations, Indian Health Service, 12300 Twinbrook Parkway, Suite 605, Rockville, Maryland 20852, on or before September 30, 1991.

Applications shall be considered as meeting the deadline is they are either: (1) Received on or before the deadline with hand carried application received by close of business 5 p.m., or (2) postmarked on or before the deadlines and received in time to be reviewed along with all other timely applications. A legibly dated receipt from a commercial carrier on the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing.

Applications received after the announced closing date will not be considered for funding and will be returned to the applicant.

Additional Dates

1. Application Review: IHS Study Section; November 13–15, 1991

2. Applicants Notified of Results (approved, approved unfunded or disapproved): December 15, 1991

3. Earliest anticipated starting date: February 1, 1992

FOR FURTHER INFORMATION CONTACT:

Programmatic: William L. Freeman, M.D., Director, IHS Research Program, or Donna Pexa, Research Program Coordinator, Office of Health Program Research and Development, 7900 South J. Stock Road, Tucson, AZ 85746–9352, (602) 670–6310, or the following Area Research Coordinators:

Indian health area offices and States served	Research office contact and telephone
Aberdeen Area Office, Federal Building, 115 4th Ave. SE., Aberdeen, SD 57401.	Cecilia Kitto, M.D. (Aberdeen), (605) 226–7581, FTS 782–7581, Thomas Welty, M.D. (Rapid City), (605) 348–1900 Ext. 401
North Dakota, South Dakota, Nebraska, Iowa	
Alaska Area Native Health Service, P.O. Box 7–741, Anchorage, AK 99501.	David H. Barrett, M.D., (907) 257–1263 Ext. 263, FTS 474–1531
Alaska	
Albuquerque Area Office, IHS, 505 Marquette N.W., Suite 1502, Albuquerque, NM 87102.	Roger E. Gollub, M.D., (505) 766–1531, FTS 474–1531
New Mexico, Colorado	
Bemidji Area Office, IHS, 203 Federal Building, Bemidji, MN 5601.	John L. Robinson, D.D.S., (218) 759–3441, FTS 789–3441
Minnesota, Michigan, Wisconsin	
Billings Area Office, IHS, P.O. Box 2143, Billings, MT 59103.	James D. Vesbach, D.D.S., (406) 657–6900, FTS 585–6900
Montana, Wyoming	
California Area Office, IHS, 1825 Bell Street, Sacramento, CA 95825.	John Yao, M.D., (916) 978–4107, FTS 460–4107
California	
Nashville Area Office, IHS, 1101 Kermit Drive, Suite 810, Nashville, TN 37217.	William Betts, Ph.D., (615) 736–5104, FTS 852–5104
Mississippi, North Carolina, Florida, New York, Maine, Rhode Island, Louisiana	
Navajo Area Office, IHS, P.O. Box G, Window Rock, AZ 86515.	Douglas G. Peter, M.D., (602) 871–5811, FTS 572–8221
Navajo Reservation	
Oklahoma City Area Office, IHS, 215 Dean A. McGee N.W., Room 409, Oklahoma City, OK 73102.	Clark Marquart, M.D., (405) 231–4796, FTS 261–2187
Oklahoma, Kansas, Texas	
Phoenix Area Office, IHS, 3738 N. 16th Street, Phoenix, AZ 85016.	N. Burton Attico, M.D., (602) 640–2187, FTS 261–2187
Arizona, Nevada, Utah	
Portland Area Office, IHS, 3114 Federal Building, 915 Second Avenue, Seattle, WA 98174.	Ernest H. Kimball, M.P.H., (206) 442–5422, FTS 399–5422
Oregon, Idaho, Washington	
Office of Health Program Research and Development, 7900 South J. Stock Road, Tucson, AZ 85746.	Robert Wirth, M.D., (602) 670–6605, FTS 762–6605
Southern Arizona	

Grants and business: M. Kay Carpentier, Grants Management Branch, Division of Acquisitions and Grants Operations, Indian Health Service, Suite 605, 12300 Twinbrook Parkway, Rockville, MD 20852, (301) 443–5204.

SUPPLEMENTARY INFORMATION: This announcement provides information on the general program purpose, programmatic priorities, eligibility requirements, funding availability and application procedures for the Indian Health Service Research Program for Fiscal Year 1992. The program is within the Catalog of Federal Domestic Assistance Number 93.905. Executive Order 12372 requiring intergovernmental review is not applicable to this program.

A. General Program Purpose

To support research projects which will likely have an impact on the health care of American Indian/Alaska Natives (AI/AN) and which are within the responsibilities of the Indian Health Service. To develop research skills among IHS and tribal health professionals.

B. Research Priorities

Fiscal Year 1992 research priorities are:

Studies of the epidemiology, risk factors or preventive strategies for chronic diseases, such as diabetes or cancer, affecting the AI/AN people.

Studies of the functional status or social support systems among the elderly, and of estimated demand for care.

Studies to improve the understanding of behavioral changes in substance, alcohol and tobacco use and abuse, exercise habits, diet and the adoption of preventive strategies in Indian cultures.

Studies of outcomes in reproductive health care, infant care, patient education and patient use of self-care principles which are conducted by professional nursing or multidisciplinary health care teams.

Studies on the prevention, treatment and prioritization of segments of clinical and behavioral health, such as: Oral health problems; Alcohol and substance abuse, Mental Health Problems; Family dysfunction; Interpersonal violence; Obesity; and Fetal Alcohol Syndrome.

Other study topics will also be considered for funding. Competing applications for continuation of studies funded in Fiscal Year 1991 will receive priority consideration.

C. Eligibility

There are two groups of eligible applicants: (1) IHS components, including Service Units and Area Offices, and (2) Indian Tribes or tribal organizations which have contracts with the IHS under the authority of the Indian Self-Determination and Education Assistance Act, Public Law 93–638, as amended. In accordance with the authorizing legislation, Public Law 93–638 contractors will be given an equal opportunity to compete with IHS components for receipt of research grants.

D. Fund Availability

Subject to the availability of Fiscal Year 1992 funds, it is estimated that between $500,00 and $600,000 will be available to support approximately 20–25 research grants. It is expected that individual project funding needs will vary widely. The anticipated maximum level for a project is $30,000 per year.

Projects are for one (1) year project period. All applicants must compete annually, however, priority will be given to those applicants funded the previous year for a related or similar project.

E. Application Process

1. An IHS Research Grant Application Kit, including required form PHS 5161–1, may be obtained from the Grants Management Branch, Division of Acquisitions and Grants Operations, Indian Health Service, Suite 605, 12300 Twinbrook Parkway, Rockville, MD 20852.

2. All proposals must include the following:

—A face sheet with general descriptors, date of submission, title or project, and identification of the principal investigator.
—A project description abstract.
—A table of contents.
—An itemized total cost budget broken out by funding source for the first 12 months of the project period.
—Biographical sketches of key personnel.
—A description of available resources and environment for the study.
—A description of the specific aims of the research plan, with an hypothesis stated.
—Progress report (continuation applicants) or preliminary studies (new applicants).
—A description of the experimental design and methods to be used.
—An explanation of how human subjects, if any, will be protected from research risks.
—A list of consultants or collaborators.

3. The following mandatory approvals and documentation must be provided with the application:

a. Tribal approval of any project is mandatory and must be evidenced by signature of the Tribal Chairperson, the chairperson's designee or by Tribal Resolution. If more than one tribe is involved, evidence of support from all tribes affected must be submitted with the application.

b. All applicants must provide letter(s) of approval from the Director of any Service Unit(s) affected by the research proposal.

c. IHS components which apply must obtain clearance signatures from the Area Contracting Officer if any purchasing, contracting or consultant hiring actions are requested in the proposal.

d. IHS components applying must also obtain the approval signature of the IHS Area Director on the face sheet, Standard Form 424, items 18d–e, of the application.

4. Human subjects—If an application proposes the use of human subjects, the applicant must submit a form HHS 596. It is recommended that any applicant who anticipates the use of human subjects contact an appropriate Area Research Coordinator listed in this announcement for technical assistance as the application is being developed.

5. Data confidentiality, subject privacy and anonymity—Applicants must provide documentation of the process to be used in protecting the confidentiality of data collected and the privacy of subjects, to include the protection of patient records. If human subjects are to be protected by anonymity, applicants must describe how the anonymity will be assured and maintained.

F. Review Process

All applications involving human subjects will be reviewed by the NIH Office of Protection from Research Risks (OPRR), or their authorized Institutional Review Board Committees in the IHS, for compliance with human subject requirements contained in 45 CFR part 46.

Applications judged to be conforming to this announcement, responsive and competitive will be reviewed for technical merit in accord with IHS objective review procedures. The technical review process is a national competition.

Funding decisions are based on the technical merit of the proposal and the research priorities of the Indian Health Service.

G. Criteria and Factors Considered in Review

1. Technical Review Criteria—

—Clarity of study question—

Is the study question stated clearly and precisely? Does the body of the proposal follow logically from the precisely stated study question?

—Evidence of understanding the problem—

Documentation regarding appropriate literature review, demonstrated knowledge of data source, and recognition of the difficulties of carrying out the study.

—Methodologic approach and study design—

Assessment of the approach proposed, including appropriateness of statistical, epidemiological and technical research design to be used, as well as description of analysis and methodology to be used.

—Staff experience—

Does there appear to be adequate experience among the study team assembled by the principal investigator for carrying out the proposed project? Will new resources or liaisons be developed for strengthening research capabilities?

—Feasibility of the study—

Will the budget support the proposed methods?

2. Programmatic Review Criteria—

—Extent of direct relevance to the health of American Indian/Alaska Native people.

—Can the study be done only (or best) in an American Indian/Alaska Native population?

—Will the project lead to a useful product, outcome or information in the near future?

—Will the project develop the capability for research in the IHS or in the tribes?

—Is the expected product/outcome reasonable relative to the cost?

—Is the Indian Health Service the appropriate funding source?

Dated: June 7, 1991.

Everett R. Rhoades,

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 91-20707 Filed 8-28-91; 8:45 am]

BILLING CODE 4160-16-M

Office of Refugee Resettlement

Refugee Resettlement Program: Allocations to States of FY 1991 Funds for Refugee [1] Social Services

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Final notice of allocations to States of FY 1991 funds for refugee [1] social services.

SUMMARY: This notice establishes the allocations to States of FY 1991 funds for social services under the Refugee Resettlement Program (RRP).

EFFECTIVE DATE: August 29, 1991.

ADDRESS: Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Toyo Biddle (202) 401-9250.

SUPPLEMENTARY INFORMATION: Notices of the proposed social service allocations to States was published in the **Federal Register** on March 29, 1991 (56 FR 13252). In response to comments received, the lowest floor amount for States with small refugee populations has been raised from the proposed $50,000 to $75,000. Adjustments have been made in the estimated refugee populations of four States as a result of evidence submitted by those States. In addition, an across-the-board sequestration has reduced the amount available for social services by 0.0013%. These revisions have produced minor changes in the allocations for all States.

I. Allocation Amounts

The Office of Refugee Resettlement (ORR) has available $82,949,922 in FY 1991 refugee social service funds as part of the FY 1991 appropriations for the Department of Health and Human Services (Pub. L. 101-517).

Of the total of $82,949,922, the Director of ORR will make available to States $70,507,434 (85%) under the allocation formulas set out in this notice. These funds will be made available for the purpose of providing social services to refugees.

The population figures include refugees, Cuban/Haitian entrants, and Amerasians from Vietnam since these populations may be served through funds addressed in this notice. (A State must, however, have an approved States plan for the Cuban/Haitian Entrant Program in order to use funds on behalf of entrants as well as refugees.)

The Director will allocate $70,507,434 to States in the following manner:

- $67,007,434 will be allocated on the basis of each State's proportion of the national population of refugees who had been in the U.S. 3 years or less as of October 1, 1990 (including a floor amount for States which have small refugee populations).
- $3,500,000 will be allocated on the basis of each State's proportion of the 3-year refugee population (including a floor amount of $5,000 for States for which the allocation formula would yield less than $5,000) in order to provide an incentive for States to fund refugee mutual assistance associations (MAAs). A written assurance that these optional funds will be used for MAAs is required in order for a State to receive the funds. Guidance to States regarding this assurance is provided below.

The allocations established under this notice reflect two changes as compared with FY 1990:

(1) The $75,000 floor previously in effect for States with small refugee populations is replaced by a variable floor calculated as follows: If the applicant of the regular allocation formula yields less than $100,000, then—

(a) A base amount of $75,000 is provided for a State with a population of 50 or fewer refugees who have been in the U.S. 3 years or less; and

(b) For a state with more than 50 refugees who have been in the U.S. 3 years or less: (i) A floor has been calculated consisting of $50,000 plus the regular per capita allocation for refugees above 50 up to a total of $100,000 (in other words, the maximum under the floor formula is $100,000); (ii) if this calculation has yielded less than $75,000, a base amount of $75,000 is provided for the State.

ORR has consistently supported floors for small States in order to provide sufficient funds to carry out a minimum service program. Given the range in numbers of refugees in the small States, we have concluded that a variable floor, as established by this notice, will be

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[1] In addition to persons who meet the requirements of 45 CFR part 400, subpart D—Immigration Status and Identification of Refugees, eligibility for refugee social services also includes: (1) Cuban and Haitian entrants, under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. 96-422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100-202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100-461), 1990 (Pub. L. 101-167), and 1991 (Pub. L. 101-513). For convenience, the term "refugee" is used in this notice to encompass all such eligible persons unless the specific context indicates otherwise.

Refugees admitted to the U.S. under admissions numbers set aside for private-sector-initiative admissions are not eligible to be served under the social service program (or under other programs supported by Federal refugee funds) during their period of coverage under their sponsoring agency's agreement with the Department of State—usually two years from their date of arrival or until they obtain permanent resident alien status, whichever comes first.

more reflective of needs than the previous across-the-board floor.

(2) The amount allocated to States for refugee mutual assistance association (MAA) incentive awards is increased from the $3,000,000 so allocated in FY 1990 to $3,500,000. This increase was made in light of the increase in the social service appropriation from $75,000,000 to $82,951,000.

The use of the 3-year population base in the allocation formula is required by section 6(a)(3) of the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605) which amended section 412(c) of the Immigration and Nationality Act (INA) to require that the "funds available for a fiscal year for grants and contracts [for social services] * * * shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year."

The $12,442,488 in remaining social service funds (15% of the total funds available) will be used by ORR on a discretionary basis to provide funds for individual projects intended to contribute to the effectiveness and efficiency of the refugee resettlement program. The discretionary funds will primarily support specific program activities designed to: (1) Reduce welfare dependency in States with large numbers of refugees on welfare; and (2) address the needs of special populations who experience particular difficulty adjusting to life in the U.S. ORR expects to continue emphasis on discretionary grants to address problems of persistent welfare dependency and to promote favorable resettlement opportunities. Announcements will be made when discretionary initiatives are decided on. The amount set for discretionary use will enable valuable current efforts—such as the Key States Initiative, Job Links, Planned Secondary Resettlement, and services for Amerasians from Vietnam and former re-education camp detainees from Vietnam—to be continued as appropriate. At the same time, it will provide funds to enable ORR to address such additional needs as serious problems of dependency in areas not currently served by special projects.

The 15% to be used for discretionary projects is in accordance with the Conference Report on the FY 1991 appropriation, which states, "The conferees are agreed that not more than 15 percent of funding appropriated for social services may be used for discretionary grants." (H. Conf. Rept. 101–908, p. 27.)

Although the allocation formula is based on the 3-year refugee population, social service programs are not limited to refugees who have been in the U.S. only 3 years. States may provide services without regard to an individual refugee's length of residence, in accordance with the requirements of 45 CFR part 400, subpart I—Refugee Social Services, published in the **Federal Register** of February 3, 1989 (54 FR 5481).

ORR funds may not be used to provide services to United States citizens, since they are not covered under the authorizing legislation, with the following exceptions: (1) Under current regulations, services may be provided to a U.S.-born minor child in a family in which both parents are refugees or, if only one parent is present, in which that parent is a refugee; and (2) under the FY 1989 Foreign Operations Appropriations Act (Pub. L. 100–461), services may be provided to an Amerasian from Vietnam who is a U.S. citizen and who enters the U.S. after October 1, 1988.

Reflecting section 412(a)(1)(A)(iv) of the INA, the Director expects States to "insure that women have the same opportunities as men to participate in training and instruction." In addition, States are expected to make sure that services are provided in a manner that encourages the use of bilingual women on service agency staffs to ensure adequate service access by refugee women. In order to facilitate refugee self-support, the Director also strongly encourages States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit, particularly in the case of large families.

In accordance with 45 CFR 400.146 (54 FR 5481), if a State's cash assistance dependency rate for refuges (as defined in § 400.146(b)) is 55% or more, funds awarded under this notice for the basic and MAA incentive allocations are subject to a requirement that at least 85% of the States's award be used for employability services as set forth in § 400.154. ORR expects these funds to be used for services which directly enhance refugee employment potential, have specific employment objectives, and are designed to enable refugees to obtain jobs in less than one year as part of a plan to achieve self-sufficiency. This reflects the Congressional objective that "employable refugees should be placed in jobs as soon as possible after their arrival in the United States" and that social service funds be focused on "employment-related services, English-as-a-second-language training (in non-work hours where possible), and case-management services". (INA, section 412(a)(1)(B).) States are encouraged to treat day care services as a priority employment-related service in order to allow women with children the opportunity to participate in employment services or to accept or retain employment.

Because of the lack of more recent dependency rate data, the Director is using State's dependency rates as of September 30, 1989, in applying the 85% requirement.

As in previous years, ORR will consider granting, under specific circumstances, a waiver of the 85% provision. In order to receive a waiver, a State must meet either of the following two conditions:

1. The State demonstrates to the satisfaction of the Director of ORR that two of the following three circumstances exist: (a) The cash assistance dependency rate for time-eligible refugees in the State is below the national average for all time-eligible refugees in the U.S.; (b) less than 85% of the State's social service allocation is sufficient to meet all employment-related needs of the State's refugees; and/or (c) there are non-employment-related service needs which are so extreme as to justify an allowance above the basic 15%. Or

2. In accordance with section 412(c)(1)(C) of the INA, as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605), the State submits to the Director a plan (established by or in consultation with local governments) which the Director determines provides for the maximum appropriate provision of employment-related services for, and the maximum placement of, employable refugees consistent with performance standards established under section 106 of the Job Training Partnership Act.

States should also expect to use funds available under this notice to pay for social services which are provided to refugees who participate in alternative projects. The Continuing Resolution for FY 1985 (Pub. L. 98–473) amended section 412(e)(7)(A) of the INA to provide that:

> The Secretary [of HHS] shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support [social] services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

This provision is generally known as the Wilson/Fish Amendment. The Department has already issued a separate notice in the **Federal Register** with respect to applications for such projects (50 FR 24583, June 11, 1985). The notice on alternative projects does not contain provisions for the allocation of additional social service funds beyond the amounts made available by this notice. Therefore a State which may wish to consider carrying out such a project should take note of this in planning its use of social service funds being allocated under the present notice.

Finally, ORR believes that the continued and/or increased utilization of refugee mutual assistance associations (MAAs) in the provision of social services promotes appropriate use of services as well as the effectiveness of the overall service system. This belief is reinforced by the interest in MAAs which has developed under similar incentive funds awarded to States in previous years. Therefore additional funds which would be targeted specifically to these organizations have been included as an optional award to States which would use them for this purpose.

In order to receive the MAA incentive funds, the appropriate State agency official must provide written assurance to the Office of Refugee Resettlement that the following conditions will be observed by the State agency in using funds made available to the State under this special allocation:

1. That such funds will be used to fund refugee mutual assistance associations for the direct provision of services to refugee clients.

2. That the MAA incentive allocation is subject to and included under ORR's requirement that, in States where applicable, 85% of the total amount of social service funds allocated by this notice to a State be used for employability services as set forth in 45 CFR 400.154.

3. That the State agency will observe the following definition of a mutual assistance association:

a. The organization must be legally incorporated as a nonprofit organization; and

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association will be comprised of refugees or former refugees and, within 12 months from the date of this notice, must include both refugee men and women.

4. That the State agency will assist MAAs in seeking other public and/or private funds for the provision of services for refugee clients in subsequent years.

Written assurances should be sent to the Director, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW., Washington, DC 20447, with a duplicate copy to the appropriate Administration for Children and Families (ACF) Regional Administrator. States must respond by 30 days from the date of this notice in order to avail themselves of this special allocation.

II. Discussion of Comments Received

We received 10 letters of comment in response to the notice of the proposed allocations to States of FY 1991 funds for refugee social services.

The comments are summarized below and are followed in each case by the Department's response.

Comment: Seven commenters expressed their views on the proposed variable floor for social service allocations to States with small refugee populations. Four of the commenters supported ORR's proposal, citing the new approach as an equitable way of making distinctions in refugee population size in small States. One of the commenters, however, recommended that the base amount in the variable floor be retained at $75,000, instead of the proposed $50,000, in order not to jeopardize States. Two commenters objected to the proposed reduction in the allocation floor to their States, one commenter noting that the reduction would impede the State's efforts to expand its refugee program, and the other commenter indicating that funding obligations exceeding the new floor had already been made due to the lateness of this year's notice. Another commenter objected to the use of a minimum allocation floor for small States, stating that funds should be targeted toward those States with large refugee populations. The commenter questioned the existence of any authority within the law that would allow ORR the discretion to establish a floor and recommended that the minimum floor be eliminated. The commenter recommended the establishment of a requirement that States must have a minimum number of refugees who have been in the country for three years or less to qualify for social services funding. One commenter questioned the necessity of a minimum allocation for mutual assistance association (MAA) incentive grants.

Response: In light of the comments, we have increased the base amount for the variable floor for small States from $50,000 to $75,000 so as not to jeopardize the continued existence of the refugee program in those States. We believe that a minimum allocation for social services and MAA incentive grants is necessary to cover basic costs which a State incurs in providing services, regardless of the number of refugees. Therefore, we view the establishment of a floor, which is not prohibited under the statute, as a sensible approach to allocating funds to States with small refugee populations, where the use of the formula alone would yield too small an amount to be practical.

Comment: Four commenters objected to the formula on which the allocation of social service funds is based. Two of the commenters objected to the use of a formula based on the number of refugees who have been in the U.S. for 36 months or less, stating that it ignores the large numbers of refugees on assistance who have been here more than 36 months and continue to need services. Two commenters recommended that, within the 36-month period of arrivals that the formula covers, ORR give greater weight to the more recent arrivals. One of the commenters proposed a formula that would allocate 50% of the funds on the basis of the number of refugees who have been in the country 12 months or less, 30% on the basis of the number of refugees who have been in the U.S. more than 12 months, but not more than 24 months, and 20% on the basis of the number of refugees in the U.S. more than 24 months, but not more than 36 months.

Response: Since the 36-month formula is required by statute, we cannot base allocations on a longer period of arrivals. Nor do we believe that attempting to weight allocations based on arrival dates within the 36-month period would be consistent with the intent of the law, which states only that social service funds for a fiscal year "shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year." Using equal weights for admissions within the 36-month period provides a more gradual adjustment for changes in refugee flows and avoids sharp fluctuations in funding to a State that could occur if the 36-month admissions were unequally weighted in determining the allocations.

Comment: Three commenters expressed views on the allocation of $12,442,650 for discretionary purposes. One commenter expressed support for the amount proposed for discretionary programs, citing the need for such funding to support special programs to reduce welfare dependency and to address the needs of particularly

vulnerable populations. Two commenters recommended an increase in formula allocation funds and a reduction in discretionary funding. One of the commenters proposed limiting discretionary funds to 10% of the total, on the argument that it is more cost-effective to allocate more funds to States and counties for direct services than to "start a number of short-term projects with questionable outcomes."

Response: We believe it is important to retain the discretionary funds set-aside at the proposed 15% level in order to continue a number of highly successful efforts to reduce welfare dependency, such as the Key States Initiative and the Planned Secondary Resettlement program, and the Job Links program which provides services in non-impacted communities that offer self-sufficiency opportunities for refugees. Discretionary funds are also used to address special needs of vulnerable populations, such as Amerasians and former re-education camp detainees from Vietnam, in a more targeted and efficient manner than can be achieved by adding these funds to the formula allocation. We believe that the exemplary success of our dependency-reduction programs and the continuing needs of special populations in certain locations warrant the 15% set-aside for discretionary use.

Comment: Three commenters objected to the statement in the notice of proposed allocations that "ORR expects these funds to be used for services which . . . are designed to enable refugees to obtain jobs in less than one year." Objections were based on the belief that services aimed at removing pre-employment barriers would be precluded from funding, that ORR's policy is in conflict with the philosophy and policies of the Federal Job Opportunities and Basis Skills (JOBS) Training program, and that there is no statutory basis for predicating the use of social service funds on placing a refugee in a job within a specific time period. Commenters recommended deletion of this statement. One commenter proposed that if the language is not changed, the notice include a provision for waivers to the one-year requirement.

Response: ORR did not intend that this be a requirement for the use of social service funds and has used the term "expects" rather than "requires" in order to make that distinction. Since this is not a requirement, a provision for waivers is not needed.

Comment: Two commenters objected to the use of FY 1989 State welfare dependency data as a basis for applying the 85% employability services requirement, stating that such old data do not accurately reflect current welfare dependency rates. Both commenters recommended using current data or establishing new criteria for determining whether to hold a State to the 85% rule.

Response: ORR recognizes that dependency rates may have changed and is willing to consider waiving the 85% requirement if a State provides convincing evidence that its rate has decreased to less than 55%.

Comment: One commenter requested that reference be made in the notice of the statutory or regulatory authority that makes refugees admitted under the Private Sector Initiative ineligible for refugee social services and any other programs supported by Federal refugee funds. The commenter notes that section 207 of the ORR regulations states that refugees with I–94s are eligible for services and has been advised by the State Attorney General that a footnote in the notice is not sufficient authority.

Response: If a Private Sector Initiative refugee seeks to access ORR-funded programs, the State should notify the sponsoring agency to determine whether that organization is providing, or will arrange to provide, assistance and services to the refugee. If not, the State should notify the U.S. Coordinator for Refugee Affairs and may serve the refugee if the sponsoring agency does not provide assistance and services.

III. Allocation Formula

Of the funds available for FY 1991 for social services, $70,507,434 is allocated to States in accordance with the formula specified below. A State's allowable allocation will be calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided by—

2. The total number of refugees and Cuban/Haitian entrants who arrived in the United States not more than 3 years prior to the beginning of the fiscal year for which the funds are appropriated and the number of Amerasians from Vietnam eligible for refugee social services, as shown by the ORR Refugee Data System. The resulting per capita amount will be multiplied by—

3. The number of persons in item 2, above, in the State as of October 1, 1990, adjusted for estimated secondary migration.

The calculation above will yield the formula allocation for each State. Minimum allocations for small States are taken into account.

MAA incentive award supplements are allocated on the same 3-year population basis as that used in the social service formula. These funds will be made available contingent upon letters of assurance from States, as described previously.

IV. Basis of Population Estimates

The population estimates for the allocation of funds in FY 1991 are based on data on refugee arrivals from the ORR Refugee Data System, adjusted as of October 1, 1990, for estimated secondary migration. The data base includes refugees of all nationalities and Amerasians from Vietnam. Figures on the number of Cuban and Haitian entrants resettled are obtained from several sources, including the ORR Florida office and the Immigration and Naturalization Service.

For fiscal year 1991, ORR's formula allocations for the States for social services for refugees are based on the numbers of refugees who arrived, and on the numbers of entrants who arrived or were resettled, during the preceding three fiscal years: 1988, 1989, and 1990. Therefore, estimates have been developed of the numbers of refugees and entrants with arrival or resettlement dates between October 1, 1987, and September 30, 1990, who are thought to be living in each State as of October 1, 1990. Refugees admitted under the Federal Government's private-sector initiative are not included, since their assistance and services are to be provided by the private sponsoring organizations under an agreement with the Department of State.

The estimates of secondary migration were based on data submitted by all participating States on Form ORR–11. The total migration reported by each State was summed, yielding in- and out-migration figures and a net migration figure for each State. The net migration figure was applied to the State's total arrival figure, resulting in a revised population estimate. Because the reporting period covered on Form ORR–11 was a maximum of only 12 months as of June 1990 for the majority of States whose reporting base was their cash/medical assistance caseload, extra weight was given to the secondary migration reported by those States to arrive at estimates of secondary migration over a 36-month period. No count of recently arrived refugee children was available from the Department of Education for use as a comparison.

Estimates were developed separately for refugees and entrants and then combined into a total estimated 3-year refugee/entrant population for each State. Eligible Amerasians are included in the refugee figures.

The population estimates for a majority of States are slightly changed

from the figures cited in the notice of proposed allocations. The sources of the changes are: (1) Four States submitted convincing evidence of larger time-eligible populations than had been estimated previously, and their population estimates were increased accordingly. Most of the evidence consisted of secondary migrants who had not been previously reported, and these migrants were deducted from their resettlement States as recorded in the ORR Data System. (2) Preliminary arrival data from FY 1990 were replaced by final data.

Table 1, below, shows the estimated 3-year populations, as of October 1, 1990, of refugees (col. 1), entrants (col. 2), and total refugees and entrants (col. 3); the formula amounts which the population estimates yield (col. 4); the total allocation amounts after allowing for the minimum amounts (col. 5); and the amounts available as an incentive to States to use MAAs as service providers (col. 6).

V. Allocation Amounts

The following amounts are allocated for refugee social services in FY 1991:

BILLING CODE 4150-04-M

TABLE 1.--Estimated 3-Year Refugee/Entrant Populations of States Participating in the Refugee Program and Social Service Formula Amounts and Allocations for FY 1991

State	Refugees	Entrants	Total population	Formula amount	Allocation	MAA incentive allocation
	(1)	(2)	(3)	(4)	(5)	(6)
Alabama	577	0	577	$126,783	$126,783	$6,615
Arizona	3,098	4	3,102	$681,597	$681,597	$35,563
Arkansas	337	0	337	$74,048	$100,000	$5,000
California 1/	96,685	201	96,886	$21,288,589	$21,288,589	$1,110,747
Colorado	2,734	2	2,736	$601,176	$601,176	$31,367
Connecticut	3,346	10	3,356	$737,408	$737,408	$38,475
Delaware	128	0	128	$28,125	$75,000	$5,000
Dist. of Columbia	1,517	8	1,525	$335,086	$335,086	$17,483
Florida	10,424	7,436	17,860	$3,924,346	$3,924,346	$204,755
Georgia	4,107	15	4,122	$905,720	$905,720	$47,257
Hawaii	810	0	810	$177,980	$177,980	$9,286
Idaho	700	0	700	$153,810	$153,810	$8,025
Illinois	11,542	13	11,555	$2,538,960	$2,538,960	$132,472
Indiana	618	2	620	$136,231	$136,231	$7,108
Iowa	2,135	0	2,135	$469,120	$469,120	$24,477
Kansas	1,702	0	1,702	$373,977	$373,977	$19,513
Kentucky	1,000	1	1,001	$219,948	$219,948	$11,476
Louisiana	1,621	4	1,625	$357,058	$357,058	$18,630
Maine	708	1	709	$155,787	$155,787	$8,128
Maryland	5,296	72	5,368	$1,179,501	$1,179,501	$61,541
Massachusetts	11,628	21	11,649	$2,559,614	$2,559,614	$133,550
Michigan	4,811	5	4,816	$1,058,211	$1,058,211	$55,213
Minnesota	7,647	8	7,655	$1,682,020	$1,682,020	$87,760
Mississippi	252	0	252	$55,372	$94,385	$5,000
Missouri	2,905	213	3,118	$685,113	$685,113	$35,746
Montana	215	0	215	$47,242	$86,255	$5,000
Nebraska	1,090	2	1,092	$239,943	$239,943	$12,519
Nevada	819	63	882	$193,800	$193,800	$10,112
New Hampshire	674	0	674	$148,097	$148,097	$7,727
New Jersey	5,550	1,368	6,918	$1,520,080	$1,520,080	$79,311
New Mexico	591	0	591	$129,859	$129,859	$6,775
New York	47,392	524	47,916	$10,528,498	$10,528,498	$549,331
North Carolina	2,029	3	2,032	$446,488	$446,488	$23,296
North Dakota	323	0	323	$70,972	$100,000	$5,000
Ohio	3,755	9	3,764	$827,057	$827,057	$43,152
Oklahoma	1,002	2	1,004	$220,607	$220,607	$11,510
Oregon	5,286	0	5,286	$1,161,483	$1,161,483	$60,601
Pennsylvania	9,420	5	9,425	$2,070,938	$2,070,938	$108,053
Rhode Island	1,617	1	1,618	$355,520	$355,520	$18,549
South Carolina	201	0	201	$44,165	$83,179	$5,000
South Dakota	402	0	402	$88,331	$100,000	$5,000
Tennessee	2,015	0	2,015	$442,752	$442,752	$23,101
Texas	12,307	101	12,408	$2,726,388	$2,726,388	$142,251
Utah	1,645	0	1,645	$361,453	$361,453	$18,859
Vermont	469	2	471	$103,492	$103,492	$5,400
Virginia	4,600	4	4,604	$1,011,629	$1,011,629	$52,782
Washington	10,422	1	10,423	$2,290,227	$2,290,227	$119,494
West Virginia	58	0	58	$12,744	$75,000	$5,000
Wisconsin	4,969	2	4,971	$1,092,269	$1,092,269	$56,990
Wyoming	42	0	42	$9,229	$75,000	$5,000
TOTAL	293,221	10,103	303,324	$66,648,843	$67,007,434	$3,500,000

1/ $196,658 of the allocation shown for services to refugees in California has been awarded separately to the U.S. Catholic Conference for a Wilson/Fish demonstration project in San Diego.

VI. Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

Catalog of Federal Domestic Assistance No. 93.026 Refugee Assistance State Administered Programs.

Dated: August 26, 1991.

Chris Gersten,

Director, Office of Refugee Resettlement.

[FR Doc. 91-20768 Filed 8-28-91; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-964-4230-15]; AA-8103-2

Alaska Native Claims Section

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(e), will be issued to Doyon, Limited for approximately 608 acres. The lands involved are in the vicinity of Nikolai, Alaska, and are located within sections 16, 17, 20, 21, 28 and 29, T. 27 S., R. 21 E., Kateel River Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until September 30, 1991 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the Address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

G. Steve Flippen,

Lead Land Law Examiner, Branch of Doyon/Northwest Adjudication.

[FR Doc. 91-20720 Filed 8-28-91; 8:45 am]

BILLING CODE 4310-JA-M

Canon City District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Managment, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L 463), that a meeting of the Canon City District Grazing Advisory Board will be held at 9:30 a.m., Tuesday, September 24, in the Chaffee County Bank Building, 146 G. Street, Salida, Colorado.

The purpose of this meeting will be:

1. Discussion of proposed Range Improvement projects.
2. Initiate, conduct, and settle business pertaining to the expenditures of Range Betterment Funds.
3. Discuss lands and rights-of-way program in the District.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public, with a public comment period at 1 p.m. Any member of the public may file with the Board a written statement concerning matters to be discussed at the meeting.

FOR FURTHER INFORMATION CONTACT: Donnie R. Sparks, District Manager, Bureau of Land Management, 3170 East Main Street, Canon City, Colorado 81212 or telephone (719) 275-0631.

Donnie R. Sparks,

District Manager.

[FR Doc. 91-20721 Filed 8-28-91; 8:45 am]

BILLING CODE 4310-JB-M

[MT-060-00-4333-19]

Off-Road Vehicle Designation; Montana

AGENCY: Lewistown District, Bureau of Land Management, Department of the Interior.

ACTION: Notice to limit off-road vehicle use on public lands.

SUMMARY: Notice is hereby given that effective immediately the use of off-road vehicles (ORVs) is limited on public land within the Chain Buttes/Dunn Ridge area, in northern Petroleum County, Montana. This will be in effect during the bird and big game hunting season as established by the Montana Department of Fish, Wildlife and Parks, Petroleum County, Montana, in accordance with the authority and requirements of regulation 43 CFR 8364.1.

DATES: This designation will only be in effect during the bird and big game hunting season. The designation will terminate on December 1, 1991.

FOR FURTHER INFORMATION CONTACT: David L. Mari, District Manager, Bureau of Land Management (BLM), 80 Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The 81,930 acre area is administered by the BLM, Judith Resource Area, Lewistown District. This designation is the result of a cooperative effort among BLM, private landowners, U.S. Fish and Wildlife Service,, and Montana Department of Fish, Wildlife and Parks. The purpose of the designation is to prevent damage to soil, vegetative, and scenic resources, to open additional private and state lands for hunting, and to reduce landowner/recreationist conflicts so as to provide a higher quality hunt.

The off-road vehicle limitation area is located in northern Petroleum County, Montana. It includes all public lands administered by the BLM north of the Crooked Creek and Dovetail roads.

Hunting within the described block will be subject to the following restrictions: 1. No travel off designated routes except for big game retrieval; 2. Camps involving motorized travel must be within 100 yards of designated routes; 3. Limitations and regulations as found in 43 CFR 8340 apply.

Dated: August 20, 1991.

B. Gene Miller,

Associate District Manager.

off road vehicles

T.17N., R29E.
Sections 2, 3, 4, 5, 6
1,120 acres
T.18N., R28E.
Sections 1, 2, 3, 4, 10, 11, 12
2,160 acres
T.18N., R29E.
Sections 3, 4, 5, 6, 7, 8, 9, 10, 14, 15, 17, 18
5,920 acres
T.19N., R27E.
Sections 1, 2, 3, 8, 9, 10, 12, 13, 14, 15, 17, 20 21, 22
6,200 acres
T.19N., R28E.
Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 20, 22, 23, 24, 25, 26, 27, 28, 29, 34, 35
15,320 acres
T.19N., R29E.
Sections 4, 5, 6, 7, 8, 9, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33
8,760 acres
T.20N., R27E.
Sections 1, 2, 3, 4, 5, 9, 10, 12, 13, 14, 15, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 34, 35
8,960 acres
T.20N., R28E.
Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35
16,480 acres
T.20N., R29E.
Sections 4, 5, 6, 7, 8, 9, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33
7,360 acres

T.21N., R227E.
Sections 26, 27, 28, 29, 30, 31, 32, 33, 34, 35
4,880 acres
T.21N., R28E.
Sections 24, 25, 32, 33, 34
2,440 acres
T.21N., R29E.
Sections 19, 20, 29, 30, 31, 32
1,480 acres
Grand Total, 81,080 acres.

[FR Doc. 91-20722 Filed 8-28-91; 8:45 am]
BILLING CODE 4310-DN-M

[UT-050-01-4211-10]

Henry Mountain Resource Area, UT; Preparation of Transportation Plan

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Preparation of the Henry Mountain Resource Area Transportation Plan.

SUMMARY: Preparation of Transportation Plan for the Henry Mountain Resource Area, Wayne and Garfield Counties in Utah. The BLM is in the process of updating the Area Transportation Plan and is inventorying all existing roads in the resource area. During this inventory BLM is making administrative determinations for roads asserted by Garfield and Wayne Counties over Public Lands. In this process the counties must apply and present evidence of past construction or use prior to 1976 to the BLM. The BLM authorized officer shall on a case by case basis evaluate each situation and make determinations. He will then issue letters of acknowledgement for R.S. 2477 rights of way that are administratively determined to be present on public lands or issue findings of nonacceptance of R.S. 2477 grants where the congressional grant is administratively determined not to have attached. No administrative determinations will be issued prior to December 1, 1991. Anyone wishing to present evidence about the status of these roads for this process should contact Kay Erickson, Henry Mountain Resource Area, P.O. Box 99, Hanksville, UT, 84734 before October 15, 1991.

Dated: August 22, 1991.

Alan Partridge,

Acting District Manager, Richfield District.

[FR Doc. 91-20723 Filed 8-28-91; 8:45 am]
BILLING CODE 4310-DQ-M

Minerals Management Service

Proposed 1994 Cook Inlet Lease Sale 149 Request for Interest and Comments (Comments Due in 45 Days)

Purpose

The Cook Inlet proposed Outer Continental Shelf (OCS) Oil and Gas Lease Sale 149 has been designated as an area proposed for consideration for leasing in the Proposed Comprehensive Program 1992–1997. Sale 149 is being reviewed by Secretary of the Interior Manuel Lujan, Jr., to determine whether the OCS presale process should be initiated for this sale. The Request for Interest and Comments (RFIC) is an important part of our planning and consultation process and provides industry and other interested parties an opportunity to voice their interest and comments on the proposed lease sale. The oil and gas industry is asked to assist in this process by providing up-to-date information on its interest in leasing and exploring within the Cook Inlet Planning Area. Other interested and potentially affected parties are also asked to provide comments about particular geologic, environmental, biological, archaeological, or socioeconomic conditions, potential conflicts, and other information that might bear upon potential leasing and development in the Cook Inlet Planning Area.

The first early planning and consultation step in the new Area Evaluation and Decision Process (AEDP) is the Information Base Review (IBR), which was conducted in June 1991. The RFIC follows the IBR and is important for ensuring that interest and concerns are communicated to the Department of the Interior for future decisions in the leasing process pursuant to the OCS Lands Act.

Information and comments reviewed in the IBR and the RFIC will assist the Secretary of the Interior in determining if the presale process for the proposal should be started, delayed, or deferred. This approach is designed to add flexibility to the program and provide a broad overview of available information. Other information of interest would include new geophysical data, new geologic data, biological, archaeological, environmental, socioeconomic data, new interpretations of existing data, and new estimates of costs of production. By requesting and assessing existing biological, environmental and economic data and acting on it prior to the issuance of the Call for Information and Nominations, and risks of inappropriate expenditures or potential conflicts would be reduced.

If responses to this RFIC indicate sufficient interest to warrant proceeding with the sale, these prelease steps in the AEDP would follow: Call for Information and Nominations and Notice of Intent to Prepare an Environmental Impact Statement (EIS), Proposed Action and Alternative Memorandum (PAAM), Area Identification, draft EIS, proposed Notice of Sale, Public Hearings, Governor's Comments, final EIS, Consistency Determination, and Notice of Sale. For Alaska sales, the entire process takes a minimum of 42 months.

Description of the Area

The Cook Inlet Planning Area extends east from approximately 56°57′ N. latitude at 156°25′ W. longitude to the intersection with the Submerged Lands Act (SLA) limit, thence generally northeast along the SLA limit to approximately 152°27′ W. longitude, thence north to the SLA limit, thence around the SLA limit to approximately 59° N. latitude at 152° W. longitude, thence north to the SLA limit, thence following the SLA limit to the point of origin. The planning area includes approximately 1,100 blocks covering approximately 5.3 million acres and is outlined on the map found at the end of this document.

The area for consideration of leasing, as depicted by the shaded areas (Upper Cook Inlet and Shelikof Straits) on the attached map, includes approximately 254 blocks covering approximately 1.2 million acres.

Respondents are advised that maps of the Cook Inlet Planning Area are presently depicted under North American Datum 1927. However, this area is scheduled for conversion to North American Datum 1983 prior to the publication of the proposed Notice of Sale (tentatively scheduled for mid 1993) should we proceed to that point in the process for Sale 149.

A larger scale map of the Cook Inlet Planning Area is available from the Records Manager, Alaska OCS Region, Minerals Management Service, 949 East 36th Avenue, room 502, Anchorage, Alaska 99508–4302, telephone (907) 271–6621.

Previous Sale-Related Activities

There have been two previous lease sales and one reoffering sale held in the

Cook Inlet area: Sale CI held in October 1977, Sale 60 held in September 1981, and Sale RS–2 held in August 1982. As a result of those sales, over $402.8 million was collected in bonuses for the 96 leases issued. All of those leases have been relinquished or have expired. Sale 88, Gulf of Alaska/Cook Inlet, was originally to have been held in December 1984. After a long postponement, Sale 88 was canceled May 2, 1986, due to lack of industry interest. A prelease process was initiated for the combined Gulf of Alaska/Cook Inlet Sale 114.

However, in 1989, the sale was delayed by the Secretary pending further information about the consequences of the Prince William Sound oil spill. One Deep Stratigraphic Test well has been drilled in this area. In addition, 13 exploratory wells were drilled without commercial discovery of oil and gas. All 13 wells have been plugged and abandoned.

Instruction on Request for Interest

Information regarding leasing and exploring in the Cook Inlet Planning Area may be provided by mail, telephone, or, alternatively, an informal meeting with the Regional Director or designated representative. General or detailed information may be submitted. We request that you provide information on the following:

(1) Are you interested in the area at this time?

(2) Would your level of interest in this area change if oil and gas prices increase?

(3) Would your level of interest increase if the area under consideration for leasing was expanded to include more of the planning area? If so, please identify the additional areas of interest.

(4) What general or detailed information can you provide regarding whether we should proceed in this planning area with the OCS presale process; delay the presale process for 1 year or more; or defer the sale for consideration in a future 5-year schedule?

(5) Is your company spending money on any oil and gas activities in this area or are expenditures anticipated on activities such as geologic and geophysical work, etc.?

(6) What comments and suggestions can you provide on your choice of minimum bid level, alternative bidding systems, and other procedures which may lead to enhanced understanding of the oil and gas resources of the Cook Inlet Planning Area?

(7) What specific environmental, social, biological, or archaeological concerns should be considered in a decision to proceed with the presale process?

(8) What potential conflicts with approved local coastal management plans (CMP's) are foreseen which may result from the proposed sale and future OCS oil and gas activities?

(9) What steps should Minerals Management Service take to avoid or mitigate any potential conflicts?

In order to be included in the review process, information must be submitted no later than 45 days following publication of this document in the **Federal Register**. Receipt of the information will be facilitated if the envelope is marked "Request for Interest on Proposed Lease Sale 149, Cook Inlet." The telephone number and name of the person to contact in the respondent's organization for additional information should also be included. Letters should be mailed or hand delivered to the Regional Supervisor, Leasing and Environment, Alaska OCS Region, 949 East 36th Avenue, Room 110, Anchorage, Alaska 99508–4302. Telephone responses may be made to Mr. Tom Warren at (907) 271–6691.

Dated: August 23, 1991.
Approved.

Richard Roldan,

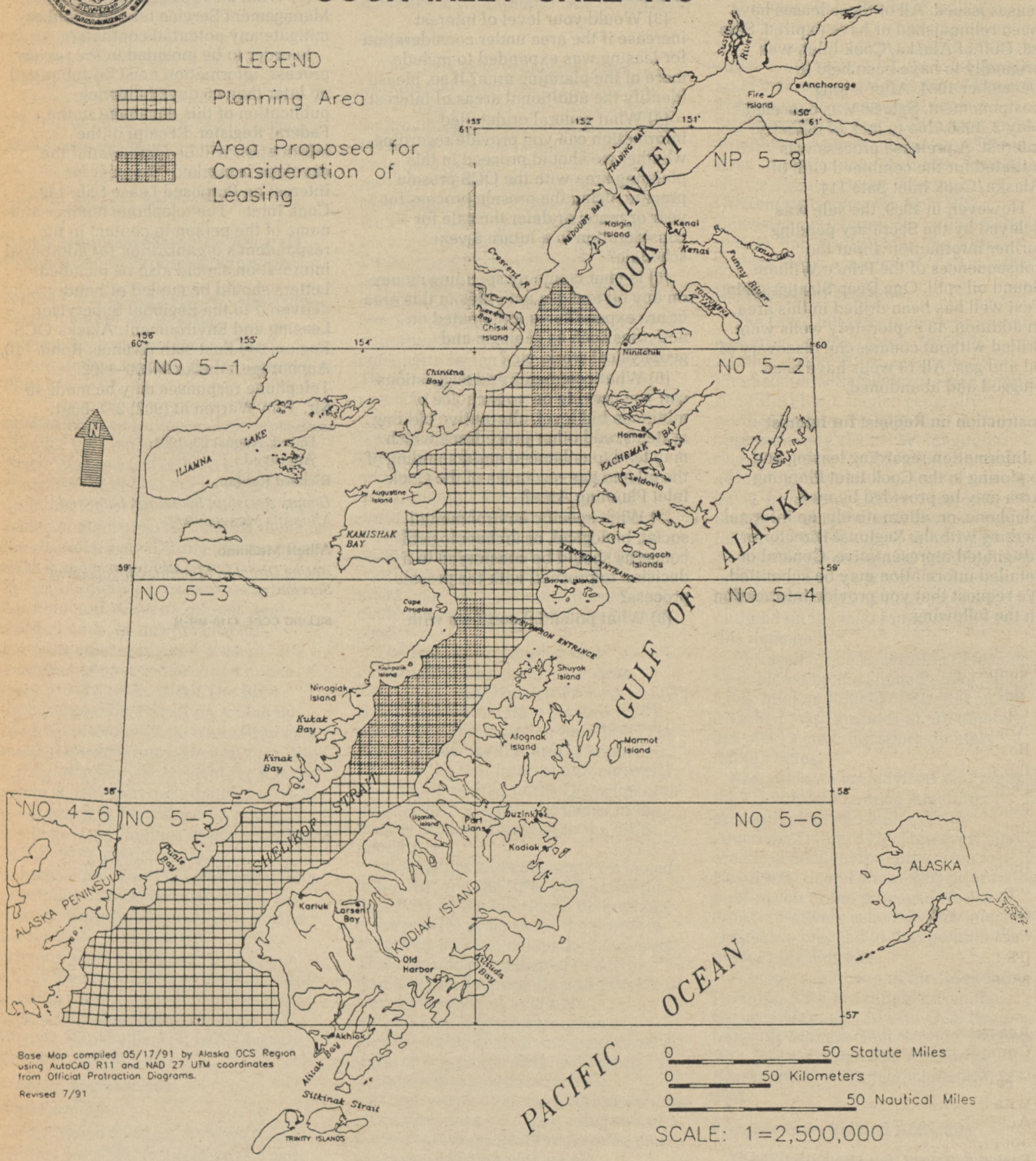
Deputy Assistant Secretary. Land and Minerals Management.

Albert Modiano,

Acting Director, Minerals Management Service.

BILLING CODE 4310–MR–M

REQUEST FOR INTEREST AND COMMENTS
COOK INLET-SALE 149



Base Map compiled 05/17/91 by Alaska OCS Region using AutoCAD R11 and NAD 27 UTM coordinates from Official Protraction Diagrams.

Revised 7/91

[FR Doc. 91-20702 Filed 8-28-91; 8:45 am]

BILLING CODE 4310-MR-C

National Park Service

Acadia National Park; Bar Harbor, ME; Availability of Draft General Management Plan/Environmental Assessment

In accordance with the planning policies and guidelines of the National Park Service, U.S. Department of the Interior, notice is hereby given of the availability of the Draft General Management Plan/Environmental Assessment for Acadia National Park, Maine.

Comments on the document may be made to the Superintendent, Acadia National Park, PO Box 177, Bar Harbor, ME 04609, during the public service period from August 15 to November 15, 1991. Public meetings on the draft plan will be held on Wednesday, August 28, and Thursday, September 5, and will convene at 7 p.m. in the Mount Desert Island High School, Eagle Lake Rd., Bar Harbor.

Limited copies are available to the public upon request from the park's planning office. Review copies are available at the following locations: In Maine, Bangor Library; Bass Harbor Memorial Library; College of the Atlantic, Bar Harbor; Ellsworth Library; Jessup Memorial Library, Bar Harbor; Northeast Harbor Library, Seal Harbor Library, Somesville Library Association, Southwest Harbor Public Library, University of Maine, Orono; University of Maine, Machias; University of Southern Maine, Portland. In Massachusetts, Boston Public Library, Cambridge Library, and the NPS North Atlantic Regional Office, 15 State St., Boston. In New York, New York Public Library (42nd Street Branch). In Pennsylvania, the Philadelphia Free Library. In Washington, DC., the Library of Congress and the National Park Service Headquarters, Main Interior Building at 1849 C St.

Dated: August 21, 1991.

Gerald D. Patten,

Regional Director.

[FR Doc. 91–20696 Filed 8–28–91; 8:45 am]

BILLING CODE 4310–70–M

Acadia National Park Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463. 86 Stat. 770, 5 U.S.C. app. 1, sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday September 16, 1991.

The Commission was established pursuant to Public Law 99–420, Sec. 103. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the Park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at the Town Office Building, Northeast Harbor, Maine, at 1 p.m. to consider the following agenda:

1. Review and approval of minutes from the meeting held June 17, 1991.
2. Draft General Management Plan/Environmental Assessment.
3. Presentation of proposed plans by Abbe Museum
4. Proposed agenda and date of the next Commission meeting.

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning these meetings may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, tel: (207) 288–5456.

Dated: August 21, 1991.

Gerald D. Patten,

Regional Director.

[FR Doc. 91–20694 Filed 8–28–91; 8:45 am]

BILLING CODE 4310–70–M

Farmington Wild and Scenic River Study, Massachusetts and Connecticut Farmington River Study Committee; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. app. 1, sec. 10), that a meeting of the Farmington River Study Committee will be held Thursday, September 12, 1991.

The Committee was established pursuant to Public Law 99–590. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the study of the Farmington River segments. The meeting will convene at 7:30 p.m. at the Canton Town Hall, Canton, CT, for the following purpose:

1. Approval of minutes from 6/13/91 meeting;
2. Update on status of instream flow study;
3. River Conservation Planning Subcommittee;
   a. Update on local activity—town meetings, zoning regulations;
   b. Private land protection program;
   c. Resident/landowner questionnaire;
4. Discussion of plans for preparation of Draft Study Report;
5. Opportunity for public comment; and
6. Other business—
   a. Next meeting dates and locations.

Interested persons may make oral/written presentations to the Committee or file written statements. Such requests should be made to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from the Chief, Office of Communications, National Park Service, North Atlantic Region, 15 State Street, Boston, MA, 02109 (617) 223–5199.

Dated: August 22, 1991.

Gerald D. Patten,

Regional Director.

[FR Doc. 91–20695 Filed 8–28–91; 8:45 am]

BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

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 provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029–0040), Washington, DC 20503, telephone 202–395–7340.

Title: Requirements for Permits for Special Categories of Mining—30 CFR part 785.

OMB approval number: 1029–0040.

Abstract: Sections 711 and 515 of Public Law 95–87 require applicants for special types of mining activities to provide description, maps, and plans of the proposed activity. This information is used by the regulatory authority in determining whether the applicant meets the applicable performance and environmental standards for the specific type of mining activity.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Surface coal mine operators.

Estimated completion time: 29 hours.

Annual Responses: 1,093.

Annual Burden Hours: 31,724.

Bureau clearance officer. Richard L. Wolfe (202) 343–5143

Dated: July 25, 1991.

Andrew F. DeVito,

Acting Chief, Division of Technical Services.

[FR Doc. 91–20724 Filed 8–28–91; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31834]

Norfolk and Western Railway Company—Purchase—Chicago and Western Indiana Railroad Co. (Hammond Line)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Commission exempts Norfolk and Western Railway Company (NW) from the prior approval requirements of 49 U.S.C. 11343-11344 for the purchase of a 6.37-mile rail line located between 74th and 110th streets in Chicago, IL. The line is presently owned by the Chicago and Western Indiana Railroad Company and leased by NW. The exemption is subject to employee protective conditions and historic preservation conditions.

DATES: The exemption is effective on September 28, 1991. Petitions for stay must be filed by September 9, 1991. Petitions for reconsideration must be filed by September 18, 1991.

ADDRESSES: Send pleadings referring to Finance Docket No. 31834 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representatives: R. Allan Wimbish, Three Commercial Place, Norfolk, VA 23510–2191 and Marvin F. Metge, 300 W. Washington St., suite 1500, Chicago, IL 60606.

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, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–1721.]

Decided: August 21, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–20764 Filed 8–28–91; 8:45 am]

BILLING CODE 7035–01–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearings of the Judicial Conference Advisory Committees on Appellate, Civil, Criminal, Bankruptcy and Evidence Rules

AGENCY: Judicial Conference of the United States.

ACTION: Notice of hearings.

SUMMARY: The Judicial Conference Advisory Committees on the Federal rules of Appellate, Civil, Criminal, and Bankruptcy Rules, have proposed amendments to various rules. The Advisory Committee on Civil Rules has also proposed amendments to the Rules of Evidence. The Advisory Committee on Criminal Rules also has proposed amendments to the section 2255 Rules.

In order that persons and organizations wishing to do so may comment orally on the proposed rules, hearings on the Civil Rules and Rules of Evidence will be held in Los Angeles, California on November 21, 1991. Hearings on the amendments to the Appellate Rules in Chicago, Illinois on December 4, 1991; on the Bankruptcy Rules Amendments in Raleigh, North Carolina on January 24, 1992 and in Pasadena, California on February 28, 1992; and on the Criminal Rules and section 2255 Rules Amendments in Tampa, Florida on November 7, 1991 and Los Angeles, California on January 17, 1992. The hearings will begin each day at 9 a.m.

Anyone interested in testifying must contact Mr. Joseph F. Spaniol, Jr., Secretary, Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts, Washington, DC 20544, at least 30 days before a hearing date. Copies of the proposed amendments are available upon written request.

Dated: August 21, 1991.

Joseph F. Spaniol, Jr.,

Secretary, Committee on Rules of Practice and Procedure.

[FR Doc. 91–20531 Filed 8–28–91; 8:45 am]

BILLING CODE 2210–01–M

DEPARTMENT OF JUSTICE

Extension of Comment Period for Consent Order Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

On August 1, 1991, at 56 FR 36845, the Department of Justice published a notice that a proposed consent order in *United States* v. *BASF-Import Corporation, et al.*, Civil Action No. 91–40320, had been lodged with the United States District Court for the Eastern District of Michigan on July 18, 1991. The proposed consent order concerns cleanup of a hazardous waste site at the Metamora Landfill in Lapeer County, Michigan, by the defendants.

The Department of Justice has received comments requesting an extension of the thirty day comment period to permit interested parties additional time to review the consent decree and prepare comments. The Department of Justice will extend the comment period for an additional thirty day period, to September 30, 1991. Persons wishing to submit comments should follow the procedures set out in the Notice of Lodging on August 1, 1991, at 56 FR 36845.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 91–20725 Filed 8–28–91; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on August 15, 1991, a proposed Consent Decree in *United States* v. *Nell Taylor et al.* Civil Action No. L–86–0310–L(A) was lodged with the United States District Court for the Western District of Kentucky. The Complaint was brought pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*, to recover costs incurred in the removal of hazardous substances from a facility at which the defendants disposed waste. Pursuant to the proposed consent decree, the United States would recover $2.82 million of approximately $3.4 million in costs, exclusive of interest, incurred by EPA in response to the release and threatened release of hazardous substances at the A. L. Taylor Superfund Site (a.k.a. "The Valley of the Drums"), a landfill near

Louisville, Kentucky ("the Site"). In addition, the consent decree requires the settling defendants to pay $800,000 into a specially established account within the Commonwealth of Kentucky Hazardous Substances Fund to pay for the remaining 29 years of operation and maintenance at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044. Comments should refer to *United States* v. *Nell Taylor, et al.* D.J. Ref. No. 90–11–3–63.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Western District of Kentucky, Bank of Louisville Bldg., 510 West Broadway, 10th Floor, Louisville, Kentucky; Office of Regional Counsel, Environmental Protection Agency, 345 Courtland St., Atlanta, Georgia; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004, (202) 347–7829.

A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center.

In requesting a copy, please enclose a check in the amount of $7.25 (25 cents per page reproduction cost) payable to the "Consent Decree Library."

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–20682 Filed 8–28–91; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Bell Communications Research, Inc.

Notice is hereby given that, pursuant to Section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") on July 29, 1991, filed a written notification on behalf of Bellcore and American Telephone and Telegraph Company ("AT&T") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objective of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

AT&T is a New York corporation with its principal place of business at 550 Madison Avenue, New York, New York 10022.

Bellcore and AT&T entered into an agreement effective as of June 12, 1991 to engage in cooperative research to gain a better understanding of the underlying theories and technologies needed to determine methodologies and tools for quantitative measurement of fire risks in telecommunications facilities.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 91–20680 Filed 8–28–91; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—Microelectronics and Computer Technology Corp.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Microelectronics and Computer Technology Corporation ("MCC") on July 30, 1991 filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing certain information. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On December 21, 1984 MCC and its shareholders filed their original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 17, 1985 (50 FR 2633). MCC and its shareholders filed additional notifications on March 29, 1985, July 30, 1986, November 7, 1986, December 23, 1986, February 25, 1987, December 23, 1987, March 4, 1988, August 16, 1988, September 19, 1989, January 16, 1990, March 7, 1990, April 11, 1990, July 11, 1990, October 2, 1990, January 17, 1991 and March 1, 1991. The Department published notices in the **Federal Register** in response to these additional notifications on April 23, 1985 (50 FR 15989), September 10, 1986 (51 FR 32263), December 8, 1986 (51 FR 44132), February 3, 1987 (52 FR 3356), March 19, 1987 (52 FR 8661), January 22, 1988 (53 FR 1859), March 29, 1988 (53 FR 10159), September 22, 1988 (53 FR 36910), October 26, 1989 (54 FR 43631), March 8, 1990 (55 FR 8612), April 9, 1990 (55 FR 13200), May 8, 1990 (55 FR 19114), May 8, 1990, (55 FR 19114), October 24, 1990 (55 FR 42916), December 28, 1990 (55 FR 53367), February 11, 1991 (56 FR 5424), and July 1, 1991 (56 FR 29976), respectively. On October 21, 1985, MCC filed an additional notification for which a **Federal Register** notice was not required.

MCC disclosed that it intends to conduct research in areas relating to advanced display technology through the Advanced Display Consortium ("ADC"). Cherry Display Products, Electro-Plasma Inc., Magnascreen, OIS Optical Imaging Systems, Photonics Imaging, Planar Systems Inc., Plasmaco Inc., Standish Industries, Inc. and Tektronix Incorporated, have become participants in ADC and Associate Members of MCC.

MCC also disclosed that it and Microsoft Corporation, an Associate Member of MCC, have entered into an agreement pursuant to which Microsoft will participate in one or more research projects with one or more MCC technology programs. Initially, Microsoft will participate in MCC's Cyc Project which involves research with the aim to construct a "common sense" knowledge/reasoning substrate.

Valid Logic Systems Incorporated has become an Associate Member of MCC and a participant in MCC's Open Systems Satellite.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91–20681 Filed 8–28–91; 8:45 am]

BILLING CODE 4410–01–M

The National Cooperative Research Act of 1984—Open Software Foundation, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Open Software Foundation, Inc. ("OSF") on July 25, 1991, filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The additional notification was filed for the purpose of extending the protections of section 4 of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On August 8, 1988, OSF and the Open Software Foundation Research Institute, Inc. (the "Institute") filed its original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 7, 1988 (53 FR 34594). On November 4, 1988, February 2, 1989, May 3, 1989, July 28, 1989, October 26, 1989, January 22, 1990, April 19, 1990, July 24, 1990, October 22, 1990, January 28, 1991, and April 25, 1991, OSF filed additional written notifications. The Department published notices in the **Federal Register** in response to these additional notifications on November 25, 1988 (53 FR 47773), February 23, 1989 (54 FR 7893), August 25, 1989 (54 FR 35407), August 25, 1989 (54 FR 35408), November 29, 1989, (54 FR 49123), April 18, 1990 (55 FR 14493), May 21, 1990 (55 FR 20861), September 27, 1990 (55 FR 39528), December 28, 1990 (55 FR 53368), March 25, 1991 (56 FR 12387), and June 13, 1991 (56 FR 27273), respectively. A corrected notice was published on July 11, 1991 (56 FR 31675).

The identities of the new, non-voting members of OSF are as follows:

Member	Date
DCA Center for Standards	4/24/91
SIGMA System, Inc	4/26/91
Sematech, Inc	4/30/91
University of Bilkent	4/30/91
University Erlangen-Nuernberg	5/5/91
INEGI—DEUP	5/6/91
McGill University	5/6/91
JP Morgan & Co. Inc	5/31/91
Non Standard Logics	5/31/91
Florida International University	6/4/91
University of Chicago Computer Science Dept	6/4/91
Marben Produit	6/6/91
Quest Systems Corp	6/6/91
Tokyo Denki University	6/6/91
American Express Travel Related Services	6/10/91
Lawrence Livermore National Laboratory	6/10/91
Volpe National Transportation Systems Center	6/19/91
ADUS	7/1/91
Liberty Mutual Insurance Group	7/1/91
Electric Power Research Institute	7/10/91
Daimler-Benz AG	7/18/91

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-20678 Filed 8-28-91; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Notification; Polyurethanes Recycle & Recovery Council of the Society of the Plastics Industry, Inc.

Notice is hereby given that, on July 31, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the PolyUrethanes Recycle & Recovery Council ("PURRC") of the Society of the Plastics Industry, Inc. filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture, and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the PURRC and its general areas of planned activities are given below.

The parties to the joint venture are:

AC West Virginia Polyol Co.
Air Products and Chemicals, Inc.
Allied-Signal, Inc.
ARCO Chemical Company
Atochem North America, Inc.
BASF Corporation
The Dow Chemical Company
Goldschmidt Chemical Corporation
ICI Americas, Inc.
Mobay Corporation
Olin Corporation
Stepan Chemical Company
Texaco Chemical Company
Union Carbide Corporation
Witco Corporation
The Society of the Plastics Industry, Inc.

The objectives of the PURRC are as follows: To foster responsible recycle and recovery technology for scrap and post-consumer polyurethane products; to evaluate markets for recycled polyurethane products; and to identify and provide positive leadership on recycling and recovery techniques for the polyurethane industry through sponsoring research in areas such as, but not necessarily limited to, separation, collection, purification, densification, reprocessing; energy, material and chemical recovery techniques; and new application for recycled material.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-20726 Filed 8-28-91; 8:45 am]

BILLING CODE 4410-01-M

The National Cooperative Research Act of 1984—Portable Power Equipment Manufacturers Association

Notice is hereby given that, on July 19, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Portable Power Equipment Manufacturers Association filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the joint venture and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture and its general areas of planned activities are provided below.

The participants in the venture, headed by the Portable Power Equipment Manufacturers Association, are:

1. Allied Engineered Plastics.
2. BASF Plastic Materials Division.
3. Carlton Company.
4. Dolmar U.S.A., Inc.
5. Echo, Inc.
6. Homelite Division of Textron, Inc.
7. Husqvarna Forest & Garden Company.
8. Intertia Dynamics Corporation.
9. Kawasaki Motor Corporation, U.S.A.
10. Komatsu Zenoah America, Inc.
11. Oregon Cutting Systems, Division of Blount, Inc.
12. R.E. Phelon Company, Inc.
13. Poulan/Weed Eater.
14. Shakespeare Monofilament Company.
15. Shindaiwa, Inc.
16. Stihl, Inc.
17. The Toro Company.
18. Walbro Corporation.
19. U.S. Zama, Inc.

The objectives of the venture include collecting, sharing, and analyzing information and data regarding the development and implementation of current and proposed technology for the purpose of complying with national and international exhaust emission standards.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-20679 Filed 8-28-91; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Notification; Investigation of the Potential Effects of Lubricating Oil on Diesel Flowthrough Catalysts

Notice is hereby given that, on July 26, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), written notification was filed by Southwest Research Institute simultaneously with the Attorney General and the Federal Trade Commission of a project entitled "Investigation of the Potential Effects of Lubricating Oil on Diesel Flowthrough Catalysts". The notification discloses (1)

the identities of the parties to the project and (2) the nature and objective of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activity are given below.

The parties to the project are: Euron S.P.A., Hino Motors, Ltd., Mercedes-Benz AG, Nissan Diesel Motor Co., Ltd., NGK Insulators, Ltd., Lubrizol Petroleum Chemicals Company, Toyota Motor Corporation, Nippon Shokubai Kagaku Kogyo Co., Ltd., Chevron Research and Technology Co., and Royal Lubricants Co., Inc.

The purpose of the project is to investigate the poisoning effects of lubricating oil on diesel flowthrough catalysts. The components of lubricating oil of concern are sulfur, phosphorus, zinc, and ash which are known to poison gasoline catalyst technologies. The major tasks involve:

(1) Determining whether the components of lubricating oil which affect gasoline catalysts technologies also act as poison to diesel catalysts; (2) what can be done to prevent poisoning;

(3) what alternatives are available; (4) what changes need to be made to the catalyst and (5) if a particular oil specification will be required with diesel flowthrough catalysts.

Membership in this group research project remains open, and the parties intend to file additional written notification disclosing all changes in membership of this project.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-20727 Filed 8-28-91; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Notification; Spray Drift Task Force

Notice is hereby given that, on July 23, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act") the Spray Drift Task Force filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in the membership of the parties to the Spray Drift Task Force Joint Data Development Agreement. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The first change consists of the addition of the following party to the Spray Drift Task Force:

Drexel Chemical Company

In addition, the member listed in the July 5, 1990, **Federal Register** 55 FR 27701, as Fermenta ASC Corporation has changed its name to ISK Biotech Corporation. No other changes have been made in either the membership, the objectives or the planned activities of the venture.

On May 15, 1990, the Spray Drift Task Force filed its original notification pursuant to section 6(a) of the Act. The Department of Justice ("the Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 5, 1990, at 55 FR 27701. On July 16, 1990, September 17, 1990, and March 25, 1991, the Spray Drift Task Force filed additional written notifications. The Department of Justice published notices in the **Federal Register** in response to these additional notifications on August 22, 1990 (55 FR 34357), October 18, 1990 (55 FR 42281), and April 24, 1991 (56 FR 18837) respectively.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 91-20728 Filed 8-28-91; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (91-76)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration (NASA) announces a forthcoming meeting of the NASA Advisory Council (NAC).

DATES: September 24, 1991, 9 a.m. to 5 p.m.; and September 25, 1991, 8:30 a.m. to 1 p.m.

ADDRESSES: National Aeronautics and Space Administration, room 7002, Federal Office Building 6, 400 Maryland Avenue, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Sylvia D. Fries, Code ADA-2, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-8766.

SUPPLEMENTARY INFORMATION: The NAC was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Mr. Caleb B. Hurtt and is composed of 26 members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, aerospace medicine, space science and applications, space systems and technology, space station, commercial programs, and history, as they relate to NASA's activities.

The meeting will be open to the public up to the seating capacity of the room, which is approximately 50 persons including Council members and other participants. Visitors will be requested to sign a visitor's register.

TYPE OF MEETING: Open.

Agenda

September 24, 1991

9 a.m.—Opening Remarks.
9:15 a.m.—Status of NASA Response to the Report of the Advisory Committee on the Future of the U.S. Space Program.
1 p.m.—NASA Aeronautics Program.
3:30 p.m.—NASA Technology Plan.
5 p.m.—Adjourn.

September 25, 1991

8:30 a.m.—Committee Reports.
Noon—Summary and Council Actions.
1 p.m.—Adjourn.

Dated: August 23, 1991.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91-20755 Filed 8-28-91; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMUNICATIONS SYSTEM

Closed Meeting; National Security Telecommunications Advisory Committee

A meeting of the National Security Telecommunications Advisory Committee will be held on Thursday, October 3, 1991. The business session of the meeting will be held at the Department of State. An executive session of the meeting will be held at the Old Executive Office Building.

Business Session

—Call to Order
—Welcome from Department of State
—Review of Ongoing NSTAC Activities
—Keynote Speech
—Review of Government Activities
—Closing Remarks
—Adjournment

Executive Session

—Call to Order
—Report to the President

—Discussion with Government Officials
—Adjournment

Due to the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (703) 692–9274 or write the Manager, National Communications System, 701 S. Court House Rd., Arlington, VA 22202–2199.

Dennis I. Parsons,

Captain, USN, Assistant Manager, NCS Joint Secretariat.

Beverly Sampson,

Federal Register Liaison Officer.

[FR Doc. 91–20743 Filed 8–28–91; 8:45 am]

BILLING CODE 3610–05–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Project Grants for Organizations, Design Education and Heritage Conservation Section) to the National Council on the Arts will be held on September 17–19, 1991 from 9 a.m.–7:30 p.m. and September 20 from 9 a.m.–5 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on September 20 from 3:30 p.m.–5 p.m. The topic will be policy discussion.

The remaining portions of this meeting on September 17–19 from 9 a.m.–7:30 p.m. and September 20 from 9 a.m.–3:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 5, 1991, as amended, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: August 20, 1991.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91–20677 Filed 8–28–91; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–424–OLA–2, 50–425–OLA–2, ASLBP No. 91–647–OLA–2]

Georgia Power Company, et al., (Vogtle Electric Generating Plant, Units 1 and 2); Order (Cancelling Prehearing Conference)

August 23, 1991.

Our order of July 30, 1991 scheduled a Prehearing Conference to be held on September 12, 1991 at the Federal Trade Commission, room 1010, 1718 Peachtree Street, NW., Atlanta, Georgia, beginning at 9 o'clock a.m.

The Prehearing Conference is cancelled, because, having advised on August 16, 1991 that it withdrew the pending license amendment request, on August 20, 1991 the Licensee filed a motion for an order terminating proceeding. After considering that motion and any response thereto, if the Board decides that the motion should be granted, the Board will issue an Order terminating this proceeding. After such consideration, if the Board decides to deny the motion, it will issue an Order and reschedule the Prehearing Conference.

It is so Ordered.

Dated: August 23, 1991, Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

Chairman.

[FR Doc. 91–20765 Filed 8–28–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2; Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (NRC) has denied a portion of an amendment request by the Tennessee Valley Authority (TVA or the licensee) for an amendment to Facility Operating License Nos. DPR–77 and DPR–79, issued to the licensee for operation of the Sequoyah Nuclear Plant, Units 1 and 2, located in Soddy Daisy, Tennessee. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on January 23, 1991 (56 FR 2556).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to incorporate the overtime limit guidance provided in Generic Letter 82–16, and incorporate certain position title and approval authority changes.

The NRC staff has concluded that the portion of the licensee's request regarding changing the title of the line management staff person who must hold a Senior Reactor Operator license from the Operations Manager to the Operations Superintendent cannot be granted. The licensee was notified of the Commission's denial of the proposed change by letter dated August 22, 1991.

By September 30, 1991, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to E.S. Christenbury, General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville,

Tennessee 37902. attorney for the licensee.

For further details with respect to this action, see (1) the application for amendments dated December 14, 1990, and (2) the Commission's letter to the licensee dated August 22, 1991.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland this 22nd day of August, 1991.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II–4, Division of Reactor Projects–I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–20766 Filed 8–28–91; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Request for Extension of OPM Form 1170 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a proposed extension of OPM Form 1170, which collects information from the public. The Supplemental Qualifications Statement in conjunction with the SF 171, Application for Federal Employment, collects detailed information from the applicant on his/her qualifications. The Office of Personnel Management then uses the information to examine the applicant's qualifications for Federal positions throughout the Federal Government. It is estimated that approximately 87,912 persons complete OPM Form 1170 at 40 minutes per response, for a total annual burden of 58,637 hours. For copies of this proposal, call C. Ronald Trueworthy on (703) 908–8550.

DATE: Comments on this proposal should be received on or before September 30, 1991.

ADDRESSES: Send or deliver comments to: C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, Room CHP 500, 1900 E Street, NW., Washington, DC 20415 and Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Sherry Turpenoff, (202) 606–0950.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91–20744 Filed 8–28–91; 8:45 am]

BILLING CODE 6325–01–M

OVERSIGHT BOARD

Regional Advisory Board Meetings, Regions 1–6

AGENCY: Oversight Board for the Resolution Trust Corporation.

ACTION: Meeting notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is hereby published for the regional advisory board meetings for Regions 1 through 6. The meetings are open to the public.

DATES: The meetings are scheduled as follows:

1. September 20, 10 a.m. to 3:30 p.m., Baton Rouge, La, Region 2 Advisory Board.
2. September 25, 1991, 10 a.m. to 3:30 p.m., Denver, Colo., Region 5 Advisory Board.
3. October 2, 10 a.m. to 3:30 p.m., Minneapolis, Minn. Region 3 Advisory Board.
4. October 8, 1991, 10 a.m. to 3:30 p.m., Phoenix, Ariz., Region 6 Advisory Board.
5. October 11, 1991, 10 a.m. to 3:30 p.m., Houston, Texas, Region 4 Advisory Board.
6. October 16, 1991, 10 a.m. to 3:30 p.m., Philadelphia, Pa., Region 1 Advisory Board.

ADDRESSES: The meetings will be held at the following locations:

1. Baton Rouge, La.—City Council Chambers, Governmental Building, Rm 348, 222 St. Louis Street.
2. Denver, Colo.—Hyatt Regency Denver, 1750 Welton Street.
3. Minneapolis, Minn.—Federal Reserve Bank of Minneapolis Auditorium, 20 Washington Avenue.
4. Phoenix, Ariz.—Phoenix Civic Plaza, Flagstaff Rm, 225 East Adams Street.
5. Houston, Texas—Federal Reserve Bank of Dallas/Houston Branch, 1701 San Jacinto Street.
6. Philadelphia, Pa.—Federal Reserve Bank of Philadelphia Auditorium, 100 North Sixth Street.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Oversight Board/RTC, 1777 F Street, NW., Washington, DC 20232, 202/786–9675.

SUPPLEMENTARY INFORMATION: Section 501(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (the ACT), Public Law No. 101–73, 103 Stat. 183, 382–383, directed the Oversight Board to establish one national advisory board and six regional advisory boards.

Purpose: The advisory boards provide the Resolution Trust Corporation (RTC) with information and recommendations on the policies and programs for the sale of RTC owned real property assets.

Agenda: A detailed agenda will be available at the meeting. The regional advisory boards will address the following issues: (1) Contracting, (2) "hard-to-sell" assets, (3) seller financing, (4) property taxes, (5) identifying properties with natural, cultural, recreational or scientific value or special significance, and (6) selling multi-family affordable housing. In addition, there will be briefings by the RTC on activity pertaining to that region and policy updates by the Oversight Board.

Statements: Interested persons may submit to the advisory board written statements, data, information, or views on the issues pending before the board prior to or at the meeting. The meeting will include a public forum for oral comments. Oral comments will be limited to approximately five minutes. Interested person may sign up for the public forum at the meeting. All meetings are open to the public. Seating is available on a first come first served basis.

Dated: August 26, 1991.

Jill Nevius,

Committee Management Officer, Office of Advisory Board Affairs.

[FR Doc. 91–20757 Filed 8–28–91; 8:45 am]

BILLING CODE 2222–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Areas #2520, #2521, & #2522]

New York; (and Contiguous Counties in New Jersey & Connecticut); Declaration of Disaster Loan Area

Westchester County and the contiguous counties of Bronx, Putnam, and Rockland in the State of New York; Bergen County in the State of New

Jersey; and Fairfield County in the State of Connecticut constitute a disaster area as a result of damages caused by a fire which occurred at the Green River Luxury Apartment Complex at 284 South Columbus Avenue in the City of Mount Vernon on July 11, 1991. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 18, 1991 and for economic injury until the close of business on May 19, 1991 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Fl., Occidental Chemical Center, Niagara Falls, NY 14302, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	9.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damage are 252005 for New York; 252105 for New Jersey; and 252205 for Connecticut. For economic injury the numbers are 737300 for New York; 737400 for New Jersey; and 737500 for Connecticut.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: August 19, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91–20710 Filed 8–28–91; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Areas #2523, #2524, & #2525]

Pennsylvania (and Contiguous Counties in New Jersey and Delaware); Declaration of Disaster Loan Area

Delaware County and the contiguous counties of Chester, Montgomery, and Philadelphia in the State of Pennsylvania; Gloucester County in the State of New Jersey; and New Castle County in the State of Delaware constitute a disaster area as a result of damages from heavy rains which caused flash flooding in Darby Borough, Upper Darby Township, and Morton Borough on August 9, 1991. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 21, 1991 and for economic injury until the close of business on May 20, 1992 at the address listed below:

Disaster Area 2 Office, Small Business Administration, One Baltimore Place, Suite 300, Atlanta, GA 30308

or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and nonprofit organizations without credit available elsewhere	4.000
Others (including nonprofit organizations) with credit available elsewhere	9.125
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damage are 252306 for Pennsylvania; 252406 for New Jersey; and 252506 for Delaware. For economic injury the numbers are 737800 for Pennsylvania; 737900 for New Jersey; and 738000 for Delaware.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 20, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91–20711 Filed 8–28–91; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Economic Injury Disaster Loan Areas #7376 and #7377]

Washington (And Contiguous Counties in Oregon); Declaration of Disaster Loan Area

Wahkiakum County and the contiguous counties of Cowlitz, Lewis, and Pacific in the State of Washington and Clatsop and Columbia Counties in the State of Oregon constitute an Economic Injury Disaster Loan Area due to damages caused by a rock and mud slide which occurred on February 10, 1990 and closed State Route 4. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on May 19, 1992 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento California 95853–4795; or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number assigned to the State of Washington is 737600 and for the State of Oregon the number is 737700.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: August 19, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91–20712 Filed 8–28–91; 8:45 am]

BILLING CODE 8025–01–M

Region V Advisory Council Meeting

The U.S. Small Business Administration Region V Advisory Council, located in the geographical area of Indianapolis, will hold a public meeting at 9:30 a.m. on Thursday, October 31, 1991, at the North Meridian Inn, 1530 North Meridian Street, Indianapolis, Indiana, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Robert D. General, District Director, U.S. Small Business Administration, 429 North Pennsylvania Street, Suite 100, Indianapolis, Indiana 46204–1873, telephone (317) 226–7275.

Dated: August 23, 1991.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 91–20713 Filed 8–28–91; 8:45 am]

BILLING CODE 8025–01–M

Region VI Advisory Council Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of New Orleans, will hold a public meeting at 10 a.m. on Friday, September 27, 1991, at the Small Business Administration Office, 1661 Canal Street, Suite 2000, New Orleans, Louisiana, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Abby H. Carter, District Director, U.S. Small Business Administration, 1661 Canal Street, Suite 2000, New Orleans,

Louisiana 70112–2890, telephone (504) 589–2744.

Dated: August 23, 1991.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 91–20714 Filed 8–28–91; 8:45 am]

BILLING CODE 8025–01–M

Region IV Advisory Council Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Columbia, will hold a public meeting at 9:30 a.m. on Wednesday, September 25, 1991, at Seawell's Restaurant, South Carolina State Fairgrounds, 1120 Rosewood Drive, Columbia, South Carolina, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Elliott Cooper, District Director, U.S. Small Business Administration, 1835 Assembly Street, Room 358, Columbia, South Carolina 29201, telephone (803) 765–5339.

Jean M. Nowak,

Director, Office of Advisory Councils.

Dated: August 23, 1991.

[FR Doc. 91–20715 Filed 8–28–91; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 91–048]

Coast Guard Academy Advisory Committee

ACTION: Notice of opening meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app I) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held in Hamilton Hall at the U.S. Coast Guard Academy, New London, CT, on Monday, Tuesday and Wednesday October 28 through 30, 1991. Open sessions on Monday will be from 9:30 a.m. to 10:30 a.m. and 1:15 p.m. to 2:15 p.m. The open session on Tuesday will be held from 2:30 p.m. to 3:15 p.m. and the open session on Wednesday will be held from 9 a.m. to 9:45 a.m. The agenda for the meeting consists of the following items:

1. Recruiting and Admission
2. Athletics
3. Faculty and Curricula
4. Library

The Coast Guard Academy Advisory Committee was established in 1937 by Public Law 75–38 to advise on the course of instruction at the Academy and to make recommendations as necessary. Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to attend or present oral statements at the meeting should notify the U.S. Coast Guard Academy not later than October 11, 1991. Any member of the public may present a written statement to the Committee at any time.

For further information contact Dr. William A. Sanders, Dean of Academics, U.S. Coast Guard Academy, New London, CT 06320, ph (203) 444–8275.

Dated: August 21, 1991.

G. D. Passmore,

Rear Admiral, U.S. Coast Guard, Chief, Office of Personnel and Training.

[FR Doc. 91–20732 Filed 8–28–91; 8:45 am]

BILLING CODE 4910–14–M

[CGD 91–047]

Oil Pollution Act of 1990—Compliance with the Requirements of the National Environmental Policy Act

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Coast Guard is announcing that it will hold a scoping meeting to obtain the views of the public and interested government agencies on the appropriate environmental documentation for certain regulations to be issued under the authority of the Oil Pollution Act of 1990 (OPA 90). The Coast Guard will use the information from the meeting in determining how to meet the requirements of the National Environmental Policy Act for some of the regulatory projects it is developing under OPA 90.

DATES: The meeting will be held on September 26, 1991 at 9 a.m.

ADDRESSES: The meeting will be held in room 2415, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Novak, Manager, Clearance and Coordination, OPA 90 Staff, (202) 267–6819.

SUPPLEMENTARY INFORMATION: On August 18, 1990, the President signed the Oil Pollution Act of 1990 (Pub. L. 101–380) (OPA 90). OPA 90 provides a comprehensive approach to the prevention and mitigation of oil spills and addresses financial liability and compensation following an oil spill. The Coast Guard has the responsibility to implement large portions of OPA 90 through developing and issuing regulations that will affect such areas as tank vessel construction and operation, response planning, and crew standards.

An integral part of the regulatory process is the responsibility to comply with the requirements of the National Environmental Policy Act (42 U.S.C. 4321–4347) (NEPA). At this point, the Coast Guard has initiated two rulemaking projects under OPA 90: A notice of proposed rulemaking on double hulls (55 FR 50192, December 5, 1990) and an advance notice of proposed rulemaking on tank level or pressure monitoring devices (56 FR 21116, May 7, 1991). The Coast Guard believes that several different documents may be needed to discuss adequately the environmental impacts of the regulations implementing OPA 90.

Therefore, in accordance with the provisions of the regulations issued under NEPA (40 CFR 1501.7), the Coast Guard will hold a scoping meeting on September 26, 1991 to obtain the views of all interested parties on the scope of the documentation necessary in order for the regulations to be issued under titles IV and V of OPA 90 to comply with the requirements of NEPA.

All interested individuals, organizations, and agencies are invited to attend this meeting and assist the Coast Guard in identifying the scope of the environmental issues raised by OPA 90 and the most appropriate way of responding under NEPA.

Dated: August 23, 1991.

A. E. Henn,

Rear Admiral U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 91–20669 Filed 8–28–91; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

August 23, 1991.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection

should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0998.
Form Number: 8615.
Type of Review: Resubmission.
Title: Tax for Children Under Age 14 Who Have Investment Income of More Than $1,100.
Description: Under section 1(g), children under age 14 who have unearned income may be taxed on part of that income at their parent's tax rate. Form 8615 is used to see if any of the child's unearned income is taxed at the parent's rate and, if so, to figure the child's tax on his or her unearned income and earned income, if any.
Respondents: Individuals or households.
Estimated Number of Respondents: 500,000.
Estimated Burden Hours Per Response/Recordkeeping: Recordkeeping—13 minutes. Learning about the law or the form—12 minutes. Preparing the form—44 minutes. Copying, assembling, and sending the form to IRS—17 minutes.
Frequency of Response: Annually.
Estimated Total Recordkeeping/Reporting Burden: 720,000 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 91–20730 Filed 8–28–91; 8:45 am]
BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

August 22, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt

OMB Number: New.
Form Number: None.
Type of Review: New collection.
Title: Investor survey.
Description: This survey will be conducted to determine investor's utilization of and satisfaction with Treasury Direct book-entry securities system.
Respondents: Individuals or households, small businesses or organizations.
Estimated Number of Respondents: 1200.
Estimated Burden Hours Per Response: 5 minutes.
Frequency of Response: Other (one-time survey).
Estimated Total Reporting Burden: 100 hours.
OMB Number: New.
Form Number: PD F 1071.
Type of Review: New collection.
Title: Certificate of ownership of United States Bearer Securities.
Description: This form is to be completed by a person or legal representative of the person (executor, administrator, trustee, etc.) that claims to be the owner of U.S. Bearer Securities. It may also be completed by the official representative of an organization who claims to be the owner of U.S. Bearer Securities. The person executing the form certifies that they, or the person or entity that they represent, are the lawful owner of the securities and have good title.
Respondents: Individuals or households, State or local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations.
Estimated Number of Respondents: 1,000.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 500 hours.

Clearance Officer: Rita DeNagy (202) 447–1640; Bureau of the Public Debt; room 137, BEP Annex, 300 13th Street, SW., Washington, DC 20239–0001.

OMB Reviewer: Milo Sunderhauf (202) 395–6880; Office of Management and Budget; room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer
[FR Doc. 91–20729 Filed 8–28–91; 8:45 am]
BILLING CODE 4810–40–M

federal register

Thursday
August 29, 1991

Part II

International Development Cooperation Agency

Agency for International Development

22 CFR Part 211

Transfer of Food Commodities for Use in Disaster Relief, Economic Development and Other Assistance; Proposed Rule

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 211

[A.I.D. Regulation 11]

Transfer of Food Commodities for Use in Disaster Relief, Economic Development and Other Assistance

AGENCY: Agency for International Development (A.I.D.), IDCA.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the regulation at 22 CFR 211 "Transfer of Food Commodities for Use in Disaster Relief, Economic Development and Other Assistance," to conform the Regulation to amendments made to title II of the Agricultural Trade Development and Assistance Act of 1954 (Pub. L. 480) by the Agricultural Development and Trade Act of 1990, Public Law 101–624, November 28, 1990, and to make other necessary changes.

DATES: Comments from all interested parties must be received by September 30, 1991.

ADDRESSES: Comments concerning this proposed rule should be sent to Ms. Jessie C. Vogler or Ms. Donna Rosa, Chief, Project Coordination Division, Office of Program, Policy and Management, Bureau for Food for Peace and Voluntary Assistance, Agency for International Development, Washington, DC 20523. Telephone (703) 235–0849.

FOR FURTHER INFORMATION CONTACT: Jessie Vogler or Donna Rosa, Telephone (703) 235–0849.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under A.I.D.'s required procedures. It has been determined that these program provisions will not result in any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Regulatory Flexibility Act is not applicable to this notice since A.I.D. is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking because the subject matter of the rule involves foreign affairs functions of the United States and a matter relating to grants.

The regulations contained in this part substitute for title II grant agreements and must, therefore, contain the standard terms and conditions the government generally includes in such agreements in order to maintain effective systems of accountability for public resources. Section 207(c)(2) of Public Law 480 instructs A.I.D. to develop regulations with the purpose of simplifying procedures for participating in programs, reducing paperwork requirements, establishing reasonable and realistic accountability standards and providing flexibility for carrying out programs under title II of Public Law 480. During 1990, A.I.D. collaborated with private voluntary agencies and other interested persons in a comprehensive review of regulation 11 to accomplish these same objectives as well as to improve understanding and mutual agreement about the responsibilities of the government, cooperating sponsors and others participating in the title II program.

Toward this end, the following changes to the regulation were adopted in 1990: A cooperating sponsor may be represented in the country of distribution or nearby country by a person who is not a citizen of the United States if the cooperating sponsor so chooses; the cooperating sponsor may increase or decrease by 10 percent the amount of commodities, monetized proceeds or program income allocated to components of the operational plan without prior approval of A.I.D.; monetized proceeds and program income are maintained in a special, interest bearing account and the cooperating sponsor may use interest for program purposes; monetized proceeds and program income must be used in accordance with the allowable cost principles of OMB Circular A–122 so there is mutual understanding regarding expenditures in order to avoid questioned costs later, except that a recipient agency may use up to $500 of voluntary contributions for any development or humanitarian purpose it considers appropriate without regard to the operation plan or allowable cost principles; the cooperating sponsor may use commercially reasonable practices in purchasing goods and services with monetized proceeds and program income; a cooperating sponsor may choose to use these resources to finance repair or rehabilitation of church-owned structures, without prior A.I.D. approval, to the extent necessary to avoid spoilage or loss of donated commodities stored in the structure, provided that it is not use for any sectarian purpose while donated commodities are stored in it; in order to ease the administrative burden on a cooperating sponsor, it may decide not to pursue a claim against the responsible third party if the loss is less than $500 rather than the prior threshold of $300, and the commodity loss reporting requirement was changed from a prompt detailed report regarding each loss to a detailed report within 90 days regarding each commodity loss that exceeds $500 and quarterly reports simply identifying losses of less than $500; clear standards were established regarding the steps cooperating sponsors must take to pursue valid claims against liable third parties; and a cooperating sponsor is authorized to use claim recoveries of monetized proceeds for title II activities.

Section 205 of Public Law 480 requires A.I.D. to provide the Food Aid Consultative Group (the Group) an opportunity to review and comment on proposed revisions to regulation 11 before they are issued. This Group is composed of representatives from A.I.D., the Department of Agriculture, and each private voluntary organization (PVO) and cooperative that participates in the title II program. The Administrator of A.I.D. is chairman of the Group.

The regulations are being amended again to further the purposes of section 207(c)(2) of Public Law 480 and to incorporate new statutory requirements. Draft proposed amendments were sent to the Group on May 3, 1991, and members provided written comments which were discussed in meetings held on June 6, 27 and 28. Suggestions made by the Group were very helpful in identifying additional changes that can be made to simplify procedures, reduce paperwork, establish reasonable and realistic accountability standards, and provide flexibility in implementing title II programs. The principal changes in the 1991 amendments to the regulation are as follows:

1. Section 211.1(a). Support for governmental cooperating sponsors is limited to emergency food-aid programs while PVOs, cooperatives and international organizations are eligible for the full range of programs authorized under section 201 of Public Law 480.

2. Sections 211.1(a) and 211.2(d). The former requirement that PVOs and cooperatives must be registered with A.I.D. to be eligible for title II programs is deleted. These sections now substitute the statutory standard that registration is required to the extent practicable. Foreign PVOs also are eligible to be cooperating sponsors, but in approving proposals, A.I.D. may give preference to registered PVOs and cooperatives over those that are not and to United States nongovernmental cooperating sponsors over foreign. Section 211.2(d) also incorporates the statutory definitions of a PVO and a cooperative.

3. Section 211.1(b). Deviations from the regulation may be requested and justified in the operational plan submitted by a cooperating sponsor. A.I.D. believes many of the problems encountered by cooperating sponsors in implementing title II programs are not caused by specific requirements of regulation 11 for which waivers might be needed. Rather, A.I.D. agrees with several members of the Group who suggest that the operational plan should be used more effectively to describe a mutually agreed program which is realistic in the context of the country of distribution and can be implemented and monitored with the human, physical and financial resources the cooperating sponsor has available for the program. It probably will be necessary to deviate from very few requirements of the regulation itself to accommodate any other than the most unusual situations, and § 211.12 already permits waivers at any time. Nevertheless, in the interest of promoting flexibility and identifying problems to the extent possible before programs begin, section 211.1(b) establishes a procedure which may be used by cooperating sponsors to propose and justify deviations from the regulation that it believes are necessary. The format for an operational plan set forth in appendix I also is being revised to include an item for waivers requested. In order to establish a clear record, waivers approved by A.I.D. will be identified specifically in the Transfer Authorization (TA) or in an attachment prepared by A.I.D. appended to the operational plan.

4. Sections 211.2(j)(1) and 211.3(a). The function of a Food for Peace Program Agreement is described more accurately. This agreement does not and should not contain specific information about commodities, objectives and other program details. It simply identifies a nongovernmental organization as eligible to be a cooperating sponsor for future transfers of title II commodities and incorporates regulation 11 into these programs. Since the operational plan and annual estimate of requirements (AER) or TA are the documents which set forth the title II program supported by A.I.D., these terms are being substituted for almost every reference to the Food For Peace Program Agreement throughout the remainder of the regulation.

5. Sections 211.2(j)(2) and 211.(3)(b). The purpose of the Host Country Food For Peace Program Agreement is clarified. The agreement should authorize the cooperating sponsor to conduct title II activities in the country in a manner consistent with the terms of regulation 11. This may be done by incorporating the regulation into the agreement by reference or otherwise at the discretion of the cooperating sponsor.

6. Section 211.2(v). The admonition that no one will be denied food because of inability to pay is deleted. This important principle is covered more appropriately in § 211.5(f) regarding the eligibility of recipients, and it is redundant in the definition of program income.

7. Section 211.3(c). The terms required in a recipient agency agreement are described more clearly. This section retains, however, the requirement that a recipient agency must pay the cooperating sponsor for losses resulting from the agency's failure to exercise reasonable care.

8. Section 211.3(d)(2)(i). The statement that the operational plan provides information for the preparation or amendment of the Food For Peace Program Agreement is deleted because it is inaccurate.

9. Section 211.3(d)(2)(iii). An A.I.D. Mission or Diplomatic Post must make a decision within 45 days of the time a proposal is submitted by a PVO or cooperative or explain the reasons it needs more time to review the proposal. This explanation must be provided in writing to the applicant with a copy to the Office of Food For Peace in Washington.

10. Section 211.3(d)(2)(iv). As required by section 403(b)(4) of Public Law 480, the agreement to transfer commodities to a cooperating sponsor is subject to the availability of appropriations and commodities.

11. Section 211.4(b). Title to the commodities is transferred to nongovernmental cooperating sponsors at the point where the ocean carrier takes possession of the cargo (generally f.a.s. or f.o.b. vessel U.S. port). Governmental cooperating sponsors take title at the destination port of entry, upon completion of discharge by the ocean carrier, or at the destination point of entry for landlocked countries, upon completion of delivery by the inland carrier. Except as A.I.D. may otherwise agree in writing, the cooperating sponsor must retain title to commodities, monetized proceeds and program income transferred to a recipient agency for distribution or use. If a cooperating sponsor wishes to transfer title to a recipient agency, the cooperating sponsor must demonstrate that it and the recipient agency have established appropriate and effective procedures for pursuing of claims against third parties for loss, damage or misuse of the commodities, monetized proceeds or program income.

12. Section 211.4(d). Freight prepaid bills of lading will be accepted by A.I.D. as evidence of payment to the ocean carrier upon agreement that the carrier will be paid within 7 days following receipt of U.S. Government funds.

13. Section 211.4(g). The conflict of interest restriction in section 407(c)(4) of Public Law 480 is incorporated in the regulation. These limitations do not, however, apply to shipments booked by nongovernmental cooperating sponsors or their agents.

14. Section 211.5(b). The statement that requires cooperating sponsors to encourage maximum use of volunteers for the purpose of program supervision is deleted. It is inappropriate for the regulation to impose this kind of requirement on a cooperating sponsor and expect it to supervise the program properly. A cooperating sponsor should decide for itself whether to use volunteers or paid personnel to implement and monitor its program supported with title II resources.

15. Section 211.5(c). Cooperating sponsor audit responsibilities are implemented. Paragraph 8(e) of OMB Circular A–73 (revised June 20, 1983) establishes the principle that "primary responsibility for audits of federally assisted programs rests with recipient organizations." More recently, OMB has issued Circular A–133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations," which applies to United States nonprofit organizations including those that are cooperating sponsors in the title II program.

A.I.D.'s Office of Inspector General, which was established by Congress, has the statutory responsibility to conduct, supervise and provide policy direction for audits of A.I.D. programs and operations for the purpose of promoting economy and efficiency and detecting fraud and abuse. See sections 2 and 4(a) of the Inspector General Act of 1978. Just as any other department or agency of the United States Government, A.I.D.'s Inspector General does not have sufficient human or financial resources to provide audit coverage for Agency grant programs, like title II, that is adequate to maintain appropriate accountability for Federal resources.

The Inspector General has urged A.I.D. to apply Circular A–133 to foreign subrecipients (which are "recipient agencies" as defined in § 211.2(w)) because the Inspector General has concluded that it is necessary to use an integrated audit approach which includes cooperating sponsors and

recipient agencies in order to achieve adequate accountability under the Circular. Federal resources provided as assistance in a foreign country are no less valuable or vulnerable than those used in domestic assistance programs, and there are many small nonprofit organizations in the United States with limited institutional capabilities that are recipients or subrecipients of Federal awards and are subject to the requirements of OMB Circular A–133.

A.I.D. does not underestimate the burden OMB Circular A–133 involves, but the Inspector General considers it very important that the circular apply to foreign nongovernmental recipient agencies for accountability purposes. Otherwise, the audit that United States cooperating sponsors must conduct under Circular A–133 would not be meaningful or effective because in most programs commodities and monetized proceeds are transferred to foreign recipient agencies. The Inspector General and A.I.D. believe there is sufficient flexibility under the standards and principles in the circular and related materials to make this accountability requirement realistic in the overseas title II program. In addition, this requirement will be implemented in the following manner:

(a) A nongovernmental cooperating sponsor's responsibility to perform an audit under OMB Circular A–133 shall not commence with respect to the title II program until funding to cover the estimated costs of complying with the requirements of the circular are included in a grant made by A.I.D. to the cooperating sponsor. Wherever feasible, a cooperating sponsor may permit recipient agencies to use monetized proceeds and program income to cover local costs of compliance with the circular.

(b) "Program" is the entire title II program of the cooperating sponsor and not individual country activities implemented by the cooperating sponsor. Monetization activities may not be considered as separate "programs" for purposes of the definition of "major programs" in OMB Circular A–133.

(c) A cooperating sponsor may account for commodities on a cash basis in its financial statements.

(d) Regulation 11 specifically states that the cooperating sponsor may satisfy its audit responsibilities with respect to recipient agencies by relying on independent audits performed of recipient agencies, relying on appropriate procedures performed by the cooperating sponsor's internal audit or program staff, expanding the scope of the independent financial and compliance audit of the cooperating sponsor to encompass testing of recipient agency charges, or a combination of these procedures.

(e) In establishing a system to monitor recipient agencies, management of a nongovernmental cooperating sponsor should design procedures sufficient to detect a recipient agency's material noncompliance with applicable Federal laws and regulations. The Federal laws and regulations that generally would be applicable to foreign recipient agencies are included in regulation 11. Financial operations of recipient agencies related to Federal assistance may be subject to timely audits. If not, management of the cooperating sponsor may perform procedures such as the following to monitor its recipient agencies:

(i) Review and evaluate submitted reports for completeness and for compliance with applicable laws and regulations. If considered necessary, review the working papers of the auditors.

(ii) Evaluate audit findings and determine if a corrective action plan has been prepared and implemented.

(iii) Determine that funds are disbursed to recipient agencies only on an as needed basis.

(iv) Ascertain that refunds due from recipient agencies are billed and collected in a timely manner.

(v) Determine that procedures exist to insure the recipient agencies and those using monetized proceeds and program income meet eligibility requirements.

(vi) Determine that reports received from recipient agencies are reviewed on a timely basis and that all unusual items are fully investigated.

(vii) Review evidence of previously detected deficiencies and determine that corrective action was taken.

(f) If a nongovernmental cooperating sponsor provides support under this program to a recipient agency that is part of a State or local government of a foreign country, the cooperating sponsor may require the recipient agency to submit an audit performed by the State or local government auditing agency in accordance with the auditing standards and accounting principles that have been prescribed for such a recipient agency under the laws of the country, State or local government as applicable or otherwise in accordance with the standards in § 211.5(c).

(g) A cooperating sponsor and its representatives may, at its option, consult with the Inspector General's office in order to develop an approved scope of audit that will be realistic in coverage and cost.

Finally, A.I.D. has financed the Food Aid Management Project in order to assist PVOs that participate in the title II program improve their capability to manage food-aid activities. These PVOs have developed Generally Accepted Commodity Principles (GACAP) as part of this project in an effort to improve accountability for title II commodities. Comments are requested about whether (a) A.I.D. should establish the use of GACAP in order to account for donated commodities as a requirement of regulation 11, or (b) formally offer cooperating sponsors the option of using GACAP or other appropriate accounting principles, practices and procedures, or (c) GACAP should not be mentioned at all in the regulation and supplementary information.

16. Section 211.5(d). It is not necessary for a cooperating sponsor to summarize commodities needed for all programs in a country. This requirement was redundant because the same information is provided in an AER.

17. Section 211.5(e). Military forces may not distribute, handle or allocate donated commodities unless authorized by A.I.D.

18. Section 211.5(g). As required in section 403(i) of Public Law 480, commodities must be distributed "without regard to the political affiliation, geographic location, ethnic tribal, or religious identity of the recipient or without regard to other extraneous factors." Members of the Group considered the term "extraneous factors" to be vague. A.I.D. interprets these words to mean extraneous to need and the eligibility criteria approved in the operational plan. Section 211.5(g) contains this interpretation.

19. Section 211.5(h) and (i). The revised publicity formulation in section 403(f) of Public Law 480 are incorporated in the sections of the regulation regarding public recognition and container marking.

20. Section 211.5(k)(1)(iii). Nongovernmental cooperating sponsors may invest monetized proceeds and program income, with the approval of A.I.D., and use the income for title II purposes. A.I.D. approval is reserved because endowments are a new authority provided by Congress. A.I.D. believes it is appropriate to review the terms of these investments and uses until the Agency and cooperating sponsors gain experience with this mechanism so general guidelines could be issued.

21. Section 211.5(k)(1)(iv). Cooperating sponsors and recipient agencies are authorized to use monetized proceeds and program income to finance improvement of their management systems. The general outline of the operational plan in appendix I also is

being changed to include a description of the capability of the cooperating sponsor and recipient agencies to use and account for monetized proceeds properly and the technical assistance the cooperating sponsor intends to obtain or provide if necessary to ensure that there are adequate financial and other management systems.

22. Section 211.5(k)(2). Monetized proceeds and program income may be used for indirect costs of nongovernmental cooperating sponsors in the country where the title II activity is implemented. Overhead costs of PVOs and cooperatives at their home offices in the United States have been covered by cooperating sponsors as part of their contribution to commodity distribution programs, and converting agricultural commodities into foreign currency by selling the commodities in a recipient country should not change that result. Based on this longstanding practice, the purposes for which monetized proceeds may be used as described in section 203(d) of Public Law 480, and the new authorization in section 202(e) of dollar funding to support PVOs and cooperatives if they need additional resources for title II programs, A.I.D. does not believe it is appropriate or that Congress would have anticipated the use, directly or indirectly, of monetized proceeds to cover home office overhead costs in the United States instead of paying the in-country costs of title II programs.

23. Sections 211.5(k)(4) and (5). Cooperating sponsors may not use monetized proceeds and program income for the performance of abortion as a method of family planning, or to finance the production for export of agricultural commodities, or products thereof, that would compete in the world market with similar commodities or products produced in the United States if such competition would cause substantial harm to United States producers. When an operational plan submitted to A.I.D. for review indicates that a cooperating sponsor proposes to support the production of crops for export A.I.D. will determine and advise the cooperating sponsor whether this restriction is applicable.

24. Section 211.5(r). Governmental cooperating sponsors must permit discharge of commodities despite disputes about them.

25. Section 211.6(a). More flexibility is provided to cooperating sponsors by permitting them to barter commodities or use monetized proceeds and program income to finance the costs of processing, packing or reprocessing commodities in the country of distribution.

26. Section 211.7(a)(3). The government will reimburse a nongovernmental cooperating sponsor for the costs of obtaining an independent discharge survey.

27. Section 211.8(b)(2). More realistic procedures are established for disposing of commodities that are unfit for authorized use. Commodities with a value less than $500 may be disposed of or destroyed without the concurrence of or observation by an A.I.D. Mission, and an expedited process is available for commodities worth more than $500.

28. Section 211.9(c)(iv). A.I.D. will initiate and prosecute claims against ocean carriers and defend claims made by them when A.I.D. books the affreightment contract and the claims involve entitlement to freight and related costs.

29. Section 211.9(c)(2)(ii). The threshold levels for nongovernmental cooperating sponsors to submit claims against ocean carriers are increased. It is not necessary to file a claim if a loss is less than $100 or between $100 and $300 and the cost of pursuing the claim would exceed the amount recovered. In addition, the cooperating sponsor may retain amounts collected up to $200. If the claim exceeds $200, the cooperating sponsor may keep $200 plus 10% of the difference between $200 and the amount collected up to a maximum of $500.

30. Section 211.9(d). In determining whether the loss, damage or misuse of commodities or monetized proceeds could have been prevented by a cooperating sponsor's proper exercise of its responsibilities, A.I.D. will take into consideration the problems associated with carrying out programs in the developign country where the activity is being implemented as well as normal commercial practices there. These problems may be described in the operational plan if they can be identified at that time, or a cooperating sponsor may provide an appropriate explanation at the time commodities or monetized proceeds are lost, damaged or misused.

31. Section 211.9(e)(4). When an A.I.D. Mission or Diplomatic Post is asked to approve a cooperating sponsor's decision not to pursue a claim against a third party for the loss, damage or misuse of commodities on one of the grounds described in this section, the Mission or Diplomatic Post must provide the cooperating sponsor a written explanation of its decision within 45 days or inform the cooperating sponsor in writing regarding the reasons the Mission or Diplomatic Post needs more time to consider the request.

32. Section 211.9(f)(1). In order to reduce unnecessary paperwork, reports regarding loss, damage or misuse of commodities or monetized proceeds in the country of distribution may be provided on a quarterly basis and, to the extent possible, in tabular form. Copies of claims made against third parties may be provided with loss reports rather than at the time the claim is made. Detailed information is not required regarding commodity losses of less than $500; they simply must be identified. All losses must be reported, even those valued at less than $500, because A.I.D. has a responsibility to know the amount of commodities that have been delivered to beneficiaries and the amount that has been lost, damaged or misused. In addition, it is possible to notice patterns in relatively small losses which suggest larger problems that would warrant attention.

33. Section 211.9(g). When currency is converted for the deposit of claim recoveries in the country of distribution, conversion must be made at the highest rate of exchange legally obtainable on the date of deposit.

34. Section 211.10(a). Recipient agencies, as well as cooperating sponsors, must maintain records about the programs they operate.

35. Section 211.10(b). Cooperating sponsors must submit to A.I.D. copies of audits performed under § 211.5(c) and at least annual reports regarding the generation and use of monetized proceeds and program income.

36. Section 211.11(a). This provision reserving the right to terminate or suspend programs has been in the regulation in its present form at least since 1979, and A.I.D. always has consulted informally with cooperating sponsors before exercising these rights. Nevertheless, a formal procedure is being established with thirty-days written notice to a nongovernmental cooperating sponsor, whenever A.I.D. believes circumstances permit, and A.I.D. will consider comments provided by the cooperating sponsor during the thirty-day period. The decision to suspend or terminate a program will be made in A.I.D./W rather than in the field.

37. Sections 211.4(c)(s), 211.5(j) and (n), 211.9 (a), (d), (e)(2) and (3). In response to requests by the Group, these sections have been rewritten to improve their clarity, and editorial changes have been made in other sections.

38. Appendix I. The general outline of an operational plan has been changed to add items for requesting and justifying deviations from the regulation, as indicated in § 211.1(b), and to describe the problems associated with carrying out programs in the developing country where the activity will be implemented,

as stated in § 211.9(d). In addition, Item A.6 provides that it is not necessary for a cooperating sponsor to prepare a disincentive analysis if A.I.D. or the Agriculture Department has completed such an analysis for another program which is relevant to the program proposed by the cooperating sponsor.

List of Subjects in 22 CFR Part 211

Agricultural commodities, Disaster assistance, Food assistance programs, Foreign aid, Nonprofit organizations, Reporting and recordkeeping requirements.

Accordingly, 22 CFR chapter II is amended by revising part 211 (A.I.D. Regulation 11) to read as follows:

PART 211—TRANSFER OF FOOD COMMODITIES FOR FOOD USE IN DISASTER RELIEF, ECONOMIC DEVELOPMENT AND OTHER ASSISTANCE

Sec.

211.1 General purpose and scope; legislation.
211.2 Definitions.
211.3 Cooperating sponsor agreements; program procedure.
211.4 Availability and shipment of commodities.
211.5 Obligations of cooperating sponsor.
211.6 Processing, repackaging, and labeling commodities.
211.7 Arrangements for entry and handling in foreign country.
211.8 Disposition of commodities unfit for authorized use.
211.9 Liability for loss, damage or improper distribution of commodities.
211.10 Records and reporting requirements.
211.11 Suspension, termination, and expiration of program.
211.12 Waiver and amendment authority.

Appendix I to Part 211—Operational Plan

Authority: Section 207(c) of the Agricultural Trade Development and Assistance Act of 1954, as amended; see 104 Stat. 3632, 3641 (1990).

§ 211.1 General purpose and scope; legislation.

(a) *Legislation.* The Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480), was further revised by the Agricultural Development and Trade Act of 1990, Public Law 101–624, 104 Stat. 3632–65 (1990). The legislation implemented by the Regulation in this part (as of the date of issuance of this part) includes sections of Public Law 480, as follows: Sections 201, 202, 203, 207, 401, 402, 403, 404, 406, 407, 408, 409, and 414. Pursuant to title II of Public Law 480, A.I.D. may transfer agricultural commodities to address famine or other urgent or extraordinary relief requirements; combat malnutrition, especially in children and mothers; carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity; promote economic and community development; promote sound environmental practices; and carry out feeding programs. Agricultural commodities may be provided to meet emergency food needs through foreign governments and private or public organizations, including intergovernmental organizations. Section 202(a) of Public Law 480 authorizes A.I.D., notwithstanding any other provision of law, to provide agricultural commodities for emergency food needs in such manner and on such terms and conditions as A.I.D. determines appropriate to respond to the emergency. Agricultural commodities also may be provided for non-emergency assistance through private voluntary organizations or cooperatives which are, to the extent practicable, registered with A.I.D., and through intergovernmental organizations.

(b) *Terms and conditions.* This part 211, also known as A.I.D. regulation 11, provides the standard terms and conditions applicable to title II programs, except those conducted by agencies of the United Nations and the World Food Program. The Operational Plan submitted by a cooperating sponsor may propose, and justify, the waiver of any section of this Regulation that is not required by statute. If A.I.D. approves a waiver, the specific section or subsection waived will be identified in the Transfer Authorization signed by the cooperating sponsor and A.I.D. or in an attachment, prepared by A.I.D., that is appended to the Operational Plan.

§ 211.2 Definitions.

A.I.D. means the Agency for International Development or any successor agency, including, when applicable, each USAID. "USAID" means an office of A.I.D. located in a foreign country. "AID/W" means the office of A.I.D. located in Washington, DC.

Annual Estimate of Requirements or *AER* (form A.I.D. 1550–3, exhibit E, A.I.D. Handbook 9) is a statistical update of the Operational Plan which is signed by the cooperating sponsor requesting commodities under title II estimating the quantities required. When signed by AID/W, the AER together with the Food for Peace Program Agreement between A.I.D. and the cooperating sponsor, the approved Operational Plan, and this regulation 11 form a donation agreement between A.I.D. and the cooperating sponsor with respect to the commodities included in the AER.

CCC means the Commodity Credit Corporation, a corporate agency and instrumentality of the United States within the U.S. Department of Agriculture.

Cooperating sponsor means an entity, within or without the United States, governmental or not, such as the foreign government, the American Red Cross, the intergovernmental organization, or the private voluntary organization or cooperative, which enters into an agreement with the U.S. Government for the use of agricultural commodities or funds.

(1) *Governmental cooperating sponsor* means a foreign government which has signed a Transfer Authorization under which agricultural commodities are donated for emergency purposes only. Governmental cooperating sponsors are treated here as a group separate from other cooperating sponsors since they are eligible only for emergency programs and their circumstances are different in such matters as rules governing shipping and in certain other aspects of agreements.

(2) *Nongovernmental cooperating sponsor* means a cooperating sponsor which is a private voluntary organization, a cooperative, the American Red Cross, or other private or public agency. An intergovernmental organization also is treated as a nongovernmental cooperating sponsor in this regulation 11 unless the text or context indicates otherwise.

Cooperative means a private sector organization whose members own and control the organization and share in its services and its profits and that provides business services and outreach in cooperative development for its membership.

Diplomatic Posts means the offices of the Department of State located in foreign countries, and may include Embassies, Legations, and Consular offices. Since A.I.D. is responsible for title II programs, references in this regulation to Diplomatic Posts apply only with respect to those countries where there is no USAID.

Disaster relief organizations means organizations which are authorized by AID/W, USAID or a Diplomatic Post to assist disaster victims.

Disaster victims means persons who, because of flood, drought, fire, earthquake, other natural or man-made disasters, or extraordinary relief requirements, are in need of food, feed, or fiber assistance.

Duty free means exempt from all customs duties, toll charges, taxes or

governmental impositions levied on the act of importation.

Food for Peace Program Agreement establishes a nongovernmental organization as a cooperating sponsor for which A.I.D. agrees to authorize future transfers of commodities in accordance with title II of Public Law 480 and regulation 11 and the cooperating sponsor agrees to accept transfer of commodities in accordance with approved programs under title II and A.I.D. regulation 11 and related procedures.

(1) *Host Country Food for Peace Program Agreement* means an agreement between the cooperating sponsor and the foreign government of each cooperating country which authorizes the cooperating sponsor to conduct activities there in a manner consistent with the terms and conditions set forth within this regulation 11.

(2) *Recipient Agency Agreement* means a written agreement between the cooperating sponsor and a recipient agency prior to the transfer to the recipient agency of commodities, monetized proceeds, or other program income for distribution or implementation of an approved program.

Free alongside ship (f.a.s.) includes all costs of transportation and delivery of the goods to the dock. *Free on board* (f.o.b.) includes costs for delivering the goods and loading them aboard the carrier at a specific location. Bulk shipments are normally loaded f.o.b.; all other shipments, f.a.s., and title there transferred (see § 211.4(b)).

General Average means the proportional sharing of a loss or extraordinary expense by all parties having interest in the voyage to insure successful completion of the voyage.

Institutions means nonpenal, public or nonprofit private establishments that operate for charitable or welfare purposes where needy persons reside and receive meals including, but not limited to, homes for the aged, mentally and physically handicapped, refugee camps, and leprosy asylums.

Intergovernmental organizations means agencies sponsored and supported by two or more nations, one of which is the United States.

Marine salvage means the compensation made to those by whose assistance a vessel or its cargo has been saved from impending peril or recovered from actual loss.

Maternal-child feeding, primary school and other child feeding programs:

(1) *Maternal and preschool feeding programs* means programs conducted for women of childbearing age, with emphasis on pregnant and lactating women; for mothers with preschool children; and for children below the usual enrollment age for the primary grade at public schools.

(2) *School feeding programs* means programs conducted for the benefit of children enrolled in primary schoools.

(3) *Other child feeding programs* means programs designed to reach needy children of preschool or primary school age, in child care centers, orphanages, institutions, nurseries, kindergartens and similar activities.

Monetized proceeds means funds generated from the sale of title II commodities in approved monetization programs. Monetized proceeds should be deposited in a special interest-bearing account for control and monitoring.

Nonprofit means that the residue of income over operating expenses accruing in any activity, project, or program is used solely for the operation of such activity, project, or program.

Operational Plan is a plan submitted by the cooperating sponsor or potential cooperating sponsor describing the proposed use of commodity and/or monetized proceeds and/or program income. All references in this Regulation to the Operational Plan shall include the AER that relates to such Operational Plan.

Primary school means a public or nonprofit facility, or an activity within such facility, that has as its primary purpose the education of children at education levels which are generally comparable to those of elementary schools in the United States.

Private voluntary organization means a not-for-profit, nongovernmental organization (in the case of a United States organization, an organization that is exempt from Federal Income Taxes under section 501(c)(3) of the Internal Revenue Code of 1986) that receives funds from private sources, voluntary contributions of money, staff time, or in-kind support from the public, and that is engaged or is planning to engage in voluntary, charitable or development assistance activities (other than religious activities).

Program income means gross income earned by the cooperating sponsor or recipient agencies from activities supported from the approved program during the program period, including, but not limited to, interest earned on deposits of monetized proceeds, revenue from income generating activities, funds accruing from the sale of containers and nominal voluntary contributions by recipients made on the basis of ability to pay.

Recipient agencies means schools, institutions, welfare agencies, disaster relief organizations, and public or private agencies whose food distribution functions or project activities are sponsored by the cooperating sponsor and which receive for distribution to eligible recipients commodities or monetized proceeds or program income for approved project activities. A cooperating sponsor may be a recipient agency.

Recipients means persons who are in need of food assistance or the benefit of monetized proceeds or program income because of their economic or nutritional condition or who are otherwise eligible to receive commodities for their own use or other assistance in accordance with the terms and conditions of the approved Operational Plan or Transfer Authorization.

Refugees means persons who fled or were forced to leave their country of nationality or residence and are living in a country other than where they hold or have held citizenship, or in a part of their country of nationality or residence other than where they normally consider their residence, and become eligible recipients.

Registered private voluntary organization or cooperative means a nonprofit private voluntary organization or cooperative registered with, and approved by, A.I.D. The term includes foreign as well as U.S. registered nonprofit voluntary organizations and cooperatives. For discussion of registration, see 22 CFR 203, A.I.D. regulation 3, "Registration of Agencies for Voluntary Foreign Aid." In reviewing and approving proposals, A.I.D., at its discretion, may give preference to registered private voluntary organizations and cooperatives over those that are not and to U.S. private voluntary organizations and cooperatives over those that are foreign.

Transfer Authorization or *TA* means the document signed by the cooperating sponsor and A.I.D. which describes commodities and the program in which they will be used. The TA incorporates A.I.D. regulation 11 and authorizes CCC to ship the commodities.

USDA means the U.S. Department of Agriculture.

Welfare agencies means public or private voluntary organizations that provide care, including food assistance, to needy persons who are not residents of institutions.

§ 211.3 Cooperating sponsor agreements; program procedure.

(a) *Food for Peace Program Agreement.* A nongovernmental organization is eligible to be a cooperating sponsor for regular

programs under subsection (d)(2)(i) of this section only after it has entered into a Food for Peace Program Agreement with A.I.D. that incorporates the terms and conditions set forth in regulation 11.

(b) *Host Country Food for Peace Program Agreement.* Nongovernmental and intergovernmental cooperating sponsors shall, in addition to the Food for Peace Program Agreement, enter into a separate written Host Country Food for Peace Agreement with the foreign government of each country for which title II commodities are transferred to the cooperating sponsor. This agreement shall establish the terms and conditions needed by a nongovernmental cooperating sponsor to conduct a title II program in the country in accordance with the applicable requirements of this part. The cooperating sponsor shall provide USAID or the Diplomatic Post a copy of each executed Host Country Food for Peace Agreement. Where such written agreement is not appropriate or feasible, USAID or the Diplomatic Post shall assure AID/W, in writing, that the program can be effectively implemented in compliance with this Regulation without such an agreement.

(c) *Recipient Agency Agreement.* Prior to the transfer of commodities, monetized proceeds, or program income to a recipient agency for distribution or implementation of an approved program, the cooperating sponsor shall execute with such agency a written agreement which shall:

(1) Describe the approved uses of commodities, monetized proceeds and program income in a manner consistent with the approved Operational Plan or TA;

(2) Require the recipient agency to pay the cooperating sponsor the value of any commodities, monetized proceeds or program income that are used for purposes not permitted under the Recipient Agency Agreement or that are lost, damaged or misused as a result of the recipient agency's failure to exercise reasonable care with respect to such commodities, monetized proceeds or program income; and

(3) Incorporate by reference or otherwise the terms and conditions set forth in this regulation 11. The Operational Plan may indicate those transfers of commodities, monetized proceeds or program income for which the cooperating sponsor and A.I.D. agree that a Recipient Agency Agreement would not be appropriate or feasible. In any case, the cooperating sponsor shall remain responsible for such commodities, monetized proceeds and program income in accordance with the terms of this regulation 11 and the Operational Plan or TA. The cooperating sponsor shall provide USAID or the Diplomatic Post a copy of each executed Recipient Agency Agreement.

(d) *Program procedure*—(1) *Requests for programs.* A program may be requested by any cooperating sponsor, including private voluntary organizations, cooperatives, foreign governments (for emergencies only), and international organizations.

(2) *Approval of programs.* There are two basic patterns of decision typically employed in approving a request for title II assistance:

(i) *Regular programs.* The cooperating sponsor submits to A.I.D. an Operational Plan or multi-year Operational Plan (see appendix I), describing the program proposed. Also, an AER will be submitted to A.I.D. along with the Operational Plan, estimating the quantities of commodities required for each program proposed. AID/W's approval of and signature on the AER completes this decision process.

(ii) *Individual programs.* The other basic pattern of decision making results in a Transfer Authorization. The TA is used for all emergency government-to-government programs, and for nongovernmental cooperating sponsor programs which do not fit within the Program Agreement/AER framework. The TA will include by reference regulation 11.

(iii) *Subject to availability.* A.I.D.'s agreement to transfer commodities is subject to the availability of appropriations and agricultural commodities during each United Government fiscal year to which it applies.

(iv) *Timing of decision.* Under Public Law 480, section 207(a), within 45 days of its submission to AID/W, a decision must be made on a proposal submitted by a private voluntary organization or cooperative, concurred in by USAID or the Diplomatic Post. The decision shall detail the reasons for approval or denial, and if denied, conditions to be met for approval. In addition, a USAID or Diplomatic Post must decide whether or not to concur in the proposal within 45 days of receiving it or provide a written explanation to the private voluntary organization or cooperative and AID/W of the reasons the USAID or Diplomatic Post needs more time to consider the proposal.

§ 211.4 Availability and shipment of commodities.

(a) *Shipment, distribution and use of commodities.* Commodities shall be available for shipment, distribution and use in accordance with the provisions of the approved Operational Plan and AER, or TA and this regulation 11.

(b) *Transfer of title and delivery.* (1) Unless the approved Operational Plan or TA provides otherwise, title to the commodity shall pass

(i) For nongovernmental cooperating sponsors, at the point in the United States at which the ocean carrier or its agents take possession of the cargo (generally f.a.s. or f.o.b. vessel U.S. port); or

(ii) For governmental cooperating sponsors, at the destination port of entry, upon completion of discharge by the ocean carrier (non-landlocked countries), or at the destination point of entry, upon completion of delivery by the inland carrier (landlocked countries).

Except as A.I.D. may otherwise agree in writing, the cooperating sponsor shall retain title to commodities, monetized proceeds, and program income transferred to a recipient agency for distribution or use in accordance with the Operational Plan or TA.

(2) Nongovernmental cooperating sponsors shall make the necessary arrangements to accept commodities at the points of availability designated by CCC.

(c) *Processing, handling, transportation and other costs.* (1) Except as otherwise provided in the Operational Plan or TA, pursuant to this subsection (c), the United States will pay processing, handling, transportation, and other incidental costs incurred in making commodities available to cooperating sponsors at U.S. ports or U.S. inland destinations, up to the point at which the ocean carrier takes possession of the cargo.

(2) The United States will finance the transfer of commodities at the lowest combination inland and ocean transportation costs as determined by the United States and in sizes and types of packages announced as applicable. If a nongovernmental cooperating sponsor requests changes to these standards which are made by the United States as an accommodation to the cooperating sponsor and these changes result in costs over those the United States otherwise would have incurred, the cooperating sponsor shall reimburse the United States for these increased costs promptly upon request.

(3) All costs and expenses incurred subsequent to the transfer of title to cooperating sponsors shall be borne by them except as otherwise provided herein. Upon the determination that it is in the interests of the program to do so, the United States may pay or reimburse the following additional costs:

(i) Ocean transportation costs from U.S. ports to the designated ports of entry abroad; or

(ii) Ocean transportation costs from U.S. ports to designated points of entry abroad in the case:

(A) Of landlocked countries,

(B) Where ports cannot be used effectively because of natural or other disturbances,

(C) Where carriers to a specific country are unavailable, or

(D) Where a substantial savings in cost or time can be effected by the utilization of points of entry other than ports; or

(iii) In the case of commodities for urgent and extraordinary relief requirements, including prepositioned commodities, transportation costs from designated points of entry or ports of entry abroad to storage and distribution centers and associated storage and distribution costs.

(d) *Payment or reimbursement of ocean freight costs.* When A.I.D. contracts for ocean carriage, carriers shall be paid by A.I.D., as provided in their contracts of affreightment, upon presentation of Standard Form 1034 and three copies of 1034A (Public Voucher for purchases and services other than personal), together with three copies of the related on-board ocean bill of lading, one copy of which must contain the following certification signed by an authorized representative of the steamship company:

I certify that this document is a true and correct copy of the original on-board ocean bill of lading under which the goods herein described were located on the above-named vessel and that the original and all other copies thereof have been clearly marked as not to be certified for billing.

(Name of steamship co.)
By
(Authorized representative)

Such documents shall be submitted to: Transportation Division, Office of Procurement, (MS/OP/TRANS), Agency for International Development, Washington, DC 20523. Except for duty, taxes and other costs excluded by § 211.7 (a) and (b) of this regulation 11, nongovernmental cooperating sponsors booking their own vessels will be reimbursed as provided in A.I.D. regulation 2 (part 202 of this chapter) for ocean freight authorized by the United States upon presentation to AID/W of proof of payment to the ocean carrier. However, freight prepaid bills of lading which indicate firm incurrence of freight costs will be accepted by A.I.D. as evidence of payment to the ocean carrier provided that the nongovernmental cooperating sponsor agrees to ensure that such carrier is actually paid no later than 7 calendar days following receipt of U.S. Government funds by the sponsor or its agent. A.I.D. will reimburse nongovernmental cooperating sponsors only up to a maximum of 2½ percent commission paid to their freight forwarders as a result of booking Public Law 480, title II cargo. Similarly, when A.I.D. books cargo, a maximum of 2½ percent commission may be paid by the contracted carrier. Proof of payment of commissions must be submitted with requests for reimbursement.

(e) *Shipping instructions.*—(1) *Shipments booked by A.I.D.* Requests for shipment of commodities shall originate with the cooperating sponsor and shall be submitted to USAID or the Diplomatic Post for clearance and transmittal to AID/W. AID/W shall, through cables or letters to USAID or the Diplomatic Post provide cooperating sponsors (and, where applicable, private voluntary organization or cooperative headquarters) with names of vessels, expected times of arrival (ETAs), and other pertinent information on shipments booked by A.I.D. Not less than 7 days from the time of exportation of commodities, A.I.D.'s freight forwarding contractor shall send applicable ocean bills of lading by airmail, or by the fastest means available, to USDA (Chief, Processed Commodities Division, Kansas City ASCS Commodity Office (KCCO), P.O. Box 419205, Kansas City, Missouri 64141–6205), to USAID or the Diplomatic Post (and where applicable to the USAID Controller and nongovernmental cooperating sponsor headquarters and field representative), to AID/W, MS/OP/TRANS (see § 211.4(d)), and to the consignee in sufficient time to advise of the arrival of the shipment.

(2) *Shipments booked by nongovernmental cooperating sponsor.* Requests for shipment of commodities shall originate with the cooperating sponsor and shall be cleared by USAID or the Diplomatic Post before transmittal to the cooperating sponsor's headquarters for concurrence and issuance. USAID or the Diplomatic Post shall promptly clear such requests for shipment of commodities or, if there is reason for delay or disapproval, advise the cooperating sponsor and AID/W within seven (7) days of receipt of requests for shipment. After the cooperating sponsor headquarters concurs in the request and issues the order, the original will be sent promptly to AID/W which will forward it to CCC for procurement action with a copy to USAID or the Diplomatic Post. Headquarters of cooperating sponsors which book their own shipments shall provide their representatives and USAID or the Diplomatic Post with the names of vessels, ETAs and other pertinent information on shipments booked. At the time of exportation of commodities, the booking agent representing the cooperating sponsor shall send applicable ocean bills of lading by airmail or by the fastest means available to USDA (Chief, Processed Commodities Division, Kansas City ASCS Commodity Office (KCCO), P.O. Box 419205, Kansas City, Missouri 64141–6205), to USAID or the Diplomatic Post (and where applicable to the USAID Controller and the nongovernmental cooperating sponsor representative), to AID/W, MS/OP/TRANS (see § 211.4(d)), and to the consignee in the country of destination in sufficient time to advise of the arrival of the shipment. Nongovernmental cooperating sponsors also will forward cable advice of actual exportation to their program directors in countries within the Caribbean area in view of the short transit time from U.S. port to destination.

(f) *Tolerances.* Delivery by the United States to the cooperating sponsor at point of transfer of title within a tolerance of 5 percent (2 percent in the case of quantities over 10,000 metric tons) plus or minus, of the quantity ordered for shipment shall be regarded as completion of delivery. There shall be no tolerance with respect to the ocean carrier's responsibility to deliver the entire cargo shipped and the United States assumes no obligation for failure by an ocean carrier to complete delivery to port of discharge.

(g) *Conflict of interest.* (1) Pursuant to section 407(c)(4) of Public Law 480, a person may not be an agent, broker, consultant, or other representative of the U.S. Government, an importer, or an importing country in connection with agricultural commodities provided under Public Law 480 during a fiscal year in which such person acts as an agent, broker, consultant or other representative of a person engaged in providing ocean transportation-related services for such commodities.

(i) For purposes of section 407(c)(4), the term "transportation-related services" means lightening, stevedoring, bagging or inland transportation to the destination point.

(ii) The prohibition does no preclude payment by ocean carriers of compensation or brokerage fees on a shipment-by-shipment basis as provided in governing tariffs or charter parties to persons performing freight forwarding or

charter broking services under contract to the U.S. Government.

(2) Pursuant to section 407(d)(3) of Public Law 480, freight agents employed by A.I.D. under title I, II, or III of Public Law 480 shall not represent any other foreign government during the period of their contract with the United States Government. This restriction applies both to charter brokers and freight forwarders whether they are prime contractors or subcontractors of A.I.D.

(3) This subsection (g) does not apply to shipments booked by nongovernmental cooperating sponsors or their agents.

§ 211.5 Obligations of cooperating sponsor.

(a) *Operational Plans.* Each cooperating sponsor shall submit a description of the programs it is sponsoring or proposes to sponsor to USAID or the Diplomatic Post for its approval. AID/W will prescribe the format and timing for submittals and provide final approval of the Operational Plan. This Operational Plan will include program purposes and goals; criteria for measuring program effectiveness; a description of the activities for which commodities, monetized proceeds, or program income will be provided or used; and other specific provisions in addition to those set forth in this regulation. Further, this description will include information from which it may be determined that the distribution of commodities in the recipient country will not result in a substantial disincentive to domestic production and that adequate storage facilities are available in the recipient country at the time of exportation of the commodity to prevent spoilage or waste of the commodity. For preparation of the Operational Plan, see appendix I of this regulation. Unless A.I.D. otherwise agrees in writing, a cooperating sponsor should not deviate from the Operational Plan and other program documents approved by A.I.D., except that within the limits of the total amount of commodities authorized for the program and the monetized proceeds and program income generated for the program, the cooperating sponsor may increase or decrease by 10 percent the amount of commodities, monetized proceeds or program income allocated to approved components of the Operational Plan without prior written approval of A.I.D. Such adjustments must be identified specifically in the annual report submitted by a cooperating sponsor under § 211.10(b) of the regulation.

(b) *Program supervision.* Cooperating sponsors shall provide adequate supervisory personnel for the efficient operation of the program, including personnel:

(1) To plan, organize, implement, control, and evaluate programs involving distribution of commodities or use of monetized proceeds and program income,

(2) Make warehouse inspections, physical inventories, and end-use checks of food or funds, and

(3) Review of books and records maintained by recipient agencies that receive monetized proceeds and/or program income. Cooperating sponsors shall be represented by a person resident in the country of distribution or other nearby country approved by AID/W, who is appointed by and responsible to the cooperating sponsor for distribution of commodities or use of monetized proceeds or program income in accordance with the provisions of this regulation.

(c) *Audits.*—(1) *By nongovernmental cooperating sponsors.* A nongovernmental cooperating sponsor shall arrange for periodic audits to be conducted in accordance with OMB Circular A–133, including the OMB Compliance Supplement and the Statement of Position Regarding Circular A–133 developed by the American Institute of Certified Public Accountants. Nongovernmental recipient agencies shall be treated as subrecipients under OMB Circular A–133, and governmental recipient agencies shall furnish the cooperating sponsor audits in accordance with the standard in subsection (c)(2) of this section. The cooperating sponsor may satisfy these audit responsibilities with respect to recipient agencies by relying on independent audits performed of recipient agencies, relying on appropriate procedures performed by the cooperating sponsor's internal audit or program staff, expanding the scope of the independent financial and compliance audit of the cooperating sponsor to encompass testing of recipient agency charges, or a combination of these procedures.

(2) *By governmental cooperating sponsors.* A governmental cooperating sponsor shall ensure that an audit satisfactory to A.I.D. is conducted annually with respect to donated commodities and monetized proceeds if commodity sales are authorized under the agreement with A.I.D. The audit shall be a financial audit performed by the country's principal government audit agency or another audit agency or firm acceptable to A.I.D. This audit should be conducted in accordance with generally accepted government auditing standards issued by the United States General Accounting Office, or auditing standards that have been prescribed by the laws of the country or adopted by public accountants or an association of public accountants in the country, or Auditing Standards promulgated by the International Organization of Supreme Audit Institutions or International Auditing Practices Committee of the International Federation of Accountants. Both the auditor and the auditing standards to be used by the cooperating sponsor must be acceptable to A.I.D. The audit performed by the cooperating sponsor shall include the activity of each recipient agency to which the cooperating sponsor transferred donated commodities and/or monetized proceeds valued at or in the amount of $25,000 or more.

(d) *Commodity requirements; AER.* Each cooperating sponsor shall submit to USAID or the Diplomatic Post, within such times and on the AER form prescribed by AID/W, estimates of requirements showing the quantities of commodities required for each program proposed.

(e) *No military distribution.* Except as A.I.D. may otherwise agree to writing, agricultural commodities donated by A.I.D. shall not be distributed, handled or allocated by any military forces.

(f) *Determination of eligibility of recipients.* Cooperating sponsors shall be responsible for determining that the recipients and recipient agencies to whom they distribute commodities are eligible in accordance with the Operational Plan or TA and this Regulation. Cooperating sponsors shall impose upon recipient agencies responsibility for determining that the recipients to whom they distribute commodities or provide assistance with monetized proceeds or program income are eligible. Commodities shall be distributed free of charge except as provided in paragraphs (j) and (k) of this section or as otherwise authorized by AID/W, but in no case will recipients be excluded from receiving commodities because of inability to make a contribution to the cooperating sponsor for any purpose.

(g) *No discrimination.* Cooperating sponsors shall distribute commodities to and conduct operations (with food, monetized proceeds, or program income) only with eligible recipient agencies and eligible recipients without regard to political affiliation, geographic location, ethnic, tribal or religious identity or other factors extraneous to need and the eligibility criteria set forth in the approved Operational Plan or TA, and shall impose similar conditions upon recipient agencies.

(h) *Public recognition.* To the maximum extent practicable and with the cooperation of the host government, adequate public recognition shall be given in the press, by radio, and other media that the commodities or assistance have been provided through the friendship of the American people as food for peace. At distribution and feeding centers the cooperating sponsor shall, to the extent feasible, display banners, posters, or similar media which shall contain information similar to that prescribed for containers in paragraph (i) below. Recipients' individual identification cards shall, insofar as practicable, be imprinted to contain such information.

(i) *Containers*—(1) Markings. Unless otherwise specified in the Operational Plan or TA, when commodities are packaged for shipment from the United States, bags and other containers shall be marked with the CCC contract number or other identification, the A.I.D. emblem and the following information stated in English:

(i) Name of commodity.

(ii) Provided through the friendship of the American people as food for peace.

(iii) Not to be sold or exchanged (where applicable).

(2) *Disposal of containers.* Cooperating sponsors may dispose of containers, other than containers provided by carriers, in which commodities are received in countries having approved title II programs, by sale or exchange, or may distribute the containers free of charge to eligible food or fiber recipients for their personal use. If the containers are to be used commercially, the cooperating sponsor must arrange for the removal, obliteration, or cross out of the U.S. Government markings from the containers prior to such use.

(j) *Monetization programs.* Provisions of this regulation that prohibit or restrict the sale of commodities or require marking or labeling of containers do not apply to the extent the sale of commodities is approved by A.I.D. Cooperating sponsors are not required to monitor, manage, report on or account for the distribution or use of commodities after title to the commodities has passed to buyers or other third parties pursuant to a sale under a monetization program and all sales proceeds have been fully deposited in the special interest-bearing account establish by the cooperating sponsor for monetized proceeds. However, the receipt and use of sales proceeds must be monitored, managed, reported and accounted for as provided in this regulation, with special reference to subsections (k) and (l), and § 211.10. It is not mandatory that commodities approved for monetization be imported and sold free from all duties and taxes, but nongovernmental cooperating sponsors may negotiate agreement with the host government permitting the tax-free import and sale of such commodities. Even where the cooperating sponsor negotiates tax-exempt status, the prices at which the cooperating sponsor sells the commodities to the purchaser should reflect prices that would be obtained in a commercial transaction, i.e., the prices would include the cost of duties and taxes, except as A.I.D. may otherwise agree in writing. Thus, the amounts normally paid for duties and taxes would accrue for the benefit of the cooperating sponsor's approved program. Cooperating sponsors should refer to the "Monetization Field Manual" for more comprehensive guidance on setting the sales price. A copy of the Monetization Manual maybe obtained from AID/W–FVA/PPM, Washington, DC 20523.

(k) *Use of Funds.* (1) Nongovernmental cooperating sponsors and recipient agencies may use monetized proceeds and program income:

(i) To transport, store, distribute and otherwise enhance the effectiveness of the use of donated commodities and products thereof, including construction or improvement of storage facilities or warehouses, handling, insect and rodent control, payment of indigenous or third-country personnel employed by cooperating sponsor or recipient agencies in support of approved programs;

(ii) To implement income generating, community development, health, nutrition, cooperative development, agricultural programs and other developmental activities agreed upon by A.I.D., and the cooperating sponsor;

To make investments, with the approval of A.I.D. and any interest earned on such investment may be used for purposes described in paragraphs (k)(1) (i) and (ii) of this section; and

(iv) To improve their financial and other management systems.

(2) Monetized proceeds and program income may be used by the cooperating sponsor and recipient agencies only for the purposes described in the Operational Plan or TA, or otherwise approved by A.I.D., in writing, and only for such costs as would be allowable under OMB Circular A–122, as amended, "Cost Principles for Nonprofit Organizations," including indirect costs in the country where the approved program is being implemented. A recipient agency may use not to exceed $500 per year of voluntary contributions for institutional, community or social development or other humanitarian purposes without regard to the Operational Plan or TA or OMB Circular A–122.

(3) Governmental cooperating sponsors shall use monetized proceeds and program income only for emergency purposes as described in the TA with respect to such programs.

(4) Monetized proceeds and program income may not be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

(5) Except as A.I.D. may otherwise agree in writing, monetized proceeds may not be used to finance the production for export of agricultural commodities, or products thereof, that would compete in the world market with similar agricultural commodities, or products thereof, produced in the United States, is such competition would cause substantial injury to the United States producers, as determined by A.I.D.

(6)(i) The cooperating sponsor shall use commercially reasonable practices in construction activities and in purchasing goods and services using monetized proceeds or program income; maintain a code of standards of conduct regarding conflicts of interest; carry out procurement transactions in a manner to provide open and free competition to the maximum extent practicable; and maintain and make available to A.I.D. in accordance with § 211.10 records and documents regarding the procurement of goods and services with monetized proceeds and program income. Cooperating sponsors shall follow their own requirements relating to bid guarantees, performance bonds and payment bonds when program income or monetized proceeds are used to finance construction or the improvement of facilities, but shall consult with USAID or the Diplomatic Post regarding such requirements when the estimated cost of such construction or improvements exceeds $100,000. Title to real and personal property shall be vested in the cooperating sponsor, except as provided in the Operational Plan or TA or as A.I.D. may otherwise agree in writing, subject to the requirements of § 211.11 upon termination of the program.

(ii) Monetized proceeds and program income may not be used to acquire, construct, alter or upgrade land, buildings or other real property improvements that are used to whole or in part for sectarian purposes or which are owned or managed by a church or other organization engaged exclusively in religious activi y. Notwithstanding the

preceding sentence, monetized proceeds or program income may be used to finance repair or rehabilitation of an existing structure owned or managed by a church or organization engaged exclusively in religious activity to the extent necessary to avoid spoilage or loss of donated commodities, provided that the structure is not used in whole or in part for any sectarian purpose while donated commodities are stored in it. The use of monetized proceeds or program income to finance construction of such a structure may be approved in the Operational Plan or TA or by USAID or the Diplomatic Post if the structure is needed and will be used for the storage of donated commodities for a sufficient period of time to warrant the expenditure of monetized proceeds or program income and the structure will not be used for any sectarian purpose during this period.

(l) *Report on funds.* The cooperating sponsor (headquarters, if there is more than one office) shall annually provide AID/W a report on the receipt and disbursement of all monetized proceeds and program income by cooperating sponsors and recipient agencies. This report should include the source of the funds, by country, and how the funds were used. This annual report should be submitted to AID/W by December 31 of each calendar year for the fiscal year ending September 30 of that calendar year.

(m) *No displacement of sales.* Except in the case of emergency or disaster situations, the donation of commodities furnished for these programs shall not result in increased availability for export by the recipient country of the same or like commodities and shall not interfere with or displace sales in the recipient country which might otherwise take place. A country may be exempt from this proviso if circumstances warrant. USAIDs should seek AID/W guidance on this matter.

(n) *Commodities borrowed or exchanged for programs.* After the date of the program approval by AID/W, but before arrival at the distribution point of the commodities authorized, the cooperating sponsor may, with prior approval of USAID or the Diplomatic Post, borrow the same or similar commodities from available sources to meet program requirements provided that:

(1) Borrowed commodities which are used in accordance with the terms of the Operational Plan or TA will be replaced with commodities transferred by A.I.D. The amount of commodities transferred to replace borrowed commodities shall be established by mutual agreement between the cooperating sponsor and USAID or the Diplomatic Post and will be determined on the basis of equivalent value at the time and place of transfer or on some other justifiable basis proposed by the cooperating sponsor and acceptable to USAID or the Diplomatic Post;

(2) Packaged commodities which are borrowed shall be appropriately identified insofar as practicable in the language of the country of distribution as having been provided through the friendship of the American people as food for peace; and

(3) Suitable publicity shall be given to the exchange of commodities as provided in paragraph (h) and containers for borrowed commodities shall be marked to the extent practicable in accordance with § 211.6(c).

(o) *Commodity transfer between programs.* After the date of program approval by AID/W, but before distribution of the commodities, USAID or the Diplomatic Post, (or the cooperating sponsor with prior approval of USAID or the Diplomatic Post) may transfer commodities between approved title II programs to meet emergency disaster requirements or to improve efficiency of operation, such as to meet temporary shortages due to delays in ocean transportation or provide for rapid distribution of stocks in danger of deterioration. Transfers also may be made to disaster organizations for use in meeting exceptional circumstances. Commodity transfers shall be made at no cost to the U.S. Government and with the concurrence of the cooperating sponsor and disaster relief organization concerned. A USAID or Diplomatic Post with funds available, however, may pay the costs of transfers to meet extraordinary relief requirements, and AID/W shall be advised promptly of the details of the transfer. Commodities transferred between programs shall not be replaced by the U.S. Government unless AID/W may authorizes such replacement.

(p) *Disposal of excessive stock of commodities.* If commodities are on hand which cannot be utilized in accordance with the approved Operational Plan or the TA, the cooperating sponsor shall promptly advise USAID or the Diplomatic Post of the quantities, location and condition of such commodities, and where possible, shall propose an alternative use of the excess stocks; USAID or the Diplomatic Post shall determine the most appropriate use of the excess stocks, and with prior AID/W concurrence, shall issue instructions for disposition. Transportation costs and other charges attributable to transferring commodities from one program to another within the country shall be the responsibility of the cooperating sponsor, except that in case of disaster or emergency, AID/W may authorize the use of disaster or emergency funds to pay for the costs of such transfers. (For discussion of unfit commodity disposal, see § 211.8.)

(q) *Trilateral exchange programs.* The restrictions in this Regulation regarding the distribution, use or labeling of commodities shall not apply to commodities furnished by CCC in exchange for other commodities obtained from third parties ("exchanged commodities") to be distributed in a recipient country under a trilateral exchange program. Except as A.I.D. and the cooperating sponsor may otherwise agree in writing, title to the exchanged commodities will pass to the cooperating sponsor upon delivery to and acceptance by the cooperating sponsor at the point of delivery specified in the Operational Plan or TA. After title passes to the cooperating sponsor the exchanged commodities shall be deemed "commodities" covered by this Regulation with respect to all post-delivery obligations of the cooperating sponsor contained in this Regulation, including obligations regarding labeling to the extent practicable, distribution, monitoring, reporting, accounting and use of commodities or monetized proceeds resulting from their sale. In the event of difficulty in satisfying the labeling requirement, the cooperating sponsor will consult with USAID or the Diplomatic Post for guidance.

(r) *Landing.* Governmental cooperating sponsors shall permit donated commodities to be discharged notwithstanding any dispute or question concerning quality, quantity, or other matters relating to the commodity itself. Any such dispute or question shall be resolved in accordance with procedures stated in this Regulation or in the relevant shipping or other contracts, as applicable.

§ 211.6 Processing, repackaging, and labeling commodities.

(a) *Commercial processing and repackaging.* Cooperating sponsors or their designees may arrange for processing commodities into different end products and for packaging or repackaging commodities prior to distribution. Commodities may be bartered, or monetized proceeds or program income may be used, to offset such costs if provided for in the Operational Plan or TA or approved by USAID or the Diplomatic Post. When commercial facilities are used for

processing, packaging or repackaging, cooperating sponsors or their designees shall enter into written agreements for such services and copies of the agreements must be provided to USAID or the Diplomatic Post. Except as AID/W otherwise agrees, the executed agreements shall provide as a minimum that the party providing such services shall:

(1) Fully account to the cooperating sponsor for all commodities delivered to the processor's possession and shall maintain adequate records and submit periodic reports pertaining to the performance of the agreement:

(2) Be liable for the value of all commodities not accounted for as provided in § 211.9(e);

(3) Return or dispose of the containers in which the commodity is received from the cooperating sponsor according to instructions from the cooperating sponsor; and

(4) Plainly label carton, sacks, or other containers containing the end product in accordance with paragraph (c).

(b) *Use of cooperating sponsor facilities.* When cooperating sponsors utilize their own facilities to process, package, or repackage commodities into different end products, and when such products are distributed for consumption off the premises of the cooperating sponsor, the cooperating sponsor shall plainly label the containers as provided in paragraph (c), and banners, posters, or similar media which shall contain information similar to that prescribed in paragraph (c) of this section, shall be displayed at the distribution center. Recipients' individual identification cards shall to the maximum extent practicable be imprinted to contain such information.

(c) *Labeling.* If, prior to distribution, the cooperating sponsor arranges for packaging or repackaging donated commodities, the cartons, sacks, or other containers in which the commodities are packed shall be plainly labeled with the A.I.D. emblem, and insofar as practicable, with the following information in the language of the country in which the commodities are to be distributed:

(1) Name of commodity;

(2) Provided through the friendship of the American people as food for peace; and

(3) Not to be sold or exchanged (where applicable).

Emblems or other identification of nongovernmental cooperating sponsors also may be added.

(d) *Where commodity containers are not used.* When the usual practice in a country is not to enclose the end product in a container, wrapper, sack, etc., the cooperating sponsor shall, to the extent practicable, display banners, posters, or other media, and imprint on individual recipient identification cards information similar to that prescribed in paragraph (c) of this section.

§ 211.7 Arrangements for entry and handling in foreign country.

(a) *Costs at discharge ports.* Except as otherwise agreed upon by AID/W and provided in the applicable shipping contract or in paragraph (d) and (e) of this section, the cooperating sponsor shall be responsible for all costs, other than those assessed by the delivering carrier either in accordance with its applicable tariff for delivery to the discharge port or the applicable charter or booking contract. The cooperating sponsor shall be responsible for all costs for:

(1) Distributing the commodity to end users, as provided in the approved Operational Plan or TA,

(2) For demurrage, detention, and overtime, and

(3) For obtaining independent discharge survey reports as provided in § 211.9. The cooperating sponsor will be reimbursed for the costs of obtaining independent survey reports as provided in § 211.9(c)(1)(iv). The cooperating sponsor also shall be responsible for wharfage, taxes, dues, and port charges assessed and collected by local authorities from the consignee, and for lighterage (when not a custom of the port), and lightening costs when assessed as a charge separate from the freight rate.

(b) *Duty, taxes, and consular invoices.* Except for commodities which are to be monetized (sold) under an approved Operational Plan or TA, commodities shall be admitted duty free and exempt from all taxes. Consular or legalization invoices shall not be required unless specific provision is made in the Operational Plan or TA. If required, they shall be issued without cost to the cooperating sponsor or to the Government of the United States. The cooperating sponsor shall be responsible for ensuring prompt entry and transit in the foreign country(ies) and for obtaining all necessary import permits, licenses or other appropriate approvals for entry and transit, including phytosanitary, health and inspection certificates.

(c) *Storage facilities and transportation in foreign countries.* The cooperating sponsors shall provide assurance to USAID or the Diplomatic Post that all necessary arrangements for receiving the commodities have been made, and shall assume full responsibility for storage and maintenance of the commodities from time of delivery at port of entry abroad or, when authorized, at other designated points of entry abroad agreed upon between the cooperating sponsor and A.I.D. Before recommending approval of a program to AID/W, USAID or the Diplomatic Post shall obtain, from the cooperating sponsor, assurance that provision has been made for internal transportation, and for storage and handling which are adequate by local commercial standards. The cooperating sponsor shall be responsible for the maintenance of the commodities in such manner as to assure distribution of the commodities in good condition to recipient agencies or eligible recipients.

(d) *Inland transportation in intermediate countries.* In the case of landlocked countries, transportation in the intermediate country to a designated inland point of entry in the recipient country shall be arranged by the cooperating sponsor unless otherwise provided in the Operational Plan or TA. Nongovernmental cooperating sponsors shall handle claims arising from loss or damage in the intermediate country, in accordance with § 211.9(e). Governmental cooperating sponsors shall assign any rights that they may have to any claims that arise in the intermediate country to USAID or the Diplomatic Post which shall pursue and retain the proceeds of such claims.

(e) *Authorization for reimbursement of costs.* If, because of packaging damage, a cooperating sponsor determines that commodities must be repackaged to ensure that the commodities arrive at the distribution point in a wholesome condition, the cooperating sponsor may incur expenses for such repackaging up to $500 and such costs will be reimbursed by CCC. If costs will exceed $500, the authority to repackage and incur the costs must be approved by USAID or the Diplomatic Post in advance of repackaging unless such prior approval is specifically waived, in writing, by USAID or the Diplomatic Post. For losses in transit, the $500 limitation shall apply to all commodities which are shipped on the same voyage of the same vessel to the same port of destination, irrespective of the kinds of commodities shipped or the number of different bills of lading issued by the carrier. For other losses, the $500 limitation shall apply to each loss situation, e.g., if 700 bags are damaged in a warehouse due to an earthquake, the $500 limitation applies to the total cost of repackaging the 700 bags. Shipments may not be artificially divided in order to avoid the limitation

of $500 or for obtaining prior approval to incur repackaging costs.

(f) *Method of reimbursement.* (1) Costs of repackaging required because of damage occurring prior to or during discharge from the ocean carrier should be included, as a separate item, in claims filed against the ocean carrier. (see § 211.9(c)). Full reimbursement of such costs up to $500 will be made by CCC upon receipt of invoices or other documents to support such costs. For amounts expended in excess of $500, reimbursement will be made upon receipt of supporting invoices or other documents establishing the costs of repackaging and showing the prior approval of USAID or the Diplomatic Post to incur the costs, unless approval is waived under § 211.7(e).

(2) Costs of repackaging required because of damage caused after discharge of the cargo from the ocean carrier will be reimbursed to the cooperating sponsor by CCC (USDA-ASCS Fiscal Division, 14th & Independence Avenue, Washington, DC 20250) upon receipt of supporting invoices or other documentation.

§ 211.8 Disposition of commodities unfit for authorized use.

(a) *Prior to delivery to cooperating sponsor at discharge port or point of entry.* If the commodity is damaged prior to delivery to a governmental cooperating sponsor at discharge port or point of entry overseas, USAID or the Diplomatic Post shall immediately arrange for inspection by a public health official or other competent authority. A nongovernmental cooperating sponsor shall arrange for such an inspection under these circumstances. Commodity that is determined to be unfit for authorized use shall be disposed of in accordance with the priority set forth in paragraph (b). Expenses incidental to the handling and disposition of the damaged commodity shall be paid by USAID or the Diplomatic Post from the sales proceeds, from CCC Account No. 20FT401 or from the special title II, Public Law 480 Agricultural Commodity Account. The net proceeds of sales shall be deposited with the U.S. Disbursing Officer American Embassy, for the credit of CCC Account No. 20FT401.

(b) *After delivery to cooperating sponsor.* (1) If after arrival in a foreign country it appears that all or part of the commodities, may be unfit for the use authorized in the Operational Plan or TA, the cooperating sponsor shall immediately arrange for inspection of the commodity by a public health official or other competent authority approved by USAID or the Diplomatic Post. If no competent local authority is available, USAID or the Diplomatic Post may determine whether the commodities are unfit, and if so, may direct disposal in accordance with paragraphs (b) (1) through (4) of this section. The cooperating sponsor shall arrange for the recovery for authorized use of that part designated during the inspection as suitable for program use. If, after inspection, the commodity (or any part) is determined to be unfit for authorized use the cooperating sponsor shall notify USAID or the Diplomatic Post of the circumstances pertaining to the loss or damage as prescribed in § 211.9(f).

(2) A cooperating sponsor shall dispose of commodities determined to be unfit for authorized use in the order of priority described in subsections (i) through (iv). The concurrence of USAID or the Diplomatic Post should be requested for disposition of commodities valued at $500 or more. If the USAID or Diplomatic Post does not respond to the cooperating sponsor's request for concurrence within 15 days, the cooperating sponsor may dispose of the commodities in the manner described in its request and inform the USAID or Diplomatic Post of its action taken in accordance with this section.

(i) Sale for the most appropriate use, i.e., animal feed, fertilizer, or industrial use, at the highest obtainable price. When the commodity is sold, all U.S. Government markings shall be obliterated, removed or crossed out.

(ii) Transfer to an approved Food for Peace program for use as livestock feed. AID/W shall be advised promptly of any such transfer so that shipments from the United States to the livestock feeding program can be reduced by an equivalent amount.

(iii) Donation to a governmental or charitable organization for use as animal feed or for other nonfood use.

(iv) If the commodity is unfit for any use or if disposal in accordance with subparagraphs (i), (ii), or (iii) is not possible, the commodity shall be destroyed in such manner as to prevent its use for any purpose. Commodities valued at $500 or more shall be destroyed under the observation of a representative of the USAID or Diplomatic Post if practicable. When the cooperating sponsor informs the USAID or Diplomatic Post of its intention to destroy commodities, the cooperating sponsor shall indicate the kind and amount of commodities that will be destroyed, the manner of destruction, the representative(s) of local authorities who will witness the destruction, and the date when the commodities will be destroyed. The date shall be established on the basis of programmatic need, but an effort should be made to provide a reasonable opportunity for a representative of the USAID or Diplomatic Post to attend. The commodities may be destroyed on the date indicated even if there is no representative of the USAID or Diplomatic Post to observe this action.

(3) Expenses incidental to the handling and disposition of the damaged commodity shall be paid by the cooperating sponsor unless it is determined by USAID or the Diplomatic Post that the damage could not have been prevented by the proper exercise of the cooperating sponsor's responsibility under the terms of the Operational Plan or TA. Actual expenses incurred, including third party costs, in selling the commodities may be deducted from the sales proceeds and, except for monetization programs, the net proceeds shall be deposited with the U.S. Disbursing Officer, American Embassy, with instructions to credit the deposit to CCC Account No. 20FT401. In monetization programs, net proceeds shall be deposited in the special account used for the approved program.

(4) The cooperating sponsor shall furnish USAID or the Diplomatic Post a written report in accordance with § 211.9(f), and the report shall enclose a certification by a public health official or other competent authority of:

(i) The exact quantity of the damaged commodity disposed of because it was determined to be unfit for any use and

(ii) the manner in which the commodities were destroyed.

§ 211.9 Liability for loss, damage, or improper distribution of commodities.

(Where the instructions in this § 211.9 state that the cooperating sponsor should contact USDA or CCC, the contact office is: Kansas City ASCS Commodity Office (KCCO), P.O. Box 419205, Kansas City, Missouri 64141–6205. For § 211.9 (a) and (b) contact: KCCO, Chief, Processed Commodities Division. For § 211.9(c) contact: KCCO, Chief, Claims and Collections Division, Kansas City, Missouri 64141–6105.)

(a) *Fault of cooperating sponsor prior to loading on ocean vessel.* A cooperating sponsor and A.I.D. shall agree on a schedule for shipping commodities. A nongovernmental cooperating sponsor that books cargo for ocean transportation must notify USDA immediately if the vessel does not arrive at the U.S. port of export in accordance with the agreed shipping schedule. USDA will determine whether the commodity shall be:

(1) Moved to another available outlet;

(2) Stored at the port for delivery to the nongovernmental cooperating sponsor when a vessel is available for loading; or

(3) Disposed of as USDA may deem proper.

When CCC incurs additional expenses because the nongovernmental cooperating sponsor, or its agent, fails to meet the agreed shipping schedule or to make necessary arrangements to accept commodities at the points of delivery designated by CCC, and CCC determines that the expenses were incurred because of the fault or negligence of the nongovernmental cooperating sponsor, the cooperating sponsor shall reimburse CCC for such expenses or take such action as directed by CCC.

(b) *Fault of others prior to loading on ocean vessel.* A nongovernmental cooperating sponsor shall immediately notify CCC if there is a loss of or damage to commodities, between the time title is transferred to the cooperating sponsor and the time the commodities are loaded on board the vessel, that is caused by the act or omission of a third party, such as a warehouseman or carrier, who is or may be legally liable for the loss or damage. The cooperating sponsor also shall promptly assign to CCC any claim it has against the third party and forward to CCC all documents relating to the loss or damage and the claim. CCC shall have the right to initiate, prosecute, and retain the proceeds all claims for such loss or damage.

(c) *Ocean carrier loss and damage.—(1) Survey and outturn reports.* (i) Nongovernmental cooperating sponsors shall arrange for an independent cargo surveyor to attend the discharge of the cargo and to count or weigh the cargo and examine its condition, unless USAID or the Diplomatic Post determines that such examination is not feasible, or if CCC has made other provision for such examinations and reports. The surveyor shall prepare a report of its findings showing the quantity and condition of the commodities discharged. The report shall also show the probable cause of any damage noted, and set forth the time and place when the examination was made. If practicable, the examination of the cargo shall be conducted jointly by the surveyor, the consignee, and the ocean carrier, and the survey report shall be signed by all parties. Customs receipts, port authority reports, shortlanding certificates, cargo boat notes, stevedore's tallies, etc., where applicable, shall be obtained and furnished with the report of the surveyor. Whenever a damaged commodity appears unfit for its intended use, the cooperating sponsor shall obtain:

(A) A certification by a public health official or similar competent authority regarding the condition of the commodity; and

(B) A certificate of disposition if the commodity is determined to be unfit for its intended use. These certificates shall be obtained as soon as possible after discharge of the cargo. If the cooperating sponsor can provide a narrative chronology or other commentary to assist in the adjudication of ocean transportation claims, this information should be forwarded as follows: Cooperating sponsors shall prepare such a statement in any case where the loss is estimated to be in excess of $5,000; all documentation shall be in English or supported by an English translation and shall be forwarded as set forth in paragraphs (c)(1) (iii) and (iv); and the cost of an English translation shall be incorporated into the survey fee. The cooperating sponsor may, at its option, also engage the independent surveyor to supervise clearance and delivery of the cargo from customs or port areas to the cooperating sponsor or its agent and to issue delivery survey reports thereon.

(ii) In the event of cargo loss or damage, a nongovernmental cooperating sponsor shall provide the names and addresses of individuals who were present at the time of discharge and during survey and who can verify the quantity lost or damaged. In the case of bulk grain shipments, the cooperating sponsor shall obtain the services of an independent surveyor to:

(A) Observe discharge of the cargo;

(B) Report on discharging method (including whether a scale was used, its type and calibration and other factors affecting its accuracy, or an explanation of why a scale was not used and how weight was determined);

(C) Furnish information as to whether cargo was discharged in accordance with port customs;

(D) Provide actual or estimated (if scales not used) quantity of cargo lost during discharge and specify how such losses occurred;

(E) Obtain copies of port and/or ship records including scale weights, where applicable, to show quantity discharged;

(F) Verify that upon conclusion of discharge, cargo holds are empty;

(G) Provide to USDA information as to quantity, type and cause of lost or damaged cargo;

(H) Furnish daily tally totals and any other pertinent information about the bagging of the bulk cargo when cargo is bagged or stacked by vessel interests; and

(I) Notify the cooperating sponsor immediately if additional services are necessary to protect cargo interests or if surveyor has reason to believe that the correct quantity was not discharged. The cooperating sponsor, in the case of damage to bulk grain shipments, shall obtain and provide the same documentation regarding quality of cargo as set forth in § 211.8(a) and paragraph (c)(1)(i) of this section. In the case of shipments arriving in container vans, cooperating sponsors shall require the independent surveyor to list the container van numbers and seal numbers shown on the container vans, and indicate whether the seals were intact at the time the container vans were opened, and whether the container vans were in any way damaged. To the extent possible, the independent surveyor should observe discharge of container vans from the vessel to ascertain whether any damage to the container van occurred and arrange for surveying the contents of any damaged container vans as they are opened.

(iii) Cooperating sponsors shall send to USDA copies of all reports and documents pertaining to the discharge of commodities. For those surveys arranged by CCC, the cooperating sponsors may obtain a copy of the report from the local USAID Food for Peace Officer.

(iv) CCC will reimburse a nongovernmental cooperating sponsor for the costs incurred by it in obtaining the services of an independent surveyor to conduct examinations of the cargo and render the report set forth above. Reimbursement by CCC will be made upon receipt by CCC of the survey report and the surveyor's invoice or other documents that establish the survey cost. However, CCC will not reimburse a nongovernmental cooperating sponsor for the costs of only a delivery survey, in the absence of a discharge survey, or for any other survey not taken contemporaneously with the discharge of the vessel, unless such deviation from the documentation requirements of paragraph (c)(1) is justified to the satisfaction of CCC.

(v) CCC normally will contract for the survey of cargo on shipments furnished under Transfer Authorizations, including shipments for which A.I.D. contracts for the ocean transportation services. Survey contracts normally will be let on a competitive bid basis. However, if a USAID or Diplomatic Post desires that CCC limit its consideration to only certain selected surveyors, USAID or the Diplomatic Post shall furnish AID/W a list of eligible surveyors for forwarding to CCC. Surveyors may be omitted from the list, for instance, based on foreign relations considerations, conflicts of

interest, and/or lack of demonstrated capability to carry out surveying responsibilities properly as set forth in the requirements of CCC. Upon receipt of written justification for removal of a particular survey firm, CCC will consider removal of such firm and advise the USAID via AID/W of the final determination. AID/W will furnish CCC's surveying requirements to a USAID or Diplomatic Post upon request. If CCC is unable to find a surveyor at a port to which a shipment has been consigned, CCC may request AID/W to contact USAID or the Diplomatic Post to arrange for a survey. The surveyor's bill for such services shall be submitted to USAID or the Diplomatic Post for review. After the billing has been approved, USAID or the Diplomatic Post either may pay the bill using funds in CCC account 20FT401, if available, or forward the bill to AID/W for transmittal to CCC for payment. If USAID or the Diplomatic Post pays the bill, AID/W shall be advised of the amount paid, and CCC will reimburse USAID or the Diplomatic Post.

(2) *Claims against ocean carriers.* (i) Whether or not title to commodities has transferred from CCC to the cooperating sponsor, if A.I.D. contracted for the ocean transportation, CCC shall have the right to initiate, prosecute, and retain the proceeds of all claims against ocean carriers for cargo loss or damage arising out of shipments of commodities transferred or delivered by CCC hereunder.

(ii)(A) Unless otherwise provided in the Operational Plan or TA, nongovernmental cooperating sponsors shall file notice of any cargo loss or damage with the ocean carrier immediately upon discovery of any such loss or damage, promptly initiate claims against the ocean carrier for cargo loss or damage, take all necessary action to obtain restitution for losses within any applicable periods of limitations, and transmit to CCC copies of all such claims. However, the nongovernmental cooperating sponsor need not file a claim when the cargo loss or damage is not in excess of $100, or in any case when the loss or damage is between $100 and $300 and it is determined by the nongovernmental cooperating sponsor that the cost of filing and collecting the claim will exceed the amount of the claim. The nongovernmental cooperating sponsor shall transmit to CCC copies of all claims filed with the ocean carriers for cargo loss or damage, as well as information and/or documentation on shipments when no claim is to be filed. When General Average has been declared, no action will be taken by the nongovernmental cooperating sponsor to file or collect claims for loss or damage to commodities. (See paragraph (c)(2)(iii).)

(B) The value of commodities misused, lost or damaged shall be determined on the basis of the domestic market price at the time and place the misuse, loss or damage occurred, or, in case it is not feasible to obtain or determine such market price, the f.o.b. or f.a.s. commercial export price of the commodity at the time and place of export, plus ocean freight charges and other costs incurred by the U.S. Government in making delivery to the cooperating sponsor. When value is determined on a cost basis, nongovernmental cooperating sponsors may add to the value any provable costs they have incurred prior to delivery by the ocean carrier. In preparing the claim statement, these costs shall be clearly segregated from costs incurred by the U.S. Government. With respect to claims other than ocean carrier loss or damage claims, at the request of the cooperating sponsor or upon the recommendation of USAID or the Diplomatic Post, AID/W may determine that such value may be determined on some other justifiable basis. When replacement is made, the value of commodity misused, lost or damaged shall be their value at the time and place the misuse, loss, or damage occurred and the value of the replacement commodities shall be their value at the time and place replacement is made.

(C) Amounts collected by nongovernmental cooperating sponsors on claims against ocean carriers not in excess of $200 may be retained by the nongovernmental cooperating sponsor. On claims involving loss or damage having a value in excess of $200, nongovernmental cooperating sponsors may retain from collections received by them, the larger of:

(*1*) The amount of $200 plus 10 percent of the difference between $200 and the total amount collected on the claim, up to a maximum of $500, or

(*2*) Actual administrative expenses incurred in collection of the claim if approved by CCC. Collection costs shall not be deemed to include attorneys fees, fees of collection agencies, and the like. In no event will collection costs in excess of the amount collected on the claim be paid by CCC. The nongovernmental cooperating sponsors may also retain from claim recoveries remaining after allowable deductions for administrative expenses of collection, the amount of any special charges, such as handling, packing, and insurance costs, which the nongovernmental cooperating sponsor has incurred on the lost or damaged commodity and which are included in the claims and paid by the liable party.

(D) A nongovernmental cooperating sponsor may redetermine claims on the basis of additional documentation or information, not considered when the claims were originally filed when such documentation or information clearly changes the ocean carrier's liability. Approval of such changes by CCC is not required regardless of amount. However, copies of redetermined claims and supporting documentation or information shall be furnished to CCC.

(E) A nongovernmental cooperating sponsor may negotiate compromise settlements of claims regardless of the amount thereof, except that proposed compromise settlements of claims having a value in excess of $5,000 shall not be accepted until such action has been approved in writing by CCC. When a claim is compromised, the nongovernmental cooperating sponsor may retain from the amount collected, the amounts authorized in paragraph (c)(2)(ii)(C) and in addition, an amount representing such percentage of the special charges described in paragraph (c)(2)(ii)(C) as the compromised amount is to the full amount of the claim. When a claim is not in excess of $600, the nongovernmental cooperating sponsor may terminate collection activity on the claim according to the standards set forth in the Federal Claims Collection Standards, 4 CFR 104.3. Approval of such termination by CCC is not required, but the nongovernmental cooperating sponsor shall notify CCC when collection activity on a claim is terminated.

(F) All amounts collected in excess of the amounts authorized herein to be retained shall be remitted to CCC. For the purpose of determining the amount to be retained by the nongovernmental cooperating sponsor from the proceeds of claims filed against ocean carriers, the word "claim" shall refer to the loss and damage to commodities which are shipped on the same voyage of the same vessel to the same port destination, irrespective of the kinds of commodities shipped or the number of different bills of lading issued by the carrier. If a nongovernmental cooperating sponsor is unable to collect a claim or negotiate an acceptable compromise settlement within the applicable period of limitation or any extension thereof granted in writing by the liable party or parties, the rights of the nongovernmental cooperating sponsor to the claim shall be assigned to CCC in

sufficient time to permit the filing of legal action prior to the expiration of the period of limitation or any extension thereof. Nongovernmental cooperating sponsors shall promptly assign their claim rights to CCC upon request. In the event CCC collects or settles the claim after the rights of the nongovernmental cooperating sponsor to the claim have been assigned CCC, CCC shall, except as shown below, pay to the nongovernmental cooperating sponsor the amount the agency or organization would have been entitled to retain had they collected the same amount. However, the additional 10 percent on amounts collected in excess of $200 will be payable only if CCC determines that reasonable efforts were made to collect the claim prior to the assignment, or if payment is deemed to be commensurate with the extra efforts exerted in further documenting claims. In addition, if CCC determines that the documentation requirements of paragraph (c)(1) have not been fulfilled and the lack of such documentation has not been justified to the satisfaction of CCC, CCC reserves the right to deny payment of all allowances to the nongovernmental cooperating sponsor.

(G) When nongovernmental cooperating sponsors fail to file claims, or permit claims to become time-barred, or fail to provide for the right of CCC to assert such claims, as provided in this § 211.9, and it is determined by CCC that such failure was due to the fault or negligence of the nongovernmental cooperating sponsor, the agency or organization shall be liable to the United States for the cost and freight (C&F) value of the commodities lost to the program.

(iii) If a cargo loss has been incurred on a nongovernmental cooperating sponsor shipment, and general average has been declared, the nongovernmental cooperating sponsor shall furnish to CCC with a duplicate copy to AID/W—:

(A) copies of booking confirmations and the applicable on-board bill(s) of lading,

(B) The related outturn or survey report(s),

(C) Evidence showing the amount of ocean transportation charges paid to the carrier(s), and

(D) An assignment to CCC of the cooperating sponsor's right to the claim(s) for such loss. CCC assumes responsibility for general average and marine salvage.

(iv) A.I.D. will initiate and prosecute claims against ocean carriers and defend claims by such carriers, arising from or relating to affreightment contracts booked by A.I.D. where the claims involve entitlement to freight and related costs from the U.S. Government. Proceeds of such claims received by A.I.D. shall be returned to CCC pursuant to agreed procedures.

(d) Fault of cooperating sponsor in country of distribution. If a commodity, monetized proceeds or program income is used for a purpose not permitted under the Operational Plan or TA or this Regulation, or if a cooperating sponsor causes loss or damage to a commodity, monetized proceeds or program income through any act or omission or failure to provide proper storage, care and handling, the cooperating sponsor shall pay to the United States the value of the commodities, monetized proceeds or program income, lost, damaged, or misused, unless A.I.D. determines that such improper distribution or use, or such loss or damage, could not have been prevented by proper exercise of the cooperating sponsor's responsibility under the Operational Plan or TA and this Regulation. In determining whether there was a proper exercise of the cooperating sponsor's responsibility, A.I.D. shall consider normal commercial practices in the country of distribution and the problems associated with carrying out programs in developing countries. Payment by the cooperating sponsor shall be made in accordance with paragraph (g) of this section, except that the USAID or Diplomatic Post may agree to permit a cooperating sponsor to replace commodities lost, damaged or misused with similar commodities of equal value.

(e) *Fault of others in country of distribution and in intermediate country.* (1) In addition to survey and/or outturn reports to determine ocean carrier loss and damage, the cooperating sponsor shall, in the case of landlocked countries, arrange for an independent survey at the point or entry into the recipient country and to make a report as set forth in subsection (c)(1). CCC will reimburse the cooperating sponsor for the costs of a survey as set forth in subsection (c)(1)(iv).

(2) If a cooperating sponsor acquires any right against a person or governmental or nongovernmental organization based on an event for which the person or organization is responsible that resulted in the damage, loss or misuse of any commodity, monetized proceeds or program income, the cooperating sponsor shall file a claim against the liable party or parties for the value of the commodities, monetized proceeds or program income lost, damaged or misused and shall make every reasonable effort to collect the claim. A copy of the claim and related documents shall be provided to USAID or the Diplomatic Post. Cooperating sponsors who fail to file or pursue such claims shall be liable to A.I.D. for the value of the commodities or monetized proceeds or program income lost, damaged, or misused: Provided, however, that the cooperating sponsor may elect not to file a claim if the loss is less than $500 and such action is not detrimental to the program. Cooperating sponsors may retain $150 of any amount collected on an individual claim. In addition, cooperating sponsors may, with the written approval of USAID or the Diplomatic Post, retain either special costs such as reasonable legal fees that they have incurred in the collection of a claim, or pay such legal fees with monetized proceeds or program income. Any proposed settlement for less than the full amount of the claim must be approved by USAID or the Diplomatic Post prior to acceptance. When the cooperating sponsor has exhausted all reasonable attempts to collect a claim, it shall request USAID or the Diplomatic Post to provide further instructions in accordance with paragraph (e)(4).

(3) Calculation of the amount of a claim against others. A claim is the right a cooperating sponsor has against a third party as a result of an event for which the third party is responsible that caused the loss, damage or misuse 1of commodities, monetized proceeds or program income. The amount of the claim is based on the value of the commodities, monetized proceeds or program income lost, damaged or misused as a result of the event. An individual claim may not be broken down artificially to enlarge the amount the cooperating sponsor may retain as an administrative allowance on collection of the claim. For example, if a cooperating sponsor has a contract with a carrier to transport commodities, and losses occur during a single shipment of commodities from points A to B, the cooperating sponsor has one claim against the carrier, and the amount of the claim will be based on the total value of the commodities lost during the shipment from A and B even though some of the loss might have occurred on each of several trucks or by subcontractors used by the carrier to satisfy its contract responsibility to transport the commodities.

(4) Reasonable attempts to collect the claim shall not be less than the follow-up of initial billings with three progressively stronger demands at not more than 30-day intervals. If these efforts fail to elicit a satisfactory response, legal action in the judicial system of the cooperating country should be pursued unless:

(i) Liability of the third party is not provable,

(ii) The cost of pursuing the claim would exceed the amount of the claim,

(iii) The third party would not have enough assets to satisfy the claim after a judicial decision favorable to the cooperating sponsor,

(iv) Maintaining legal action in the country's judicial system would seriously impair the cooperating sponsor's ability to conduct an effective program in the country, or

(v) It is inappropriate for reasons relating to the judiciary or judicial system of the country.

A cooperating sponsor's decision not to take legal action, and reasons therefore, must be submitted in writing to USAID or the Diplomatic Post for review and approval, and USAID or the Diplomatic Post may require the cooperating sponsor to obtain and submit the opinion of competent legal counsel to support its decision. A cooperating sponsor also may request approval to terminate legal action after it has commenced if it is apparent that any of the exceptions described above becomes applicable or if it is otherwise appropriate to terminate legal action prior to judgment. In each instance, USAID or the Diplomatic Post must provide the cooperating sponsor a written explanation of its decision within 45 days from the date the request is received or inform the cooperating sponsor in writing regarding the reason(s) the USAID or Diplomatic Post needs more time to make a decision. If USAID or the Diplomatic Post approves a cooperating sponsor's decision not to take further action on the claim for reasons described in (iv) or (v) above, the cooperating sponsor shall assign the claim to A.I.D. and shall provide to A.I.D. all documentation relating to the claim. When USAID or the Diplomatic Post takes an assignment of a claim or claims from a cooperating sponsor, the USAID or Diplomatic Post shall consult AID/W regarding the appropriate action to take on the assigned claim(s), unless standing guidance is in effect.

(5) As an alternative to legal action in the judicial system of the country with regard to claims against a public entity of the government of the cooperating country, the cooperating sponsor and the cooperating country may agree to settle disputed claims by an appropriate administrative procedure and/or arbitration. This alternative may be established in the Host Country Food for Peace Program Agreement required under § 211.3(b), or by a separate formal understanding, and must be submitted to USAID or the Diplomatic Post for review and approval. Resolution of disputed claims by any administrative procedure or arbitration agreed to by the cooperating sponsor and the cooperating country should be final and binding on the parties.

(f) *Reporting losses to USAID or the Diplomatic Post.* (1) The cooperating sponsor shall provide USAID or Diplomatic Post a quarterly report regarding any loss, damage or misuse of commodities, monetized proceeds or program income. The report must be provided within 30 days after the close of the calendar quarter and shall contain the following information except for commodity losses less than $500: Who had possession of the commodities, monetized proceeds or program income; who, if anyone, might be responsible for the loss, damage or misuse; the kind and quantity of commodities; the size and type of containers; the time and place of loss, damage or misuse; the current location of the commodities; the program number; CCC contract number, if known, and if not known, other identifying numbers printed on the commodity containers; the action taken by the cooperating sponsor with respect to recovery or disposal; and the estimated value of the loss, damage or misuse. If any of this information is not available, the cooperating sponsor shall explain why it is not. The report simply may identify separately commodity losses valued at less than $500 and indicate the estimated value of the commodities lost damaged or misused and the action taken by the cooperating sponsor with respect to recovery or disposal, except that the cooperating sponsor shall inform the USAID or Diplomatic Post if it has reason to believe there is a pattern or trend in the loss, damage or misuse of such commodities and provide the information described above for losses of $500 or more together with such other information available to it. USAID or the Diplomatic Post may require additional information about any commodities lost, damaged or misused. Information in the quarterly report may be provided in tabular form to the extent possible, and the report shall enclose a copy of any claim made by the cooperating sponsor during the reporting period.

(2) If any commodity, monetized proceeds or program income is lost or misused under circumstances which give a cooperating sponsor reason to believe that the loss or misuse has occurred as a result of criminal activity, the cooperating sponsor shall promptly report these circumstances to the A.I.D. Inspector General through AID/W, USAID or the Diplomatic Post, and subsequently to the appropriate authorities of the cooperating country unless instructed not to do so by A.I.D. The cooperating sponsor also shall cooperate fully with any subsequent investigation by the Inspector General and/or authorities of the cooperating country.

(g) *Handling claims proceeds.* Claims against ocean carriers shall be collected in U.S. dollars (or in the currency in which freight is paid, or a pro rata share of each) and shall be remitted (less amounts authorized to be retained) by nongovernmental cooperating sponsors to CCC. With respect to commodities, claims against nongovernmental cooperating sponsors shall be paid to CCC or AID/W in U.S. dollars; amounts paid by other cooperating sponsors and third parties in the country of distribution shall be deposited with the U.S. Disbursing Officer, American Embassy, preferably in U.S. dollars with instructions to credit the deposit to CCC account No. 12X4336, or in local currency with instructions to credit the deposit to Treasury sales account 20FT401. Any conversion required for these deposits shall be in the highest rate of exchange legally obtainable on the date of deposit unless the A.I.D. agrees otherwise in writing. With respect to monetized proceeds and program income, amounts recovered should be deposited into the special interest-bearing account established for the monetized proceeds and may be used for purposes of the approved program.

(h) *General average.* CCC shall—

(1) Be responsible for settling general average and marine salvage claims;

(2) retain the authority to make or authorize any disposition of commodities which have not commenced ocean transit or of which the Ocean transit is interrupted, and receive and retain any monetary proceeds resulting from such disposition;

(3) In the event of a declaration of general average, initiate, prosecute, and retain all proceeds of cargo loss and damage claims against ocean carriers; and

(4) Receive and retain any allowance in general average. CCC will pay any General Average or marine salvage claims determined to be due.

§ 211.10 Records and reporting requirements.

(a) *Records.* Cooperating sponsors and recipient agencies shall maintain records and documents in a manner which accurately reflects the operation of the program and all transactions pertaining to the receipt, storage, distribution, sale, inspection and use of

commodities and to receipt and disbursement of any monetized proceeds and program income. Such records shall be retained for a period of 3 years from the close of the U.S. fiscal year to which they pertain, or longer, upon request by A.I.D. for cause, such as in the case of litigation of a claim or an audit concerning such records. The cooperating sponsor shall transfer to A.I.D. any records, or copies thereof, requested by A.I.D.

(b) *Reports.* Cooperating sponsors shall submit copies of audits performed in accordance with § 211.5(c). In addition, cooperating sponsors shall submit reports to USAID or the Diplomatic Post, and to AID/W not less than annually. The following is a list of the principal types of reports that are to be submitted:

(1) Periodic summary reports showing receipt, distribution, and inventory of commodities and proposed schedules of shipments or calls forward.

(2) Reports relating to the generation of monetized proceeds and program income and the use of such funds for purposes specified in the Operational Plan or TA. See § 211.5(1).

(3) Reports relating to progress and problems in the implementation of the program.

(4) Reports shall be submitted in sufficient detail to enable USAID or the Diplomatic Post to assess and to make recommendations as to the ability of the cooperating sponsors to effectively plan, manage, control and evaluate the Food for Peace programs under their administration.

(5) At the time that any emergency program under Public Law 480, title II is initiated, whether by a governmental or nongovernmental cooperating sponsor, USAID or the Diplomatic Post should:

(i) Make a determination regarding the ability of the cooperating sponsor to perofrm the record-keeping required by this § 211.10, and

(ii) In those instances in which those specific record-keeping requirements cannot be followed, due to emergency circumstances, specify exactly which essential information will be recorded in order to account fully for title II commodities and monetized proceeds.

(c) *Inspection and audit.* Cooperating sponsors and recipient agencies shall cooperate with and give reasonable assistance to U.S. Government representatives to enable them at any reasonable time:

(1) To examine activities and records of the cooperating sponsor, recipient agencies, processors, or others, pertaining to the receipt, storage, distribution, processing, repackaging, sale and use of commodities by recipients;

(2) To inspect commodities in storage, or the facilities used in the handling or storage of commodities;

(3) To inspect and audit books and records, including financial books and records and reports pertaining to storage, transportation, processing, repackaging, distribution, sale and use of commodities and pertaining to the deposit and use of any monetized proceeds and program income;

(4) To review the overall effectiveness of the program as it relates to the objectives set forth in the Operational Plan or TA;

(5) And to examine or audit the procedure and methods used in carrying out the requirements of this Regulation.

Inspections and audits of title II emergency programs will take into account the circumstances under which such programs are carried out.

§ 211.11 Suspension, termination and expiration of program.

(a) Termination or suspension by A.I.D. All or any part of the assistance provided under the program, including commodities in transit, may be terminated or suspended by A.I.D. at its discretion if AID/W determines that a cooperating sponsor has failed to comply with the provisions of the approved Operational Plan or TA, or of this Regulation, or that the continuation of such assistance is no longer necessary or desirable. If AID/W believes that circumstances permit, AID/W will provide a nongovernmental cooperating sponsor written notice of A.I.D.'s intention to terminate or suspend the cooperating sponsor's program, together with an explanation of the reason(s) for A.I.D.'s action, at least 30 days prior to the date indicated in the notice that the program will be terminated or suspended. Comments provided by the nongovernmental cooperating sponsor prior to the effective date of the termination or suspension shall be considered by AID/W in determining whether to rescind the notice. When a program is terminated or suspended, title to commodities which have been transferred to the cooperating sponsor, or monetized proceeds, program income and real or personal property procured with monetized proceeds or program income shall, at the written request of USAID, the Diplomatic Post or AID/W, be transferred to the U.S. Government by the cooperating sponsor. Any then excess commodities on hand at the time the program is terminated shall be disposed of in accordance with § 211.5 (o) and (p) or as otherwise instructed by USAID or the Diplomatic Post. If it is determined that any commodity authorized to be supplied under the Operational Plan or TA is no longer available for Food for Peace programs, such authorization shall terminate with respect to any commodities which, as of the date of such determination have not been delivered f.o.b. or f.a.s. vessel, provided that every effort will be made to give adequate advance notice to protect cooperating sponsors against unnecessarily booking vessels.

(b) Expiration of program. Upon expiration of the approved program under circumstances other than those described in paragraph (a), the cooperating sponsor shall deposit with the U.S. Disbursing Officer, American Embassy, with instructions to credit the deposit to CCC Account No. 20FT401, any remaining monetized proceeds or program income, or the cooperating sponsor shall obtain A.I.D.'s approval for the use of such monetized proceeds or program income, or real or personal property procured with such proceeds or income, for purposes consistent with those authorized for support from A.I.D.

§ 211.12 Waiver and amendment authority.

The Assistant Administrator for Food for Peace and Voluntary Assistance, A.I.D., may waive, withdraw, or amend, at any time, any or all of the provisions of this Regulation 11 if such provision is not statutory and it is determined to be in the best interest of the U.S. Government to do so. Any cooperating sponsor which has failed to comply with the provisions of this Regulation or any instructions or procedures issued in connection herewith, or any agreements entered into pursuant hereto may at the discretion of A.I.D. be suspended or disqualified from further participation in any distribution program. Reinstatement may be made at the option of A.I.D. Disqualification shall not prevent A.I.D. from taking other action through other available means when considered necessary.

Appendix I to Part 211—Operational Plan

A. General Outline of Operational Plans for Title II Activities

In addition to any other requirement of law or regulation, the Operational Plan will include information outlined below to the extent it is applicable to the specific activity.

1. Program Goals

Describe program goals and criteria for measuring progress toward reaching the goals. Each program should be designed to achieve measurable objectives within a specified period of time.

2. Program Description

a. Describe the characteristics, extent and severity of problems that the program will address.

b. Provide a clear concise statement of specific objectives for each program and of criteria for measuring progress towards reaching the objectives. If there are several objectives, indicate priorities.

c. Describe the target population by program, including economic/nutrition-related characteristics, sufficiently to permit a determination of recipient eligibility for Title II commodities. Describe the educational and employment characteristics of the target group, if relevant to program objectives; the rationale for selection of the target group, the rationale for the selection of the geographical areas where programs will be carried out; the calculation of coverage and the percent of total target population reached.

d. Describe the intervention including:

(1) Ration composition. A description of rations, rationale for size and composition, assessment of effectiveness (dilution, sharing, acceptance).

(2) Complementary program components and inputs. Identify existing or potential complementary program components, i.e., education, growth monitoring, training, etc., that are necessary to achieve program impact, including determination of financial costs and sources of funding.

(3) Monetization. Describe to whom the commodities will be sold; the sales price (which shall not be less than the value of the food commodities f.a.s. or f.o.b.); arrangements for deposit of the monetization proceeds in a special (segregated), interest bearing account, pending use of the proceeds plus interest for the program; and the capability of the cooperating sponsor and recipient agencies to use and account for monetized proceeds properly as well as technical assistance the cooperating sponsor intends to obtain or provide if necessary in order to ensure that there are adequate financial and other management systems for the program proposed.

(4) Intervention strategy. Describe how the commodities, monetization proceeds, program income and other program components will address the problems. Indicate the recipient agencies to which commodities, monetized proceeds or program income will be transferred, and identify those recipient agencies which will not be required to execute Recipient Agency Agreements, and provide a brief explanation of the reasons.

(5) Linkages with other development activities, such as health or agricultural extension services. Describe specific areas of collaboration relative to program purposes.

(6) Monitoring and Evaluation. Include a description of the evaluation plan, including information to be collected for purposes of assessing program operations and impact. Describe the monitoring system for collection, analysis and utilization of information. Include a schedule for carrying out the evaluation as well as a plan for conducting internal reviews (Regulation 11, § 211.5 (c)).

(7) Program Period. The Operational Plan should cover enough time for a program to become fully operational and to permit evaluation of its effectiveness, including specific measurement of progress in achieving the stated program goals. Normally this will be a multi-year time frame, such as three to five years. Plans for and considerations involved in phasing-out U.S.G. support, and any phasing-over to non-U.S.G. support, should be discussed.

3. Program Funding

Provide details of host government, cooperating sponsor and other non-USG support for the proposed program, with specific budgetary information on how these funds are to be used (e.g. complementary inputs, transport, administration). Where relevant, discussion of arrangements which will be made covering voluntary contributions.

4. Publicity

Describe how the requirements for public recognition, container markings, and use of funds set forth in regulation 11, §§ 211.5(h), (i) and (k) and in 211.6 (a) and (b), will be met.

5. Logistics

Provide a logistics plan that demonstrates the adequacy and availability in recipient country of port facilities, transportation and storage facilities to handle the flow of commodities to recipients to prevent spoilage or waste. A further affirmation must be made at the time of exportation of the commodity from the United States.

6. Disincentives

Furnish sufficient information concerning the plan of distribution and the target group of recipients so that a determination can be made as to whether the proposed food distribution would result in substantial disincentive to domestic food production. It is not necessary to provide a disincentive analysis if A.I.D. or USDA has completed such an analysis for another program that is relevant to the program proposed by the cooperating sponsor.

7. Accountability

Describe the method to be used to supervise, monitor, and account for the distribution or sale of commodities and the use of monetized proceeds and program income.

8. Import Duty

Provide information to show approval of foreign government to import the donated commodities duty free.

9. Voluntary Agency Regular Programs

An Operational Plan is required for all regular, i.e. non-emergency, title II nongovernmental cooperating sponsor programs as part of their program submission, along with the Annual Estimate of Requirements (AER), to USAID or the Diplomatic Post and AID/W. When new multi-year Operational Plans are required, they should be prepared and submitted in advance of the year in which they are to begin, in order to permit adequate time for substantive review and approval. In any event, nongovernmental cooperating sponsor Operational Plans should be submitted to AID/W no later than the Mission Action Plan covering the following fiscal year's program. Once an Operational Plan has been approved, only an updating will be required on an annual basis, unless there has been a significant change from the approved plan's program directives, methodology, design or magnitudes. Updates should be submitted each year for review with the AERs.

B. Operational Plans for Emergency Programs

The response to emergency situations using title II resources does not usually permit the same degree of detail and certainty of analysis that is expected in planning title II non-emergency programs. However, Operational Plans are required for all nongovernmental cooperating sponsors' emergency programs, along with the AER. An Operational Plan for an emergency program must cover the same basic elements, set forth above, as for a nonemergency program. Thus, all of the above basic issues set forth in the Operational Plan format must be addressed when proposing title II emergency programs as well as regular nonemergency programs.

C. USAID/Diplomatic Post Responsibilities

A USAID or Diplomatic Post is expected to comment on the substance and adequacy of a nongovernmental cooperating sponsor's Operational Plans when submitted to AID/W along with a program request, and to address the plan's relationship to and consistency with the Mission's Country Development Strategy Statement.

D. Required Approval for Program Change

Cooperating sponsors agree not to deviate from the program as described in the Operational Plan and other program documents approved by A.I.D., without the prior written approval of A.I.D.

E. Emergency Assistance Program Requests

Any cooperating sponsors (governmental or nongovernmental) may initiate an emergency assistance proposal under Public Law 480, title II. Requests are received by a USAID or Diplomatic Post and reviewed and approved before forwarding to AID/W with appropriate recommendations.

a. Nongovernmental emergency program requests can be cabled by USAID or the Diplomatic Post for AID/W review based on information provided and using procedures established for regular programs per regulation 11, § 211.5(a): AER and Operational Plan.

b. A foreign government or international organization (other than World Food Program) emergency request normally requires more Mission involvement in program design and management. However, as in the case of nongovernmental programs, the approval will be based on a cabled program summary based on the program plan outlined in (2) above. On approval, AID/W will prepare a Transfer Authorization (TA) to be signed by the recipient government specifying terms of the program and reporting requirements. Additional guidance in preparing government-to-government or international organizations emergency requests is in chapter 9 and Exhibit A of A.I.D. Handbook 9. The TA serves as (1) the Food for peace Agreement between the U.S.

Government and the cooperating sponsor, (2) the project authorization document, and (3) the authority for the CCC to ship commodities. (Under Public Law 480, section 207(a), not later than 15 days after receipt of a call forward from a field mission for commodities, the order shall be transmitted to the CCC.)

F. Local Currency Programs (Public Law 480, Title II Section 203)

Detailed guidance for preparing, approving, implementing and administering these programs is provided in chapters 6, 7, and 11 of A.I.D. Handbook 9.

G. Problems Conducting Programs in Developing Countries

Describe the problems that can be anticipated in implementing the program in the recipient country as a result of its being a developing country.

H. Waivers

A cooperating sponsor should provide a justification for the waiver of any specific section or sections of Regulation 11 that it believes necessary for the program.

Dated: August 20, 1991.

John F. Hicks,

Acting Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance, Agency for International Development.

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August 29, 1991

Part III

Department of the Interior

National Park Service

36 CFR Part 28

Fire Island National Seashore, New York; Federal Zoning Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 28

RIN 1024-AA80

Fire Island National Seashore, New York; Federal Zoning Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: On October 7, 1987, the National Park Service, Department of the Interior, published in the **Federal Register** (52 FR 37586) a proposed rule revising the special regulations pertaining to the federal zoning standards for the development of zoning ordinances by local authorities for land within the boundaries of the Fire Island National Seashore (the Seashore).

This final regulation is published to provide the Seashore, local zoning authorities of Fire Island, and Fire Island property owners a clear set of standards and procedures for use, maintenance, renovation, repair, and development of property within the Seashore. The regulations provide for the protection of the Seashore's resources through local zoning limitations on use, location, and size of structures on public and private property. The regulations emphasize the primary role of the local governments for zoning and zoning enforcement and the secondary role of federal enforcement through condemnation. The regulations provide guidelines and procedures for application and issuance of Certificates of Suspension from Federal Condemnation.

EFFECTIVE DATE: September 30, 1991.

FOR FURTHER INFORMATION CONTACT: Jack Hauptman, Superintendent, Fire Island National Seashore, 120 Laurel Street, Patchogue, New York 11772, Telephone: (516) 289-4810.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of the Interior (the Secretary) is directed by the Fire Island National Seashore Act (16 U.S.C. 459e) to issue regulations, which may be amended, specifying standards for inclusion in local zoning ordinances by local authorities within the boundaries of the Seashore. If local ordinances conform to the federal standards and are approved by the Secretary, the Secretary's authority to condemn certain property within the Seashore is suspended for property in accord with the standards.

Since the issuance of the 1980 regulations, the Seashore prepared, and had approved (September 1984), a Land Protection Plan. Recommended in the plan was a review of the 1980 regulations and revision of certain sections. In October 1984, Congress amended the Fire Island National Seashore Act (the Seashore Act) changing the criteria on which the federal standards are based. This amendment directed the National Park Service (the Service) to develop regulations with the primary focus being environmental issues such as protection of the natural resources, resource carrying capacity and population density. The amendment signalled Congress' desire to move away from traditional aesthetic issues such as frontage and setback requirements. In January 1985, the Secretary found that the four local authorities' zoning ordinances conformed with the 1980 regulations. Two of those ordinances were approved with exceptions. The proposed rule was developed in response to the policies and directions of the Land Protection Plan, the new criteria for developing the standards as established by Congress in the 1984 amendments to the Seashore Act, to resolve conflicts between the 1980 rule (existing regulations) and the local ordinances, and to provide guidelines and procedures for application and issuance of Certificates of Suspension from Federal Condemnation.

The majority of the provisions in this rule making have been in effect since 1980 and are being retained with editorial changes made for the purpose of clarification. The final rule has been changed from the proposed rule to reflect concerns raised in the public comment process about consistent treatment of various categories of homeowners and clarification of certain sections of the regulations.

Changes in the Rule

This rule revises the 1980 standards by eliminating a limitation on the number of bathrooms permitted in a single-family home; eliminates setback and frontage requirements but retains the 35% lot occupancy requirement; permits construction of both in-ground and above-ground swimming pools; revises the base for building heights to conform to the minimum elevation established by the federal flood insurance program; permits "improved property" in the Seashore District to be enlarged to dimensions consistent with properties in the Community Development District; and eliminates most restrictions on signs.

The text of § 28.23 incorporates existing administrative practices concerning review of commercial and industrial uses into the evaluation process for Certificates of Suspension from Federal Condemnation for commercial and industrial uses.

In the proposed rule the Service solicited public comment on the phrase "in support of community living" which has been in the zoning standards since 1980 and is part of the criteria the Superintendent uses for evaluating new commercial and industrial proposals on Fire Island. This phrase was adopted from similar language in one of the local community's ordinances. The vagueness of this language has generated questions concerning how much guidance it actually provides the Superintendent. The Service's practice of reviewing proposed commercial and industrial activities has been to take a negative position only when direct resource damage problems (such as inadequate septic capacity) are presented in an application. The Service has consciously left issues of the propriety of various types of commercial uses (such as clothing stores or restaurants) to local decision-makers. It is the Service's policy that this is the proper balance to strike in most situations.

The Service feels that commercial or industrial uses should primarily serve the resident population at Fire Island and that manufacturing or commercial uses designed to export product or service to a non-island market the success of which depends on service to an off-island clientele are inappropriate within the Seashore. However, the extent to which individual communities should host commercial facilities is an issue which can generate intense conflict and be resolved differently in each community. Recognizing that the diverse needs of residents and visitors to Fire Island are met by allowing the communities to evolve and maintain their own community character, the Service will take into consideration the views of the affected communities before commencing an action in condemnation. While the local zoning authorities are free to condition or deny commercial proposals based upon community character, the emphasis of the Superintendent's review is to ensure that the new commercial or industrial use will be consistent with the standards and the purposes of the Seashore; is not likely to cause significant harm to the natural resources of the Seashore; and will provide a service to Fire Island. The requirement for a special use permit issued by the Service has been eliminated but the evaluation process by the Superintendent has not. Should it be determined that additional criteria

regarding the evaluation process of commercial and industrial uses by the Superintendent are needed, they will be the subject of a future rule.

In the final rule the format has also been reorganized to separate those standards and procedures related to the zoning authorities from the review process and condemnation authority of the federal government. This has been done to emphasize the primacy of the local government's review of development proposals and to consolidate the provisions relating to federal review.

Summary of Comments

On October 7, 1987, the National Park Service published the proposed rule in the **Federal Register** (52 FR 37586) with a thirty (30) day comment period.

The Service received seventeen (17) written comments on the proposed rule. Of these six (6) were from private individuals, seven (7) from Community/Property Owner Associations, three (3) from local government authorities, and one (1) from a State agency. The comments can be categorized in three groupings: 1. Those that support the rule and had no objection; 2. those that requested clarification of minor sections of the rule; and 3. those that opposed sections of the rule. All but one comment came from people or agencies that live on or have day-to-day involvement with the workings of Fire Island and the people who live there.

Analysis of Comments

Three comments concerned the reconstruction of "improved property" in the Seashore District, § 28.10(b)(1)(i). This section lists what is permitted in the Seashore District however it does not address whether reconstruction of "improved property" is permitted or prohibited. Section 28.11(c)(4) discusses reconstruction of nonconforming uses. According to this regulation, all "improved property" in the Seashore District is nonconforming, and, as stated in § 28.11(c)(4), is permitted to be reconstructed. Therefore for uniformity between the two sections "reconstruction" will be added to § 28.10(b)(1)(i) as a permitted activity.

One commentor was concerned that the 4000 square foot minimum lot size would put those homes on lots under 4000 square foot in jeopardy of federal condemnation. The 4000 square foot rule involves new subdivision of property and development of vacant land. "Improved property" on a lot under 4000 square feet is considered nonconforming and permitted to remain. The 4000 square foot minimum is to prevent future construction on undersized lots in the Community Development District.

Another comment raised the concern that the 4000 square foot limitation would allow too much development on a barrier island that cannot handle such development and that allowing 4000 square foot lots in the Seashore District would increase and number of houses in the Seashore District. Lots of 4000 square feet may not be consistent with contemporary criteria for development on barrier beaches, however Fire Island is not a "clean slate" on which new development is occurring. The 4000 square foot lot is, for the most part, the minimum lot size which has existed on Fire Island since the island was originally platted. With regards to increased houses in the Seashore District, the change in minimum lot size does not allow new construction in the Seashore District. The requirement sets the minimum standard for lot size in all Districts thus setting a standard for lot density. No new development is permitted in the Seashore District.

Several comments were received regarding the restriction on the number of bathrooms permitted in private residences. The previous regulation allowed 2.5 bathrooms per household. The rule has been changed to impose no limitation on the number of bathrooms per household. The controlling factor will be the size of the septic system which is permitted on an individual property. The Suffolk County Department of Health regulates septic size based upon the size of the property. The size of the septic system determines septic capacity and in turn limits the number of bathrooms permitted for any building lot. The change in the federal regulation does not require individual zoning authorities to revise their regulations. In fact a Village such as Ocean Beach which has a sewage treatment plant could impose whatever limitations they desire because of the carrying capacity of their treatment plant. Local zoning may be more restrictive than these standards.

Comments were received regarding the height restriction which will measure building height from the average ground elevation or the height required to comply with the Federal Emergency Management Agency's (FEMA) regulations. The previous rule required that heights be measured from the average ground level. The differences between average ground level and the FEMA requirements caused a great deal of confusion in the past. To provide a clear and measurable guide the FEMA requirements are adopted if they are higher than average ground level. This also provides consistency between the two federal agencies having jurisdiction over development on Fire Island. The Service acknowledges the fact that this change may result in taller structures along the shore.

One commentor was concerned that there were no regulations restricting the rental of homes to groups of unrelated adults. The Service does not believe it is the responsibility of the federal government to regulate this activity and therefore does not address this issue.

One commentor was concerned about the change in the rule regarding swimming pools. The prior restriction on swimming pools forbid in-ground swimming or diving pools. What "in-ground" meant was never clearly defined nor has the impact of swimming pools on a barrier island been determined. The question of groundwater contamination resulting from swimming pools may be a valid issue for future regulation but is not part of this rule making. The Service has determined that the decision to have an in-ground or above-ground pool should be determined on case by case evaluations of appropriateness for a building site and development plan.

The New York State Department of State submitted extensive comments. Some of their specific concerns have been addressed in the above discussion. In general, they felt the proposed rule was less strict than the previous rule and that the Service should be developing more restrictive regulations setting standards that result in the reduction of development on the island which in turn reduces hazards and protects the natural environment. We agree that many of these amendments are a reduction of regulatory controls. Fire Island is not an undeveloped barrier island where development can be regulated consistently with contemporary land use planning techniques. Development patterns based on a traditional grid system were instituted long before the Seashore was established. It was the intent of the Congress that the Communities remain on Fire Island. The Seashore's General Management Plan addresses this issue allowing continued development within the communities in conformity with zoning standards. The proposed rule was developed to provide standards which are more resource oriented and less involved in personal lifestyle decisions, to reduce conflicts between the various constituents on Fire Island, and clarify the Service's position on various development activities.

In those areas outside the Community Development District the Service has taken an active and aggressive role in

preventing construction of new homes. There are thirty-four (34) homes in the Seashore District. Any additional homes in this district will be subject to condemnation. The revised rule allows the expansion of the existing homes up to the limits imposed on the property owners located in the Community Development District. The Service does not find this inconsistent with management policies because there are no plans to develop any visitor areas where these homes are located. As long as they are maintained in accord with these standards they may remain and be expanded.

The goal of the revised rule is to provide standards for development which reduce the impacts of the Seashore's resources. This rule has been drafted to make the regulation of development, in terms of location, design, aesthetics, etc. a matter of local and individual concern. The federal interest is to ensure that the Seashore's resources are managed through limitations on population. The Seashore will vigorously enforce prohibitions on multiple-family homes, excessive lot coverage, and inconsistent commercial and dune-front development.

Drafting Information

The primary author of this rule making was Chris Soller, National Park Service.

Paperwork Reduction Act

The information collection requirements contained in §§ 28.13 and 28.23 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024–0050.

Public reporting burden for this information is estimated to average 3.2 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Information Collection Clearance Officer, National Park Service, P.O. Box 37127, Washington, DC 20013–7127; and the Office of Management and Budget, Paperwork Reduction Project, 1024–0050, Washington, DC 20503.

Compliance with Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule making removes some existing rules and does not impose any new ones.

The Service has reviewed this rule as directed by Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," to determine if this rule has "policies that have taking implications." The Service has determined that the rule does not because the rule is a modification of an existing rule which "lessens interference with the use of private property." The changes in the rule which demonstrate this lessening of interference area:

1. The reduction in minimum lot size to 4000 square feet for existing lots, which means that many property owners who have variances solely for insufficient lot size will now conform to federal standards;

2. The elimination of the limitation on bathrooms in a private residence;

3. The change in minimum elevation to conform to the FEMA standards;

4. The revision of lot occupancy standards; and

5. The elimination of the prohibition on in-ground swimming pools.

Properties that were previously subject to federal condemnation solely because of the deviations from the rule that these changes effect will now be exempt from federal condemnation. This results in more property conforming to the federal standards than under the previous rule.

The Service has determined that this rule will not have a significant effect on the quality of the human environment, health, and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area causing physical damage to it;

(b) Introduce incompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this rule making is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) as guided by the manual 516 DM 6, Appendix 7.4.B (8)(a–d), as listed above. As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 28

National Parks, Seashores, Zoning.

In consideration of the foregoing, 36 CFR chapter I is amended by revising part 28 to read as follows:

PART 28—FIRE ISLAND NATIONAL SEASHORE: ZONING STANDARDS

Subpart A—General Provisions

Sec.
28.1 Purpose.
28.2 Definitions.
28.3 Boundaries: The Community Development District; The Dune District; The Seashore District.
28.4 Severability.

Subpart B—Federal Standards and Approval of Local Ordinances

28.10 Permitted and prohibited uses.
28.11 Nonconforming uses.
28.12 Development standards.
28.13 Variance, commercial and industrial application procedures.
28.14 Emergency action.
28.15 Approval of local zoning ordinances.

Subpart C—Federal Review and Condemnation

28.20 Review by the Superintendent.
28.21 Suspension of condemnation authority in the communities.
28.22 Condemnation authority of the Secretary.
28.23 Certificates of suspension of authority for acquisition by condemnation.
28.24 Information collection.

Authority: 16 U.S.C. 1,3,459e–2.

Subpart A—General Provisions

§ 28.1 Purpose.

(a) The enabling legislation for Fire Island National Seashore (the Seashore) mandated the Secretary of the Interior (the Secretary) to issue regulations which provide standards for local zoning in order to protect and conserve Fire Island. The regulations in this part set forth federal standards to which local ordinances for Fire Island must conform to enable certain private property within the Seashore to be exempt from federal condemnation. The standards also apply to use and development of public property. From time to time these standards may be reviewed and revised. These standards are intended:

(1) To promote the protection and development of the land within the Seashore, for the purposes of the Fire Island National Seashore Act (the Act), by means of size, location, or use limitations or restrictions on commercial, residential, or other structures with the objective of controlling population density and protecting the island's natural resources;

(2) To limit development and use of land to single-family homes, to prohibit development and use of multiple family homes, and to prohibit the conversion of structures to multiple family homes;

(3) To prohibit commercial or industrial uses initiated after September 11, 1964 or the expansion of existing commercial or industrial uses on any property within the Seashore which is inconsistent with the federal standards and approved local ordinances or the purposes of the Act, is likely to cause a significant harm to the resources of the Seashore or will not provide a service to Fire Island;

(4) To recognize that the zoning authorities have the primary responsibility for zoning enforcement within the Seashore;

(5) To provide that private property within the Community Development District may be retained by its owner as long as it is maintained in accordance with approved local ordinances and the federal standards;

(6) To provide that, within the Seashore District, private "improved property" may be retained by its owner as long as it is maintained in accordance with approved local ordinances, and the federal standards;

(7) To provide that, in the Dune District, private undeveloped property, if otherwise subject to condemnation, may be retained by its owner as long as it is maintained in its natural state; and

(8) To provide a mechanism for the Superintendent to inform landowners and the zoning authority if a use or development will be inconsistent with the federal standards or the purposes of the Act and may subject the property to condemnation, subject to available funds.

(b) The Secretary may utilize any other statutory authority available to the Secretary for the conservation and development of natural resources to the extent the Secretary finds that such authority will further the purpose of the Act.

§ 28.2 Definitions.

(a) *Accessory structure* means any development which is located on the same lot as the principal building or use and is customarily incidental and subordinate to the principal building or use. Accessory structure may include a storage shed, dock, deck, patio, swimming pool, or tennis court but does not include a garbage or bicycle rack and the single primary access walk. Accessory structure includes a guest house without cooking facilities used for overnight habitation.

(b) *Act* means the Fire Island National Seashore Act of September 11, 1964, (16 U.S.C. 459e), as amended.

(c) *Building* means an enclosed structure having a roof supported by columns, walls, or cantilevers. (If a structure is separated by a party wall without openings, it is considered two separate "buildings.")

(d) *Developed property* means any property which has been altered from its natural state by the construction or erection of materials located in, upon, or attached to something located in or upon the ground. Such alterations may include a building, deck, swimming pool, storage shed, patio, dock, tennis court, septic system or leaching field, walkway, groin, fence or sign (except dune protection fences and signs), road, retaining wall, grading, artificial fill, or other structure or material excluding live vegetation.

(e) *Development* means any activity, action, alteration, structure or use which changes undeveloped property into developed property.

(f) *Exception to a zoning ordinance* means any development or change in use of developed property which is not authorized by the zoning ordinance or the variance procedures of the zoning authority or, if authorized by the zoning authority, fails to conform to the ordinance approved by the Secretary or to the federal standards.

(g) *Guest house* means an accessory structure on the same lot as the principal building that does not contain cooking facilities and is used for the temporary accommodation of guests of a resident living in the principal building.

(h) *Improved property* is developed property defined by the Act to mean any building, the construction of which was begun prior to July 1, 1963, together with such amount of land on which said building is situated as the Secretary considers reasonably necessary to the use of said building not, however, to exceed 2 acres in the case of a residence and 10 acres in the case of a commercial use. The Secretary may exclude from such "improved property" any beach or waters, as well as land adjoining such beach or waters, which the Secretary deems necessary for public access thereto.

(i) *Local ordinance* means a state, town, or village law applicable to the development or use of real property.

(j) *Lot* means a parcel of land which meets the minimum acreage and frontage requirements of the zoning authority and is occupied or capable of being legally occupied by one (1) principal building or main building, and the accessory structures or uses including such open spaces as are required by these standards, but in no case does a lot include lands below the toe of the natural foredune line.

(k) *Non-conforming use* means any use or development that, if commenced after the effective date of these standards, fails to conform to these standards; or, if commenced prior to October 17, 1984, failed to conform to federal standards in effect at the time of construction or fails to conform to these standards, whether or not the use or development was first commenced in compliance with the local ordinance.

(l) *Single-family home* means a building which contains no more than one kitchen or cooking facility. An exterior barbecue does not constitute a cooking facility for the purposes of this regulation.

(m) *Superintendent* means the official in charge of the Fire Island National Seashore or an authorized representative thereof.

(n) *Undeveloped property* means property which has not been altered from its natural state with the exception of dune protection measures such as snow fencing, beach nourishment, dune grass planting, or other approved biological or ecological sand-enhancing or stabilization methods.

(o) *Zoning authority* means the Town of Brookhaven, the Town of Islip, the Village of Saltaire, the Village of Ocean Beach and/or any other legally incorporated village or political subdivision hereafter created and the officials authorized by local ordinance to make rulings and determinations on zoning in said towns and villages.

§ 28.3 Boundaries: The Community Development District; The Dune District; The Seashore District.

(a) *Generally.* The boundaries of the Seashore are described in the Act, as amended, and are delineated on the official boundary maps OGP–OOO2, dated June 1964, and amended by OGP–OOO4, dated May 1978. The maps are available for inspection at the Seashore headquarters. There are three districts: The Community Development District, the Seashore District, and the Dune District.

(b) *The Community Development District* (1) The seventeen communities which comprise the Community Development District are set out below with their respective west/east boundaries.

(i) Lighthouse Shores—Kismet Park

West Boundary: 100 feet west of the west line of West Lighthouse Walk.

East Boundary: 80 feet east of the east line of Pine Street.

(ii) Seabay Beach

West Boundary: Approximately 94 feet west of the west line of Seabay Walk.
East Boundary: Approximately 94 feet east of the east line of Seabay Walk.

(iii) Saltaire

West Boundary: 185 feet west of the west line of West Walk.
East Boundary: 85 feet east of the east line of East Walk.

(iv) Fair Harbor

West Boundary: 333 feet west of the west line of Cedar Walk.
East Boundary: The east line of Spruce Walk.

(v) Dunewood

West Boundary: The east line of Spruce Walk.
East Boundary: 85 feet east of the east line of East Walk.

(vi) Lonelyville

West Boundary: 85 feet east of the east line of East Walk.
East Boundary: 100 feet east of the east line of Raven Walk.

(vii) Atlantique

West Boundary: 80 feet west of the west line of Sea Breeze Walk.
East Boundary: 80 feet east of the east line of East End Walk.

(viii) Robbins Rest

West Boundary: The west line of Compass Walk.
East Boundary: 113 feet east of the east line of Sextant Walk.

(ix) Fire Island Summer Club—Corneille Estates

West Boundary: 100 feet west of west line of Schooner Walk.
East Boundary: 100 feet east of east line of Frigate Roadway.

(x) Ocean Beach

West Boundary: 7 feet west of the west line of Surf Road.
East Boundary: 2 feet east of the east line of Surf View Walk.

(xi) Seaview

West Boundary: East line of Surf View Walk.
East Boundary: 200 feet east of Laurel Avenue.

(xii) Ocean Bay Park

West Boundary: 90 feet west of the west line of Superior Street.
East Boundary: 100 feet East of the east line of Cayuga Street.

(xiii) Point O'Woods

West Boundary: 100 feet east of the east line of Cayuga Street.
East Boundary: Western boundary of Sunken Forest Preserve.

(xiv) Cherry Grove

West Boundary: The west line of West Walk.
East Boundary: Approximately 100 feet east of the east line of Ivy Walk.

(xv) Fire Island Pines

West Boundary: Approximately 150 feet west of the west line of Sandy Walk.
East Boundary: Approximately 120 feet east of Sail Walk

(xvi) Water Island

West Boundary: The west line of Charach Walk.
East Boundary: Approximately 100 feet east of the east line of East Walk.

(xvii) Davis Park

West Boundary: 90 feet west of the west line of Eider Duck Walk.
East Boundary: 90 feet east of east line of Whalebone Walk.

(2) The northern boundary of the communities listed in paragraph (b)(1) of this section is the mean high water line on the south shore of the Great South Bay.

(3) The southern boundary of the communities listed in paragraph (b)(1) of this section is the mean high water line on the south shore of Fire Island.

(c) *The Seashore District.* The Seashore District is comprised of all portions of the lands and waters within the boundary of the Seashore which are not included in the Community Development District with the exception of the headquarters facilities at Patchogue and the William Floyd Estate at Mastic.

(d) *The Dune District.* The Dune District extends from the mean high water line to 40 feet landward of the primary natural high dune crest, as defined on Fire Island National Seashore Map #OGP–0004 and on Suffolk County Property Maps, section numbers 491–498 (Islip), 002 (Ocean Beach), 002–004 (Saltaire), and 985.70–987 (Brookhaven), as mapped in November 1976 or as subsequently remapped. Map overlays of the Dune District are available for inspection in the Office of the Superintendent of the Seashore. The Dune District overlaps portions of the Community Development District and the Seashore District.

§ 28.4 Severability.

The invalidation of any provision of this Part 28 by any court of competent jurisdiction shall not invalidate any other provision thereof.

Subpart B—Federal Standards and Approval of Local Ordinances

§ 28.10 Permitted and prohibited uses.

(a) *The Community Development District*—(1) *Permitted uses:* (i) The construction, alteration, expansion, movement, reconstruction, and maintenance of a detached building which is used principally as a single-family home, church, school, or community facility; as an accessory structure; or as an office for a professional occupation, as defined in approved local ordinances is permitted. Reconstruction of non-conforming uses is permitted in accordance with § 28.11. A professional office may be maintained only incidental to a residential use and shall be utilized by a person residing on the premises.

(ii) A commercial or industrial use in continuous and unchanged operation since September 11, 1964 is permitted. Any change in use of a commercial or industrial use since September 11, 1964 including construction, expansion, or conversion of an existing structure or a change in type, mode or manner of operation constitutes a new commercial or industrial use and may be permitted subject to the approval of the local zoning authority and review by the Superintendent.

(iii) A commercial or industrial use initiated after September 11, 1964 constitutes a new commercial or industrial use and may be permitted with the approval of the local zoning authority and review by the Superintendent. Any change in use of a commercial or industrial use approved by a local zoning authority after September 11, 1964, including construction, expansion, or conversion of an existing structure, or a change in type, location, mode or manner of operation, shall constitute a new commercial or industrial use and may be permitted with approval of the local zoning authority and review by the Superintendent.

(2) *Prohibited uses.* (i) The construction or expansion of an apartment building or other building with multiple dwelling units or conversion of an existing building into a multiple family home is prohibited.

(ii) The construction or expansion of a guest house with cooking facilities, or conversion of an existing structure to a guest house with cooking facilities is prohibited.

(iii) The subdivision of land into lots which are less than 4000 feet, or that do not meet the requirements of the applicable approved zoning ordinance is prohibited.

(iv) The rezoning of an area zoned residential to commercial or industrial without review by the Secretary is prohibited.

(b) *The Seashore District.*—(1) *Permitted uses.* (i) The alteration, expansion, movement, and maintenance of privately-held "improved property"

used as a single-family home or as an accessory structure is permitted. Reconstruction is permitted in accordance with § 28.11.

(ii) Any use consistent with the purposes of this Act, which is not likely to cause significant harm to the natural resources of the Seashore, on any lands, whether publicly or privately-held, which lie below mean high water in either the Atlantic Ocean or the Great South Bay is allowable.

(2) *Prohibited uses.* Construction, development or expansion of any property other than "improved property" is prohibited. The provisions of paragraph (a)(2) of this section apply to all privately-held property in the Seashore District.

(c) *The Dune District.*—(1) *Permitted uses.* (i) A community vehicular and private or community pedestrian dune crossing approved by the zoning authority and reviewed by the Superintendent as necessary for access to areas behind the dune. Such dune protection measures as snow fencing, poles, beach nourishment, dune grass planting, or other scientifically sanctioned biological or ecological sand enhancing or stabilization methods are allowable.

(ii) Residential use and maintenance of an existing structure or reconstruction in accordance with § 28.11 is allowable.

(2) *Prohibited uses.* (i) Any development subsequent to November 10, 1978 including construction of a new structure or expansion of an existing structure, such as a building, bulkhead, pile, septic system, revetment, deck, swimming pool, or other structure or man-made dune stabilization device except as allowed under paragraph (c)(i) of this section.

(ii) Any use of the dune, other than those outlined in paragraph (c)(1)(i) of this section, including recreational use.

(3) *Conflict with other provisions.* If a development or lot lies partially within the Dune District and partially in the Community Development District, or partially within the Dune District and partially within the Seashore District, and the standards applicable to the development, lot, or use are in conflict, the standards for the Dune District prevail for the portion of the development, lot, or use which lies within the Dune District. (d) General recreation, environmental and historic preservation and education, and natural resource protection uses and facilities consistent with the uses and facilities appropriate for each zone as set forth in the General Management Plan and Final Environmental Impact Statement are permitted on publicly-held property.

§ 28.11 Nonconforming uses.

(a) Any use or structure lawfully existing under local law as of October 17, 1984 and rendered nonconforming by adoption of the federal standards may continue, subject to the provisions of this section, and will not lose its exemption from condemnation, if otherwise eligible.

(b) *Change in nonconforming uses.* (1) No nonconforming development or use may be altered, intensified, enlarged, extended, or moved except to bring the use or structure into conformity with the approved local zoning ordinance.

(2) A nonconforming use which has been abandoned for more than one (1) year may not be resumed or replaced by another nonconforming use or structure.

(3) A nonconforming use in the Dune District may be moved to bring it into conformity with the approved local zoning ordinance.

(c) *Reconstruction of nonconforming uses.* If a nonconforming use or structure is severely damaged (as determined by fair professional insurance practices), destroyed or rendered a hazard, whether by fire, natural disaster, abandonment or neglect, no alteration, intensification, enlargement, reconstruction, extension, or movement is allowable without compliance with the following conditions:

(1) No use or structure within the Seashore built in violation of a local ordinance when constructed may be reconstructed except in compliance with the approved local zoning ordinance.

(2) Local building permit applications for reconstruction shall be filed with the appropriate zoning authority within one (1) year of the damage, destruction, or abandonment.

(3) A commercial or industrial use may not be reconstructed without the approval of the local zoning authority and review by the Superintendent.

(4) A nonconforming use in the Community Development District or in the Seashore District (i.e. "improved property") may be reconstructed to previous dimensions. It may not be altered, enlarged, intensified, extended, or moved except to bring the use or structure into conformity with the approved local zoning ordinance.

(5) A nonconforming use in the Dune District may be reconstructed if it can conform to the approved local zoning ordinance and lie north of the crest of the dune at the time of reconstruction.

§ 28.12 Development standards.

No use allowable under § 28.10 may be developed, constructed, altered, or conducted unless it complies with the following:

(a) A single-family home is the only type of development permitted in a residential district defined by a local zoning authority.

(b) Commercial or industrial development is limited to commercial or business districts defined by a zoning authority within the Community Development District. Such development must provide a service to Fire Island and will not be likely to cause significant harm to the natural resources of the Seashore.

(c) Minimum lot size is 4,000 square feet. A subdivision must comply with the subdivision requirements of the applicable zoning authority and may not result in development of any lot which is less than 4,000 feet.

(d) Maximum lot occupancy for all development may not exceed 35 percent of the lot. Lot occupancy is calculated to include all buildings and accessory structures on the property and any extension of the upper floors beyond the developed area on the ground level.

(e) Lot occupancy of all privately-held improved property in the Seashore District is limited to 35 percent of the square footage of a lot that is less than 7,500 square feet, and to 2,625 square feet for a lot 7,500 square feet or greater. Lot occupancy is calculated to include all buildings and accessory structures on the property and any extension of the upper floors beyond the developed area of the ground.

(f) No building or accessory structure may be erected to a height in excess of 28 feet as measured from the average existing ground elevation or the minimum elevation necessary to meet the prerequisites for Federal flood insurance as determined by the National Flood Insurance Program/FEMA shown on Flood Insurance Rate Maps for Fire Island communities.

(g) A swimming pool is an allowable accessory structure and is calculated in measuring lot occupancy.

(h) No sign may be self-illuminated.

(i) A zoning authority shall have in effect limitations, requirements, or restrictions on the burning of cover and trash, excavation, displacement or removal of sand or vegetation, and the dumping, storing, or piling of refuse materials, equipment or other unsightly objects which would pose safety hazards and/or detract from the natural or cultural scene.

(j) A zoning authority shall have in place ordinances to lessen the potential for flood and related erosion and property losses consistent with the Federal Insurance Administration's National Flood Insurance Program criteria for "Land Management and

Use," as set forth in 24 CFR part 1910, subpart A, as it may from time to time be amended.

§ 28.13 Variance, commercial and industrial application procedures.

(a) The zoning authority shall send the Superintendent a copy of all applications for variances, exceptions, special permits, and permits for commercial and industrial uses submitted to the zoning authority within five calendar days of their submission of the completed application by the applicant.

(b) The zoning authority shall send the Superintendent a copy of the written notice of the dates and times of any public hearing to be held concerning an application no less than 10 days prior to the date of the hearing.

(c) The zoning authority shall send the Superintendent a copy of the written notice within fifteen calendar days of the approval or disapproval of any application for a variance, exception, special permit, or permit and copies of any variance, exception, special permit, or certificate which has been granted.

(d) The zoning authority shall send copies of all correspondence referred to in this section to:

The Superintendent, Special Attention: Zoning, Fire Island National Seashore, 120 Laurel St., Patchogue, New York 11772.

§ 28.14 Emergency action.

If allowable by local law and if immediate action is essential to avoid or eliminate an immediate threat to the public health or safety or a serious and immediate threat to private property or natural resources, an agency or person may commence a temporary use without a permit from the zoning authority. In all cases, the agency or person shall inform the Superintendent and send an application for a permit to the zoning authority within 10 days after the commencement of the use and the applicant shall proceed in full compliance with the provisions of the approved local zoning ordinance. When the reasons for undertaking the emergency action no longer exist, the agency or person shall cease an emergency action taken under this section.

§ 28.15 Approval of local zoning ordinances.

(a) The Secretary shall approve local ordinances or amendments to approved ordinances which conform to these regulations. The Secretary may not, however, approve an ordinance or amendment thereto which:

(1) Contains a provision that the Secretary considers adverse to the protection and development of the Seashore;

(2) Does not comply with the federal standards set out in §§ 28.10, 28.11, and 28.12; or

(3) Fails to provide for the variance procedures of § 28.13.

(b) A zoning authority from time to time may amend its ordinance. At such time the Secretary may revoke the approval of any ordinance or portion of an ordinance which fails to conform to these regulations. Upon resubmission by the zoning authority of an amended ordinance, the Secretary shall approve the ordinance, if it conforms with the requirements of paragraph (a) of this section.

(c) Secretarial approval of a local ordinance will be withdrawn if the Secretary finds that a zoning authority is not enforcing its ordinance.

Subpart C—Federal Review and Condemnation

§ 28.20 Review by the Superintendent.

(a) The Superintendent, within 15 working days of the receipt of a copy of an application for a variance, exception, permits for commercial or industrial use, or special permit submitted to the zoning authority for any development, use or change in use shall provide the applicant/landowner and the appropriate zoning authority written comments on the application. The purpose of the Superintendent's review is to determine if the proposed use or development does not conform to the federal standards and the purposes of the Act or is likely to cause significant harm to the natural resources of the Seashore. If the Superintendent's review determines the proposal does not conform, the Superintendent shall inform the applicant/landowner and appropriate zoning authority that should the proposed use or development proceed, the National Park Service may seek to enjoin the development and acquire the property by condemnation.

(b) The Superintendent may also appeal the decision of the zoning authority pursuant to procedures of local law.

§ 28.21 Suspension of condemnation authority in the communities.

The Secretary has the authority to acquire land by condemnation. Upon Secretarial approval of local ordinances, Secretarial authority to acquire by condemnation private property within the communities and "improved property" in the Seashore District that conforms to the federal standards and the provisions of the Act or is not likely to cause significant harm to the natural resources of the Seashore is suspended, except as provided for in § 28.22.

§ 28.22 Condemnation authority of the Secretary.

(a) The Secretary has the authority to exercise powers of condemnation with respect to:

(1) Private property within the 8-mile area between the eastern boundary of Davis Park and the western boundary of the Smith Point County Park;

(2) Any beach or water and such adjoining land as the Secretary determines is necessary for access to the beach or water;

(3) Any property for which the Certificate of Suspension of Authority for Acquisition by Condemnation has been revoked;

(4) Any property, if the approval of the ordinance of the zoning authority has been revoked; partially revoked, or an exception was made to the Secretarial approval and such property fails to conform to these standards, or any property where the appropriate local zoning authority does not have an ordinance approved by the Secretary;

(5) Any property built or altered after October 17, 1984 that does not conform to the regulations in this part 28;

(6) Any property which becomes an exception to or has been granted a variance, exception, or special use permit after October 17, 1984 that fails or will fail to conform to the regulations in this part 28;

(7) Any new commercial or industrial use that the Superintendent has determined does not conform with § 28.20(a). A new commercial or industrial use is defined as any commercial or industrial use commenced after September 11, 1964. Any change in use of a commercial or industrial use including construction, expansion, or conversion of an existing structure, or change in type, location, mode, or manner of operation, constitutes a new commercial or industrial use;

(8) Any property with respect to which the Secretary's authority to condemn was not suspended and the property failed to conform to the federal standards existing at the time of construction, modification, or commencement of a use, unless such construction, modification or use conforms to the current federal standards; and

(9) Any property in violation of a local ordinance required by § 28.12 (i) and (j).

(b) Undeveloped property which is otherwise subject to condemnation under the Act is not subject to condemnation if it is located in the Dune

District and is maintained in its natural state.

(c) The Secretarial authority to condemn any property in the Seashore is suspended for any structure or use constructed, modified, or commenced prior to October 17, 1984 if:

(1) It was built or conducted in conformity with local zoning ordinances and procedures in effect at the time of such construction or commencement or had been issued a variance under local law;

(2) It was built or conducted in conformity to the federal standards existing at the time of such construction or commencement or to these standards; and

(3) The local zoning ordinance is approved by the Secretary without exceptions, or if approved by the Secretary with exceptions, such exceptions are not pertinent or applicable to the property.

(d) The above provisions shall not be interpreted to otherwise limit or circumscribe the authority of the Secretary to condemn property as provided by the Act, or other provisions of law.

§ 28.23 Certificates of suspension of authority for acquisition by condemnation.

Upon approval of a local zoning ordinance, a private property owner may apply to the Superintendent for a Certificate of Suspension of Authority for Acquisition by Condemnation. Procedures for obtaining a certificate are as follows:

(a) A property owner shall submit an application for a certificate to:

Superintendent,
Fire Island National Seashore,
120 Laurel Street,
Patchogue, New York 11772.

(b) An application for a certificate shall contain:

(1) A current survey of the lot showing the dimension of all buildings, accessory structures, garbage and bicycle racks, all access walks, and any extensions of the upper floors beyond the developed area on the ground level;

(2) On the survey, the line of mean high water, the toe of the dune, and the crest of the dune shall be identified if they traverse the lot;

(3) A floor plan of each floor of each building showing the configuration of all rooms and cooking facilities;

(4) A vertical drawing of the structure showing actual ground level and building height; and

(5) Copies of the original and all subsequent building permit applications and permits, certificates of occupancy, certified-as-completed surveys, variances, special use permits, certificates of pre-existing use, or other documents relating to local authorization to develop or use the property. The burden rests on the applicant to show that the structure conformed to local law at the time of construction and at the time of each subsequent alteration and that the structure conforms to current federal standards.

(6) For commercial or industrial uses, the owner of the property shall submit further information describing the type, mode, and manner of operation. All local, county, state, or federal licenses and permits required for construction, occupancy, operation of the commercial activity shall be submitted. Any change in use as described in § 28.10(a)(1)(iii) will require application for a new certificate.

(c) Upon receipt of the application, the Superintendent shall conduct a site inspection of both the interior and exterior of the property.

(d) After review of the materials submitted by the applicant and other pertinent information, and completion of the site inspection, the Superintendent shall determine whether the Secretary's authority to acquire by condemnation is suspended, and if so, shall furnish to any eligible party in interest a Certificate of Suspension of Authority for Acquisition by Condemnation.

(e) A Certificate of Suspension of Authority for Acquisition by Condemnation may be revoked at any time that the Secretary's authority to condemn is reinstated or that it becomes evident to the Superintendent that the Certificate was initially issued by mistake or on misinformation.

§ 28.24 Information collection.

The collection of information contained in §§ 28.13, and 28.23 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024–0050. The information will be used to determine if private property conforms to the federal regulations. Response is required to obtain a benefit in accordance with 16 U.S.C. Section 459e *et seq.*

Dated: June 24, 1991.

Scott Sewell,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 91–20662 Filed 8–29–91; 8:45 am]

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Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 207, 221, 231, and 241

Termination of the Retirement Service Center Program; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 207, 221, 231, and 241

[Docket No. R-91-1494; FR-2857-F-02]

RIN: 2502-AF05

Termination of the Retirement Service Center Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule terminates the Retirement Service Center Program (ReSC) being carried out under section 221(d)(4) of the National Housing Act. The ReSC program provides FHA insurance (or coinsurance) of loans made for the construction, rehabilitation, purchase or refinancing of Retirement Service Centers. This action is necessary to protect the FHA insurance fund. The ReSC program has suffered an unacceptable default rate brought about by limited market demand and the high operating costs of projects.

In addition, the rule sets forth the Extent to which non-shelter services may be provided in insured elderly housing programs, and the conditions under which elderly projects covered by HUD-held or HUD-insured mortgages may be refinanced.

EFFECTIVE DATE: September 30, 1991.

FOR FURTHER INFORMATION CONTACT: Linda Cheatham, Acting Director, Office of Insured Multifamily Development, room 6146, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410, (202) 708-3000. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The Retirement Service Center (ReSC) Program was developed administratively in 1983. It is an adaptation of the Section 221(d) Multifamily Moderate Income Projects Program. It was developed in response to requests of developers and lenders who expressed their opinions that there was a need for a mortgage insurance (and coinsurance) program for the development of market-rate rental congregate housing for the elderly with a significant level of services and amenities over and above those found in the typical HUD-insured elderly project.

Initial processing instructions for ReSC were issued in Notice H 83-58, dated December 23, 1983. These instructions were later consolidated in the section 221(d)(4) Full Insurance handbook and in the section 221(d) Coinsurance handbook. (See Handbook 4560.2, chapter 4, January 1987 and Handbook 4561.1, chapter 17, June 1985).

At the time the retirement service center concept was being considered, the Department insured housing for the elderly under two programs. These were carried out under 24 CFR Part 231—Housing Mortgage Insurance for the Elderly, and 24 CFR Part 221—Low Cost and Moderate Income Mortgage Insurance (Sections 221(d)(3) and (d)(4) Market Rate).

The decision was made to have an expanded program under part 221 (under section 221(d)(4) of the National Housing Act) authorizing the development of ReSC projects. Section 221(d)(4) was chosen because HUD decided, due to the potentially higher risk associated with unsubsidized (market rate) congregate rental projects, that all mortgages would be limited to a 90 percent loan-to-replacement cost ratio. Under section 221(d)(4) of the NHA, the insured (or coinsured) mortgage is limited to a 90 percent ratio for both profit and nonprofit mortgagors, while under sections 231 and 221(d)(3), nonprofit sponsors are eligible for 100 percent loans. In making this choice, HUD also had to take into account the fact that the purpose of the section 221 program is to provide mortgage insurance for low- and moderate-income housing.

ReSCs are market rate congregate rental housing for the elderly. They were intended to fill a perceived gap in housing options between totally independent living in the community and the personal care, or health and medical care, environments provided in residential care facilities, such as nursing homes and board and care facilities.

ReSC housing involves a residential living environment that includes both housing and support services (principally meals and home management tasks) for those elderly who can live relatively independent. The congregate housing arrangement typically consists of individual living units, with complete kitchen and bath facilities for the exclusive use of the tenant, and shared dining, recreational and community spaces.

Under the ReSC program, congregate rental projects receive no subsidy and are prohibited from charging endowments or entrance fees. However, mandatory payment for meals and services may be made a condition of occupancy. Health care services are prohibited without the prior approval of HUD. No contractual arrangement with a residential care facility providing personal care or health services is required, and if such a connection exists, a mandatory fee to the tenant for access to personal care or health services is prohibited.

In response to growing losses in the Retirement Service Center Program, the Secretary, on July 6, 1989, placed a moratorium on mortgage insurance (or coinsurance) for ReSC projects. As a result of the high rate of loss and a concern that ReSCs were serving primarily the upper-income elderly, the FHA Commissioner asked the HUD Office of Policy Development and Research (PD&R) to conduct an evaluation of the ReSC program. At the same time, the HUD Office of the Inspector General (OIG) was conducting an audit of ReSC in several HUD Regions.

The OIG audit (April 1990) and the PD&R study (June 1990) confirmed the earlier findings upon which the Secretary's moratorium had been based. On the basis of the OIG findings, the PD&R study, and continued problems in the program since the moratorium, HUD has determined that termination of the program is necessary to protect the insurance fund.

The primary market for ReSCs originally was considered to be one- and two-person "frail" elderly households in which the age of the head of household 70 or older, as well as the "young" and "middle-aged" elderly seeking the "lifestyle" of age-segregated housing projects offering a variety of on-site services and amenities.

Experience has shown that there is a very limited demand for market rate congregate rental projects because of the high costs of rent and services and the high incomes necessary to afford the shelter and services. Program experience has shown that these projects serve almost exclusively the upper-income elderly. The average total monthly charge for rent and services in a one-bedroom ReSC unit was $1200, and tenants typically paid between 50 and 60 percent of their incomes for rent and services. For one to afford a ReSC unit generally required an annual income of $20,000 or more. Also, the market is composed of persons much older than was originally anticipated. Approximately 90 percent of the tenants are one-person households age 75 or older, and some 40 percent of the tenants are age 85 or older. The number of elderly households with age and

household size characteristics of the tenants in ReSCs and incomes sufficient to afford this type of housing comprises only about 5 percent of the total elderly households (age of head of household 62 or older), in the United States.

Accordingly, a mortgage insurance program structured under legislation designed to assist low and moderate income persons has, insofar as ReSC's are concerned, evolved into a program affordable only by a small, relatively high-income population. As a consequence of this very limited market, a large and increasing number of projects have been unable to sustain financial viability.

That the ReSC program is not financially viable is clearly reflected in the mortgage default rates. Of the 186 projects insured or coinsured under the program (accounting for $1.53 billion in mortgage volume), some 53 percent are either in default or are experiencing financial or operational difficulties. The default rates have been high both for full insurance and coinsurance projects. The PD&R study found that a total of $443.1 million was in default or assigned to HUD, and another $363.7 million was classified by the Department as troubled. HUD estimates that the net loss to the insurance fund could total about $300 million.

Because the ReSC program consists of market rate projects with no direct Federal rental subsidy or subsidies for the support services, terminating the program will not result in a gap in the types of housing and support service arrangements currently available to serve the lower income elderly. ReSC projects are quite similar to Section 202 Housing for the Elderly or Handicapped projects providing congregate services. Other alternatives, such as the use of Section 8 certificates or Housing Vouchers combining housing assistance with support services, as in the Administration's proposed program of HOPE for Elderly Independence, or community based in-home services, can be more cost effective.

Further, the private sector has been actively developing a wide variety of congregate housing products to meet the needs of the upper-income elderly who are interested in facilities of this kind.

The Proposed Rule and Public Comments

A proposed rule for terminating the Retirement Service Center Program was published in the Federal Register on November 23, 1990 (55 FR 48863). Ten public comments were received on the proposed rule, three from nonprofit organizations, two from mortgage banking companies, two from law firms and three from national organizations with an interest in elderly housing. The following substantive issues were raised in the public comments.

(1) *ReSC Program should be reformed rather than terminated.*

Three national organizations raised this issue and made reform recommendations.

The National Association of Homebuilders stated:

As the American population ages and exhibits longer life expectancy, the need for housing/service packages to accommodate the need of the frail elderly at all income levels will continue to increase. At current funding levels, Section 202, Section 8 certificates and vouchers are not available in numbers equal to the need by the low income elderly. Further, these federal resources are not available to the elderly with incomes over 50% of median. If market rate ReSC's require monthly charges that place occupancy beyond the reach of most frail elderly, the solution should not be to terminate the ReSC program, but rather to identify subsidy sources that would make the rent/service package more affordable. In the same way that HUD Section 221(d) insurance has provided a primary financing source that in many cases is supplemented by state and/or local subsidies to create affordable rental housing for the general population, the ReSC program could similarly achieve lower average monthly costs for those served by the program.

The American Association of Homes for the Aging stated:

* * * AAHA believes that a revised ReSC program could assist nonprofit sponsors develop a mixed-income affordable supportive elderly housing option. Specifically, AAHA recommends a designated ReSC program as part of a mixed-financed program using mortgage insurance in conjunction with the newly revised Section 202 program, which provides federal assistance for construction and rehabilitation of housing for the elderly, which promoting mixed-income ReSC facilities.

AAHA is disappointed that HUD is proposing to terminate rather than to reform the ReSC program. We agree that there are some problems with the existing program which need to be corrected. However, let us not throw out the baby with the bath water. ReSC could be restructured to fill a financial gap in developing much needed supportive housing for low- and moderate-income elderly.

The American Association of Retired Persons stated:

Instead of terminating this program, AARP believes that ReSC should be revived in a form that experience indicates is more likely to succeed. Specifically we recommend:

(1) Adding shallow subsidies to broaden the market to older people with more modest means.

We believe that ReSC's marketing problems arise from the way the program has been structured and not from a lack of need for specialized housing with services for frail older people. Demographic projections indicate that the most rapid growth in the American population will be in the oldest age categories which would be best served by a revised ReSC program. Most of these people will have very modest resources—caught between not being eligible for federally assisted housing and not having enough money for full market rate housing. The ReSC program could assist the under served frail population that falls into this gap with very modest subsidies.

(2) Improving the underwriting requirements so that only experienced sponsors with sufficient capitalization, market studies, and services commitments will be insured.

Running an effective housing program for frail older people requires experience and proper planning. Developers without such experience are destined to repeat past mistakes, as the experience with ReSC demonstrates too well. For-profit developers may need to have higher capital requirements so that HUD is not bearing undue risk. Sponsors should be prepared to offer a full services program as needed by residents.

HUD Response

Based on the findings and recommendations of the PD&R study (default reports, IG audit findings, and general industry analysis of retirement housing development), the Department has decided to terminate the ReSC program and revise the eligibility requirements for HUD-insured projects for the elderly because: (1) The current program for ReSC facilities and similar projects for the elderly has not provided sound bases for underwriting and approving elderly housing projects, (2) elderly housing has been overdeveloped in many areas, and changes proposed in HUD's mortgage insurance programs for housing for the elderly will not have a significant impact on the development of projects of this type, and (3) the termination of procedures for high cost market rate housing, such as ReSC facilities, will not affect the development of housing for the elderly designed for the low and moderate income segments of the elderly population.

The ReSC program was created to meet an industry-perceived need for a market rate program to develop congregate rental housing for the elderly providing a wide range of amenities and services. Experience has proven the demand for this type of housing to be very limited. The major cause of project failures has been gross overestimation of the demand for this comparatively expensive housing product. The high cost of producing and operating congregate housing projects made them affordable by only a very narrow segment of the elderly population. The

ReSC program resulted in projects that overwhelmingly served upper middle to upper income elderly and has been of marginal benefit to the low and moderate income population.

There have been recommendations to reform the program, such as lower loan-to-value ratios, higher debt service and operating reserves, higher mortgage insurance premiums and more stringent underwriting and market analyses. However, in light of the limited market, high rents and operating costs, and high default rate of such projects, continuation of the program is not warranted even with substantial restructuring.

The proposed rule does not preclude the combination of HUD mortgage insurance with tax exempt bond financing or Low Income Housing Tax Credits, which require a portion of the units in a project to be restricted to low income occupancy in the development of housing for the elderly. However, the termination of the ReSC program and restrictions on nonshelter space and services will preclude projects with expensive congregate services packages for which there is little demand.

2. *ReSC problems caused by poor HUD administration.*

Two commenters raised this issue. One commenter, a mortgage company, stated:

> The original regulations regarding Retirement Service Centers were basically sound. However, HUD did not train its field personnel sufficiently to underwrite these projects. In one state they approved six different projects because they supposedly were also underwritten by the state Housing Finance Agency with tax-exempt financing. All six projects came on line at the same time. Is it any wonder that 700 units went begging and couldn't make their debt service.
>
> Since then, the industry has learned a great deal about "aging in place", HUD included. There are many people of moderate means who can afford this type of facility. We know now that as people age their needs become less and they will spend a larger percentage of their income on a Retirement Service Center. It's a mistake to kill the whole program rather than look for ways to improve it.

Another commenter, an attorney, stated:

> It is difficult to annunciate my disappointment and frustration in the Department of Housing and Urban Development's knee jerk reaction to the problem existing with the development of retirement service centers. I am familiar with the HUD process pursuant to Section 221(d)(4) mortgage insurance and do not understand the reason for the termination. The HUD process, if followed correctly through the SAMA Conditional and Firm commitment stages, requires that each project be scrutinized in terms of the market where the project is situated, certification of the cost of the project and a pro forma using rents that the developer would charge for the project. Assuming the data are properly analyzed and notwithstanding any major economic crisis, the project should perform as is represented by the developer. Subject to fraud and misrepresentation on the part of the developer, the only other reason for failure of the project would be an improper analysis performed by the HUD staff in the office reviewing the documents.
>
> My clients, who currently own and operate three retirement service centers in the Kansas, Missouri, and Nebraska area, have successfully operated these facilities with rents, including food service, maid service, and other services, for as little as $550.00 a month with the upper range of approximately $1,075.00 a month. Through their experience, they have made similar conclusions to those you have made with your proposed rule such as the age group for this market is a range of 71 to 84 years old. However, through their experience, they have also determined that type of facility is badly needed for those people in this age group having incomes above Section 8, but below the upper income level.

HUD Response

For many years before the issuance of the ReSC procedures, HUD's primary experience with elderly housing development was through the Section 202 Direct Loan program and Section 8 assisted projects financed with HUD mortgage insurance. Except for the age eligibility factor, *i.e.*, limiting occupancy to the elderly 62 years and older, these subsidized programs for low income residents bear little relationship to the difficulty and complexity involved in the development of market rate housing for the elderly, such as ReSC facilities. The dramatic financial difficulties experienced in recent years with HUD-insured market rate projects for the elderly reflect the Department's inexperience and misunderstanding of the development of the moderate income elderly market.

The Department did not provide extensive training for its staff in processing applications for ReSC facilities and similar market rate congregate projects for the elderly and, no doubt, this exacerbated the problems experienced with ReSC housing development. If more intensive training and monitoring had been provided, ReSC processing might have been discontinued earlier in the life of the program, thereby averting some portion of the financial losses incurred with ReSC development.

The Department is taking measures to endure that Field Offices are aware of the complexities involved in developing market rate housing for the elderly. A notice has been issued for the HUD Field Offices providing interim instructions for processing applications for housing for the elderly. HUD's central office has emphasized ways of identifying and avoiding problem areas in the development of elderly housing so that the mistakes of the ReSC program are not repeated. The interim processing instructions will be incorporated in the HUD program and processing handbooks soon, and will be included in all training provided Field Office staff.

Even with these instructions, the Department considers ReSCs too risky because of the high cost, low demand, and overdevelopment of projects of this type, to warrant continuation of the procedures.

3. *HUD should not exclude dining areas and mandatory or optional meal service, nor should it limit nonshelter space to 10 percent of gross area. Further, the imposition of dining area, meal services and nonshelter space requirements should not extend to non-ReSC HUD programs.*

Six commenters wrote in opposition to these HUD proposals. Typical was the comment of the National Association of Home Builders:

> With regard to the HUD programs that are designated to support new construction or substantial rehabilitation of projects designed for the elderly, the proposals to (1) exclude dining areas and mandatory or optional meal service and (2) limit nonshelter space to 10% of gross areas, would severely hamper the ability to construct living environments that serve seniors well. For example, frail elderly individuals who may be inclined to, or capable of, preparing nutritious meals for themselves on a regular basis should not be limited to eating microwave dinners in a multipurpose room as suggested in the proposed regulations. We feel it is extremely inconsistent for HUD to acknowledge and respond to service and meal needs of low income frail elderly, while ignoring these same needs of moderate and middle income frail elderly. Further, the 10% limit on nonshelter space does not serve seniors who generally spend most of their day in their apartment building. Other people, in general, use their environments differently, than do younger people, and common spaces, such as for meals, social, gatherings, activities and services, become essential aspects in their maintenance of everyday independence.

The comments of the American Association of Retired Persons were also typical.

> In addition to the Retirement Service Center Program, I also want to comment on restrictions proposed on nonshelter services and facilities for projects insured by HUD programs. Ironically, the experience of the ReSC indicates that projects must provide services and specialized facilities in order to attract and serve older residents, while the regulatory changes proposed in this notice

would move the Section 221 and 231 programs in precisely the opposite direction.

Especially troubling would be the elimination of meals services and dining spaces. In addition to the obvious nutrition, benefits of meals, the social and emotional benefits of communal eating facilities are important aspects of serving frail older people. Meals services are often the core of successful congregate services programs. Research by the University of Illinois on the Section 202 program has found that having a separate dining space was one of the best predictors of the availability of a services program for frail tenants.

Similarly, the proposed limitation on nonshelter spaces and the exclusion of furniture and equipment would inhibit rather than promote the development and adaptation of facilities to serve the frail. While we appreciate the need to contain costs, these changes contradict both management experience and the policy directions outlined by the supportive housing provisions of the recently enacted Cranston-Gonzales National Affordable Housing Act. The consensus is growing that housing programs must place more emphasis on integrating housing and services in order to adequately serve those with special needs. We strongly urge the Department to modify these proposed changes to ensure that facilities will be able to adapt over time as residents become older and frailer.

HUD Response

The Department has given thorough consideration to the potential impact of food services on the economic feasibility of a project. The costs of construction, equipment, etc., involved in providing food services in a project have a significant impact on the rents charged to residents.

The Department's experience with market rate projects designed for the elderly, including non-ReSC projects, indicates that many projects have experienced financial difficulty because residents were unwilling to pay the costs charged for food services provided by the project. This is especially true where other, reasonably priced food services (restaurants, cafeterias, community meals programs) are available in the project area. Quite often, congregate meals programs do not generate enough income to support the costs of providing food services.

The Department's primary reason for terminating the ReSC procedures and limiting nonshelter services in HUD-insured market rate projects for the elderly is to maximize the affordability of projects developed for the elderly under the Department's multifamily mortgage insurance programs. Adding the cost of constructing, equipping, and staffing elaborate central kitchen and dining facilities to provide food services defeats the objective, since these costs are passed on to tenants in the form of higher rents.

The proposed rule prohibited central kitchen facilities and formal dining areas but the preamble stated that this did "not preclude the installation of modest dining equipment . . . in a multipurpose room that would be suitable for meetings or parties." In considering the comments received on this issue, the Department has decided to modify this somewhat. In view of the importance of social activities and gatherings to tenants, common use (shared) kitchen facilities (sink, refrigerator and stove) of a nonluxury nature may be included in the up to 10 percent nonshelter set aside for use by tenants. These facilities could also be used by outside entities providing catered meal service (e.g., "Meals on Wheels"). In no event, however, should this be construed to permit mandatory meal service or an institutional central kitchen to provide food service.

We note that the ReSC procedures were established in 1983 at about the same time as the authority to insure board and care homes was added to the Section 232 mortgage insurance programs. The ReSC procedures were intended, in large measure, to meet the request of developers and nursing home operators for a financing program for housing for the frail elderly who would have difficulty, or be incapable, of preparing their own meals. However, the need for meals and amenities programs for the frail elderly under the mortgage insurance programs for apartment projects was mitigated to a large extent by the implementation of the Section 232 program to provide insured loan financing for residential care facilities.

The Section 232 program for board and care homes is intended specifically for facilities for elderly persons who would have difficulty in performing activities of daily living, such as meals preparation. There has been no change to the food services requirement under Section 232—three daily meals must be provided.

This Final Rule

The provisions of this final rule are the same as those contained in the proposed rule with the exception of the addition of allowable dining area and common use kitchen and one conforming revision relating to the Section 241 supplemental loan program. It should be noted that, notwithstanding the termination of the ReSC program in this rule, the statutory authority remains for the construction or substantial rehabilitation of housing for the elderly under sections 221 (d)(3) and (d)(4) and 231 of the National Housing Act (NHA), and for the purchase or refinancing of such housing under section 223(f) of the NHA. The Department will continue to make mortgage insurance available under these Sections of the NHA for the development or preservation of housing for the elderly. HUD has determined that the impact of nonshelter amenities on the rents charged residents of ReSC project impacts those projects financially. The Department's experience indicates that many projects have experienced financial difficulty because residents were unwilling to pay the costs charged for food services provided by the projects. Quite often, congregate meal programs do not generate enough income to support the costs of providing food services. Since the purpose of this rule is to decrease the risk to HUD by prohibiting any development of future ReSC projects and thereby maximizing the affordability of projects developed for the elderly under the Department's other multifamily mortgage insurance programs, HUD has determined that to effectuate this purpose it is necessary to impose certain program specifications on other market rate elderly housing programs that may create ReSC-type projects. Specifically, this rule includes restrictions on insurance of existing projects under 24 CFR 207.32a and 231 so that these sections cannot be used to construct new ReSCs. Similarly, the possibility exists that a 24 CFR 241 Supplementary Loan could be used to create an addition that is essentially a ReSC project. This final rule also precludes that possibility.Accordingly, this rule amends 24 CFR parts 207, 221, 231 and 241 to make clear that if elderly projects are to be insured under these programs, they must meet the following requirements:

New Construction or Substantial Rehabilitation

(a) With respect to the insurance of mortgages to finance the new construction or substantial rehabilitation of projects designed for the elderly, 24 CFR parts 221 and 231 are revised to apply the following limitations on nonshelter spaces, nonshelter services, and mortgage amount:

(1) For projects involving new construction, nonshelter spaces and accommodations may not exceed 10 percent of the gross square footage of the project. These areas include, but are not limited to, multipurpose rooms, lounges, arts and crafts rooms, libraries, meeting rooms and areas containing modest kitchen equipment (e.g., a sink, stove or refrigerator).

(2) For projects involving substantial rehabilitation, the Commissioner may approve a modest increase above 10 percent of gross square footage, where the increase in space is both justifiable and unavoidable because of the existing configuration of the project.

(3) Nonshelter services may not be made a mandatory condition of occupancy, and charges for any optional services offered will be periodically reviewed for reasonableness by the Commissioner.

(4) Nonshelter spaces may include formal dining areas sufficient to serve one-half the tenant population at one time. Meal services may not be provided, either on a mandatory or an optional basis. This prohibition does not preclude the installation of modest (nonluxury) kitchen equipment (e.g., sink, stove or refrigerator) in a common use (shared) kitchen area that would be suitable for use by tenants or entities providing catered meal service (e.g., "Meals on Wheels").

(5) There is a prohibition on the inclusion of furniture and equipment costs in the mortgage amount. The cost of items capable of being moved, but having a relatively fixed location in the common area of a building (e.g., sofas and chairs in a lounge, or reading tables in a library), may not be included in replacement cost for purposes of calculating the insurable mortgage amount.

Special spaces, services, and amenities were encouraged in the ReSC program and mandatory nonshelter services and meals were permitted. HUD's instructions specifically allowed services and amenities, including nonshelter spaces, to exceed those typically found in non-congregate elderly projects and allowed major movable equipment such as lobby furniture to be included in replacement cost, which is not permitted in other rental housing programs. However, excessive features and amenities resulted in costly projects requiring high rent levels for which there has been demonstrated a limited demand. For these reasons, the Department believes the proposed limitations set out in this rule for future non-ReSC elderly projects are necessary and appropriate.

Purchase or Refinancing of Existing Projects

(b) With respect to the insurance of mortgages to finance the purchase or refinancing of an existing project for the elderly, the rule revises 24 CFR 207.32a (which authorizes such insurance) to limit the FHA Commissioner's insuring authority to cases where the project is already covered by a HUD-insured or Secretary-held mortgage.

The Department believes that purchase or refinance, without substantial rehabilitation, of ReSCs or similar facilities should be limited to those currently insured by HUD (or which are Secretary-held mortgages). This will, in some measure, protect the Insurance Fund by limiting the Department's risk to projects for which HUD is already at risk. In addition, we believe that there is a need for more restrictive mortgage limitations on existing project refinancings to eliminate equity take-outs for this category of projects. HUD's experience has been that, where equity take-out is allowed, HUD's risk is greater since equity take-out creates a major upward force on mortgage amounts. This rule therefore eliminates the 70-percent-of-value mortgage criterion that allows equity take-out with respect to the refinancing of existing elderly projects (see current § 207.32a(d)(1)(i)). HUD will thus lower financing costs in such refinancings, while supporting needed repairs and rehabilitation.

Further, with respect to these existing projects:

(1) *Nonshelter services.* No nonshelter services may be made a mandatory condition of occupancy, and charges for any optional services offered will be reviewed for reasonableness by the Commissioner.

(2) *Meal services and dining space:* Nonshelter spaces already constructed may include formal dining areas with meal services to be provided on an optional basis. The installation of modest (nonluxury) kitchen equipment (e.g., a sink, stove or refrigerator) in a nonshelter space is also allowable.

(3) *Prohibition on inclusion of furniture and equipment in mortgage amount.* The cost of items capable of being moved, but having a relatively fixed location in the common area of the building (e.g., sofas and chairs in a lounge, or reading tables in a library), may not be taken into account for purposes of calculating the insurable mortgage amount.

Supplementary Financing for Insured Elderly Projects Under 24 CFR part 241. Current regulations, at 24 CFR part 241, give authority to the Commissioner to insure supplemental loans for multifamily projects already covered by a mortgage insured by the Commissioner. Those supplemental insured loans could be used to create additions with significant levels of nonshelter services or amenities to existing HUD-insured elderly housing projects, which could, as a result of the addition, effectively transform the project into a ReSC. Among the purposes for which supplemental loan proceeds could be used would be the financing of an addition to an existing insured elderly project that carries with it a mandatory payment. As HUD reports have established, the imposition of a mandatory fee would cause rents to rise, leading to loss of tenants, loss of project income, and, consequently, default on mortgage. The proposed rule was aimed at preventing such a possibility and to also prevent the circumvention of the rule through use of any other HUD program.

While the proposed rule did not contain conforming language to apply the same principles outlined in the proposed rule specifically to part 241, to accomplish the purpose of this rule it is necessary that HUD prevent the use of part 241 to circumvent the termination of the ReSC program. As a result, the rule's restrictions with respect to nonshelter spaces, dining facilities, mandatory services and the inclusion of certain furnishings in the mortgage amount appropriately will be applied to supplemental loan for market rate elderly projects that present the same concerns for the HUD underwriter. This final rule amends the language for part 241 to make clear that supplemental loans insured under this part must meet the following standards: (1) Nonshelter spaces and accommodation may not exceed 10 percent of the gross square foot area of the addition: (2) no nonshelter services are made a mandatory condition of occupancy in the addition, and the charges for any optional services offered are subject to review by the Commissioner for reasonableness; (3) no central kitchen may be included in the addition; (4) while central kitchens and scheduled meals are prohibited, this does not preclude the installation of modest (nonluxury) kitchen equipment (e.g. a sink, stove or refrigerator) in a common use area as part of a nonshelter space; and (5) the cost of items capable of being moved, but having a relatively fixed location in the common area of the addition (e.g., sofas and chairs in lounge, or reading tables in a library), may not be taken into account for purposes of calculating the insurable loan amount.

Termination of ReSC Program. Finally, the rule provides for the termination of the Retirement Service Center mortgage insurance program. HUD Notice H 83–58, dated December 28, 1983, governing the mortgage insurance program for retirement service centers, is canceled, and the Commissioner will not accept any further applications for insurance on

mortgages covering a retirement service center. The Commissioner will honor conditional or firm commitments relating to ReSCs issued before the effective date of this rule. In addition, because of litigation, the Commissioner will also honor the outstanding SAMA letter issued on June 21, 1991 for 112 ReSC units in Petaluma, California. The scope of services allowable in other projects designed for the elderly will be limited in accordance with the criteria described earlier in this preamble and set forth in the text of the rule.

The effect of this rule is to end HUD's authority to insure mortgages covering ReSCs, in favor of providing elderly housing programs that are more economically feasible.

Findings and Other Procedural Matters

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have 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.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. ReSC has proved to be a small, narrowly based program which is financially unworkable. Better and more workable programs exist in which small entities can engage, both in the public and private sector.

This rule was listed as item 1187 on the Department's most recent Semiannual Agenda of rules, published on April 22, 1991 (56 FR 17360, 17387) under Executive Order 12291 and the Regulatory Flexibility Act.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(c) of the National Environment Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket clerk at the above address.

Executive Order 12612, Federalism. The General Counsel, as the Designated Official under section 67(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this proposed rule do not have Federalism implications and, thus, are not subject to review under the Order. The rule will not affect the basic availability of FHA insured multifamily mortgage insurance. No programmatic or policy changes would result from this rule's promulgation which would affect existing relationships between the Federal Government and State and local governments.

Executive Order 12606, The Family. The General Counsel, as Designated Official under Executive Order 12606, *The Family*, has determined that this Rule does not have a potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant changes in existing HUD policies and programs relating to family concerns will result from promulgation of this rule.

The catalog of Federal Domestic Assistance program numbers are: 14.135 and 14.155.

List of Subjects

24 CFR Part 207

Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 221

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 231

Aged, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 241

Energy conservation, Home improvement, Loan programs—Housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, 24 CFR parts 207, 221, 231, and 241 are amended as follows:

PART 207—MULTIFAMILY HOUSING—MORTGAGE INSURANCE

1. The authority citation for part 207 continues to read as follows:

Authority: Secs. 207, 211, National Housing Act (12 U.S.C. 1713, 1715b), sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Sections 207.258 and 207.258b are also issued under section 203(e), Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11(e)).

2. Paragraph (g) of § 207.32a is revised to read as follows:

§ 207.32a Eligibility of mortgages on existing projects.

* * * * *

(g) *Additional requirements for certain properties*—(1) *Eligible property in older declining urban areas and cooperative projects.* In addition to meeting the requirement in paragraph (f)(5) and other applicable requirements of this section, the maximum mortgage amount for an existing project to be purchased or refinanced in an older, declining urban area, or for a cooperative project, shall be limited by the lowest of paragraphs (b)(1), (b)(2), (c), and (d)(2) of this section.

(2) *Projects for the elderly.* The Commissioner may insure a mortgage executed in connection with the purchase or refinancing of an existing Project for the elderly only in cases where the Project is currently covered by a mortgage insured by the Commissioner or held by the Secretary. With respect to such projects for the elderly, the following additional requirements must be met:

(i) *Mortgage amount.* The principal amount of the new mortgage shall be limited by the lowest of the amounts set out in paragraph (b)(1), (b)(2), (c), or (d)(1)(ii) of this section.

(ii) *Nonshelter services.* No nonshelter services may be made a mandatory condition of occupancy and charges for any optional services offered will be reviewed for reasonableness by the Commissioner.

(iii) *Meal services and dining space.* Nonshelter spaces already constructed may include formal dining areas with meal services to be provided on an optional basis. Projects may also provide modest kitchen equipment (e.g., a sink, stove or refrigerator) in a common use kitchen area in a nonshelter space, rather than as a formal dining area.

(iv) *Prohibition on inclusion of furniture and equipment in mortgage amount.* The cost of items capable of being moved, but having a relatively fixed location in the common area of the building (e.g., sofas and chairs in a lounge, or reading tables in a library), may not be taken into account for purposes of calculating the insurable mortgage amount.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

3. The authority citation for part 221 continues to read as follows:

Authority: Secs. 211, 221, National Housing Act, 12 U.S.C. 1715b, 1715*l*; sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); section 221.544(a)(3) is also issued under sec. 201(a), National Housing Act, 12 U.S.C. 1707(a).

4. Part 221 is amended by adding a new § 221.546b, to read as follows:

§ 221.546b Projects designed for elderly.

With respect to projects for the elderly, the following additional requirements must be met:

(a) *Termination of Retirement Service Center mortgage insurance program.* HUD Notice H 83–58, dated December 28, 1983 governing the mortgage insurance program for retirement service centers, is canceled. The Commissioner will not accept applications for insurance on mortgages covering a retirement service center. The Commission will, however, honor conditional or firm commitments issued before September 30, 1991. The scope of services allowable in projects designed for the elderly, with mortgages insured under this part, shall be limited in accordance with the criteria set forth in this section.

(b) *Nonshelter spaces and accommodations.* (1) For projects involving new construction, nonshelter spaces and accommodations may not exceed 10 percent of the gross square foot area of the project. These areas include, but are not limited to, multipurpose rooms and areas containing modest kitchen equipment (e.g., a sink, stove or refrigerator.)

(2) For projects involving substantial rehabilitation, the Commission may approve modest increases above 10 percent of gross square footage, where an increase in space is both justifiable and unavoidable because of the existing configuration of the project.

(3) *Nonshelter services.* No nonshelter services may be made a mandatory condition of occupancy. Charges for any optional services offered will be reviewed by the Commissioner for reasonableness.

(c) *Prohibition on meal services and central kitchens.* Institutional central kitchen facilities are not permitted, nor may the project provide meal services on either a mandatory or optional basis. This prohibition does not preclude the installation of modest (nonluxury) equipment in a common use kitchen (e.g., sink, stove or refrigerator) in a nonshelter space for use of tenants or by outside entities providing catered meal service (e.g., "meals on wheels").

(d) *Prohibition on inclusion of furniture and equipment in mortgage amount.* The cost of items capable of being moved, but having a relatively fixed location in the common area of a building (e.g., sofas and chairs in a lounge, or reading tables in a library), may not be included in replacement cost for purposes of calculating the insurable mortgage amount.

PART 231—HOUSING MORTGAGE INSURANCE FOR THE ELDERLY

5. The authority citation for part 231 continues to read as follows:

Authority: Secs. 221, 231, National Housing Act (12 U.S.C. 1715b, 1715v); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

6. Paragraph (a) of § 231.10 is revised to read as follows:

§ 231.10 Development of property.

(a) *Commercial and special facilities.* The project may include such commercial and special facilities as the Commissioner determines to be adequate to serve the occupants of the project provided the following special requirements are met:

(1) For projects involving new construction, nonshelter spaces and accommodations may not exceed 10 percent of the gross square foot area of the project. These areas include, but are no limited to, multipurpose rooms, lounges, arts and crafts rooms, libraries, meeting rooms and areas containing modest kitchen equipment (e.g., a sink, stove or refrigerator).

(2) For projects involving substantial rehabilitation, the Commissioner may approve modest increases above 10 percent of gross square footage, where an increase in space is both justifiable and unavoidable because of the existing configuration of the project.

(3) *Nonshelter services.* No nonshelter services may be made a mandatory condition of occupancy. Charges for any optional services offered will be reviewed by the Commissioner for reasonableness.

(4) *Prohibition on meal services and central kitchens.* Institutional central kitchen facilities are not permitted, nor may the project provide meal services on either a mandatory or optional basis. This prohibition does not preclude the installation of modest (nonluxury) equipment in a common use kitchen (e.g., sink, stove or refrigerator) in a nonshelter space for use of tenants or by outside entities providing catered meal services (e.g., "meals on wheels").

(5) *Prohibition on inclusion of furniture and equipment in mortgage amount.* The cost of items capable of being moved, but having a relatively fixed location in the common area of a building (e.g., sofas and chairs in a lounge, or reading tables in a library), may not be included in replacement cost for purposes of calculating the insurable mortgage amount.

* * * * *

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

7. The authority citation for part 241 continues to read as follows:

Authority: Secs. 211, 241, National Housing Act (12 U.S.C. 1715b, 1715z–6); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d).

8. Section 241.125 is amended by designating the current text as paragraph (a) and by adding a new paragraph (b), to read as follows:

§ 241.125 Use of loan proceeds.

* * * * *

(b) The proceeds of a loan may be used for the construction of an addition to a project for the elderly insured under part 207, 221 or 231 of this chapter, provided that

(1) Nonshelter spaces and accommodations do not exceed 10 percent of the gross square foot area of the addition;

(2) No nonshelter services are made a mandatory condition of occupancy in the addition, and the charges for any optional services offered are subject to review by the Commissioner for reasonableness;

(3) No central kitchen is included in the addition. However, while central kitchens and scheduled meals are prohibited, this does not preclude the installation of modest (non-luxury) kitchen equipment (e.g., a stove, sink or refrigerator) in a nonshelter space; and

(4) the cost of items capable of being moved, but having a relatively fixed location in the common area of the addition (e.g., sofas and chairs in lounge, or reading tables in a library), are not taken into account for purposes of calculating the insurable loan amount.

Dated: August 22, 1991.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 91–20687 Filed 8–28–91; 8:45 am]

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federal register

Thursday
August 29, 1991

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Migratory Bird Hunting; Early Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits of mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some extended falconry seasons. According to the Migratory Bird Treaty Act of 1918, taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule will permit taking of designated species during the 1991–92 season.

EFFECTIVE DATE: August 29, 1991.

FOR FURTHER INFORMATION CONTACT: Thomas J. Dwyer, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, room 634—Arlington Square, Washington, DC 20240 (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1991

On March 6, 1991, the Service published for public comment in the **Federal Register** (56 FR 9462) a proposal to amend 60 CFR part 20, with comment periods ending July 25, 1991, for early-season proposals, and September 6, 1991, for late-season proposals. A supplemental proposed rulemaking for both early and late hunting season frameworks appeared in the **Federal Register** dated May 31, 1991 (56 FR 24984). On June 20, 1991, a public hearing was held in Washington, DC, as announced in the **Federal Register** of March 6 (56 FR 9462) and May 31 (56 FR 24984), 1991, to review the status of migratory shore and upland game birds. Proposed hunting regulations were discussed for these species and for other early seasons. On July 15, 1991, the Service published in the **Federal Register** (56 FR 32264) a third document in the series of proposed, supplemental, and final rulemaking documents which dealt specifically with proposed early-season frameworks for the 1991–92 season On August 2, 1991, a public hearing was held in Washington, DC, as announced in the **Federal Register** of March 6 (56 FR 9462), May 31 (56 FR 24984), and July 15 (56 FR 32275), 1991, to review the status of waterfowl. Proposed hunting regulations were discussed for these late seasons. On August 21, 1991, the Service published a fourth document (56 FR 41608) containing final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico, and the Virgin Islands selected early-season hunting dates, hours, areas, and limits for 1991–92. The fifth document in the series, published August 26, 1991 (56 FR 42198), dealt specifically with proposed frameworks for the 1991–92 late-season migratory bird hunting regulations. The final rule described here is the sixth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending subpart K of 50 CFR part 20 to set hunting seasons, hours, areas, and limits for mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes in the Central and Pacific Flyways; sea ducks in the Atlantic Flyway; experimental September duck seasons in identified States; experimental and special September Canada goose seasons in portions of identified States; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some extended falconry seasons.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement; Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)", filed with EPA on June 9, 1988. Notice of Availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988 (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES.**

Endangered Species Act Consideration

On July 31, 1991, the Division of Endangered Species concluded that the proposed action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats Hunting regulations are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. The Service's biological opinions resulting from its consultation under section 7 are considered public documents and are available for inspection in the Division of Endangered Species and the Office of Migratory Bird Management.

Regulatory Flexibility Act; Executive Order 12291, 12612, and 12630; and the Paperwork Reduction Act

In the **Federal Register** dated March 6, 1991 (56 FR 9462), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and Executive Orders. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publishing a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. It has been determined that these rules will not involve the taking of any constitutionally protected property rights, under Executive Order 12630, and will not have any significant federalism effects, under Executive Order 12612. This determination is detailed in the aforementioned documents, which are available upon request from the Office of Migratory Bird Management. These proposed regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the **Federal Register** dated August 21, 1991, (56 FR 41608).

Authorship

The primary authors of this rule are Robert J. Blohm and William O. Vogel, Office of Migratory Bird Management, working under the direction of Thomas J. Dwyer, Chief.

Regulations Promulgation

After analysis of migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the early

proposals (56 FR 9462, March 6, 1991; 56 FR 24984, May 31, 1991; and 56 FR 32264, July 15, 1991), the Service published in the **Federal Register** on August 21, 1991, (56 FR 41608) final early-season frameworks for the United States, including Alaska and Hawaii, and Puerto Rico and the Virgin Islands. Copies of the proposed and final frameworks were sent to officials of State conservation agencies and to conservation-agency officials in Puerto Rico and the Virgin Islands, who were invited to submit recommendations for hunting seasons which complied with the season times, lengths, hours, areas, and limits specified in the final frameworks. The Service has long recognized, consistent with 16 U.S.C. 708, that States need not select maximum bag limits and season length delineated in annual Federal frameworks. Local resource needs and the health of portions of a population using a particular area may require stricter local controls than prevail elsewhere.

The taking of migratory birds is prohibited unless open hunting seasons are specifically provided. The following amendments will permit the taking of designated species within specified time periods and will benefit the public by relieving existing restrictions.

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when proposed rulemakings were published on March 6, May 31, and July 15, 1991, the Service established what it believed were the longest periods possible for public comment. In doing this the Service recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the States would have insufficient time to select their season dates, shooting hours, hunting areas and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication.

Accordingly, with each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: August 21, 1991.

James F. Spagnole,

Acting Assistant Secretary for Fish and Wildlife and Parks.

PART 20—[AMENDED]

For the reasons set out in the preamble, title 50, Chapter I, subchapter B, part 20, subpart K, is amended as follows.

1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act of July 3, 1918, as amended, (16 U.S.C. 701–711) and the Fish and Wildlife Improvement Act of November 8, 1978, as amended, (16 U.S.C. 712).

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Note - The following annual hunting regulations provided for by §§20.101 through 20.106 and 20.109 of 50 CFR 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

2. Section 20.101 is revised to read as follows:

§20.101 Seasons, limits and shooting hours for Puerto Rico and the Virgin Islands

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) Puerto Rico - Doves and Pigeons

	Doves	Pigeons
Daily bag limit	10 singly or in the aggregate of all permitted species	5
Possession limit	10 singly or in the aggregate of all permitted species.	5
Season dates	September 7 to November 4, 1991	
Shooting hours	One-half hour before sunrise until sunset.	

Restrictions: Only the following species of doves and pigeons may be hunted during the open season: Zenaida dove--Tortola cardosantera; white-winged dove--Tortola aliblanca o cubanita; mourning dove--Tortola rabilargao rabiche; and scaly-naped pigeon--Paloma turca o torcaz.

Closed Areas. Closed areas are described in the August 21, 1991, Federal Register (56 FR 41608).

CHECK COMMONWEALTH REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

(b) Puerto Rico - Ducks, moorhen, and snipe

	Ducks	Common Moorhens (Gallinules)	Common Snipe
Daily bag limits	3	6	6
Possession limits	6	12	12
Season dates	November 9 to December 16, 1991 & January 11 to January 27, 1992		
Shooting hours	One-half hour before sunrise until sunset.		

Restrictions: The season is closed on the ruddy duck (Oxyura jamaicensis); Bahama pintail (Anas bahamensis); West Indian whistling (tree) duck (Dendrocygna arborea); fulvous whistling (tree) duck (Dendrocygna bicolor); masked duck (Oxyura dominica); purple gallinule (Porphyrula martinica); American coot (Fulica americana); and Caribbean coot (Fulica carbaea).

Closed Areas. Closed areas are described in the August 21, 1991, Federal Register (56 FR 41608).

CHECK COMMONWEALTH REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

(c) Virgin Islands

	Zenaida Dove	Scaly-naped Pigeon	Ducks
Daily bag limits	10	5	3
Possession limits	10	5	6
Season dates:			
Zenaida dove and scaly-naped pigeon	September 1 through October 30, 1991		
Ducks only	December 8, 1991, through January 31, 1992.		
Shooting hours	One half-hour before sunrise until sunset.		

Restrictions: Seasons are closed for ground or quail doves and pigeons (except scaly-naped pigeon) in the Virgin Islands. The season is closed on the ruddy duck (Oxyura jamaicensis); White-cheeked pintail (Anas bahamensis); West Indian whistling (tree) duck (Dendrocygna arborea); fulvous whistling (tree) duck (Dendrocygna bicolor); masked duck (Oxyura dominica), and purple gallinule (Porphyrula martinica).

Closed Areas. Ruth Cay, just south of St. Croix, is closed to the hunting of migratory game birds.

CHECK COMMONWEALTH REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

3. Section 20.102 is revised to read as follows:

§20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Open Seasons	Ducks, Geese (including Brant), Cranes, and Snipe
Area	
North Zone	Sept. 1-Dec. 16
Gulf Coast Zone	Sept. 1-Dec. 16
Southeast Zone	Sept. 1-Dec. 16
Pribilof & Aleutian Islands Zone	Oct. 8-Jan. 22
Kodiak Zone	Oct. 8-Jan. 22

Daily Bag and Possession Limits

Area	Ducks(1)	Geese(2)	Emperor Geese	Brant	Common Snipe	Sandhill Cranes(3)
North Zone	8-24	6-12	Closed	2-4	8-16	3-6
Gulf Coast Zone	6-18	6-12	Closed	2-4	8-16	2-4
Southeast Zone	5-15	6-12	Closed	2-4	8-16	2-4
Pribilof and Aleutian Islands Zone	5-15	6-12	Closed	2-4	8-16	2-4
Kodiak Zone	5-15	6-12	Closed	2-4	8-16	2-4

(1) In State Game Management Units (Units) 1-26 (Statewide), the basic bag limits may include not more than 2 pintails daily and 6 in possession, and 1 canvasback daily and 3 in possession. In addition to the basic daily bag and possession limits, a daily bag limit of 15 and a possession limit of 30 is permitted singly or in the aggregate of the following species: scoter, king and common eider, oldsquaw, harlequin, and common and red-breasted mergansers. The season is closed for Stellers and spectacled eiders.

(2) No more than 4 daily, or 8 in possession may be any combination of Canada and/or white-fronted geese, provided that: in Units 1-9 and 14-18, no more than 2 daily, or 4 in possession, may be white-fronted geese. In Units 5 and 6, the taking of Canada geese is only permitted from September 21 through December 16. In Units 8, 9(E), 10 (except Unimak Island) and 18, the taking of Canada geese is prohibited. In Unit 1(C), the taking of snow geese is prohibited. In Units 1-26 (Statewide), the taking of Aleutian and cackling Canada geese and emperor geese is prohibited.

(3) In Unit 17, the daily bag limit for sandhill cranes is 2 and the possession limit is 4.

Falconry: The total combined bag and possession limit for migratory game birds taken with the use of a falcon under a falconry permit is 3 per day and 6 in possession and may not exceed a more restrictive limit for any species listed in this subsection.

Special Tundra Swan Season: In Unit 22, there will be a tundra swan season from September 1 through October 30, 1991, with a season limit of 1 tundra swan per hunter. This season is by registration permit only. Up to 300 permits may be issued.

4 Section 20.103 is revised to read as follows:

§20.103 Seasons, limits, and shooting hours for mourning and white-winged doves and wild pigeons.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) Mourning Doves -- Eastern Management Unit

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

	Season Dates	Limits Bag	Limits Possession
Alabama:			
North Zone:			
12 noon to sunset	Sept. 14	15	15
1/2 hour before sunrise to sunset	Sept. 15-Oct. 21 &	15	15
	Dec. 21-Jan. 11	15	15
South Zone:			
12 noon to sunset	Sept. 21-Sept. 22 &	12	12
	Oct. 12-Nov. 25 &	12	12
	Dec. 21-Jan. 12	12	12
Connecticut	Closed	--	--
Delaware			
12 noon to sunset	Sept. 7-Sept. 28	12	24
1/2 hour before sunrise to sunset	Oct. 14-Oct. 26 &	12	24
	Dec. 12-Jan. 15	12	24
Florida (1):			
12 noon to sunset	Oct. 5-Oct. 27	12	24
1/2 hour before sunrise to sunset	Nov. 16-Dec. 1 &	12	24
	Dec. 14-Jan. 12	12	24

	Season Dates	Limits Bag	Limits Possession
Georgia:			
North Zone			
12 noon to sunset	Sept. 7	12	24
1/2 hour before sunrise to sunset	Sept. 8-Oct. 6 &	12	24
	Nov. 28-Dec. 1 &	12	24
	Dec. 11-Jan. 15	12	24
South Zone			
12 noon to sunset	Sept. 28	12	24
1/2 hour before sunrise to sunset	Sept. 29-Oct. 27 &	12	24
	Nov. 28-Dec. 1 &	12	24
	Dec. 11-Jan. 15	12	24
Illinois:			
12 noon to sunset	Sept. 1-Oct. 30	15	30
Indiana:			
12 noon to sunset	Sept. 1-Sept. 8	15	30
1/2 hour before sunrise to sunset	Sept. 9-Oct. 16 &	15	30
	Nov. 8-Nov. 17 &	15	30
	Nov. 28-Dec. 1	15	30
Kentucky:			
11 a.m. to sunset	Sept. 1-Sept. 30 &	15	30
	Oct. 5-Oct. 28	15	30
sunrise to sunset	Nov. 30-Dec. 5	15	30
Louisiana:			
12 noon to sunset	Sept. 7-Sept. 8 &	15	30
	Oct. 19-Oct. 20 &	15	30
	Dec. 7-Dec. 8	15	30
1/2 hour before sunrise to sunset	Sept. 9-Sept. 15 &	15	30
	Oct. 21-Nov. 10 &	15	30
	Dec. 9-Jan. 3	15	30
Maine	Closed	--	--
Maryland:			
12 noon to sunset	Sept. 2-Oct. 26	12	24
1/2 hour before sunrise to sunset	Nov. 21-Nov. 29 &	12	24
	Dec. 23-Dec. 28	12	24
Massachusetts	Closed	--	--
Michigan	Closed	--	--
Mississippi	Sept. 7-Sept. 29 &	15	30
	Oct. 12-Nov. 6 &	15	30
	Dec. 21-Dec. 31	15	30
New Hampshire	Closed	--	--
New Jersey	Closed	--	--
New York	Closed	--	--
North Carolina	Sept. 2-Oct. 5 &	12	24
	Nov. 25-Nov. 30 &	12	24
	Dec. 13-Jan. 11	12	24
Ohio	Closed	--	--
Pennsylvania:			
12 noon to sunset	Sept. 2-Oct. 12	12	24
1/2 hour before sunrise to sunset	Nov. 2-Nov. 30	12	24
Rhode Island:			
12 noon to sunset	Sept. 23-Oct. 6	12	24
sunrise to sunset	Oct. 19-Nov. 24 &	12	24
	Dec. 26-Jan. 13	12	24
South Carolina	Sept. 2-Oct. 5 &	12	24
	Nov. 23-Nov. 30 &	12	24
	Dec. 19-Jan. 15	12	24
Tennessee:			
12 noon to sunset	Sept. 1	15	30
1/2 hour before sunrise to sunset	Sept. 2-Sept. 30 &	15	30
	Oct. 12-Oct. 26 &	15	30
	Dec. 14-Dec. 28	15	30
Vermont	Closed	--	--

	Season Dates	Limits Bag	Limits Possession
Virginia:			
12 noon to sunset	Sept. 2-Sept. 28 &	12	24
	Oct. 14-Nov. 9	12	24
1/2 hour before sunrise to sunset	Dec. 20-Jan. 4	12	24
West Virginia:			
12 noon to sunset	Sept. 2	12	24
1/2 hour before sunrise to sunset	Sept. 3-Oct. 12 &	12	24
	Oct. 21-Nov. 2 &	12	24
	Dec. 23-Jan. 7	12	24
Wisconsin	Closed	--	--

(1) In Florida, the daily bag limit is 12 mourning and white-winged doves in the aggregate, of which not more than 4 may be white-winged doves. The possession limit is twice the daily bag limit.

(b) Mourning Doves--Central Management Unit.

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

	Season Dates	Limits Bag	Limits Possession
Arkansas	Sept. 1-Sept. 22 &	15	30
	Oct. 5-Oct. 20 &	15	30
	Dec. 14-Jan. 4	15	30
Colorado	Sept. 1-Oct. 30	15	30
Iowa	Closed	--	--
Kansas	Sept. 1-Oct. 30	15	30
Minnesota	Closed	--	--
Missouri	Sept. 1-Oct. 30	15	30
Montana	Sept. 1-Oct. 16	15	30
Nebraska	Sept. 1-Oct. 30	15	30
New Mexico(1)	Sept. 1-Sept. 30 &	15	30
	Dec. 1-Dec. 30	15	30
North Dakota	Sept. 1-Oct. 30	15	30
Oklahoma	Sept. 1-Oct. 30	15	30
South Dakota	Sept. 1-Oct. 18	15	30
Texas:(2)			
North Zone	Sept. 1-Nov. 9	12	24
Central Zone	Sept. 1-Oct. 30 &	12	24
	Jan. 3-Jan. 12	12	24
South Zone			
Special Area	Sept. 20-Nov. 9 &	12	24
	Jan. 3-Jan. 19	12	24
(special season)	Sept. 7-Sept. 8	10	20
Remainder	Sept. 20-Nov. 11 &	12	24
	Jan. 3-Jan. 19	12	24
Wyoming	Sept. 1-Oct. 15	15	30

(1) In New Mexico, the daily bag limit is 15 and the possession limit is 30 white-winged and mourning doves, singly or in the aggregate of these species.

(2) In Texas, the daily bag limit is 12 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 6 may be white-winged doves and 2 may be white-tipped doves; except in Cameron, Hidalgo, Starr, and Willacy Counties and during the special 2-day white-winged dove season in 2 portions of the Special White-winged Dove Area of the South Zone. In Cameron, Hidalgo, Starr, and Willacy Counties, the aggregate daily bag limit may include no more than 2 white-winged doves. In that portion of the special area north and west of Del Rio, the aggregate daily bag limit for doves is 10 daily, not to exceed 2 white-tipped doves, while south and east of Del Rio, the aggregate daily bag limit for doves may not contain more than 5 mourning doves and 2 white-tipped doves. Possession limits are twice the daily bag limit.

(c) Mourning Doves--Western Management Unit.

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

	Season Dates	Limits Bag	Possession
Arizona (1)	Sept. 1-Sept. 10 &	10	20
	Nov. 24-Jan. 12	10	20
California (2)	Sept. 1-Sept. 15 &	10	20
	Nov. 9-Dec. 23	10	20
Idaho	Sept. 1-Sept. 30	10	20
Nevada (2)	Sept. 1-Sept. 30	10	20
Oregon	Sept. 1-Sept. 30	10	20
Utah	Sept. 2-Sept. 30	10	20
Washington	Sept. 1-Sept. 15	10	20

(1) In Arizona, during September 1 through 10, 1991, the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 6 may be white-winged doves. The possession limit after opening day is twice the daily bag limit. During November 24, 1991, through January 12, 1992, the bag and possession limits are 10 and 20 mourning doves, respectively. See State regulations for restrictive shooting hours in certain areas.

(2) In those counties of California (Imperial, Riverside, and San Bernardino) and Nevada (Clark and Nye) having a season on white-winged doves, the daily bag limit is 10 and the possession limit is 20 mourning and white-winged doves, singly or in the aggregate of these species.

HAWAII REGULATIONS. Subject to the applicable provisions of the preceding sections of this part, mourning doves may be taken in accordance with the State regulations.

(d) White-winged Doves

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in:	Season Dates	Limits Bag	Possession
Arizona (1)	Sept. 1-Sept. 10	6	12
California: (2)			
Imperial, Riverside, and San Bernardino Counties	Sept. 1-Sept. 15 &	10	20
	Nov. 9-Dec. 23	10	20
Remainder of State	Closed	--	--
Florida: (3)	Oct. 5-Oct. 27 &	12	24
	Nov. 16-Dec. 1 &	12	24
	Dec. 14-Jan. 12	12	24
Nevada: (2)			
Clark and Nye Counties	Sept. 1-Sept. 30	10	20
Remainder of State	Closed	--	--
New Mexico (4)	Sept. 1-Sept. 30 &	15	30
	Dec. 1-Dec. 30	15	30
Texas: (5)			
North Zone	Sept. 1-Nov. 9	12	24
Central Zone	Sept. 1-Oct. 30 &	12	24
	Jan. 3-Jan. 12	12	24
South Zone			
Special Area	Sept. 20-Nov. 9 &	12	24
	Jan. 3-Jan. 19	12	24
(special season)	Sept. 7-Sept. 8	10	20
Remainder	Sept. 20-Nov. 11 &	12	24
	Jan. 3-Jan. 19	12	24

(1) In Arizona, during September 1 through 10, 1991, the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 6 may be white-winged doves. The possession limit after opening day is twice the daily bag limit. See State regulations for restrictive shooting hours in certain areas.

(2) In designated counties of California and Nevada, the daily bag limit is 10 and the possession limit is 20 white-winged and mourning doves, singly or in the aggregate of both species.

(3) In Florida, the shooting hours are restricted to noon to sunset during October 5 through October 27. The daily bag limit is 12 mourning and white-winged doves in the bag, of which not more than 4 may be white-winged doves. The possession limit is twice the daily bag limit.

(4) In New Mexico, the daily bag limit is 15 and the possession limit is 30 white-winged and mourning doves, singly or in the aggregate of both species.

(5) In Texas, the daily bag limit is 12 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 6 can be white-winged doves and 2 can be white-tipped doves; except in Cameron, Hidalgo, Starr, and Willacy Counties and during the special 2-day white-winged dove season in 2 portions of the Special White-winged Dove Area of the South Zone. In Cameron, Hidalgo, Starr, and Willacy Counties, the aggregate daily bag limit may include no more than 2 white-winged doves. In that portion of the special area north and west of Del Rio, the aggregate daily bag limit for doves is 10 daily, not to exceed 2 white-tipped doves, while south and east of Del Rio, the aggregate daily bag limit for doves may not contain more than 5 mourning doves and 2 white-tipped doves. Possession limits are twice the daily bag limit.

(e) Band-tailed Pigeons

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in:	Season Dates	Limits: Bag	Limits: Possession
Arizona (1)	Oct. 11-Nov. 9	5	10
California:			
Alpine, Butte, Del Norte, Glen, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties	Sept. 21-Oct. 6	2	2
Remainder of State	Dec. 14-Dec. 29	2	2
Colorado	Sept. 1-Sept. 30	5	10
Nevada:			
Carson City, Douglas, Lyon, Washoe, Humboldt, Pershing, Churchill, Mineral, and Storey Counties only	Sept. 15-Sept. 30	2	2
New Mexico:			
North Zone	Sept. 1-Sept. 20	5	10
South Zone	Oct. 1-Oct. 20	5	10
Oregon (2)	Sept. 15-Sept. 23	2	2
Utah	Sept. 2-Sept. 30	5	10
Washington (2) (3)	Sept. 21-Sept. 29	2	2

(1) In Arizona, each hunter must have a special bird permit stamp issued by the State.

(2) In Oregon and Washington, a State permit is required.

(3) Western Washington only.

5. Section 20.104 is revised to read as follows:

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are prescribed as follows:

	Rails (Sora & Virginia)	Rails (Clapper & King)	Woodcock	Common Snipe
Daily bag limit	25 (1)	15(2)	5 (3)	8
Possession limit	25 (1)	30(2)	10 (3)	16

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in the Atlantic Flyway:				
Connecticut	Sept. 2-Nov. 9	Sept. 2-Nov. 9	Oct. 19-Dec. 2	Oct. 19-Dec. 2
Delaware	Sept. 2-Nov. 9	Sept. 2-Nov. 9	Nov. 25-Jan. 8	Nov. 25-Jan. 31
Florida	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Dec. 14-Jan. 27	Nov. 1-Feb. 15

	Rails (Sora & Virginia)	Rails (Clapper & King)	Woodcock	Common Snipe
Georgia	Sept. 25-Dec. 3	Sept. 25-Dec. 3	Nov. 30-Jan. 13	Nov. 16-Feb. 29
Maine	Sept. 1-Nov. 9	Closed	Oct. 1-Nov. 14	Sept. 1-Dec. 16
Maryland	Sept. 2-Nov. 9	Sept. 2-Nov. 9	Oct. 16-Nov. 23 & Dec. 9-Dec. 14	Sept. 25-Nov. 29 & Dec. 9-Jan. 18
Massachusetts	Sept. 2-Nov. 10	Closed	Deferred	Sept. 2-Dec. 16
New Hampshire	Closed	Closed	Oct. 1-Nov. 14	Sept. 15-Nov. 30
New Jersey (4):				
North Zone	Sept. 2-Nov. 9	Sept. 2-Nov. 9	Oct. 12-Nov. 15	Oct. 1-Jan. 15
South Zone	Sept. 2-Nov. 9	Sept. 2-Nov. 9	Nov. 9-Nov. 30 & Dec. 14-Dec. 26	Oct. 1-Jan. 15
New York (9)	Sept. 1-Nov. 9	Closed	Oct. 1-Nov. 14	Sept. 1-Dec. 16
North Carolina	Sept. 2-Nov. 9	Sept. 2-Nov. 9	Dec. 5-Jan. 18	Nov. 14-Feb. 28
Pennsylvania	Sept. 2-Nov. 9	Closed	Oct. 26-Nov. 16	Oct. 26-Nov. 16
Rhode Island	Sept. 16-Nov. 24	Sept. 16-Nov. 24	Oct. 19-Nov. 29	Sept. 16-Nov. 29 & Dec. 9-Jan. 9
South Carolina	Sept. 5-Sept. 11 & Sept. 25-Nov. 26	Sept. 5-Sept. 11 & Sept. 25-Nov. 26	Nov. 28-Dec. 14 & Dec. 24-Jan. 20	Nov. 14-Feb. 28
Vermont	Closed	Closed	Oct. 1-Nov. 14	Sept. 28-Dec. 6
Virginia	Sept. 2-Nov. 9	Sept. 2-Nov. 9	Nov. 4-Nov. 30 & Dec. 18-Jan. 4	Oct. 17-Jan. 31
West Virginia	Sept. 2-Nov. 9	Closed	Oct. 12-Nov. 25	Sept. 2-Dec. 17
Seasons in the Mississippi Flyway:				
Alabama (10)	Nov. 12-Jan. 20	Nov. 12-Jan. 20	Nov. 28-Jan. 31	Nov. 14-Feb. 28
Arkansas	Sept. 1-Nov. 9	Closed	Nov. 2-Dec. 15 & Jan. 4-Jan. 24	Nov. 9-Feb. 23
Illinois	Sept. 1-Nov. 9	Closed	Oct. 1-Dec. 4	Sept. 1-Dec. 16
Indiana	Sept. 1-Nov. 9	Closed	Sept. 28-Dec. 1	Sept. 1-Dec. 16
Iowa	Sept. 7-Nov. 15	Closed	Sept. 14-Nov. 17	Sept. 7-Dec. 22
Kentucky	Deferred	Closed	Oct. 15-Dec. 18	Oct. 15-Dec. 18
Louisiana	Deferred	Deferred	Nov. 28-Jan. 31	Nov. 9-Feb. 23
Michigan (5)	Sept. 15-Nov. 14	Closed	Sept. 15-Nov. 14	Sept. 15-Nov. 14
Minnesota	Sept. 1-Nov. 4	Closed	Sept. 1-Nov. 4	Sept. 1-Nov. 4
Mississippi	Oct. 12-Dec. 20	Oct. 12-Dec. 20	Nov. 28-Jan. 31	Nov. 14-Feb. 28
Missouri	Sept. 1-Nov. 9	Closed	Oct. 15-Dec. 18	Sept. 1-Dec. 16
Ohio	Sept. 2-Nov. 9	Closed	Sept. 27-Nov. 30	Sept. 2-Nov. 30 & Dec. 9-Dec. 25
Tennessee	Deferred	Closed	Oct. 12-Dec. 15	Nov. 15-Feb. 28
Wisconsin	Deferred	Closed	Sept. 14-Nov. 17	Deferred
Seasons in the Central Flyway:				
Colorado (6)	Sept. 1-Nov. 9	Closed	Closed	Sept. 1-Dec. 16
Kansas	Sept. 1-Nov. 9	Closed	Oct. 12-Dec. 15	Sept. 1-Dec. 16
Montana (6)	Closed	Closed	Closed	Sept. 1-Dec. 16
Nebraska (7)	Sept. 1-Nov. 9	Closed	Sept. 15-Nov. 18	Sept. 1-Dec. 15
New Mexico(6)(11):				
Zone 1	Deferred	Closed	Closed	Deferred
Zone 2	Deferred	Closed	Closed	Deferred
North Dakota	Closed	Closed	Closed	Sept. 28-Nov. 24
Oklahoma	Sept. 1-Nov. 9	Closed	Oct. 26-Dec. 29	Oct. 1-Jan. 15
South Dakota (8)	Closed	Closed	Closed	Sept. 1-Oct. 31
Texas	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Deferred	Deferred

	Rails (Sora & Virginia)	Rails (Clapper & King)	Woodcock	Common Snipe
Wyoming (6)	Sept. 15-Nov. 23	Closed	Closed	Sept. 15-Dec. 30
Seasons in the Pacific Flyway:				
Colorado (6)	Sept. 1-Nov. 9	Closed	Closed	Sept. 1-Dec. 16
Idaho (12)	Closed	Closed	Closed	Sept. 21-Jan. 5
Montana (6)	Closed	Closed	Closed	Sept. 1-Dec. 16
New Mexico(6)(11)	Deferred	Closed	Closed	Deferred
Wyoming (6)	Sept. 15-Nov. 23	Closed	Closed	Sept. 15-Dec. 16

NOTE: For all other States in the Pacific Flyway, no seasons are prescribed for woodcock and rails, and snipe seasons have been deferred.

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(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species.

(2) All bag and possession limits for clapper and king rails apply singly or in the aggregate of the two species and, unless otherwise specified, the limits are in addition to the limits on sora and Virginia rails in all states. In Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, the limits for clapper and king rails are 10 daily and 20 in possession.

(3) In States of the Atlantic Flyway, the woodcock bag limit is 3 daily and 6 in possession.

(4) The season is closed on king rails in New Jersey by State regulation.

(5) See State regulations for listing of certain Great Lakes waters where the season is to open concurrently with the duck season.

(6) The Central Flyway portion consists of: Colorado and Wyoming -- the area lying east of the Continental Divide; Montana -- the area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties; New Mexico -- the area lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation. The remaining portions of these States are in the Pacific Flyway.

(7) In Nebraska, the rail limits are 10 daily and 20 in possession.

(8) In South Dakota, the snipe limits are 5 daily and 15 in possession.

(9) In New York, the seasons for rails (Sora and Virginia) and common snipe are statewide except in Long Island.

(10) In Alabama, the rail limits are 15 daily and 15 in possession, singly or in the aggregate.

(11) In New Mexico, the rail limits are 10 daily and 10 in possession.

(12) In Idaho, in the Fort Hall Reservation Zone, the snipe season in October 26 through December 23.

NOTE: States with deferred seasons may select rail, woodcock, and snipe seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

6. Section 20.105 is amended by revising paragraphs (a) through (c) and by amending paragraph (d) to read as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and common moorhens and purple gallinules.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) Sea Ducks (scoter, eider, and oldsquaw ducks in Atlantic Flyway).

Within the special sea duck areas, the daily bag limit is 7 and the possession limit is 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate. These limits may be in addition to regular duck bag limits during the regulation duck season in the special sea duck hunting areas. Open seasons are prescribed according to the following table:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise noted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in:	
Connecticut	Deferred
Delaware	Sept. 20-Jan. 4
Georgia	Nov. 28-Jan. 5
Maine	Deferred
Maryland	Deferred
Massachusetts	Deferred
New Hampshire	Sept. 15-Dec. 30
New Jersey	Oct. 1-Jan. 15
New York (Long Island only)	Deferred
North Carolina	Deferred

Rhode Island	Deferred
South Carolina	Deferred
Virginia	Deferred

NOTE: Notwithstanding the provisions of this Part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

NOTE: States with deferred seasons may select sea duck seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(b) Teal. The September teal season is suspended in 1991.

(c) Common Moorhens and Purple Gallinules.

Bag limit	15 singly or in the aggregate of the two species.
Possession limit	30 singly or in the aggregate of the two species.

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in the Atlantic Flyway:

Connecticut	Closed
Delaware	Sept. 2-Nov. 9
Florida (1)	Sept. 1-Nov. 9
Georgia	Nov. 28-Dec. 1& Dec. 11-Jan. 5
Maine	Sept. 1-Nov. 9
Maryland	Closed
Massachusetts	Closed
New Hampshire	Closed
New Jersey	Seot. 2-Nov. 9
New York:	
Long Island	Closed
Remainder of State	Sept. 1-Nov. 9
North Carolina	Sept. 2-Nov. 9
Pennsylvania	Sept. 2-Nov. 9
Rhode Island	Sept. 16-Nov. 24
South Carolina	Sept. 5-Sept. 11 & Sept. 25-Nov. 26
Vermont	Closed
Virginia	Deferred
West Virginia	Deferred

Seasons in the Mississippi Flyway:

Alabama (2)	Nov. 12-Jan. 20
Arkansas	Sept. 1-Nov. 9
Illinois	Closed
Indiana	Sept. 1-Nov. 9
Iowa	Closed
Kentucky	Deferred
Louisiana	Deferred
Michigan	Deferred
Minnesota	Deferred
Mississippi	Oct. 12-Dec. 20
Missouri	Closed
Ohio	Sept. 2-Nov. 9
Tennessee	Deferred
Wisconsin	Deferred

Seasons in the Central Flyway:

Colorado (3)	Closed
Kansas	Closed
Montana (3)	Closed
Nebraska	Closed
New Mexico (3)(4):	
Zone 1	Deferred
Zone 2	Deferred
North Dakota	Closed
Oklahoma	Sept. 1-Nov. 9
South Dakota	Closed
Texas	Sept. 1-Nov. 9
Wyoming (3)	Oct. 5-Oct. 20 & Nov. 9-Nov. 24

Seasons in the Pacific Flyway:

All States and portions thereof	Deferred

(1) The season in Florida applies to the common moorhen only. There is no open season on the purple gallinule in Florida.

(2) In Alabama, the limits are 15 daily and 15 in possession.

(3) Seasons apply to Central Flyway portion of State only.

(4) In New Mexico, the bag limit is 2 common moorhens daily and 4 in possession; there is no open season on the purple gallinule in New Mexico.

NOTE: States with deferred seasons may select moorhen and gallinule seasons at the time they select their waterfowl seasons in August. Consult waterfowl regulations to be published later for information concerning these later seasons.

(d) Waterfowl and coots.

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

* * * * *

	Season Dates	Limits: Bag	Limits: Possession
ATLANTIC FLYWAY			
* * * * *			
Florida			
Wood ducks	Sept. 21-Sept. 25	3	6
* * * * *			
Massachusetts (1)(2)			
Canada Geese	Sept. 3-Sept. 10	5	10
* * * * *			
New York (1)			
Canada Geese	Sept. 1-Sept. 10	3	6
* * * * *			
North Carolina (2)			
Canada Geese	Sept. 3-Sept. 10	2	4
* * * * *			
MISSISSIPPI FLYWAY			
* * * * *			
Illinois (1)			
Canada Geese	Sept. 1-Sept. 10	5	10
* * * * *			
Indiana (1)			
Canada Geese	Sept. 1-Sept. 10	5	10
* * * * *			
Kentucky			
Wood ducks	Sept. 18-Sept. 22	2	4
* * * * *			

	Season Dates	Limits Bag	Possession
	* * * * *		
Michigan (1)			
Canada Geese	Sept. 1-Sept. 10	3	6
	* * * * *		
Minnesota (1)(3)			
Canada Geese	Sept. 1-Sept. 10	4	8
	* * * *		
Ohio (1)			
Canada Geese	Sept. 1-Sept. 10	3	6
	* * * * *		
Tennessee			
Wood ducks	Sept. 14-Sept. 18	2	4
	* * * * *		
Wisconsin (1)			
Canada Geese	Sept. 3-Sept. 10	5	10
	* * * * *		
PACIFIC FLYWAY			
	* * * * *		
Oregon (1)(2)			
Canada Geese	Sept. 1-Sept. 10	2	4
	* * * * *		
Utah (1)(2)(4)			
Canada Geese	Sept. 7-Sept. 8 &	2 per season	
	Sept. 14-Sept. 15	2 per season	
	* * * * *		
Washington (1)(2)			
Canada Geese	Sept. 1-Sept. 10	2	4
Wyoming (1)(2)			
Canada Geese	Sept. 1-Sept. 3	2 per season	
	* * * * *		

(1) Check August 21, 1991, Federal Register (56 FR 41608) or State regulations for areas open to the hunting of Canada geese.

(2) State permit required.

(3) In Minnesota, the bag and possession limits for Canada geese will be 2 and 4, respectively, in the Fergus Falls/Alexandria Zone and Southwest Border Zone.

(4) In Utah, the shooting hours are sunrise to sunset.

* * * * * *

7. Section 20.106 is revised to read as follows:

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

The daily bag limit is 3 sandhill cranes and the possession limit is 6, unless otherwise noted.

Shooting and hawking hours are one-half hour before sunrise until sunset, except otherwise noted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Central Flyway:

Each hunter participating in a regular sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a valid Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to any authorized law enforcement official upon request.

(a) In Colorado (the Central Flyway portion except the San Luis Valley and North Park) the inclusive dates are September 28, 1991 through November 24, 1991.

(b) In New Mexico: in the counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, the inclusive dates for the regular season are October 19, 1991, through January 19, 1992; in the Middle Rio Grande Valley Hunt Area (described in State regulations) the inclusive dates for the special season are October 18 through October 21 and October 25 through October 28, 1991; and in the Hatch-Deming Zone in the counties of Sierra, Luna, and Dona Ana, the inclusive dates for the experimental special season are January 17 through January 19 and January 24 through January 26, 1992. Hunting in the special seasons is by State permit only. The daily bag limit is 3 sandhill cranes, the possession limit is 6, and the seasonal bag limit is 9; except in the Middle Rio Grande Valley and Hatch-Deming Areas where the possession limit is 3 sandhill cranes. Shooting hours for the special seasons are sunrise to sunset.

(c) In Oklahoma (that portion west of I-35), the season has been deferred.

(d) In Texas (that portion west of a line from Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to Sonora; U.S. 277 to Abilene; Texas 351 to Albany; U.S. 283 to Vernon; and U.S. 183 to the Texas-Oklahoma boundary), the season has been deferred.

(e) In North Dakota (that portion west of U.S. Highway 281), the inclusive dates are September 7 through November 3, 1991.

(f) In South Dakota, the inclusive season dates are September 28 through November 3, 1991

(g) In Montana (the Central Flyway portion except that area south and west of I-90), inclusive dates are September 28 through November 24, 1991.

(h) In Wyoming: in Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties, the inclusive season dates are September 15 through November 11, 1991; and in the Riverton-Boysen Unit in Fremont County, the inclusive dates for the special season are September 9 through September 10, 1991. The special season limit is 2 sandhill cranes per hunter and hunting is by State permit only.

Pacific Flyway:

(a) In Arizona (within Game Management Units 30A, 30B, 31, and 32), the season dates are November 4 through November 6, November 8 through November 10, November 12 through November 14, and November 16 through November 18. Hunting is by State permit only.

(b) In Utah (Cache and Rich Counties), the season dates are September 7 through September 8 and September 14 through September 15. Hunting is by State permit only. The season limit is 2 sandhill cranes per hunter. Shooting hours are sunrise to sunset.

(c) In Wyoming: in the Bear River area in Lincoln County, the inclusive dates are September 1 through September 3, 1991; in the Salt River (Star Valley) area in Lincoln County, the inclusive dates are September 1 through September 3, 1991; and, in the Eden-Farson Agricultural Project Area in Sweetwater and Sublette Counties, the inclusive dates are September 1 through September 3, 1991. The season limit is 2 sandhill cranes per hunter: Hunting is by State permit only.

8. Section 20.109 is revised to read as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits on the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as otherwise noted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Daily bag limit . . . . . 3 singly or in the aggregate unless otherwise noted.

Possession limit . . . . . 6 singly or in the aggregate unless otherwise noted.

These limits apply to falconry during both regular hunting seasons and extended falconry seasons -- unless further restricted by State regulations. Unless otherwise specified, extended falconry for ducks does not include sea ducks within the special sea duck areas.

Only extended falconry seasons are shown below. Many States permit falconry during the gun seasons. Please consult State regulations for details.

For ducks, mergansers, coots, geese, and some moorhen seasons: Additional season days occurring after September 30 will be published with the late-season selections. Some States have deferred selections. Consult waterfowl regulations to be published later for information concerning these later seasons.

ATLANTIC FLYWAY

Florida:

Mourning doves and white-winged doves	Oct. 28-Nov. 15 & Dec. 2-Dec. 13 & Jan. 13-Jan. 19
Common moorhens and rails	Nov. 10-Dec. 16
Woodcock	Nov. 24-Dec. 13 & Jan. 28-Mar. 9

Maryland:

Mourning doves	Oct. 27-Nov. 20 & Dec. 11-Dec. 22
Rails	Nov. 10-Dec. 17

Woodcock	Oct. 5-Oct. 15 & Nov. 24-Dec. 8 & Dec. 15-Jan. 19

Pennsylvania:

Mourning doves	Oct. 13-Nov. 1 & Dec. 1-Dec. 17

Virginia:

Doves	Jan. 5-Feb. 10
Rails	Dec. 20-Jan. 26
Woodcock	Jan. 5-Mar. 6

MISSISSIPPI FLYWAY

Illinois:

Mourning doves	Oct. 31-Dec. 16
Rails	Nov. 10-Dec. 16
Woodcock	Sept. 1-Sept. 30 & Dec. 5-Dec. 16

Indiana:

Mourning doves	Oct. 17-Nov. 7 & Jan. 1-Jan. 25
Woodcock	Sept. 1-Sept. 27

Iowa:

Ducks and mergansers (1)	Sept. 1-Sept. 30
Geese (1):	
Southwest Zone	Sept. 15-Sept. 30
Rest of State	Sept. 1-Sept. 27
Woodcock	Sept. 1-Sept. 13& Nov. 18-Dec. 16
Rails	Sept. 1-Sept. 6 & Nov. 16-Dec. 16

Michigan:

Snipe, rails, and woodcock	Sept. 7-Sept. 14 & Nov. 15-Dec. 22
Ducks, mergansers, coots, and moorhens (1):	
North and Middle Zones	Sept. 7-Sept. 30
South Zone	Sept. 7-Sept. 30

Minnesota:

Ducks, mergansers, coots, and moorhens (1)	Sept. 1-Sept. 30
Rails, woodcock, and snipe	Nov. 5-Dec. 16

Missouri:

Mourning doves	Nov. 1-Dec. 16

Wisconsin:

Woodcock	Sept. 1-Sept. 13 & Nov. 18-Dec. 16
Rails, snipe, moorhens, and gallinules (1)	Sept. 1-Sept. 30
Ducks, coots, and mergansers (1)	Sept. 15-Sept. 30

CENTRAL FLYWAY

Colorado:

Ducks, mergansers and coots (1)	Sept. 1-Sept. 30

Montana: (2)

Ducks, mergansers, and coots (1)	Sept. 14-Sept. 30
Geese (1)	Sept. 21-Sept. 27

New Mexico:

Doves	Oct. 1-Nov. 4 & Nov. 21-Nov. 30 & Dec. 31-Jan. 1
Band-tailed pigeons	Sept. 21-Sept. 30 & Oct. 21-Dec. 16

Sandhill cranes only in Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties	Oct. 14-Oct. 18 & Jan. 20-Jan. 28
Ducks, mergansers, coots, moorhens, and snipe (1):	
North Zone	Sept. 22-Sept. 30
North Dakota:	
Ducks, coots, mergansers, and snipe	Sept. 1-Sept. 27
South Dakota	
Ducks, mergansers, and coots (1)	Sept. 4-Sept. 30
Texas:	
Rails and gallinules	Nov. 10-Nov. 20 & Jan. 1-Jan. 26
Mourning and white-winged doves	
North Zone	Nov. 10-Nov. 20 & Jan. 1-Jan. 26
Central Zone	Oct. 31-Nov. 20 & Jan. 1-Jan. 2 & Jan. 13-Jan. 26
South Zone (excluding the Special White-winged Dove Area)	Sept. 1-Sept. 19 & Nov. 12-Nov. 20 & Jan. 1-Jan. 2 & Jan. 20-Jan. 26
Special White-winged Dove Area	Sept. 1-Sept. 6 & Sept. 9-Sept. 19 & Nov. 12-Nov. 20 & Jan. 1-Jan. 2 & Jan. 20-Jan. 26
Wyoming:	
Rails	Sept. 1-Sept. 14
Ducks, mergansers, and moorhens (1)	Sept. 1-Sept. 30

PACIFIC FLYWAY

Arizona:	
Doves	Sept. 11-Oct. 27
Ducks and mergansers (1)	
North Zone	Sept. 1-Sept. 30
Colorado:	
Ducks, mergansers, and coots (1)	Sept. 21-Sept. 30
Idaho:	
Mourning Doves	Oct. 1-Dec. 2 & Feb. 26-Mar. 10
Geese	Sept. 1-Sept. 14
Ducks, coots, and mergansers (1)	Sept. 1-Sept. 30
Montana: (2)	
Ducks, mergansers, and coots (1)	Sept. 14-Sept. 30
Geese (1)	Sept. 21-Sept. 27
New Mexico:	
Doves	Oct. 1-Nov. 4 & Nov. 21-Nov. 30 & Dec. 31-Jan. 1
Band-tailed pigeons	Sept. 21-Sept. 30 & Oct. 21-Dec. 16
Ducks, mergansers, coots, moorhens, and snipe (1):	Sept. 22-Sept. 30
Oregon (4):	
Band-tailed pigeons	Sept. 1-Sept. 14 & Sept. 24-Dec. 16
Mourning doves	Oct. 1-Dec. 16
Utah:	
Doves and pigeons	Oct. 1-Dec. 17

Washington:	
Mourning doves	Sept. 16-Oct. 11 Dec. 1-Dec. 31
Wyoming:	
Ducks, mergansers, and moorhens	Sept. 1-Sept. 30
Rails and snipe	Sept. 1-Sept. 14

(1) Additional days occurring after Sept. 30 will be published with the late-season selections.

(2) In Montana, the bag limit is 2 and the possession limit is 6.

(3) In Nevada, the bag limit is 2 and the possession limit is 4. Hawking hours are sunrise to sunset.

(4) In Oregon, no more than 1 pigeon daily in bag or possession.

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August 29, 1991

Part VI

Department of Commerce

Bureau of Export Administration

15 CFR Part 799

Revision of Commodity Control List; Interim Rule With Request for Comments

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 799

[Docket No. 910813-1213]

Revision of Commodity Control List

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The United States participates with 16 other countries in the Coordinating Committee for Multilateral Export Controls (COCOM). COCOM has agreed to a total revision of the International Industrial List, which describes the dual-use items subject to COCOM control. As a result, the Bureau of Export Administration (BXA) is publishing an entirely new Commerce Control List (CCL), which will replace the former Commodity Control List.

The new COCOM list, commonly known as the "core list," adopts a totally new method of categorizing commodities, and for the first time it includes all software and technology. Because the list has used the COCOM numbering system as a base, the extensive change in the Industrial List has required BXA to develop a totally new CCL. This rule describes the new format and sets forth the complete new CCL and related information. The new CCL will benefit exporters because it removes national security controls on many items, allowing exports without the previously required validated export licenses.

Export license applications that are received in the Office of Export Licensing (OEL) on or before November 29, 1991, may use numbering and descriptions from either this new CCL or the previous CCL. Applications received after that date will be returned without action unless the new numbering and descriptions contained in this rule are used.

DATES: This rule is effective September 1, 1991. Comments must be received by October 30, 1991.

ADDRESSES: Written comments (six copies) should be sent to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: For questions of a technical nature, the following persons in the Office of Technology and Policy Analysis are available:

Category 1: Jeff Tripp—(202) 377-1309
Category 2: Surendra Dhir—(202) 377-5695
Category 3: Jerald Beiter—(202) 377-1641
Category 4: Randolf Williams—(202) 377-0708
Category 5: Joseph Westlake—(202) 377-0731
Category 6: Joseph Chuchla—(202) 377-1641
Category 7 and 9: Bruce Webb—(202) 377-3806
Category 8: Steve Clagett—(202) 377-8550

For questions regarding continued use of the DL procedure for computers that had been eligible under PDR calculations, but would no longer be eligible under the new CTP, contact Marc Kron, Special Licensing Division, (202) 377-3287.

SUPPLEMENTARY INFORMATION:

Background

COCOM agreed in 1990 to develop a new "core list" of dual-use items that would control those dual-use goods and technologies most necessary to safeguard Western security. The result is a streamlined International Industrial List, which does not compromise national security, presented in an entirely new format. To preserve the tie between the CCL and the new COCOM Industrial List, BXA has totally restructured and renumbered the CCL so that items controlled for other than COCOM reasons are also renumbered. With the addition of technology and software, the "Commodity Control List" has been renamed the "Commerce Control List." Within the CCL, the numbers that identify each entry are renamed from "Export Control Commodity Number" to "Export Control Classification Number."

A preliminary version of the new Industrial List was published in the **Federal Register** on July 5, 1991 (56 FR 30798). That list included some items that are treated as dual-use by COCOM but are controlled in the United States under the International Traffic in Arms Regulations. These items are not included in the new CCL. The specific entries that were listed in July that are not included here are 7A03.b, 7A05.a, 9A04, 9A05, 9A06, 9A07, 9A08, 9A09, 9A10, and 9A11.

The new numbering system includes both digits and letters. The basic ECCN for each entry is four characters (1A01, 3C13, etc), with an optional destination letter at the end for those exporters who find it convenient. The numbering and structure of the CCL are explained fully in the rewritten § 799.1 of this rule.

This rule incorporates both the Industrial List items and those controls that have been maintained for foreign policy and other reasons into the new CCL. Because certain foreign policy controls had been linked to the COCOM list, the COCOM changes have required BXA to redefine certain controls. The goal has been to translate pre-September non-COCOM controls as faithfully as possible into new list items. However, variations have been necessary in some areas. For example, controls under the Missile Technology Control Regime (MTCR) had been tied closely to COCOM controls, but have not undergone the same degree of change as the COCOM list. BXA found that preserving these controls as separate entries would have been overly complex. The members of the MTCR have drafted a new format for missile controls, to be adopted by all members later this year. This new format was readily adaptable to creation of new ECCNs and has been used in the new CCL. In limited cases, this has resulted in an expansion of controls.

Controls directed toward Iran and Syria have been adjusted. The change in the International List has required more specific designation of items that had been encompassed by COCOM entries on the CCL, and other modifications in coverage to continue the same general scope of control. Those ECCNs subject to this control that are not also COCOM controlled are identified as being under foreign policy control for Iran and Syria. Although most of the items subject to control in the new CCL were previously controlled, in limited instances the controls have been expanded.

To the limited extent that this rule expands controls to Syria and Iran, as well as controls under the MTCR, this action is taken by BXA with the concurrence of the Secretary of State. In addition, the Department of Commerce has consulted with, and filed a report with the Congress. Pre-existing contracts involving items added to controls by this rule will be considered on a case-by-case basis in the licensing process.

As a result of the integration of the former People's Democratic Republic of Yemen into the new Republic of Yemen, which the Secretary of State has not designated as a terrorist-supporting country, the People's Democratic Republic of Yemen is deleted from entries reflecting anti-terrorism controls.

Finally, the new CCL reflects the removal of controls on certain exports to South Africa of computers, petroleum products, and nuclear-related items. This action follows the President's decision made in Executive Order 12769 of July 10, 1991, to remove certain sanctions under the Comprehensive Anti-Apartheid Act. Consistent with that decision, this rule also removes

certain controls on aircraft and helicopters.

In addition to the revised CCL, this rule introduces three new supplements to § 799.1. Supplement No. 2 contains the General Technology Note and the General Software Note, which are necessary to an understanding of certain technology and software entries on the CCL. Supplement No. 3 contains the definitions of terms enclosed by quotation marks on the CCL. These definitions are no longer included within individual entries. Supplement No. 4 is a listing of old CCL entries and the new entries in which the items may now be found. Exporters are cautioned that this comparison is not definitive and cannot be relied upon as the sole guide to locating items on the CCL. It should be used only as a general index.

One result of the COCOM core list exercise is a change in the method of calculating computer performance. Previously, performance was based on Processing Data Rate (PDR). The new method is based on Composite Theoretical Performance (CTP). There is no consistent or direct relationship between PDR and CTP.

Exporters who use the Distribution License (DL) for computers are restricted in the performance parameters of computers that can be exported to various destinations. For countries listed in Supplement No. 3 to part 773, the maximum eligible performance has been a PDR of 2000 million bits per second, and under the new system it will be a CTP of 41 million theoretical operations per second. For countries that are not listed elsewhere, the PDR level has been 1000 million bits per second, and the CTP will be 23 million theoretical operations per second, except Argentina, Brazil, India, Iraq, Israel, Pakistan, and the Republic of South Africa, which will be limited to a CTP of 12.5 million theoretical operations per second. In some cases, computer models that had been eligible previously would no longer be eligible for export under the DL. The Saving Clause in this rule allows DL holders to continue exporting such computers through September 15, 1991. DL holders may continue to export such computers after September 15, provided that, before that date, they have provided to the Office of Export Licensing a list of all models they consider to be eligible and have been exported under the DL prior to September 1, 1991. The list should give model numbers and the PDR and CTP for each, and should be addressed to Director, Special Licensing Division, room 1089, Department of Commerce, Washington, DC 20230.

Exporters are reminded that revisions to the DL thresholds are under review as a matter separate from publication of the core list based CCL. For further information on that subject, see the proposed rule (56 FR 20154) and the notice of extension of the comment period on that rule which will appear in the **Federal Register** of August 28, 1991. Changes in the DL procedure are possible after the comment period closes. Publication of the new CCL will necessitate extensive conforming changes throughout the Export Administration Regulations. These changes will be published as a separate rule as soon as possible. Exporters are specifically placed on notice that General License GLV is available only for Country Groups T and V *except* the People's Republic of China. Part 771 will be revised to clarify this exclusion. Individual entries may further restrict use of GLV.

Because of the significant liberalization of controls resulting from the Core List exercise, the agencies involved in export control policy are discussing the need to continue current GLV and GFW eligibility levels for semiconductor devices (old 1564A, new 3A01.a). Modifications to GFW being considered include elimination of GFW eligibility for some or all semiconductors, excluding additional countries from eligibility to receive semiconductors under GFW (e.g., part 778 Supp. 4 and/or 5), and establishing a positive list of countries that would be eligible to receive semiconductors under GFW.

The GLV limit could be revised upward or downward, or eligible countries could be modified. The Department invites public comment on the positive and negative effects of each of the options discussed above. In addition, the Department requests exporters to include in their comments information on types of devices, monthly dollar value and quantities shipped, and destinations, so that market impact can be assessed when considering any GFW modifications.

The term "technology" is used throughout the Commerce Control List. As agreed to in COCOM, the term "technology" is defined in Supplement 3 to § 799.1 to include "technical data" and "technical assistance." The terms "technical data" and "technical assistance" are also agreed to in COCOM and those definitions appear with the definition of "technology."

The term "technical data" as defined in § 799.1(a) and as used in the EAR (other than in § 799.1) means the same information as the term "technology" as defined in Supplement No. 3 to § 799.1 and as it appears throughout the revised Commerce Control List. Thus, the use of the term "technology" throughout the Commerce Control List does not represent a substantive change in the scope of the controls. In order to avoid confusion, the exporter should recognize that the term "technical data" as used in COCOM and as defined in Supplement 3 to § 799.1 is narrower than the scope of information within the term "technical data" as long defined in the EAR at § 799.1(a). In the future, Commerce will conform part 779 to the definitions at Supplement No. 3 to § 799.1. However, the newly published definition of "technical data" in Supplement No. 3 to § 799.1 does not change the substantive scope of the controls. This is so because the term "technology" as defined in Supplement No. 3 is identical in scope to the information defined in § 799.1(a) of the EAR as "technical data."

The term "technology" defined in Supplement No. 3 to § 799.1 does not include "software." The COCOM definition of "technology" does not include "software" because "software" is controlled separately as an item distinct from both "technology" and commodities. Commerce recognizes that the term "technology" was defined in the Export Administration Act of 1979 to include software. However, Commerce has chosen to follow the COCOM definition of "technology" and to specify "software" controls separately from those controls on information defined as "technology." The COCOM definition of the term "software" also appears in Supplement No. 3 to § 799.1.

If there is any conflict between the scope of "technology" or "software" that requires a validated license or written assurance according to the Commerce Control List versus the scope of information or "software" that requires a validated license or written assurance under part 779, the provisions of the Commerce Control List prevail. Note that General License GTDA and General License GTDR without written assurance for sales technical data are not repeated in the CCL and remain available. General License GTDR without written assurance for operation technical data (§ 799.4(b)(1)(i)) is amended and replaced by the third paragraph of the General Technology Note in Supplement No. 2 to § 799.1.

Grace Period

The CCL revisions are effective September 1, 1991, and exporters are required to comply with the new controls on that date. If the new CCL indicates that a formerly controlled item

is now eligible for a general license, exporters may use that general license beginning on September 1. In a few cases, items are being controlled that were not controlled previously. Exporters are required to obtain validated licenses for such items effective September 1, subject to the Saving Clause set forth below. License applications for such items must cite the new ECCN.

For other items that continue to require validated licenses, exporters may submit applications using either the old or new ECCNs through November 29, 1991. Beginning December 1, 1991, applications using the old ECCNs will be returned without action. Exporters are strongly encouraged to begin using new ECCNs as soon as possible after September 1, as this will result in more efficient processing of applications.

Saving Clause

Shipments of items removed from general license authorizations as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export pursuant to actual orders for export before midnight September 14, 1991, may be exported under the previous general license provisions, up to and including September 28, 1991. Any such items not actually exported before midnight September 28, 1991, require a validated export license in accordance with this regulation.

Exporters under the Distribution License procedure whose computers had been eligible, and actually exported prior to September 1, 1991, under the previous PDR limits, but are no longer eligible under the new CTP limits, may continue to ship such computers under the Distribution License until midnight September 15, 1991. Thereafter, such computers may be exported under the Distribution License only if the exporter has submitted the list of models described under "background"' above. This exception is expected to continue at least until a separate review of DL thresholds is completed.

This rule amends the EAR to accept the transfer of jurisdiction from the State Department for standard civil inertial navigation systems.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12261.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005, 0694–0007, and 0694–0010.

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

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

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. In particular, comments are sought on the administrative burden of converting to the new CCL format, and on possible changes to General Licenses GFW and GLV. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close on October 30, 1991. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations 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 comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and 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 of the 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.

List of Subjects in 15 CFR Part 799

Exports, Reporting and recordkeeping requirements. Accordingly, part 799 of the Export Administration Regulations (15 CFR parts 730–799 is amended as follows:

1. The authority citation for 15 CFR Part 799 is revised to read as follows:

Authority Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*); as amended; Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.*); Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*); Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212) as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C.. 1354); secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)); sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466(c)); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990).

PART 799—[AMENDED]

2. Section 799.1 is revised to read as follows:

§ 799.1 The commerce control list and how to use it.

(a) *Introduction.* (1) The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which includes all items (commodities, software, and technical data) subject to BXA export controls. The CCL does not include those items exclusively controlled for export by another

department or agency of the U.S. Government. For example, arms, ammunition, and implements of war are controlled by the Office of Defense Trade Controls, U.S. Department of State. See § 770.10 of this subchapter for a listing of exports controlled by other U.S. Government departments and agencies.

(2) The CCL and related information are contained in supplements to this part 799. Supplement No. 1 is the CCL. Supplement No. 2 includes the General Technology and Software Notes. Supplement No. 3 contains definitions, and Supplement No. 4 is a cross reference from pre-September 1, 1991, entries on the CCL to post-September 1, 1991, entries.

(b) *Structure of the CCL.* To identify controls on a product, you must first understand how the CCL is structured.

(1) The CCL is divided into 10 general categories, numbered from 1 to 0, as follows:

1—Materials
2—Materials Processing
3—Electronics
4—Computers
5—Telecommunications and Cryptography
6—Sensors
7—Avionics and Navigation
8—Marine Technology
9—Propulsion Systems and Transportation Equipment
0—Miscellaneous

(2) There are five groups of products within each category, identified by the letters A through E as follows:

A—Equipment, Assemblies and Components
B—Production and Test Equipment
C—Materials
D—Software
E—Technology

(3) Within each group, paragraphs are numbered using a two digit format. Although each set of digits represents a particular type of control, there may also be other controls that affect the same items. For example, a COCOM-controlled item may also be controlled for missile or foreign policy reasons. The basic paragraph numbering system is as follows:

01–19—COCOM controls
20–39—Missile technology controls
40–59—Nuclear non-proliferation controls
60–79—Chemical and biological weapons controls
80–99—Other controls

(4) The four digit number will be followed by a code letter. This code letter is a key to the documentation requirements of part 775 of this subchapter, and is used by many exporters as a data processing code to indicate the country group level of control for CCL entries. The letters used and the respective letter country controls are as follows:

Code letters	Country groups for which a validated license is required
A [1]	QSTVWYZ (COCOM).
B	QSTVWYZ (non-COCOM).
C	QSTVWYZ, except specified countries.
D	QSTVWYZ and Canada.
E	SZ, South African military and police and countries listed in certain Supplements to the EAR.
F	SZ, South African military and police and certain other specified countries.
G	SZ, South African military and police.
H	Z, South African military and police.
I	None.

[1] Only "A" level items are subject to IC/DV procedures (see § 775.3 of this subchapter).

(c) *Export Control Classification Number (ECCN).* Using this numbering system leads to a five character ECCN for each entry. For example, the first subparagraph in group A category 1 would have an ECCN of 1A01A. When that entry is followed by a unilateral missile control entry, the ECCN would be 1A21B, and a related nuclear entry might be 1A41E. The next multilateral entry would be 1A02A.

(d) The list is subdivided into a requirements list and a list of items controlled.

(1) The requirements for each category tell why and where the ECCN is controlled, including the following:

(i) Validated license requirements by country group and, at times, special country lists or individual destinations. By identifying the countries subject to validated license, this also tells the exporter when General License G–DEST is available.

(ii) Unit of quantity or value to use on an application for export license.

(iii) *Reason for control.* The following symbols are used:

NS—National Security
MT—Missile Technology
NP—Nuclear Proliferation
CB—Chemical or Biological Warfare
FP—Other Foreign Policy Controls
SS—Short Supply

(iv) *General licenses.* (A) For commodities, there are descriptions of eligibility for General Licenses GCT, GFW, and GLV. For software and technical data, the descriptions of eligibility for general licenses are set forth as GTDR, which means General License GTDR with written assurance, and GTDU, which is used to indicate General License GTDR without written assurance. The General License indicators in the list of items controlled provide only information specific to each particular entry. It is the exporter's responsibility to read part 771 of this subchapter before making any shipment under a General License, to ensure that each export conforms to all country and item restrictions, as well as other limits of the General License. It is important that the exporter knows what countries are eligible for General Licenses GLV, GFW, and GCT, and all other rules applicable to each general license, before applying the entry-specific information to a given export. It is equally important to read part 779 of this subchapter and understand the limits of GTDR before exporting software or technology.

(v) *Group W Favorable Consideration.* Favorable consideration license processing applies to all commodity exports to civil end-users in Country Group W, except for those commodities specifically excluded from the procedure. Where necessary to describe an exclusion from eligibility, the necessary information will be inserted in the requirements.

(vi) *Notes.* When there are complexities in any element of the requirement, you will be referred to the notes. Here you find any extra restrictions or exemptions that apply. For example, the notes may tell you that certain countries within a controlled country group are not subject to validated license, or that the general eligibility for General License GCT is restricted for certain goods.

(2) The list of items controlled follows the "Requirements" heading and describes the commodities, software, and technical data in sufficient technical detail to allow accurate identification.

(e) *The Abbreviation "n.e.s."* The abbreviation "n.e.s." appearing in various CCL entries means "not elsewhere specified." If an item you intend to export appears to be covered by a CCL entry and the description carries the limitation "n.e.s." you should not use that CCL entry until you determine whether another CCL entry specifically covers that item.

(f) *Combining Items on License Applications.* The new CCL does not include Processing Codes for entries because assignment of cases to licensing officers is now done by computer based on the ECCN. However, there are still limits on which items can be combined on a single application for export license. Any items may be listed on an application if they are licensed by a single branch of the Office of Export Licensing. The branches and the categories they license are:

Computer Systems Branch: Category 4
Electronics Branch: Categories 3 and 5
Capital Goods Branch: Categories 1, 2, 6, 7, 8, 9, and 0

(g) *Export Control Classification Requests*—(1) *Identifying the proper CCL entry.* First, the exporter must attempt to identify which ECCN covers the commodity proposed for export. The general characteristics of the commodity, software, or technical data will usually guide the exporter to the appropriate Category. Once the appropriate Category is identified, the particular characteristics and functions of the item should be matched to a specific ECCN. The index to the CCL may also help to match a general description to a specific entry. All items subject to BXA licensing jurisdiction are included in the CCL, either in a specific item listing or in an "other, n.e.s." entry at the end of each Category.

(2) *BXA classification requests.* The Bureau of Export Administration (BXA) will respond to properly submitted requests for verification of the proper ECCN within ten working days after receipt of the request. To insure that the request will be acted upon expeditiously, it will be necessary for the requester to do the following:

(i) The requester must submit a recommended classification for the item(s) and explain the reason for this classification. This explanation must contain an analysis of the classified item(s) in terms of the technical control parameters specified in the appropriate ECCN. If the requester cannot determine the appropriate classification, then the requester must explain the reason for failing to recommend an appropriate classification. This explanation should include an identification of ambiguities or deficiencies in the regulations that precluded making a classification;

(ii) The requester must attach descriptive literature, brochures, technical papers, or specifications that provide sufficient technical detail to enable BXA personnel to verify or correct the classification;

(iii) The item(s) to be classified must be clearly listed by model number in the request. No more than five items will be considered in a single request. Exceptions may be made on a case-by-case basis for several related products if the relationship between these products is satisfactorily substantiated and documented;

(iv) The request must be mailed to the following address: Bureau of Export Administration, P.O. Box 273, Washington, DC 20044; and

(v) Request(s) must be clearly marked at the top of the first page and on the lower left-hand corner of the envelope "Commerce Classification Request". Any request that omits essential information, or is otherwise incomplete, will be returned to the requester specifying the reasons for the return.

Supplement No. 1 to § 799.1—The Commerce Control List

Category 1—Materials

A. Equipment, Assemblies and Components

1A01A Components made from fluorinated compounds.

Requirements

Validated License Required: QSTVWYZ
Unit: kilograms
Reason for Control: NS
GLV: $5000
GCT: Yes
GFW: No

List of Items Controlled

a. Seals, gaskets, sealants or fuel bladders specially designed for aircraft or aerospace use made from more than 50% of any of the materials embargoed by 1C09.b or c;

b. Piezoelectric polymers and copolymers made from the vinylidene fluoride:

b.1. In sheet or film form; *and*
b.2. With a thickness exceeding 200 micrometer;

c. Seals, gaskets, valve seats, bladders or diaphragms made from fluorelastomers containing at least one vinylether monomer, specially designed for aircraft, aerospace or missile use.

1A02A "Composite" structures or laminates.

Requirements

Validated License Required: QSTVWYZ
Unit: kilograms
Reason for Control: NS, MT (see Notes)
GLV: $1500
GCT: Yes, except MT (see Notes)
GFW: No
Group W Favorable Consideration: No

Notes: MT controls apply to composite structures that are specially designed for military, stealth, or space applications.

List of Items Controlled

a. Having an organic "matrix" and made from materials embargoed by 1C10.c, d or e; or

b. Having a metal or carbon "matrix" and made from:

b.1. Carbon "fibrous and filamentary materials" with:

b.1.a. A "specific modulus" exceeding 10.15×10^6 m; and

b.1.b. A "specific tensile strength" exceeding 17.7×10^4 m; or

b.2. Materials controlled by 1C10.c.

1A22B Other "composite" structures or laminates usable in "missile" systems.

Requirements

Validated License Required: QSTVWYZ
Reason for Control: MT
GLV: $1500
GCT: No
GFW: No

List of Items Controlled

a. Composite structures, laminates, and manufactures thereof, including resin impregnated fiber prepregs and metal coated fiber preforms therefor, specially designed for use in missile systems and subsystems, made either with organic matrix or metal matrix utilizing fibrous or filamentary reinforcements having a specific tensile strength greater than 7.62×10^4 m (3×10^6 inches) and a specific modulus greater than 3.18×10^6 m (1.25×10^8 inches);

b. Resaturated pyrolized (i.e., carbon-carbon) materials designed for rocket systems.

1A03A Manufactures of non-fluorinated polymeric substances controlled by 1C08.a, in film, sheet, tape or ribbon form.

Requirements

Validated License Required: QSTVWYZ
Unit: kilograms
Reason for Control: NS
GLV: $200
GCT: Yes
GFW: No

List of Items Controlled

a. With a thickness exceeding 0.254 mm; or

b. Coated or laminated with carbon, graphite, metals or magnetic substances.

1A44B Crucibles made of materials resistant to liquid fissile metals.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NP
GLV: $0
GCT: No
GFW: No

List of Items Controlled

a. Crucibles having a volume of 6.5 liters or less and made of or lined with any of the following materials:

a.1. Calcium fluoride (CaF_2)
a.2. Erbium oxide (Er_2O_3)
a.3. Hafnium oxide (HfO_2)
a.4. Magnesium oxide (MgO)
a.5. Nitrided niobium-titanium-tungsten alloy (approximately 50 Nb:30 Ti:20 W)

a.6. Yttrium oxide (Y_2O_3)

a.7. Zirconium oxide (ZrO_2)

a.8. Calcium zirconate (Ca_2ZrO_3);

b. Crucibles made of or lined with tantalum with a diameter of 150mm (6 in) or less, a wall thickness of 1.5mm (0.06 in) or greater, and a tantalum purity of 99.9% or greater.

1A45B Specialized packings made of phosphor bronze mesh designed for use in vacuum distillation towers, suitable for use in separating heavy from light water.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NP
GLV: $1000
GCT: No
GFW: No

1A46B Cylindrical tubing, tube, or solid cylindrical forms or forgings with a diameter between 75 mm (3 inches) and 400 mm (16 inches) made of aluminum alloy, capable of an ultimate tensile strength of 67,000 pounds per square inch or greater, or high-strength titanium allows (e.g., Ti-6 Al-4 V, etc.), capable of an utlimate tensile strength of 140,000 pounds per square inch or greater.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NP
GLV: $0
GCT: No
GFW: No

Note 1: Tube and tubing is controlled by this entry only if it has a wall thickness of ½ inch or less.

Note 2: Alloys "capable of" a specified tensile strength include those having that strength at the time of export as well as those capable of attaining that strength as a result of annealing or similar treatment.

1A27B Maraging steels (steels generally characterized by high nickel, very low carbon content and the use of substitutional elements to produce age-hardening), other than those controlled by 1A47 below, having an Ultimate Tensile Strength of 1.5×10^9 N/m² (Pa) or greater measured at 20° C, in the form of sheet, plate, or tubing with a wall or plate thickness equal to or less than 5.0 mm (0.2 inch).

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: MT
GLV: $0
GCT: No
GFW: No

1A47B Maraging steel (high strength) capable of an ultimate tensile strength of 2.050×10^9 N/m² (Pa) (300,000 lbs./in²) or more, except in the form of parts in which no linear dimension exceeds 75 mm (3 inches).

Note: Steels "capable of" a specified tensile strength include those having that strength at the time of export as well as those capable of attaining that strength as a result of annealing or similar treatment.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NP, MT (see NOTES)
GLV: $0
GCT: No
GFW: No

Notes: MT controls apply to maraging steels controlled by this ECCN that also meet the specifications of ECCN 1A27.

1A48B Depleted uranium (any uranium containing less than 0.711% of the isotope U-235), the following only: Shipments of more than 1,000 kilograms in the form of shielding contained in X-ray units, radiographic exposure or teletherapy devices, radioactive thermoelectric generators, or packaging for the transportation of radioactive materials.

Requirements

Validated License Required: QSTVWYZ
Unit: Kilograms
Reason for Control: NP
GLV: $0
GCT: No
GFW: No

Note 1: Depleted uranium fabricated into commodities solely to take advantage of high density unrelated to radioactivity (e.g., aircraft, ship or other counterweights; and shipments of 1,000 kilograms or less in the form of shielding contained in X-ray units, radiographic exposure or teletherapy devices, radioactive thermoelectric generators, or packaging for the transportation of radioactive materials; is controlled by ECCN 1A96G.

Note 2: Depleted uranium in fabricated forms for use in munitions requires export authorization from the U.S. Department of State, Office of Defense Trade Controls (see Supp. No 2 to Part 770 of this subchapter).

Note 3: All forms of depleted uranium not specifically described in ECCN 1A48 or in Notes 1 and 2 above require export authorization from the Nuclear Regulatory Commission (see 10 CFR part 110).

1A49E Tantalum sheet of 20 centimeter diameter or greater (or other shapes from which a 20 centimeter diameter circle can be cut) with a thickness of 2.5 millimeters or greater.

Requirements

Validated License Required: SZ, Taiwan, Supp. 4 to part 778 of this subchapter
Unit: Kilograms
Processing Code: CM
GLV: $1000
GCT: No
GFW: No

1A50E Parts made of tungsten, tungsten carbide, or tungsten alloys (greater than 90% tungsten) having a mass greater than 20 kilograms and a hollow cylindrical symmetry (including cylinder segments) with an inside diameter greater than 10 centimeters, but less than 30 centimeters.

Requirements.

Validated License Required: SZ, Taiwan, Supp. 4 to Part 778 of this subchapter
Unit: Kilograms
Reason for Control: NP.
GLV: $500
GCT: No
GFW: No

Note: Parts specifically designed for use as weights or gamma ray collimators are not controlled by this ECCN 1A50.

1A51E Corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel, aluminum, or aluminum alloys specially designed for use with pressure-measuring equipment controlled under ECCN1B51.

Requirements

Validated License Required: SZ, Taiwan, Supp. 4 to part 778
Unit: $ Value
Reason for Control: NP
GLV 0
GCT: No
GFW: No

1A84C Chemical agents, including tear gas formulation containing 1 percent or less of orthochlorobenzalmalononitrile (CS), or 1 percent or less of chloroacetophenone (CN), except in individual containers with a net weight of 20 grams or less (see ECCN 1A96); smoke bombs; non-irritant smoke flares, cannisters, grenades and charges; other pyrotechnic articles having dual military and commercial use; and fingerprinting powders, dyes and inks.

Requirements

Validated License Required: QSTVWYZ, except NATO, Australia, New Zealand, and Japan
Unit: $ value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

1A96G Other materials, n.e.s.

Requirements

Validated License Required: SZ, South African military & police
Unit: $ Value
Reason for Control: FP

GLV: $0
GCT: No
GFW: No

B. Test, Inspection and Production Equipment

1B01A Equipment for the production of fibers, prepregs, preforms or composites controlled by 1A02 or 1C10, as follows, and specially designed components and accessories therefor.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS, MT, NP (see NOTES)
GLV: $5000
GCT: No
GFW: No
Group W Favorable Consideration: No for .a and .b

Note: MT controls apply, *except* to .d.4. NP controls apply to filament winding machines described in .a that are capable of winding cylindrical rotors having a diameter between 3 inches and 16 inches and a length of 24 inches or greater.

List of Items Controlled

a. Filament winding machines of which the motions for positioning, wrapping and winding fibers are coordinated and programmed in three or more axes, specially designed for the manufacture of "composite" structures or laminates from "fibrous and filamentary materials";

b. Tape-laying or tow-placement machines of which the motions for positioning and laying tape, tows or sheets are coordinated and programmed in two or more axes, specially designed for the manufacture of "composite" airframe or "missile" structures;

c. Multidirectional, multidimensional weaving machines or interlacing machines, including adapters and modification kits, for weaving, interlacing or braiding fires to manufacture "composite" structures, except textile machinery not modified for the above end-uses;

d. Equipment specially designed or adapted for the production of reinforcement fibres, as follows:

d.1. Equipment for converting polymeric fibres (such as polyacrylonitrile, rayon, pitch or polycarbosilane) into carbon fibres or silicon carbide fibres, including special equipment to strain the fibre during heating;

d.2. Equipment for the chemical vapour deposition of elements or compounds on heated filamentary substrates to manufacture silicon carbide fibres;

d.3. Equipment for the wet-spinning of refractory ceramics (such as aluminum oxide);

d.4. Equipment for converting aluminum containing precursor fibres into alumina fibres by heat treatment;

e. Equipment for producing prepregs controlled by 1C10.e by the hot melt method;

f. Non-destructive inspection equipment capable of inspecting defects three dimensionally, using ultrasonic or X-ray tomography and specially designed for " composite" materials.

1B21B Other equipment for the production of fibers, prepregs, preforms or composites.

Requirements

Validated License Required: QSTVWYZ
Unit: Kilograms
Reason for Control: MT
GLV: $0
GCT: No
GFW: No

List of Items Controlled

a. Equipment for the vapor deposition of elements or compounds on heated filament substrates, not controlled by 1B01.

b. Equipment designed or modified for special fiber surface treatment or for producing prepregs and preforms, not controlled by 1B01.

Note: Equipment covered by 1B21.b includes but is not limited to rollers, tension stretchers, coating equipment, cutting equipment, and clicker dies.

1B02A Systems and components therefor specially designed for producing metal alloys, metal alloy powder or alloyed materials controlled by 1C02.a.2, 1C02.b, or 1C02.c.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS
GLV: $5000
GCT: Yes
CFW: No

1B03A Tools, dies, molds or fixtures, for "superplastic forming" or "diffusion bonding" titanium or aluminum or their alloys, specially designed for the manufacture of the following.

Requirements

Validated License Required: QSTVWYZ
Unit: Machines in number; components in $ value
Reason for Control: NS
GLV: $5000
GCT: Yes
GFW: No

List of Items Controlled

Tools, dies, molds, or fixtures specially designed to manufacture:

a. Airframe or aerospace structures;

b. Aircraft or aerospace engines; *or*

c. Specially designed components for those structures or engines.

1B18A Commodities on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ
Unit: Equipment in number, parts & accessories in $ value
Reason for Control: NS, MT (see **Notes**)
GLV: 1B18.a: $3000 for NATO, Japan, Australia, New Zealand only; 1B18.b: $5000
GCT: Yes, except MT (see **Notes**)
GFW: No

Notes: MT controls apply to equipment for the production of rocket propellants.

List of Items Controlled

a. Equipment for the production of military explosives and solid propellants.

a.1. Complete installations;

a.2. Specialized components (for example, dehydration presses; extrusion presses for the extrusion of small arms, cannon and rocket propellants; cutting machines for the sizing of extruded propellants; sweetie barrels (tumblers) 6 feet and over in diameter and having over 500 pounds product capacity; and continuous mixers for solid propellants); or

a.3. Nitrators, continuous types; and

a.4. Specially designed parts and accessories therefor.

b. Environmental chambers capable of pressures below (10^{-4}) Torr, and specially designed components therefor.

1B28B Other equipment for the production of propellants.

Requirements

Validated License Required: QSTVWYZ
Unit: number, components in $ value
Reason for Control: MT
GLV: $0
GCT: No
GFW: No

List of Items Controlled

a. Batch mixers for mixing solid propellants with a working capacity of 110 liters (30 gallons) or more, according to the manufacturer's technical specifications, or a total (volumetric) capacity of 170 liters (45 U.S. gallons) or more, and specially designed components therefor;

b. Equipment for production, handling, or acceptance testing of liquid propellants or propellant constituents;

c. Other equipment for production, handling, mixing, curing, casting, pressing, machining, extruding or acceptance testing of solid propellants or propellant constituents, including but not limited to:

c.1. Equipment for the production of atomized or spherical metallic powder in a controlled environment; and

c.2. Fluid energy mills for grinding or milling ammonium perchlorate, RDX, or HMX; and

d. Specially designed components therefor.

1B19A Commodities on the International Atomic Energy List.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: NS, NP

GLV: $3000 for 1B19.b only

GCT: Yes, *except* 1A19.a

GFW: Yes for 1A19.c *only* (see Advisory Note)

List of Items Controlled

a. Plants specially designed for the production of uranium hexafluoride (UF_6) and specially designed or prepared equipment (including UF_6 purification equipment), and specially designed parts and accessories therefor.

b. Electrolytic cells for the production of fluorine with a production capacity greater than 250 grams of fluorine per hour, and specially designed parts and accessories thereof.

c. Valves, 5 mm or greater in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel, either manually or automatically operated, and specially designed parts and accessories therefor.

Advisory Note: Licenses are likely to be approved for export of valves, cocks and pressure regulators to bona fide civil end-users in Country Groups QWY for non-aerospace end-uses.

1B30B Pyrolytic deposition and densification equipment.

Requirements

Validated License Required: QSTVWYZ

Unit: number

Reason for Control: MT

GLV: $1500

GCT: No

GFW: No

List of Items Controlled

a. Specially designed nozzles for producing pyrolitically derived materials formed on a mold, mandrel or other substrate from precursor gases that decompose in the 1,573 K (1,300 °C) to 3,173 K (2,900 °C) temperature range at pressures of 130 Pa to 20 kPa;

b. Equipment and process controls designed or modified for densification and pyrolysis of structural composite rocket nozzles and reentry vehicle nose tips, including but not limited to chemical vapor deposition furnaces designed or modified for the densification of carbon-carbon composites.

1B50B Vacuum or controlled environment furnaces, including arc, induction, plasma, or electron beam, capable of operation above 1,100 °C without regard to size or temperature control method, and specially designed parts and components therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: NP

GLV: $5000

GCT: No

GFW: No

Note: This ECCN 1B50 does not control furnaces designed for semiconductor manufacturing or processing (see ECCN 3B96).

1B51E Specially designed or prepared instruments capable of measuring pressures up to 3×10^5 newtons per square meter (44 PSIA) to an accuracy of better than 1%, with corrosion-resistant pressure sensing elements constructed of nickel, nickel alloys, phosphor bronze, stainless steel, aluminum, or aluminum alloys.

Requirements

Validated License Required: SZ, Taiwan, Supp. 4 to Part 778 of this subchapter

Unit: $ value

Reason for Control: NP

GLV: $100

GCT: No

GFW: No

1B70E Equipment that can be used in the production of chemical weapons precursors and chemical warfare agents.

Requirements

Validated License Required: SZ, Supp. 5 to part 778 of this subchapter

Unit: number

Reason for Control: CB

GLV: $0

GCT: No

GFW: No

List of Items Controlled

a. Any of the following types of chemical processing equipment lined with nickel or constructed of Hastelloy, Monel, or another alloy with a nickel content in excess of 40% by weight, as follows:

a.1. Reactor vessels with a capacity greater than 5 liters;

a.2. Storage tanks and containers with a capacity greater than 10 liters;

a.3. Heat exchangers;

a.4. Distillation columns with a capacity greater than 2 liters per hour;

a.5. Degassing equipment or condensers.

b. Pumps or valves having any of the following characteristics:

b.1. Incorporating a body made from alloy with a nickel content in excess of 40% by weight;

b.2. Lined with nickel; or

b.3. Otherwise designed to be vapor leak proof.

Note: This controls double seal, electromagnetic drive, or canned pumps, and bellows or diaphragm valves, having any of the characteristics described.

c. Thermometers or other chemical process sensors encased in nickel alloy having a nickel content greater than 40%.

d. Filling equipment enclosed in a glove box or similar environmental barrier, or incorporating a nickel-lined or Hastelloy nozzle.

e. Specially designed incinerators for chemical precursors listed in ECCN 1C60, chemical warfare agents, or organophosphorus compounds.

f. Toxic gas monitoring systems designed to detect phosphorus, sulphur, or fluorine compounds, or designed to detect any chemical weapons precursor or chemical warfare agent, that are:

f.1. Designed for continuous operation; and

f.2. Capable of detecting such chemicals at a concentration less than 0.1 miligram per cubic meter of air.

g. Monitoring systems for the detection of chemical compounds having anticholinesterase activity.

1B71E Equipment that can be used in the production of biological weapons.

Requirements

Validated License Required: SZ, Supp. to part 778 of this subchapter

Unit: number

Reason for Control: CB

GLV: $0

GCT: No

GFW: No

List of Items Controlled

a. Detection or assay systems that are capable of detecting concentrations of less than one part per million in air of biological agents or toxins controlled by ECCN 1C61.

b. Biohazard containment equipment, as follows:

b.1. Complete P3 or P4 level laboratory facilities;

b.2. Equipment that incorporates or is contained in a P3 or P4 containment housing.

c. Equipment for the microencapsulation of live microorganisms.

1B96G Other test, inspection, and production equipment for materials.

Requirements

Validated License Required: SZ, South African military & police
Unit: $ value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

C. Materials

1C01A Materials specially designed for use as absorbers of electromagnetic waves, or intrinsically conductive polymers.

Requirements

Validated License Required: QSTVWYZ
Unit: kilograms
Reason for Control: NS, MT
GLV: $5000
GCT: No
GFW: No

List of Items Controlled

a. Materials for asborbing frequencies exceeding $2\mu10^8$ Hz but less than $3\mu10^{12}$ Hz, *Except* materials as follows:

a.1. Hair type absorbers, constructed of natural or synthetic fibers, with non-magnetic loading to provide absorption;

a.2. Absorbers having no magnetic loss and whose incident surface is non-planar in shape, including pyramids, cones, wedges and convoluted surfaces;

a.3. Planar absorbers:

a.3.a. Made from:

a.3. a.1. Plastic foam materials (flexible or non-flexible) with carbon-loading, or organic materials, including binders, providing more than 5% echo compared with metal over a bandwidth exceeding +15% of the center frequency of the incident energy, and not capable of withstanding temperatures exceeding 450 K (177 °C); or

a.3.a.2. Ceramic materials providing more than 20% echo compared with metal over a bandwidth exceeding −15% of the center frequency of the incident energy, and not capable of withstanding temperatures exceeding 800 K (527 °C);

a.3.b. Tensile strength less than 7×10^6 N/m²; and

a.3.c. Compressive strength less than 14×10^6 N/m²;

Technical Note: Absorption test samples for 1C01.a.3.a should be a square at least 5 wavelengths (of center frequency) on a side and positioned in the far field of the radiating element.

a.4. Planar absorbers made of sintered ferrite, with:

a.4.a. A specific gravity exceeding 4.4; and

a.4.b. A maximum operating temperature of 548 K (275 °C);

Note: Nothing in 1C01.a releases magnetic materials to provide absorption when contained in paint.

b. Materials for absorbing frequencies exceeding 1.5×10^{14} Hz but less than 3.7×10^{14} Hz and not transparent to visible light;

c. Intrinsically conductive polymeric materials with a bulk electrical conductivity exceeding 10,000 S/m (Siemens per meter) or a sheet (surface) resistivity of less than 100 ohms/square, based on any of the following polymers:

c.1. Polyaniline;

c.2. Polypyrrole;

c.3. Polythiophene;

c.4. Poly phenylene-vinylene;

c.5. Poly thienylene-vinylene.

Technical Note: Bulk electrical conductivity and sheet (surface) resistivity should be determined using ASTM D–257 or national equivalents.

1C21B Other materials for reduced observables such as radar reflectivity, ultraviolet/infrared signatures and acoustic signatures, (i.e., stealth technology), for applications usable for missile systems and subsystems.

Note: Examples include:

1. Structural materials and coatings specially designed for reduced radar reflectivity;

2. Coatings, including paints, specially designed for reduced or tailored reflectivity or emissivity in the microwave, infrared or ultraviolet spectra, except when specially used for thermal control of satellites.

Requirements

Validated License Required: QSTVWYZ
Unit: kilograms
Reason for Control: MT
GLV: $0
GCT: No
GFW: No

1C02A Metal alloys, metal alloy powder or alloyed materials.

Requirements

Validated License Required: QSTVWYZ
Unit: kilograms
Reason for Control: NS
GLV: $3000
GCT: Yes
GFW: No

List of Items Controlled

a. Metal alloys, as follows:

a.1. Nickel or titanium-based alloys in the form of aluminides, as follows, in crude or semi-fabricated forms:

a.1.a. Nickel aluminides containing 10 weight percent or more aluminum;

a.1.b. Titanium aluminides containing 12 weight percent or more aluminum;

a.2. Metal alloys, as follows, made from metal alloy powder or particulate material embargoed by 1C02.b:

a.2.a. Nickel alloys with:

a.2.a.1. A stress-rupture life of 10,000 hours or longer at 923 K (650 °C) and at a stress of 550 MPa; or

a.2.a.2. A low cycle fatigue life of 10,000 cycles or more at 823 K (550 °C) at a maximum stress of 700 MPa;

a.2.b. Niobium alloys with:

a.2.b.1. A stress-rupture life of 10,000 hours or longer at 1,073 K (800 °C) and at a stress of 400 MPa; or

a.2.b.2. A low cycle fatigue life of 10,000 cycles or more at 973 K (700 °C) at a maximum stress of 700 MPa;

a.2.c. Titanium alloys with:

a.2.c.1. A stress-rupture life of 10,000 hours or longer at 723 K (450 °C) and at a stress of 200 MPa; or

a.2.c.2. A low cycle fatigue life of 10,000 cycles or more at 723 K (450 °C) at a maximum stress of 400 MPa;

a.2.d. Aluminum alloys with a tensile strength of:

a.2.d.1. 240 MPa or more at 473 K (200 °C); or

a.2.d.2. 415 MPa or more at 298 K (25 °C);

a.2.e. Magnesium alloys with a tensile strength of 345 MPa or more and a corrosion rate of less than 1 mm/year in 3% sodium chloride aqueous solution measured in accordance with ASTM standard G–31 or national equivalents;

Technical Notes: 1. The metal alloys in 1C02.a are those containing a higher percentage by weight of the stated metal than of any other element.

2. Stress-rupture life should be measured in accordance with ASTM standard E–139 or national equivalents.

3. Low cycle fatigue life should be measured in accordance with ASTM Standard E–606 'Recommended Practice for Constant-Amplitude Low-Cycle Fatigue Testing' or national equivalents. Testing should be axial with an average stress ratio equal to 1 and a stress-concentration factor (K_t) equal to 1. The average stress is defined as maximum stress minus minimum stress divided by maximum stress.

b. Metal alloy powder or particulate material for materials embargoed by 1C02.a, as follows:

b.1. Made from any of the following composition systems:

b.1.a. Nickel alloys (Ni-Al-X, Ni-X-Al) qualified for turbine engine parts or components, i.e. with less than 3 non-metallic particles (introduced during the

manufacturing process) larger than 100 micrometer in 10^9 alloy particles;

b.1.b. Niobium alloys (Nb-Al-X or Nb-X-Al, Nb-Si-X or Nb-X-Si, Nb-Ti-X or Nb-X-Ti);

b.1.c. Titanium alloys (Ti-Al-X or Ti-X-Al);

b.1.d. Aluminum alloys (Al-Mg-X or Al-X-Mg, Al-Zn-X or Al-X-Zn, Al-Fe-X or Al-X-Fe); or

b.1.e. Magnesium alloys (Mg-Al-X or Mg-X-Al); and

N.B.: X equals one or more alloying elements.

b.2. Made in a controlled environment by any of the following processes:

b.2.a. "Vacuum atomization";

b.2.b. "Gas atomization";

b.2.c. "Rotary atomization";

b.2.d. "Splat quenching";

b.2.e. "Melt spinning" and "comminution";

b.2.f. "Melt extraction" and "comminution"; or

b.2.g. "Mechanical alloying";

c. Alloyed materials, in the form of uncomminuted flakes, ribbons or thin rods produced in a controlled environment by "splat quenching," "melt spinning" or "melt extraction", used in the manufacture of metal alloy powder or particulate material embargoed by 1C02.b.

Note: 1C02 does not embargo metal alloys, metal alloy powder or alloyed materials for coating substrates.

1C22B Tungsten, molybdenum, and alloys of these metals in the form of uniform spherical or atomized particles of 500 micrometer diameter or less with a purity of 97 percent or higher for fabrication of rocket motor components; i.e., heat shields, nozzle substrates, nozzle throats, and thrust vector control surfaces.

Requirements

Validated License Required:
QSTVWYZ
Unit: kilograms
Reason for Control: MT
GLV: $0
GCT: No
GFW: No

1C03A Magnetic metals, of all types and of whatever form, having any of the following characteristics.

Requirements

Validated License Required:
QSTVWYZ
Unit: kilograms
Reason for Control: NS
GLV: $3000
GCT: Yes
GFW: No

List of Items Controlled

a. Initial relative permeability 120,000 or more and thickness 0.05 mm or less;

Technical Note: Measurement of initial permeability must be performed on fully annealed materials.

b. Magnetostrictive alloys with:

b.1. A saturation magnetostriction of more than 5×10^{-4}; or

b.2. A megnetomechanical coupling factor (k) of more than 0.8; or

c. Amorphous alloy strips with:

c.1. A composition having a minimum of 75 weight percent of iron, cobalt or nickel; and

c.2. A saturation magnetic induction (B_s) of 1.6 T or more, and:

c.2.a. A strip thickness of 0.02 mm or less; or

c.2.b. An electrical resistivity of 2×10^{-4} ohm-cm or more.

1C04A Uranium titanium alloys or tungsten alloys with a "matrix" based on iron, nickel or copper, with all of the following characteristics.

Requirements

Validated License Required:
QSTVWYZ
Unit: kilograms
Reason for Control: NS
GLV: $3000
GCT: Yes
GFW: No

List of Items Controlled

a. A density exceeding 17.5 g/cm^3;

b. An elastic limit exceeding 1,250 MPa;

c. An ultimate tensile strength exceeding 1,270 MPa; and

d. An elongation exceeding 8%.

1C05A "Superconductive" composite conductors in lengths exceeding 100 m or with a mass exceeding 100 g.

Requirements

Validated License Required:
QSTVWYZ
Unit: kilograms
Reason for Control: NS
GLV: $1500
GCT: Yes
GFW: No

List of Items Controlled

a. Multifilamentary "superconductive" composite conductors containing one or more niobium-titanium filaments:

a.1. Embedded in a matrix other than a copper or copper based mixed matrix; or

a.2. With a cross-section area less than 0.28×10^{-4} mm^2 (i.e., 6 micrometer in diameter for circular filaments);

b. "Superconductive" composite conductors consisting of one or more "superconductive" filaments other than niobium-titanium:

b.1. With a "critical temperature" at zero magnetic induction exceeding 9.85 K (−263.31 °C) but less than 24 K (−249.16 °C);

b.2. With a cross-section of less than 0.28×10^{-4} mm^2; and

b.3. Which remain in the "superconductive" state at a temperature of 4.2 K (−268.96 °C) when exposed to a magnetic field corresponding to a magnet induction of 12 T.

1C06A Fluids and lubricating materials.

Validated License Required:
QSTVWYZ
Unit: barrels (55 U.S. gallons)
Reason for Control: NS
GLV: $3000
GCT: Yes
GFW: No

List of Items Controlled

a. Hydraulic fluids containing, as their principal ingredients, any of the following compounds or materials:

a.1. Synthetic hydrocarbon oils or silahydrocarbon oils with:

a.1.a. A flash point exceeding 477 K (204 °C);

a.1.b. A pour point at 239 K (−34 °C) or less;

a.1.c. A viscosity index of 75 or more; and

a.1.d. A thermal stability at 616 K (343 °C); or

Note: For the purpose of 1C06.a.1, silahydrocarbon oils contain exclusively silicon, hydrogen and carbon.

a.2. Chlorofluorocarbons with:

a.2.a. No flash point;

a.2.b. An autogenous ignition temperature exceeding 977 K (704 °C);

a.2.c. A pour point at 219 K (−54 °) or less;

a.2.d. A viscosity index of 80 or more; and

a.2.e. A boiling point at 473 K (200 °C) or higher;

Note: For the purpose of 1C06.a.2, chlorofluorocarbons contain exclusively carbon, fluorine and chlorine.

b. Lubricating materials containing, as their principal ingredients, any of the following compounds or materials:

b.1. Phenylene or alkylphenylene ethers or thio-ethers, or their mixtures, containing more than two ether or thio-ether functions, or mixtures thereof; or

b.2. Fluorinated silicone fluids with a kinematic viscosity of less than 5,000 mm^2/s (5,000 centistokes measured at 298 K (25 °C);

c. Damping or flotation fluids with a purity exceeding 99.8%, containing less than 25 particles of 200 micrometer or larger in size per 100 ml and made from at least 85% of any of the following compounds or materials:

c.1. Dibromotetrafluoroethane;

c.2. Polychlorotrifluoroethylene (oily and waxy modifications only); or

c.3. Polybromotrifluoroethylene.

Technical Note: For the purpose of 1C06:

a. Flash point is determined using the Cleveland Open Cup Method descibed in ASTM D–92 or national equivalents.

b. Pour point is determined using the method described in ASTM D–97 or national equivalents.

c. Viscosity index is determined using the method described in ASTM D–2270 or national equivalents.

d. Thermal stability is determined by the following test procedure or national equivalents: Twenty ml of the fluid under test is placed in a 46 ml type 317 stainless steel chamber containing one each of 12.5 mm (nominal) diameter balls of M–10 tool steel, 52100 steel and naval bronze (60% Cu, 30% Zn, 0.75% Sn). The chamber is purged with nitrogen, sealed at atmospheric pressure and the temperature raised to and maintained at 644±6 K (371 ± 6 °C) for six hours. The specimen will be considered thermally stable if, on completion of the above procedure, all of the following conditions are met:

1. The loss in weight of each ball is less than 10 mg/mm² of ball surface;

2. The change in original viscosity as determined at 311 K (38 °C) is less than 25%; and

3. The total acid or base number is less than 0.40.

e. Autogenous ignition temperature is determined using the method described in ASTM E–659 or national equivalents.

1C07A Ceramic base materials, non-"composite" ceramic materials, ceramic-"matric" "composite" materials and precursor materials.

Requirements

Validated License Required:
QSTVWYZ
Unit: kilograms
Reason for Control: NS, MT (see Notes)
GLV: : $5000, *except* $0 for 1C07.e
GCT: Yes, except 1C07.d
GFW: No

Notes: MT controls apply to items described in 1C07.d (dielectric constant less than 6 at frequencies from 100Hz to 10,000 MHz) for use in "missile" radomes.

List of Items Controlled

a. Base materials of single or complex borides of titanium having total metallic impurities, excluding intentional additions, of less than 5,000 ppm, an average particle size equal to or less than 5 micrometer and no more than 10% of the particles larger than 10 micrometer;

b. Non-"composite" ceramic materials in crude or semi-fabricated form, except abrasives, composed of borides of titanium with a density of 98% or more of the theoretical density;

c. Ceramic-ceramic "composite" materials with a glass or oxide-"matrix" and reinforced with fibers from any of the following systems:

c.1. Si-N;

c.2. Si-C;

c.3. Si-Al-O-N; *or*

c.4. Si-O-N;

d. Ceramic-ceramic "composite" materials, with or without a continuous metallic phase, containing finely dispersed particles or phases of any fibrous or whisker-like material, where carbides or nitrides of silicon, zirconium or boron form the "matrix";

e. Precursor materials (i.e., special purpose polymeric or metallo-organic materials) for producing any phase or phases of the materials embargoed by 1C07.c, as follows:

e.1. Polydiorganosilanes (for producing silicon carbide);

e.2. Polysilazanes (for producing silicon nitride); or

e.3. Polycarbosilazanes (for producing ceramics with silicon, carbon and nitrogen components).

1C27B Other ceramic or graphite materials usable in "missile" systems.

Validated License Required:
QSTVWYZ
Unit: kilograms
Reason for Control: MT
GLV: $5000
GCT: No
GFW: No

List of Items Controlled

a. Fine grain recrystallized bulk graphites (with a bulk density of at least 1.72 g/cc measured at 15 degrees C), pyrolytic, or fibrous reinforced graphites usable for rocket nozzles and reentry vehicle nose tips.

b. Ceramic composite materials not controlled by 1C07 (dielectric constant less than 6 at frequencies from 100 Hz to 10,000 MHz) for use in missile radomes, and bulk machinable silicon-carbide reinforced unfired ceramic usable for nose tips.

1C08A Non-fluorinated polymeric substances.

Requirements

Validated License Required:
QSTVWYZ
Unit: kilograms
Reason for Control: NS
GLV: $200
GCT: Yes
GFW: No

List of Items Controlled

a.1. Bismaleimides;

a.2. Aromatic polyamide-imides;

a.3. Aromatic polyimides;

a.4. Aromatic polyetherimides having a glass transition temperature (T_g) exceeding 503 K (230 °C) as measured by the wet method;

Note: 1C08.a does note control non-fusible compression molding powders or molded forms.

b. Thermoplastic liquid crystal copolymers having a heat distortion temperature exceeding 523 K (250 °C) measured according to ASTM–648, method A, or national equivalents, with a load of 1.82 N/mm² and composed of:

b.1. Either of the following:

b.1.a. Phenylene, biphenylene or naphthalene; or

b.1.b. Methyl, tertiary-butyl or phenyl substituted phenylene, biphenylene or naphthalene; and

b.2. Any of the following acids:

b.2.a. Terephthalic acid;

b.2.b. 6-hydroxy-2 naphthoic acid; or

b.2.c. 4-hydroxybenzoic acid;

c. Polyarylene ether ketones, as follows:

c.1. Polyether ether ketone (PEEK);

c.2. Polyether ketone ketone (PEKK);

c.3. Polyether ketone (PEK);

c.4. Polyether ketone ether ketone ketone (PEKEKK);

d. Polyether ketones;

e. Polyarylene sulphides, where the arylene group is biphenylene, triphenylene or combinations thereof;

f. Polybiphenylenethersulphone.

Note: For other non-fluorinated polymeric substances, see 1C21 and 1C96.

1C09A Unprocessed fluorinated compounds.

Requirements

Validated License Required:
QSTVWYZ
Unit: kilograms
Reason for Control: NS
GLV: $5000
GCT: Yes
GFW: No

List of Items Controlled

a. Copolymers of vinylidene fluoride having 75% or more beta crystalline structure without stretching;

b. Fluorinated polyimides containing 30% or more of combined fluorine;

c.. Fluorinated phosphazene elastomers containing 30% or more of combined fluorine.

1C10A "Fibrous and filamentary materials" that may be used in organic "matrix", metallic "matrix" or carbon "matrix" "composite" structures or laminates.

Requirements

Validated License Required:
QSTVWYZ
Unit: kilograms
Reason for Control: NS, NP (see Notes)
GLV: $1500
GCT: Yes

GFW: No

Notes: NP controls apply to 1C10, except to Supp. 2 to Part 773 of this subchapter.

List of Items Controlled

a. Organic "fibrous and filamentary materials", *except* polyethylene, with:

a.1. A "specific modulus" exceeding $12.7x10^6$ m; and

a.2. A"specific tensile strength" exceeding $23.5x10^4$ m;

b. Carbon "fibrous and filamentary materials" with:

b.1. A "specific modulus" exceeding $12.7x10^6$ m; and

b.2. A "specific tensile strength" exceeding $23.5x10^4$ m;

Technical Note: Properties for materials described in 1C10.b should be determined using SACMA recommended methods SRM 12 to 17, or national equivalent tow tests, such as Japanese Industrial Standard JIS–R–7601, Paragraph 6.6.2., and based on lot average.

c. Inorganic "fibrous or filamentary materials" with:

c.1. A "specific modulus" exceeding $2.54x10^6$ m; and

c.2. A melting, decomposition or sublimation point exceeding 1,922 K (1,649°C) in an inert environment; *except*

c.2.a. Discontinuous, multiphase, polycrystalline alumina fibers in chopped fiber or random mat form, containing 3 weight percent or more silica, with a "specific modulus" of less than $10x10^6$ m;

c.2.b. Molybdenum and molybdenum alloy fibers;

c.2.c. Boron fibers;

c.2.d. Discontinuous ceramic fibers with a melting, decomposition or sublimation point lower than 2,043 K (1,770°C) in an inert environment;

d. "Fibrous or filamentary materials":

d.1. Composed of any of the following:

d.1.a. Polyetherimides controlled by 1C08.a; or

d.1.b. Materials controlled by 1C08.b, c, d, e, or f; or

d.2. Composed of materials controlled by 1C10.d.1. a or b and "commingled" with other fibers controlled by 1C10. a, b, or c;

e. Resin- or pitch-impregnated fibers (prepregs), metal or carbon-coated fibers (preforms) or "carbon fiber preforms", as follows:

e.1. Made from "fibrous or filamentary materials" controlled by 1C10. a, b, or c; or

e.2. Made from organic or carbon "fibrous or filamentary materials":

e.2.a. With a "specific tensile strength" exceeding $17.7x10^4$ m;

e.2.b. With a "specific modulus" exceeding $10.15x10^6$ m;

e.2.c. Not controlled by 1C10. a or b; and

e.2.d. When impregnated with materials controlled by 1C08 or 1C09.b, or with phenolic or epoxy resins, having a glass transition temperature (T_g) exceeding 383 K (110°C).

1C50E Fibrous and filamentary materials not controlled by 1C10, for use in composite structures and with a specific modulus of $3.18x10^6$ m or greater and a specific tensile strength of $7.62x10^4$ or greater.

Requirements

Validated License Required: SZ, Supp. 4 to part 778 of this subchapter, Taiwan.

Unit: Kilograms

Reason for Control: NP, FP (FP applies to Iran and Syria)

GLV: $1500

GCT: No

GFW: No

Note: Specific modulus is the Young's modulus in N/m^2 divided by the specific weight in N/m^3, measured at a temperature of 23±2° C; specific tensile strength is the ultimate tensile strength in N/m^2 divided by specific weight in N/m^3, measured at a temperature of 23±2° C.

1C18A Items on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ

Unit: kilograms

Reason for Control: NS

GLV: $3000

GCT: Yes

GFW: Yes, see Advisory note

List of Items Controlled

a. Ethyl and Methyl centralites.

b. NN-Diphenylurea (unsymmetrical diphenylurea).

c. Methyl-NN-diphenylurea (methyl unsymmetrical diphenylurea).

d. Ethyl-NN-diphenylurea (ethyl unsymmetrical diphenylurea).

e. Ethyl phenyl urethane.

f. Diphenyl urethane.

g. Diortho tolyl-urethane.

h. 2-Nitrodiphenylamine.

i. p-Nitromethylaniline.

j. 2,2′ Dinitropropanol.

k. Bis(2,2′ dinitropropyl) formal and acetal.

l. 3-Nitraza-1,5 pentane diisocyanate.

m. Guanidine nitrate.

n. Hydrogen peroxide in concentrations of 85%.

o. Charges specially designed for civilian applications, containing military explosives.

Technical Note: Military high explosives are solid, liquid or gaseous substances or mixtures of substances that, in their application as primary, booster, or main charges in warheads, demolition and other military applications, are required to detonate.

Advisory Note: Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY and the PRC of certain explosive substances and mixtures in reasonable quantities for civilian or industrial purposes when made into cartridges or charges of an exclusively civilian or industrial nature, such as propellants for sporting purposes or shooting gallery practice; cartridges for riveting guns; and explosive charges for agricultural purposes, public works, mines, quarries or oil-well drilling. The following are the substances or mixtures to which this procedure applies:

a. Nitrate-based (40 percent or more) and provided they do not contain more than 40 percent nitroglycol/nitroglycerin or no more than 16 percent TNT;

b. Nitrocellulose with a nitrogen content of over 12.2 percent;

c. Nitroglycerin;

d. Single base nitrocellulose;

e. Sodium azide and other inorganic azides.

1C19A Items on the International Atomic Energy List.

Requirements

Validated License Required: QSTVWYZ

Unit: Kilograms

Reason for Control: NS, NP

GLV: 1C19.a and .e: $3000; 1C19.b and .c: $500; 1C19.d: $1500

GCT: Yes, except 1C19.a and 1C19.d

GFW: Yes for 1C19.a, see Advisory Note 1; Yes for 1C19.b, see Advisory Note 2

List of Items Controlled

a. Zirconium metal; alloys containing more than 50% zirconium by weight; compounds in which the ratio of hafnium to zirconium is less than 1:500 parts by weight; and manufactures wholly thereof.

Note: This ECCN 1C19 does not control zirconium metal, alloys, or compounds in shipments of 5 kg or less, or zirconium in the form of foil or strip having a thickness not exceeding 0.10 mm, in shipments of 200 kg or less.

b. Nickel powder and porous nickel metal as follows:

b.1. Powder with a nickel purity content of 99% or more and a mean particle size of less than 10 micrometers measured by the ASTM B 330 standard and a high degree of particle size uniformity;

b.2. Porous nickel metal produced from materials controlled for export by 1C19.b.1, *except* single porous nickel metal sheets not exceeding 930 cm^2 intended for use in batteries for civil applications.

Note: 1C19.b.2 refers to porous nickel metal manufactured from nickel powder defined in 1C19.b.1 that has been compacted and

sintered to form a metal material with fine pores interconnected throughout the structure.

c. Lithium, as follows:

c.1. Metal, hydrides, or alloys containing lithium enriched in the 6 isotope to a concentration higher than the one existing in nature (7.5% on an atom percentage basis);

c.2. Any other materials containing lithium enriched in the 6 isotope (including compounds, mixtures, and concentrates), *except* lithium enriched in the 6 isotope incorporated in thermoluminescent dosimeters.

d. Beryllium metal, alloys containing more than 50 percent of beryllium, compounds containing beryllium, manufactures thereof, and waste and scrap, *except* metal windows for X-ray machines; oxide shapes in fabricated or semi-fabricated forms specially designed for electronic component parts or as substrates for electronic circuits; shipments of 500 grams or less of beryllium having a purity of 99 percent or less, or 100 grams or less of beryllium having a purity of greater than 99 percent, provided that shipments exclude single crystals; and shipments of 5 kilograms or less of beryllium contained in compounds with a purity of less than 99 percent.

e. Wet-proofed platinized catalysts specially designed or prepared for promoting hydrogen isotope exchange between hydrogen and water for the recovery of tritium from heavy water or for heavy water production.

f. Hafnium of the following description: metal, and alloys and compounds of hafnium containing more than 60 percent hafnium by weight, and manufactures thereof, except shipments of the above having a hafnium content of 1 kilogram or less.

Advisory Note 1: (GFW eligibility restricted to those countries listed in Supplement Nos. 2 and 3 to part 773 of this subchapter) Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY and the PRC of the following:

a. Finished parts made of zirconium metal or alloys, specially designed for an identified civil research or power reactor facility, such as cladding tubes and plugs and separators therefor, liner tubes, thermal insulating tubes, pressure tubes, and calandria tubes, provided that:

1. None of the parts contains fissile materials; and

2. The importing country has agreed to the application of the Safeguards of the International Atomic Energy Agency (IAEA) in connection with the nuclear reactor facility;

b. Contained zirconium metal, or parts made therefrom, in individual shipments not exceeding 100 kg, when intended for use in, or in support of, an identified civil research or power reactor facility, in connection with which it is contemplated that IAEA Safeguards would be applied.

Advisory Note 2: Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY and the PRC of nickel powder in uncompacted powder form for non-nuclear civil applications.

1C31B Propellants, constituent chemicals, and polymeric substances for propellants.

Requirements

Validated License Required:
QSTVWYZ
Unit: kilograms
Reason for Control: MT
GLV: $0
GCT: No
GFW: No

List of Items Controlled

a. Propulsive substances:

a.1. Metal fuels in particle sizes less than 500×10^{-6}m (500 microns), whether spherical, atomized, spheroidal, flaked or ground, consisting of 97 percent or more of zinc or alloys of zinc, or of Misch metal;

a.2. Liquid oxidizers, as follows:

a.2.a. Dinitrogen trioxide;

a.2.b. Nitrogen dioxide/dinitrogen tetroxide;

a.2.c. Dinitrogen pentoxide;

a.2.d. Inhibited red fuming nitric acid (IRFNA);

a.2.e. Compounds composed of fluorine and one or more other halogens, oxygen or nitrogen.

b. Polymeric substances:

b.1. Carboxy-terminated polybutadiene (CTPB);

b.2. Hydroxy-terminated polybutadiene (HTPB);

b.3. Glycidyl azide polymer (GAP);

b.4. Polybutadiene-acrylic acid (PBAA);

b.5. Polybutadiene-acrylic acid-acrylonitrile (PBAN).

c. Other propellant additives and agents:

c.1. Curing agents and catalysts as follows:

c.1.a. Triphenyl bismith (TPB);

c.1.b. Isophorone diisocyanate (IPDI);

c.2. Burning rate modifiers as follows:

c.2.a. Catocene;

c.2.b. N-butul-ferrocene;

c.2.c. Butacene;

c.2.d. Other ferrocene derivitives;

c.3. Nitrate esters and nitrato plasticizers as follows:

c.3.a. Triethylene glycol dinitrate (TEGDN);

c.3.b. Trimethylolethane trinitrate (TMETN);

c.3.c. 1,2,4-butanetriol trinitrate (BTTN);

c.3.d. Diethylene glycol dinitrate (DEGDN);

c.4. Stabilizers, as follows:

c.4.a. 2-nitrodiphenylamine;

c.4.b. N-methyl-p-nitroaniline.

1C51B High purity (99.99%) bismuth (5 kilogram quantities or greater per year) with very low silver content (less than 10 parts per million).

Requirements

Validated License Required:
QSTVWYZ
Unit: kilograms
Reason for Control: NP
GLV: $1500
GCT: No
GFW: No

1C52B Calcium containing both less than one tenth percent (0.001) by weight of impurities other than magnesium and less than 10 parts per million of boron.

Requirements

Validated License Required:
QSTVWYZ
Unit: kilograms
Reason for Control: NP
GLV: $0
GCT: No
GFW: No

1C53B Magnesium containing both less than one fiftieth percent (0.0002) by weight of impurities other than calcium and less than 10 parts per million of boron.

Requirements

Validated License Required:
QSTVWYZ
Unit: kilograms
Reason for Control: NP
GLV: $0
GCT: No
GFW: No

1C54B Radioisotopes, accelerator-produced or naturally occuring, except those having an atomic number 3 through 83, and compounds and preparations thereof.

Requirements

Validated License Required:
QSTVWYZ
Unit: "MC"
Reason for Control: NP
GLV: $500
GCT: No
GFW: No

1C55B Helium isotopically enriched in the helium-3 isotope, in any form or quantity, and whether or not admixed with other materials, or contained in any equipment or device.

Requirements

Validated License Required:
QSTVWYZ
Unit: liters
Reason for Control: NP
GLV: $5000
GCT: No

GFW: No

1C56B Chlorine trifluoride, except shipments of 5 kilograms or less.

Requirements

Validated License Required: QSTVWYZ
Unit: kilograms
Reason for Control: NP
GLV: $3000
GCT: No
GFW: No

1C57B Boron and boron compounds, mixtures, and "loaded" materials in which the boron-10 isotope is more than 20% of the total boron content.

Requirements

Validated License Required: QSTVWYZ
Unit: kilograms
Reason for Control: NP
GLV: $3000
GCT: No
GFW: No

1C60C Precursor and intermediate chemicals used in the production of chemical warfare agents.

Requirements

Validated License Required: QSTVWYZ, *except* Australia, Austria, Belgium, Denmark, Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom.
Unit: liters or kilograms as appropriate
Reason for Control: CB
GLV: $0
GCT: No
GFW: No

List of Items Controlled

(See Supplement No. 1 to § 799.2, Interpretation 23: Precursor Chemicals, for synonyms for the following chemicals.)

1. (C.A.S. #1341–49–7) Ammonium hydrogen fluoride;
2. (C.A.S. #7784–34–1) Arsenic trichloride;
3. (C.A.S. #76–93–7) Benzilic acid;
4. (C.A.S. #107–07–3) 2-Chloroethanol;
5. (C.A.S. #78–38–6) Diethyl ethylphosphonate;
6. (C.A.S. #15715–41–0) Diethyl methylphosphonite;
7. (C.A.S. #2404–03–7) Diethyl-N,N-dimethylphosphoroamidate;
8. (C.A.S. #762–04–9) Diethyl phosphite;
9. (C.A.S. #100–37–8) N,N-Diethylethanolamine;
10. (C.A.S. #5842–07–9) N,N-Diisopropyl-.beta.-aminoethane thiol;
11. (C.A.S. #96–80–0) N,N-Diisopropyl-.beta.-aminoethanol;
12. (C.A.S. #96–79–7) N,N-Diisopropyl-.beta.-aminoethyl chloride;
13. (C.A.S. #108–18–9) Diisopropylamine;
14. (C.A.S. #6163–75–3) Dimethyl ethylphosphonate;
15. (C.A.S. #756–79–6) Dimethyl methylphosphonate;
16. (C.A.S. #868–85–9) Dimethyl phosphite (dimethyl hydrogen phosphite);
17. (C.A.S. #124–40–3) Dimethylamine;
18. (C.A.S. #506–59–2) Dimethylamine hydrochloride;
19. (C.A.S. #57856–11–8) O-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL);
20. (C.A.S. #1498–40–4) Ethylphosphonous dichloride [Ethylphosphinyl dichloride];[1]
21. (C.A.S. #430–78–4) Ethylphosphonous difluoride [Ethylphosphinyl difluoride];[1]
22. (C.A.S. #1066–50–8) Ethylphosphonyl dichloride;
23. (C.A.S. #753–98–0) Ethylphosphonyl difluoride;
24. (C.A.S. #7664–39–3) Hydrogen fluoride;
25. (C.A.S. #3554–74–3) 3-Hydroxyl-1-methylpiperidine;
26. (C.A.S. #76–89–1) Methyl benzilate;
27. (C.A.S. #676–83–5) Methylphosphonous dichloride [Methylphosphinyl dicloride];[1]
28. (C.A.S. #753–59–3) Methylphosphonous difluoride [Methylphosphinyl difluoride];[1]
29. (C.A.S. #676–97–1) Methylphosphonyl dichloride;
30. (C.A.S. #676–99–3) Methylphosphonyl difluoride;
31. (C.A.S. #10025–87–3) Phosphorus oxychloride;
32. (C.A.S. #10026–13–8) Phosphorus pentachloride;
33. (C.A.S. #1314–80–3) Phosphorus pentasulfide;
34. (C.A.S. #7719–12–2) Phosphorus trichloride;
35. (C.A.S. #75–97–8) Pinacolone;
36. (C.A.S. #464–07–3) Pinacolyl alcohol;
37. (C.A.S. #151–50–8) Potassium cyanide;
38. (C.A.S. #7789–23–3) Potassium fluoride;
39. (C.A.S. #7789–29–9) Potassium hydrogen fluoride;
40. (C.A.S. #1619–34–7) 3-Quinuclidinol;
41. (C.A.S. #3731–38–2) 3-Quinuclidinone;
42. (C.A.S. #1333–83–1) Sodium bifluoride;
43. (C.A.S. #143–33–9) Sodium cyanide;
44. (C.A.S. #7681–49–4) Sodium fluoride;
45. (C.A.S. #1313–82–2) Sodium sulfide;
46. (C.A.S. #111–48–8) Thiodiglycol;
47. (C.A.S. #7719–09–7) Thionyl chloride;
48. (C.A.S. #102–71–6) Triethanolamine;
49. (C.A.S. #122–52–1) Triethyl phosphite; and
50. (C.A.S. #121–45–9) Trimethyl phosphite.

1C61B Viruses or viroids for human, veterinary, plant, or laboratory use, and bacteria, fungi, and protozoa.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: CB
GLV: $0
GCT: No
GFW: No

Notes: 1. This ECCN 1C61 does not control those viruses or viroids listed in § 799.2, Interpretation 25.

2. This ECCN 1C61 does not control those bacteria, fungi, or protozoa listed in § 799.2, Interpretation 26.

3. When organisms have been genetically modified, license applications should indicate source(s) of modifying DNA and sequence(s) (if any).

4. See § 799.2, Interpretation 24, for classification of microorganisms or etiologic agents on the basis of hazard or pathogenicity. License applications should indicate appropriate biohazard class for each microorganism.

1C64E Di-isopropylcarbodiimide (C.A.S. #693–13–0) and di-cyclohexocarbodiimide (C.A.S. #538–75–0).

Requirements

Validated License Required: SZ, Supp. 5 to Part 778 of this subchapter.
Unit: kilograms or liters
Reason for Control: CB
GLV: $0
GCT: No
GFW: No

1C65E Complex media (specifically brain/heart infusion media) for the growth of microorganisms in Class 3 or Class 4, in quantities greater than 100 kilograms.

Requirements

Validated License Required: SZ, Supp. 5 to Part 778 of this subchapter
Unit: $ value
Reason for Control: CB
GLV: $0
GCT: No
GFW: No.

[1] Chemical name used elsewhere in the List of Chemicals for this ECCN 4798B.

1C80D Inorganic chemicals listed in Supp. No. 2 to part 777 of this subchapter.

Requirements

Validated License Required: QSTVWYZ and Canada
Unit: see Supp. 2 to part 777 of this subchapter
Reason for Control: SS
GLV: $0
GCT: No
GFW: No

Notes: See § 771.16 of this subchapter for special provisions regarding shipments under General License G–NNR.

1C81D Crude petroleum, including reconstituted crude petroleum, tar sands, and crude shale oil listed in Supp. No. 2 to part 777 of this subchapter.

Requirements

Validated License Required: QSTVWYZ and Canada
Unit: barrels
Reason for Control: SS
GLV: $0
GCT: No
GFW: No.

1C82D Other petroleum products listed in Supp. No. 2 to part 777 of this subchapter.

Requirements

Validated License Required: QSTVWYZ and Canada
Unit: $ value
Reason for Control: SS
GLV: $2000
GCT: No
GFW: No

Notes: See §§ 771.16 and 771.5(d) of this subchapter for special provisions regarding shipments under General Licenses G–NNR and GLV.

1C83D Natural gas liquids and other natural gas derivatives listed in Supp. No. 2 to part 777 of this subchapter.

Requirements

Validated License Required: QSTVWYZ and Canada
Unit: barrels
Reason for Control: SS
GLV: $2000
GCT: No
GFW: No

Notes: See § 771,16 and 771.5(d) of this subchapter for special provisions regarding shipments under General Licenses G–NNR and GLV.

1C84D Manufactured gas and synthetic natural gas (except when commingled with natural gas and thus subject to export authorization from the Department of Energy) listed in Supp. No. 2 to part 777 of this subchapter.

Requirements

Validated License Required: QSTVWYZ and Canada
Unit: millions of cubic feet
Reason for Control: SS
GLV: $2000
GCT: No
GFW: No

Notes: See §§ 771.16 and 771.5(d) of this subchapter for special provisions regarding shipments under General Licenses G–NNR and GLV.

1C88D Western red cedar (thuja picata) logs and timber, and rough, dressed and worked lumber containing wane listed in Supplement No. 4 to part 777 of this subchapter.

Requirements

Validated License Required: QSTVWYZ and Canada
Unit: million board feet scribner
Reason for Control: SS
GLV: $0
GCT: No
GFW: No

1C94F. Fluorocarbon electronic cooling fluids.

Requirements

Validated License Required: SZ, Iran, Syria, S. African Military and police
Unit: kilograms
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

List of Items Controlled

Fluorocarbon electronic cooling fluids made from at least 85% of any of the following:

a. Monomeric or polymeric forms of perfluoropolyalkylether-friazines or perfluoroaliphatic-ethers;

b. Perfluoroalkylamines; or

c. Perfluorocycloalkanes or perfluoroalkanes with all of the following characteristics:

c.1. Density of 298K (25 degrees C) of 1.5 g/ml or more;

c.2. In a liquid state at 273K; (0 degrees C); and

c.3. Containing 60% or more by weight of fluorine.

1C96G Other materials for production of Category 1 items, n.e.s.

Requirements

Validated License Required: SZ, S. African military & police
Unit: $ value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

D. Software

1D01A "Software" specially designed or modified for the "development", "production" or "use" of equipment controlled by 1B for national security reasons.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS, MT, NP (see Notes)
GTDR: Yes, except MT (see NOTES) and except exports to Iran or Syria
GTDU: No

Notes: NP controls apply to software for equipment controlled by 1B01 capable of winding cylindrical rotors having a diameter between 3" and 16" and a length of 24" or greater. MT controls apply to software for equipment controlled by 1B01 (except 1B01.d.4 and 1B01.f) and 1B18.a.

1D02A "Software" for the "development" of organic "matrix", metal "matrix" or carbon "matrix" laminates or "composites".

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS, MT
GTDR: No
GTDU: No

1D23B Other software specially designed for the "development", "production", or "use" of items controlled by 1A, 1B, or 1C for Missile Technology reasons.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: MT
GTDR: No
GTDU: No

1D96G Other software specially designed or modified for the "development", "production", or "use" of equipment controlled by Category 1, n.e.s.

Requirements

Validated License Required: SZ, S. African military and police
Unit: $ Value
Reason for Control: FP
GTDR: No
GTDU: Yes

E. Technology

1E01A Technology according to the General Technology Note for the "development" or "production" of equipment or materials controlled by 1A01.b, 1A01.c, 1A02, 1A03, 1B, or 1C for national security reasons.

Requirements

Validated License Required: QSTVWYZ
Reason for Control: NS, NP, MT, FP (see **NOTES**)
GTDR: Yes, except NP, MT, and FP
GTDU: No

Notes: MT controls apply to technology for items controlled for Missile Technology reasons by 1A02, 1B01 (except d.4 and f), 1C01, 1C07.d, 1C10.e, and 1B.18.a. NP controls apply to technology for items controlled by 1B19.a and 1B19.b.2. FP controls apply to technology for all national security items controlled by Category 1 to Iran and Syria, and to items controlled by 1B18.a for the Republic of South Africa only.

1E02A Other technology.

Requirements

Validated License Required: QSWYZ, PRC, S. African Military & Police
Reason for Control: NS
GTDR: Yes, except Iran and Syria
GTDU: No

List of Items Controlled

a. Technology for the "development" or "production" of polybenzothiazoles or polybenzoxazoles;

b. Technology for the "development" or "production" of fluoroelastomer compounds containing at least one vinylether monomer;

c. Technology for the design or "production" of the following base materials or non-"composite" ceramic materials:

c.1. Base materials having all the following characteristics:

c.1.a. Any of the following compositions:

c.1.a.1. Single or complex oxides of zirconium and complex oxides of silicon or aluminium;

c.1.a.2. Single nitrides of boron (cubic crystalline forms);

c.1.a.3. Single or complex carbides of silicon or boron; or

c.1.a.4. Single or complex nitrides of silicon;

c.1.b. Total metallic impurities, excluding intentional additions, of less than:

c.1.b.1. 1,000 ppm for single oxides or carbides; or

c.1.b.2. 5,000 ppm for complex compounds or single nitrides; and

c.1.c.1. Average particle size equal to or less than 5 micrometer and no more than 10% of the particles larger than 10 micrometer; or

N.B.: For zirconia, these limits are 1 micrometer and 5 micrometer respectively.

c.1.c.2.a. Platelets with a length to thickness ratio exceeding 5;

c.1.c.2.b. Whiskers with a length to diameter ratio exceeding 10 for diameters less than 2 micrometer; and

c.1.c.2.c. Continuous or chopped fibers less than 10 micrometer in diameter;

c.2. Non-"composite" ceramic materials, *except* abrasives, composed of the materials described in 1E02.c.1;

d. Technology for the "production" of aromatic polyamide fibers;

e. Technology for the installation, maintenance or repair of materials controlled by 1C01.;

f. Technology for the repair of materials controlled by 1A02,1C07.c, or 1C07.d.

1E23B Other technology according to the General Technology Note for the "development", "production", or "use" of items controlled by 1A22, 1A27, 1B28, 1B30, 1C21, 1C22, 1C27, 1C28, 1C30, and 1C31.

Requirements

Validated License Required: QSTVWYZ
Reason for Control: MT
GTDR: No
GTDU: No

1E24B Technology (including processing conditions) and procedures for the regulation of temperature, pressure or atmosphere in autoclaves or hydroclaves when used for the production of composites or partially processed composites.

Requirements

Validated License Required: QSTVWYZ
Reason for Control: MT
GTDR: No
GTDU: No

1E25B Technology for producing pyrolytically derived materials formed on a mold, mandrel, or other substrate from procursor gases that decompose in the 1,300 degrees C to 2,900 degrees C temperature range at pressures of 130 Pa (1 mm Hg) to 20 kPa (150 mm Hg), including technology for the composition of precursor gases, flow-rates, and process control schedules and parameters.

Requirements

Validated License Required: QSTVWYZ
Reason for Control: MT
GTDR: No
GTDA: No

1E96G Other technology for the "development", "production", or "use" of items controlled by Category 1.

Requirements

Validated License Required: SZ, S. African military & police
GTDR: No
GTDU: Yes

Category 2—Materials Processing

A. Equipment, Assemblies and Components

Anti-friction bearings or bearing systems, as follows, and components therefor.

Note: 2A does not control balls with tolerances specified by the manufacturer in accordance with ISO 3290 as grade 5 or worse.

2A01A Ball bearings or solid roller bearings, except tapered roller bearings, having tolerances specified by the manufacturer in accordance with ABEC 7, ABEC 7P, ABEC 7T or ISO Standard Class 4 or better (or national equivalents), and having any of the following characteristics.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS
GLV: $3,000
GCT: Yes
GFW: No

List of Items Controlled

a. Rings, balls or rollers made from monel or beryllium;

b. Manufactured for use at operating temperatures above 573 K (300 °C) either by using special materials or by special heat treatments; or

c. With lubricating elements or component modifications that, according to the manufacturer's specifications, are specially designed to enable the bearings to operate at speeds exceeding 2.3 million DN;

(For quiet running bearings, see Item 9 in ITAR Category VI.)

2A02A Other ball bearings or solid roller bearings, except tapered roller bearings, having tolerances specified by the manufacturer in accordance with ABEC 9, ABEC 9P or ISO Standard Class 2 or better (or national equivalents).

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS
GLV: $3,000
GCT: Yes
GFW: No

2A03A Solid tapered roller bearings, having tolerances specified by the manufacturer in accordance with ANSI/AFBMA Class 00 (inch) or Class A (metric) or better (or national equivalents) and having either of the following characteristics.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ value
Reason for Control: NS
GLV: $3,000
GCT: Yes
GFW: No

List of Items Controlled

a. With lubricating elements or component modifications that, according to the manufacturer's specifications, are specially designed to enable the bearings to operate at speeds exceeding 2.3 million DN; or

b. Manufactured for use at operating temperatures below 219 K (−54°C) or above 423 K (150°C).

2A04A Gas-lubricated foil bearings manufactured for use at operating temperatures of 561 K (288°C) or higher and a unit load capacity exceeding 1 MPa.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ value
Reason for Control: NS
GLV: $3,000
GCT: Yes
GFW: No

2A05A Active magnetic bearing systems.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ value
Reason for Control: NS
GLV: $3,000
GCT: Yes
GFW: No

2A06A Fabric-lined self-aligning or fabric-lined journal sliding bearings manufactured for use at operating temperatures below 219 K (−54°C) or above 423 K (150°C).

Technical Notes: 1. DN is the product of the bearing bore diameter in mm and the bearing rotational velocity in rpm.

2. Operating temperatures include those temperatures obtained when a gas turbine engine has stopped after operation.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ value
Reason for Control: NS
GLV: $3,000
GCT: Yes
GFW: No

2A19A Commodities on the International Atomic Energy List.

Requirements

Validated License Required:
QSTVWYZ
Unit: Number; $ value for parts and accessories
Reason for Control: NS and NP
GLV: $500: 2A19.a
$0: 2A19.b and c
GCT: Yes
GFW: Yes for 2A19.b (see **Advisory Notes** 1 and 2) and 2A19.c (see **Advisory Note** 3)

List of Items Controlled

a. Power generating and/or propulsion equipment specially designed for use with military nuclear reactors;

Note: 2A19.a does not affect the controls maintained by the Office of Defense Trade Controls, Department of State, as indicated in ITAR Category VI, Part e.

b. Neutron generator systems, including tubes, designed for operation without an external vacuum system, and utilizing electrostatic acceleration to induce a tritium-deuterium nuclear reaction; and specially designed parts therefor;

Technical Note: Specially designed parts controlled under 6A19.b include deuterated and/or tritiated sources and targets.

c. Valves, 5 mm or greater in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel, either manually or automatically operated; and specially designed parts and accessories therefor.

Advisory Note 1 (GFW eligibility restricted to countries listed in Supplement No. 2 or 3 to part 773 of this subchapter): Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in Country Groups QWY and the PRC of neutron generator systems, including tubes, as defined in 6A19.a.

Advisory Note 2 (GFW eligibility restricted to countries listed in Supplement No. 2 or 3 to part 773 of this subchapter): Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in Country Groups QWY and the PRC of tubes and systems whose technical specifications are essentially the same as those for previously approved exports, provided that they are for civil use.

Advisory Note 3: Licenses are likely to be approved, as administrative exceptions, for export to bona fide civil end-users in Country Groups QWY and the PRC of valves, cocks, and pressure regulators described in 6A19.c for non-aerospace end-uses.

2A50B Nuclear reactor and nuclear power plant related equipment.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ value
Reason for Control: NP
GLV: No
GCT: No
GFW: No

List of Items Controlled

a. Reactor and power plant simulators and analytical models for reactor and power plant simulators, models or mock-ups;

b. Process control systems intended for use with nuclear reactors;

c. Generators, turbine-generator sets, steam turbines, heat exchangers, and heat exchanger type condensers designed or intended for use in a nuclear reactor;

d. Commodities, parts and accessories specially designed or prepared for use with nuclear plants (e.g., snubbers, airlocks, reactor and fuel inspection equipment) except items licensed by the Nuclear Regulatory Commission, pursuant to 10 CFR part 110;

e. High-density (lead glass or other) radiation shielding windows, including frames, greater than 0.3 m (1 ft.) on a side and with a density greater than 3 g/cm^3 and a thickness of 100 mm or greater;

f. Radiation-hardened TV cameras and specially designed radiation-hardened components (electronic subassemblies and lenses) used therein;

g. Casks that are specially designed for transportation of high-level radioactive material and that weigh more than 1,000 kg; and

h. Remote manipulators that provide mechanical translation of human operator actions by electrical, hydraulic, or mechanical means to an operating arm and terminal fixture, usually a gripping mechanism that can be used to provide remote actions in radiochemical separation operations and "hot cells". All manipulators must be able to penetrate 0.6 m or more (2 ft. or more) of a cell wall or, alternatively, bridge over the top of a cell wall with a thickness of 0.6 m or more (2 ft. or more).

2A51B Piping, fittings and valves made of, or lined with, stainless steel, copper-nickel alloy or other alloy steel containing 10% or more nickel and/or chromium.

Requirements

Validated License Required:
QSTVWYZ
Unit: Kgs. for pressure tubes, pipes, and fittings; Number for valves; $ value for parts
Reason for Control: NP
GLV: No
GCT: No
GFW: No

List of Items Controlled

Piping, fittings, and valves made of, or lined with, stainless steel, copper-nickel alloy or other alloy steel containing 10% or more nickel and/or chromium, as follows:

a. Pressure tube, pipe, and fittings of 200 mm (8 inches) or more inside diameter, and suitable for operation at pressures of 3.4 MPa (500 psi) or greater;

b. Pipe valves having all of the following characteristics:

b.1. A pipe size connection of 8 inches or more inside diameter;

b.2. Rated at 1,500 psi or more;

c. Parts, n.e.s.

2A52B Pipes, valves, fittings, heat exchangers, or magnetic, electrostatic or other collectors made of graphite or coated in graphite, yttrium or yttrium compounds resistant to the heat and corrosion of uranium vapor.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NP
GLV: No
GCT: No
GFW: No

2A53B Pumps designed to move molten metals by electromagnetic forces.

Requirements

Validated License Required: QSTVWYZ
Unit: Number; $ value for parts and accessories
Reason for Control: NP
GLV: $3,000
GCT: No
GFW: No

2A54B Electron accelerators.

Requirements

Validated License Required: QSTVWYZ
Unit: Number; $ value for parts and accessories
Reason for Control: NP
GLV: $3,000
GCT: No
GFW: No

List of Items Controlled

Pulsed electron accelerators with a peak energy of 500 keV (thousand electron volts) or greater, as follows, except accelerators that are component parts of devices designed for purposes other than electron beam or x-ray radiation (e.g., electron microscopy), that:

a. Have an accelerator peak electron energy of 500 keV or greater, but less than 25 MeV (million electron volts), and with a figure of merit (K) of 0.25 or greater·

a.1. Where K is defined as: $K=1.7x10^3 V^{2.65} Q$;

a.2. Where V is the peak electron energy in megavolts; and

a.3. Where Q is:

a.3.a. The total accelerated charge in coulombs, if the accelerator beam pulse duration is less than or equal to 1 microsecond;

a.3.b. The maximum accelerated charge in 1 microsecond, if the accelerator beam pulse duration is greater than 1 microsecond;

Note: Q equals the integral of "i" with respect to "t", over the lesser of 1 microsecond or the time duration of the beam pulse (Q=idt), where "i" is beam current in amperes and "t" is time in seconds.

b. Have an accelerator peak electron energy of 25 MeV or greater and a peak power greater than 50 MW.

Note: Peak power=(peak potential in volts)x(peak beam current in amperes).

Technical Note: The formula for "K" can be expressed as a table that shows the accelerated charge "Q", which is related to a specific energy "V" for K=0.25. Any device for which "Q" exceeds the value in the table is subject to control under this ECCN 5261F.

V (MeV)	Q (coulomb)
0.50	$920.0X10^{-6}$
0.75	$320.0X10^{-6}$
1.0	$150.0X10^{-6}$
3.0	$8.0X10^{-6}$
5.0	$2.0X10^{-6}$
8.0	$0.6X10^{-6}$
10.0	$0.3X10^{-6}$
15.0	$0.1X10^{-6}$
20.0	$0.05X10^{-6}$
25.0	$0.03X10^{-6}$

2A55B Compressors and blowers specially designed or prepared to be corrosion resistant to hydrogen sulfide.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NP
GLV: No
GCT: No
GFW: No

List of Items Controlled

Compressors and blowers specially designed or prepared to be corrosion-resistant to hydrogen sulfide, and having all of the following characteristics:

a. An inlet operating pressure of 260 to 280 psi-gauge, with a differential pressure between outlet and inlet of approximately 30 psi;

b. A suction volume of 120,000 scfm (approximately equal to 5.500 acfm); and

c. Capable of sustaining the inlet pressure, as indicated in 2A55.a, and the sunction volume, as indicated in 2A55.b, in hydrogen sulfide gas saturated with water vapor.

2A94F Portable electric generators and specially designed parts.

Requirements

Validated License Required: SZ, Iran, South Africa military and police
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

2A96G Other equipment, assemblies, and components in Category 2A, n.e.s.

Requirements

Validated License Required: SZ, South Africa military and police
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

B. Test, Inspection and Production Equipment

2B01A "Numerical control" units, "motion control boards" specially designed for "numerical control" applications on machine tools, machine tools, and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ
Unit: Number; $ value for parts and accessories
Reason for Control: NS and NP (see Note)
GLV: $5,000: 2B01.a and c; $0: 2B01.b
GCT: Yes
GFW: No

Note: NP controls apply to all countries except countries listed in Supp. No. 2 to part 773 of this subchapter.

List of Items Controlled

Technical Notes: 1. Secondary parallel contouring axes, e.g., the w-axis on horizontal boring mills or a secondary rotary axis the center line of which is parallel to the primary rotary axis, are not counted in the total number of contouring axes.

Note: Rotary axes need not rotate over 360°. A rotary axis can be driven by a linear device, e.g., a screw or a rack-and-pinion.

2. Axis nomenclature shall be in accordance with International Standard ISO 841, "Numerical Control Machines—Axis and Motion Nomenclature".

a. "Numerical control" units for machine tools, as follows, and specially designed components therefor:

a.1. Having more than four interpolating axes that can be coordinated simultaneously for "contouring control"; or

a.2. Having two, three or four interpolating axes that can be coordinated simultaneously for "contouring control" and:

a.2.a. Capable of "real-time processing" of data to modify, during the machining operation, tool path, feed rate and spindle data by either:

a.2.a.1. Automatic calculation and modification of part program data for machining in two or more axes by means of measuring cycles and access to source data; or

a.2.a.2. "Adaptive control" with more than one physical variable measured and processing by means of a computing model (strategy) to change one or more machining instructions to optimize the process;

a.2.b. Capable of receiving directly (on-line) and processing computer-aided-design (CAD) data for internal preparation of machine instructions; or

a.2.c. Capable, without modification, according to the manufacturer's technical specifications, of accepting additional boards which would permit an increase above the control levels specified in 2B01, in the number of interpolating axes that can be coordinated simultaneously for "contouring control", even if they do not contain these additional boards;

Note: 2B01.a does not control "numerical control" units if:

a. Modified for an incorporated in uncontrolled machines; or

b. Specially designed for uncontrolled machines.

b. "Motion control boards" specially designed for machine tools and having any of the following characteristics:

b.1. Interpolation in more than four axes;

b.2. Capable of "real time processing" as described in 2B01.a.2.a.; or

b.3. Capable of receiving and processing CAD data as described in 2B01.a.2.b;

c. Machine tools, as follows, for removing or cutting metals, ceramics or composites, that, according to the manufacturer's technical specifications, can be equipped with electronic devices for simultaneous "contouring control" in two or more axes:

c.1. Machine tools for turning, grinding, milling or any combination thereof that:

c.1.a. Have two or more axes than can be coordinated simultaneously for "contouring control"; and

c.1.b. Have any of the following characteristics:

c.1.b.1. Two or more contouring rotary axes;

Technical Note: The c-axis on jig grinders used to maintain grinding wheels normal to the work surface is not considered a contouring rotary axis.

c.1.b.2. One or more contouring "tilting spindles";

Note: 2B01.c.1.b.2 applies to machine tools for grinding or milling only.

c.1.b.3. "Camming" (axial displacement) in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

Note: 2B01.c.1.b.3 applies to machine tools for turning only.

c.1.b.4. "Run out" (out-of-true running) in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

c.1.b.5. The "positioning accuracies", with all compensations available, are less (better) than:

c.1.b.5.a. 0.001° on any rotary axis; or

c.1.b.5.b.1. 0.004 mm along any linear axis (overall positioning) for grinding machines;

c.1.b.5.b.2. 0.006 mm along any linear axis (overall positioning) for turning or milling machines; or

Note: 2B01.c.1.b.5 does not control milling or turning machine tools with a positioning accuracy along one axis, with all compensations available, equal to or greater (worse) than 0.005 mm.

Technical Note: The positioning accuracy of "numerically controlled" machine tools is to be determined and presented in accordance with ISO/DIS 230/2, paragraph 2.13, in conjunction with the requirements below:

a. Test conditions (paragraph 3):

1. For 12 hours before and during measurements, the machine tool and accuracy measuring equipment will be kept at the same ambient temperature. During the premeasurement time the slides of the machine will be continuously cycled in the same manner that the accuracy measurements will be taken;

2. The machine shall be equipped with any mechanical, electronic, or software compensation to be exported with the machine;

3. Accuracy of measuring equipment for the measurements shall be at least four times more accurate than the expected machine tool accuracy;

4. Power supply for slide drives shall be as follows:

a. Line voltage variation shall exceed ±10% of nominal rated voltage;

b. Frequency variation shall not exceed ±2 Hz of normal frequency;

c. Lineouts or interrupted service are not permitted.

b. Test program (paragraph 4):

1. Feed rate (velocity of slides) during measurement shall be the rapid traverse rate;

Note: In the case of machine tools that generate optical quality surfaces, the feedrate shall be equal to or less than 50 mm per minute.

2. Measurements shall be made in an incremental manner from one limit of the axis travel to the other without returning to the starting position for each move to the target position;

3. Axes not being measured shall be retained at mid travel during test of an axis.

c. Presentation of test results (paragraph 2): The results of the measurement must include:

1. Position accuracy (A); and

2. The mean reversal error (B).

c.1.b.6.a. A "positioning accuracy" less (better) than 0.007 mm; and

c.1.b.6.b. A slide motion from rest for all slides within 20% of a motion command input for inputs of less than 0.5 micrometer;

Technical Note: Minimum increment of motion test (slide motion from rest): The test is conducted only if the machine tool is equipped with a control unit the minimum increment of which is less (better) than 0.5 micrometer. Prepare the machine for testing in accordance with ISO 230.2 paragraphs 3.1, 3.2, 3.3. Conduct the test on each axis (slide) of the machine tool as follows:

1. Move the axis over at least 50% of the maximum travel in plus and minus directions twice at maximum feed rate, rapid traverse rate or jog control;

2. Wait at least 10 seconds;

3. With manual data input, input the minimum programmable increment of the control unit;

4. Measure the axis movement;

5. Clear the control unit with the servo null, reset or whatever clears any signal (voltage) in the servo loop;

6. Repeat steps 2 to 5 five times, twice in the same direction of the axis travel and three times in the opposite direction of travel for a total of six test points;

7. If the axis movement is between 80% and 120% of the minimum programmable input for four of the six test points, the machine is controlled. For rotary axes, the measurement is taken 200 mm from the center of rotation.

Note 1: 2BO1.c.1 does not control cylindrical external, internal, and external-internal grinding machines having all of the following characteristics:

a. Not centerless (shoe-type) grinding machines;

b. Limited to cylindrical grinding;

c. A maximum workplace outside diameter or length of 150 mm;

d. Only two axes which can be coordinated simultaneously for "contouring control"; and

e. No contouring c axis.

Note 2: 2B01.c.1 does not control machines designed specifically as jig grinders having both of the following characteristics:

a. Axes limited to x, y, c and a, where the c-axis is used to maintain the grinding wheel normal to the work surface and the a-axis is configured to grind barrel cams; and

b. A spindle "run out" not less (not better) than 0.0006 mm.

Note 3: 2B01.c.1 does not control tool or cutter grinding machines having all of the following characteristics:

a. Shipped as a complete system with "software" specially designed for the production of tools or cutters;

b. No more than two rotary axes that can be coordinated simultaneously for "contouring control";

c. "Run out" (out-of-true running) in one revolution of the spindle not less (not letter) than 0.0006 mm total indicator reading (TIR); and

d. The "positioning accuracies", with all compensations available, are not less (not better) than:

1. 0.004 mm along any linear axis for overall positioning; or

2. 0.001° on any rotary axis.

Advisory Note 4: Licenses will receive favorable consideration for exports to Country Groups QWY and the PRC of turning machines controlled by 2B01.c.1 provided that:

a. They are not intended for use in nuclear related activities; and

b. They have all of the following characteristics:

1. Only two axes that can be coordinated simultaneously for "contouring control";

2. The "positioning accuracy", with all compensations available, is not less (not better) than 0.002 mm per 300 mm of travel;

3. Geometric alignment of the axes, parallel or perpendicular to each other, is not less (not better) than 0.001 mm per 300 mm of travel;

4. Slide travel in both axes is not longer than 400 mm;

5. "Run out" (out-of-true running) in one revolution of the spindle is more (worse) than 0.0004 mm total indicator reading (TIR); and

6. "Camming" (axial displacement) in one revolution of the spindle is more (worse) than 0.0004 mm total indicator reading (TIR).

Advisory Note 5: Licenses are likely to be approved, as administrative exceptions, for exports to the People's Republic of China of machine tools for milling controlled by 2B01.c.1 to civil end-users other than nuclear and aerospace, provided that they are not controlled by 2B01.c.1.b.1, c.1.b.4, c.1.b.5 or c.1.b.6.

c.2. Electrical discharge machines (EDM) of the wire feed type that have five or more axes that can be coordinated simultaneously for "contouring control";

c.3. Electrical discharge machines (EDM) of the non-wire type that have two or more rotary axes that can be coordinated simultaneously for "contouring control";

c.4. Machine tools for removing metals, ceramics or composites:

c.4.a. By means of:

c.4.a.1. Water or other liquid jets, including those employing abrasive additives;

c.4.a.2. Electron beam; or

c.4.a.3. "Laser" beam; and

c.4.b. Having two or more rotary axes that:

c.4.b.1. Can be coordinated simultaneously for "contouring control"; and

c.4.b.2. Have a "positioning accuracy" of less (better) than 0.003°.

2B41E "Numerically controlled" machine tools not controlled by ECCN 2B01A.

Requirements

Validated License Required: SZ, Taiwan, and Supp. 4 to part 778 of this subchapter

Unit: Number; $ value for parts and accessories

Reason for Control: NP

GLV: $5,000

GCT: No

GFW: No

List of Items Controlled

Numerically controlled machine tools for turning that, according to the manufacturer's technical specifications, can be equipped with "numerical control" units controlled for export under ECCN 2B01A (even if not equipped with such units at the time of delivery) and that have:

a. Two or more axes that can be coordinated simultaneously for contouring control; and

b. One or more of the following characteristics:

b.1. Two or more contouring rotary axes;

b.2. "Run out" (out-of-true running) in one revolution of the spindles less (better) than 0.0008 mm total indicator reading (TIR);

b.3. "Camming" (axial displacement) in one revolution of the spindle less (better) than 0.0008 mm total indicator reading (TIR);

b.4. The "positioning accuracies", with all compensations available, are better than:

b.4.a. 0.010 mm along any linear axis (overall positioning);

b.4.b. 0.002° for any rotary axis.

2B02A Non-"numerically controlled" machine tools for generating optical quality surfaces.

Requirements

Validated License Required: QSTVWYZ

Unit: Number

Reason for Control: NS

GLV: $3,000

GCT: Yes

GFW: No

List of Items Controlled

a. Turning machines using a single point cutting tool and having all of the following characteristics:

a.1. Slide "positioning accuracy" less (better) than 0.0005 mm per 300 mm of travel;

a.2. Bidirectional slide positioning "repeatability" less (better) than 0.00025 mm per 300 mm of travel;

a.3. Spindle "run out" and "camming" less (better) than 0.0004 mm total indicator reading (TIR);

a.4. Angular deviation of the slide movement (yaw, pitch and roll) less (better) than 2 seconds of arc, total indicator reading (TIR), over full travel; and

a.5. Slide perpendicularity less (better) than 0.001 mm per 300 mm of travel

Technical Note: The bidirectional slide positioning "repeatability" R of an axis is the maximum value of the repeatability of positioning at any position along or around the axis determined using the procedure and under the conditions specified in part 2.11 of ISO 230–2: 1988.

b. Fly cutting machines having both of the following characteristics:

b.1. Spindle "run out" and "camming" less (better) than 0.0004 mm total indicator reading (TIR); and

b.2. Angular deviation of slide movement (yaw, pitch and roll) less (better) than 2 seconds of arc, total indicator reading (TIR), over full travel

2B03A "Numerically controlled" or manual machine tools specially designed for cutting, finishing, grinding or honing either of the following classes of bevel or parallel axis hardened (R_c=40 or more) gears, and specially designed components, controls and accessories therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: Number; $ value for parts and accessories

Reason for Control: NS

GLV: $5,000

GCT: Yes

GFW: No

List of Items Controlled

a. Hardened bevel gears finished to a quality of better than AGMA 13 (equivalent to ISO 1328 class 4); or

b. Hardened spur, helical and double-helical gears with a pitch diameter exceeding 1,250 mm and a face width of 15% of pitch diameter or larger finished to a quality of AGMA 14 or better (equivalent to ISO 1328 class 3).

2B04A Hot "isostatic presses", as follows, and specially designed dies, moulds, components, accessories and controls therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: Number; $ value for parts and accessories

Reason for Control: NS, MT, and NP

GLV: $5,000

GCT: No

GFW: No

Group W Favorable Consideration: No

List of Items Controlled

a. Having a controlled thermal environment within the closed cavity and possessing a chamber cavity with an inside diameter of 406 mm or more; and

b. Having:

b.1. A maximum working pressure exceeding 207 MPa;

b.2. A controlled thermal environment exceeding 1,773 K (1,500°C); or

b.3. A facility for hydrocarbon impregnation and removal of resultant gaseous degradation products.

Technical Note: The inside chamber dimension is that of the chamber in which both the working temperature and the working pressure are achieved and does not include fixtures. That dimension will be the smaller of either the inside diameter of the pressure chamber or the inside diameter of the insulated furnace chamber, depending on which of the two chambers is located inside the other.

2B24B "Isostatic presses" capable of achieving a maximum working pressure of 10,000 psi (69 MPa) or greater and having a chamber cavity with an inside diameter in excess of 152 mm (6 inches) and specially designed dies and molds, components, accessories, controls, and "specially designed software" therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: Number

Reason for Control: MT and NP (See Note)

GLV: $1,500

GCT: No

GFW: No

Note: MT controls apply to "isostatic presses" controlled by this entry that:

a. Are designed to achieve and maintain a controlled thermal environment of 600 °C or greater; and

b. Possess a chamber cavity with an inside diameter of 254 mm (10 in.) or greater.

2B05A Equipment specially designed for the deposition, processing and in-process control of inorganic overlays, coatings and surface modifications, as follows, for non-electronic substrates, by processes shown in the Table and associated Notes following 2E03.d and specially designed automated handling, positioning, manipulation and control components therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: NS

GLV: $1,000

GCT: No

GFW: No

Group W Favorable Consideration: No

List of Items Controlled

a. "Stored program controlled" chemical vapor deposition (CVD) production equipment with both of the following:

a.1. Process modified for one of the following:

a.1.a. Pulsating CVD;

a.1.b. Controlled nucleation thermal decomposition (CNTD); or

a.1.c. Plasma enhanced or plasma assisted CVD; and

a.2. Either of the following:

a.2.a. Incorporating high vacuum (equal to or less than 0.01 Pa) rotating seals; or

a.2.b. Incorporating *in situ* coating thickness control;

b. "Stored program controlled" ion implantation production equipment having beam currents of 5 mA or more;

c. "Stored program controlled' electron beam physical vapor deposition (EB–PVD) production equipment incorporating:

c.1. Power systems rated for over 80 kW;

c.2. A liquid pool level "laser" control system that regulates precisely the ingots feed rate; and

c.3. A computer controlled rate monitor operating on the principle of photo-luminescence of the ionised atoms in the evaporant stream to control the deposition rate of a coating containing two or more elements.

d. "Stored program controlled" plasma spraying production equipment having either of the following characteristics:

d.1. Operating at reduced pressure controlled atmosphere (equal to or less than 10 kPa measured above and within 300 mm of the gun nozzle exit) in a vacuum chamber capable of evacuation down to 0.01 Pa prior to the spraying process; or

d.2. Incorporating *in situ* coating thickness control.

e. "Stored program controlled" sputter deposition production equipment capable of current densities of 0.1 mA/mm^2 or higher at a deposition rate of 15 micrometer/hr or more;

f. "Stored program controlled" cathodic arc deposition production equipment incorporating a grid of electromagnets for steering control of the arc spot on the cathode;

g. "Stored program controlled" ion plating production equipment allowing for the *in situ* measurement of either:

g.1. Coating thickness on the substrate and rate control; *or*

g.2. Optical characteristics

Note: 2B05.g does not control standard ion plating coating equipment for cutting or machining tools.

2B06A Dimensional inspection or measuring systems or equipment.

Requirements

Validated License Required: QSTVWYZ

Unit: Number

Reason for Control: NS and NP (see Note)

GLV: $5,000

GCT: Yes

GFW: 2B06.b.1 only

Group W Favorable Consideration: Yes

Note: NP controls apply, for all countries except countries listed in supp. 2 to part 773, of this subchapter to items described in 2B06. b and c.

List of Items Controlled

a. Computer controlled, "numerically controlled" or "stored program controlled" dimensional inspection machines, having both of the following characteristics:

a.1. Two or more axes; and

a.2. A one dimensional length "measurement uncertainty" equal to or less (better) than (1.25 + L/1,000) micrometer tested with a probe with an "accuracy" of less (better) than 0.2 micrometer (L is the measured length in mm);

b. Linear and angular displacement measuring instruments, as follows:

b.1. Linear measuring instruments having any of the following characteristics:

b.1.a. Non-contact type measuring systems with a "resolution" equal to or less (better) than 0.2 micrometer within a measuring range up to 0.2 mm;

b.1.b. Linear voltage differential transformer systems with both of the following characteristics:

b.1.b.1. "Linearity" equal to or less (better) than 0.1% within a measuring range up to 5 mm; and

b.1.b.2. Drift equal to or less (better) than 0.1% per day at a standard ambient test room temperature ± 1 K; or

b.1.c. Measuring systems having both of the following characteristics:

b.1.c.1. Containing a "laser"; and

b.1.c.2. Maintaining, for at least 12 hours, over a temperature range of ± 1 K around a standard temperature and at a standard pressure:

b.1.c.2.a. A "resolution" over their full scale of 0.1 micrometer or less (better); and

b.1.c.2.b. A "measurement uncertainty" equal to or less (better) than (0.2 + L/2,000) micrometer (L is the measured length in mm);

b.2. Angular measuring instruments having an "angular position deviation" equal to or less (better) than 0.00025°;

Note: 2B06.b.2 does not control optical instruments, such as autocollimators, using collimated light to detect angular displacement of a mirror.

c. Systems for simultaneous linear-angular inspection of hemishells, having both of the following characteristics:

c.1. "Measurement uncertainty" along any linear axis equal to or less (better) than 3.5 micrometer per 5 mm; and

c.2. "Angular position deviation" equal to or less (better) than 0.02°;

d. Equipment for measuring surface irregularities, by measuring optical scatter as a function of angle, with a sensitivity of 0.5 nm or less (better).

Technical Notes: 1. Machine tools that can be used as measuring machines are controlled if they meet or exceed the criteria specified for the machine tool function or the measuring machine function.

2. A machine described in 2B06 is controlled if it exceeds the control threshold anywhere within its operating range.

3. The probe used in determining the "measurement uncertainty" of a dimensional inspection system shall be as described in VDI/VDE 2617 parts 2, 3, and 4.

4. All measurement values in 2B06 represent permissible positive and negative deviations from the target value, i.e., not total band.

Advisory Note: Licenses are likely to be approved, as administrative exceptions, for exports of equipment controlled by 2B06.b.1 above to civil end-users not engaged in aerospace or nuclear activities.

2B46B Dimensional inspection systems or devices and specially designed components therefor not controlled by ECCN 2B06A.

Requirements

Validated License Required:
QSTVWYZ
Unit: Number; $ value for parts and accessories
Reason for Control: NP
GLV: $5,000
GCT: No
GFW: No

List of Items Controlled

a. Computer controlled or numerically controlled dimensional inspection machines having both of the following characteristics:

a.1. Two or more axes; and

a.2. A one-dimensional length measurement uncertainty equal to or less (better) than (2.0+L/1000) micrometers tested with a probe of an "accuracy" of less (better) than 0.2 micrometers (L is the measured length in millimeters) (Ref: VDI/VDE 2617 parts 1 and 2);

b. Angular measuring instruments having an angular deviation equal to or less (better) than 0.0005°.

Note: 6B46.c does not control optical instruments, such as autocollimators, using collimated light to detect angular displacement of a mirror.

2B07A "Robots", and specially designed controllers and "end-effectors" therefor.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ value
Reason for Control: NS and NP (see Note)
GLV: $5,000
GCT: Yes
GFW: No

Note: NP controls apply to all countries except those listed in Supp. 2 to part 773 of this subchapter.

List of Items Controlled

a. Capable in real time of full three-dimensional image processing or full three-dimensional scene analysis to generate or modify "programs" or to generate or modify numerical program data;

Note: The scene analysis limitation does not include approximation of the third dimension by viewing at a given angle, or limited grey scale interpretation for the perception of depth or texture for the approved tasks (2½ D).

b. Specially designed to comply with national safety standards applicable to explosive munitions environments; or

c. Specially designed or rated as radiation-hardened beyond that necessary to withstand normal industrial (i.e., non-nuclear industry) ionizing radiation.

2B08A Assemblies, units or inserts specially designed for machine tools, or for equipment controlled by 2B06 or 2B07.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ value
Reason for Control: NS and NP (see Note)
GLV: $3,000
GCT: Yes
GFW: No

Note: NP controls apply to all countries except those listed in Supp. 2 to part 773 of this subchapter.

List of Items Controlled

a. Spindle assemblies, consisting of spindles and bearings as a minimal assembly, with radial ("run out") or axial ("camming") axis motion in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

b. Linear position feedback units, e.g., inductive type devices, graduated scales, infrared systems or "laser" systems, having an overall "accuracy" less (better) than (800+(600×L×10^{-3}))nm (L equals the effective length in mm);

c. Rotary position feedback units, e.g., inductive type devices, graduated scales, infrared systems or "laser" systems, having an "accuracy" less (better) than 0.00025°;

d. Slide way assemblies consisting of a minimal assembly of ways, bed and slide having all of the following characteristics:

d.1. A yaw, pitch or roll of less (better) than 2 seconds of arc total indicator reading (reference: ISO/DIS 230–1) over full travel;

d.2. A horizontal straightness of less (better) than 2 micrometer per 300 mm length; and

d.3. A vertical straightness of less (better) than 2 micrometer per 300 mm length;

e. Single point diamond cutting tool inserts, having all of the following characteristics:

e.1. Flawless and chip-free cutting edge when magnified 400 times in any direction;

e.2. Cutting radius from 0.1 to 5 mm inclusive; and

e.3. Cutting radius out-of-roundness less (better) than 0.002 mm total indicator reading (TIR)

2B09A Specially designed printed circuit boards with mounted components and software therefor, or "compound rotary tables", capable of upgrading, according to the manufacturer's specifications, "numerical control" units, machine tools or feed-back devices to or above the levels specified in ECCNs 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, and 2B08.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ value
Reason for Control: NS and NP (see Note)
GLV: $3,000
GCT: Yes
GFW: No

Note: NP controls apply to all countries except those listed in Supp. 2 to part 773 of this subchapter.

2B18A Commodities on the International Munitions List.

Requirements

Validated License Required:
QSTVWYZ
Unit: Number; $ value for parts and accessories
Reason for Control: NS, MT, and FP (see Notes)
GLV: $3,000
GCT: Yes, except MT (see Notes)
GFW: Yes (see Advisory Note)

Country Group W Favorable Consideration: Yes, except MT (see Notes)

Notes: 1. *MT Controls* apply to specialized machinery, equipment, and gear for producing rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) as described in § 778.7(a) of this subchapter, their propulsion systems and components, and pyrolytic deposition and densification equipment.

2. *FP Controls* apply to all exports to South Africa of commodities described in 2B18.

List of Items Controlled

Specialized machinery, equipment, gear, and specially designed parts and accessories therefor, including but not limited to the following, that are specially designed for the examination, manufacture, testing, and checking of arms, appliances, machines, and implements of war:

Armor plate drilling machines, other than radial drilling machines;

Armor plate planing machines;

Armor plate quenching presses;

Centrifugal casting machines capable of casting tubes 6 feet (183 cm) or more in length, with a wall thickness of 2 inches (5 cm) and over;

Gun barrel rifling and broaching machines, and tools therefor;

Gun barrel rifling machines;

Gun barrel trepanning machines;

Gun boring and turning machines;

Gun honing machines of 6 feet (183 cm) stroke or more;

Gun jump screw lathes;

Gun rifling machines;

Gun straightening presses;

Induction hardening machines for tank turret rings and sprockets;

Jigs and fixtures and other metal-working implements or accessories of the kinds exclusively designed for use in the manufacture of firearms, ordnance, and other stores and appliances for land, sea, or aerial warfare;

Small arms chambering machines;

Small arms deep hole drilling machines and drills therefor;

Small arms rifling machines;

Small arms spill boring machines;

Tank turret bearing grinding machines.

Advisory Note: License are likely to be approved, as administrative exceptions, for export to Country Groups QWY and the PRC of equipment used to determine the safety data of explosives, as required by the International Convention on the Transport of Dangerous Goods (C.I.M.) articles 3 and 4 in Annex 1 RID, provided that such equipment will be used only by the railway authorities of current C.I.M. members, or by the Government-accredited testing facilities in those countries, for the testing of explosives to transport safety standards, of the following description:

a. Equipment for determining the ignition and deflagration temperatures;

b. Equipment for steel-shell tests;

c. Drophammers not exceeding 20 kg in weight for determining the sensitivity of explosives to shock;

d. Equipment for determining the friction sensitivity of explosives when exposed to charges not exceeding 36 kg in weight.

2B40B Vibration test equipment.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: NP

GLV: $3,000

GCT: No

GFW: No

List of Items Controlled

Vibration test equipment using digital control techniques and specially designed ancillary equipment therefor, *except:*

a. Individual exciters (thrusters) with a maximum thrust of less than 100 kN (22,500 lbs.);

b. Analog equipment;

c. Mechanical and pneumatic exciters (thrusters);

d. Vibrometers;

e. Digital ancillary equipment not controlled under Category 3 or 4;

f. Equipment, and feedback or closed loop test equipment therefor, capable of vibrating a system at 10g RMS or more between 20 Hz and 2,000 Hz with a maximum thrust of 50 kN (11,250 lbs.) or greater.

Note: Equipment described in 2B40.f is controlled by 9B27B.

2B50B Spin-forming and flow-forming machines specially designed or adapted for use with numerical or computer controls and specially designed parts and accessories therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: Number; $ value for parts and accessories

Reason for Control: NP

GLV: $3,000

GCT: No

GFW: No

2B51B Centrifuge rotor assembly and straightening equipment and bellows-forming mandrels and dies.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: NP

GLV: No

GCT: No

GFW: No

2B53B Centrifugal balancing machines, fixed or portable, horizontal or vertical, having all of the characteristics described in this entry.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: NP

GLV: No

GCT: No

GFW: No

List of Items Controlled

a. Suitable for balancing flexible rotors having a diameter of from 3 inches (75 mm) to 16 inches (400 mm), and a length of 24 inches (600 mm) or more; and

b. Mass capability of from 2 lbs. to 50 lbs. (0.9 kg. to 23 kg.); and

c. Capable of balancing to a residual imbalance of 0.001 in.-lb./lb. (0.056 kg.-mm./kg.) per plane or greater; and

d. Capable of balancing in two or more planes.

2B54B Mechanical testing devices for simultaneous centrifugal and vibrational testing that are capable of subjecting a component with a mass of 12 kilograms or greater to simultaneous stress at least 10 g nominal steady state acceleration and at least 10 g's root-mean-square vibration.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: NP

GLV: No

GCT: No

GFW: No

2B91F "Numerical control" units for machine tools and numerically controlled machine tools, n.e.s.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police

Unit: Number

Reason for Control: FP

GLV: No

GCT: No

GFW: No

List of Items Controlled

a. "Numerical control" units for machine tools:

a.1. Having four interpolating axes that can be coordinated simultaneously for "contouring control"; or

a.2. Having two or more axes that can be coordinated simultaneously for "contouring control" and a minimum programmable increment better (less) than 0.001 mm (0.00004 in.);

b. Numerically controlled machine tools for turning that, according to the manufacturer's technical specifications, can be equipped with "numerical control" units controlled for export under 2B01 or 2B91.a, and that have both of the following:

b.1. Two or more axes that can be coordinated simultaneously for contouring control; and

b.2. "Positioning accuracies", with all compensations available, better than 0.020 mm, but no better than 0.010 mm, along any linear axis (overall positioning).

2B92F Manual dimensional inspection machines with two or more axes, and measurement uncertainty equal to or less (better) than (3+L/300) micrometer in any axes (L measured length in mm).

Requirements

Validated License Required: SZ, Iran, Syria, South Africa military and police
Unit: Number
Reason for Control: FP
GLV: No
GCT: No
GFW: No

2B93F Gear making and/or finishing machinery not controlled by 2B03A capable of producing gears to a quality level of better than AGMA 11.

Requirements

Validated License Required: SZ, Iran, Syria, South Africa military and police
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

2B94F Robots not controlled by 2B07A that are capable of employing feedback information in real-time processing from one or more sensors to generate or modify "programs" or to generate or modify numerical program data.

Requirements

Validated License Required: SZ, Iran, Syria, South Africa military and police
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

2B96G Other test, inspection, and production equipment in Category 2B, n.e.s.

Requirements

Validated License Required: SZ, South Africa military and police
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

Notes for Category 2B: Note: Category 2B does not control measuring interferometer systems, without closed or open loop feedback, containing a "laser" to measure slide movement errors of machine-tools, dimensional inspection machines or similar equipment.

C. Materials [Reserved]

D. Software

2D01A "Software" specially designed or modified for the "development", "production" or "use" of equipment controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, or 2B09.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS, MT, and NP (see *Notes*)
GTDR: Yes, except MT (see **Notes**) and exports to Iran and Syria
GTDU: No

Notes:

1. MT controls apply to "software" specially designed or modified for the "development", "production", or "use" of equipment described in 2B04.

2. NP controls apply to "software" described in this ECCN for the "use" of equipment described in ECCNs 2B01 and 2B06.b and c.

2D02A Specific "software".

Requirements

Validated License Required: QSWYZ, Iran, Syria, PRC, South Africa military and police
Unit: $ value
Reason for Control: NS
GTDR: Yes
GTDU: No

List of Items Controlled

a. "Software" to provide "adaptive control" and having both of the following characteristics:

a.1. For "flexible manufacturing units" (FMUs) which consist at least of equipment described in b.1 and b.2 of the definition of "flexible manufacturing unit"; and

a.2. Capable of generating or modifying, in "real time processing", programs or data by using the signals obtained simultaneously by means of at least two detection techniques, such as:

a.2.a. Machine vision (optical ranging);

a.2.b. Infrared imaging;

a.2.c. Acoustical imaging (acoustical ranging);

a.2.d. Tactile measurement;

a.2.e. Inertial positioning;

a.2.f. Force measurement;

a.2.g. Torque measurement;

Note: 2D02.a does not control "software" which only provides rescheduling of functionally identical equipment within "flexible manufacturing units" using pre-stored part programs and a pre-stored strategy for the distribution of the part programs.

b. "Software" for electronic devices other than those described in 2B01.a or b, which provides the "numerical control" capability of the equipment controlled by 2B01.

2D18A "Software" for the "development", "production", or "use" of equipment controlled by 2B18.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS, MT, FP (see **Notes**)
GTDR: Yes, except MT and FP (see **Notes**) and exports to Iran and Syria
GTDU: No

Notes: 1. *MT Controls* apply to "software" for the "development", "production", or "use" of the following commodities controlled by ECCN 2B18: specialized machinery, equipment, and gear for producing rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) as described in § 778.7(a) of this subchapter, their propulsion systems and components, and pyrolitic deposition and densification equipment.

2. *FP Controls* apply to all exports to South Africa.

2D19A "Software" for the "development", "production", or "use" of equipment controlled by 2A19.

Requirements

Validated License Required: QSTVWYZ and Canada
Unit: $ value
Reason for Control: NS, NP (see Note)
GTDR: Yes, except 2A19.b and exports to Iran and Syria
GTDU: No

Note: NP controls apply to all "software" controlled by this entry. A validated export license is required for export to Country Groups QSTVWYZ and Canada of "software" for the "development", "production", or "use" of neutron generator systems described in ECCN 2A19.b.

2D24B "Software" for the "development", "production", or "use" of commodities controlled by 2B24.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: MT and NP
GTDR: No
GTDU: No

List of Items Controlled

"Software" for the "development", "production", or "use" of commodities that are controlled by 2B24 and have the following characteristics:

a. Designed to achieve and maintain a controlled thermal environment of 600° C or greater; and

b. Possess a chamber cavity with an inside diameter of 254 mm (10 in.) or greater.

2D46C "Software" specially designed or modified for the "development", "production", or "use" of equipment controlled by 2B46.

Requirements

Validated License Required: QSWYZ, PRC, South Africa military and police
Unit: $ value
Reason for Control: NP
GTDR: Yes
GTDU: No

2D50C "Software" specially designed or modified for the "development", "production", or "use" of equipment controlled by 2A50 or 2A51.

Requirements

Validated License Required: QSWYZ, PRC, and South Africa military and police
Unit: $ value
Reason for Control: NP
GTDR: Yes
GTDU: No

2D52B "Software" specially designed or modified for the "development", "production" or "use" of equipment controlled by 2A52 or 2B53.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NP
GTDR: No
GTDU: No

2D53C "Software" specially designed or modified for the "use" of equipment controlled by 2B50.

Requirements

Validated License Required: QSWYZ, PRC, and South Africa military and police
Unit: $ value
Reason for Control: NP
GTDR: Yes
GTDU: No

2D96G "Software", n.e.s., for the "development", "production", or "use" of commodities controlled under Category 2.

Requirements

Validated License Required: SZ and South Africa military and police
Unit: $ value
Reason for Control: FP
GTDR: No
GTDU: Yes

E. Technology

2E01A Technology according to the General Technology Note for the "development" of equipment or "software" controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, 2B09, 2D01, or 2D02.

Requirements

Validated License Required: QSTVWYZ
Reason for Control: NS and MT (see Note)
GTDR: Yes, except MT (see Note) and exports to Iran and Syria
GTDU: No

Note: MT controls apply to "technical data" for the "development" of commodities controlled by 2B04.

2E02A Technology according to the General Technology Note for the "production" of equipment controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, or 2B09.

Requirements

Validated License Required: QSTVWYZ
Reason for Control: NS and MT (see Note)
GTDR: Yes, except MT (see Note) and exports to Iran and Syria
GTDU: No

Note: MT controls apply to "technical data" for the "production" of commodities controlled by 2B04.

2E03A Other technology.

Requirements

Validated License Required: QSTVWYZ
Unit: N/A
Reason for Control: NS
GTDR: Yes, except 2E03.b and d and exports to Iran and Syria
GTDU: No

List of Items Controlled

a. Technology:

a.1. For the "development" of interactive graphics as an integrated part in "numerical control" units for preparation or modification of part programs;

a.2. For the "development" of generators of machine tool instructions (e.g., part programs) from design data residing inside "numerical control" units;

a.3. For the "development" of integration "software" for incorporation of expert systems for advanced decision support of shop floor operations into "numerical control" units;

b. Technology for metal-working manufacturing processes, as follows:

b.1. Technology for the design of tools, dies or fixtures specially designed for the following processes:

b.1.a. "Superplastic forming";

b.1.b. "Diffusion bonding";

b.1.c. "Direct-acting hydraulic pressing";

b.2. Technical data consisting of process methods or parameters as listed below used to control:

b.2.a. "Superplastic forming" of aluminum alloys, titanium alloys or "superalloys":

b.2.a.1. Surface preparation;

b.2.a.2. Strain rate;

b.2.a.3. Temperature;

b.2.a.4. Pressure;

b.2.b. "Diffusion bonding" of "superalloys" or titanium alloys:

b.2.b.1. Surface preparation;

b.2.b.2. Temperature;

b.2.b.3. Pressure;

b.2.c. "Direct-acting hydraulic pressing" of aluminum alloys or titanium alloys:

b.2.c.1. Pressure;

b.2.c.2. Cycle time;

b.2.d. "Hot isostatic densification" of titanium alloys, aluminum alloys or "superalloys":

b.2.d.1. Temperature;

b.2.d.2. Pressure;

b.2.d.3. Cycle time;

c. Technology for the "development" or "production" of hydraulic stretch-forming machines and dies therefor, for the manufacture of airframe structures;

d. Technology for:

d.1. The application of inorganic overlay coatings or inorganic surface modification coatings, specified in column 3 of the following Table;

d.2. To non-electronic substrates, specified in column 2 of the following Table;

d.3. By processes specified in column 1 of the following Table and defined in the Technical Note.

Category 2B—Materials Processing Table; Deposition Techniques

1. *Coating process (1)*	2. *Substrate*	3. *Resultant coating*
A. Chemical Vapor Deposition (CVD)	"Superalloys"	Aluminides for internal passages.
	Ceramics and Low-expansion glasses(14)	Silicides.
		Carbides.
		Dielectric layers (15).
	Carbon-carbon, Ceramic, and Metal matrix composites.	Silicides.
		Carbides.
		Refractory metals.
		Mixtures thereof (4).
		Aluminides.
		Alloyed aluminides (2).
	Cemented tungsten carbide (16), Silicon carbide	Carbides.
		Tungsten.
		Mixtures thereof (4).
		Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Dielectric layers (15).
	Sensor window materials (9)	Dielectric layers (15).
B. Thermal-Evaporation Physical Vapor:		
1. Physical Vapor Deposition (PVD): Electron-Beam	"Superalloys"	Alloyed silicides.
		Alloyed aluminides (2).
		MCrAlX (5).
		Modified zirconia (12).
		Silicides.
		Aluminides.
		Mixtures thereof (4).
	Ceramics and Low-expansion glasses (14)	Dielectric layers (15).
	Corrosion resistant steel (7)	MCrAlX (5).
		Modified zirconia (12).
		Mixtures thereof (4).
	Carbon-carbon, Ceramic and Metal matrix composites	Silicides.
		Carbides.
		Refractory metals.
		Mixtures thereof (4).
		Dielectric layers (15).
	Cemented tungsten carbide (16), Silicon carbide	Carbides.
		Tungsten.
		Mixtures thereof (4).
		Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Dielectric layers (15).
		Borides.
	Sensor window materials (9)	Dielectric layers (15).
	Titanium alloys (13)	Borides.
		Nitrides.
2. Ion assisted resistive heating; Physical Vapor Deposition (Ion Plating).	Ceramics and Low-expansion glasses (4)	Dielectric layers (15).
	Carbon-carbon Ceramic and Metal matrix composites	Dielectric layers (15).
	Cemented tungsten carbide (16), Silicon carbide	Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Dielectric layers (15).
	Sensor window materials (9)	Dielectric layers (15).
3. Physical Vapor Deposition: "laser" evaporation	Ceramics and Low-expansion glasses (14)	Silicides.
		Dielectric layers (15).
	Carbon-carbon, Ceramic and Metal matrix composites	Dielectric layers (15).
	Cemented tungsten carbide (16), Silicon carbide	Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Dielectric layers (15).
	Sensor window materials (9)	Dielectric layers (15).
		Diamond-like carbon.
4. Physical Vapor Deposition: cathodic arc discharge	"Superalloys"	Alloyed silicides.
		Alloyed aluminides (2).
		McrAlX (5).
	Polymers (11) and Organic matrix composites	Borides.
		Carbides.
		Nitrides.
C. Pack cementation (see A above for out-of-pack cementation) (10).	Carbon-carbon, Ceramic and Metal matrix	Silicides.
		Carbides.
		Mixtures thereof (4).
	Titanium alloys (13)	Silicides.
		Aluminides.
		Alloyed aluminides (2).
	Refractory metals and alloys (8)	Silicides.
		Oxides.

1. *Coating process (1)*	2. *Substrate*	3. *Resultant coating*
D. Plasma spraying		MCrAlX (5).
		Modified zirconia (12).
		Mixtures thereof (4).
		Abradable Nickel-Graphite.
		Abradable Ni-Cr-Al-.
		Bentonite.
		Abradable Al-Si-Polyester.
		Alloyed aluminides (2).
	Aluminum alloys (6)	MCrAlX (5).
		Modified zirconia (12).
		Silicides.
		Mixtures thereof (4).
	Refractory metals and alloys (8)	Aluminides.
		Silicides.
		Carbides.
	Corrosion resistant steel (7)	MCrAlX (5).
		Modified zirconia (12).
		Mixtures thereof (4).
	Titanium alloys (13)	Carbides.
		Aluminides.
		Silicides.
		Alloyed aluminides (2).
		Abradable Nickel-Graphite.
		Abradable Ni-Cr-Al-.
		Bentonite.
		Abradable Al-Si-Polyester.
E. Slurry Deposition	Refractory metals and alloys (8)	Fused silicides.
		Fused aluminides except for resistance heating elements.
	Carbon-carbon, Ceramic and Metal matrix composites	Silicides.
		Carbides.
		Mixtures thereof (4).
F. Sputter Deposition	"Superalloys"	Alloyed silicides.
		Alloyed aluminides (2).
		Noble metal modified.
		aluminides (3).
		MCrAlX (5).
		Modified zirconia (12).
		Platinum.
		Mixtures thereof (4).
	Ceramics and Low-expansion glasses (14)	Silicides.
		Platinum.
		Mixtures thereof (4).
		Dielectric layers (15).
	Titanium alloys (13)	Borides.
		Nitrides.
		Oxides.
		Silicides.
		Aluminides.
		Alloyed aluminides (2).
		Carbides.
	Carbon-carbon, Ceramic and Metal matrix composites	Silicides.
		Carbides.
		Refractory metals.
		Mixtures thereof (4).
		Dielectric layers (15).
	Cemented tungsten carbide (16), Silicon carbide	Carbides.
		Tungsten.
		Mixtures thereof (4).
		Dielectric layers (15).
	Molybdenum and Molybdenum alloys	Dielectric layers (15).
	Beryllium and Beryllium alloys	Borides.
		Dielectric layers (15).
	Sensor window materials (9)	Dielectric layers (15).
	Refractory metals and alloys (8)	Aluminides.
		Silicides.
G. Ion implantation	High temperature bearing steels	Additions of Chromium, Tantalum, or Niobium (Columbium).
	Titanium alloys (13)	Borides.
		Nitrides.
	Beryllium and Beryllium alloys	Borides.
	Cemented tungsten carbide (16)	Carbides.
		Nitrides.

Notes to Table on Deposition Techniques:

1. The term *coating process* includes coating repair and refurbishing as well as original coating.

2. The term *alloyed aluminide* coating includes single or multiple-step coatings in which an element or elements are deposited prior to or during application of the aluminide coating, even if these elements are deposited by another coating process. It does not, however, include the multiple use of single-step pack cementation processes to achieve alloyed aluminides.

3. The term *noble metal modified aluminide* coating includes multiple-step coatings in which the noble metal or noble metals are laid down by some other coating process prior to application of the aluminide coating.

4. Mixtures consist of infiltrated material, graded compositions, co-deposits and multilayer deposits and are obtained by one or more of the coating processes specified in the Table.

5. MCrAlX refers to a coating alloy where M equals cobalt, iron, nickel or combinations thereof and X equals hafnium, yttrium, silicon, tantalum in any amount or other intentional additions over 0.01 weight percent in various proportions and combinations, except:

a. CoCrAlY coatings which contain less than 22 weight percent of chromium, less than 7 weight percent of aluminium and less than 2 weight percent of yttrium;

b. CoCrAlY coatings which contain less than 22 to 24 weight percent of chromium, 10 to 12 weight percent of aluminium and 0.5 to 0.7 weight percent of yttrium; or

c. NiCrAlY coatings which contain 21 to 23 weight percent of chromium, 10 to 12 weight percent of aluminium and 0.9 to 1.1 weight percent of yttrium.

6. The term 'aluminium alloys' refers to alloys having an ultimate tensile strength of 190 MPa or more measured at 293 K (20 °C).

7. The term *corrosion resistant steel* refers to AISI (American Iron and Steel Institute) 300 series or equivalent national standard steels.

8. Refractory metals consist of the following metals and their alloys: niobium (columbium), molybdenum, tungsten and tantalum.

9. Sensor window materials, as follows: Alumina, silicon, germanium, zinc sulphide, zinc selenide, gallium arsenide and the following metal halides: potassium iodide, potassium fluoride, or sensor window materials of more than 40 mm diameter for thallium bromide and thallium chlorobromide.

10. Technology for single-step pack cementation of solid airfoils is not controlled by this Category.

11. Polymers, as follows: polyimide, polyester, polysulfide, polycarbonates and polyurethanes.

12. Modified zirconia refers to additions of other metal oxides, e.g., calcia, magesia, yttria, hafnia, rare earth oxides, etc., to zirconia in order to stabilise certain crystallographic phases and phase compositions. Thermal barrier coatings made of zirconia, modified with calcia or magnesia by mixing or fusion, are not controlled.

13. Titanium alloys refers to aerospace alloys having an ultimate tensile strength of 900 MPa or more measured at 293 K (20 °C).

14. Low-expansion glasses refers to glasses which have a coefficient of thermal expansion of $1 \times 10^{-7} K^{-1}$ or less measured at 293 K (20 °C).

15. Dielectric layers are coatings constructed of multi-layers of insulator materials in which the interference properties of a design composed of materials of various refractive indices are used to reflect, transmit or absorb various wavelength bands. Dielectric layers refers to more than four dielectric layers or dielectric/metal composite layers.

16. Cemented tungsten carbide does not include cutting and forming tool materials consisting of tungsten carbide/ (cobalt, nickel), titanium carbide/ (cobalt, nickel), chromium carbide/nickel-chromium and chromium carbide/nickel.

Technical Note to Table on Deposition Techniques: Processes specified in Column 1 of the Table are defined as follows:

a. *Chemical Vapour Deposition (CVD)* is an overlay coating or surface modification coating process wherein a metal, alloy, composite, dielectric or ceramic is deposited upon a heated substrate. Gaseous reactants are decomposed or combined in the vicinity of a substrate resulting in the deposition of the desired elemental, alloy or compound material on the substrate. Energy for this decomposition or chemical reaction process may be provided by the heat of the substrate, a glow discharge plasma, or "laser" irradiation.

Notes: 1. CVD includes the following processes: Directed gas flow out-of-pack deposition, pulsating CVD, controlled nucleation thermal decomposition (CNTD), plasma enhanced or plasma assisted CVD processes.

2. Pack denotes a substrate immersed in a powder mixture.

3. The gaseous reactants utilized in the out-of-pack process are produced using the same basic reactions and parameters as the pack cementation process, except that the substrate to be coated is not in contact with the powder mixture.

b. *Thermal Evaporation-Physical Vapour Deposition (TE–PVD)* is an overlay coating process conducted in a vacuum with a pressure less than 0.1 Pa wherein a source of thermal energy is used to vaporize the coating material. This process results in the condensation, or deposition, of the evaporated species onto appropriately positioned substrates. The addition of gases to the vacuum chamber during the coating process to synthesize compound coatings is an ordinary modification of the process. The use of ion or electron beams, or plasma, to activate or assist the coating's deposition is also a common modification in this technique. The use of monitors to provide in-process measurement of optical characteristics and thickness of coatings can be a feature of these processes. Specific TE–PVD processes are as follows:

1. Electron Beam PVD uses an electron beam to heat and evaporate the material which forms the coating;

2. Resistive Heating PVD employs electrically resistive heating sources capable of producing a controlled and uniform flux of evaporated coating species;

3. "Laser" Evaporation uses either pulsed or continuous wave "laser" beams to heat the material which forms the coating;

4. Cathodic Arc Deposition employs a consumable cathode of the material which forms the coating and has an arc discharge established on the surface by a momentary contact of a ground trigger. Controlled motion of arcing erodes the cathode surface creating a highly ionized plasma. The anode can be either a cone attached to the periphery of the cathode, through an insulator, or the chamber. Substrate biasing is used for non line-of-sight deposition.

Note: This definition does not include random cathodic arc deposition with non-biased substrates.

c. *Ion Plating* is a special modification of a general TE–PVD process in which a plasma or an ion source is used to ionize the species to be deposited, and a negative bias is applied to the substrate in order to facilitate the extraction of the species to be deposited from the plasma. The introduction of reactive species, evaporation of solids within the process chamber, and the use of monitors to provide in-process measurement of optical characteristics and thicknesses of coatings are ordinary modifications of the process.

d. *Pack Cementation* is a surface modification coating or overlay coating process wherein a substrate is immersed in a powder mixture (a pack), that consists of:

1. The metallic powders that are to be deposited (usually aluminium, chromium, silicon or combinations thereof);

2. An activator (normally a halide salt); and

3. An inert powder, most frequently alumina.

The substrate and powder mixture is contained within a retort which is heated to between 1,030 K (757 °C) to 1,375 K (1,102 °C) for sufficient time to deposit the coating.

e. *Plasma Spraying* is an overlay coating process wherein a gun (spray torch) which produces and controls a plasma accepts powder or wire coating materials, melts them and propels them towards a substrate, whereon an integrally bounded coating is formed. Plasma spraying constitutes either low pressure plasma spraying or high velocity plasma spraying carried out underwater.

Notes: Low pressure means less than ambient atmospheric pressure.

2. High velocity refers to nozzle-exit gas velocity exceeding 750 m/s calculated at 293 K (20 °C) at 0.1 MPa.

f. *Slurry Deposition* is a surface modification coating or overlay coating process wherein a metallic or ceramic powder with an organic binder is suspended in a liquid and is applied to a substrate by either spraying, dipping or painting, subsequent air or oven drying, and heat treatment to obtain the desired coating.

g. *Sputter Deposition* is an overlay coating process based on a momentum transfer phenomenon, wherein positive ions are accelerated by an electric field towards the surface of a target (coating material). The kinetic energy of the impacting ions is sufficient to cause target surface atoms to be released and deposited on an appropriately positioned substrate.

Notes: 1. The Table refers only to triode, magnetron or reactive sputter deposition which is used to increase adhesion of the coating and rate of deposition and to radio frequency (RF) augmented sputter deposition used to permit vapourisation of non-metallic coating materials.

2. Low-energy ion beams (less than 5 keV) can be used to activate the deposition.

h. *Ion Implantation* is a surface modification coating process in which the element to be alloyed is ionized, accelerated through a potential gradient and implanted into the surface region of the substrate. This includes processes in which ion implantation is performed simultaneously with electron beam physical vapour deposition or sputter deposition.

Accompanying Technical Information to Table on Deposition Techniques: 1. Technology for pretreatments of the substrates listed in the Table, as follows:

a. Chemical stripping and cleaning bath cycle parameters, as follows:

1. Bath composition

a. For the removal of old or defective coatings, corrosion product or foreign deposits;

b. For preparation of virgin substrates;

2. Time in bath;

3. Temperature of bath;

4. Number and sequences of wash cycles;

b. Visual and macroscopic criteria for acceptance of the cleaned part;

c. Heat treatment cycle parameters, as follows:

1. Atmosphere parameters, as follows:

a. Composition of the atmosphere;

b. Pressure of the atmosphere;

2. Temperature for heat treatment;

3. Time of heat treatment;

d. Substrate surface preparation parameters, as follows:

1. Grit blasting parameters, as follows:

a. Grit composition;

b. Grit size and shape;

c. Grit velocity;

2. Time and sequence of cleaning cycle after grit blast;

3. Surface finish parameters;

e. Masking technique parameters, as follows:

1. Material of mask;

2. Location of mask;

2. Technology for *in situ* quality assurance techniques for evaluation of the coating processes listed in the Table, as follows:

a. Atmosphere parameters, as follows:

1. Composition of the atmosphere;

2. Pressure of the atmosphere;

b. Time parameters;

c. Temperature parameters;

d. Thickness parameters;

e. Index of refraction parameters;

3. Technology for post deposition treatments of the coated substrates listed in the Table, as follows:

a. Shot peening parameters, as follows:

1. Shot composition;

2. Shot size;

3. Shot velocity;

b. Post shot peening cleaning parameters;

c. Heat treatment cycle parameters, as follows:

1. Atmosphere parameters, as follows:

a. Composition of the atmosphere;

b. Pressure of the atmosphere;

2. Time-temperature cycles;

d. Post heat treatment visual and macroscopic criteria for acceptance of the coated substrates;

4. Technology for quality assurance techniques for the evaluation of the coated substrates listed in the Table, as follows:

a. Statistical sampling criteria;

b. Microscopic criteria for:

1. Magnification;

2. Coating thickness uniformity;

3. Coating integrity;

4. Coating composition;

5. Coating and substrates bonding;

6. Microstructural uniformity.

c. Criteria for optical properties assessment:

1. Reflectance;

2. Transmission;

3. Absorption;

4. Scatter;

5. Technology and parameters related to specific coating and surface modification processes listed in the Table, as follows:

a. For Chemical Vapor Deposition:

1. Coating source composition and formulation;

2. Carrier gas composition;

3. Substrate temperature;

4. Time-temperature-pressure cycles;

5. Gas control and part manipulation;

b. For Thermal Evaporation—Physical Vapour Deposition:

1. Ingot or coating material source composition;

2. Substrate temperature;

3. Reactive gas composition;

4. Ingot feed rate or material vapourisation rate;

5. Time-temperature-pressure cycles;

6. Beam and part manipulation;

7. "Laser" parameters, as follows:

a. Wave length;

b. Power density;

c. Pulse length;

d. Repetition ratio;

e. Source;

f. Substrate orientation.

c. For Pack Cementation:

1. Pack composition and formulation;

2. Carrier gas composition;

3. Time-temperature-pressure cycles.

d. For Plasma Spraying:

1. Powder composition, preparation and size distributions;

2. Feed gas composition and parameters;

3. Substrate temperature;

4. Gun power parameters;

5. Spray distance;

6. Spray angle;

7. Cover gas composition, pressure and flow rates;

8. Gun control and part manipulation.

e. For Sputter Deposition:

1. Target composition and fabrication;

2. Geometrical positioning of part and target;

3. Reactive gas composition;

4. Electrical bias;

5. Time-temperature-pressure cycles;

6. Triode power;

7. Part manipulation.

f. For Ion Implantation:

1. Beam control and part manipulation;

2. Ion source design details;

3. Control techniques for ion beam and deposition rate parameters;

4. Time-temperature-pressure cycles.

g. For Ion Plating:

1. Beam control and part manipulation;

2. Ion source design details;

3. Control techniques for ion beam and deposition rate parameters;

4. Time-temperature-pressure cycles;

5. Coating material feed rate and vapourisation rate;

6. Substrate temperature;

7. Substrate bias parameters.

2E18A Technology for the "development", "production", or "use" of equipment controlled by 2B18.

Requirements

Validated License Required: QSTVWYZ

Reason for Control: NS, MT, FP (see Notes)

GTDR: Yes, except MT and FP (see Notes) and exports to Iran and Syria

GTDU: No

Notes: 1. *MT Controls* apply to technology for the "development", "production", or "use" of specialized machinery, equipment, and gear for producing rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) as described in § 778.7(a) of this subchapter, their propulsion systems and components, and pyrolitic deposition and densification equipment.

2. *FP Controls* apply to all exports to South Africa.

2E19A Technology for the "development", "production", or "use" of equipment controlled by 2A19.

Requirements

Validated License Required: QSTVWYZ and Canada

Reason for Control: NS, NP (see Note)

GTDR: Yes, except 2A19.b and exports to Iran and Syria

GTDU: No

Note: NP controls apply to all technology controlled by this entry. A validated license is required for exports to Country Groups QSTVWYZ and Canada of technology for the "development", "production", or "use" of neutron generator systems described in ECCN 2A19.b.

2E20B Technology for the "use" of commodities controlled by 2B04.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: MT

GTDR: No

GTDU: No

2E24B Technology for the "development", "production", or "use" of commodities controlled by 2B24.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: MT

GTDR: No

GTDU: No

List of Items Controlled

Technology for the "development", "production", or "use" of commodities that are controlled by 2B24 and have the following characteristics:

a. Designed to achieve and maintain a controlled thermal environment of 600 °C or greater; and

b. Possess a chamber cavity with an inside diameter of 254 mm (10 in.) or greater.

2E50C Technology specially designed or modified for the "development", "production" or "use" of equipment controlled by 2A50 or 2A51.

Requirements

Validated License Required: QSWYZ, PRC, South Africa military and police

Reason for Control: NP

GTDR: Yes

GTDU: No

2E52B Technology specially designed or modified for the "development", "production" or "use" of equipment controlled by 2A52 or 2B53.

Requirements

Validated License Required: QSTVWYZ

Reason for Control: NP

GTDR: No

GTDU: No

2E96G Technology, n.e.s., for the "development", production", or "use" of commodities controlled under Category 2.

Requirements

Validated License Required: SZ and South Africa military and police

Reason for Control: FP

GTDR: No

GTDU: Yes

Category 3—Electronics Design, Development and Production

A. Equipment, Assemblies and Components

Notes: 1. The control status of equipment, devices and components described in Category 3A, other than those described in 3A01.a.3 to a.10, that are specially designed or that have the same functional characteristics as other equipment is determined by the control status of the other equipment.

2. The control status of integrated circuits described in 3A01.a.3 to a.9 that are unalterably programmed or designed for a specific function is determined by the control status of the other equipment.

N.B.: When the manufacturer or applicant cannot determine the control status of the other equipment, the control status of the integrated circuits is determined in 3A01.a.3 to a.9.

3A01A Electronic devices and components.

Requirements

Validated License Required: QSTVWYZ

Unit: Number

Reason for Control: NS, MT, NP (see Notes)

GLV: $1,500: 3A01.c; $3,000: 3A01.b.1 to b.3, 3A01.d to 3A01.f; $5,000: 3A01.a, 3A01.b.4 to b.7

GCT: Yes, except 3A01.a.1 and 3A01.e.5 (see Notes)

GFW: Yes, except 3A01.a.1, 3A01.b.1 and b.3 to b.7, 3A01.c to f

Country Group W Favorable Consideration: Yes, except 3A01.a.1 and 3A01.e.5 (see Notes)

Notes: 1. *MT controls* apply to 3A01.a.1.

2. *NP controls* apply, for all countries except countries listed in Supp. 2 to part 773, to items described in 3A01.e.5.

List of Items Controlled

a. General purpose integrated circuits, as follows:

Notes: 1. The control status of wafers (finished or unfinished), in which the function has been determined, is to be evaluated against the parameters of 3A01.a.

2. Integrated circuits include the following types:

"Monolithic integrated circuits";

"Hybrid integrated circuits";

"Multichip integrated circuits";

"Film type integrated circuits", including silicon-on-sapphire integrated circuits;

"Optical integrated circuits".

a.1. Integrated circuits, designed or rated as radiation hardened to withstand a total dose of 5×10^5 rad (Si), or higher;

(For integrated circuits designed or rated against neutron or transient ionizing radiation, see the ITAR.)

a.2. Integrated circuits described in 3A01.a.3 to a.10, rated for operation at an ambient temperature below 219 K (−54 °C) or above 398 K (+125 °C);

Note: The temperature limits in 3A01.a.2 do not apply to integrated circuits for civil automobiles or railway engines.

a.3. "Microprocessor microcircuits", "microcomputer microcircuits" and microcontroller microcircuits, having any of the following:

Notes: 1. 3A01.a.3 does not control silicon-based "microcomputer microcircuits" or microcontroller microcircuits having an operand (data) word length of 8 bit or less and not covered by Note 2 of Category 3A.

2. 3A01.a.3 includes digital signal processors, digital array processors and digital coprocessors.

a.3.a. An external data bus width exceeding 32 bit or an arithmetic logic unit with an access width exceeding 32 bit;

a.3.b. A clock frequency exceeding 40 MHz;

a.3.c. An external data bus width of 32 bits or more and capable of executing 12.5 million instructions per second (MIPS) or more; or

Technical Note: If MIPS are not specified, the inverse of the average instruction cycle time (in microseconds) should be used.

a.3.d. More than one data or instruction bus or serial communication port for external interconnection in a parallel processor with a transfer rate exceeding 2.4 Mbytes/s;

a.4. Storage integrated circuits, as follows:

a.4.a. Electrical erasable programmable read-only memories (EEPROMs) with a storage capacity:

a.4.a.1. Exceeding 1 Mbit per package; or

a.4.a.2. Exceeding 256 kbit per package and a maximum access time of less than 80 ns;

a.4.b. Static random-access memories (SRAMs) with a storage capacity:

a.4.b.1. Exceeding 1 Mbit per package; or

a.4.b.2. Exceeding 256 kbit per package and a maximum access time of less than 25 ns;

a.4.c. Storage integrated circuits manufactured from a compound semiconductor;

a.5. Converter integrated circuits, as follows:

a.5.a. Analog-to-digital converters having any of the following:

a.5.a.1. A resolution of 8 bits or more, but less than 12 bits, with a total conversion time to maximum resolution of less than 10 ns;

a.5.a.2. A resolution of 12 bits with a total conversion time to maximum resolution of less than 200 ns; or

a.5.a.3. A resolution of more than 12 bits with a total conversion time to maximum resolution of less than 2 microseconds;

a.5.b. Digital-to-analog converters with a resolution of 12 bits or more, and a "settling time" of less than 10 ns;

a.6. Electro-optical or "optical integrated circuits" for "signal processing" having all of the following:

a.6.a. One or more internal "laser" diodes;

a.6.b. One or more internal light detecting elements; and

a.6.c. Optical waveguides;

a.7. Field programmable gate arrays having either of the following:

a.7.a. An equivalent gate count of more than 30,000 (2 input gates); or

a.7.b. A typical "basic gate propagation delay time" of less than 0.4 ns;

a.8. Field programmable logic arrays having either of the following:

a.8.a. An equivalent gate count of more than 5,000 (2 input gates); or

a.8.b. A toggle frequency exceeding 100 MHz;

a.9. Neural network integrated circuits;

a.10. Custom integrated circuits for which either the function is unknown, or the control status of the end-use equipment is unknown to the manufacturer, having any of the following:

a.10.a. More than 144 terminals;

a.10.b. A typical "basic gate propagation delay time" of less than 0.4 ns; or

a.10.c. An operating frequency exceeding 3 GHz;

a.11. Digital integrated circuits, other than those described in 3A01.a.3 to a.10, based upon any compound semiconductor and having either of the following:

a.11.a. An equivalent gate count of more than 300 (2 input gates); or

a.11.b. A toggle frequency exceeding 1.2 GHz;

b. Microwave or millimeter wave devices:

b.1. Electronic vacuum tubes and cathodes, as follows:

Note: 3A01.b.1 does not control tubes designed or rated to operate in the Standard Civil Telecommunications Bands at frequencies not exceeding 31 GHz.

b.1.a. Travelling wave tubes, pulsed or continuous wave, as follows:

b.1.a.1. Operating at frequencies higher than 31 GHz;

b.1.a.2. Having a cathode heater element with a turn on time to rated RF power of less than 3 seconds;

b.1.a.3. Coupled cavity tubes, or derivatives thereof;

b.1.a.4. Helix tubes, or derivatives thereof, with any of the following:

b.1.a.4.a.1. An "instantaneous bandwidth" of half an octave or more; and

b.1.a.4.a.2. The product of the rated average output power (expressed in kW) and the maximum operating frequency (expressed in GHz) of more than 0.2;

b.1.a.4.b.1. An "instantaneous bandwidth" of less than half an octave; and

b.1.a.4.b.2. The product of the rated average output power (expressed in kW) and the maximum operating frequency (expressed in GHz) of more than 0.4; or

b.1.a.4.c. "Space qualified";

b.1.b. Crossed-field amplifier tubes with a gain of more than 17 dB;

b.1.c. Impregnated cathodes for electronic tubes, with either of the following:

b.1.c.1. Having a turn on time to rated emission of less than 3 seconds; or

b.1.c.2. Producing a continuous emission current density at rated operating conditions exceeding 5 A/cm^2;

(For "frequency agile" tubes, see ITAR Category 11.)

b.2. Microwave integrated circuits or modules containing "monolithic integrated circuits" operating at frequencies exceeding 3 GHz;

Note: 3A01.b.2 does not control circuits or modules for equipment operating solely in the Standard Civil Telecommunications Bands at frequencies not exceeding 31 GHz.

b.3. Microwave transistors rated for operation at frequencies exceeding 31 GHz;

b.4. Microwave solid state amplifiers:

b.4.a. Operating at frequencies exceeding 10.5 GHz and having an "instantaneous bandwidth" of more than half an octave; or

b.4.b. Operating at frequencies exceeding 31 GHz;

Note: 3A01.b.4 does not control amplifiers:

1. Specially designed for medical applications;

2. Specially designed for use in "simple educational devices"; or

3. Having an output power of no more than 10 W and specially designed for:

a. Industrial or civilian intrusion, detection and alarm systems;

b. Traffic or industrial movement control and counting systems; or

c. Systems for the detection of environmental pollution of air or water.

b.5. Electronically or magnetically tunable band-pass or band-stop filters having more than 5 tunable resonators capable of tuning across a 1.5:1 frequency band (f_{max}/f_{min}) in less than 10 microseconds with:

b.5.a. A band-pass bandwidth of more than 0.5% of center frequency; or

b.5.b. A band-stop bandwidth of less than 0.5% of center frequency;

b.6. Microwave assemblies capable of operating at frequencies exceeding 31 GHz;

b.7. Flexible waveguides designed for use at frequencies exceeding 40 GHz;

c. Acoustic wave devices, as follows, and specially designed components therefor:

c.1. Surface acoustic wave and surface skimming (shallow bulk) acoustic wave devices (i.e., "signal processing" devices employing elastic waves in materials), having either of the following:

c.1.a. A carrier frequency exceeding 1 GHz; or

c.1.b. A carrier frequency of 1 GHz or less, and:

c.1.b.1. A frequency side-lobe rejection exceeding 55 dB;

c.1.b.2. A product of the maximum delay time and the bandwidth (time in microseconds and bandwidth in MHz) of more than 100; or

c.1.b.3. A dispersive delay of more than 10 microseconds;

Note: 3A01.c.1 does not control devices specially designed for home electronics or entertainment.

c.2. Bulk (volume) acoustic wave devices (i.e., "signal processing" devices employing elastic waves) which permit direct processing of signals at frequencies exceeding 1 GHz;

c.3. Acoustic-optic "signal processing" devices employing interaction between acoustic waves (bulk wave or surface wave) and light waves which permit the direct processing of signals or images, including spectral analysis, correlation or convolution;

Note: 3A01.c.3 does not control devices specially designed for civil television, video or AM and FM broadcasting equipment.

d. Electronic devices or circuits containing components, manufactured from "superconductive" materials specially designed for operation at temperatures below the "critical temperature" of at least one of the "superconductive" constituents, with any of the following:

d.1. Electromagnetic amplification:

d.1.a. At frequencies equal to or less than 31 GHz with a noise figure of less than 0.5 dB; or

d.1.b. At frequencies exceeding 31 GHz;

d.2. Current switching for digital circuits using "superconductive" gates with a product of delay time per gate (in seconds) and power dissipation per gate (in watts) of less than 10^{-14} J; or

d.3. Frequency selection at all frequencies using resonant circuits with Q-values exceeding 10,000;

e. High energy devices, as follows:

e.1. Batteries, as follows:

Note: 3A01.e.1 does not control batteries with volumes equal to or less than 26 cm^3 (e.g., standard C-cells or UM–2 batteries).

e.1.a. Primary cells and batteries having an energy density exceeding 350 Wh/kg and rated for operation in the temperature range from below 243 K (−30 °C) to above 343 K (+70 °C);

e.1.b. Rechargeable cells and batteries having an energy density exceeding 150 Wh/kg after 75 charge/discharge cycles at a discharge current equal to C/5 hours (C being the nominal capacity in ampere hours) when operating in the temperature range from below 253 K (−20 °C) to above 333 K (+60 °C);

Technical Note: Energy density is obtained by multiplying the average power in watts

(average voltage in volts times average current in amperes) by the duration of the discharge in hours to 75% of the open circuit voltage divided by the total mass of the cell (or battery) in kg.

e.1.c. "Space qualified" and radiation hardened photovoltaic arrays with a specific power exceeding 160 W/m² at an operating temperature of 301 K (+28 °C) under a tungsten illumination of 1 kW/m² at 2,800 K (2,527 °C);

e.2. High energy storage capacitors, as follows:

e.2.a. Capacitors with a repetition rate of less than 10 Hz (single shot capacitors) having all of the following:

e.2.a.1. A voltage rating equal to or more than 5 kV;

e.2.a.2. An energy density equal to or more than 250 J/kg; and

e.2.a.3. A total energy equal to or more than 25 kJ;

e.2.b. Capacitors with a repetition rate of 10 Hz or more (repetition rated capacitors) having all of the following:

e.2.b.1. A voltage rating equal to or more than 5 kV;

e.2.b.2. An energy density equal to or more than 50 J/kg;

e.2.b.3. A total energy equal to or more than 100 J; and

e.2.b.4. A charge/discharge cycle life equal to or more than 10,000;

e.3. "Superconductive" electromagnets or solenoids specially designed to be fully charged or discharged in less than one minute, having all of the following:

Note: 3A01.e.3 does not control "superconductive" electromagnets or solenoids specially designed for Magnetic Resonance Imaging (MRI) medical equipment.

e.3.a. Maximum energy delivered during the discharge divided by the duration of the discharge of more than 500 kJ per minute;

e.3.b. Inner diameter of the current carrying windings of more than 250 mm; and

e.3.c. Rated for a magnetic induction of more than 8 T or "overall current density" in the winding of more than 300 A/mm²;

e.4. Circuits or systems for electromagnetic energy storage, containing components manufactured from "superconductive" materials specially designed for operation at temperatures below the "critical temperature" of at least one of their "superconductive" constituents, having all of the following:

e.4.a. Resonant operating frequencies exceeding 1 MHz;

e.4.b. A stored energy density of 1 MJ/m³ or more; and

e.4.c. A discharge time of less than 1 ms.

e.5. Flash discharge type X-ray systems, including tubes, having all of the following:

e.5.a. A peak power exceeding 500 MW;

e.5.b. An output voltage exceeding 500 kV; and

e.5.c. A pulse width of less than 0.2 microsecond;

f. Rotary input type shaft absolute position encoders having either of the following:

f.1. A resolution of better than 1 part in 265,000 (18 bit resolution) of full scale; or

f.2. An accuracy better than ±2.5 seconds of arc.

3A41E Capacitors not controlled by 3A01.e.2.

Requirements

Validated License Required: SZ, Taiwan, Supp. 4 to part 778 of this subchapter
Unit: Number
Reason for Control: NP
GLV: No
GCT: No
GFW: No

List of Items Controlled

a. Capacitors with a voltage rating greater than 1.4 kV having all of the following characteristics:

a.1. Energy storage greater than 10 J;

a.2. Capacitance greater than 0.5 μF; and

a.3. Series inductance less than 50 nH; or

b. Capacitors with a voltage rating greater than 750 V having both of the following characteristics:

b.1. Capacitance greater than 0.25 μF; and

b.2. Series inductance less than 10 nH.

Note: The energy storage capacity (E) is determined by the formula: $E = \frac{1}{2} CV^2$. The capacitance (C) must be in farads, and the voltage (V) in volts for the formula to give an answer in joules (J). Normally high-voltage capacitors are measured in microfarads or nanofarads.

3A42E Superconducting solenoidal electromagnets other than those described in 3A01.e.3.

Requirements

Validated License Required: SZ, Taiwan, Supp. 4 to part 778 of this subchapter
Unit: Number
Reason for Control: NP
GLV: No
GCT: No
GFW: No

List of Items Controlled

Superconducting solenoidal electromagnets with all of the following characteristics:

a. Capable of creating magnetic fields of more than 2 T (20 Kilogauss);

b. Having an inner diameter greater than 300 mm (12 in.);

c. Having a length divided by diameter (L/D) greater than 2; and

d. Capable of creating a magnetic field uniform to better than 1% over a central 50% of the inner volume.

Note: 3A42E does not control superconducting solenoidal electromagnets that are exported as integral parts of medical nuclear magnetic resonance (NMR) systems.

3A43B Switching devices.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NP
GLV: No
GCT: No
GFW: No

List of Items Controlled

a. Cold-cathode tubes (including gas krytron tubes and vacuum sprytron tubes), whether gas filled or not, operating similarly to a spark gap, containing three or more electrodes, and having all of the following characteristics:

a.1. Anode peak voltage rating of 2500 V or more;

a.2. Anode peak current rating of 100 A or more; and

a.3. Anode delay time of 10 microseconds or less;

b. Triggered spark-gaps having an anode delay time of 15 microseconds or less and rated for a peak current of 500 A or more;

c. Hydrogen/hydrogen-isotope thyratrons of ceramic-metal construction and rated for a peak current of 500 A or more.

3A02A General purpose electronic equipment.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NS
GLV: $3,000: 3A02.a, 3A02.e to g; $5,000: 3A02.b to d, 3A02.h
GCT: Yes
GFW: 3A02.a.1 only

List of Items Controlled

a. Recording equipment, as follows, and specially designed test tape therefor:

a.1. Analog instrumentation magnetic tape recorders, including those permitting the recording of digital signals (e.g., using a high density digital

recording (HDDR) module), having any of the following:

a.1.a. A bandwidth exceeding 4 MHz per electronic channel or track;

a.1.b. A bandwidth exceeding 2 MHz per electronic channel or track and having more than 42 tracks; or

a.1.c. A time displacement (base) error, measured in accordance with applicable IRIG or EIA documents, of less than ± 0.1 microsecond;

a.2. Digital video magnetic tape recorders having a maximum digital interface transfer rate exceeding 180 Mbit/s, *except* those specially designed for television recording as standardized or recommended by the CCIR or the IEC for civil television applications;

a.3. Digital instrumentation magnetic tape data recorders having any of the following characteristics:

a.3.a. A maximum digital interface transfer rate exceeding 60 Mbit/s and employing helical scan techniques;

a.3.b. A maximum digital interface transfer rate exceeding 120 Mbit/s and employing fixed head techniques; *or*

a.3.c. "Space qualified";

Note: 3A02.a.3 does not control analog magnetic tape recorders equipped with HDDR conversion electronics and configured to record only digital data.

a.4. Equipment, with a maximum digital interface transfer rate exceeding 60 Mbit/s, designed to convert digital video magnetic tape recorders for use as digital instrumentation data recorders;

b. "Frequency synthesiser" "assemblies" having a "frequency switching time" from one selected frequency to another of less than 1 ms;

c. "Signal analyzers", as follows:

c.1. Capable of analyzing frequencies exceeding 31 GHz;

c.2. "Dynamic signal analyzers" with a "real-time bandwidth" exceeding 25.6 kHz, *except* those using only constant percentage bandwidth filters (also known as octave or fractional octave filters);

d. Frequency synthesised signal generators producing output frequencies, the accuracy and short term and long term stability of which are controlled, derived from or disciplined by the internal master frequency, and having any of the following:

d.1. A maximum synthesized frequency exceeding 31 GHz;

d.2. A "frequency switching time" from one selected frequency to another of less than 1 ms; or

d.3. A single sideband (SSB) phase noise better than $-(126+20\log_{10}F-20\log_{10}f)$ in dBc/Hz, where F is the off-set from the operating frequency in Hz and f is the operating frequency in MHz;

Note: 3A02.d does not control equipment in which the output frequency is either produced by the addition or subtraction of two or more crystal oscillator frequencies, or by an addition or subtraction followed by a multiplication of the result.

e. Network analyzers with a maximum operating frequency exceeding 31 GHz;

Note: 3A02.e does not control "swept frequency network analyzers" with a maximum operating frequency not exceeding 40 GHz and which cannot be remotely controlled (i.e., contain a data bus for interfacing).

f. Microwave test receivers with both of the following:

f.1. A maximum operating frequency exceeding 31 GHz; and

f.2. The capability of measuring amplitude and phase simultaneously;

g. Atomic frequency standards having either of the following characteristics:

g.1. Long term stability (aging) less (better) than 1×10^{-11}/month; or

g.2. "Space qualified";

Note: 3A02.g.1 does not control non-"space qualified" rubidium standards.

h. Emulators for microcircuits controlled by 3A01.a.3 or 3A01.a.9.

Note: 3A02.h does not control emulators designed for a "family" which contains at least one device not controlled by 3A01.a.3 or 3A01.a.9.

3A44B High-speed pulse generators with output voltages greater than 6 volts into a less than 55-ohm resistive load, and with pulse transition times less than 500 picoseconds.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NP
GLV: No
GCT: No
GFW: No

3A45E Pulse amplifiers with gain greater than 6 decibels and with a baseband bandwidth greater than 500 megahertz (having the low frequency half-power point at less than 1 MHz and the high frequency half-power point greater than 500 MHz) and output voltage greater than 2 volts into 55 ohms or less (this corresponds to an output greater than 16 dbm in a 50 ohm system).

Requirements

Validated License Required: SZ, Taiwan, Supp. 4 to part 778 of this subchapter
Unit: Number
Reason for Control: NP
GLV: No
GCT: No
GFW: No

3A46B Firing sets and high-current pulse generators.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NP
GLV: No
GCT: No
GFW: No

List of Items Controlled

a. Explosive detonator firing sets designed to drive multiple detonators of the type controlled under ECCN 3A49B:

b. Modular electrical pulse generators (pulsers) designed for portable, mobile, or ruggedized use (including xenon flash-lamp drivers) having all the following characteristics:

b.1. Capable of delivering their energy in less than 15 μs;

b.2. Having an output greater than 500 A; and

b.3. Having a "risetime" of less than 10 μs into loads of less than 5 ohms.

Technical Note: "Risetime" is defined as the time interval from 10% to 90% current amplitude when driving a resistive load.

3A47E Electronic equipment for time delay generation or time interval measurement.

Requirements

Validated License Required: SZ, Taiwan, Supp. 4 to part 778 of this subchapter
Unit: Number
Reason for Control: NP
GLV: No
GCT: No
GFW: No

List of Items Controlled

Electronic equipment for time delay generation or time interval measurement, as follows:

a. Digital time delay generators with a resolution of 50 nanoseconds or less over time intervals of 1 microsecond or greater;

b. Multichannel (three or more) or modular time interval meters and chronometry equipment with time resolutions less than 50 nanoseconds over time ranges greater than 1 microsecond.

3A48B Multistage light gas gun or other high-velocity gun systems (coil, electromagnetic, electrothermal, or other advanced systems) capable of accelerating projectiles to 2 kilometers per second or greater and specialized components therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: Number
Reason for Control: NP
GLV: No
GCT: No
GFW: No

3A49B Detonators and multipoint initiation systems (exploding bridge wire, slapper, etc.).

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NP
GLV: No
GCT: No
GFW: No

List of Items Controlled

a. Electrically driven explosive detonators of the types described as "exploding bridge" (EB), "exploding bridgewire" (EBW), "exploding foil," or "slapper" (see the Technical Note following this List for a more detailed description);

b. Specially designed parts or bodies for any of the detonators described in 3A49.a; or

c. Arrangements of multiple detonators designed to nearly simultaneously initiate an explosive surface from a single firing signal.

Technical Note: The detonators controlled by this ECCN 3A49B utilize a small electrical conductor (bridge, bridgewire, or foil) that explosively vaporizes when a fast, high-current electrical pulse is passed through it. In nonslapper types, the exploding conductor starts a chemical detonation in a contacting high-explosive material such as PETN (pentaerythritoltetranitrate). In slapper detonators, the explosive vaporization of the electrical conductor drives a "flyer" or "slapper" across a gap, and the impact of the slapper on an explosive starts a chemical detonation. The slapper in some designs is driven by magnetic force. The term "exploding foil" detonator may refer to either an EB or a slapper-type detonator. Also, the word "initiator" is sometimes used in place of the word "detonator."

Note: Detonators using only primary explosives, such as lead azide, are not controlled by this ECCN 3A49B.

3A50B Inverters, converters, frequency changers, and generators that have a multiphase electrical power output within the range of 600 to 2000 Hz and a total harmonic distortion of 10% or less.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NP
GLV: No
GCT: No
GFW: No

3A51B Mass spectrometers.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NP
GLV: No
GCT: No
GFW: No

List of Items Controlled

a. Mass spectrometers, magnetic or quadrupole:

a.1. Instruments having all of the following characteristics:

a.1.a. Resolution of less than 1 atomic mass unit (amu) for molecular masses greater than 320 amu; and

a.1.b. Electron-bombardment or molecular beam ion source; and

a.2. Having any of the following characteristics:

a.2.a. Ion source chambers constructed of or lined with nichrome or monel, or nickel plated; or

a.2.b. A collector system suitable for analysis of isotopic species; or

b. Sources for mass spectrometers having any of the following characteristics:

b.1. Electron-bombardment ionization or molecular beam ion sources with ion source chambers constructed of or lined with nichrome or monel, or nickel plated; or

b.2. Sources constructed for use with fluorinated compounds.

3A52E Cathode ray oscilloscopes and specially designed components therefor.

Requirements

Validated License Required: SZ, Taiwan, Supp. 4 to Part 778 of this subchapter
Unit: Number
Reason for Control: NP
GLV: No
GCT: No
GFW: No

List of Items Controlled

Cathode ray oscilloscopes and specially designed components therefor, including associated plug-in units, external amplifiers, preamplifiers, sampling devices, and cathode ray tubes (CRTs) having any of the following characteristics:

a. Non-modular analog oscilloscopes having a bandwidth exceeding 250 MHz (defined as the band of frequencies over which the deflection on the CRT does not fall below 70.7% of that at the maximum point measured with a constant input voltage to the amplifier);

b. Modular analog oscilloscope systems having either of the following:

b.1. Mainframes with a bandwidth exceeding 250 MHz; or

b.2. Plug-in modules with an individual bandwidth exceeding 1 GHz;

c. Containing or designed for use with CRTs with traveling wave or distributed deflection structures that:

c.1. Use delay lines;

c.2. Incorporate other techniques to minimize mismatch of fast phenomena signals to the deflection structure; or

c.3. Incorporate microchannel-plate electron multipliers;

d. Using sampling techniques for the analysis of recurring phenomena that increase the effective bandwidth of an oscilloscope to a frequency greater than 4 GHz; or

e. Digital oscilloscopes and transient recorders using analog-to-digital conversion techniques capable of storing transients by sequentially sampling one-shot input signals at successive intervals of less than 20 nanoseconds (greater than 50 million samples per second), digitizing to 8 bits or greater resolution, and storing 256 or more samples.

3A90C Voice print identification and analysis equipment and parts, n.e.s.

Requirements

Validated License Required: QSTVWYZ, except Australia, Japan, New Zealand, NATO
Unit: Number
Reason for Control: FP (see **Note**)
GLV: No
GCT: No
GFW: No

Note: FP controls apply to the items described in this entry because they can be used for crime control and detection purposes. Applications will generally receive favorable consideration on a case-by-case basis unless there is evidence that the government of the importing country may have violated internationally recognized human rights.

3A91C Polygraphs (except biomedical recorders designed for use in medical facilities for monitoring biological and neurophysical responses); fingerprint analyzers, cameras and equipment, n.e.s.; automated fingerprint and identification retrieval systems, n.e.s.; psychological stress analysis equipment; electronic monitoring restraint devices; and specially designed parts and accessories, n.e.s.

Requirements

Validated License Required: QSTVWYZ, except Australia, Japan, New Zealand, NATO
Unit: Number
Reason for Control: FP (see **Note**)
GLV: No
GCT: No
GFW: No

Note: FP controls apply to the items described in this entry because they can be

used for crime control and detection purposes. Applications will generally receive favorable consideration on a case-by-case basis unless there is evidence that the government of the importing country may have violated internationally recognized human rights.

3A92F "Microprocessor microcircuits", "microcomputer microcircuits", and microcontroller microcircuits having a clock frequency exceeding 25 MHz, but not exceeding 40 MHz.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police
Unit: Number
Reason for Control: FP
GLV: No
GCT: No
GFW: No

3A93F Electronic test equipment not controlled by 3A02 or 3A47.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police (see **Note**)
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

Note: A validated license is not required to Syria for shipments of $1,000 or less.

3A96G Other equipment, assemblies, and components in Category 3A, n.e.s.

Requirements

Validated License Required: SZ, South Africa military and police
Unit: Number
Reason for Control: FP
GLV: No
GCT: No
GFW: No

B. Test, Inspection and Production Equipment

3B01A Equipment for the manufacture or testing of semiconductor devices or materials, as follows, and specially designed components and accessories therefor.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NS
GLV: $500
GCT: Yes, except 3B01.b, c, and g
GFW: No
Country Group W Favorble Consideration: Yes, except 3B01.b, c, and g

List of Items Controlled

a. "Stored program controlled" equipment for expitaxial growth, as follows:

a.1. Capable of producing a layer thickness uniform to less ± 2.5% across a distance of 75 mm or more;

a.2. Metal organic chemical vapor deposition (MOCVD) reactors specially designed for compound semiconductor crystal growth by the chemical reaction between materials controlled by 3C03 or 3C04;

a.3. Molecular beam epitaxial growth equipment using gas sources;

b. "Stored program controlled" equipment designed for ion implantation, having any of the following:

b.1. An accelerating voltage exceeding 200 keV;

b.2. Specially designed and optimized to operate at accelerating voltages of less than 10 keV;

b.3. Direct write capability; or

b.4. Capable of high energy oxygen implant into a heated semiconductor material "substrate";

c. "Stored program controlled" anisotropic plasma dry etching equipment, as follows:

c.1. With cassette-to-cassette operation and load-locks, and having either of the following:

c.1.a. Magnetic confinement; or

c.1.b. Electron cyclotron resonance (ECR);

c.2. Specially designed for equipment controlled by 3B01.f and having either of the following:

c.2.a. Magnetic confinement; or

c.2.b. Electron cyclotron resonance (ECR);

d. "Stored program controlled" plasma enhanced CVD equipment, as follows:

d.1. With cassette-to-cassette operation and load-locks, and having either of the following:

d.1.a. Magnetic confinement; or

d.1.b. Electron cyclotron resonance (ECR);

d.2. Specially designed for equipment controlled by 3B01.f and having either of the following:

d.2.a. Magnetic confinement; or

d.2.b. electron cyclotron resonance (ECR);

e. "Stored program controlled" multifunctional focussed ion beam systems specially designed for manufacturing, repairing, physical layout analysis and testing of masks or semiconductor devices, having either of the following:

e.1. Target-to-beam position feedback control precision of 0.25 micrometer or finer; or

e.2. Digital-to-analog conversion resolution exceeding 12 bits;

f. "Stored program controlled" automatic loading multi-chamber central wafer handling systems, having interfaces for wafer input and output, to which more than two pieces of semiconductor processing equipment are to be connected, to form an integrated system in a vacuum environment for sequential multiple wafer processing;

Note: 3B01.f does not control automatic robotic wafer handling systems not designed to operate in a vacuum environment.

g. "Stored program controlled" lithography equipment, as follows:

g.1. Align and expose step and repeat equipment for wafer processing using photo-optical or X-ray methods, having any of the following:

g.1.a. A light source wavelength shorter than 400 nm;

g.1.b. A numerical aperture more than 0.40; or

g.1.c. An overlay accuracy of ±0.20 micrometer (3 sigma) or better.

Note: 3B01.g.1 does not control align and expose step and repeat equipment having all of the following:

1. A light source wavelength of 436 nm or more;
2. A numerical aperture 0.38 or less; and
3. An image size diameter 22 mm or less.

g.2. "Stored program controlled" equipment specially designed for mask making or semiconductor device processing using deflected focused electron beam, ion beam or "laser" beam, with any of the following:

g.2.a. A spot size smaller than 0.2 micrometer;

g.2.b. Capable of producing a pattern with a feature size of less than 1 micrometer; or

g.2.c. An overlay accuracy of better than ±0.20 micrometer (3 sigma).

h. Masks or reticles, as follows:

h.1. For integrated circuits controlled by 3A01;

h.2. Multi-layer masks with a phase shift layer.

i. "Stored program controlled" test equipment, specially designed for testing semiconductor devices and unencapsulated dice, as follows:

i.1. For testing S-parameters of transistor devices at frequencies exceeding 31 GHz;

i.2. For testing integrated circuits, and "assemblies" thereof, capable of performing functional (truth table) testing at a pattern rate of more than 40 MHz.

Note: 3B01.i.2 does not control test equipment specially designed for testing:

a. "Assemblies" or a class of "assemblies" for home or entertainment applications;

b. Uncontrolled electronic components, "assemblies" or integrated circuits.

i.3. For testing microwave integrated circuits at frequencies exceeding 3 GHz

Note: 3B01.i.3 does not control test equipment specially designed for testing microwave integrated circuits operating solely in the Standard Civil Telecommunication Bands at frequencies not exceeding 31 GHz.

i.4. Electron beam systems designed for operation at or below 3 keV, or "laser" beam systems, for the non-contactive probing of powered-up semiconductor devices, with both of the following:

i.4.a. Stroboscopic capability with either beam-blanking or detector strobing; and

i.4.b. An electron spectrometer for voltage measurement with a resolution of less than 0.5 V.

Note: 3B01.i.4 does not control scanning electron microscopes, *except* when specially designed and instrumented for the non-contactive probing of powered-up semiconductor devices.

3B91F Equipment not controlled by 3B01 for the manufacture or testing of electronic components and materials, and specially designed components and accessories therefor.

Requirements

Validated License Required: SZ, Iran, Syria, and South Africa military and police
Unit: Number
Reason for Control: FP
GLV: No
GCT: No
GFW: No

List of Items Controlled

a. Equipment specially designed for the manufacture or testing of electron tubes, optical elements and specially designed components therefor controlled by 3A01, 6A02, or 6A42;

b. Equipment specially designed for the manufacture or testing of semiconductor devices, integrated circuits and "assemblies", as follows, and systems incorporating or having the characteristics of such equipment:

Note: 3B91.b also controls such equipment used or modified for use in the manufacture or testing of other devices, such as imaging devices, electro-optical devices, acoustic-wave devices.

b.1. Equipment for the processing of materials for the manufacture of devices and components as specified in the heading of 3B91.b, as follows:

Note: 3B91 does not control quartz furnace tubes, furnace liners, paddles, boats (except specially designed caged boats), bubblers, cassettes or crucibles specially designed for the processing equipment controlled by 3B91.b.1.

b.1.a. Equipment for producing polycrystalline silicon and materials controlled by 3C01;

b.1.b. Equipment specially designed for purifying or processing III/V and II/VI semiconductor materials controlled by 3C01, 3C02, 3C03, or 3C04, except crystal pullers, for which see 3B91.b.1.c below;

b.1.c. Crystal pullers and furnaces, as follows:

N.B.: 3B91.b.1.c does not control diffusion and oxidation furnaces.

b.1.c.1. Annealing or recrystallizing equipment other than constant temperature furnaces employing high rates of energy transfer capable of processing wafers at a rate exceeding 0.005 m^2 per minute;

b.1.c.2. "Stored programme controlled" crystal pullers having any of the following characteristics:

b.1.c.2.a. Rechargeable without replacing the crucible container;

b.1.c.2.b. Capable of operation at pressures above 2.5×105 Pa; or

b.1.c.2.c. Capable of pulling crystals of a diameter exceeding 100 mm;

b.1.d. "Stored programme controlled" equipment for epitaxial growth having any of the following characteristics:

b.1.d.1. Capable of producing a layer thickness uniformity across the wafer of equal to or better than +3.5%;

b.1.d.2. Rotation of individual wafers during processing; or

b.1.d.3. Metallo-organic "chemical vapor deposition" (MOCVD) reactors;

b.1.e. Molecular beam epitaxial growth equipment;

b.1.f. "Magnetically enhanced" "sputtering" equipment with specially designed integral load locks capable of transferring wafers in an isolated vacuum environment;

b.1.g. Equipment specially designed for ion implantation, ion-enhanced or photo-enhanced diffusion, having any of the following characteristics:

b.1.g.1. Patterning capability;

b.1.g.2. Accelerating voltage for more than 200 keV; or

b.1.g.3. Capable of high energy oxygen implant into a heated "substrate";

b.1.h. "Stored programme controlled" equipment for the selective removal (etching) by means of anisotropic dry methods (e.g., plasma), as follows:

b.1.h.1. Batch types having either of the following:

b.1.h.1.a. End-point detection, other than optical emission spectroscopy types; or

b.1.h.1.b. Reactor operational (etching) pressure of 26.66 Pa or less;

b.1.h.2. Single wafer types having any of the following:

b.1.h.2.a. End-point detection, other than optical emission spectroscopy types;

b.1.h.2.b. Reactor operational (etching) pressure of 26.66 Pa or less; or

b.1.h.2.c. Cassette-to-cassette and load locks wafer handling;

Notes: 1. "Batch types" refers to machines not specially designed for production processing of single wafers. Such machines can process two or more wafers simultaneously with common process parameters, e.g., RF power, temperature, etch gas species, flow rates.

2. "Single wafer types" refers to machines specially designed for production processing of single wafers. These machines may use automatic wafer handling techniques to load a single wafer into the equipment for processing. The definition includes equipment that can load and process several wafers but where the etching parameters, e.g., RF power or end point, can be independently determined for each individual wafer.

b.1.i. "Chemical vapor deposition" (CVD) equipment, e.g., plasma-enhanced CVD (PECVD) or photo-enhanced CVD, for semiconductor device manufacturing, having either of the following capabilities, for deposition of oxides, nitrides, metals or polysilicon:

b.1.i.1. "Chemical vapor deposition" equipment operating below 105 Pa; or

b.1.i.2. PECVD equipment operating either below 60 Pa (450 millitorr) or having automatic cassette-to-cassette and load lock wafer handling;

Note: 3B91.b.1.i does not control low pressure "chemical vapor deposition" (LPCVD) systems or reactive "sputtering" equipment.

b.1.j. Electron beam systems specially designed or modified for mask making or semiconductor device processing having any of the following characteristics:

b.1.j.1. Electrostatic beam deflection;

b.1.j.2. Shaped, non-Gaussian beam profile;

b.1.j.3. Digital-to-analog conversion rate exceeding 3 MHz;

b.1.j.4. Digital-to-analog conversion accuracy exceeding 12 bit; or

b.1.j.5. Target-to-beam position feedback control precision of 1 micrometer or finer;

Note: 3B91.b.1.j does not control electron beam deposition systems or general purpose scanning electron microscopes.

b.1.k. Surface finishing equipment for the processing of semiconductor wafers as follows:

b.1.k.1. Specially designed equipment for backside processing of wafers thinner than 100 micrometer and the subsequent separation thereof; or

b.1.k.2. Specially designed equipment for achieving a surface roughness of the active surface of a processed wafer with a two-sigma value of 2 micrometer or less, total indicator reading (TIR);

Note: 3B91.b.1.k does not control single-side lapping and polishing equipment for wafer surface finishing.

b.1.l. Interconnection equipment which includes common single or multiple vacuum chambers specially designed to permit the integration of any equipment controlled by 3B91 into a complete system;

b.1.m. "Stored program controlled" equipment using "lasers" for the repair or trimming of "monolithic integrated circuits" with either of the following characteristics:

b.1.m.1. Positioning accuracy less than +1 micrometer; or

b.1.m.2. Spot size (kerf width) less than 3 micrometer;

b.2. Masks, mask substrates, mask-making equipment and image transfer equipment for the manufacture of devices and components as specified in the heading of 3B91.b, as follows:

Note: The term *masks* refers to those used in electron beam lithography, X-ray lithography, and ultraviolet lithography, as well as the usual ultraviolet and visible photo-lithography.

b.2.a. Finished masks, reticles and designs therefor, except:

b.2.a.1. Finished masks or reticles for the production of unembargoed integrated circuits; or

b.2.a.2. Masks or reticles, having both of the following characteristics:

b.2.a.2.a. There design is based on geometries of 2.5 micrometer or more; and

b.2.a.2.b. The design does not include special features to alter the intended use by means of production equipment or "software";

b.2.b. Mask "substrates" as follows:

b.2.b.1. Hard surface (e.g., chromium, silicon, molybdenum) coated "substrates" (e.g., glass, quartz, sapphire) for the preparation of masks having dimensions exceeding 125 mm × 125 mm; or

b.2.b.2. "Substrates" specially designed for X-ray masks;

b.2.c. Equipment, other than general purpose computers, specially designed for computer aided design (CAD) of semiconductor devices or integrated circuits;

b.2.d. Equipment or machines, as follows, for mask or reticle fabrication:

b.2.d.1. Photo-optical step and repeat cameras capable of producing arrays larger than 100 mm × 100 mm, or capable of producing a single exposure larger than 6 mm × 6 mm in the image (i.e., focal) plane, or capable of producing line widths of less than 2.5 micrometer in the photoresist on the "substrate";

b.2.d.2. Mask or reticle fabrication equipment using ion or "laser" beam lithography capable of producing line widths of less than 2.5 micrometer; or

b.2.d.3. Equipment or holders for altering masks or reticles or adding pellicles to remove defects;

Note: 3B91.b.2.d.1 and b.2.d.2 do not control mask fabrication equipment using photo-optical methods which was either commercially available before January 1, 1980, or has a performance no better than such equipment.

b.2.e. "Stored program controlled" equipment for the inspection of masks, reticles or pellicles with:

b.2.e.1. A resolution of 0.25 micrometer or finer; and

b.2.e.2. A precision of 0.75 micrometer or finer over a distance in one or two coordinates of 63.5 mm or more;

Note: 3B91.b.2.e does not control general purpose scanning electron microscopes except when specially designed and instrumented for automatic pattern inspection.

b.2.f. Align and expose equipment for wafer production using photo-optical methods, including both projection image transfer equipment and step and repeat equipment, capable of performing any of the following functions:

Note: 3B91.b.2.f does not control photo-optical contact and proximity mask align and expose equipment or contact image transfer equipment.

b.2.f.1. Production of a pattern size of less than 2.5 micrometer;

b.2.f.2. Alignment with a precision finer than +0.25 micrometer (3 sigma); or

b.2.f.3. Machine-to-machine overlay no better than +0.3 micrometer;

b.2.g. Electron beam, ion beam or X-ray equipment for projection image transfer capable of producing patterns less than 2.5 micrometer;

Note: For focussed, deflected-beam systems (direct write systems), see 3B91.b.1.j or b.10.

b.2.h. Equipment using "lasers" for direct write on wafers capable of producing patterns less than 2.5 micrometer;

b.3. "Stored program controlled" inspection equipment for the automatic detection of defects, errors or contaminants of 0.6 micrometer or less in or on processed wafers, "substrates", other than printed circuit boards or chips, using optical image acquisition techniques for pattern comparison;

Note: 3B91.b.3 does not control general purpose scanning electron microscopes, except when specially designed and instrumented for automatic pattern inspection.

b.4. Specially designed "stored program controlled" measuring and analysis equipment, as follows:

b.4.a. Specially designed for the measurement of oxygen or carbon content in semiconductor materials;

b.4.b. Equipment for line width measurement with a resolution of 1 micrometer or finer;

b.4.c. Specially designed flatness measurement instruments capable of measuring deviations from flatness of 10 micrometer or less with a resolution of 1 micrometer or finer;

b.5. Equipment for the assembly of integrated circuits, as follows:

b.5.a. "Stored program controlled" die bonders having all of the following characteristics:

b.5.a.1. Specially designed for "hybrid integrated circuits";

b.5.a.2. X–Y stage positioning travel exceeding 37.5 × 37.5 mm; and

b.5.a.3. Placement accuracy in the X–Y plane of finer than +10 micrometer;

b.5.b. "Stored program controlled" equipment for producing multiple bonds in a single operation (e.g., beam lead bonders, chip carrier bonders, tape bonders);

b.5.c. Semi-automatic or automatic hot cap sealers, in which the cap is heated locally to a higher temperature than the body of the package, specially designed for ceramic microcircuit packages controlled by 3A01 and that have a throughput equal to or more than one package per minute;

Note: 3B91.b.5. does not control general purpose resistance type spot welders.

b.6. "Stored program controlled" wafer probing equipment having any of the following characteristics:

b.6.a. Positioning accuracy finer than 2.5 micrometer;

b.6.b. Capable of testing devices having more than 68 terminals; or

b.6.c. Capable of testing at a frequency exceeding 1 GHz;

b.7. Test equipment as follows:

b.7.a. "Stored program controlled" equipment specially designed for testing discrete semiconductor devices and unencapsulated dice, capable of testing at frequencies exceeding 18 GHz;

Technical Note: Discrete semiconductor devices include photocells and solar cells.

b.7.b. "Stored program controlled" equipment specially designed for testing integrated circuits and "assemblies" thereof, capable of functional testing;

b.7.b.1. At a pattern rate exceeding 20 MHz; or

b.7.b.2. At a pattern rate exceeding 10 MHz but not exceeding 20 MHz and capable of testing packages of more than 68 terminals;

Note: 3B91.b.7.b.2. does not control equipment specially designed for testing integrated circuits not controlled by 3A01 or 3A91.

Notes: 1. 3B01 b.7.b. does not control test equipment specially designed for testing "assemblies" or a class of "assemblies" for home and entertainment applications.

2. 3B01.b.7.b. does not control test equipment specially designed for testing electronic components, "assemblies" and integrated circuits not controlled by 3A01 or 3A91 provided such test equipment does not incorporate computing facilities with "user accessible programmability".

b.7.c. Equipment specially designed for determining the performance of focal-plane arrays at wavelengths of more than 1,200 nm, using "stored program controlled" measurements or computer aided evaluation and having any of the following characteristics:

b.7.c.1. Using scanning light spot diameters of less than 0.12 mm;

b.7.c.2. Designed for measuring photosensitive performance parameters and for evaluating frequency response, modulation transfer function, uniformity of responsivity or noise; or

b.7.c.3. Designed for evaluating arrays capable of creating images with more than 32 × 32 line elements;

b.8. Filters for clean rooms capable of providing an air environment of 10 or less particles of 0.3 micrometer or smaller per 0.02832 m^3 and filter materials therefor;

b.9. Electron beam test systems, capable of operating at or below 3,000 eV, for non-contactive probing of powered-up semiconductor devices having any of the following:

b.9.a. Stroboscopic capability with either beam blanking or detector strobing;

b.9.b. An electron spectrometer for voltage measurements with a resolution of less than 0.5 V; or

b.9.c. Electrical tests fixtures for performance analysis of integrated circuits;

Note: 3B91.b.9. does not control scanning electron microscopes, except when specially designed and instrumented for non-contactive probing of a powered-up semiconductor device.

b.10. "Stored program controlled" multifunctional focused ion beam systems specially designed for manufacturing, repairing, physical layout analysis and testing of masks or semiconductor devices and having either of the following characteristics:

b.10.a. Target-to-beam position feedback control precision of 1 micrometer or finer; or

b.10.b. Digital-to-analog conversion accuracy exceeding 12 bit;

b.11. Particle measuring systems employing "lasers" designed for measuring particle size and concentration in air having both of the following characteristics:

b.11.a. Capable of measuring particle sizes of 0.2 micrometer or less at a flow rate of 0.02832 m^3 per minute or more; and

b.11.b. Capable of characterizing Class 10 clean air or better.

3B96G Other test, inspection, and production equipment in Category 3B, n.e.s.

Requirements

Validated License Required: SZ, South Africa military and police
Unit: Number
Reason for Control: FP
GLV: No
GCT: No
GFW: No

C. Materials

3C01A Hetero-epitaxial materials consisting of a "substrate" with stacked epitaxially grown multiple layers.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS
GLV: $3,000
GCT: Yes
GFW: No

List of Items Controlled

Hetero-epitaxial materials consisting of a "substrate" with stacked epitaxially grown multiple layers of:

a. Silicon;

b. Germanium; or

c. IIIIV compounds of gallium or indium.

Technical Note: IIIIV compounds are polycrystalline or binary or complex monocrystalline products consisting of elements of groups IIIA and VA of Mendeleyev's periodic classification table (gallium arsenide, gallium-aluminium arsenide, indium phosphide, etc.).

3C02A Resist materials, and "substrates" coated with controlled resists.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS
GLV: $3,000
GCT: Yes
GFW: No

List of Items Controlled

a. Positive resists with a spectral response optimized for use below 370 nm;

b. All resists, for use with electron beams or ion beams, with a sensitivity of 0.01 microcoulomb/mm^2 or better;

c. All resists, for use with X-rays, with a sensitivity of 2.5 mJ/mm^2 or better;

d. All resists optimized for surface imaging technologies, including silyated resists.

Technical Note: Silyation techniques are defined as processes incorporating oxidation of the resist surface to enhance performance of both wet and dry developing.

3C03A Metal-organic compounds of aluminium, gallium or indium, having a purity (metal basis) better than 99.999%

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS
GLV: $3,000
GCT: Yes
GFW: No

3C04A Hydrides of phosphorus, arsenic or antimony, having a purity better than 99.999%, even diluted in neutral gases.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS
GLV: $3,000
GCT: Yes
GFW: No

Note: 3C04 does not control hydrides containing less than 20% molar of rare gases or hydrogen.

3C96G Other materials in Category 3C, n.e.s.

Requirements

Validated License Required: SZ, South Africa military and police
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

D. Software

3D01A "Software" specially designed for the "development" or "production" of equipment controlled by 3A01.b to 3A01.f, 3A02, and 3B01.

Requirements

Validated License Required: QSWYZ, Iran, Syria, PRC, South Africa military and police
Unit: $ value
Reason for Control: NS
GTDR: Yes
GTDU: No

3D02A "Software" specially designed for the "use" of "stored program controlled" equipment controlled by 3B01.

Requirements

Validated License Required: QSWYZ, Iran, Syria, PRC, South Africa military and police
Unit: $ value
Reason for Control: NS
GTDR: Yes
GTDU: No

3D03A Computer-aided-design (CAD) "software" for semiconductor devices or integrated circuits.

Requirements

Validated License Required: QSWYZ, Iran, Syria, PRC, South Africa military and police
Unit: $ value
Reason for Control: NS
GTDR: Yes
GTDU: No

List of Items Controlled

Computer-aided-design (CAD) "software" for semiconductor devices or integrated circuits, having any of the following:

a. Design rules or circuit verification rules;

b. Simulation of the physically laid out circuits; or

c. Lithographic processing simulators for design.

Technical Note: A lithographic processing simulator is a "software" package used in the design phase to define the sequence of lithographic, etching and deposition steps for translating masking patterns into specific topographical patterns in conductors, dielectrics or semiconductor material.

Note: 3D03 does not control "software" specially designed for schematic entry, logic simulation, placing and routing, layout verification or process generation tape;

N.B.: Libraries, design attributes or associated data for the design of semiconductor devices or integrated circuits are considered as technology.

3D21B "Software" specially designed for the "development" or "production" of items controlled by 3A01.a.1.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: MT
GTDR: No
GTDU: No

3D51B "Software" specially designed for the "development", "production" or "use" of items controlled by 3A51.

Requirements

Validated License Required: QSTVWYZ and Canada
Unit: $ value
Reason for Control: NP
GTDR: No
GTDU: No

3D90C "Software" specially designed for the "development", "production", or "use" of items controlled by 3A90C and 3A91C.

Requirements

Validated License Required: QSTVWYZ, except Australia, Japan, New Zealand, and NATO
Unit: $ value
Reason for Control: FP (Crime control)
GTDR: No
GTDU: No

3D91F "Software" specially designed for the "development" or "production", or "use" of equipment controlled by 3B91F.

Requirements

Validated License Required: SZ, Iran, Syria, South Africa military and police
Unit: $ value
Reason for Control: FP
GTDR: No
GTDU: No

3D96G "Software", n.e.s., for the "development", "production", or "use" of commodities controlled under Category 3.

Requirements

Validated License Required: SZ, South Africa military and police
Unit: $ value
Reason for Control: FP
GTDR: No
GTDU: Yes

E. Technology

3E01A Technology according to the General Technology Note for the "development" or "production" of equipment or materials controlled by 3A01, 3A02, 3B01, 3C01, 3C02, 3C03, or 3C04.

Requirements

Validated License Required: QSWYZ, Iran, Syria, PRC, South Africa military and police
Unit: $ value
Reason for Control: NS and MT (see Note)
GTDR: Yes, except MT (see Note)
GTDU: No

Note: MT controls apply to technology specially designed for the "development" or "production" of items described in 3A01.a.1.

Note: 3E01 does not control technology for the "development" or "production" of:

a. Microwave transistors operating at frequencies below 31 GHz;

b. Integrated circuits controlled by 3A01.a.3 to a.11, having both of the following characteristics:

1. Using technology of one micrometer or more, and

2. Not incorporating multi-layer structures.

N.B.: This Note does not preclude the export of multilayer technology for devices incorporating a maximum of two metal layers and two polysilicon layers.

3E02A Other technology for the "development" or "production" of commodities described in this entry.

Requirements

Validated License Required: QSWYZ, Iran, Syria, PRC, South Africa military and police
Unit: $ value
Reason for Control: NS
GTDR: Yes
GTDU: No

List of Items Controlled

Technology for the "development" or "production" of the following commodities:

a. Vacuum microelectronic devices;

b. Hetero-structure semiconductor devices such as high electron mobility transistors (HEMT), hetero-bipolar transistors (HBT), quantum well or super lattice devices;

c. Superconductor electronic devices.

3E51B Technology specially designed for the "development", "production" or "use" of items controlled by 3A51.

Requirements

Validated License Required: QSTVWYZ and Canada
Unit: $ value
Reason for Control: NP
GTDR: No
GTDU: No

3E90C Technology specially designed for the "development", "production", or "use" of items controlled by 3A90C and 3A91C.

Requirements

Validated License Required: QSTVWYZ, except Australia, Japan, New Zealand, and NATO
Unit: $ value
Reason for Control: FP (Crime control)
GTDR: No
GTDU: No

3E91F Technology for the "development", "production", or "use" of equipment controlled by 3B91F.

Requirements

Validated License Required: SZ, Iran, Syria, South Africa military and police
Unit: $ value
Reason for Control: FP
GTDR: No
GTDU: No

3E96G Technology, n.e.s., the "development", "production", or "use" of commodities controlled under Category 3.

Requirements

Validated License Required: SZ, South Africa military and police
Unit: $ value
Reason for Control: FP
GTDR: No
GTDU: Yes

Notes for Category 3: Advisory Note: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in the People's Republic of China of:

a. Epitaxial reactors controlled by 3B01.a for use in silicon semiconductor manufacturing, *except* those specially designed for metal-organic deposition;

b. Instrument "frequency synthesisers" or synthesised signal generators controlled by 3A02.b or 3A02.d.2, and specially designed components or accessories therefor, provided they have a synthesised output frequency of 2.6 GHz or less and the "frequency switching time" is 0.3 ms or more.

c. Analog instrumentation magnetic tape recorders controlled by 3A02.a.1, provided all of the following conditions are met:

1. Bandwidths do not exceed:

a. 4 MHz per track; or

b. 2 MHz per track and have up to 42 tracks;

2. Tape speed does not exceed 6.1 m/s;

3. They are not designed for underwater use;

4. They are not ruggedised for military use; and

5. Recording density does not exceed 653.2 magnetic flux sine waves per mm;

d. Positive resists not optimized for photolithography at a wavelength of less than 365 nm, provided they are not controlled by 3C02.b to 3C02.d.

Category 4—Computers

Note: 1. Computers, related equipment or "software" performing telecommunications or "local area network" functions must also be evaluated against the performance characteristics of the telecommunications entries in Category 5.

N.B.: 1. Control units that directly interconnect the buses or channels of central processing units, "main storage" or disk controllers, are not regarded as telecommunications equipment described in the telecommunications entries in Category 5.

N.B.: 2. For the control status of "software" that provides routing or switching of "datagram" or "fast select" packets (i.e., packet by packet route selection) or for "software" specially designed for packet switching, see the telecommunications entries in Category 5.

Note: 2. Computers, related equipment or "software" performing cryptographic, cryptanalytic, certifiable multi-level security or certifiable user isolation functions, or that limit electromagnetic compatibility (EMC), must also be evaluated against the performance characteristics of the "information security" entries in Category 5.

A. Equipment, Assemblies and Components

4A01A Electronic computers and related equipment, as follows, and "assemblies" and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: Computers and Peripherals in Number, Parts and Accessories in $ value

Reason For Control: NS, MT, NP (see Notes)

GLV: $5,000 for 4A01.a *only;* $0 for 4A01.b

GCT: No

GFW: No

Group W Favorable Consideration: No

Notes: 1. MT controls apply to 4A01.a.

2. NP controls apply to the following:

a. Supercomputers (as defined in § 770.3 of this subchapter) to countries listed in Supplements 2 and 8 to part 773 of this subchapter;

b. Computers with a CTP exceeding 41 Mtops to countries listed in Supplement 3 to part 773 of this subchapter;

c. Computers with a CTP exceeding 12.5 Mtops to all other destinations.

List of Items Controlled

Electronic computers and related equipment, as follows, and "assemblies" and specially designed components therefor:

a. Specially designed to have either of the following characteristics:

a.1. Rated for operation at an ambient temperature below 228 K (−45 °C) or above 343 K (+70 °C).

Note: The temperature limits in 4A01.a.1. do not apply to computers specially designed for civil automobile and train engine applications.

a.2. Radiation-hardened to exceed any of the following specifications:

a.2.a. Total Dose: 5×10^5 Rads (Si).

a.2.b. Dose Rate Upset: 5×10^8 Rads (Si)/sec.

a.2.c. Single Event Upset: 1×10^{-7} Error/bit/day; *or*

Note: Equipment designed or rated for transient ionizing radiation is controlled by the ITAR.

b. Having characteristics or performing functions exceeding the limits in the "information security" entries in Category 5.

4A21B Electronic computers and related equipment, "assemblies" and specially designed components therefor, designed or modified for airborne applications and rated for operation at an ambient temperature below −45 °C to above +55 °C.

Requirements

Validated License Required: QSTVWYZ

Unit: Computers and Peripherals in Number, Parts and Accessories in $ value

Reason For Control: MT

GLV: $0

GCT: No

GFW: No

4A02A "Hybrid computers", as follows, and "assemblies" and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: Computers and Peripherals in Number, Parts and Accessories in $ value

Reason For Control: NS, MT, NP (see Notes)

GLV: $5,000

GCT: Yes, *except* MT

GFW: No

Group W Favorable Consideration: Yes, *except* MT

Notes: 1. MT controls apply to hybrid computers combined with specially designed "software", for modeling, simulation, or design integration of complete rocket systems and unmanned air vehicle systems described in § 778.7 of this subchapter.

2. NP controls apply to the following:

a. Supercomputers (as defined in § 770.3 of this subchapter) to countries listed in Supplements 2 and 8 to Part 773 of this subchapter;

b. Computers with a CTP exceeding 41 Mtops to countries listed in Supplement 3 to Part 773 of this subchapter;

c. Computers with a CTP exceeding 12.5 Mtops to all other destinations.

List of Items Controlled

"Hybrid computers", as follows, and "assemblies" and specially designed components therefor:

a. Containing "digital computers" controlled by 4A03;

b. Containing analog-to-digital or digital-to-analog converters having both of the following characteristics:

b.1. 32 channels or more; and

b.2. A resolution of 14 bits (plus sign bit) or more with a conversion rate of 200,000 conversions/s or more.

4A03A "Digital computers", "assemblies", and related equipment therefor, as follows, and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: Computers and Peripherals in Number, Parts and Accessories in $ value

Reason For Control: NS, MT, NP, FP (see Notes)

GLV: $5000

GCT: Yes, *except* MT or digital computers with a CTP exceeding 195 Mtops (no CTP ceiling for Japan)

GFW: See Advisory Notes 1 and 2

Group W Favorable Consideration: CTP not exceeding 41 Mtops, *except* MT

Notes: 1. MT controls apply to digital computers used as ancillary equipment for

test facilities and equipment that are controlled by 9B05 or 9B06.

2. NP controls apply to the following:

a. Supercomputers (as defined in § 770.3 of this subchapter) to countries listed in Supplements 2 and 8 to part 773 of this subchapter;

b. Computers with a CTP exceeding 41 Mtops to countries listed in Supplement 3 to Part 773 of this subchapter;

c. Computers with a CTP exceeding 12.5 Mtops to all other destinations.

3. FP controls apply to computerized fingerprint equipment to all destinations except Australia, Japan, New Zealand and members of NATO.

List of Items Controlled

Note: 1. 4A03 includes vector processors, array processors, logic processors, and equipment for "image enhancement" or "signal processing".

Note: 2. The control status of the "digital computers" or related equipment described in 4A03 is governed by the control status of other equipment or systems provided:

a. The "digital computers" or related equipment are essential for the operation of the other equipment or systems;

b. The "digital computers" or related equipment are not a "principal element" of the other equipment or systems; *and*

N.B.: 1. The control status of "signal processing" or "image enhancement" equipment described in 4A03.f and specially designed for other equipment with functions limited to those required for the other equipment is determined by the control status of the other equipment even if it exceeds the "principal element" criterion.

N.B.: 2. For the control status of "digital computers" or related equipment for telecommunications equipment, see the telecommunications entries in Category 5.

c. The technology for the "digital computers" and related equipment is governed by 4E.

Note: 3. "Digital computers" or related equipment are not controlled by 4A03 provided:

a. They are essential for medical applications;

b. The equipment is substantially restricted to medical applications by nature of its design and performance;

c. The equipment does not have "user-accessible programmability" other than that allowing for insertion of the original or modified "programs" supplied by the original manufacturer;

d. The "composite theoretical performance" of any "digital computer" which is not designed or modified but essential for the medical application does not exceed 20 million composite theoretical operations per second (Mtops); *and*

e. The technology for the "digital computers" or related equipment is governed by 4E.

"Digital computers", "assemblies", and related equipment therefor, as follows, and specially designed components therefor:

a. Designed for combined recognition, understanding and interpretation of image or continuous (connected) speech;

b. Designed or modified for "fault tolerance";

Note: For the purposes of 4A03.b, "digital computers" and related equipment are not considered to be designed or modified for "fault tolerance", if they use:

1. Error detection or correction algorithms in "main storage";

2. The interconnection of two "digital computers" so that, if the active central processing unit fails, an idling but mirroring central processing unit can continue the system's functioning;

3. The interconnection of two central processing units by data channels or by use of shared storage to permit one central processing unit to perform other work until the second central processing unit fails, at which time the first central processing unit takes over in order to continue the system's functioning; or

4. The synchronization of two central processing units by "software" so that one central processing unit recognizes when the other central processing unit fails and recovers tasks from the failing unit.

c. "Digital computers" having a "composite theoretical performance" exceeding 12.5 million composite theoretical operations per second (Mtops);

d. "Assemblies" specially designed or modified to enhance performance by aggregation of "computing elements", as follows:

Note: 1. 4A03.d applies only to "assemblies" and programmable interconnections not exceeding the limits in 4A03.c, when shipped as unintegrated "assemblies". It does not apply to "assemblies" inherently limited by nature of their design for use as related equipment controlled by 4A03.e to 4A03.k.

Note: 2. 4A03.d does not control any "assembly" specially designed for a product or family of products whose maximum configuration does not exceed the limits of 4A03.c.

d.1. Designed to be capable of aggregation in configurations of 16 or more "computing elements"; or

d.2. Having a sum of maximum data rates on all data channels available for connection to associated processors exceeding 40 million Bytes/s;

e. Disk drives and solid state storage equipment:

e.1. Magnetic, erasable optical or magneto-optical disk drives with a "maximum bit transfer rate" exceeding 25 million bit/s;

e.2. Solid state storage equipment, other than "main storage" (also known as solid state disks or RAM disks), with a "maximum bit transfer rate" exceeding 36 million bit/s;

f. Equipment for "signal processing" or "image enhancement" having a "composite theoretical performance" exceeding 8.5 million composite theoretical operations per second (Mtops);

g. Graphics accelerators or graphics coprocessors exceeding a "3–D Vector Rate" of 400,000 or, if supported by 2–D vectors only, a "2–D vector rate" of 600,000;

Note: The provisions of 4A03.g do not apply to work stations designed for and limited to:

1. Graphic arts (e.g., printing, publishing); *and*

2. The display of two-dimensional vectors.

h. Color displays or monitors having more than 120 resolvable elements per cm in the direction of the maximum pixel density;

Note: 1. 4A03.h does not control displays or moniotors not specially designed for electronic computers.

Note: 2. Displays specially designed for air traffic control (ATC) systems are treated as specially designed components for ATC systems under Category 6.

i. Input/output control units designed for use with equipment controlled by 4A03.e;

j. Equipment performing analog-to-digital or digital-to-analog conversions exceeding the limits in 3A01.a.5;

k. Equipment containing "terminal interface equipment" exceeding the limits in 5A02.c.

Note: For the purposes of 4A03.k, "terminal interface equipment" includes "local area network" interfaces, modems and other communications interfaces. "Local area network" interfaces are evaluated as "network access controllers".

4A04A Computers, as follows, and specially designed related equipment, "assemblies" and components therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: Computer and Peripherals in Number, Parts and Accessories in $ value

Reason for Control: NS

GLV: $5000

GCT: Yes

GFW: No

List of Items Controlled

a. "Systolic array computers";

b. "Neural computers";

c. "Optical computers".

4A94F Digital computers with a CTP 6 Mtops or higher, n.e.s.

Requirements

Validated License Required: SZ, Iran, Syria, South African Military and Police

Unit Computers and Peripherals in Number, Parts and Accessories in $ value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

4A96G Other computer equipment, "assemblies" and components, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Unit: Computers and Peripherals in Number, parts and Accessories in $ value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

B. Test, Inspection and Production Equipment

Equipment for the development and production of magnetic and optical storage equipment as follows.

4B01A Equipment specially designed for the application of magnetic coating to controlled non-flexible (rigid) magnetic or magneto-optical media.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS
GLV: $3,000
GCT: Yes
GFW: No

Note: 4B01A does not control general-purpose "sputtering" equipment.

4B02A "Stored program controlled" equipment specially designed for monitoring, grading, exercising or testing controlled rigid magnetic media.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason For Control: NS
GLV: $3000
GCT: Yes
GFW: No

4B03A Equipment specially designed for the "production" or alignment of heads or head/disk assemblies for controlled rigid magnetic and magneto-optical storage, and electro-mechanical or optical components therefor.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason For Control: NS
GLV: $3000
GCT: Yes
GFW: No

4B96G Other computer test, production and inspection equipment, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Unit: $ Value
Reason For Control: FP
GLV: $0
GCT: No
GFW: No

C Materials

4C01A Materials specially formulated for and "required" for the fabrication of head/disk assemblies for controlled magnetic and magneto-optical hard disk drives.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason For Control: NS
GLV: $0
GCT: Yes
GFW: No

4C96G Other materials specially formulated for and "required" for the fabrication of computer equipment, "assemblies" and components, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Unit: $ value
Reason For Control: FP
GLV: $0
GCT: No
GFW: No

D. "Software"

Note: The control status of "software" for the "development", "production", or "use" of equipment described in other Categories is dealt with in the appropriate Category. The control status of "software" for equipment described in this Category is dealt with herein.

4D01A "Software" specially designed or modified for the "development", "production" or "use" of equipment, materials or "software" controlled by 4A, 4B, 4C or 4D for NS or MT.

Requirements

Validated License Required: QSTVWYX
Unit: $ value
Reason For Control: NS, MT, FP (see Notes)
GTDR: Yes, *except* MT, Iran and Syria
GTDU: No

Notes: MT controls apply to "software" specially designed or modified for the "development," "production" or "use" of equipment controlled for MT by 4A01, 4A02, 4A03, and 4A21.

4D02A "Software" specially designed or modified to support "technology" controlled by 4E for NS or MT.

Requirements

Validated License Required: QSTVWYX
Unit: $ value
Reason for Control: NS, MT, FP (see Notes)
GTDU: No
GTDR: Yes, *except* MT, Iran and Syria

Notes: MT controls apply to "software" specially designed or modified to support technology for the "development," "production" or "use" of equipment controlled for MT by 4A01, 4A02, 4A03 and 4A21.

4D03A Specific "software" as follows.

Requirements

Validated License Required: QSWYZ, PRC, Iran, Syria, South African Military and Police
Unit: $ value
Reason for Control: NS, FP
GTDR: Yes *except* Iran and Syria
GTDU: No

List of Items Controlled

a. "Program" proof and validation "software" using mathematical and analytical techniques and designed or modified for "programs" having more than 500,000 "source code" instructions;

b. "Software" allowing the automatic generation of "source codes" from data acquired on line from external sensors described in these Lists;

c. Operating system "software", "software" development tools and compilers specially designed for "multi-data-stream processing" equipment, in "source code";

d. "Expert systems" or "software" for "expert system" inference engines providing both:

d.1. Time dependent rules; and

d.2. Primitives to handle the time characteristics of the rules and the facts;

e. "Software" having characteristics or performing functions exceeding the limits in the "information security" entries in Category 5;

f. Operating systems specially designed for "real time processing" equipment which guarantees a "global interrupt latency time" of less than 30 microseconds.

4D96G Other "software" specially designed or modified for the "development," "production" or "use" of computer equipment or materials, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Unit: $ value
Reason for Control: FP
GTDR: No

GTDU: Yes

E. Technology

4E01A "Technology" according to the General Technology Note, for the "development", "production" or "use" of equipment, materials or "software" controlled by 4A, 4B, 4C, or NS or MT.

Requirements

Validated License Required: QSTVWYZ

Reason for Control: NS MT, FP (see Notes)

GTDR: Yes, *except* MT, FP, Iran and Syria

GTDU: No

Notes: 1. A validated license is required for technology for the "development," "production" or "use" of equipment controlled for MT by 4A01, 4A02, 4A03 and 4A21.

2. Technology for the "development," "production" or "use" of computerized fingerprint equipment controlled by 4A03 requires a validated license for all destinations *except* Australia, Japan, New Zealand and members of NATO.

4E02A Other technology.

Requirements

Validated License Required: QSWYZ, PRC, Iran, Syria, South African Military and Police

Reason for Control: NS, FP

GTDR: Yes

GTDU: No

List of Items Controlled

a. "Technology" for the "development" or "production" of equipment released under 4A03.g;

b. "Technology" for the "development" or "production" of equipment designed for "multi-data-stream processing";

c. Technology "required" for the "development" or "production" of magnetic hard disk drives with a "maximum bit transfer rate" exceeding 11 million bit/s.

4E96G Technology for the "development," "production" or "use" of items controlled by Category 4, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police

Reason for Control: FP

GTDR: No

GTDU: Yes

Advisory Note 1: (GFW ELIGIBILITY AVAILABLE, *EXCEPT* TO THOSE COUNTRIES LISTED IN SUPPLEMENT NO. 4 TO PART 778 OF THIS SUBCHAPTER). Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in Country Groups QWY and the PRC of "digital computers" controlled solely by 4A03.c, or specially designed components therefor, and "software" controlled solely by 4D01, provided:

a. They will be operated by civil end-users for civil applications;

b. They have been primarily designed and used for non-strategic applications;

c. The "CTP" of the "digital computers" does not exceed 20 Mtops;

d. They do not contain any controlled related equipment;

e. When exported as enhancements, the enhanced "digital computer" does not exceed the limit in paragraph c. above;

f. They are not shipped as enhancements to computers designed within a proscribed country;

N.B.: This does not preclude the enhancement of such computers when they are used by civil end-users in civil applications.

g. Any controlled "software" is the minimum required for the "use" of the approved "digital computers";

h. Exports of items covered by this **Advisory Note 1** shall be subject to the following restrictions:

1. The equipment will be used primarily for the specific non-strategic application for which the export would be approved; and

2. The equipment will not be used for the design, development or production of controlled products.

Advisory Note 2: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in Country Groups QWY and the PRC of equipment controlled by 4A03.e or 4A03.i provided:

a. The "maximum bit transfer rate" does not exceed 36 million bit/s;

b. They are exported as part of a computer system or as an enhancement to a previously exported system;

c. Exports of items covered by this **Advisory Note 2** shall be subject to the following restrictions:

1. The equipment will be used primarily for the specific non-strategic application for which the export would be approved; and

2. The equipment will not be used for the design, development or production of controlled products.

Advisory Note 3: (NOT ELIGIBLE FOR GENERAL LICENSE GFW). Licenses will receive favorable consideration for export to satisfactory end-users in Country Groups QWY and the PRC of "digital computers" or related equipment therefor controlled solely by 4A03.c, 4A03.e., 4A03.f, or 4A03.i, or "software" controlled solely by 4D01, provided:

a. They will be operated by civil end-users for civil applications;

b. They have been primarily designed and used for non-strategic applications;

c. They do not exceed any of the following limits:

1. "Composite theoretical performance" of the "digital computers"—23 Mtops;

2. "Maximum bit transfer rate" of any input/output control unit—disk drive combination—36 Mbit/s; or

3. "Composite theoretical performance" of the "signal processing" or "image enhancement" equipment—12.5 Mtops;

d. They do not contain any other controlled related equipment;

e. When exported as enhancements, the enhanced "digital computer" does not exceed the limit in paragraph c. above;

f. They are not shipped as enhancements to computers designed within a proscribed area;

g. Any controlled "software" is the minimum required for the "use" of the approved "digital computers" and related equipment;

h. Exports of items covered by this **Advisory Note 3** shall be subject to the following restrictions:

1. A signed statement must be submitted by a responsible representative of the end-user(s) or the importing agency describing the end-use and certifying that:

a. The "digital computers" or "related equipment" will:

1. Be used only for civil applications; and

2. Not be reexported or otherwise disposed of without permission from the Government of the exporting country;

b. Responsible Western representatives of the supplier will:

1. Have the right of access to the "computer using facility" and all equipment, wherever located, during normal working hours and at any other time the equipment is operating; and

2. Be furnished information demonstrating continued authorized application of the equipment; and

3. These Western representatives will be notified of any significant change of application or of other facts, on which the license was based;

2. A full description must be provided of:

a. The equipment; and

b. Its intended application and workload; and

3. A complete identification of all end-users and their activities must be provided.

Technical Note: "Composite Theoretical Performance" (CTP).

Abbreviations used in this **Technical Note**:

CE "computing element" (typically an arithmetic logical unit)
FP floating point
XP fixed point
t execution time
XOR exclusive OR
CPU central processing unit
TP theoretical performance (of a single CE)
CTP "composite theoretical performance" (multiple CEs)
R effective calculating rate

Execution time 't' is expressed in microseconds, and CTP is expressed in Mtops (millions of theoretical operations per second).

CTP is a measure of computational performance given in millions of theoretical operations per second (Mtops). In calculating the Composite Theoretical Performance (CTP) of a configuration of Computing Elements (CEs) the following three steps are required:

1. Calculate the effective calculating rate R for each CE;

2. Apply the word length adjustment to this rate, resulting in a Theoretical Performance (TP) for each CE. Select the maximum resulting value of TP;

3. If there is more than one computing element, combine the TPs resulting in a

Composite Theoretical Performance for the configuration.

Note: This aggregation should not be applied to computers connected through a decontrolled "local area network".

The following table shows the method of calculating the Effective Calculating Rate R for each Computing Element·

BILLING CODE 3510-DT-M

For Computing Elements (CEs) Implementing:	Effective calculating Rate, R
XP only (R_{xp})	$\frac{1}{3\times(t_{xp\ add})}$ If no add is implemented use $\frac{1}{(t_{xp\ mult})}$ If neither add nor multiply is implemented use the fastest available arithmetic operation as follows. $\frac{1}{3\times t_{xp}}$ See Notes X and Z
FP only (R_{fp})	$\text{Max}\ \frac{1}{t_{fp\ add}}, \frac{1}{t_{fp\ mult}}$ See Notes X and Y
Both FP and Xp (R)	Calculate both R_{xp}, R_{fp}
For simple logic processors not implementing any of the specified arithmetic operations.	$\frac{1}{3\times t_{log}}$ Where t_{log} is the execution time of the XOR, or for logic hardware not implementing the XOR, the fastest simple logic operation. See Notes X and Z
For special logic processors not using any of the specified arithmetic or logic operations.	$R = R' \times WL/64$ where R′ is the number of results per second, WL is the number of *bits* upon which the logic operation occurs, and 64 is a factor to normalize to a 64 bit operation.

BILLING CODE 3510-DT-C

Note X: For ECs which perform multiple arithmetic operations of a specific type in a single cycle (e.g., two additions per cycle), the execution time t is given by:

$$t = \frac{\text{cycle time}}{\text{the number of arithmetic operations per machine cycle.}}$$

CEs which perform different types of arithmetic operations in a single machine cycle are to be treated as multiple separate CEs performing simultaneously (e.g., a CE performing an addition and a multiplication in one cycle is to be treated as two CEs, the first performing an addition in one cycle and the second performing a multiplication in one cycle).

If a single CE has both scalar function and vector function, use larger value.

Note Y: If no FP add or FP multiply are implemented, but the CE performs FP divide:

$$R_{fp} = \frac{1}{t_{fp\ divide}};$$

If the divide is not implemented, the fp reciprocal should be used.

If none of the specified instructions is implemented, the effective FP rate is 0.

Note Z: In simple logic operations, a single instruction performs a single logic manipulation of no more than two operands of given lengths.

In complex logic operations, a single instruction performs multiple logic manipulations to produce one or more results from two or more operands.

Rates should be calculated for all supported operand lengths, using the fastest executing instruction for each operand length based on:

1. Register-to-register. Exclude extraordinarily short execution times generated for operations on a predetermined operand or operands (for example, multiplication by 0 or 1). If no register-to-register operations are implemented, continue with (2).

2. The faster of register-to-register memory or memory-to-register operations; if these also do not exist, then continue with (3).

3. Memory-to-memory.

In each case above, use the shortest execution time certified by the manufacturer.

TP for each supported operand length WL: Adjust the effective rate R by the word length adjustment L as follows:

$TP = R \times L$, where $L = (\frac{1}{3} + WL/96)$.

Note: The word length WL used in these calculations is the operand length in bits. (If an operation uses operands of different lengths, select the largest word length.) This adjustment is not applied to specialized logic processors which do not use XOR instructions. In this case TP=R.

Select the maximum resulting value of TP for:

Each XP—only CE (R_{xp});
Each FP—only CE (R_{fp});
Each combined FP and XP CE (R);

Each simple logic processor not implementing any of the specified arithmetic operations; *and*

Each special logic processor not using any of the specified arithmetic or logic operations.

CTP for CPUs and aggregations of CEs: For a CPU with a single CE, CTP=TP (for CEs performing both fixed and floating point operations, $TP = \max(TP_{fp}, TP_{xp})$).

For aggregations of multiple CEs operating simultaneously:

Note 1: For configurations which do not allow all of the CEs to run simultaneously, the configuration of permissible CEs that provides the largest CTP should be used. The TP of each contributing CE is to be calculated at its maximum value theoretically possible before the CTP of the combination is derived.

Note 2: A single integrated circuit chip or board assembly may contain multiple CEs.

Note 3: Simultaneous operations are assumed to exist when the computer manufacturer claims concurrent, parallel or simultaneous operation or execution in a manual or brochure for the computer.

$CTP = TP_1 + C_2 \times TP_2 \ldots + C_n \times TP_n$, where TP_1 is the highest of the TPs, and C_i is a coefficient determined by the strength of the interconnection between CEs, as follows:

For multiple CEs sharing memory:

$C_2 = C_3 = C_4 = \ldots = C_n = 0.75$.

Note: CEs share memory if they access a common segment of solid state memory. This memory may include cache storage, main storage, or other internal memory. Peripheral memory devices such as disk drives, tape drives, or RAM disks are not included.

For multiple CEs not sharing memory, interconnected by one or more data channels:

$$C_i = \frac{8 \times S_i}{(WL_i \times TP_i)} - (i = 2, \ldots . n)$$

where S_i = sum of the maximum data rates (in units of MByte/sec.) for all data channels connected to the i^{th} CE or CPU.

Note: This does not include channels dedicated to transfers between one individual processor and its most immediate memory or related equipment.

WL_i is the operand length for which TP_i was obtained, and the factor 8 normalizes S_i (measured in bytes per second) and WL (given in bits).

Note: If C_i exceeds 0.75, the formula for CE/CPU sharing direct addressable memory applies (i.e., C_i cannot exceed 0.75).

Category 5—Telecommunications and "Information Security"

Notice: Category 5 is divided into three sections. COCOM-controlled Telecommunications entries appear first and paragraphs are numbered beginning with 01. COCOM-controlled "Information Security" entries appear second and paragraphs are numbered beginning with 11. Other Equipment, Materials, "Software" and Technology, entries that are not COCOM controlled, appear third.

Telecommunications

Notes: 1. The control status of components, "lasers", test and production equipment, materials and "software" therefor that are specially designed for telecommunications equipment or systems is defined in the telecommunications entries in this Category.

2. "Digital computers", related equipment or "software", when essential for the operation and support of telecommunications equipment described by the telecommunications entries in this Category, are regarded as specially designed components, provided they are the standard models customarily supplied by the manufacturer. This includes operation, administration, maintenance, engineering or billing computer systems.

A. Equipment, Assemblies and Components

5A01A Any type of telecommunications equipment having any of the following characteristics, functions or features.

Requirements

Validated License Required: QSTVWYZ

Unit: Equipment in Number, Parts and Acessories in $ value

Reason for Control: NS, MT

GLV: $0

GCT: No

GFW: No

List of Items Controlled

Any type of telecommunications equipment having any of the following characteristics, functions or features:

a. Specially designed to withstand transitory electronic effects or electromagnetic pulse arising from a nuclear explosion;

b. Specially hardened to withstand gamma, neutron or ion radiation;

c. Specially designed to operate outside the temperature range from 219 K (−54 °C) to 397 K (+124 °C).

Note: 5A01.c applies only to electronic equipment.

Note: 5A01.b and c do not apply to equipment on board satellites.

5A02A "Telecommunication transmission equipment" or systems and specially designed components and accessories therefor, having any of the following characteristics, functions or features.

Requirements

Validated License Required: QSTVWYZ

Unit: Equipment in Number, Parts and Acessories in $ value

Reason for Control: NS

GLV: $5000

GCT: Yes

GFW: Yes, see Telecommunications Advisory Notes 1 and 5

List of Items Controlled

Note: "Telecommunication transmission equipment."

a. Categorized as follows, or combinations thereof:

1. Radio equipment (e.g., transmitters, receivers and transceivers);
2. Line terminating equipment;
3. Intermediate amplifier equipment;
4. Repeater equipment;
5. Regenerator equipment;
6. Translation encoders (transcoders);
7. Multiplex equipment (statistical multiplex included);
8. Modulators/demodulators (modems);
9. Transmultiplex equipment (see CCITT Rec. G701);
10. "Stored program controlled" digital crossconnection equipment;
11. "Gateways" and bridges;
12. "Media access units"; and

b. Designed for use in single or multi-channel communication via:

1. Wire (line);
2. Coaxial cable;
3. Optical fiber cable;
4. Electromagnetic radiation.

"Telecommunication transmission equipment" or systems and specially designed components and accessories therefor, having any of the following characteristics, functions or features:

a. Employing digital techniques, including digital processing of analog signals, and designed to operate at a "digital transfer rate" at the highest multiplex level exceeding 45 Mbit/s or a "total digital transfer rate" exceeding 90 Mbit/s.

Note: 5A02.a does not control equipment specially designed to be integrated and operated in any satellite system for civil use.

b. "Stored program controlled" digital cross connect equipment with a "digital transfer rate" exceeding 8.5 Mbit/s per port.

c. Equipment containing:

c.1. Modems using the "bandwidth of one voice channel" with a "data signalling rate" exceeding 9,600 bit/s;

c.2. "Communication channel controllers" with a digital output with a "data signalling rate" exceeding 64,000 bit/s per channel; or

c.3. "Network access controller" and related common medium with a "digital transfer rate" exceeding 33 Mbit/s.

Note: If any uncontrolled equipment contains a "network access controller", it cannot have any type of telecommunications interface except those described in, but not controlled by, 5A02.c.

d. Employing a "laser" and having any of the following characteristics:

d.1. Having a transmission wavelength exceeding 1,000 nm;

d.2. Employing analog techniques and having a bandwidth exceeding 45 MHz;

d.3. Employing coherent optical transmission or coherent optical detection techniques (also called optical heterodyne or homodyne techniques);

d.4. Employing wavelength division multiplexing techniques; or

d.5. Performing "optical amplification".

e. Radio equipment operating at input or output frequencies exceeding:

e.1. 31 GHz for satellite-earth station applications; or

e.2. 26.5 GHz for other applications.

Note: 5A02.e.2 does not control equipment for civil use when conforming with an ITU allocated band between 26.5 and 31 GHz.

f. Radio equipment.

f.1. Employing quadrature-amplitude-modulation (QAM) techniques above level 4; or

f.2. Employing other digital modulation techniques and having a "spectral efficiency" greater than 3 bit/s/Hz.

Note: 5A02.f.2 does not control equipment specially designed to be integrated and operated in any satellite system for civil use.

g. Radio equipment operating in the 1.5 to 87.5 MHz band and having either of the following characteristics:

g.1. a. Automatically predicting and selecting frequencies and "total digital transfer rates" per channel to optimize the transmission; and

g.1.b. Incorporating a linear power amplifier configuration having a capability to support multiple signals simultaneously at an output power of one kW or greater in the 1.5 to 30 Mhz frequency range or 250 W or greater in the 30 to 87.5 MHz frequency range, over an "instantaneous bandwidth" of one octave or more and with an output harmonic and distortion content of better than −80 dB; or

g.2. Incorporating adaptive techniques providing more than 15 dB suppression of an interfering signal.

h. Radio equipment employing "spread spectrum" or "frequency agility" (frequency hopping) techniques having any of the following characteristics:

h.1. User programmable spreading codes; or

h.2. A total transmitted bandwidth that is 100 or more times greater than the bandwidth of any one information channel and in excess of 50 kHz.

i. Digitally controlled radio receivers having more than 1,000 channels, which:

i.1. Search or scan automatically a part of the electromagnetic spectrum;

i.2. Identify the receiver signals or the type of transmitter; and

i.3. Have a "frequency switching time" of less than 1 ms.

j. Providing functions of digital "signal processing" as follows:

j.1. Voice coding at rates less than 2,400 b/s;

j.2. Employing circuitry that incorporates "user-accessible programmability" of digital "signal processing" circuits exceeding the limits of 4A03.f.

k. Underwater communications systems having any of the following characteristics:

k.1. An acoustic carrier frequency outside the range of 20 to 60 kHz;

k.2. Using an electromagnetic carrier frequency below 30 kHz; or

k.3. Using electronic beam steering techniques.

5A03A "Stored program controlled" switching equipment and related signalling systems having any of the following characteristics, functions or features; and specially designed components and accessories therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: Equipment in Number, Parts and Accessories in $ value

Reason For Control: NS

GLV: $5,000

GCT: Yes

GFW: No

List of Items Controlled

"Stored program controlled" switching equipment and related signalling systems having any of the following characteristics, functions or features; and specially designed components and accessories therefor:

Note: Statistical multiplexers with digital input and digital output that provide switching are treated as "stored program controlled" switches.

a. "Common channel signalling";

Note: Signalling systems in which the signalling channel is carried in and refers to no more than 32 multiplexed channels forming a trunk line of no more than 2.1 Mbit/s, and in which the signalling information is carried in a fixed, time division multiplexed channel without the use of labelled messages, are not considered to be "common channel signalling" systems.

b. Containing "Integrated Services Digital Network" (ISDN) functions and having either of the following:

b.1. Switch-terminal (e.g., subscriber line) interfaces with a "digital transfer rate" at the highest multiplex level exceeding 192,000 bit/sec, including the associated signalling channel (e.g., 2B+D); or

b.2. The capability that a signalling message received by a switch on a given channel that is related to a communication on another channel may be passed through to another switch;

Note: 5A03.b does not preclude:

a. The evaluation and appropriate actions taken by the receiving switch.

b. Unrelated user message traffic on a D channel of ISDN.

c. Multi-level priority and pre-emption for circuit switching;

Note: 5A03.c does not control single-level call pre-emption.

d. "Dynamic adaptive routing";

e. Routing or switching of "datagram" packets;

f. Routing or switching of "fast select" packets;

Note: The restrictions of 5A03.e and 5A03.f do not apply to networks restricted to using only "network access controllers" or to "network access controllers" themselves.

g. Designed for automatic hand-off of cellular radio calls to other cellular switches or automatic connection to a centralized subscriber data base common to more than one switch;

h. Packet switches, circuit switches and routers with ports or lines exceeding either:

h.1. A "data signalling rate" of 64,000 bit/s per channel for a "communications channel controller"; or

h.2. A "digital transfer rate" of 33 Mbit/s for a "network access controller" and related common media;

Note: 5A03.h.1 does not preclude the multiplexing over a composite link of communications channels not controlled by 5A02.a.

i. "Optical switching";

j. Employing "Asynchronous Transfer Mode" (ATM) techniques;

k. Containing stored program controlled digital crossconnection equipment with "digital transfer rate" exceeding 8.5 Mbit/s per port.

5A04A Centralized network control having both of the following characteristics.

Requirements

Validated License Required: QSTVWYZ

Unit: Equipment in Number, Parts and Accessories in $ value

Reason For Control: NS

GLV: $5,000

GCT: Yes

GFW: No

List of Items Controlled

Centralized network control having both of the following characteristics:

a. Receives data from the nodes; and

b. Processes these data in order to provide control of traffic not requiring operator decisions and thereby perform "dynamic adaptive routing".

Note: 5A04 does not preclude control of traffic as a function of predictable statistical traffic conditions.

5A05A Optical fiber communication cables, optical fibers and specially designed components and accessories therefor, as follows.

Requirements

Validated License Required: QSTVWYZ

Unit: Meters

Reason For Control: NS

GLV: $3,000

GCT: Yes

GFW: Yes, see Telecommunications Advisory Note 2

List of Items Controlled

a. Optical fiber or cable of more than 50 m in length having either of the following characteristics:

a.1. Designed for single mode operation; or

a.2. For optical fiber, capable of withstanding a "proof test" tensile stress of 2.0×10^9 N/m^2 or more;

Technical Note: "Proof Test."

On-line or off-line production screen testing that dynamically applies a prescribed tensile stress over a 0.5 to 3 m length of fiber at a running rate of 2 to 5 m/s while passing between capstans approximately 15 cm in diameter. The ambient temperature is a nominal 293 K and relative humidity 40%.

Note: Equivalent national standards may be used for executing the "proof test".

b. Components and accessories specially designed for the optical fibers or cable controlled by 5A05.a, *except* connectors for use with optical fibers or cable with a repeatable coupling loss of 0.5 dB or more;

c. Optical fiber cables and accessories designed for underwater use.

Note: For fiber optic hull penetrators or connectors, see 8A02.c.

5A06A Phased array antennas, operating above 10.5 GHz, containing active elements and distributed components, and designed to permit electronic control of beam shaping and pointing, except for landing systems with instruments meeting ICAO standards (microwave landing systems (MLS)).

Requirements

Validated License Required: QSTVWYZ

Unit: Equipment in Number, Parts and Accessories in $ value

Reason For Control: NS

GLV: $5,000

GCT: Yes

GFW: No

B. Test, Inspection and Production Equipment

5B01A Equipment specially designed for "development," "production," or "use" of equipment, materials, or functions controlled by A-level entries in Category 5.

Requirements

Validated License Required: QSTVWYZ

Unit: Equipment in Number, Parts and Accessories in $ value

Reason For Control: NS

GLV: $5000

GCT: Yes

GFW: Yes, see Telecommunications Advisory Note 3

List of Items Controlled

Equipment specially designed for:

a. "Development" of equipment, materials or functions controlled by the telecommunications entries in this Category including measuring or test equipment;

b. "Production" of equipment, materials or functions controlled by the telecommunications entries in this Category, including measuring, test or repair equipment;

c. "Use" of equipment, materials or functions exceeding any of the least stringent control criteria applicable in telecommunications entries in this Category, including measuring, repair or test equipment.

5B02A Other equipment as follows.

Requirements

Validated License Required: QSTVWYZ

Unit: Equipment in Number, Parts and Accessories in $ value

Reason For Control: NS

GLV: $5000 *except* $3000 for 5B02.b

GCT: Yes

GFW: No

List of Items Controlled

a. Bit error rate (BER) test equipment designed or modified to test the equipment controlled by 5A02.a above;

b. Data communication protocol analyzers, testers and simulators for functions controlled by 5A02.a;

c. Stand alone "stored program controlled" radio transmission media simulators/channel estimators specially designed for testing equipment controlled by 5A02.e.

C. Materials

5C01A Preforms of glass or of any other material optimized for the manufacture of optical fibers controlled by 5A05.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason For Control: NS

GLV: $3000

GCT: Yes

GFW: No

D. "Software"

5D01A "Software" specially designed or modified for the "development", "production" or "use" of equipment or materials controlled by the telecommunications entries in 5A, 5B and 5C.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason For Control: NS, MT, FP (see Notes)

GTDR: Yes, *except* MT, Iran and Syria

GTDU: No

Notes: MT controls apply to "software" designed or modified for the "development", "production" or "use" of items controlled by 5A01.

5D02A "Software" specially designed or modified to support "technology" controlled by the telecommunications entries in 5E.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason For Control: NS, MT, FP (see Notes)

GTDR: Yes, *except* MT, Iran and Syria

GTDU: No

Notes: MT controls apply to "software" designed or modified to support technology for the "development", "production" or "use" of items controlled by 5A01.

5D03A Specific "software" as follows.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason For Control: NS, MT, FP (see Notes)

GTDR: Yes, *except* MT, Iran and Syria

GTDU: No

Notes: MT controls apply to "software" listed below as applicable to the "development", "production" or "use" of equipment controlled by 5A01.

List of Items Controlled

a. "Generic software", other than in machine-executable form, specially designed or modified for the "use" of stored program controlled digital switching equipment or systems;

b. "Software", other than in machine-executable form, specially designed or modified for the "use" of digital cellular radio equipment or systems;

c. "Software" specially designed or modified to provide characteristics, functions or features of equipment controlled by the telecommunications entries in 5A or 5B above;

d. "Software" which provides capability of recovering "source code" of "software" controlled by the telecommunications entries in this Category;

e. "Software" specially designed for the "development" or "production" of "software" controlled by the telecommunications entries in this Category.

Note: For "software" for "signal processing" see also Categories 4 and 6.

E. Technology

5E01A Technology according to the General Technology Note for the "development", "production" or "use" (excluding operation) of equipment, systems, materials or "software" controlled by the telecommunications entries in 5A, 5B, 5C, or 5D.

Requirements

Validated License Required: QSTVWYZ

Reason For Control: NS, MT, FP (see Notes)

GTDR: Yes, *except* MT, Iran and Syria

GTDU: No

Notes: MT controls apply to technology for the "development", "production" or "use" of equipment controlled by 5A01 or related "software" controlled by 5D01, 5D02 or 5D03.

5E02A Specific technologies as follows.

Requirements

Validated License Required: QSWYZ, Iran, Syria, PRC, South African Military and Police

Reason For Control: NS, FP

GTDR: Yes *except* Iran and Syria

GTDU: No

List of Items Controlled

a. "Required" technology for the "development" or "production" of telecommunications equipment specially designed to be used on board satellites;

b. Technology for the "development" or "use" of laser communication techniques with the capability of automatically acquiring and tracking signals and maintaining communications through exoatmosphere or sub-surface (water) media;

c. Technology for processing and application of coatings to optical fiber specially designed to make it suitable for underwater use;

d. Technology for "development" or "production" of equipment employing "Synchronous Digital Hierarchy" (SDH) or "Synchronous Optical Network" (SONET) techniques;

e. Technology for the "development" or "production" of "switch fabric" exceeding 64,000 bits per second per information channel other than for digital cross connect integrated in the switch;

f. Technology for the "development" or "production" of centralized network control;

g. Technology for the "development" or "production" of digital cellular radio systems;

h. Technology for the "development" or "production" of "Integrated Services Digital Network" (ISDN).

Notes for Telecommunications: Advisory Note 1: Licenses are likely to be approved, as

administrative exceptions, for export to satisfactory end-users in Albania, Bulgaria, Czechoslovakia, Hungary, Mongolia, Poland, the PRC and Romania of telecommunication equipment for optical fibers controlled by 5A02.d.1 of the present Category, provided that the transmission wavelength does not exceed 1370 nm.

Advisory Note 2: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in Albania, Bulgaria, Czechoslovakia, Hungary, Mongolia, Poland, the PRC and Romania of cables or fibers controlled by 5A05 provided:

a. Quantities are normal for the envisaged end-use; and

b. They are for a specified civil end-use.

Advisory Note 3: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in Albania, Bulgaria, Czechoslovakia, Hungary, Mongolia, Poland, the PRC and Romania of optical fiber test equipment controlled by 5B01.c when using a transmission wavelength not exceeding 1370 nm.

Advisory Note 4: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in Country Group W of equipment or systems controlled by 5A02, 5A03, 5A04, 5A05 or 5A06 and test equipment, "software" and "use" technology therefor, provided that:

a. The equipment or systems:

1. Are designed for and will be used for specific civil applications; and

2. Will be operated in the importing country by a civil end-user who has furnished to the supplier a signed statement certifying that the equipment or systems will be used only for the specific end-use.

b. The information to accompany each license application will include:

1. An Import Certificate issued by the government of the importing country;

2. A full description of the equipment or systems to be provided;

3. The installation site and intended application.

Advisory Note 5: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in Country Groups Q and Y and the PRC of digital radio equipment or systems embargoed by sub-items 5A02.a or f above, provided:

a. The equipment or system is intended for general commercial international traffic in an international civil telecommunication system, one end of which is in a COCOM member country;

b. It is to be installed in a permanent circuit under the supervision of the COCOM member country licensee;

c. No means are to be provided for the transmission of traffic between points in a single proscribed country other than those in Country Group W;

d. The "digital transfer rate" at the highest multiplex level does not exceed 156 Mbit/s;

e. The equipment does not employ any of the following:

1. Quadrature amplitude modulation (QAM) techniques above 64 QAM; or

2. Other digital modulation techniques with a "spectral efficiency" greater than 6 bit/s/Hz;

f. The equipment is not controlled by 5A02.e or h above or by the "information security" entries in this Category;

g. Spare parts shall remain under control of the COCOM member country licensee;

h. The COCOM member country licensee or his designated representative who shall be from a non-proscribed country shall have the right of access to all the equipment;

i. There will be no transfer of controlled technology;

j. Systems installation, operation and maintenance shall be performed by the licensee or the licensee's designated representative, who shall be from a non-proscribed country, using only personnel from non-proscribed countries, until such time as the export license is amended; and

k. Upon request, the licensee shall carry out an inspection to establish that:

1. The system is being used for the intended civil purpose;

2. All the equipment under the provisions of this **Note** is being used for the stated end purpose and is still located at the installation sites. After each inspection, the licensee shall report promptly (within a month) to the Office of Export Licensing information covering point (1) and (2) above.

Advisory Note 6: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in the PRC of the following communications, measuring or test equipment:

a. "Telecommunications transmission equipment" controlled by 5A02.a, 5A02.b or 5A02.d.1 provided:

1. It is intended for general commercial traffic in a civil communication system;

2. It is designed for operation at a "digital transfer rate" at the highest multiplex level of 140 Mbit/s or less and at a "total digital transfer rate" of 168 Mbit/s or less;

3. For equipment controlled by 5A02.d.1, the transmission wavelength must not exceed 1,370 nm and optical fiber must be used as the transmission medium;

4. It is to be installed under the supervision of the seller in a permanent circuit; and

5. It is to be operated by the civilian authorities of the importing country;

b. Measuring or test equipment controlled by 5B01.c and 5B02.a and .b, that is necessary for the use (i.e., installation, operation and maintenance) of equipment exported under the conditions of this **Note**, provided:

1. It is designed for use with communication transmission equipment operating at a "digital transfer rate" of 140 Mbit/s or less, and at a "total digital transfer rate" of 168 Mbit/s or less; and

2. It will be supplied in the minimum quantity required for the transmission equipment eligible for administrative exception treatment.

N.B.: Where possible, built-in test equipment (BITE) will be provided for installation or maintenance of transmission equipment eligible for administrative exception treatment under this **Note** rather than individual test equipment.

Advisory Note 7: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in the PRC of modems controlled by 5A02.c.1 with a "data signalling rate" not exceeding 19,200 bit/s.

Advisory Note 8: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in the PRC of the following:

a. Digital microwave radio relay equipment controlled by 5A02.a or 5A02.f, for fixed civil installations, operating at fixed frequencies not exceeding 19.7 GHz, with a "digital transfer rate" not exceeding 140 Mbit/s and with a "total digital transfer rate" not exceeding 168 Mbit/s;

b. Radio transmission media simulators/channel estimators controlled by 5B02.c, designed for testing equipment described in a. above.

Advisory Note 9: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in the PRC of equipment controlled by 5A03.a or "software" for "common channel signalling" controlled by 5D01 or 5D03, provided that:

a. The "common channel signalling" is restricted to quasi-associated or associated mode of operation according to CCITT Red Book, Volume X, fascicle X.1;

b. No functions, other than those described in the following recommendations in the Red Book of CCITT: Q.701 TO Q.709, Q.721 to Q.725, Q.791 and Q.795, are included;

N.B.: Only functions described in paragraph 2 of Q.795 are to be included. These Q.795 functions may not provide centralized network control having all of the following characteristics:

a. Is based on a network management protocol and

b. Does both of the following:

1. Receives data from the nodes; and

2. Processes these data in order to:

a. Control traffic; and

b. Directionalize paths;

c. No form of "Integrated Services Digital Network" (ISDN) is provided;

d. Equipment or "software" is restricted to that necessary for the operation within a city or, for "Private Automatic Branch Exchanges", within a radius of 100 km;

e. No means are provided which will allow "common channel signalling" via analog transmission links;

f. All the applicable conditions enumerated in **Note 9. a.** to **e.** are accomplished by:

1. Omission or physical removal of equipment or coding;

2. Over-writing with non-functioning statements; or

3. Reasonably non-reversible modifications.

Advisory Note 10: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in the PRC of "optical fiber preforms" controlled by 5C01, provided they are specially designed to produce non-militarized silica-based optical fibers that are optimized to operate at a wavelength not exceeding 1,370 nm and are not designed for "optical amplification".

Advisory Note 11: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in the PRC of equipment controlled by 5B01.b as follows:

a. Optical fiber or "optical fiber preform" characterization equipment using

semiconductor "lasers" with a wavelength not exceeding 1,370 nm;

b. Equipment for the manufacture of silica-based "optical fiber preforms", optical fibers or cables.

Favorable Consideration Notes (Telecommunications): Advisory Note 12: Licenses will receive favorable consideration for the export to satisfactory end-users in Albania, Bulgaria, Mongolia and Romania of radio relay communications equipment, specially designed components and accessories, specially designed test equipment, "software" and technology for the "use" of equipment or materials therefor, controlled by the telecommunications entries in this Category, provided:

a. It is for fixed installation and civil application;

b. It is designed for operation at a total "digital transfer rate" not exceeding 156 Mbit/s;

c. The equipment does not employ Quadrature Amplitude Modulation (QAM) technique above 64 QAM or, when employing other digital modulation techniques, a "spectral efficiency" exceeding 6.3 bit/s/Hz; and

d. It operates at fixed frequencies not exceeding 9 GHz;

e. For requests under the provisions of this Note, a statement identifying the following will be provided:

1. The equipment or systems to be provided;

2. The intended application; and

3. The location of the equipment.

Advisory Note 13: Licenses will receive favorable consideration for the export to satisfactory end-users in Country Groups Q and Y and the PRC of optical fiber cables and optical fiber transmission equipment or systems controlled by 5A02 or 5A05 provided:

a. The equipment or system is intended for general commercial international traffic in an international civil submarine optical fiber telecommunication system linking the importing country with a COCOM member country;

b. It is to be installed in a permanent circuit under the supervision of the COCOM member country licensee;

c. No means are to be provided for the transmission of traffic between points in one or more proscribed countries other than those in Country Group W;

d. The total length of optical fiber cable to be installed within the proscribed country, excluding cable in territorial waters, does not exceed 10 km or the shortest distance which is practical for installation;

e. The "digital transfer rate" at the highest multiplex level does not exceed 565 Mbits/s;

f. The "laser" transmission wavelength does not exceed 1550 nm;

g. The equipment is not controlled by 5A02.d.2 to 5 above or by the "information security" entries in this Category;

h. Spare parts shall remain under control of the COCOM member country licensee;

i. The COCOM member country licensee or his designated representative who shall be from a non-proscribed country shall have the right of access to all the equipment;

j. There will be no transfer of controlled technology;

k. Systems installation, operation and maintenance shall be performed by the licensee or the licensee's designated representative, who shall be from a non-proscribed country, using only personnel from non-proscribed countries, until such time as the export license is amended; and

l. Upon request, the licensee shall carry out an inspection to establish that:

1. The system is being used for the intended civil purpose;

2. All the equipment exported under the provisions of this Note is being used for the stated end purpose and is still located at the installation sites.

After each inspection, the licensee shall report his findings to the Office of Export Licenseing within one month.

Advisory Note 14: Licenses will receive favorable consideration for export to satisfactory end-users in Country Groups Q and Y and the PRC of technology controlled by the telecommunications entries in this Category and of instrumentation, test equipment, components and specially designed "software" therefor, and materials and components controlled by the telecommunications entries in this Category or by other Categories on this List, for modification or production of "stored program controlled" circuit switching equipment or systems provided:

N.B.: Technology for general purpose computers is not eligible for treatment under this Note, i.e., it remains governed by Category 4.

a. The characteristics of the "stored program controlled" circuit switching equipment or systems are limited to those which release them from control;

b. Modification of the "stored program controlled" circuit switching equipment or systems is not permitted if any aspect of the design would result in exceeding the performance thresholds or features that would cause them to be controlled;

c. Testing of large scale integrated (LSI) circuits or those with higher component densities is limited to go/no go tests;

N.B.: Sub-paragraph (c) above does not preclude exports of equipment or technology which would be possible according to the provisions of other Categories.

d. The specially designed "software" is that necessary to utilize the transferred technology, instrumentation and test equipment;

e. The manufacturing of the load tape by the licensee is limited to the addition to the generic "software" of the specific customer data and site parameters;

f. "Development" technology is not included;

g. The contract includes explicit conditions to ensure that:

1. The "production" technology or "production" equipment is not reexported or exported, either directly or indirectly, to another proscribed destination;

2. The supplier or licensor may appoint a representative who is entitled to verify that the "production" technology and "production" equipment or systems serve their intended use;

3. Any modification of the capabilities or functions of the produced equipment must be approved by the supplier or licensor;

4. The supplier's or licensor's personnel have right of access to all the facilities directly involved in the "production" of the "stored program controlled" circuit switching equipment or systems;

5. The "production" technology, "production" equipment and produced equipment or systems will be for civil end-use only;

h. System integration testing will be performed by the supplier or licensor, if it requires test tools that provide the licensee with the capability to recover source code or upgrade the system beyond the performance thresholds or features that would cause them to be controlled.

N.B.: No export under the favorable consideration provisions of this Note shall establish a precedent for the approval of exports under other Categories in this List.

Advisory Note 15: Licenses will receive favorable consideration for export to Country Group W of technology controlled by the telecommunications entries in this Category, and of instrumentation, test equipment, components and specially designed "software" therefore, and materials and components controlled by the telecommunications entries in this Category or by other Categories on this List, for the modification or "production" of telecommunications equipment or systems eligible for treatment under **Advisory Note 4**, provided:

N.B.: Technology for general purpose computers is not eligible for treatment under this Note, i.e., it remains governed by Category 4.

a. The characteristics of the telecommunications equipment or systems are limited to those eligible for treatment under **Advisory Note 4**;

b. Modification of the telecommunications equipment or systems is not permitted if any aspect of the design would result in exceeding the performance thresholds or features of **Advisory Note 4**;

c. Testing of large scale integrated (LSI) circuits or those with higher component densities is limited to go/no go tests;

N.B. This sub-paragraph does not preclude exports of equipment or technology which would be possible according to the provisions of other Categories.

d. The specially designed "software" is that necessary to utilize the transferred technology, instrumentation and test equipment;

e. All "software" shall be exported in machine executable form only;

f. "Development" technology is not included;

g. The contract includes explicit conditions to ensure that:

1. The "production" technology or "production" equipment is not reexported or exported, either directly or indirectly, to another proscribed destination;

2. The supplier or licensor may appoint a representative who is entitled to verify that the "production" technology and

"production" equipment or systems serve their intended use;

3. Any modification of the capabilities or functions of the produced equipment must be approved by the supplier or licensor;

4. The supplier's or licensor's personnel have right of access to all the facilities directly involved in the "production" of the telecommunications equipment or systems;

5. The "production" technology, "production" equipment and produced equipment or systems will be for civil end-use only and not for reexport to COCOM proscribed destinations other than Country Group W;

h. System integration testing will be performed by the supplier or licensor, if it requires test tools which would provide the licensee with the capability to recover source code or upgrade the system beyond the performance thresholds or features of **Advisory Note 4**;

i. End-use reporting of the installed telecommunication equipment or systems will be provided in accordance with the provisions of **Advisory Note 4**.

N.B.: 1. No export under the favorable consideration provisions of this **Note** shall establish a precedent for the approval of exports under other Categories in this List.

2. For each license granted under this **Note**, the importer must:

a. Provide end-use assurances backed by his national authorities;

b. Make available information as requested by the exporting country; and

c. Allow on-site inspection if requested by the exporting country.

"Information Security"

Note: The control status of "information security" equipment, "software", systems, application specific "assemblies", modules, integrated circuits, components, technology or functions is defined in the "information security" entries in this Category even if they are components or "assemblies" of other equipment.

Note: "Information security" equipment, "software", systems, application specific "assemblies", modules, integrated circuits, components, technology or functions that are excepted from control, not controlled, or eligible for licensing under an Advisory Note are under the licensing jurisdiction of the Department of Commerce. For all other, exporters requesting a validated license from the Department of Commerce must provide a statement from the Department of State, Office of Defense Trade Control, verifying that the equipment intended for export is under the licensing jurisdiction of the Department of Commerce.

A. Equipment, Assemblies and Components

5A11A Systems, equipment, application specific "assemblies", modules or integrated circuits for "information security", as follows, and other specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason For Control: NS
GLV: $0
GCT: "Information Security" Advisory Notes only
GFW: No
Group W Favorable Consideration: No, *except* Advisory Notes

List of Items Controlled

a. Designed or modified to use "cryptography" employing digital techniques to ensure "information security";

b. Designed or modified to perform cryptanalytic functions;

c. Designed or modified to use "cryptography" employing analog techniques to ensure "information security", *except:*

c.1. Equipment using "fixed" band scrambling not exceeding 8 bands and in which the transpositions change not more frequently than once every second;

c.2. Equipment using "fixed" band scrambling exceeding 8 bands and in which the transpositions change not more frequently than once every ten seconds;

c.3. Equipment using "fixed" frequency inversion and in which the transpositions change not more frequently than once every second;

c.4. Facsimile equipment;

c.5. Restricted audience broadcast equipment;

c.6. Civil television equipment;

d. Designed or modified to suppress the compromising emanations of information-bearing signals;

Note: 5A11.d does not control equipment specially designed to suppress emanations for health or safety reasons.

e. Designed or modified to use cryptographic techniques to generate the spreading code for "spread spectrum" or hopping code for "frequency agility" systems;

f. Designed or modified to provide certified or certifiable "multilevel security" or user isolation at a level exceeding Class B2 of the Trusted Computer System Evaluation Criteria (TCSEC) or equivalent;

g. Communications cable systems designed or modified using mechanical, electrical or electronic means to detect surreptitious intrusion.

B. Test, Inspection and Production Equipment

5B11A Equipment specially designed for the development of equipment or functions controlled by the "information security" entries in this Category, including measuring or test equipment.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason For Control: NS
GLV: $0
GCT: No
GFW: No

5B12A Equipment specially designed for the production of equipment or functions controlled by the "information security" entries in this Category, including measuring, test, repair or production equipment.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason For Control: NS
GLV: $0
GCT: No
GFW: No

5B13A Measuring equipment specially designed to evaluate and validate the "information security" functions controlled by the "information security" entries in 5A or 5D.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason For Control: NS
GLV: $0
GCT: No
GFW: No

C. Materials [Reserved]

D. "Software"

5D11A "Software" specially designed or modified for the "development", "production" or "use" of equipment or "software" controlled by the "information security" entries in 5A, 5B, or 5D.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason For Control: NS
GTDR: See "Information Security" Advisory Note 5
GTDU: No

5D12A "Software" specially designed or modified to support technology controlled by the "information security" entries in 5E.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason For Control: NS
GTDR: No
GTDU: No

5D13A Specific "software" as follows.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value

Reason For Control: NS
GTDR: No
GTDU: No

List of Items Controlled

a. "Software" having the characteristics, or performing or simulating the functions of the equipment controlled by the "information security" entries in 5A or 5B;

b. "Software" to certify "software" controlled by 5D13.a;

c. "Software" designed or modified to protect against malicious computer damage, e.g., viruses.

E. Technology

5E11A Technology according to the General Technology Note for the "development", "production" or "use" of equipment or "software" controlled by the "information security" entries in 5A, 5B or 5D.

Requirements

Validated License Required: QSTVWYZ
Reason For Control: NS
GTDR: No
GTDU: No

Notes for "Information Security":

Note 1. "Information security" entries in this Category do not control:

a. "Personalized smart cards" using "cryptography" restricted for use only in equipment or systems released from control under 5A11.c.1 to c.6, by this Note or as described in "Information security" Advisory Notes 3 and 4 below;

b. Equipment containing "fixed" data compression or coding techniques;

c. Receiving equipment for radio broadcast, pay television or similar restricted audience television of the consumer type, without digital encryption and where digital decryption is limited to the video, audio or management functions;

d. Portable (personal) or mobile radiotelephones for civil use, e.g., for use with commercial civil cellular radiocommunications systems, containing encryption, when accompanying their users;

e. Decryption functions specially designed to allow the execution of copy-protected "software", provide the decryption functions are not user-accessible.

Note 2. "Information security" entries in this Category do not control:

a. "Software" "required" for the "use" of equipment released by "information security" Note 1;

b. "Software" providing any of the functions of equipment released by "information security" Note 1.

Advisory Note 3: (Eligible for General License GCT, Not Eligible for General License GFW) Licenses are likely to be approved, as administrative exceptions, for export to Country Group W of cellular radio equipment or systems specially designed for cryptographic operation, provided any message traffic encryption capability within the scope of the control of the "information security" entries in this Category contained in such equipment or systems is irreversibly disabled.

N.B.: Provided message traffic encryption is not possible within such a system, the export of mobile or portable cellular radio subscriber equipment containing cryptographic capabilities is permitted under this Note.

Advisory Note 4: (Eligible for General License GCT, Not Eligible for General License GFW). Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in Country Groups QWY and the PRC of the following cryptographic equipment, provided that the equipment is intended for civil use:

a. Access control equipment, such as automatic teller machines, self-service statement printers or point of sale terminals, which protects password or personal identification numbers (PIN) or similar data to prevent unauthorized access to facilities but does not allow for encryption of files or text, except as directly related to the password of PIN protection;

b. Data authentication equipment which calculates a Message Authentication Code (MAC) or similar result to ensure no alteration of text has taken place, or to authenticate users, but does not allow for encryption of data, text or other media other than that needed for the authentication;

c. Cryptographic equipment specially designed, developed or modified for use in machines for banking or money transactions, such as automatic teller machines, self-service statement printers, point of sale terminals or equipment for the encryption of interbanking transactions, and intended for use only in such applications.

Advisory Note 5: (GTDR Available for COCOM, Austria, Finland, Ireland and Switzerland Only). Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in Country Groups QWY and the PRC of the following cryptographic "software":

a. "Software" "required" for the "use" of equipment eligible for administrative exceptions under "information security" Advisory Notes 3 and 4;

b. "Software" providing any of the functions of equipment eligible for administrative exceptions under "information security" Advisory Notes 3 and 4.

Other Equipment, Materials, "Software" and Technology

A. Equipment, Assemblies and Components

5A20B Telemetering and telecontrol equipment usable for unmanned air vehicles or rocket systems.

Requirements

Validated License Required: QSTVWYZ
Unit: Equipment in Number, Parts and Accessories in $ value
Reason For Control: MT
GLV: $5000
GCT: No
GFW: No

List of Items Controlled

a. Telemetering and telecontrol equipment usable for rocket systems (including ballistic "missile" systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise "missile" systems, target drones, and reconnaissance drones) capable of delivering at least 500 kg payload to a range of at least 300 km; and

b. Telemetering and telecontrol equipment usable for launch and ground support of the above vehicles.

Note: Telemetering and telecontrol equipment consists of:

a. sensing heads for the conversion of information into electrical signals;

b. the systems used for the long-distance transmission of these electrical signals; and

c. the process used to translate electrical signals into coded data (telemetering) and into control signals (telecontrol).

5A80D Communications intercepting devices; and parts and accessories therefor.

(Specify by name.)

(Also see § 776.13 of this subchapter.)

Requirements

Validated License Required: QSTVWYZ and Canada
Unit: $ value
Reason For Control: (See Notes)
GLV: $0
GCT: No
GFW: No

Notes: Controls on this equipment are maintained in accordance with the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. 2510 et seq.)

5A92F Other mobile communications equipment, n.e.s., other telecommunications test equipment, n.e.s., and "assemblies" and components therefor.

Requirements

Validated License Required: SZ, Iran, Syria, South African Military and Police
Unit: $ value
Reason For Control: FP
GLV: $0, *except* $1,000 for telecommunications test equipment only to Syria only
GCT: No
GFW: No

5A93F Radio relay communications equipment designed for use at frequencies equal to or exceeding 19.7 GHz and "assemblies" and components therefor, n.e.s.

Requirements

Validated License Required: SZ, Iran, Syria, South African Military and Police
Unit: $ value

Reason For Control: FP
GLV: $0
GCT: No
GFW: No

5A94F "Data (message) switching" equipment or systems designed for "packet-mode operation" and assemblies and components therefor, n.e.s.

Requirements

Validated License Required: SZ, Iran, Syria, South African Military and Police
Unit: $ value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

Notes: "Data (message) switching" is defined as the technique for:
a. Accepting data groups (including messages, packets, or other digital or telegraphic information groups transmitted as a composite whole);
b. Storing (buffering) data groups as necessary;
c. Processing part of all the data groups, as necessary, for the purpose of:
1. Control (routing, priority, formatting, code conversion, error control, retransmission or journaling);
2. Transmission; or
3. Multiplexing; and
d. Retransmitting (processed) data groups when transmission or receiving facilities are available.

5A95F Other "information security" equipment, n.e.s; cryptologic equipment, and components therefor.

Requirements

Validated License Required: SZ, Iran, South African Military and Police
Unit: $ value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

5A96G Other telecommunications equipment, "assemblies" and components, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Unit: $ value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

B. Test, Inspection and Production Equipment

5B96G Other telecommunications and "information security" production equipment, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Unit: $ value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

C. Materials

5C96G Other materials required for the manufacture of telecommunications or "information security" equipment, "assemblies" and components, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Unit: $ value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

D. "Software"

5D20B "Software" designed or modified for the "development", "production" or "use" of items controlled by 5A20.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: MT
GTDR: No
GTDU: No

5D92F Other "software" specially designed or modified for the "development", "production" or "use" of equipment controlled by 5A92.

Requirements

Validated License Required: SZ, Iran, Syria, South African Military and Police
Unit: $ value
Reason for Control: FP
GTDR: No
GTDU: Yes *except* Iran and Syria

5D93F Other "software" specially designed or modified for the "development", "production" or "use" of radio relay communication equipment controlled by 5A93.

Requirements

Validated License Required: SZ, Iran, Syria, South African Military and Police
Unit: $ value
Reason for Control: FP
GTDR: No
GTDU: Yes *except* Iran and Syria

5D94F Other "software" specially designed or modified for the "development", "production" or "use" of "data (message) switching" equipment controlled by 5A94.

Requirements

Validated License Required: SZ, Iran, Syria, South African Military and Police
Unit: $ value
Reason For Control: FP
GTDR: No
GTDU: Yes *except* Iran and Syria

5D95G Other "software" specially designed or modified for the "development", "production" or "use" of "information security" or cryptologic equipment, n.e.s.

Requirements

Validated License Required: SZ, Iran, South African Military and Police
Unit: $ value
Reason For Control: FP
GTDR: No
GTDU: Yes *except* Iran

5D96G Other "software" specially designed or modified for the "development", "production" or "use" of telecommunications equipment, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Unit: $ value
Reason For Control: FP
GTDR: No
GTDU: Yes

E. Technology

5E20B Technology for the "development", "production" or "use" of equipment or "software" controlled by 5A20 or 5D20.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason For Control: MT
GTDR: No
GTDU: No

5E92F Technology for the "development", "production" or "use" of equipment controlled by 5A92 or "software" controlled by 5D92.

Requirements

Validated License Required: SZ, Iran, Syria, South African Military and Police
Unit: $ value
Reason For Control: FP
GTDR: No
GTDU: Yes *except* Iran and Syria

5E93F Technology for the "development", "production" or "use" of radio relay communication equipment controlled by 5A93 or "software" controlled by 5D93.

Requirements

Validated License Required: SZ, Iran, Syria, South African Military and Police
Unit: $ value
Reason For Control: FP
GTDR: No
GTDU: Yes *except* Iran and Syria

5E94F Technology for the "development", "production" or "use" of "data (message) switching" equipment controlled by 5A94 or "software" controlled by 5D94.

Requirements

Validated License Required: SZ, Iran, Syria, South African Military and Police
Unit: $ value
Reason For Control: FP
GTDR: No
GTDU: Yes *except* Iran and Syria

5E95F Other technology for the "development", "production" and "use" of "information security" or cryptologic equipment, n.e.s.

Requirements

Validated License Required: SZ, Iran, South African Military and Police
Unit: $ value
Reason For Control: FP
GTDR: No
GTDU: Yes *except* Iran

5E96G Other technology for the "development", "production" and "use" of telecommunications equipment, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Unit: $ value
Reason For Control: FP
GTDR: No
GTDU: Yes

Category 6—Sensors

A. Equipment, Assemblies and Components

6A01A Acoustics.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason For Control: NS
GLV: $3,000
GCT: No
GFW: Yes, 6A01.a.1.b.4 only (see **Advisory Note 1**)
Country Group W Favorable Consideration: No.

List of Items Controlled

a. Marine acoustic systems, equipment or specially designed components therefor, as follows:

a.1. Active (transmitting or transmitting-and-receiving) systems, equipment or specially designed components therefor, as follows:

Note: 6A01.a.1 does not control depth sounders operating vertically below the apparatus, not including a scanning function exceeding ± 10°, and limited to measuring the depth of water, the distance of submerged or buried objects or fishfinding.

a.1.a. Wide-swath bathymetric survey systems for sea bed topographic mapping:

a.1.a.1. Designed:

a.1.a.1.a. To take measurements at an angle exceeding 10° from the vertical; and

a.1.a.1.b. To measure depths exceeding 600 m below the water surface; and

a.1.a.2. Designed:

a.1.a.2.a. To incorporate multiple beams any of which is less than 2°; or

a.1.a.2.b. To provide data accuracies of better than 0.5% of water depth across the swath averaged over the individual measurements within the swath;

a.1.b. Object detection or location systems having any of the following:

a.1.b.1. A transmitting frequency below 10 kHz;

a.1.b.2. Sound pressure level exceeding 224 dB (reference 1 micropascal at 1 m) for equipment with an operating frequency in the band from 10 kHz to 24 kHz inclusive;

a.1.b.3. Sound pressure level exceeding 235 dB (reference 1 micropascal at 1 m) for equipment with an operating frequency in the band between 24 kHz and 30 kHz;

a.1.b.4. Forming beams of less than 1° on any axis and having an operating frequency of less than 100 kHz;

a.1.b.5. Designed to withstand pressure during normal operation at depths exceeding 1,000 m and having transducers:

a.1.b.5.a. Dynamically compensated for pressure; or

a.1.b.5.b. Incorporating other than lead zirconate titante as the transduction element; or

a.1.b.6. Designed to measure distances to objects at ranges exceeding 5,120 m;

a.1.c. Acoustic projectors, including transducers, incorporating piezoelectric, magnetostrictive, electrostrictive, electrodynamic or hydraulic elements operating individually or in a designed combination, having any of the following:

Note: The control status of acoustic projectors, including transducers, specially designed for other equipment is determined by the control status of the other equipment.

a.1.c.1. An instantaneous radiated acoustic power density exceeding 0.01 $mW/mm^2/Hz$ for devices operating at frequencies below 10 kHz;

a.1.c.2. A continuously radiated acoustic power density exceeding 0.001 $mW/mm^2/Hz$ for devices operating at frequencies below 10 kHz;

a.1.c.3. Designed to withstand pressure during normal operation at depths exceeding 1,000 m; or

a.1.c.4. Side-lobe suppression exceeding 22 dB;

Note: 6A01.a.1.c does not control electronic sources that direct the sound vertically only, or mechanical (e.g., air gun or vapour-shock gun) or chemical (e.g., explosive) sources.

Technical Note: Acoustic power density is obtained by dividing the output acoustic power by the product of the area of the radiating surface and the frequency of operation.

a.1.d. Acoustic systems, equipment or specially designed components for determining the position of surface vessels or underwater vehicles designed:

a.1.d.1. To operate at a range exceeding 1,000 m with a positioning accuracy of less than 10 m rms (root mean square) when measured at a range of 1,000 m; or

Note: 6A01.a.1.d.1 includes equipment using coherent "signal processing" between two or more beacons and the hydrophone unit carried by the surface vessel or underwater vehicle, or capable of automatically correcting speed-of-sound propagation errors for calculation of a point.

a.1.d.2. To withstand pressure at depths exceeding 1,000 m;

a.2. Passive (receiving, whether or not related in normal application to separate active equipment) systems, equipment or specially designed components therefor, as follows:

a.2.a. Hydrophones (transducers) with any of the following characteristics:

a.2.a.1. Incorporating continuous flexible sensors or assemblies of discrete sensor elements with either a diameter or length less than 20 mm and with a separation between elements of less than 20 mm;

a.2.a.2. Having any of the following sensing elements:

a.2.a.2.a. Optical fibers;

a.2.a.2.b. Piezoelectric polymers; or

a.2.a.2.c. Flexible piezoelectric ceramic materials;

a.2.a.3. Hydrophone sensitivity better than −180 dB at any depth with no acceleration compensation;

a.2.a.4. When designed to operate at depths not exceeding 35 m, hydrophone sensitivity better than −186 dB with acceleration compensation;

a.2.a.5. When designed for normal operation at depths exceeding 35 m hydrophone sensitivity better than −192 dB with acceleration compensation;

a.2.a.6. When designed for normal operation at depths exceeding 100 m hydrophone sensitivity better than −204 dB; or

a.2.a.7. Designed for operation at depths exceeding 1,000 m;

Technical Note: Hydrophone sensitivity is defined as twenty times the logarithm to the base 10 of the ratio of rms output voltage to a 1 V rms reference, when the hydrophone sensor, without a pre-amplifier, is placed in a plane wave acoustic field with an rms

pressure of 1 micropascal. For example, a hydrophone of −160 dB (reference 1 V per micropascal) would yield an output voltage of 10^{-8} V in such a field, while one of −180 dB sensitivity would yield only 10^{-9} V output. Thus, −160 dB is better than −180 dB.

a.2.b. Towed acoustic hydrophone arrays with:

a.2.b.1. Hydrophone group spacing of less than 12.5 m;

a.2.b.2. Hydrophone group spacing of 12.5 m to less than 25 m and designed or able to be modified to operate at depths exceeding 35 m; or

Technical Note: Able to be modified in 6A01.a.2.b.2 means having provisions to allow a change of the wiring or interconnections to alter hydrophone group spacing or operating depth limits. These provisions are: spare wiring exceeding 10% of the number of wires, hydrophone group spacing adjustment blocks or internal depth limiting devices that are adjustable or that control more than one hydrophone group.

a.2.b.3. Hydrophone group spacing of 25 m or more and designed to operate at depths exceeding 100 m;

a.2.b.4. Heading sensors:

a.2.b.4.a. Having an accuracy of better than ±0.5°;

a.2.b.4.b. Incorporated within the array hosing and designed or able to be modified to operate at depths exceeding 35 m; or

Technical Note: Able to be modified in 6A01.a.2.b.4.b means having an adjustable or removable depth sensing device.

a.2.b.4.c. Mounted external to the array hosing and having a sensor unit capable of operating with 360° roll at depths exceeding 35 m;

a.2.b.5. Non-metallic strength members or longitudinally reinforced array hoses;

a.2.b.6. An assembled array of less than 40 mm in diameter;

a.2.b.7. Multiplexed hydrophone group signals; or

a.2.b.8. Hydrophone characteristics specified in 6A01.a.2.a;

a.2.c. Processing equipment specially designed for towed acoustic hydrophone arrays with either of the following:

a.2.c.1. A Fast Fourier or other transform of 1024 or more complex points in less than 20 ms with no "user-accessible programmability"; or

a.2.c.2. Time or frequency domain processing and correlation, including spectral analysis, digital filtering and beamforming using Fast Fourier or other transforms or processes with "user accessible programmability";

b. Terrestrial geophones capable of conversion for use in marine systems, equipment or specially designed components controlled by 6A01.a.2.a;

c. Correlation-velocity sonar log equipment designed to measure the horizontal speed of the equipment carrier relative to the sea bed at distances between the carrier and the sea bed exceeding 500 m.

6A02A Optical Sensors.

Requirements

Validated License Required: QSTVWYZ

Unit: Number; $ value for parts and accessories

Reason for Control: NS, FP, MT, and NP (see **Notes**)

GLV: $3,000

GCT: Yes, except MT (see **Notes**)

GFW: Yes (see **Advisory Notes 2 and 3 to Category 6**)

Country Group W Favorable Consideration: Yes, except MT (see **Notes**)

Notes: 1. *FP controls* apply to any destination except Australia, Japan, New Zealand, and members of NATO for police-model infrared viewers controlled by this ECCN.

2. *MT controls* apply to optical detectors described in 6A02.a.1, a.3, and a.4 that are specially designed or rated as electromagnetic (including "laser") and ionized-particle radiation resistant.

3. *NP controls* apply to all countries, except countries listed in Supp. No. 2 to Part 773 of this subchapter, for image intensifier tubes and specially designed components described in 6A02.a.2.

List of Items Controlled

a. Optical detectors, as follows:

Note: 6A02.a does not control germanium or silicon photodevices.

a.1. "Space-qualified" single-element or focal plane array (linear or two dimensional) elements having any of the following:

a.1.a.1. A peak response at a wavelength shorter than 300 nm; and

a.1.a.2. A response of less than 0.1% relative to the peak response at a wavelength exceeding 400 nm;

a.1.b.1. A peak response in the wavelength range exceeding 900 nm but not exceeding 1,200 nm; and

a.1.b.2. A response "time constant" of 95 ns or less; or

a.1.c. A peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm;

a.2. Image intensifier tubes and specially designed components therefor, as follows:

a.2.a. Image intensifier tubes having all the following:

a.2.a.1. A peak response in wavelength range exceeding 400 nm, but not exceeding, 1,050 nm;

a.2.a.2. A microchannel plate for electron image amplification with a hole pitch (center-to-center spacing) of less than 25 micrometers; and

a.2.a.3.a. An S–20, S–25 or multialkali photocathode; or

a.2.a.3.b. A GaAs or GaInAs photocathode;

a.2.b. Specially designed components as follows:

a.2.b.1. Fiber optic image inverters;

a.2.b.2. Microchannel plates having both of the following characteristics:

a.2.b.2.a. 15,000 or more hollow tubes per plate; and

a.2.b.2.b. Hole pitch (center-to-center spacing) of less than 25 micrometers; or

a.2.b.3. GaAs or GaInAs photocathodes.

a.3. Non-"space-qualified" linear or two dimensional focal plane arrays, having any of the following:

a.3.a.1. Individual elements with a peak response within the wavelength range exceeding 900 nm, but not exceeding, 1,050 nm; and

a.3.a.2. A response "time constant" of less than 0.5 ns;

a.3.b.1. Individual elements with a peak response in the wavelength range exceeding 1,050 nm, but not exceeding 1,200 nm; and

a.3.b.2. A response "time constant" of 95 ns or less; or

a.3.c. Individual elements with a peak response in the wavelength range exceeding 1,200 nm, but not exceeding 30,000 nm;

Notes: 1. 6A02.a.3 includes photoconductive arrays and photovoltaic arrays.

2. 6A02.a.3 does not control silicon focal plane arrays, multi-element (not to exceed 16 elements) encapsulated photoconductive cells or pyroelectric detectors using any of the following:

a. Lead sulphide;

b. Triglycine sulphate and variants;

c. Lead-lanthanum-zirconium titanate and variants;

d. Lithium tantalate;

e. Polyvinylidene fluoride and variants;

f. Strontium barium niobate and variants; or

g. lead selenide.

a.4. Non-"space-qualified" single-element or non-focal-plane multi-element semiconductor photodiodes or phototransistors having both of the following:

a.4.a. A peak response at a wavelength exceeding 1,200 nm; and

a.4.b. A response "time constant" of 0.5 ns or less;

b. "Multispectral Imaging Sensors" designed for remote sensing applications, having either of the following characteristics:

b.1. An Instantaneous-Field-Of-View (IFOV) of less than 200 microradians; or

b.2. Specified for operation in the wavelength range exceeding 400 nm, but not exceeding 30,000 nm; and

b.2.a. Providing output imaging data in digital format; and

b.2.b.1. "Space-qualified"; or

b.2.b.2. Designed for airborne operation and using other than silicon detectors;

c. Direct view imaging equipment operating in the visible or infrared spectrum, incorporating either of the following:

c.1. Image intensifier tubes controlled by 6A2.a.2 *or*

c.2. Focal plane arrays controlled by 6A02.a.3;

Note: 6A02.c does not control the following equipment incorporating other than GaAs or GaInAs photocathodes:

a. Industrial or civilian intrusion alarm, traffic or industrial movement control or counting systems;

b. Medical equipment;

c. Industrial equipment used for inspection, sorting or analysis of the properties of materials;

d. Flame detectors for industrial furnaces;

e. Equipment specially designed for laboratory use.

Technical Note: Direct view refers to imaging equipment operating in the visible or infrared spectrum, that presents a visual image to a human observer without converting the image into an electronic signal for television display, and that cannot record or store the image photographically, electronically, or by any other means.

d. Special support components for optical sensors, as follows:

d.1. "Space-qualified" cryocoolers;

d.2. Non-"space-qualified" cryocoolers, as follows:

d.2.a. Closed cycle with a specified Mean-Time-To-Failure (MTTF), or Mean-Time-Between-Failures (MTBF), exceeding 2,500 hours;

d.2.b. Joule-Thomson (JT) self-regulating minicoolers for bore diameters of less than 8 mm;

d.3. Optical sensing fibers:

d.3.a. Specially fabricated either compositionally or structurally, or modified by coating, to be acoustically, thermally, intertially, electromagnetically or nuclear radiation sensitive; or

d.3.b. Modified structurally to have a "beat length" of less than 50 mm (high birefringence).

6A22B Photosensitive components not controlled by ECCN 6A02.

Requirements

Validated License Required: QSTVWYZ

Unit: Number; $ value for parts and accessories

Reason for Control: MT

GLV: $3,000

GCT: No

GFW: No

List of Items Controlled

Photosensitive components; as follows, that are not controlled by ECCN 6A02 and that are specially designed or rated as electromagnetic (including "laser") and ionized-particle radiation resistant:

a. Photosensitive components (including photodiodes, phototransistors, photothyristors, photoconductive cells and similar photosenitive components):

a.1. Having a peak sensitivity at a wavelength longer than 1,200 nonometers or shorter than 190 nonometers; or

a.2. Having a peak sensitivity at a wavelength shorter than 300 nonometers and having an efficiency of less than 0.1% relative to peak response at wavelengths longer than 400 nanometers;

Note: ECCN 6A22.a does not control vacuum photodiodes specially designed for use in spectrophotometry having a peak response at a wavelength shorter than 300 nm.

b. Semiconductor photodiodes and phototransistors with a response time constant of 95 ns or less measured at the operating temperature for which the "time constant" reaches a minimum *except* semiconductor photodiodes that are not "space qualified" with a response "time constant" of 0.5 ns or more and with a peak sensitivity at a wavelength neither longer than 1,050 nm, nor shorter than 300 nm;

c. Linear and focal-plane arrays (hybrid or monolithic) having the characteristics in ECCN 6A22.a or b, and specifically designed components therefor.

6A42B Electron tubes and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: Report tubes, semiconductor devices, and systems in "number"; parts and accessories in "$ value"

Reason for Control: NP

GLV: $3,000

GCT: No

GFW: No

List of Items Controlled

Electron tubes and specially designed components therefore, as follows, that are not controlled by ECCN 6A02:

a. Electron tubes for image conversion or intensification, including those designed for streak or framing cameras, incorporating:

a.1. Microchannel-plate electron multipliers; or

a.2. Semi-transparent photocathodes incorporating epitaxially grown layers of compound semiconductors, such as gallium arsenide;

b. Electron tubes for television or video cameras, having any of the following characteristics:

b.1. Incorporating microchannel-plate electron multipliers;

b.2. Coupled with electron tubes covered by 6A42.a;

b.3. Ruggedized and having a maximum length-to-bulb diameter ratio of 5:1 or less.

Note: This ECCN 6A42 does not control:

a. Non-imaging image intensifier or non-imaging image conversion tubes that incorporate microchannel-plate electron multipliers, when not specifically designed for cameras controlled by ECCN 6A03 or ECCN 6A43;

b. Television or video camera tubes that incorporate microchannel-plate electron multipliers designed for cameras not controlled by ECCN 6A03 or ECCN 6A43.

6A03A Cameras.

Requirements

Validated License Required: QSTVWYZ

Unit: Number

Reason for Control: NS and NP (NP controls apply to 6A03.a.2 through a.5 and b.1 only)

GLV: $1,500

GCT: Yes, except 6A03.a.2 and a.3

GFW: No

Country Group W Favorable Consideration: Yes, except 6A03.a.2 and a.3

List of Items Controlled

a. Instrumentation cameras, as follows:

a.1. High-speed cinema recording cameras using any film format from 8 mm to 16 mm inclusive, in which the film is continuously advanced throughout the recording period, and that are capable of recording at framing rates exceeding 13.150 frames per second;

Note: 6A03.a.1 does not control cinema recording cameras for normal civil purposes.

a.2. Mechanical high speed cameras, in which the film does not move, capable of recording at rates exceeding 1,000,000 frames per second for the full framing height of 35 mm film, or at proportionately higher rates for lesser frame heights, or at proportionately lower rates for greater frame heights;

a.3. Mechanical or electrical streak cameras with writing speeds exceeding 10 mm/microsecond;

a.4. Electronic framing cameras having a speed exceeding 1,000,000 frames per second;

a.5. Electronic cameras having both of the following:

a.5.a. An electronic shutter speed (gating capability) of less than 1 microsecond per full frame; and

a.5.b. A read out time allowing a framing rate of more than 125 full frames per second;

b. Imaging cameras, as follows:

Note: 6A03.b does not control television or video cameras specially designated for television broadcasting.

b.1. Video cameras incorporating solid state sensors, having any of the following:

b.1.a. More than 4×10^6 "active pixels" per solid state array for monochrome (black and white) cameras;

b.1.b. More than 4×10^6 "active pixels" per solid state array for color cameras incorporating three solid state array; or

b.1.c. More than 12×10^6 "active pixels" for solid state array color cameras incorporating one solid state array;

b.2. Scanning cameras and scanning camera systems;

b.2.a. Incorporating linear detector arrays with more than 8,192 elements per array; and

b.2.b. Having mechanical scanning in one direction;

b.3. Incorporating image intensifiers controlled by 6A02.a.2.a;

b.4. Incorporating focal plane arrays controlled by 6A02.a.3.

(For cameras specially designed or modified for underwater use, see 8A02.d and 8A02.e)

6A43B Cameras, components, and photographic recording media not controlled by ECCN 6A03.

Requirements

Validated License Required: QSTVWYZ

Unit: Number; $ value for parts and accessories

Reason for Control: NP

GLV: $1,500

GCT: No

GFW: No

List of Items Controlled

a. Cameras having recording rates or writing speeds, as follows:

a.1. Mechanical framing cameras with recording rates greater than 225,000 frames per second;

a.2. Mechanical streak cameras with writing speeds greater than 0.5 mm per microsecond;

a.3. Parts and accessories for cameras described in 6A43.a.1 and a.2, including synchronizing electronics specially designed for this purpose and rotor assemblies (including turbines, mirrors, and bearings);

b. Cameras having time resolution or frame exposure time, as follows:

b.1. Electronic streak cameras capable of 50 ns or less time resolution;

b.2. Electronic (or electrically shuttered) framing cameras capable of 50 ns or less frame exposure time, including single-frame cameras;

b.3. Streak and framing tubes usable in cameras described in 6A43.b.1 and b.2;

c. Cameras incorporating electron tubes controlled by ECCN 6A42, *except* television or video cameras designed for television broadcasting use.

6A04A Optics.

Requirements

Validated License Required: QSTVWYZ

Unit: Equipment in "number"; cable in "feet"; components in "S value"

Reason for Control: NS

GLV: $3,000

GCT: Yes

GFW: See **Note** for limits on eligibility

Note: GFW eligibility is limited to countries listed in Supplement Nos. 2 and 3 to part 773 of this subchapter and to the following items (see **Advisory Note 6 to Category 6**):

a. Optical mirrors controlled by 6A04.a.1, a.2., or a.4;

b. Optical components controlled by 6A04.b;

c. Optical filters controlled by 6A04.d.1.a; and

d. Optical control equipment controlled by 6A04.e.2 or e.4.

List of Items Controlled

a. Optical mirrors (reflectors), as follows:

a.1. "Deformable mirrors" with either continuous or multi-element surfaces, and specially designed components therefor, capable or dynamically repositioning portions of the surface of the mirror at rates exceeding 100 Hz;

a.2. Lightweight monolithic mirrors with an average "equivalent density" of less than 30kg/m^2, and a total weight exceeding 10 kg;

a.3. Lightweight "composite" or foam mirror structures with an average "equivalent density" of less than 30 kg/m^2, and a total weight exceeding 2 kg;

a.4. Beam steering mirrors more than 100 mm in diameter or length of major axis with a control bandwidth exceeding 100 Hz;

b. Optical components made from zinc selenide (ZnSe) or zinc sulphide (ZnS) with transmission in the wavelength range exceeding 3,000 nm but not exceeding 25,000 nm and either of the following:

b.1. Exceeding 100 cm^3 in volume; or

b.2. Exceeding 80 mm in diameter or length of major axis and 20 mm in thickness (depth);

c. "Space-qualified" components for optical systems, as follows:

c.1. Lightweighted to less than 20% "equivalent density" compared with a solid blank of the same aperture and thickness;

c.2. Substrates, substrates with surface coatings (single-layer or multi-layer, metallic or dielectric, conducting, semiconducting or insulating) or with protective films;

c.3. Segments or assemblies of mirrors designed to be assembled in space into an optical system with a collecting aperture equivalent to or larger than a single optic 1 meter in diameter;

c.4. Manufactured from "composite" materials having a coefficient of linear thermal expansion equal to or less than 5×10^{-6} in any coordinate direction;

d. Optical filters, as follows:

d.1. For wavelengths longer than 250 nm, comprised of multi-layer optical coatings and having either of the following:

d.1.a. Bandwidths equal to or less than 1 nm Full Width Half Intensity (FWHI) and peak transmission of 90% or more; or

d.1.b. Bandwidths equal to or less than 0.1 nm FWHI and peak transmission of 50% or more;

Note: 6A04.d.1 does not control optical filters with fixed air gaps or Lyot-type filters.

d.2. For wavelengths longer than 250 nm, and having all of the following:

d.2.a. Tunable over a spectral range of 500 nm or more;

d.2.b. Instantaneous optical bandpass of 1.25 nm or less;

d.2.c. Wavelength resettable within 0.1 ms to an accuracy of 1 nm or better within the turnable spectral range; and

d.2.d. A single peak transmission of 91% or more;

d.3. Optical opacity switches (filters) with a field of view of 30° or wider and a response time equal to or less than 1 ns;

e. Optical control equipment, as follows:

e.1. Specially designed to maintain the surface figure or orientation of the "space-qualified" components controlled by 6A04.c.1 or c.3;

e.2. Having steering, tracking, stabilization or resonator alignment bandwidths equal to or more than 100 Hz and an accuracy of 10 microradians or less;

e.3. Gimbals having a maximum slew exceeding 5°, a bandwidth equal to or more than 100 Hz and either of the following:

e.3.a.1. Exceeding 0.15 m but not exceeding 1 m in diameter or major axis length;

e.3.a.2. Capable of angular accelerations exceeding 2 radians/s ^{2}; and

e.3.a.3. Having angular pointing errors equal to or less than 200 microradians; or

e.3.b.1. Exceeding 1 m in diameter or major axis length;

e.3.b.2. Capable of angular accelerations exceeding 0.5 radians/s ^{2}; and

e.3.b.3. Having angular pointing errors equal to or less than 200 microradians;

e.3.b.4. Specially designed to maintain the alignment of phased array or phased segment mirror systems consisting of mirrors with a segment diameter or major axis length of 1 m or more;

f. "Fluoride fiber" cable, or optical fibres therefor, having an attenuation of less than 4 dB/km in the wavelength range exceeding 1,000 nm but not exceeding 3,000 nm.

6A05A "Lasers", components and optical equipment, as follows.

Requirements

Validated License Required: QSTVWYZ

Unit: Number; $ value for parts and accessories

Reason for Control: NS, NP (see Notes)

GLV: $3,000

GCT: Yes

GFW: Yes, (see **Advisory Notes** 7 and 8 to category 6)

Note: NP controls apply to all destinations, except countries listed in Supplement No. 2 to part 773 of this subchapter for lasers described in 6A05.a.1.c, a.2, a.4.c, a.6, a.7.b, c.1.b, c.2.c.2, c.2.c.3, c.2.d.2, and d.2).

List of Items Controlled

Notes: 1. Pulsed "lasers" include those that run in a continuous wave (CW) mode with pulses superimposed.

2. Pulse-excited "lasers" include those that run in a continuously excited mode with pulse excitation superimposed.

3. The embargo status of Raman "lasers" is determined by the parameters of the pumping source "lasers". The pumping source "lasers" can be any of the "lasers" described below.

a. Gas "lasers", as follows:

a.1. Excimer "lasers" having any of the following:

a.1.a. An output wavelength not exceeding 150 nm and:

a.1.a.1. An output energy exceeding 50 mJ per pulse; or

a.1.a.2. An average or CW output power exceeding 1 W;

a.1.b. An output wavelength exceeding 150 nm, but not exceeding 190 nm and:

a.1.b.1. An output energy exceeding 1.5 J per pulse; or

a.1.b.2. An average or CW output power exceeding 120 W;

a.1.c. An output wavelength exceeding 190 nm, but not exceeding 360 nm and:

a.1.c.1. An output energy exceeding 10 J per pulse; or

a.1.c.2. An average or CW output power exceeding 500 W; or

a.1.d. An output wavelength exceeding 360 nm and:

a.1.d.1. An output energy exceeding 1.5 J per pulse; or

a.1.d.2. An average or CW output power exceeding 30 W;

a. 2. Metal vapour "lasers", as follows:

a.2.a. Copper (Cu) "lasers" with an average or CW output power exceeding 20 W;

a.2.b. Gold (Au) "lasers" with an average or CW output power exceeding 5 W;

a.2.c. Sodium (Na) "lasers" with an output power exceeding 5 W;

a.2.d. Barium (Ba) "lasers" with an average or CW outpower power exceeding 2 W;

a.3. Carbon monoxide (CO) "lasers" having either:

a.3.a. An output energy exceeding 2 J per pulse and a pulsed "peak power" exceeding 5 kW; or

a.3.b. An average or CW output power exceeding 5 kW;

a.4. Carbon duixide (CO_2) "lasers" having any of the following:

a.4.a. A CW output power exceeding 10 kW;

a.4.b. A pulsed output with a "pulse duration" exceeding 10 microseconds and:

a.4.b.1. An average outpower power exceeding 10 kW; or

a.4.b.2. A pulsed "peak power" exceeding 100 kW; or

a.4.c. A pulsed output with a "pulse duration" equal to or less than 10 microseconds and:

a.4.c.1. A pulse energy exceeding 5 J per pulse and "peak power" exceeding 2.5 kW; or

a.4.c.2. An average output power exceeding 2.5 kW;

a.5. "Chemical lasers", as follows:

a.5.a. Hydrogen Fluoride (HF) "lasers";

a.5.b. Deuterium Fluoride (DF) "lasers";

a.5.c. "Transfer lasers":

a.5.c.1. Oxygen Iodine (O_2–I) "lasers";

a.5.c.2. Deuterium Fluoride-Carbon dioxide (DF-CO_2) "lasers";

a.6. Gas discharge and ion "lasers", i.e., krypton ion or argon ion "lasers", having either:

a.6.a. An output energy exceeding 1.5 J per pulse and a pulsed "peak power" exceeding 50 W; or

a.6.b. An average or CW output power exceeding 50 W;

a.7. Other gas "lasers", *except* nitrogen "lasers", having any of the following:

a.7.a. An output wavelength not exceeding 150 nm and:

a.7.a.1. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

a.7.a.2. An average or CW output power exceeding 1 W;

a.7.b. An output wavelength exceeding 150 nm, but not exceeding 800 nm and:

a.7.b.1. An output energy exceeding 1.5 J per pulse and a pulsed "peak power" exceeding 30 W; or

a.7.b.2. An average or CW outpower exceeding 30 W;

a.7.c. An output wavelength exceeding 800 nm, but not exceeding 1,400 nm and:

a.7.c.1. An output energy exceeding 0.25 J per pulse and a pulsed "peak power" exceeding 10 W; or

a.7.c.2. An average or CW output power exceeding 10 W; or

a.7.d. An output wavelength exceeding 1,400 nm and an average or CW output power exceeding 1 W;

b. Semiconductor "lasers", as follows:

Technical Note: Semiconductor "lasers" are commonly called "laser" diodes.

Note: The control status of semiconductor "lasers" specially designed for other equipment is determined by the control status of the other equipment.

b.1. Individual, single-transverse mode semiconductor "lasers" having:

b.1.a. An average outpower power exceeding 100 mW; or

b.1.b. A wavelength exceeding 1,050 nm;

b.2. Individual, multiple-transverse mode semiconductor "lasers" or arrays of individual semiconductor "lasers", having:

b.2.a. An output energy exceeding 500 microjoules per pulse and a pulsed "peak power" exceeding 10 W;

b.2.b. An average or CW output power exceeding 10 W; or

b.2.c. A wavelength exceeding 1,050 nm;

c. Solid state "lasers", as follows:

c.1. "Tunable" "lasers" having any of the following:

Note: 6A05.c.1 includes titanium-sapphire (Ti: $A1_2O_3$), thulium-YAG (Tm: YAG), thulium-YSGG (Tm: YSGG), alexandrite (CR: $BeA1_2O_4$) and color center "lasers".

c.1.a. An output wavelength less than 600 nm and:

c.1.a.1. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

c.1.a.2. An average or CW output power exceeding 1 W;

c.1.b. An output wavelength of 600 nm or more, but not exceeding 1,400 nm and:

c.1.b.1. An output energy exceeding 1 J per pulse and a pulsed "peak power" exceeding 20 W; or

c.1.b.2. An average or CW output power exceeding 20 W; or

c.1.c. An output wavelength exceeding 1,400 nm and:

c.1.c.1. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

c.1.c.2. An average or CW output power exceeding 1 W;

c.2. Non-"tunable" "lasers", as follows:

Note: 6A05.c.2 controls atomic transition solid state "lasers".

c.2.a. Ruby "lasers" having an output energy exceeding 20 J per pulse;

c.2.b. Neodymium glass "lasers", as follows:

c.2.b.1. "Q-switched lasers" having:

c.2.b.1.a. An output energy exceeding 20 J, but not exceeding 50 J per pulse and an average output power exceeding 10 W; or

c.2.b.1.b. An output energy exceeding 50 J per pulse;

c.2.b.2. Non-"Q-switched lasers" having:

c.2.b.2.a. An output energy exceeding 50 J, but not exceeding 100 J per pulse and an average output power exceeding 20 W; or

c.2.b.2.b. An output energy exceeding 100 J per pulse;

c.2.c. Neodymium-doped (other than glass) "lasers", as follows, with an output wavelength exceeding 1,000 nm, but not exceeding 1,100 nm:

(For Neodymium-doped (other than glass) "lasers" having an output wavelength not exceeding 1,000 nm or exceeding 1,100 nm, see 6A05.c.2.d)

c.2.c.1. Pulse excited, mode-locked, "Q-switched lasers" with a "pulse duration" of less than 1 ns and:

c.2.c.1.a. A "peak power" exceeding 5 GW;

c.2.c.1.b. An average output power exceeding 10 W; or

c.2.c.1.c. A pulsed energy exceeding 0.1 J;

c.2.c.2. Pulse-excited, "Q-switched" lasers, with a pulse duration equal to or more than 1 ns, and:

c.2.c.2.a. A single-transverse mode output with:

c.2.c.2.a.1. A "peak power" exceeding 100 MW;

c.2.c.2.a.2. An average output power exceeding 20 W; or

c.2.c.2.a.3. A pulsed energy exceeding 2 J; or

c.2.c.2.b. A multiple-transverse mode output with:

c.2.c.2.b.1. A "peak power" exceeding 200 MW;

c.2.c.2.b.2. An average output power exceeding 50 W; or

c.2.c.2.b.3. A pulsed energy exceeding 2 J;

c.2.c.3. Pulse-excited, non-"Q-switched lasers", having:

c.2.c.3.a. A single-transverse mode output with:

c.2.c.3.a.1. A "peak power" exceeding 500 kW; or

c.2.c.3.a.2. An average output power exceeding 150 W; or

c.2.c.3.b. A multiple-transverse mode output with:

c.2.c.3.b.1. A "peak power" exceeding 1 MW; or

c.2.c.3.b.2. An average power exceeding 500 W;

c.2.c.4. Continuously excited "lasers" having:

c.2.c.4.a. A single-transverse mode output with:

c.2.c.4.a.1. A "peak power" exceeding 500 kW; or

c.2.c.4.a.2. An average or CW output power exceeding 150 W; or

c.2.c.4.b. A multiple-transverse mode output with:

c.2.c.4.b.1. A "peak power" exceeding 1 MW; or

c.2.c.4.b.2. An average or CW output power exceeding 500 W;

c.2.d. Other non-"tunable" "lasers", having any of the following:

c.2.d.1. A wavelength less than 150 nm and:

c.2.d.1.a. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

c.2.d.1.b. An average or CW output power exceeding 1 W;

c.2.d.2. A wavelength of 150 nm or more, but not exceeding 800 nm and:

c.2.d.2.a. An output energy exceeding 1.5 J per pulse and a pulsed "peak power" exceeding 30 W; or

c.2.d.2.b. An average or CW output power exceeding 30 W;

c.2.d.3. A wavelength exceeding 800 nm, but not exceeding 1,400 nm, as follows:

c.2.d.3.a. "Q-switched lasers" with:

c.2.d.3.a.1. An output energy exceeding 0.5 J per pulse and a pulsed "peak power" exceeding 50 W; or

c.2.d.3.a.2. An average output power exceeding:

c.2.d.3.a.2.a. 10 W for single-mode "lasers";

c.2.d.3.a.2.b. 30 W for multimode "lasers";

c.2.d.3.b. Non-"Q-switched lasers" with:

c.2.d.3.b.1. An output energy exceeding 2 J per pulse and a pulsed "peak power" exceeding 50 W; or

c.2.d.3.b.2. An average or CW output power exceeding 50 W; or

c.2.d.4. A wavelength exceeding 1,400 nm and:

c.2.d.4.a. An output energy exceeding 100 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

c.2.d.4.b. An average or CW output power exceeding 1 W;

d. Dye and other liquid "lasers", having any of the following:

d.1. A wavelength less than 150 nm and:

d.1.a. An output energy exceeding 50 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

d.1.b. An average or CW output power exceeding 1 W;

d.2. A wavelength of 150 nm or more, but not exceeding 800 nm and:

d.2.a. An output energy exceeding 1.5 J per pulse and a pulsed "peak power" exceeding 20 W;

d.2.b. An average or CW output power exceeding 20 W; or

d.2.c. A pulsed single longitudinal mode oscillator with an average output power exceeding 1 W and a repetition rate exceeding 1 kHz if the "pulse duration" is less than 100 ns;

d.3. A wavelength exceeding 800 nm, but not exceeding 1,400 nm and:

d.3.a. An output energy exceeding 0.5 J per pulse and a pulsed "peak power" exceeding 10 W; or

d.3.b. An average or CW output power exceeding 10 W; or

d.4. A wavelength exceeding 1,400 nm and:

d.4.a. An output energy exceeding 100 mJ per pulse and a pulsed "peak power" exceeding 1 W; or

d.4.b. An average or CW output power exceeding 1 W;

e. Free electron "lasers";

f. Components, as follows:

f.1. Mirrors cooled either by active cooling or by heat pipe cooling;

Technical Note: Active cooling is a cooling technique for optical components using flowing fluids within the subsurface (nominally less than 1 nm below the optical surface) of the optical component to remove heat from the optic.

f.2. Optical mirrors or transmissive or partially transmissive optical or electro-optical components specially designed for use with controlled "lasers";

g. Optical equipment, as follows:

g.1. Dynamic wavefront (phase) measuring equipment capable of mapping at least 50 positions on a beam wavefront with:

g.1.a. Frame rates equal to or more than 100 Hz and phase discrimination of at least 5 percent of the beam's wavelength; or

g.1.b. Frame rates equal to or more than 1,000 Hz and phase discrimination of at least 20 percent of the beam's wavelength;

g.2. "Laser" diagnostic equipment capable of measuring "Super-High Power Laser" (SHPL) system angular beam steering errors of equal to or less than 10 microradians;

g.3. Optical equipment, assemblies or components specially designed for a phased-array "SHPL" system for coherent beam combination to an accuracy of Lambda/10 at the designed wavelength, or 0.1 micrometer, whichever is the smaller;

g.4. Projection telescopes specially designed for use with SHPL systems.

(For shared aperture optical elements, capable of operating in "super-high power laser" applications, see ITAR category XII.)

6A06A "Magnetometers", "magnetic gradiometers", "intrinsic magnetic gradiometers" and compensation systems, and specially designed components therefor, as follows.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: NS

GLV: $1,500

GCT: Yes

GFW: No

List of Items Controlled

a. "Magnetometers" using "superconductive", optically pumped or nuclear precession (proton/Overhauser) technology having a "noise level" (sensitivity) lower (better) than 0.05 nT rms per square root Hz;

b. Induction coil "magnetometers" having a "noise level" (sensitivity) lower (better) than:

b.1. 0.05 nT rms per square root Hz at frequencies of less than 1 Hz;

b.2. 1×10^{-3} nT rms per square root Hz at frequencies of 1 Hz or more but not exceeding 10 Hz; or

b.3. 1×10^{-4} nT rms per square root Hz at frequencies exceeding 10 Hz;

c. Fiber optic "magnetometers" having a "noise level" (sensitivity) lower (better) than 1 nT rms per square root Hz;

d. "Magnetic gradiometers" using multiple "magnetometers" controlled by 6A06.a, b or c;

e. Fiber optic "intrinsic magnetic gradiometers" having a magnetic gradient field "noise level" (sensitivity) lower (better) than 0.3 nT/m rms per square root Hz;

f. "Intrinsic magnetic gradiometers", using technology other than fiber-optic technology, having a magnetic gradient field "noise level" (sensitivity) lower (better) than 0.015 nT/m rms per square root Hz:

g. Magnetic compensation systems for magnetic sensors designed for operation on mobile platforms;

h. "Superconductive" electromagnetic sensors, containing components manufactured from "superconductive" materials:

h.1. Designed for operation at temperatures below the "critical temperature" of at least one of their "superconductive" constituents (including Josephson effect devices or "superconductive" quantum interference devices (SQUIDS));

h.2. Designed for sensing electromagnetic field variations at frequencies of 1 KHz or less, and;

h.3. Having any of the following characteristics:

h.3.a. Incorporating thin-film SQUIDS with a minimum feature size of less than 2 micrometers and with associated input and output coupling circuits;

h.3.b. Designed to operate with a magnetic field slew rate exceeding 1×10^{6} magnetic flux quanta per second;

h.3.c. Designed to function without magnetic shielding in the Earth's ambient magnetic field; or

h.3.d. Having a temperature coefficient less (smaller) than 0.1 magnetic flux quantum/K.

Note: 6A06 does not control instruments specially designed for biomagnetic measurements for medical diagnostics, unless they incorporate unembedded sensors controlled by 6A06.h.

6A07A Gravity meters (gravimeters) and gravity gradimeters, as follows.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: NS, MT (see Note)

GLV: $3,000

GCT: Yes, except MT (see Note)

GFW: No

Country Group W Favorable Consideration: Yes, except for items subject to MT controls (see Note)

Note: MT controls apply to gravity meters (gravimeters), gravity gradiometers and specially designed components therefor, as follows:

a. Designed or modified for airborne or marine use; and

b. Having a static or operational accuracy of 0.7 milligal or better, with a time to steady-state registration of two minutes or less.

List of Items Controlled

a. Gravity meters for ground use having a static accuracy of less (better) than 10 microgal, *except* ground gravity meters of the quartz element (Worden) type;

b. Gravity meters for mobile platforms for ground, marine, submersible, space or airborne use having:

b.1. A static accuracy of less (better) than 0.7 milligal; and

b.2. An in-service (operational) accuracy of less (better) than 0.7 milligal with a time-to-steady-state registration of less than 2 minutes under any combination of attendant corrective compensations and motional influences;

c. Gravity gradiometers.

6A08A Radar systems, equipment and assemblies having any of the following characteristics, and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: NS, MT, and FP (see Notes)

GLV: $5,000

GCT: Yes, except MT (see Notes)

GFW: Yes (see Advisory Note 9 to Category 6)

Country Group W Favorable Consideration: Yes, except MT (see Notes)

Notes: 1. MT controls apply to items that are designed for airborne applications and that are usable in the systems described in § 778.7(a) of this subchapter.

2. FP controls apply to Libya, Iran, and Syria for items described in 6A08.g.

List of Items Controlled

Note: 6A08 does not control:

a. Secondary surveillance radar (SSR);

b. Car radar designed for collision prevention;

c. Displays or monitors used for Air Traffic Control having no more than 12 resolvable elements per mm.

a. Operating at frequencies from 40 GHz to 230 GHz and having an average output power exceeding 100 mW;

b. Having a tunable bandwidth exceeding ±6.25% of the center operating frequency;

Technical Note: The center operating frequency equals one half of the sum of the highest plus the lowest specified operating frequencies.

c. Capable of operating simultaneously on more than two carrier frequencies;

d. Capable of operating in synthetic aperture (SAR), inverse synthetic aperture (ISAR) or sidelooking airborne (SLAR) radar mode;

e. Incorporating "electronically steerable phased array antennae";

f. Capable of heightfinding non-cooperative targets;

Note: 6A08.f does not control:

a. Precision approach radar equipment (PAR) conforming with ICAO standards;
b. Meteorological (weather) radar.

g. Designed specially for airborne (balloon or airframe mounted) operation and having Doppler signal processing for the detection of moving targets;
h. Employing processing of radar signals using:
h.1. "Radar spread spectrum" techniques; or
h.2. "Radar frequency agility" techniques;
i. Providing ground-based operation with a maximum "instrumented range" exceeding 185 km;

Note: 6A08.i does not control fishing ground surveillance radar.

j. "Laser" radar or Light Detection and Ranging (LIDAR) equipment, as follows:
j.1. "Space-qualified"; or
j.2. Employing coherent heterodyne or homodyne detection techniques and having an angular resolution of less (better) than 20 microradians;

Note: 6A08.j does not control LIDAR equipment specially designed for surveying or for meteorological observation.

k. Having signal processing sub-systems using "pulse compression" with:
k.1. a "pulse compression" ratio exceeding 150; or
k.2. A pulse width of less than 200 ns;
l. Having data processing sub-systems with:
l.1. "Automatic target tracking" providing, at any antenna rotation, the predicted target position beyond the time of the next antenna beam passage;

Note: 6A08.l.1 does not control conflict alert capability in air traffic control systems, or marine or harbor radar.

l.2. Calculation of target velocity from primary radar having non-periodic (variable) scanning rates;
l.3. Processing for automatic pattern recognition (feature extraction) and comparison with target characteristic data bases (waveforms or imagery) to identify or classify targets; or
l.4. Superposition and correlation, or fusion, of target data from two or more "geographically dispersed" and "interconnected radar" sensors to enhance and discriminate targets.

Note: 6A08.l.4 does not control systems, equipment and assemblies used for marine traffic control.

§ 6A28B Radar and laser radar systems (including altimeters), and specially designed components therefor, for airborne applications.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: MT and FP (see Notes)
GLV: $5,000
GCT: No
GFW: No

Notes: 1. FP controls apply to Libya, Iran, and Syria for all items controlled by this entry.
2. This entry does not control airborne civil weather radar conforming to international standards for civil weather radars provided that they do not include any of the following:
a. Phased array antennas;
b. "Frequency agility";
c. "Spread spectrum"; or
d. Any signal processing specially designed for tracking of vehicles.

6A29B Precision tracking systems.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: MT
GLV: $5,000
GCT: No
GFW: No

List of Items Controlled

a. Tracking systems that use a translator installed on the rocket system or unmanned air vehicle in conjunction with either surface or airborne references or navigation satellite systems to provide real-time measurements of in-flight position and velocity;
b. Range instrumentation radars including associated optical/infrared trackers with the following capabilities:
b.1. Angular resolution better than 0.5 milliradians RMS;
b.2. Range resolution better than 10 meters RMS; and
b.3. Velocity resolution better than 3 meters per second.

6A30B Integrated electronic systems specially designed for radar cross section measurement.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: MT
GLV: $3,000
GCT: No
GFW: No

6A18A Magnetic, pressure, and acoustic underwater detection devices specially designed for military purposes and controls and components therefor.

Requirements

Validated License Required: QSTVWYZ
Unit: Number; $ value for components
Reason for Control: NS
GLV: $5,000
GCT: Yes
GFW: No

6A44B Photomultiplier tubes.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NP
GLV: $3,000
GCT: No
GFW: No

List of Items Controlled

Photomultiplier tubes having any of the following characteristics:
a. An anode pulse rise time of less than 1 ns; or
b. Containing microchannel plate electron multipliers.

6A90F Airborne radar equipment, n.e.s., and specially designed components therefor.

Requirements

Validated License Required: SZ, Iran, Syria, South African military and police
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

6A91F Marine or terrestrial acoustic equipment, n.e.s., capable of detecting or locating underwater objects or features or positioning surface vessels or underwater vehicles and specially designed components therefor.

Requirements

Validated License Required: SZ, Iran, South African military and police
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

6A92F Gravity meters (gravimeters) not controlled by 6A07A.

Requirements

Validated License Required: SZ, Iran, Syria, South Africa military and police
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

List of Items Controlled

Gravity meters for ground use, as follows:
a. Having a static accuracy of less (better) than 100 microgal, but no less (better) than 10 microgal; or
b. Being of the quartz element (Worden) type.

6A93F "Magnetometers" having a "noise level" (sensitivity) lower (better) than 1.0 nT rms per square root Hz, but no lower than 0.05 nT rms per square root Hz.

Requirements

Validated License Required: SZ, Iran, Syria, South Africa military and police
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

6A94F Marine or terrestrial acoustic equipment, n.e.s., capable of detecting or locating underwater objects or features or positioning surface vessels or underwater vehicles; airborne radar equipment, n.e.s.; and specially designed components, n.e.s., for all of the above.

Requirements

Validated License Required: SZ, Iran, South African military and police
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

6A96G Other equipment in Category 6A, n.e.s.

Requirements

Validated License Required: SZ and South African military and police entities.
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

B. Test, Inspection and Production Equipment

6B04A Optics.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NS
GLV: $5,000
GCT: Yes
GFW: No

List of Items Controlled

Equipment for measuring absolute reflectance to an accuracy of ±0.1% of the reflectance value.

6B05A Lasers.

Requirements

Validated License Required: QSTVWYZ
Unit: Number; $ value for parts and accessories
Reason for Control: NS
GLV: $5,000
GCT: Yes
GFW: No

List of Items Controlled

Specially designed or modified equipment, including tools, dies, fixtures or gauges, as follows, and specially designed components and accessories therefor:

a. For the manufacture or inspection of:

a.1. Free electron "laser" magnet wigglers;

a.2. Free electron "laser" photo injectors;

b. For the adjustment, to required tolerances, of the longitudinal magnetic field of free electron "lasers".

6B07A Gravimeters.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NS
GLV: $5,000
GCT: Yes
GFW: No

List of Items Controlled

Equipment to produce, align and calibrate land-based gravity meters with a static accuracy of better than 0.1 milligal.

6B08A Radar.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NS
GLV: $5,000
GCT: Yes
GFW: No

List of Items Controlled

Pulse radar cross-section measurement systems having transmit pulse widths of 100 ns or less and specially designed components therefor.

6B96G Other test, inspection, and production equipment in Category 6B, n.e.s.

Requirements

Validated License Required: SZ, South African military and police
Unit: $ value
Reason for Control: FP
GLV: No
GCT: No
GFW: No

C. Materials

6C02A Optical sensors.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NS
GLV: $3,000
GCT: Yes
GFW: No

List of Items Controlled

a. Elemental tellurium (Te) of purity levels equal to or more than 99.9995%;

b. Single crystals of cadmium telluride (CdTe) or mercury cadmium tellurium (CdHgTe) of any purity level, including epitaxial wafers thereof;

Technical Note: Purity verified in accordance with ASTM F574–83 standard or equivalents.

c. "Optical fiber preforms" specially designed for the manufacture of high birefringence fibers controlled by 6A02.d.3.

6C04A Optics.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason for Control: NS
GLV: $1,500
GCT: Yes
GFW: Yes (see **Advisory Note 6 to Category 6**)

List of Items Controlled

a. Zinc selenide (ZnSe) and zinc sulphide (ZnS) "substrate blanks" produced by the chemical vapour deposition process:

a.1. Larger than 100 cm^3 in volume; or

a.2. Larger than 80 mm in diameter with a thickness equal to or more than 20 mm;

b. Boules of the following electro-optic materials:

b.1. Potassium titanyl arsenate (KTA);

b.2. Silver gallium selenide ($AgGaSe_2$);

b.3. Thallium arsenic selenide (Tl_3AsSe_3, also known as TAS);

c. Non-linear optical materials having:

c.1. Third order susceptibility (chi 3) equal to or less than 1 W/m^2; and

c.2. A response time of less than 1 ms;

d. "Substrate blanks" of silicon carbide or beryllium beryllium (Be/Be) deposited materials exceeding 300 mm in diameter or major axis length;

e. Low optical absorption materials, as follows:

e.1. Bulk fluoride compounds containing ingredients with a purity of 99.999% or better; or

Notes: 6C04.e.1 controls fluorides of zirconium or aluminium and variants.

e.2. Bulk fluoride glass made from compounds controlled by 6C04.e.1;

f. Glass, including fused silica, phosphate glass, fluorophosphate glass, zirconium fluoride (ZrF_4) and hafnium fluoride (HfF_4) with:

f.1. A hydroxil ion (OH−) concentration of less than 5 ppm;

f.2. Integrated metallic purity levels of less than 1 ppm; and

f.3. High homogeneity (index of refraction variance) less than 5×10^{-6};

g. Synthetically produced diamond material with an absorption of less than 10^{-5} cm^{-1} for wavelengths exceeding 200 nm, but not exceeding 14,000 nm;

h. "Optical fiber preforms" made from bulk fluoride compounds containing ingredients with a purity of 99.999% or better, specially designed for the manufacture of "fluoride fibers" controlled by 6A04.f.

6C05A Lasers.

Requirements

Validated License Required: QSTVWYZ

Unit: Kgs.

Reason for Control: NS

GLV: $1,500

GCT: Yes

GFW: No

List of Items Controlled

Crystalline "laser" host material in unfinished form, as follows:

a. Titanium doped sapphire;

b. Alexandrite.

6C96G Other materials in Category 6C, n.e.s.

Requirements

Validated License Required: SZ and South African military and police entities

Unit: $ value

Reason for Control: FP

GLV: No

GCT: No

GFW: No

D. Software

6D01A "Software" specially designed for the "development" or "production" of equipment controlled by 6A04, 6A05, 6A08, or 6B08.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: NS and MT (see Note)

GTDR: Yes, except MT (see Note) and exports to Iran and Syria

GTDU: No.

Note: MT controls apply to "software" for the "development" or "production" of equipment controlled by ECCN 6A08 that is designed for airborne applications and that is usable in the systems described in § 778.7(a) of this subchapter.

6D21B "Software" specially designed for the "development" or "production" of equipment controlled by 6A02.a.1, a.3, and a.4, 6A22, 6A07.b and c, 6A28, or 6A30.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: MT

GTDR: No

GTDU: No

6D02A "Software" specially designed for the "use" of equipment controlled by 6A02.b, 6A08, or 6B08.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: NS and MT (see Note)

GTDR: Yes, except MT (see Note) and exports to Iran and Syria

GTDU: No

Note: MT controls apply to "software" for the "use" of equipment controlled by ECCN 6A08 that is designed for airborne applications and that is usable in the systems described in § 778.7(a) of this subchapter.

6D22B "Software" specially designed for the "use" of equipment controlled by 6A02.a.1, a.3, and a.4, 6A22, 6A07.b and c, 6A28, or 6A30.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: MT

GTDR: No

GTDU: No

6D03A Other "software", as follows.

Requirements

Validated License Required: QSWYZ, Iran, Syria, PRC, and South Africa military and police

Unit: $ value

Reason for Control: NS.

GTDR: Yes

GTDU: No

List of Items Controlled

a. Acoustics:

a.1."Software" specially designed for acoustic beam forming for the real-time processing of acoustic data for passive reception using towed hydrophone arrays;

a.2. "Source code" for the "real-time processing" of acoustic data for passive reception using towed hydrophone arrays;

b. Magnetometers:

b.1. "Software" specially designed for magnetic compensation systems for magnetic sensors designed to operate on mobile platforms;

b.2. "Software" specially designed for magnetic anomaly detection on mobile platforms;

c. Gravimeters: "Software" specially designed to correct motional influences of gravity meters or gravity gradiometers;

d. Radar:

d.1. Air Traffic Control "software" application "programs" hosted on general purpose computers located at Air Traffic Control centers and capable of any of the following:

d.1.a. Processing and displaying more than 150 simultaneous "system tracks";

d.1.b. Accepting radar target data from more than four primary radars; or

d.1.c. Automatically handing over primary radar target data (if not correlated with secondary surveillance radar (SSR) data) from the host ATC center to another ATC center;

d.2. "Software" for the design or "production" of radomes that:

d.2.a. Are specially designed to protect the "electronically steerable phased array antennae" controlled by 6A08.e; *and*

d.2.b. Limit the average side-lobe level increase by less than 13 dB for frequencies equal to or higher than 2 GHz.

6D29B "Software" for the "development", "production", or "use" of commodities described in 6A29, including "software" that processes post-flight recorded data enabling determination of vehicle position throughout its flight path.

Requirements

Validated License Required: QSTVWYZ

Unit: $ value

Reason for Control: MT

GTDR: No

GTDU: No

6D96G "Software", n.e.s., specially designed for the "development", "production", or "use" of equipment described in Category 6.

Requirements

Validated License Required: SZ and South Africa military and police

Unit: $ value

Reason for Control: FP

GTDR: No

GTDU: Yes

E. Technology

6E01A Technology according to the General Technology Note for the "development" of equipment, materials or "software" controlled by 6A01, 6A02, 6A03, 6A04, 6A05, 6A06, 6A07, 6A08, 6B04, 6B05, 6B07, 6B08, 6C02, 6C04, 6C05, 6D01, 6D02, or 6D03.

Requirements

Validated License Required:
QSTVWYZ
Reason for Control: NS, MT, and FP (see Notes)
GTDR: Yes, except MT and FP (see Notes) and exports to Iran and Syria
GTDU: No

Notes: 1. MT controls apply to technology described in this ECCN for the "development" of equipment controlled by 6A02.a.1, a.3, and a.4, 6A07.b and c, and 6A08. MT controls on technology for 6A08 equipment apply only when the equipment is designed for airborne applications and is usable in the systems described in § 778.7(a) of this subchapter.

2. FP controls apply to technology described in this ECCN for the "development" of police-model infrared viewers controlled by 6A02, except to NATO, Australia, Japan, and New Zealand.

6E21B Technology for the "development" of equipment controlled by 6A22, 6A28, 6A29, or 6A30.

Requirements

Validated License Required:
QSTVWYZ
Unit: N/A
Reason for Control: MT
GTDR: No
GTDU: No

6E02A Technology according to the General Technology Note for the "production" of equipment or materials controlled by 6A01, 6A02, 6A03, 6A04, 6A05, 6A06, 6A07, 6A08, 6B04, 6B05, 6B07, 6B08, 6C02, 6C04, or 6C05.

Requirements

Validated License Required:
QSTVWYZ
Reason for Control: NS, MT, and FP (see Notes)
GTDR: Yes, except MT and FP (see Notes) and exports to Iran and Syria
GTDU: No

Notes: 1. MT controls apply to technology described in this ECCN for the "production" of equipment controlled by 6A02.a.1, a.3, and a.4, 6A07.b and c, and 6A08. MT controls on technology for 6A08 equipment apply only when the equipment is designed for airborne applications and is usable in the systems described in § 778.7(a) of this subchapter.

2. FP controls apply to technology described in this ECCN for the "production" of police-model infrared viewers controlled by 6A02, except NATO, Australia, Japan, and New Zealand.

6E22B Technology for the "production" of equipment controlled by 6A22, 6A28, 6A29, or 6A30.

Requirements

Validated License Required:
QSTVWYZ
Unit: N/A
Reason for Control: MT
GTDR: No
GTDU: No

6E03A Other technology.

Requirements

Validated License Required: QSWYZ, Iran, Syria, PRC, and South Africa military and police
Unit: N/A
Reason for Control: NS
GTDR: Yes
GTDU: No

List of Items Controlled

a. Optics

a.1. Optical surface coating and treatment technology required to achieve uniformity of 99.5% or better for optical coatings 500 mm or more in diameter or major axis length and with a total loss (absorption and scatter) of less than 5×10^{-3};

a.2. Optical fabrication technologies, as follows:

a.2.a. For serially producing optical components at a rate exceeding 10 m^2 of surface area per year on any single spindle and with:

a.2.a.1. An area exceeding 1 m^2; and

a.2.a.2. A surface figure exceeding lambda/10 rms at the designed wavelength;

a.2.b. Single point diamond turning techniques producing surface finish accuracies of better than 10 nm rms on non-planar surfaces exceeding 0.5 m^2;

(See also Material Processing Category 2E3d)

b. Lasers.

b.1. Technology for optical filters with a bandwidth equal to or less than 10 nm, a field of view (FOV) exceeding 40° and a resolution exceeding 0.75 line pairs per nm;

b.2. "Technology" "required" for the "development", "production" or "use" of specially designed diagnostic instruments or targets in test facilities for SHPL testing or testing or evaluation of materials erradiated by SHPL beams;

c. Magnetometers. Technology "required" for the "development" or "production" of fluxgate "magnetometers" or fluxgate "magnetometer" systems having a noise level:

c.1. Less than 0.05 nT rms per root Hz at frequencies of less than 1 Hz; or

c.2. 1×10^{-3} nT rms per square root Hz at frequencies of 1 Hz or more.

6E23B Technology for the "use" of equipment controlled by 6A02. a.1, a.3, and a.4, 6A22, 6A07. b and c, 6A08, 6A28, 6A29, or 6A30.

Requirements

Validated License Required:
QSTVWYZ
Unit: N/A
Reason for Control: MT (see Note)
GTDR: No
GTDU: No

Note: MT controls on technology for 6A08 equipment apply only when the equipment is designed for airborne applications and is usable in the systems described in § 778.7(a) of this subchapter.

6E96G Technology, n.e.s., for the "development", "production", or "use" of equipment, materials or "software" controlled under Category 6.

Requirements

Validated License Required: SZ and South Africa military and police
Unit: N/A
Reason for Control: FP
GTDR: No
GTDU: Yes

Notes for Category 6

Acoustics

Advisory Note 1: Licenses are likely to be approved, as administrative exceptions, for exports to Country Groups QWY and the PRC of equipment controlled by 6A01.a.1.b.4 for use in civil research or civil exploration work.

Optical Sensors

Advisory Note 2: Licenses are likely to be approved, as administrative exceptions, for exports to Country Groups QWY and the PRC of "multispectral imaging sensors" controlled only by 6A02.b.2.a and 6A02.b.2.b.2, provided that the Instantaneous-Field-Of-View (IFOV) of the "multispectral imaging sensor" is equal to or more than 2.5 milliradians.

Advisory Note 3: Licenses are likely to be approved, as administrative exceptions, for exports to Country Groups QWY and the PRC of reasonable quantities of non-ruggedized image intensifier tubes controlled by 6A02.a.2.a.3.a for bona fide medical use.

Advisory Note 4: Licenses are likely to be approved, as administrative exceptions, for exports to Poland, Hungary, and Czechoslovakia in reasonable quantities of non-ruggedized equipment operating in the visible spectrum that is controlled by 6A02.c and contains image intensifier tubes controlled by 6A02.a.2.a.3.a, provided that they are to be used for civil certified end-use by civil end-users.

Advisory Note 5: Licenses will receive favourable consideration for exports to Country Groups QWY and the PRC in reasonable quantities of non-ruggedized image intensifier tubes for equipment that is listed in the Note to 6A02.c.

Advisory Note 6: Licenses are likely to be approved, as administrative exceptions, for exports to Country Groups QWY and the PRC of items in paragraphs a through j for installation and use at ground-based bona fide academic or civilian astronomical research sites or in international air- or space-based bona fide academic or civilian astronomical research projects. For the stated end-use, the following limits apply:

a. One optical mirror controlled by 6A04.a.1;

b. Three optical mirrors controlled by 6A04.a.2;

c. Three optical mirrors controlled by 6A04.a.4;

d. Three optical components controlled by 6A04.b;

e. Ten optical filters embargoed by 6A04.d.1.a;

f. One piece of optical control equipment controlled by 6A04.e.2 for each operational mirror;

g. Four pieces of optical control equipment controlled by 6A04.e.4;

h. Three "substrate blanks" controlled by 6C04.a;

i. A reasonable quantity of the bulk fluoride glass controlled by 6C04.e.2;

j. A reasonable quantity of the materials controlled by 6C04.f.

Note: The above limitations refer to specific projects.

Lasers

Advisory Note 7: Licenses are likely to be approved, as administrative exceptions, for exports to Country Groups QWY and the PRC of "lasers", for civil applications, as follows:

a. Neodymium-doped (other than glass), pulse-excited, "Q-switched lasers" controlled by 6A05.c.2.c.2.b having:

1. A pulse duration equal to or more than 1 ns; and

2. A multiple-transverse mode output with a "peak power" not exceeding 400 MW;

b. Neodymium-doped (other than glass) "lasers" controlled by 6A05.c.2.c.3.b or 6A05.c.2.c.4.b:

1. Having:

a. An output wavelength exceeding 1,000 nm but not exceeding 1,100 nm; and

b. An average or CW output power not exceeding 2 kW; and

2. Being:

a. Pulse-excited, non-"Q-switched" multiple-transverse mode; or

b. Continuously excited, multiple-transverse mode;

c. Carbon dioxide "lasers" controlled by 6A05.a.4:

1. Being in CW multiple-transverse mode; and

2. Having a CW output power not exceeding 15 kW.

Advisory Note 8: Licenses are likely to be approved, as administrative exceptions, for exports to Country Groups QWY and the PRC of optical equipment controlled by 6A05.g if it is destined to be used with non-controlled lasers or controlled lasers that have been approved for export.

Radar

Advisory Note 9: Licenses are likely to be approved, as administrative exceptions, for exports to Country Groups QWY and the PRC of ground radar equipment specially designed for enroute air traffic control, and "software" specially designed for the "use" thereof, provided that:

a. It is controlled only by 6A08.i;

b. It has a maximum "instrumented range" of 500 km or less;

c. It is configured so that the radar target data can be transmitted only one way from the radar site to one or more civil air traffic control centers;

d. It contains no provisions for remote control of the radar scan rate from the enroute traffic control center; and

e. It is to be permanently installed under the supervision of the exporter or the exporter's Western agent, so that the "instrument range" and volumetric coverage of the radar encompasses an ICAO air route.

Note: The "use" "software" must be limited to "object code" and the minimum amount of "source code" necessary for installation, operation or maintenance.

Advisory Note 10: Licenses are likely to be approved; as administrative exceptions, for exports to Country Groups QWY and the PRC of Air Traffic Control "software" application "programmes" controlled by 6D03.h.1, provided that:

a. The number of "system tracks" does not exceed 700;

b. The number of primary radar inputs does not exceed 32; and

c. The "software" is further limited to "object code" and the minimum amount of "source code" necessary for installation, operation or maintenance.

Advisory Note 11: Licenses are likely to be approved, as administrative exceptions, for exports to the People's Republic of China of the following equipment:

Acoustics:

a. Acoustic systems or equipment for determining the position of surface vessels or underwater vehicles, provided that:

1. They are not capable of processing responses from more than 8 beacons in the calculation of a point;

2. They do not have devices for correcting automatically speed-of-sound propagation errors for calculation of a point;

3. They do not use coherent "signal processing" between two or more beacons and the hydrophone unit carried by the surface vessel or underwater vehicle; and

4. Transducers, acoustic modules, beacons or hydrophones therefore are not designed to withstand pressures at depths exceeding 1,000 m;

b. Side-scan sub-bottom profile systems no portion of which is specially designed for operation at depths exceeding 1,000 m;

Optical sensors:

c. Image intensifier tubes incorporating microchannel-plates, not specially designed for cameras controlled by 6A03;

Note: Note 11.c. does not apply to tubes incorporating a gallium arsenide (or similar semiconductor) photocathode.

d. "Optical fiber preforms" specially designed for the manufacture of silica-based optical fibers, provided that they are specially designed to produce non-militarized silica-based optical fibers that are optimized to operate at a wavelength not exceeding 1,370 nm;

Cameras:

e. Mechanical framing cameras controlled by 6A03.a.2 designed for civil purposes (i.e., non-nuclear use) with a framing speed of not more than 2 million frames per second;

Lasers:

f. "Tunable" pulsed flowing-dye "lasers" having all of the following, and specially designed components therefor:

1. An output wavelength less than 800 nm;

2. A "pulse duration" not exceeding 100 ns; *and*

3. A peak output power not exceeding 15 MW;

g. CO_2, CO or CO/CO_2 "lasers" having:

1. A output wavelength in the range from 9,000 to 11,000 nm;

2. A pulsed output not exceeding 2 J per pulse and a maximum rated average single or multimode output power not exceeding 5 kW; or

3. A CW maximum rated single or multimode output power not exceeding 10 kW;

h. Minimum quantities of semiconductor "lasers" designed and intended for use with a civil fiber optic communication system that would be either uncontrolled or eligible for administrative exceptions treatment for China under Category 5 (Telecom), having an output wavelength not exceeding 1,370 nm and a CW power output not exceeding 100 mW.

Category 7—Navigation and Avionics

A. Equipment, Assemblies and Components

7A01A Accelerometers designed for use in inertial navigation or guidance systems and having any of the following characteristics, and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: $ Value

Reason for Control: NS, MT

GLV: $5,000

GCT: No

GFW: No

List of Items Controlled

Having any of the following characteristics:

a. A "bias" "stability" of less (better) than 130 micro g with respect to a fixed calibration value over a period of one year;

b. A "scale factor" "stability" of less (better) than 130 ppm with respect to a fixed calibration value over a period of one year;

c. Specified to function at acceleration levels exceeding 100 g.

7A21B Accelerometers, designed for use in inertial navigation systems or in guidance systems of all types, having the characteristics of either 7A21.a or 7A21.b; and specially designed components therefore.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: MT
GLV: $5,000
GCT: No
GFW: No

List of Items Controlled

a. A threshold of 0.05 g or less; or a linearity error within 0.25% of full scale output or both, that are designed for use in inertial navigation systems or in guidance systems of all types;

b. Continuous output accelerometers, specified to function at acceleration levels greater than 100g.

7A02A Gyros having any of the following characteristics, and specially designed components therefor.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GLV: $5,000
GCT: No
GFW: No

List of Items Controlled

a. A "drift rate" "stability", when measured in a 1 g environment over a period of three months and with respect to a fixed calibration value, of:

a.1. Less (better) than 0.1° per hour when specified to function continuously below 10 g; or

a.2. Less (better) than 0.5° per hour when specified to function from 10 to 100 g inclusive;

b. Specified to function at acceleration levels above 100 g.

7A22B Gyros of all types, with a rated drift rate stability of less than 0.5° (1 sigma or rms) per hour in a 1 g environment; and specially designed components therefor.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: MT
GLV: $5000
GCT: No
GFW: No

Notes: 1. Drift rate is defined as the time rate of output deviation from the desired output. It consists of random and systematic components and is expressed as an equivalent angular displacement per unit time with respect to inertial space.

2. Stability is defined as standard deviation (1 sigma) of the variation of a particular parameter from its calibrated value measured under stable temperature conditions. This can be expressed as a function of time.

7A03A Inertial navigation systems and inertial equipment for "aircraft", and specially designed components therefor.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GLV: $5000
GCT: No
GFW: No

List of Items Controlled

Inertial navigation systems (gimballed and strapdown) and inertial equipment for altitude, guidance or control, and specially designed components therefor, having any of the following characteristics:

a. Navigation error (free inertial) of 0.8 nautical mile per hour (50% Circular Error Probable (CEP)) or less (better) subsequent to normal alignment; or

b. Specified to function at acceleration levels exceeding 10 g.

Note: Inertial navigation systems and inertial equipment, and specially designed components therefor, not certified for use on "civil aircraft" by civil aviation authorities of a COCOM country are controlled by the Office of Defense Trade Controls, U.S. Department of State (see the Munitions List, Category VIII, Supp. No. 2 to part 770 of this subchapter).

7A23B Inertial or other equipment using accelerometers or gyros described in 7A21B or 7A22B, and systems incorporating such equipment; and specially designed components therefor.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: MT
GLV: $5000
GCT: No
GFW: No

Note: Inertial navigation systems and inertial equipment, and specially designed components therefor, not certified for use on "civil aircraft" by civil aviation authorities of a COCOM country are controlled by the Office of Defense Trade Controls, U.S. Department of State (see the Munitions List, Category VIII, Supp. No. 2 to part 770 of this subchapter).

7A04A Gyro-astro compasses, and other devices that derive position or orientation by means of automatically tracking celestial bodies or satellites, with an azimuth accuracy of equal to or less (better) than 5 seconds of arc.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GLV: $5000
GCT: No
GFW: No

7A24B Other gyro-astro compasses other devices.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: MT
GLV: $5000
GCT: No
GFW: No

List of Items Controlled

Having the following characteristics:

a. That derive position or orientation by means of automatically tracking celestial bodies or satellites; and

a.1. Specifically designed components therefor, or

a.2. Specifically designed components for equipment controlled to 7A04A.

7A05A Global Positioning Satellite (GPS) receiving equipment with a null-steerable antenna, and specially designed components therefor.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GLV: $5000
GCT: No
GFW: No

Note: Global Positioning Satellite (GPS) receiving equipment employing encryption/decryption is controlled by the Office of Defense Trade Controls, U.S. Department of State (see the Munitions List, Category VIII, Supp. No. 2 to part 770 of this subchapter).

7A25B Other Global Positioning System (GPS) or similar satellite receivers.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: MT
GLV: $5000
GCT: No
GFW: No

List of Items Controlled

a. Systems capable of providing navigation information under the following operational conditions:

a.1. At speeds in excess of 515 m/sec. (1,000 nautical miles/hour); and

a.2. At altitudes in excess of 18 km (60,000 feet); or

b. Systems capable of use with unmanned air vehicles (Nuclear Weapons Delivery Systems).

7A06A Airborne altimeters operating at frequencies other than 4.2 to 4.4. GHz inclusive, having either of the following characteristics:

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GLV: $5000
GCT: No
GFW: No

List of Items Controlled

Having either of the following characteristics:
a. "Power management"; or
b. Using phase shift key modulation.

(For automatic pilots for underwater vehicles, see Category 8. For radar, see this ECCN and Category 6. For inertial navigation equipment for ships or submersibles, see ITAR Category XI)

7A26B Airborne radar, airborne laser radar systems including altimeters, usable in "missile" systems.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: MT
GLV: $5000
GCT: No
GFW: No

List of Items Controlled

a. Avionics equipment and components including, but not limited to:
a.1. Terrain contour mapping equipment;
a.2. Scene mapping and correlation (both digital and analog) equipment;
a.3. Doppler navigation radar equipment,
a.4. Passive interferometer equipment, and;
a.5. Imaging sensor equipment (both active and passive).

Note: Laser radar systems embody specialized transmission, scanning, receiving and signal processing techniques for utilization of lasers for echo ranging, direction finding and discrimination of targets by locations, radial speed and body reflection characteristics.

7A27B Passive sensors for determining bearing to specific electromagnetic sources (direction finding equipment) or terrain characteristics.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: MT
GLV: $5000
GCT: No
GFW: No

7A94F Other navigation direction finding equipment, radar, airborne communication equipment, all aircraft inertial navigation systems, and other avionic equipment, including parts and components, n.e.s.

Requirements

Validated License Required: SZ, Iran, Syria and South Africa military and police
Unit: $ Value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

B. Test, Inspection and Production Equipment

7B01A Test, calibration or alignment equipment specially designed for equipment controlled by 7A for national security reasons, except equipment for Maintenance Level I or Maintenance Level II.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GLV: $3000
GCT: No
GFW: No

Technical Notes: 1. *Maintenance Level I:* The failure of an inertial navigation unit is detected on the aircraft by indications from the Control and Display Unit (CDU) or the status message from the corresponding subsystem. By following the manufacturer's manual, the cause of the failure may be localized at the level of the malfunctioning line replaceable unit (LRU). The operator then removes the LRU and replaces it with a spare.

2. *Maintenance Level II*: The defective LRU is sent to the maintenance workshop (the manufacturer's or that of the operator responsible for Level II maintenance). At the maintenance workshop, the malfunctioning LRU is tested by various appropriate means to verify and localize the defective module shop replaceable assembly (SRA) responsible for the failure. This SRA is removed and replaced by an operative spare. The defective SRA (or possibly the complete LRU) is then shipped to the manufacturer.

N.B.: Maintenance Level II does not include the removal of controlled accelerometers or gyro sensors from the SRA.

7B02A Equipment, as follows, specially designed to characterize mirrors for ring "laser" gyros.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GLV: $3000
GCT: No
GFW: No

List of Items Controlled

a. Scatterometers having a measurement accuracy of 10 ppm or less (better);
b. Profilometers having a measurement accuracy of 0.5 nm (5 angstrom) or less (better).

7B22B Reflectometers and specially designed test, calibration, and alignment equipment and "production equipment", for the production of items controlled by 7A and 7B for national security or missile technology reasons.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: MT
GLV: $3,000
GCT: No
GFW: No

List of Items Controlled

Includes:
a. Reflectometer (50 ppm);
b. Inertial measurement Unit (IMU Module) tester;
c. IMU platform tester;
d. IMU stable element handling fixture;
e. IMU platform balance fixture;
f. Accelerometer test station.

7B03A Equipment specially designed for the production of equipment controlled by 7A for national security reasons, including.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GLV: $3,000
GCT: No
GFW: No

List of Items Controlled

a. Gyro tuning test stations;
b. Gyro dynamic balance stations;
c. Gyro run-in/motor test stations;
d. Gyro evacuation and fill stations;
e. Centrifuge fixtures for gyro bearings;
f. Accelerometer axis align stations.

7B94F Other equipment for the test, inspection, or production of navigation and avionics equipment.

Requirements

Validated License Required: SZ, Iran, Syria, and South Africa military and police
Unit: $ Value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

C. Materials [Reserved]

D. "Software"

7D01A "Software" specially designed or modified for the "development" or "production" of equipment controlled by 7A or 7B for national security reasons.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GTDR: No
GTDU: No

Note: Software for inertial navigation systems and inertial equipment, and specially designed components therefor, not certified for use on "civil aircraft" by civil aviation authorities of a COCOM country is controlled by the Office of Defense Trade Controls, U.S. Department of State (see ITAR Category VIII (g) and (j)).

7D02A "Source code" for the "use" of any inertial navigation equipment or Attitude Heading Reference Systems (AHRS) (except gimballed AHRS) including inertial equipment not controlled by 7A03 or 7A04.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GTDR: No
GTDU: No

Technical Note: AHRS generally differ from inertial navigation systems (INS) in that AHRS provides attitude heading information and normally does not provide the acceleration, velocity and position information associated with INS.

7D03A Other "software", as follows.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GTDR: No
GTDU: No

List of Items Controlled

a. "Software" specially designed or modified to improve the operational performance or reduce the navigational error of systems to the levels specified in 7A03 or 7A04;

b. "Source code" for hybrid integrated systems which improves the operational performance or reduces the navigational error of systems to the level specified in 7A03 by continuously combining inertial data with any of the following navigation data:

b.1. Doppler radar velocity;

b.2. Global Positioning Satellite (GPS) references or;

b.3. Terrain data base;

c. "Source code" for integrated avionics or mission systems which combine sensor data and employ knowledge-based expert systems;

d. "Source code" for the "development" of:

d.1. Digital flight management systems for flight path optimization;

d.2. Integrated propulsion and flight control systems;

d.3. Fly-by-wire or fly-by-light control systems;

d.4. Fault-tolerant or self-reconfiguring "active flight control systems";

d.5. Airborne automatic direction finding equipment;

d.6. Air data systems based on surface static data;

d.7. Raster-type head-up displays or three dimensional displays.

7D24B Software "specially designed" for the "development," "production," or "use" of commodities controlled by 7A21B, 7A22B, 7A23B, 7A24B, 7A25B, 7A26B, and 7A27B.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: MT
GTDR: No
GTDU: No

Note: Software for inertial navigation systems and inertial equipment, and specially designed components therefor, not certified for use on "civil aircraft" by civil aviation authorities of a COCOM country is controlled by the Office of Defense Trade Controls, U.S. Department of State (see the Munitions List, Category VIII, Supp. No. 2 to part 770 of this subchapter).

7D94F Other "software" for navigation and avionics, n.e.s.

Requirements

Validated License Required: SZ, Iran, Syria, and South Africa military and police
Unit: $ Value
Reason for Control: FP
GTDR: No
GTDU: Yes, except Iran, Syria, and South Africa military and police

E. Technology

7E01A Technology according to the General Technology Note for the "development" of equipment or "software" controlled by 7A, 7B, or 7D for national security reasons.

Requirements

Validated License Required:
QSTVWYZ
Reason for Control: NS, MT
GTDR: No
GTDU: No

Note: Technology for inertial navigation systems and inertial equipment, and specially designed components therefor, not certified for use on "civil aircraft" by civil aviation authorities of a COCOM country is controlled by the Office of Defense Trade Controls, U.S. Department of State (see the Munitions List, Category VIII, Supp. No. 2 to part 770 of this subchapter).

7E21B Other technology for the "development", "production" or "use" of equipment or "software" controlled by 7A, 7B, or 7D for national security or missile technology reasons.

Requirements

Validated License Required:
QSTVWYZ
Reason for Control: MT
GTDR: No
GTDU: No

Note: Technology for inertial navigation systems and inertial equipment, and specially designed components therefor, not certified for use on "civil aircraft" by civil aviation authorities of a COCOM country is controlled by the Office of Defense Trade Controls, U.S. Department of State (see the Munitions List, Category VIII, Supp. No. 2 to part 770 of this subchapter).

7E02A Technology according to the General Technology Note for the "production" of equipment controlled by 7A or 7B for national security reasons.

Requirements

Validated License Required:
QSTVWYZ
Reason for Control: NS, MT
GTDR: No
GTDU: No

Note: Technology for inertial navigation systems and inertial equipment, and specially designed components therefor, not certified for use on "civil aircraft" by civil aviation authorities of a COCOM country [is/are] controlled by the Office of Defense Trade Controls, U.S. Department of State (see the Munitions List, Category VIII, Supp. No. 2 to part 770 of this subchapter).

7E22B Design technology for protection of avionics and electrical subsystems against electromagnetic pulse (EMP) and electromagnetic interference (EMI) hazards from external sources, as follows.

Requirements

Validated License Required:
QSTVWYZ
Reason for Control: MT
GTDR: No
GTDU: No

List of Items Controlled

a. Design technology for shielding systems;

b. Design technology for hardening of electrical circuits and subsystems;

c. Design technology for the configuration of hardened electrical circuits and subsystems.

7E03A Technology according to the General Technology Note for the repair, refurbishing or overhaul of equipment controlled by 7A01 to 7A04, except for maintenance technology directly associated with calibration, removal or replacement of damaged or unserviceable line replaceable units (LRU) and shop replaceable assemblies (SRA) of a "civil aircraft" as described in Maintenance Level I or Maintenance Level II.

Requirements

Validated License Required: QSTVWYZ
Reason for Control: NS, MT
GTDR: No
GTDU: No

(See Technical Notes to 7B01.)

7E04A Other technology.

Requirements

Validated License Required: QSTVWYZ
Reason for Control: NS, MT
GTDR: No
GTDU: No

List of Items Controlled

a. Technology for the "development" or "production" of:

a.1. Airborne automatic direction finding equipment operating at frequencies exceeding 5 MHz;

a.2. Air data systems based on surface static data only, i.e., which dispense with conventional air data probes;

a.3. Raster-type head-up displays or three dimensional displays for "aircraft";

a.4. Inertial navigation systems or gyro-astro compasses containing accelerometers or gypros controlled by 7A01 or 7A02;

b. "Development" technology, as follows, for "active flight control systems" (including fly-by-wire or fly-by-light):

b.1. Configuration design for interconnecting multiple microelectronic processing elements (on-board computers) to achieve "real time processing" for control law implementation;

b.2. Control law compensation for sensor location or dynamic airframe loads, i.e., compensation for sensor vibration environment or for variation of sensor location from the center of gravity;

b.3. Electronic management of data redundancy or systems redundancy for fault detection, fault tolerance, fault isolation or reconfiguration;

Note: 7E04.b.3 does not control technology for the design of physical redundancy.

b.4. Flight controls which permit inflight reconfiguration of force and moment controls for real time autonomous air vehicle control;

b.5. Integration of digitial flight control, navigation and propulsion control data into a digital flight management system for flight path optimization, *except* "development" technology for aircraft flight instrument systems integrated solely for VOR, DME, ILS or MLS navigation or approaches; or

b.6. Full authority digital flight control or multi sensor mission management systems incorporating knowledge-based expert systems;

(For technology for Full Authority Digital Engine Control (FADEC), see Category 9E03.a.10)

c. Technology for the "development" of helicopter systems as follows:

c.1. Multi-axis fly-by-wire or fly-by-light controllers which combine the functions of at least two of the following into one controlling element:

c.1.a. Collective controls;

c.1.b. Cyclic controls;

c.1.c. Yaw controls;

c.2. "Circulation-controlled anti-torque or circulation-controlled directional control systems";

c.3. Rotor blades incorporating "variable geometry airfoils" for use in systems using individual blade control.

7E94F Other technology related to navigation or avionics, n.e.s.

Requirements

Validated License Required: SZ, Iran, Syria, and South Africa military and police
Reason for Control: FP
GTDR: No
GTDU: Yes, except Iran, Syria, and South Africa military and police.

Category 8—Marine Technology

A. Equipment, Assemblies and Components

8A01A Submersible vehicles or surface vessels.

Requirements

Validated License Required: QSTVWYZ
Unit. Vessels or Vehicles in Number, Parts and Accessories in $ value
Reason For Control: NS
GLV: $5,000
GCT: Yes, *except* 8A01.a,b,c,d
GFW: No
Group W Favorable Consideration: Yes, *except* 8A01.a,b,c,d

List of Items Controlled

a. Manned, tethered submersible vehicles designed to operate at depths exceeding 1,000 m;

b. Manned, untethered submersible vehicles:

b.1. Designed to "operate autonomously" and having a lifting capacity of:

b.1.a. 10% or more of their weight in air; and

b.2.b. 15 kN or more;

Technical Note: "Operate autonomously"—Fully submerged, without snorkel, all systems working and cruising at minimum speed at which the submersible can safely control its depth dynamically by using its depth planes only, with no need for a support vessel or support base on the surface, sea-bed, or shore, and containing a propulsion system for submerged or surface use.

b.2. Designed to operate at depths exceeding 1,000 m; or

b.3.a. Designed to carry a crew of 4 or more;

b.3.b. Designed to "operate autonomously" for 10 hours or more;

b.3.c. Having a "range" of 25 nautical miles or more; and

Technical Note: "Range"—Half the maximum distance a submersible vehicle can cover.

b.3.d. Having a length of 21 m or less;

c. Unmanned, tethered submersible vehicles designed to operate at depths exceeding 1,000 m:

c.1. Designed for self-propelled maneuver using propulsion motors or thrusters controlled by 8A02.a.2; or

c.2. Having a fiber optic data link;

d. Unmanned, untethered submersible vehicles:

d.1. Designed for deciding a course relative to any geographical reference without real-time human assistance;

d.2. Having an acoustic data or command link; or

d.3. Having a fiber optic data or command link exceeding 1,000 m;

Note: For the control status of equipment for submersible vehicles, see: Category 5 for encrypted communication equipment; Category 6 for sensors; Categories 7 and 8 for navigation equipment; Category 8A. for underwater equipment.

e. Ocean salvage systems with a lifting capacity exceeding 5 MN for salvaging objects from depths exceeding 250 m and having either of the following:

e.1. Dynamic positioning systems capable of position keeping within 20 m of a given point provided by the navigation system; or

e.2. Seafloor navigation and navigation integration systems for depths exceeding 1,000 m with positioning accuracies to within 10 m of a predetermined point;

f. Surface-effect vehicles (fully skirted variety) with a maximum design speed, fully loaded, exceeding 30 knots in a significant wave height of 1.25 m (Sea State 3) or more, a cushion pressure

exceeding 3,830 Pa, and a light-ship-to-full-load displacement ratio of less than 0.70;

g. Surface-effect vehicles (rigid sidewalls) with a maximum design speed, fully loaded, exceeding 40 knots in a significant wave height of 3.25 m (Sea State 5) or more;

h. Hydrofoil vessels with active systems for automatically controlling foil systems, with a maximum design speed, fully loaded, or 40 knots or more in a significant wave height of 3.25 m (Sea State 5) or more;

i. Small waterplane area vessels with:

i.1. A full load displacement exceeding 500 tons with a maximum design speed, fully loaded, exceeding 35 knots in a significant wave height of 3.25 m (Sea State 5) or more; or

i.2. A full load displacement exceeding 1,500 tons with a maximum design speed, fully loaded, exceeding 25 knots in a significant wave height of 4 m (Sea State 6) or more.

Technical Note: A small waterplane area vessel is defined by the following formula: waterplane area at an operational design draft less than 2 x (displaced volume at the operational design draft) $^{2/3}$.

Note: For the control status of marine gas turbine engines, see Category 9.

8A02A Systems or equipment.

Requirements

Validated License Required: QSTVWYZ

Unit: Number

Reason for Control: NS

GLV: $5,000

GCT: Yes, *except* 8A02.a,b,c,h,i

GFW: 8A02.i.2 *only* (see Advisory Note)

Group W Favorable Consideration: Yes, *except* 8A02.a,b,c,h,i

List of Items Controlled

a. Systems or equipment, specially designed or modified for submersible vehicles, designed to operate at depths exceeding 1,000 m, as follows:

a.1. Pressure housings or pressure hulls with a maximum inside chamber diameter exceeding 1.5 m;

a.2. Direct current propulsion motors or thrusters;

a.3. Umbilical cables, and connectors therefor, using optical fiber and having synthetic strength members;

b. Systems specially designed or modified for the automated control of the motion of equipment for submersible vehicles controlled by 8A01 using navigation data and having closed loop servo-controls to:

b.1. Enable a vehicle to move within 10 m of a predetermined point in the water column;

b.2. Maintain the position of the vehicle within 10 m of a predetermined point in the water column; or

b.3. Maintain the position of the vehicle within 10 m while following a cable on or under the seabed;

c. Fiber optic hull penetrators or connectors;

d. Underwater vision systems.

d.1.a. Television systems (comprising camera, lights, monitoring and signal transmission equipment) having a limiting resolution when measured in air of more than 500 lines and specially designed or modified for remote operation with a submersible vehicle; or

d.1.b. Underwater television cameras having a limiting resolution when measured in air of more than 700 lines;

Technical Note: Limiting resolution in television is a measure of horizontal resolution usually expressed in terms of the maximum number of lines per picture height discriminated on a test chart, using IEEE Standard 208/1960 or any equivalent standard.

d.2. Systems, specially designed or modified for remote operation with an underwater vehicle, employing techniques to minimize the effects of back scatter, including range-gated illuminators or "laser" systems;

d.3. Low light level television cameras specially designed or modified for underwater use containing:

d.3.a. Image intensifier tubes controlled by 6A02.a.2; and

d.3.b. More than 150,000 "active pixels" per solid state area array;

e. Photographic still cameras specially designed or modified for underwater use, having a film format of 35 mm or larger, and:

e.1. Annotating the film with data provided by a source external to the camera;

e.2. Having autofocussing or remote focussing specially designed for underwater use;

e.3. Having automatic back focal distance correction; or

e.4. Having automatic compensation control specially designed to permit an underwater camera housing to be usable at depths exceeding 1,000 m;

f. Electronic imaging systems, specially designed or modified for underwater use, capable of storing digitally more than 50 exposed images;

g. Light systems, as follows, specially designed or modified for underwater use:

g.1. Stroboscopic light systems capable of a light output energy of more than 300 J per flash;

g.2. Argon arc light systems specially designed for use below 1,000 m;

h. "Robots" specially designed for underwater use, controlled by using a dedicated stored program computer, and:

h.1. Having systems that control the "robot" using information from sensors that measure force or torque applied to an external object, distance to an external object, or tactile sense between the "robot" and an external object; or

h.2. Capable of exerting a force of 250 N or more or a torque of 250 Nm or more and using titanium based alloys or "fibrous and filamentary" "composite" materials in their structural members;

i. Remotely controlled articulated manipulators specially designed or modified for use with submersible vehicles and having either of the following characteristics:

i.1. Having systems that control the manipulator using the information from sensors that measure the torque or force applied to an external object, or tactile sense between the manipulator and an external object; or

i.2. Controlled by proportional master-slave techniques or by using a dedicated stored program computer, and having 5 degrees of freedom of movement or greater;

N.B. Only functions having proportional control using positional feedback or by using a dedicated stored program computer are counted when determining the number of degrees of freedom of movement.

j. Air-independent power systems, as follows, specially designed for underwater use:

j.1. Brayton, Stirling or Rankine Cycle Engine air independent power systems having any of the following:

j.1.a. Chemical scrubber or absorber systems specially designed to remove carbon dioxide, carbon monoxide and particulates from recirculated engine exhaust;

j.1.b. Systems specially designed to use a monoatomic gas;

j.1.c. Devices or enclosures specially designed for underwater noise reduction in frequencies below 10 kHz, or special mounting devices for shock mitigation; or

j.1.d. Systems specially designed:

j.1.d.1. To pressurize the products of reaction or for fuel reformation;

j.1.d.2. To store the products of the reaction; and

j.1.d.3. To discharge the products of the reaction against a pressure of 100 kPa or more;

j.2. Diesel Cycle Engine air-independent systems, having all of the following:

j.2.a. Chemical scrubber or absorber systems specially designed to remove carbon dioxide, carbon monoxide and

particulates from recirculated engine exhaust;

j.2.b. Systems specially designed to use a monoatomic gas;

j.2.c. Devices or enclosures specially designed for underwater noise reduction in frequencies below 10 kHz or special mounting devices for shock mitigation; and

j.2.d. Specially designed exhaust systems that do not exhaust continuously the products of combustion;

j.3. Fuel cell air-independent power systems with an output exceeding 2 kW having either of the following:

j.3.a. Devices or enclosures specially designed for underwater noise reduction in frequencies below 10 kHz or special mounting devices for shock mitigation; or

j.3.b. Systems specially designed:

j.3.b.1. To pressurize the products of reaction or for fuel reformation;

j.3.b.2. To store the products of the reaction; and

j.3.b.3. To discharge the products of the reaction against a pressure of 100 kPa or more;

k. Skirts, seals and fingers:

k.1. Designed for cushion pressures of 3,830 Pa or more, operating in a significant wave height of 1.25 m (Sea State 3) or more and specially designed for surface effect vehicles (fully skirted variety) controlled by 8A01.f;

k.2. Designed for cushion pressures of 6,224 Pa or more, operating in a significant wave height of 3.25 m (Sea State 5) or more and specially designed for surface effect vehicles (rigid sidewalls) controlled by 8A01.g;

l. Lift fans rated at more than 400 kW specially designed for surface effect vehicles controlled by 8A01.f or 8A01.g;

m. Fully submerged subcavitating or supercavitating hydrofoils specially designed for vessels controlled by 8A01.h;

n. Active systems specially designed or modified to control automatically the sea-induced motion of vehicles or vessels controlled by 8A01.f, g, h or i;

o.1. Water-screw propeller or power transmission systems, as follows, specially designed for surface effect vehicles (fully skirted or rigid sidewall variety), hydrofoils or small waterplane area vessels controlled by 8A01.f, g, h or i:

o.1.a. Supercavitating, super-ventilated, partially-submerged or surface piercing propellers rated at more than 7.5 MW;

o.1.b. Contrarotating propeller systems rated at more than 15 MW;

o.1.c. Systems employing pre-swirl or post-swirl techniques for smoothing the flow in a propeller;

o.1.d. Light-weight, high capacity (K factor exceeding 300) reduction gearing;

o.1.e. Power transmission shaft systems, incorporating "composite" material components, capable of transmitting more than 1 MW:

o.2. Water-screw propeller, power generation or transmission systems for use on vessels:

o.2.a. Controllable-pitch propellers and hub assemblies rated at more than 30 MW;

o.2.b. Internally liquid-cooled electric propulsion engines with a power output exceeding 2.5 MW;

o.2.c. "Superconductive" propulsion engines, or permanent magnet electric propulsion engines, with a power output exceeding o.1 MW;

o.2.d. Power transmission shaft systems, incorporating "composite" material components, capable of transmitting more than 2 MW;

o.2. e. Ventilated or base-ventilated propeller systems rated at more than 2.5 MW;

o.3. Noise reduction systems for use on vessels of 1,000 tons displacement or more, as follows:

o.3.a. Noise reduction systems that attenuate at frequencies below 500 Hz and consist of compound acoustic mounts for the acoustic isolation of diesel engines, diesel generator sets, gas turbines, gas turbine generator sets, propulsion motors or propulsion reduction gears, specially designed for sound or vibration isolation, having an intermediate mass exceeding 30% of the equipment to be mounted;

o.3.b. Active noise reduction or cancellation systems, or magnetic bearings, specially designed for power transmission systems, and incorporating electronic control systems capable of actively reducing equipment vibration by the generation of anti-noise or anti-vibration signals directly to the source;

p. Pumpjet propulsion systems with a power output exceeding 2.5 MW using divergent nozzle and flow conditioning vane techniques to improve propulsive efficiency or reduce propulsion-generated underwater-radiated noise.

(For underwater communications systems, see Category 5.)

8A18A Commodities on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ (see Notes)

Unit: $ value

Reason For Control: NS

GLV: $5,000

GCT: Yes

GFW: No

Notes: Marine water tube boilers require validated licensing only for QSWYZ, PRC, Iran, Syria and Afghanistan.

List of Items Controlled

a. Closed and semi-closed circuit (rebreathing) apparatus for diving and underwater swimming, and specially designed components for use in the conversion of open-circuit apparatus to military use;

b. Naval equipment, as follows:

b.1. Diesel engines of 1,500 hp and over with rotary speed of 700 rpm or over specially designed for submarines;

b.2. Electric motors specially designed for submarines, i.e., over 1,000 hp, quick reversing type, liquid cooled, and totally enclosed;

b.3. Nonmagnetic diesel engines, 50 hp and over, specially designed for military purposes. (An engine shall be presumed to be specially designed for military purposes if it has nonmagnetic parts other than crankcase, block, head, pistons, covers, end plates, valve facings, gaskets, and fuel, lubrication and other supply lines, or its nonmagnetic content exceeds 75 percent of total weight.);

b.4. Marine boilers designed to have any of the following characteristics:

b.4.a. Heat release rate (at maximum rating) equal to or in excess of 190,000 BTU per hour per cubic foot of furnace volume; or

b.4.b. Ratio of steam generated in pounds per hour (at maximum rating) to the dry weight of the boiler in pounds equal to or in excess of 0.83;

b.5. Submarine and torpedo nets; and

b.6. Components, parts, accessories, and attachments for the above.

8A92F Other underwater camera equipment, n.e.s.; other submersible systems, n.e.s.; and specially designed parts therefor.

Requirements

Validated License Required: SZ, Iran, Syria, South African Military and Police

Unit: $ value

Reason For Control: FP

GLV: $0

GCT: No

GFW: No

8A93F Self-contained underwater breathing apparatus (scuba gear) and related equipment.

Requirements

Validated License Required: SZ, Iran, South African Military and Police

Unit: $ value

Reason For Control: FP

GLV: $0

GCT: No

GFW: No

List of Items Controlled

a. Self-contained underwater breathing apparatus (scuba gear);

b. Pressure regulators, air cylinders, hoses, valves and backpacks for the apparatus described in paragraph (a);

c. Life jackets, inflation cartridges, compasses, wetsuits, masks, fins, weight belts, and dive computers;

d. Underwater lights and propulsion equipment;

e. Air compressors and filtration systems specially designed for filling air cylinders; and

f. Other self-contained underwater breathing apparatus (scuba gear) and related equipment, n.e.s

8A94F Other boats, including inflatable boats, n.e.s., other marine and submarine engines, n.e.s.; and specially designed parts therefor.

Requirements

Validated License Required: SZ, Iran, South African Military and Police
Unit: $ value
Reason For Control: FP
GLV: $0
GCT: No
GFW: No

8A96G Other marine equipment, "assemblies" and components, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Unit: $ value
Reason For Control: FP
GLV: $0
GCT: No
GFW: No

B. Test, Inspection and Production Equipment

8B01A Water tunnels, having a background noise of less than 100 dB (reference 1 microPascal, 1 Hz) in the frequency range from 0 to 500 Hz, designed for measuring acoustic fields generated by a hydro-flow around propulsion system models.

Requirements

Validated License Required: QSTVWYZ
Unit: $ value
Reason For Control: NS
GLV: $3,000
GCT: Yes
GFW: No

8B96G Production and test equipment for marine equipment, "assemblies" and components, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Unit: $ value
Reason For Control: FP
GCT: No
GFW: No

C. Materials

8C01A Syntactic foam for underwater use.

Requirements

Validated License Required QSTVWYZ
Unit: $ value
Reason For Control: NS
GLV: $0
GCT: Yes
GFW: No

List of Items Controlled

a. Designed for marine depths exceeding 1,000 m; *and*

b. With a density less than 561 kg/m ^{3}

Technical Note: Syntactic foam consists of hollow spheres of plastic or glass embedded in a resin matrix.

8C96G Materials for manufacture of marine equipment, "assemblies" and components, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Unit: $ value
Reason For Control: FP
GLV: $0
GCT: No
GFW: No

D. "Software"

8D01A "Software" specially designed or modified for the "development", "production" or "use" of equipment or materials controlled by 8A, 8B, or 8C for NS.

Requirements

Validated License Required: QSWYZ, Iran, Syria, PRC, South African Military and Police
Unit: $ value
Reason For Control: NS, FP
GTDR: Yes, *except* Iran and Syria
GTDU: No

8D02A Specific "software" specially designed or modified for the "development", "production" repair, overhaul or refurbishing (re-machining) of propellers specially designed for underwater noise reduction.

Requirements

Validated License Required: QSWYZ, Iran, Syria, PRC, South African Military and Police
Unit: $ value
Reason For Control: NS, FP
GTDR: Yes, *except* Iran and Syria
GTDU: No

8D92F Other "software" specially designed or modified for the "development", "production" or "use" of commodities controlled by 8A92.

Requirements

Validated License Required: SZ, Iran, Syria, PRC, South African Military and Police
Unit: $ value
Reason for Control: FP
GTDR: No
GTDU: Yes *except* Iran and Syria

8D93F Other "software" specially designed or modified for the "development", "production" or "use" of commodities controlled by 8A93 and 8A94.

Requirements

Validated License Required: SZ, Iran, South African Military and Police
Unit: $ value
Reason for Control: FP
GTDR: No
GTDU: Yes *except* Iran

8D96G Other "software" specially designed or modified for the "development", "production" or "use" of marine equipment or materials, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Unit: $ value
Reason for Control: FP
GTDR: No
GTDU: Yes

E. Technology

8E01A Technology according to the General Technology Note for the "development" or "production" of equipment or materials controlled by 8A, 8B, or 8C for NS.

Requirements

Validated License Required: QSWYZ, Iran, Syria, PRC, South African Military and Police
Reason for Control: NS, FP
GTDR: Yes *except* Iran and Syria
GTDU: No

8E02A Other technology.

Requirements

Validated License Required: QSWYZ, Iran, Syria, PRC, South African Military and Police
Reason For Control: NS, FP
GTDR: Yes *except* Iran and Syria
GTDU: No

List of Items Controlled

a. Technology for the "development", "production", repair, overhaul, or refurbishing (re-machining) of propellers specially designed for underwater noise reduction;

b. Technology for the overhaul or refurbishing of equipment controlled by 8A01, 8A02.b, j, o, or p.

8E92F Technology for the "development", "production" or "use" of commodities controlled by 8A92.

Requirements

Validated License Required: SZ, Iran, Syria South African Military and Police
Reason for Control: FP
GTDR: No
GTDU: Yes *except* Iran and Syria

8E93F Technology for the "development", "production" or "use" of commodities controlled by 8A93 and 8A94.

Requirements

Validated License Required: SZ, Iran, South African Military and Police
Reason for Control: FP
GTDR: No
GTDU: Yes *except* Iran

8E96G Technology for "development", "production" or "use" of items controlled by Category 8, n.e.s.

Requirements

Validated License Required: SZ, South African Military and Police
Reason for Control: FP
GTDR: No
GTDU: Yes

Advisory Note for Category 8: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in Country Groups QWY and PRC for civil end-uses (e.g., underwater oil, gas or mining operations) of manipulators controlled by 8A02.i.2 having 5 degrees of freedom of movement.

Category 9—Propulsion Systems and Transportation Equipment

A. Equipment, Assemblies and Components

Note: For controls on vehicles equipped with any controlled item, see appropriate category for the controlled equipment.

(For systems designed or rated against neutron or transient ionizing radiation, see the ITAR.)

9A01A Aero gas turbine engines incorporating any of the technologies controlled by 9E03.a and described in paragraphs (a), (b) or (c) of this ECCN.

Requirements

Validated License Required: QSTVWYZ
Unit: Engines in Number, Part and Accessories in $ Value
Reason for Control: NS (MT see 9A21)
GLV: $5,000
GCT: No
GFW: No

List of Items Controlled

a. Not certified for the specific "civil aircraft" for which they are intended;

Note: For the purpose of the "civil aircraft" certification process, a limited number of civil certified engines, assemblies or components may be authorized for export to Country Groups QWY and the PRC. This limited number is defined as the minimum required (up to 16, including spares) for civil certification.

b. Not certified for civil use by the aviation authorities in a COCOM country;

c. Designed to cruise at speeds exceeding Mach 1.2 for more than thirty minutes.

9A21B Gas turbine aero engines not controlled by 9A01, uncertified or certified, with 8.89 KN (2,000 pounds) thrust or less (un-installed) and with a thrust specific fuel consumption (TSFC) for maximum power at sea level static, standard day, equal to or less than .046Kg/N/hr. (0.45lb/lb./hr.).

Requirements

Validated License Required: QSTVWYZ
Unit: Number for engines, $ value for parts and accessories.
Reason for Control: MT
GLV: $5,000
GCT: No
GFW: No

9A22B Vehicles designed or modified for the transport or handling of "missile" systems.

Requirements

Validated License Required: QSTVWYZ
Unit: Equipment in number, Parts and accessories in $ Value
Reason for Control: MT
GLV: $5,000
GCT: No
GFW: No

9A02A Marine gas turbine engines with an ISO standard continuous power rating of 13,795 kW or more and a specific fuel consumption of less than 0.243 kg/kW-hr, and specially designed assemblies and components therefor.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NS
GLV: $5,000
GCT: Yes
GFW: Yes (See Advisory Note to Category 9)

9A03A Specially designed assemblies and components, incorporating any of the technologies controlled by 9E03.a, for the following gas turbine engine propulsion systems.

Requirements

Validated License Required: QSTVWYZ
Unit: Number
Reason for Control: NS
GLV: $5,000
GCT: Yes
GFW: No

List of Items Controlled

a. Assemblies and components specially designed for those gas turbine engine propulsion systems controlled by 9A01; or

b. Whose design or production origins are either proscribed countries or unknown to the manufacturer.

Note: 9A03 does not control multiple domed combustors operating at average burner outlet temperatures equal to or less than 1,813 K (1,540 °C).

9A18A Commodities on the International Munitions List.

Requirements

Validated License Required: QSTVWYZ (See Notes)
Unit: Equipment in Number, Parts and accessories in $ Value
Reason for Control: NS, FP (See Notes)
GLV: $1,500
GCT: Yes
GFW: No

Notes: 1. Foreign policy controls apply to "aircraft" for SZ, Iran, Syria, and military and police entities in South Africa.

2. Foreign policy controls apply to military vehicles for all destinations except NATO, Australia, Japan and New Zealand (see §§ 776.16 and 785.4(d) of this subchapter).

3. Foreign policy controls apply to 9A18.b, c, and e for South Africa.

List of Items Controlled

a. Military trainer aircraft bearing "T" designations:

a.1. Using reciprocating engines; or

a.2. Turbo prop engines with less than 600 horse power (h.p.);

a.3. T–37 model jet trainer aircraft; and

a.4. Specially designed component parts;

b. Vehicles specially designed or modified for military purposes (See § 799.2, Supp. 1, Interpretation 19.);

c. Pressure refuelers, pressure refueling equipment, and equipment specially designed to facilitate operations in confined areas; and ground equipment, n.e.s. developed specially for military aircraft and helicopters, and specially designed parts and accessories, n.e.s.;

d. Pressurized breathing equipment specially designed for use in military aircraft and helicopters;

e. Military parachutes and complete canopies, harnesses, and platforms and electronic release mechanisms therefor, *except* such types as are in normal sporting use;

Note: This entry controls parachute systems designed for use in dropping personnel only. Parachute systems designed for use in dropping military equipment, braking military aircraft, slowing spacecraft descent, or retarding weapons delivery are licensed by the Office of Defense Trade Controls, U.S. Department of State. See the U.S. Munitions List, Category VIII. Supp. No. 2 to part 770 of this subchapter.

f. Military instrument flight trainers, except for combat simulation; and components, parts, attachments and accessories specially designed for such equipment.

Note: Instrument flight trainers for combat simulation are licensed by the Office of Defense Trade Controls, U.S. Department of State. See the U.S. Munitions List, Category VIII, Supp. No. 2 to part 770 of this subchapter.

9A80B Nonmilitary mobile crime science laboratories; and parts and accessories, n.e.s.

Requirements

Validated License Required: QSTVWYZ (See Notes)
Unit: $ Value
Reason for Control: FP (See Note)
GLV: $0
GCT: No
GFW: No

Note: Foreign policy controls apply to mobile crime control laboratories for all destinations except NATO, Australia, Japan and New Zealand.

9A91F Other "aircraft".

Requirements

Validated License Required: SZ, Iran, Syria, and South Africa military and police.
Unit: Number
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

List of Items Controlled

a. Military "aircraft", demilitarized (not specifically equipped or modified for military operation), as follows:
a.1. Cargo, "C–45 through C–118" inclusive, and "C–121";
a.2. Trainers, bearing a "T" designation and using piston engines;
a.3. Utility, bearing a "U" designation and using piston engines;
a.4. Liaison, bearing an "L" designation; and
a.5. Observation, bearing an "O" designation and using piston engines;
b. Other nonmilitary "aircraft", except those defined in other Category 9 ECCNs;

Note: Specify make and model of aircraft and type of avionic equipment on aircraft.

c. Aero gas turbine engines not controlled by 9A01 or 9A21, and specially designed parts therefor.

9A92F Off highway wheel tractors of carriage capacity 10 tons or more; and parts and accessories, n.e.s.

Requirements

Validated License Required: SZ, Iran, Syria, and South African military and police
Unit: Tractors in number; parts and accessories in $ Value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

9A93F On-Highway tractors, with single or tandem rear axles rated for 20000 lbs. or greater and specially designed parts.

Validated License Required: Iran, Syria
Unit: Tractors in number; parts and accessories in $ Value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

Note: This entry controls highway tractors only. It does not embargo solid chassis vehicles such as dump trucks, construction equipment, or panel/van type trucks.

9A94F Other marine engines, both inboard and outboard, n.e.s., and specially designed parts; other aircraft parts and components, n.e.s.; other boats, including inflatable boats, n.e.s.; other diesel engines for trucks, tractors, and automotive applications of continuous brake horsepower of 400 BHP (298 kW) or greater (performance based on SAE J1349 standard conditions of 100kPa and 25 °C) n.e.s.; other pressurized aircraft breathing equipment, n.e.s.; and specially designed parts for the above equipment.

Requirements

Validated License Required: SZ, Iran, Syria, and South Africa military and police
Unit: $ Value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

9A96G Other propulsion and transportation equipment, n.e.s.

Requirements

Validated License Required: SZ, South Africa military and police
Unit: $ Value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

B. Test, Inspection and Production Equipment

9B01A Specially designed equipment, tooling or fixtures, as follows, for manufacturing or measuring gas turbine blades, vanes or tip shroud castings.

Requirements

Validated License Required: QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT (See Note)
GLV: $5,000
GCT: No
GFW: No

Note: MT controls apply to equipment for test, inspection and production of small lightweight turbine engines described in 9A21.

List of Items Controlled

a. Automated equipment using non-mechanical methods for measuring airfoil wall thickness;
b. Tooling, fixtures or measuring equipment for the "laser", water jet or ECM/EDM hole drilling processes controlled by 9E03.c;
c. Directional solidification or single crystal casting equipment;
d. Ceramic cores or shells;
e. Ceramic core manufacturing equipment or tools;
f. Ceramic core leaching equipment;
g. Ceramic shell wax pattern preparation equipment;
h. Ceramic shell burn out or firing equipment.

9B21B Specially designed production facilities and production equipment for the systems, sub-systems, and components in "missile" systems.

Requirements

Validated License Required: QSTVWYZ
Unit: $ Value
Reason for Control: MT
GLV: $5,000
GCT: No
GFW: No

9B02A On-line (real time) control systems, instrumentation (including sensors) or automated data acquisition and processing equipment, specially designed for the "development" of gas turbine engines, assemblies or components incorporating technologies controlled by 9E03.a.

Requirements

Validated License Required: QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GLV: $3,000
GCT: No
GFW: No

9B03A Equipment specially designed for the production or test of gas turbine brush seals designed to operate at tip speeds exceeding 335 m/s, and specially designed parts or accessories therefor

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GLV: $5,000
GCT: No
GFW: No

9B23B Servo valves designed for flow rates of 24 liters per minute or greater, at an absolute pressure of 7,000 kPA (1,000 psi) or greater, that have an actuator response time of less than 100 msec, designed to operate in vibration environments of more than 10g RMS between 20 HZ and 2000 HZ.

Requirements

Validated License Required:
QSTVWYZ
Unit: Number; parts and accessories in $ value
Reason for Control: MT
GLV: $1,000
GCT: No
GFW: No

9B04A Tools, dies or fixtures for the solid state joining of gas turbine "superalloy" or titanium components.

Requirements

Validated License Required:
QSTVWYZ
Unit: Number
Reason for Control: NS, MT
GLV: $3,000
GCT: No
GFW: No

9B24B Pumps, for liquid propellants, with shaft speeds equal to or greater than 8,000 RPM or with discharge pressures equal to or greater than 7,000 kPA (1,000 psi), designed to operate in vibration environments of more than 10g RMS between 20 HZ and 2000 HZ.

Requirements

Validated License Required:
QSTVWYZ
Unit: Number; parts and accessories in $ value
Reason for Control: MT
GLV: $1,000
GCT: No
GFW: No

9B05A On-line (real-time) control systems, instrumentation (including sensors) or automated data acquisition and processing equipment, specially designed for use with the following wind tunnels or devices.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS
GLV: $5,000
GCT: No
GFW: No

List of Items Controlled

Equipment specially designed for use with the following wind tunnels or devices:

a. Wind tunnels designed for speeds of Mach 1.2 or more, *except* those specially designed for educational purposes and having a test section size (measured laterally) of less than 250 mm;

Technical Note: Test section size: the diameter of the circle, or the side of the square, or the longest side of the rectangle at the largest test section location.

b. Devices for simulating flow-environments at speeds exceeding Mach 5, including hot-shot tunnels, plasma arc tunnels, shock tubes, shock tunnels, gas tunnels and light gas guns;

c. Wind tunnels or devices, other than two-dimensional sections, capable of simulating Reynolds number flows exceeding 25×10^6.

9B25B Wind tunnels for speeds of Mach 0.9 or more related control systems, instrumentation (including sensors) or automated data acquisition and processing equipment.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: MT
GLV: $5,000
GCT: No
GFW: No

9B06A Specially designed acoustic vibration test equipment capable of producing sound pressure levels of 160 dB or more (referenced to 20 micropascals) with a rated output of 4 kW or more at a test cell temperature exceeding 1273 K (1000°C), and specially designed transducers, strain gauges, accelerometers, thermocouples or quartz heaters therefor.

Requirements

Validated License Required:
QSTVWYZ
Unit: Number
Reason for Control: NS, NP, MT (See Notes)
GLV: $3,000
GCT: No
GFW: No

Notes: 1. Nuclear non-proliferation controls apply, for all destinations, except countries listed in Supplement No. 2 to Part 773 of this subchapter, for vibration test equipment and specially designed ancillary equipment.

2. Missile tech controls apply to vibration test equipment.

9B26B Other vibration test equipment, as follows.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: MT
GLV: $3000
GCT: No
GFW: No

List of Items Controlled

a. Vibration test equipment using digital control techniques, and feedback or closed loop test equipment therefor, capable of vibrating a system at 10 g RMS or more between 20 Hz and 2,000 Hz and imparting forces of 50 kN (11,250 lbs.) or greater.

Note: The term "digital control" refers to equipment, the functions of which are, partly or entirely, automatically controlled by stored and digitally coded electrical signals.

b. Environmental chambers and anechoic chambers:

b.1. Environmental chambers and anechoic chambers capable of simulating the following flight conditions:

b.1.a. Altitude of 15,000 meters or greater; or

b.1.b. Temperature of at least minus 50 degrees C to plus 125 degrees C; and either

b.1.c. Vibration environments of 10 g RMS or greater between 20 Hz and 2,000 Hz imparting forces of 5 kN or greater, for environmental chambers; or

b.1.d. Acoustic environments at an overall sound pressure level of 140 dB or greater (referenced to 2×10^{-5} N per square meter) or with a rated power output of 4 kiloWatts or greater, for anechoic chambers.

9B07A Equipment specially designed for inspecting the integrity of rocket motors using non-destructive test (NDT) techniques other than planar X-ray or basic physical or chemical analysis.

Requirements

Validated License Required:
QSTVWYZ
Unit: Number
Reason for Control: NS, MT
GLV: $0
GCT: No
GFW: No

List of Items Controlled

Note: MT controls include the following equipment covered by this item: Radiographic equipment capable of delivering electromagnetic radiation produced by "bremsstrahlung" from accelerated electrons of 2 MeV or greater or by using radioactive sources of 1 MeV or greater, except those specially designed for medical purposes.

9B27B Test benches/stands which have the capacity to handle solid or liquid propellant rockets or rocket motors of more than 90 KN (20,000 lbs.) of thrust, or which are capable of simultaneously measuring the three axial thrust components.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: MT
GLV: $5000
GCT: No
GFW: No

9B08A Transducers specially designed for the direct measurement of the wall skin friction of the test flow with a stagnation temperature exceeding 833 k (560 °C).

Requirements

Validated License Required:
QSTVWYZ
Unit: Number
Reason for Control: NS
GLV: $5,000
GCT: Yes
GFW: No

9B09A Tooling specially designed for producing turbine engine powder metallurgy rotor components capable of operating at stress levels of 60% of ultimate tensile strength (UTS) or more and metal temperatures of 873 K (600 °C) or more.

Requirements

Validated License Required:
QSTVWYZ
Unit: Number; parts and accessories in $ value
Reason for Control: NS
GLV: $5,000
GCT: Yes
GFW: No

9B94F Vibration test equipment and specially designed parts and components, n.e.s.

Validated License Required: SZ, Iran, Syria, South Africa military and police
Unit: $ Value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

9B96G Other test, inspection, and production equipment for propulsion systems and transportation equipment n.e.s.

Requirements

Validated License Required: SZ, South Africa military and police
Unit: $ Value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

C. Materials [Reserved]

D. Software

9D01A "Software" "required" for the "development" of equipment or technology controlled by 9A, 9B, or 9E03.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GTDR: No
GTDU: No

9D02A "Software" "required" for the "production" of equipment or controlled by 9A, 9B.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GTDR: No
GTDU: No

9D03A "Software" "required" for the "use" of full authority digital electronic engine controls (FADEC) for propulsion systems controlled by 9A or equipment controlled by 9B, as follows.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GTDR: No
GTDU: No

List of Items Controlled

a. "Software" in digital electronic controls for propulsion systems, aerospace test facilities or air breathing aero-engine test facilities;

b. Fault-tolerant "software" used in FADEC systems for propulsion systems and associated test facilities.

9D04 Other "software".

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GTDR: No
GTDU: No

List of Items Controlled

a. "Software" specially designed for vibration test equipment using real time digital controls with individual exciters (thrusters) with a maximum thrust exceeding 100 kN;

b. 2D or 3D viscous "software" validated with wind tunnel or flight test data "required" for detailed engine flow modelling;

c. "Software" "required" for the "development" or "production" of real time full authority electronic test facilities for engines or components embargoed by 9A;

d. "Software" for testing aero gas turbine engines, assemblies or components, specially designed to collect, reduce and analyze data in real time, and capable of feedback control, including the dynamic adjustment of test articles or test conditions, as the test is in progress;

e. "Software" specially designed to control directional solidification or single crystal casting;

f. "Software" in "source code," "object code" or machine code "required" for the "use" of active compensating systems for rotor blade tip clearance control.

Note: 9D04.f does not control "software" embedded in uncontrolled equipment or "required" for maintenance activities associated with the calibration or repair or updates to the active compensating clearance control system.

9D24B Other "software" specially designed or modified for the "development," "production" or "use" of "missile" systems and equipment controlled by 9A and 9B.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ Value
Reason for Control: NS, MT
GTDR: No
GTDU: No

9D94F Other "software" for the "development," "production" or "use" of equipment controlled by 9A94F and 9B94F.

Requirements

Validated License Required: SZ, Iran, Syria, and South Africa military and police
Unit: $ Value
Reason for Control: FP
GTDR: No
GTDU: No

9D96G Other "software" specially designed or modified for the "development," "production" or "use" of propulsion systems or transportation equipment, n.e.s.

Requirements

Validated License Required: SZ, Iran, Syria, South Africa military and police
Unit: $ Value
Reason for Control: FP
GTDR: No
GTDU: No

E. Technology

9E01A. Technology according to the General Technology Note for the "development" of equipment or "software" controlled by 9A01.c, 9A18A, 9B or 9D for national security and missile technology reasons.

Requirements

Validated License Required:
QSTVWYZ
Reason for Control: NS, MT
GTDR: No
GTDU: No

9E21B. Technology for "development," "production" or "use" of items controlled by Category 9.

Requirements

Validated License Required:
QSTVWXYZ
Reason for Control: MT
GTDR: No
GTDU: No

9E02A. Technology according to the General Technology Note for the "production" of equipment controlled by 9A01.c or 9B.

Note: "Development" or "production" technology controlled by 9E for gas turbine engines remains controlled when used as "use" technology for repair, rebuild and overhaul. Excluded from control are: technical data, drawings or documentation for maintenance activities directly associated with calibration, removal or replacement of damaged or unserviceable line replaceable units, including replacement of whole engines or engine modules.

(For technology for the repair of controlled structures, laminates or materials, see 1E02.f)

Requirements

Validated License Required:
QSTVWYZ
Reason for Control: NS, MT
GTDR: No
GTDU: No

9E03A. Other technology, as follows:

Requirements

Validated License Required:
QSTVWYZ
Reason for Control: NS
GTDR: No
GTDU: No

List of Items Controlled

a. Technology "required" for the "development" or "production" of the following gas turbine engine components or systems:

a.1. Directionally solidified gas turbine blades, vanes or tip shrouds rated to operate at gas path temperatures exceeding 1,593 K (1,320 °C);

a.2. Single crystal blades, vanes or tip shrouds;

a.3. Multiple domed combustors operating at average burner outlet temperatures exceeding 1,643 K (1370 °C), or combustors incorporating thermally decoupled combustion liners, non-metallic liners or non-metallic shells;

a.4. Components manufactured from organic "composite" materials designed to operate above 588 K (315 °C), or from metal "matrix" "composite", ceramic "matrix", intermetallic or intermetallic reinforced materials controlled by 1A02 or 1C07;

a.5. Uncooled turbine blades, vanes, tip-shrouds or other components designed to operate at gas path temperatures of 1,323 K (1,050 °C) or more;

a.6. Cooled turbine blades, vanes or tip-shrouds, other than those described in 9E03.a.1 and 9E03.a.2, exposed to gas path temperatures of 1,643 K (1,370 °C) or more;

a.7. Airfoil-to-disk blade combinations using solid state joining;

a.8. Gas turbine engine components using "diffusion bonding" technology controlled by 2E03.b;

a.9. Damage tolerant gas turbine engine rotating components using powder metallurgy materials controlled by 1C02.b;

a.10. Full authority digital electronic engine controls (FADEC) for gas turbine and combined cycle engines and their related diagnostic components, sensors and specially designed components;

a.11. Adjustable flow path geometry and associated control systems for:

a.11.a. Gas generator turbines;

a.11.b. Fan or power turbines;

a.11.c. Propelling nozzles;

Notes: 1. Adjustable flow path geometry and associated control systems do not include inlet guide vanes, variable pitch fans, variable stators or bleed valves for compressors.

2. 9E03.a.11 does not control "development" or "production" technology for adjustable flow path geometry for reverse thrust.

a.12. Rotor blade tip clearance control systems employing active compensating casing technology limited to a design and development data base;

a.13. Gas bearings for gas turbine engine rotor assemblies;

a.14. Wide chord hollow fan blades without part-span support;

b. Technology "required" for the "development" or "production" of:

b.1. Wind tunnel aero-models equipped with non-intrusive sensors capable of transmitting data from the sensors to the data acquisition system;

b.2. "Composite" propeller blades or propfans capable of absorbing more than 2,000 kW at flight speeds exceeding Mach 0.55;

c. Technology "required" for the "development" or "production" of gas turbine engine components using "laser", water jet or ECM/EDM hole drilling processes to produce holes with:

c.1.a. Depths more than four times their diameter;

c.1.b. Diameters less than 0.76 mm; and

c.1.c. Incidence angles equal to or less than 25°; *or*

c.2.a. Depths more than five times their diameter;

c.2.b. Diameters less than 0.4 mm; and

c.2.c. Incidence angles of more than 25°;

Technical Note: For the purposes of 9E03.c, incidence angle is measured from a plane tangential to the airfoil surface at the point where the hole axis enters the airfoil surface.

d. Technology "required" for the "development" or "production" of helicopter power transfer systems or tilt rotor or tilt wing "aircraft" power transfer systems:

d.1. Capable of loss-of-lubrication operation for 30 minutes or more; *or*

d.2. Having an input power-to-weight ratio equal to or more than 8.87 kW/kg;

e.1. Technology for the "development" or "production" of reciprocating diesel engine ground vehicle propulsion systems having all of the following:

e.1.a. A box volume of 1.2 m^3 or less;

e.1.b. An overall power output of more than 750 kW based on 80/1269/EEC, ISO 2534 or national equivalents; and

e.1.c. A power density of more than 700 kW/m^3 of box volume;

Technical Note: Box volume: the product of three perpendicular dimensions measured in the following way:
Length: The length of the crankshaft from front flange to flywheel face;
Width: The widest of the following:
a. The outside dimension from valve cover to valve cover;
b. The dimensions of the outside edges of the cylinder heads; or
c. The diameter of the flywheel housing;
Height: The largest of the following:
a. The dimension of the crankshaft centerline to the top plane of the valve cover (or cylinder head) plus twice the stroke; or
b. The diameter of the flywheel housing.

e.2. Technology "required" for the "production" of specially designed components, as follows, for "high output diesel engines":

e.2.a. Technology "required" for the "production" of engine systems having all of the following components employing ceramics materials embargoed by 1C07:

e.2.a.1. Cylinder liners;

e.2.a.2. Pistons;

e.2.a.3. Cylinder heads; and

e.2.a.4. One or more other components (including exhaust ports, turbochargers, valve guides, valve assemblies or insulated fuel injectors);

e.2.b. Technology "required" for the "production" of turbocharger systems, with single-stage compressors having all of the following:

e.2.b.1. Operating at pressure ratios of 4:1 or higher;

e.2.b.2. A mass flow in the range from 30 to 130 kg per minute; and

e.2.b.3. Variable flow area capability within the compressor or turbine sections;

e.2.c. Technology "required" for the "production" of fuel injection systems with a specially designed multifuel (e.g., diesel or jet fuel) capability covering a viscosity range from diesel fuel (2.5 cSt at 310.8 K (37.8°C)) down to gasoline fuel (0.5 cSt at 310.8 K (37.8°C)), having all of the following:

e.2.c.1. Injection amount in excess of 230 mm^3 per injection per cylinder;

e.2.c.2. Specially designed electronic control features for switching governor characteristics automatically depending on fuel property to provide the same torque characteristics by using the appropriate sensors;

e.3. Technology "required" for the "development" or "production" of "high output diesel engines" for solid, gas phase or liquid film (or combinations thereof) cylinder wall lubrication, permitting operation to temperatures exceeding 723 K (450°C), measured on the cylinder wall at the top limit of travel of the top ring of the piston.

9E94F Technology for "development," "production" or "use" of items controlled by 9A91F, 9A92F, 9A93F, 9A94F, 9B94F, and 9D94F.

Requirements

Validated License Required: SZ, Iran, Syria, and South Africa military and police

Reason for Control: FP

GTDR: No

GTDU: No

9E96G Technology for "development," "production" or "use" of items controlled by Category 9, n.e.s.

Requirements

Validated License Required: SZ, South Africa military and police

Reason for Control: FP

GTDR: No

GTDU: Yes

Advisory Notes for Category 9: Advisory Note: Licenses are likely to be approved, as administrative exceptions, for export to satisfactory end-users in Country Groups QWY, of marine gas turbine engines controlled by 9A02, for installation in civil marine vessels for civil end-use, provided that their specific fuel consumption exceeds 0.23 kg/kW-hr and their continuous ISO rating is less than 20,000 kW.

Category 0—Miscellaneous

A. Equipment, Assemblies, and Components

0A18A Items on the International Munitions List

Requirements

Validated License Required: QSTVWYZ

Unit: 0A18.a–c: $ value; 0A18.d–f: number

Reason for Control: NS, FP (see NOTES)

GLV: 0A18.a&b: $5000; 0A18.c: $3000; 0A18.d–f: $1500

GCT: Yes

GFW: No

Notes: 1. FP controls apply to all exports to South Africa of items controlled by 0A18.b, c, d, and e (see part 779, Supp. 2 of this subchapter).

2. FP controls for regional stability also apply to 0A18.c, except to NATO, Japan, Australia, and New Zealand.

3. Licenses for export to Iran and Syria will generally be denied.

List of Items Controlled

a. Power controlled searchlights and control units therefor, designed for military use, and equipment mounting such units; and specially designed parts and accessories therefor.

b. Construction equipment built to military specifications, specially designed for airborne transport; and specially designed parts and accessories therefor.

c. Specially designed components and parts for ammunition, *except* cartridge cases, powder bags, bullets, jackets, cores, shells, projectiles, boosters, fuses and components, primers, and other detonating devices and ammunition belting and linking machines (all of which are controlled by the Office of Defense Trade Control, Department of State).

d. Bayonets.

e. Muzzle-loading (black powder) firearms.

Note: Antique small arms dating prior to 1890 and their reproductions are not controlled by this ECCN 0A18A (See ECCN 0A96G).

f. Military helmets, *except:*

f.1. Conventional steel helmets other than those described by f.2. below;

f.2. Helmets, made of any material, equipped with communications hardware, optional sights, slewing devices or mechanisms to protect against thermal flash or lasers.

Note: Helmets described in 0A18.f.1 are controlled by 0A96. Helmets described in 0A18.f.2 are controlled by the Office of Defense Trade Control, Department of State (see part 770, Supp. 2 of this subchapter, Category X, "Protective Personnel Equipment").

0A80D Horses by sea.

Requirements

Validated License Required: QSTVWYZ and Canada

Unit: $ Value

Reason for Control: SS

GLV: $0

GCT: No

GFW: No

0A82C Saps; thumbcuffs, thumbscrews, leg irons, shackles, and handcuffs; specially designed implements of torture; straitjackets, plastic handcuffs, police helmets and shields; and parts and accessories, n.e.s.

Requirements

Validated License Required: QSTVWYZ, except for Australia, Japan, New Zealand, and members of NATO.

Unit: $ Value

Reason for Control: FP

GLV: $0

GCT: No

GFW: No

0A84C Shotguns, barrel length 18 inches or over; buckshot shotgun shells; and arms, discharge type (for example, stunguns, shock batons, electric cattle prods, immobilization guns and projectiles, etc.) except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s., including optical sighting devices for firearms.

Requirements

Validated License Required: QSTVWYZ, except for Australia, Japan, New Zealand, and members of NATO. (see **Note**)

Unit: $ Value

Reason for Control: FP

GLV: $0

GCT: No

GFW: No

Notes: 1. Shotguns with a barrel length 24 inches or over require a validated license for shipment to:

a. Country Groups QSWYZ, regardless of end-user;

b. South Africa, Botswana, Lesotho and Swaziland, regardless of end-user;

c. Other destinations in Country Groups T & V, except for Australia, Japan, New Zealand, and members of NATO, only if for sale or resale to police or law enforcement agencies.

2. Shotguns with a barrel length of at least 18 inches but less than 24 inches require a validated license to all destinations except Australia, Japan, New Zealand, and members of NATO, regardless of end-user.

3. Shotguns with a barrel length of less than 18 inches are controlled by the Office of Defense Trade Control, Department of State.

0A86F Shotgun shells, except buckshot shotgun shells, and parts.

Requirements

Validated License Required: SZ, South Africa, Botswana, Lesotho, and Swaziland.
Unit: $ Value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

0A95H Food, medicines, medical supplies, and agricultural commodities.

Requirements

Validated License Required: Z, South African military and police
Unit: $ Value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

0A96G Other commodities, n.e.s.; and parts and accessories, n.e.s.

Requirements

Validated License Required: SZ, South African military and police.
Unit: $ Value
Reason for Control: FP
GLV: $0
GCT: No
GFW: No

0A98I Prerecorded phonograph records reproducing, in whole or in part, the content of printed books, pamphlets, and miscellaneous publications, including newspapers and periodicals; printed books, pamphlets, and miscellaneous publications, including bound newspapers and periodicals; children's picture and painting books; newspaper and periodicals, unbound, excluding waste; music books; sheet music; calendars and calendar blocks, paper; maps, hydrographical charts, atlases, gazeteers, globe covers, and globes, (terrestrial and celestial); exposed and developed microfilm reproducing, in whole or in part, the content of any of the above; exposed and developed motion picture film and soundtrack; and advertising printed matter exclusively related thereto.

Requirements

Validated License Required: None
Unit: $ Value
Reason for Control: None
GLV: No
GCT: No
GFW: Nc

B. Test, Inspection and Production Equipment [Reserved]

C. Materials [Reserved]

D. Software [Reserved]

E. Technology

0E18A Technology for the "development," "production," or "use" of items controlled by 0A18.b through 0A18.e.

Requirements

Validated License Required: QSTVWYZ
Reason for Control: NS, FP (see Note)
GTDR: Yes, except Iran, Syria and South Africa (see Note)
GTDU: No

Note: FP controls apply to all exports to South Africa (see part 779, Supp. 2 of this subchapter).

0E84C Technology for the "development" or "production" of shotguns controlled by 0A84 and shotgun shells.

Requirements

Validated License Required: SZ, South Africa
Reason for Control: FP (see Note)
GTDR: No
GTDU: Yes, except South Africa

Note: FP controls apply to all exports to South Africa (see part 779, Supp. 2 of this subchapter).

0E96G Technology for the "development," "production," or "use" of items controlled by Category 0, n.e.s.

Requirements

Validated License Required: SZ, South African military and police
Reason for Control: FP
GTDR: No
GTDU: No

Supplement No. 2 to § 799.1—General Technology and Software Notes

1. *General Technology Note.* The export of "technology" that is "required" for the "development," "production," or "use" of products on the Commerce Control List is controlled according to the provisions in each Category.

"Technology" "required" for the "development," "production," or "use" of a controlled product remains controlled even when applicable to a product controlled at a lower level.

General License GTDR, without written assurance, is available for "technology" that is the minimum necessary for the installation, operation, maintenance (checking), and repair of those products that are eligible for General Licenses G–DEST, GUS, GCG, G–TEMP, GFW, or GCT, or that were exported under a validated export license.

N.B.: This does not allow release under a general license of the repair "technology" controlled by 1E02.e, 1E02.f, 7E03, or 8E02.a.

N.B.: The 'minimum necessary' excludes "development" or "production" technology and permits "use" technology only to the extent "required" to ensure safe and efficient use of the product. Individual ECCNs may further restrict export of 'minimum necessary' information.

General License GTDA is available for "technology" that is publicly available or technology arising during or resulting from fundamental research. See section 779.3 of this subchapter for details on General License GTDA.)

2. *General Software Note.* General License GTDR, without written assurance, is available for release of software that is generally available to the public by being:

a. Sold from stock at retail selling points, without restriction,[1] by means of:

1. Over the counter transactions;
2. Mail order transactions; or
3. Telephone call transactions; and

b. Designed for installation by the user without further substantial support by the supplier.

General License GTDA is available for software that is publicly available.

N.B.; The General Software Note does not apply to exports of "software" controlled by other agencies of the U.S. Government (see § 770.10 of this subchapter).

Supplement No. 3 to § 799.1—Definitions

Accuracy (Cat. 2)—"Accuracy" is usually measured in terms of inaccuracy. It is defined as the maximum deviation, positive or negative, of an indicated value from an accepted standard or true value.
Active flight control systems (Cat. 7)—Function to prevent undesirable "aircraft" and "missile" motions or structural loads by autonomously processing outputs from multiple sensors and then providing necessary preventive commands to effect automatic control.
Active pixel (Cat. 6 and 8)—A maximum (single) element of the solid state array that has a photoelectric transfer function when exposed to light (electromagnetic) radiation.
Adaptive control (Cat. 2)—A control system that adjusts the response from conditions detected during the operation (Ref. ISO 2806–1980).
Aircraft (Cat. 7 and 9)—A fixed wing, swivel wing, rotary wing (helicopter), tilt rotor or tilt-wing airborne vehicle. (See also "civil aircraft")
Angular position deviation (Cat. 2)—The maximum difference between angular position and the actual, very accurately measured angular position after the workpiece mount of the table has been turned out of its initial position. (Reference: VDI/VDE 2617, Draft: 'Rotary tables on coordinate measuring machines').
Assembly (Cat. 3 and 4)—A number of electronic components (i.e., "circuit elements", "discrete components", integrated circuits, etc.) connected together to perform (a) specific function(s), replaceable as an

[1] The phrase "without restriction" clarifies that software is not "generally available to the public" if it is to be sold only with bundled hardware generally available to the public. Software that is both bundled with hardware and "generally available to the public" does qualify for General License GDTR, without written assurance.

entity and normally capable of being disassembled.

Notes: 1. "Circuit element": a single active or passive functional part of an electronic circuit, such as one diode, one transistor, one resistor, one capacitor, etc.

2. "Discrete component": a separately packaged "circuit element" with its own external connections.

Asynchronous transfer mode (ATM) (Cat. 5)—A transfer mode in which the information is organized into cells; it is asynchronous in the sense that the recurrence of cells depends on the required or instantaneous bit rate. (CCITT Recommendation L.113)

Automatic target tracking (Cat. 6)—A processing technique that automatically determines and provides as output an extrapolated value of the most probable position of the target in real time.

Bandwidth of one voice channel (Cat. 5)—In the case of data communication equipment designed to operate in one voice channel of 3,100 Hz, as defined in CCITT Recommendation G.151.

Basic gate propagation delay time (Cat. 3)—The propagation delay time value corresponding to the basic gate utilized within a "family" of "monolithic integrated circuits". This may be specified, for a given "family", either as the propagation delay time per typical gate or as the typical propagation delay time per gate.

Note: "Basic gate propagation delay time" is not to be confused with input/output delay time of a complex "monolithic integrated circuit".

Beat length (Cat. 6)—The distance over which two orthogonally polarized signals, initially in phase, must pass in order to achieve a 2 Pi radian(s) phase difference.

Bias (accelerometer) (Cat. 7)—An accelerometer output when no acceleration is applied.

Camming (axial displacement) (Cat. 2)—Axial displacement in one revolution of the main spindle measured in a plane perpendicular to the spindle faceplate, at a point next to the circumference of the spindle faceplate (Ref.: ISO 230 Part 1–1986, paragraph 5.63).

Capable of (MTCR context)—See "usable in".

Chemical laser (Cat. 6)—A "laser" in which the excited species is produced by the output energy from a chemical reaction.

Circulation-controlled, anti-torque direction control systems (Cat. 7)—Use air blown over aerodynamic surfaces to increase or control the forces generated by the surfaces.

Civil aircraft (Cat. 7 and 9)—Only those "aircraft" listed by designation in published airworthiness certification lists by the civil aviation authorities to fly commercial civil internal and external routes or for legitimate civil, private or business use. (See also "aircraft".)

Commingled (Cat. 1)—Filament to filament blending of thermoplastic fibers and reinforcement fibers in order to produce a fiber reinforcement/matrix mix in total fiber form.

Comminution (Cat. 1)—A process to reduce a material to particles by crushing or grinding.

Common channel signalling (Cat. 5)—A signalling method in which a single channel between exchanges conveys, by means of labelled messages, signalling information relating to a multiplicity of circuits or calls and other information such as that used for network management.

Communications channel controller (Cat. 5)—The physical interface that controls the flow of synchronous or asynchronous digital information. It is an assembly that can be integrated into computer or telecommunications equipment to provide communications access.

Composite (Cat. 1, 6, 8, and 9)—A "matrix" and an additional phase or additional phases consisting of particles, whiskers, fibers or any combination thereof, present for a specific purpose or purposes.

Composite theoretical performance (CTP) (Cat. 4)—A measure of computational performance given in millions of theoretical operations per second (Mtops), calculated using the aggregation of "computing elements (CE)". (See Category 4, Technical Note.)

Compound rotary table (Cat. 2)—A table allowing the workpiece to rotate and tilt about two non-parallel axis that can be coordinated simultaneously for "contouring control".

Computer using facility (Cat. 4)—The end-user's contiguous and accessible facilities:

a. Housing the "computer operating area" and those end-user functions that are being supported by the stated application of the electronic computer and its related equipment; *and*

b. Not extending beyond 1,500 meters in any direction from the center of the "computer operating area".

Note: "Computer operating area": the immediate contiguous and accessible area around the electronic computer, where the normal operating, support and service functions take place.

Computing element (CE) (Cat. 4)—The smallest computational unit that produces an arithmetic logic result.

Contouring control (Cat. 2)—Two or more numerically controlled motions operating in accordance with instructions that specify the next required position and the required feed rates to that position. These feed rates are varied in relation to each other so that a desired contour is generated (Ref. ISO/DIS 2806–1980).

Critical temperature (Cat. 1, 3, and 6)—The "critical temperature" (sometimes referred to as the transition temperature) of a specific "superconductive" material is the temperature at which the material loses all resistance to the flow of direct electrical current.

Cryptanalysis (Cat. 5)—The analysis of a cryptographic system or its inputs and outputs to derive confidential variables or sensitive data including clear text. (ISO 7498–2–1988(E), paragraph 3.3.18)

Cryptography (Cat. 5)—The discipline that embodies principles, means and methods for the transformation of data in order to hide its information content, prevent its undetected modification or prevent its unauthorized use. "Cryptography" is limited to the transformation of information using one or more "secret parameters" (e.g., crypto variables) and/or associated key management.

Note: "Secret parameter": a constant or key kept from the knowledge of others or shared only within a group.

Datagram (Cat. 4 and 5)—A self-contained, independent entity of data carrying sufficient information to be routed from the source to the destination data terminal equipment without reliance on earlier exchanges between this source and destination data terminal equipment and the transporting network.

Data signalling rate (Cat. 5)—The rate, as defined in ITU Recommendation 53–36, taking into account that, for non-binary modulation, baud and bit per second are not equal. Bits for coding, checking and synchronization functions are to be included.

Note 1: When determining the "data signalling rate," servicing and administrative channels shall be excluded.

Note 2: It is the maximum one-way rate, i.e., the maximum rate in either transmission or reception.

Deformable mirrors (Cat. 6)—Mirrors capable of having their optical surface dynamically deformed by individual torques or forces.

Designed or modified (MTCR context)—Equipment, parts, components or "software" that, as a result of "development," or modification, have specified properties that make them fit for a particular application. "Designed or modified" equipment, parts, components or "software" can be used for other applications. For example, a titanium coated pump designed for a "missile" may be used with corrosive fluids other than propellants.

Development (General Technology Note)—"Development" is related to all stages prior to serial production, such as: design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design, layouts.

Diffusion bonding (Cat. 1, 2, and 9)—A solid-state molecular joining of at least two separate metals into a single piece with a joint strength equivalent to that of the weakest material.

Digital computer (Cat. 4 and 5)—Equipment that can, in the form of one or more discrete variables:

a. Accept data;

b. Store data or instructions in fixed or alterable (writable) storage devices;

c. Process data by means of a stored sequence of instructions that is modifiable; and

d. Provide output of data.

Note: Modifications of a stored sequence of instructions include replacement of fixed storage devices, but not a physical change in wiring or interconnections.

Digital transfer rate (Cat. 5)—The total bit rate of the information that is directly transferred on any type of medium.

Direct-acting hydraulic pressing (Cat. 2)—A deformation process that uses a fluid-filled flexible bladder in direct contact with the workpiece.

Drift rate (gyro) (Cat. 7)—The time rate of output deviation from the desired output. It

consists of random and systematic components and is expressed as an equivalent input angular displacement per unit time with respect to inertial space.

Dynamic adaptive routing (Cat. 5)—Automatic rerouting of traffic based on a sensing and analysis of current actual network conditions.

Note: This does not include cases of routing decisions taken on predefined information.

Dynamic signal analyzers (Cat. 3)—"Signal analyzers" that use digital sampling and transformation techniques to form a Fourier spectrum display of the given waveform including amplitude and phase information.

Electronically steerable phased array antenna (Cat. 6)—An antenna that forms a beam by means of phase coupling, i.e., the beam direction is controlled by the complex excitation coefficients of the radiating elements and the direction of that beam can be varied in azimuth or in elevation, or both, by application, both in transmission and reception, of an electrical signal.

End-effectors (Cat. 2)—"End-effectors" include grippers, "active tooling units" and any other tooling that is attached to the baseplate on the end of a "robot" manipulator arm.

Note: "Active tooling unit": a device for applying motive power, process energy or sensing to the workpiece.

Equivalent Density (Cat. 6)—The mass of an optic per unit optical area projected onto the optical surface.

Expert systems (Cat. 4)—Systems providing results by application of rules to data that are stored independently of the "program" and capable of any of the following:

a. Modifying automatically the "source code" introduced by the user;

b. Providing knowledge linked to a class of problems in quasi-natural language; or

c. Acquiring the knowledge required for their development (symbolic training).

Family (Cat. 3)—Consists of microprocessor or microcomputer microcircuits that have:

a. The same architecture;

b. The same basic instruction set; and

c. The same basic technology (e.g., only NMOS or only CMOS).

Fast select (Cat. 4 and 5)—A facility applicable to virtual calls that allows data terminal equipment to expand the possibility to transmit data in call set-up and clearing "packets" beyond the basic capabilities of a virtual call.

Note: "Packet": a group of binary digits including data and call control signals that is switched as a composite whole. The data, call control signals, and possible error control information are arranged in a specified format.

Fault tolerance (Cat. 4)—The capability of a computer system, after any malfunction of any of its hardware or "software" components, to continue to operate without human intervention, at a given level of service that provides: continuity of operation, data integrity, and recovery of service within a given time.

Fibrous and filamentary materials (Cat. 2 and 8)—The term "fibrous and filamentary materials" includes:

a. Continuous monofilaments;

b. Continuous yarns and rovings;

c. Tapes, fabrics, random mats and braids;

d. Chopped fibers, staple fibers and coherent fiber blankets;

e. Whiskers, either monocrystalline or polycrystalline, of any length;

f. Aromatic polymide pulp.

Film type integrated circuit (Cat. 3)—An array of "circuit elements" and metallic interconnections formed by deposition of a thick or thin film on an insulating "substrate".

Note: "Circuit element": a single active or passive functional part of an electronic circuit, such as one diode, one transistor, one resistor, one capacitor, etc.

Fixed (Cat. 5)—The coding or compression algorithm cannot accept externally supplied parameters (e.g., cryptographic or key variables) and cannot be modified by the user.

Flexible manufacturing unit (FMU), (sometimes also referred to as "flexible manufacturing systems" (FMS) or "flexible manufacturing cell" (FMC)) (Cat. 2)—An entity that includes a combination of at least:

a. A "digital computer" including its own "main storage" and its own "related equipment"; and

b. Two or more of the following:

1. A machine tool described in 2B01.c;

2. A dimensional inspection machine described in Category 2, or another digitally controlled measuring machine controlled by an entry in Category 2;

3. A "robot" controlled by an entry in Category 2 or 8;

4. Digitally controlled equipment controlled by 1B03, 2B03, or 9B01;

5. "Stored program controlled" equipment controlled by 3B01.a;

6. Digitally controlled equipment controlled by 1B01;

7. Digitally controlled electronic equipment controlled by 3A02.

Fluoride fibers (Cat. 6)—Fibers manufactured from bulk fluoride compounds.

Frequency agility (frequency hopping) (Cat. 5)—A form of "spread spectrum" in which the transmission frequency of a single communication channel is made to change by discrete steps under the control of a random or pseudo-random bit stream.

Frequency agility (radar) (Cat. 6)—(see "Radar frequency agility")

Frequency switching time (Cat. 3 and 5)—The maximum time (i.e., delay), taken by a signal, when switched from one selected output frequency to another selected output frequency, to reach:

a. A frequency within 100 Hz of the final frequency; or

b. An output level within 1 dB of the final output level.

Frequency synthesizer (Cat. 3)—Any kind of frequency source or signal generator, regardless of the actual technique used, providing a multiplicity of simultaneous or alternative output frequencies, from one or more outputs, controlled by, derived from or disciplined by a lesser number of standard (or master) frequencies.

Gas Atomization (Cat. 1)—A process to reduce a molten stream of metal alloy to droplets of 500-micrometer diameter or less by a high-pressure gas stream.

Gateway (Cat. 5)—The function, realized by any combination of equipment and "software", to carry out the conversion of conventions for representing, processing or communicating information used on one system into the corresponding, but different conventions used in another system.

Generic software (Cat. 5)—A set of instructions for a "stored program controlled" switching system that is the same for all switches using that type of switching system.

Note: The data base portion is not considered to be a part of the generic "software".

Geographically dispersed (Cat. 6)—Sensors are considered geographically dispersed when each location is distant from any other more than 1,500 m in any direction. Mobile sensors are always considered geographically dispersed.

Global interrupt latency time (Cat. 4)—The time taken by the computer system to recognize an interrupt due to the event, service the interrupt and perform a context switch to an alternate memory-resident task waiting on the interrupt.

High output diesel engines (Cat. 9)—Diesel engines with a specified brake man effective pressure of 1.8 MPa (18 bar) or more at a speed of 2300 r.p.m., provided the rated speed is 2300 r.p.m. or more.

Hot isostatic densification (Cat. 2)—A process of pressurizing a casting at temperatures exceeding 375 K (102 °C) in a closed cavity through various media (gas, liquid, solid particles, etc.) to create equal force in all directions to reduce or eliminate internal voids in the casting.

Hybrid computer (Cat. 4)—Equipment that can:

a. Accept data;

b. Process data, in both analog and digital representation; and

c. Provide output of data.

Hybrid integrated circuit (Cat. 3)—Any combination of integrated circuit(s), or integrated circuit with "circuit elements" or "discrete components" connected together to perform (a) specified function(s), and having all of the following criteria:

a. Containing at least one unencapsulated device;

b. Connected together using typical IC-production methods;

c. Replaceable as an entity; and

d. Not normally capable of being disassembled.

Notes: 1. "Circuit element": a single active or passive functional part of an electronic circuit, such as one diode, one transistor, one resistor, one capacitor, etc.

2. "Discrete component": a separately packaged "circuit element" with its own external connections.

Image enhancement (Cat. 4)—The processing of externally derived information-bearing images by algorithms such as time compression, filtering, extraction, selection, correlation, convolution or transformations between domains (e.g., fast Fourier transform or Walsh transform). This does not include algorithms using only linear or rotational transformation of a single image, such as

translation, feature extraction, registration or false coloration.

Information security (Cat. 5)—All the means and functions ensuring the accessibility, confidentiality or integrity of information or communications, excluding the means and functions intended to safeguard against malfunctions. This includes "cryptography", "cryptanalysis", protection against compromising emanations and computer security.

Instantaneous bandwidth (Cat. 5)—The bandwidth over which output power remains constant within 3 dB without adjustment of other operating parameters.

Instrumented range (Cat. 6)—The specified unambiguous display range of a radar.

Integrated Services Digital Network (ISDN) (Cat. 5)—A unified end-to-end digital network, in which data originating from all types of communication (e.g., voice, text, data, still and moving pictures) are transmitted from one port (terminal) in the exchange (switch) over one access line to and from the subscriber.

Interconnected radar sensors (Cat. 6)—Two or more radar sensors are interconnected when they mutually exchange data in real time.

Intrinsic Magnetic Gradiometer (Cat. 6)—A single magnetic field gradient sensing element and associated electronics the output of which is a measure of magnetic field gradient. (See also "Magnetic Gradiometer").

Isostatic presses (Cat. 2)—Equipment capable of pressurizing a closed cavity through various media (gas, liquid, solid particles, etc.) to create equal pressure in all directions within the cavity upon a workpiece or material.

Laser (Cat. 2, 3, 5, 6, and 9)—An assembly of components that produce both spatially and temporally coherent light that is amplified by stimulated emission of radiation.

See also: "Chemical laser"; "Q-switched laser"; "Super High Power Laser"; and "Transfer laser".

Linearity (Cat. 2)—"Linearity" (usually measured in terms of non-linearity) is the maximum deviation of the actual characteristic (average of upscale and downscale readings), positive or negative, from a straight line so positioned as to equalize and minimize the maximum deviations.

Local area network (Cat. 4 and 5)—A data communication system that:

a. Allows an arbitrary number of independent "data devices" to communicate directly with each other; *and*

b. Is confined to a geographical area of moderate size (e.g., office building, plant, campus, warehouse).

Note: "Data device": equipment capable of transmitting or receiving sequences of digital information.

Magnetic Gradiometers (Cat. 6)—Are designed to detect the spatial variation of magnetic fields from sources external to the instrument. They consist of multiple "magnetometers" and associated electronics the output of which is a measure of magnetic field gradient. (See also "Intrinsic Magnetic Gradiometer").

Magnetometers (Cat. 6)—Are designed to detect magnetic fields from sources external to the instrument. They consist of a single magnetic field sensing element and associated electronics the output of which is a measure of the magnetic field.

Main storage (Cat. 4)—The primary storage for data or instructions for rapid access by a central processing unit. It consists of the internal storage of a "digital computer" and any hierarchical extension thereto, such as cache storage or non-sequentially accessed extended storage.

Matrix (Cat. 1, 6, 8, and 9)—A substantially continuous phase that fills the space between particles, whiskers or fibers.

Maximum bit transfer rate (Cat. 4)—Of a disk drive or solid state storage device; the number of data bits per second transferred between the drive or the device and its controller.

Measurement uncertainty (Cat. 2)—The characteristic parameter that specifies in what range around the output value the correct value of the measurable variable lies with a confidence level of 95%. It includes the uncorrected systematic deviations, the uncorrected backlash and the random deviations (Ref.: VDI/VDE 2617).

Mechanical alloying (Cat. 1)—An alloying process resulting from the bonding, fracturing and rebonding of elemental and master alloy powders by mechanical impact. Non-metallic particles may be incorporated in the alloy by addition of the appropriate powders.

Media access unit (Cat. 4 and 5)—Equipment that contains one or more communication interfaces ("network access controller", "communications channel controller", modem or computer bus) to connect terminal equipment to a network.

Melt Extraction (Cat. 1)—A process to "solidify rapidly" and extract a ribbon-like alloy product by the insertion of a short segment of a rotating chilled block into a bath of a molten metal alloy.

Note: "Solidify rapidly": solidification of molten material at cooling rates exceeding 1,000 K/sec.

Melt Spinning (Cat. 1)—A process to "solidify rapidly" a molten metal stream impinging upon a rotating chilled block, forming a flake, ribbon or rod-like product.

Note: "Solidify rapidly": solidification of molten material at cooling rates exceeding 1,000 K/sec.

Microcomputer microcircuit (Cat. 3)—A "monolithic integrated circuit" or "multichip integrated circuit" containing an arithmetic logic unit (ALU) capable of executing general purpose instructions from an internal storage, on data contained in the internal storage.

Note: The internal storage may be augmented by an external storage.

Microprocessor microcircuit (Cat. 3)—A "monolithic integrated circuit" or "multichip integrated circuit" containing an arithmetic logic unit (ALU) capable of executing a series of general purpose instructions from an external storage.

Note: The "microprocessor microcircuit" normally does not contain integral user-accessible storage, although storage present on-the-chip may be used in performing its logic function.

Microprogram (Cat. 4 and 5)—A sequence of elementary instructions, maintained in a special storage, the execution of which is initiated by the introduction of its reference instruction into an instruction register.

Missiles (All)—Rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) "capable of" delivering at least 500 kilograms payload to a range of at least 30 kilometers.

Monolithic integrated circuit (Cat. 3)—A combination of passive or active "circuit elements" or both that:

a. Are formed by means of diffusion processes, implantation processes or deposition processes in or on a single semiconducting piece of material, a so-called 'chip';

b. Can be considered as indivisibly associated; and

c. Perform the function(s) of a circuit.

Note: "Circuit element": a single active or passive functional part of an electronic circuit, such as one diode, one transistor, one resistor, one capacitor, etc.

Most immediate storage (Cat. 4)—The portion of the "main storage" most directly accessible by the central processing unit:

a. For single level "main storage", the internal storage; or

b. For hierarchical "main storage":

1. The cache storage;

2. The instruction stack; or

3. The data stack.

Motion control board (Cat. 2)—An electronic "assembly" specially designed to provide a computer system with the capability to coordinate simultaneously the motion of axes of machine tools for "contouring control".

Multichip integrated circuit (Cat. 3)—Two or more "monolithic integrated circuits" bonded to a common "substrate".

Multi-data-stream processing (Cat. 4)—The "microprogram" or equipment architecture technique that permits simultaneous processing of two or more data sequences under the control of one or more instruction sequences by means such as:

a. Single Instruction Multiple Data (SIMD) architectures such as vector or array processors;

b. Multiple Single Instruction Multiple Data (MSIMD) architectures;

c. Multiple Instruction Multiple Data (MIMD) architectures, including those that are tightly coupled, closely coupled or loosely coupled; or

d. Structured arrays of processing elements, including systolic arrays.

Multilevel security (Cat. 5)—A class of system containing information with different sensitivities that simultaneously permit access by users with different security clearances and need-to-know, but prevents users from obtaining access to information for which they lack authorization.

Note: "Multilevel security" is computer security and not computer reliability that deals with equipment fault prevention or human error prevention in general.

Multispectral Imaging Sensors (Cat. 6)—Are capable of simultaneous or serial acquisition of imaging data from two or more discrete

spectral bands. Sensors having more than twenty discrete spectral bands are sometimes referred to as hyperspectral imaging sensors.

Network access controller (Cat. 4 and 5)—A physical interface to a distributed switching network. It uses a common medium that operates throughout at the same "digital transfer rate" using arbitration (e.g., token or carrier sense) for transmission.

Independently from any other, it selects data packets or data groups (e.g., IEEE 802) addressed to it. It is an assembly that can be integrated into computer or telecommunications equipment to provide communications access.

Neural computer (Cat. 4)—A computational device designed or modified to mimic the behavior of a neuron or a collection of neurons (i.e., a computational device that is distinguished by its hardware capability to modulate the weights and numbers of the interconnections of a multiplicity of computational components based on previous data).

Noise level (Cat. 6)—An electrical signal given in terms of power spectral density. The relation between "noise level" expressed in peak-to-peak is given by $S^2 pp = 8N_0 (f_2 - f_1)$, where S_{pp} is the peak-to-peak value of the signal (e.g., nanoteslas), N_0 is the power spectral density (e.g., (nanotesla) ^{2}/Hz) and $(f_2 - f_1)$ defines the bandwidth of interest.

Numerical control (Cat. 2)—The automatic control of a process performed by a device that makes use of numeric data usually introduced as the operation is in progress (Ref. ISO 2382).

Object code (or object language) (Cat. 4)—An equipment executable form of a convenient expression of one or more processes ("source code" (or source language)) that has been converted by a programming system. (See also "source code")

Operate autonomously (Cat. 8)—Fully submerged, without snorkel, all systems working and cruising at minimum speed at which the submersible can safely control its depth dynamically by suing its depth planes only, with no need for a support vessel or support base on the surface sea-bed or shore, and containing a propulsion system for submerged or surface use.

Optical amplification (Cat. 5)—In optical communications, an amplification technique that introduces a gain of optical signals that have been generated by a separate optical source, without conversion to electrical signals, i.e., using semiconductor optical amplifiers, optical fiber luminescent amplifiers.

Optical computer (Cat. 4)—A computer designed or modified to use light to represent data and whose computational logic elements are based on directly coupled optical devices.

Optical fiber preforms (Cat. 5 and 6)—Bars, ingots, or rods of glass, plastic or other materials that have been specially processed for use in fabricating optical fibers. The characteristics of the preform determine the basic parameters of the resultant drawn optical fibers.

Optical integrated circuit (Cat. 3)—A "monolithnic integrated circuit" or a "hybrid integrated circuit", containing one or more parts designed to function as photosensor or photoemitter or to perform (an) optical or (an) electro-optical function(s).

Optical switching (Cat. 5)—The routing of or switching of signals in optical form without conversion to electrical signals.

Overall current density (Cat. 3)—The total number of ampere-turns in the coils (i.e., the sum of the number of turns multiplied by the maximum current carried by each turn) divided by the total cross-section of the coil (comprising the superconducting filaments, the metallic matrix in which the superconducting filaments are embedded, the encapsulating material, any cooling channels, etc.).

PABX (Cat. 5)—(see "Private automatic branch exchange").

Packet (Cat. 5) —A group of binary digits including data and call control signals that is switched as a composite whole. The data, call control signals and possibly error control information are arranged in a specified format.

Peak power (Cat. 6)—Energy per pulse in Joule divided by the pulse duration in seconds.

Pesonalized smart card (Cat. 5)—A "smart card" containing a microcircuit, in accordance with ISO/IEC 781, that has been programmed by the issuer and cannot be changed by the user.

Power management (Cat. 7)—Changing the transmitted power of the altimeter signal so that received power to the "aircraft" altitude is always at the minimum necessary to determine the altitude.

Principle element (Cat. 4)—An element is a "principle element" when its replacement value is more than 35% of that total value of the system of which it is an element. Element value is the price paid for the element by the manufacturer of the system, or by the system integrator. Total value is the normal international selling price to unrelated parties at the point of manufacture or consolidation of shipment.

Private automatic branch exchange (PABX) (Cat. 5)—An automatic telephone exchange, typically incorporating a position for an attendant, designed to provide access to the public network and serving extensions in an institution such as a business, government, public service or similar organization.

Production (General Technology Note)—Means all production stages, such as: product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance.

Program (Cat. 2, 4, and 5)—A sequence of instructions to carry out a process in, or convertible into, a form executable by an electronic computer.

Proof test (Cat. 5)—On-line or off-line production screen testing that dynamically applies a prescribed tensile stress over a 0.5 to 3 m length of fiber at a running rate of 2 to 5 m/s while passing between capstans approximately 150 mm in diameter. The ambient temperature is a nominal 293 K (20° C) and relative humidity 40%.

Note: Equivalent national standards for executing the "proof test" may be used.

Pulse compression (Cat. 6)—The coding and processing of a radar signal pulse of long time duration to one of short time duration, while maintaining the benefits of high pulse energy.

Pulse duration (Cat. 6)—Duration of a "laser" pulse measured at Full Width Half Intensity (FWHI) levels.

Q-switched laser (Cat. 6)—A "laser" in which the energy is stored in the population inversion or in the optical resonator and subsequently emitted in a pulse.

Radar frequency agility (Cat. 6)—Any technique that changes, in a pseudo-random sequence, the carrier frequency of a pulsed radar transmitter between pulses or between groups of pulses by an amount equal to or larger than the pulse bandwidth.

Radar spread spectrum (Cat. 6)—Any modulation technique for spreading energy originating from a signal with a relatively narrow frequency band, over a much a wider band of frequencies, by using random or pseudo-random coding.

Range (Cat. 8)—Half the maximum distance a submersible vehicle can cover.

Real-time bandwidth (Cat. 3)—For "dynamic signal analyzers", the widest frequency range that the analyzer can output to display or mass storage without causing any discontinuity in the analysis of the input data. For analyzers with more than one channel, the channel configuration yielding the widest "real-time bandwidth" shall be used to make the calculation.

Real-time Processing (Cat. 2 and 4)—The processing of data by a computer system providing a required level of service, as a function of available resources, within a guaranteed response time, regardless of the load of the system, when stimulated by an external event.

Required (General Technology Note)—As applied to "technology", refers to only that portion of "technology" that is peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics or functions. Such "required" "technology" may be shared by different products. For example, assume product "X" is controlled if it operates at or above 400 MHz and is not controlled if it operates below 400 MHz. If production technologies "A", "B", and "C" allow production at no more than 399 MHz, then technologies "A", "B" and "C" are not "required" to produce the controlled product "X". If technologies "A", "B", "C", "D" and "E" are used together, a manufacturer can produce product "X" that does operate at or above 400 MHz. In this example, technologies "D" and "E" are "required" to make the controlled product and are themselves controlled under the General Technology Note.

Resolution (Cat. 2)—The least increment of a measuring device; on digital instruments, the least significant bit (Ref.: ANSI B-89.1.12).

Robot (Cat. 2 and 8)—A manipulation mechanism, which may be of the continuous path or of the point-to-point variety, may use "sensors", and has all the following characteristics:

a. Is multifunctional;

b. Is capable of positioning or orienting material, parts, tools or special devices through variable movements in a three dimensional space;

c. Incorporates three or more closed or open loop servo-devices that may include stepping motors; and

d. Has "user-accessible programmability" by means of teach/playback method or by means of an electronic computer that may be

a programmable logic controller; i.e., without mechanical intervention.

Note: This definition does not include the following devices:

a. Manipulation mechanisms that are only manually/teleoperator controllable;

b. Fixed sequence manipulation mechanisms that are automated moving devices, operating according to mechanically fixed programmed motions. The program is mechanically limited by fixed stops, such as pins or cams. The sequence of motions and the selection of paths or angles are not variable or changeable by mechanical, electronic or electrical means;

c. Mechanically controlled variable sequence manipulation mechanisms that are automated moving devices, operating according to mechanically fixed programmed motions. The program is mechanically limited by fixed, but adjustable stops, such as pins or cams. The sequence of motions and the selection of paths or angles are variable within the fixed program pattern. Variations or modifications of the program pattern (e.g., changes of pins or exchanges of cams) in one or more motion axes are accomplished only through mechanical operations;

d. Non-servo-controlled variable sequence manipulation mechanisms that are automated moving devices, operating according to mechanically fixed programmed motions. The program is variable, but the sequence proceeds only by the binary signal from mechanically fixed electrical binary devices or adjustable stops;

e. Stacker cranes defined as Cartesian coordinate manipulator systems manufactured as an integral part of a vertical array of storage bins and designed to access the contents of those bins for storage or retrieval.

Rotary Atomization (Cat. 1)—A process to reduce a stream or pool of molten metal to droplets to a diameter of 500 micrometer or less by centrifugal force.

Run-out (out-of-true running) (Cat. 2)—Radial displacement in one revolution of the main spindle measured in a plane perpendicular to the spindle axis at a point on the external or internal revolving surface to be tested (Ref.: ISO 230 part 1–1986, paragraph 5.61).

Scale factor (gyro or accelerometer) (Cat. 7)—The ratio of change in output to a change in the input intended to be measured. Scale factor is generally evaluated as the slope of the straight line that can be fitted by the method of least squares to input-output data obtained by varying the input cyclically over the input range.

Secret parameter (Cat. 5)—A constant or key kept from the knowledge of others or shared only within a group.

Settling time (Cat. 3)—The time required for the output to come within one-half bit of the final value when switching between any two levels of the converter.

Signal analyzers (Cat. 3)—Apparatus capable of measuring and displaying basic properties of the single-frequency components of multi-frequency signals.

Signal analyzers (dynamic) (Cat. 3)—(see "Dynamic signal analyzers").

Signal processing (Cat. 4 and 5)—The processing of externally derived information-bearing signals by algorithms such as time compression, filtering, extraction, selection, correlation, convolution or transformations between domains (e.g., fast Fourier transform or Walsh transform).

Simple educational devices (Cat. 3)—Devices designed for use in teaching basic scientific principles and demonstrating the operation of those principles in educational institutions.

Software (Cat: all)—A collection of one or more "programs" or "microprograms" fixed in any tangible medium of expression.

Source code (or source language) (Cat. 4)—A convenient expression of one or more processes that may be turned by a programming system into equipment executable form ("object code" (or object language)).

Spacecraft (Cat. 7 and 9)—Active and passive satellites and space probes.

Space qualified (Cat. 3 and 6)—Products designed, manufactured and tested to meet the special electrical, mechanical or environmental requirements for use in the launch and deployment of satellites or high-altitude flight systems operating at altitudes of 100 km or higher.

Specially designed (MTCR context)—Equipment, parts, components or "software" that, as a result of "development", have unique properties that distinguish them for certain predetermined purposes. For example, a piece of equipment that is "specially designed" for use in a "missile" will only be considered so if it has no other function or use. Similarly, a piece of manufacturing equipment that is "specially designed" to produce a certain type of component will only be considered such if it is not capable of producing other types of components.

Specific modulus (Cat. 1)—Young's modulus in pascals, equivalent to N/m^2 divided by specific weight in N/m^3, measured at a temperature of (296±2) K ((23±2)° C) and a relative humidity of (50±5)%.

Specific tensile strength (Cat. 1)—Ultimate tensile strength in pascals, equivalent to N/m^2 divided by specific weight in N/m^3, measured at a temperature of (296±2) K ((23±2)° C) and relative humidity of (50±5)%.

Spectral efficiency (Cat. 5)—A figure of merit parametrized to characterize the efficiency of transmission system that uses complex modulation schemes such as QAM (quadrature amplitude modulation), Trellis coding, QSPK (Q-phased shift key), etc. It is defined as follows:

$$\text{Spectral efficiency} = \frac{\text{"Digital transfer rate" (bits/second)}}{\text{6 dB spectrum bandwidth (Hz)}}.$$

Splat Quenching (Cat. 1)—A process to "solidify rapidly" a molten metal stream impinging upon a chilled block, forming a flake-like product.

Note: "Solidify rapidly": solidification of molten material at cooling rates exceeding 1,000 K/sec.

Spread spectrum (Cat. 5)—The technique whereby energy in a relatively narrow-band communication channel is spread over a much wider energy spectrum under the control of a random or pseudo random bit stream. On receipt, the signal is correlated with the same bit stream to achieve the reverse process of reducing the bandwidth to its original form.

Spread spectrum radar (Cat. 6)—(see "Radar spread spectrum").

Sputtering (Cat. 4)—An overlay coating process wherein positively charged ions are accelerated by an electric field towards the surface of a target (coating material). The kinetic energy of the impacting ions is sufficient to cause target surface atoms to be released and deposited on the substrate.

Note: Triode, magnetron or radio frequency sputtering to increase adhesion of coating and rate of deposition are ordinary modifications of the process.

Stability (Cat. 7)—Standard deviation (1 sigma) of the variation of a particular parameter from its calibrated value measured under stable temperature conditions. This can be expressed as a function of time.

Stored program controlled (Cat. 2, 3, and 5)—A control using instructions stored in an electronic storage that a processor can execute in order to direct the performance of predetermined functions.

Note: Equipment may be "stored program controlled" whether the electronic storage is internal or external to the equipment.

Substrate (Cat. 3)—A sheet of base material with or without an interconnection pattern and on which or within which "discrete components" or integrated circuits or both can be located.

Note: "Discrete component": a separately packaged "circuit element" with its own external connections.

Substrate blanks (Cat. 6)—Monolithic compounds with dimensions suitable for the production of optical elements such as mirrors or optical windows.

Superalloys (Cat. 2 and 9)—Nickel-, cobalt-, or iron-base alloys having strengths superior to any alloys in the AISI 300 series at temperatures over 922 K (594° C) under severe environmental and operating conditions.

Superconductive (Cat. 1, 3, 6, and 8)—Materials, i.e., metals, alloys, or compounds that can lose all electrical resistance, i.e., that can attain infinite electrical conductivity and carry very large electrical currents without Joule heating.

Note: The "superconductive" state of a material is individually characterized by a "critical temperature", a critical magnetic field that is a function of temperature, and a critical current density that is a function of both magnetic field and temperature.

Super High Power Laser (SHPL) (Cat. 6)—A "laser" capable of delivering (the total or any portion of) the output energy exceeding 1 kJ within 50 ms or having an average or CW power exceeding 20 kW.

Superplastic forming (Cat. 1 and 2)—A deformation process using heat for metals that are normally characterized by low values of elongation (less than 20%) at the breaking point as determined at room temperature by conventional tensile strength testing, in order to achieve elongations during processing that are at least 2 times those values.

Swept frequency network analyzers (Cat. 3)—Involve the automatic measurement of equivalent circuit parameters over a range of frequencies, involving swept frequency measurement techniques, but not continuous wave point-to-point measurements.

Switch fabric (Cat. 5)—That hardware and associated "software" that provides the physical or virtual connection path for in-transit message traffic being switched.

Synchronous digital hierarchy (SDH) (Cat. 5)—A digital hierarchy providing a means to manage, multiplex, and access various forms of digital traffic using a synchronous transmission format on different types of media. The format is based on the Synchronous Transport Module (STM) that is defined by CCITT Recommendation G.703, G.707, G.708, G.709 and others yet to be published. The first level rate of "SDH" is 155.52 Mbit/s.

Synchronous optical network (SONET) (Cat. 5)—A network providing a means to manage, multiplex and access various forms of digital traffic using a synchronous transmission format on fiber optics. The format is the North America version of "SDH" and also uses the Synchronous Transport Module (STM). However, it uses the Synchronous Transport Signal (STS) as the basic transport module with a first level rate of 51.81 Mbit/s. The SONET standards are being integrated into those of "SDH".

Systems tracks (Cat. 6)—Processed, correlated (fusion of radar target data to flight plan position) and updated aircraft flight position report available to the Air Traffic Control center controllers.

Systolic array computer (Cat. 4)—A computer where the flow and modification of the data is dynamically controllable at the logic gate level by the user.

Technology (General Technology Note)—Specific information necessary for the "development", "production", or "use" of a product. The information takes the form of "technical data" or "technical assistance". Controlled "technology" is defined in the General Technology Note and in the Commerce Control List.

N.B. *Technical assistance*—May take forms, such as: instruction, skills training, working knowledge, consulting services.

Note: "Technical assistance" may involve transfer of "technical data".

Technical data—May take forms such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memories.

Telecommunication transmission equipment (Cat. 5)—a. Categorized as follows, or combinations thereof:

1. Radio equipment (e.g., transmitters, receivers and transceivers);
2. Line terminating equipment;
3. Intermediate amplifier equipment;
4. Repeater equipment;
5. Regenerator equipment;
6. Translation encoders (transcoders);
7. Multiplex equipment (statistical multiplex included);
8. Modulators/demodulators (modems);
9. Transmultiplex equipment (see CCITT Rec. G701);
10. "Stored program controlled" digital crossconnection equipment;
11. "Gateways" and bridges;
12. "Media" access units; and

b. Designed for use in single or multi-channel communication via:

1. Wire (line);
2. Coaxial cable;
3. Optical fiber cable;
4. Electromagnetic radiation.

Terminal interface equipment (Cat. 4)—Equipment at which information enters or leaves the telecommunications systems, e.g., telephone, data device, computer, facsimile device.

Three dimensional Vector Rate (Cat. 4)—The number of vectors generated per second that have 10 pixel poly line vectors, clip tested, randomly oriented, with either integer or floating point X–Y–Z coordinate values (whichever produces the maximum rate).

Tilting spindle (Cat. 2)—A tool-handling spindle that alters, during the machining process, the angular position of its center line with respect to any other axis.

Time constant (Cat. 6)—The time taken from the application of a light stimulus for the current increment to reach a value of 1½ times the final value (i.e., 63 percent of the final value).

Total digital transfer rate (Cat. 5)—The number of bits, including line coding, overhead and so forth per unit time passing between corresponding equipment in a digital transmission system. (See also "digital transfer rate")

Transfer laser (Cat. 6)—A "laser" in which the lasing species is exited through the transfer of energy by collision of a non-lasing atom or molecule with a lasing atom or molecule species.

Tunable (Cat. 6)—The ability of a "laser" to produce a continuous output at all wavelengths over a range of several "laser" transitions. A line selectable "laser" produces discrete wavelengths within one "laser" transition and is not considered "tunable".

Two dimensional Vector Rate (Cat. 4)—The number vectors generated per second that have 10 pixel poly line vectors, clip tested, randomly oriented, with either integer or floating point X–Y coordinate values (whichever produces the maximum rate).

Usable in or Capable of (MTCR context)—Equipment, parts, components or "software" that are suitable for a particular purpose. There is no need for the equipment, parts, components or "software" to have been configured, modified or specified for the particular purpose. For example, any military specification memory circuit would be "capable of" operation in a guidance system.

Use (General Technology Note)—Operation, installation (including on-site installation), maintenance (checking), repair, overhaul and refurbishing.

User-accessible programmability (Cat. 4, 5, and 6)—The facility allowing a user to insert, modify, or replace "programs" by means other than:

a. A physical change in wiring or interconnections; or

b. The setting of function controls including entry of parameters.

Vacuum Atomization (Cat. 1)—A process to reduce a molten stream of metal to droplets of a diameter of 500 micrometer or less by the rapid evolution of a dissolved gas upon exposure to a vacuum.

Variable geometry airfoils (Cat. 7)—Use trailing edge flaps or tabs, or leading edge slats or pivoted nose droop, the position of which can be controlled in flight.

Vector Rate (Cat. 4)—See: "Two dimensional Vector Rate"; "Three dimensional Vector Rate".

Supplement No. 4 to § 799.1.—Cross Reference List

Old ECCN	New ECCN
1080A	9B01A.
1081A	1B03A.
1086A	9B03A.
	9B04A.
1088A	2B03A.
1091A	2B01A.
	2B08A.
	2B09A.
1099A	2B06A.
1131A	2A53A.
1205A	3A01A.
1310A	1B02A.
1312A	2B04A.
1353A	5B01A.
	4B02A.
1355A	3B01A.
1357A	1B01A.
1358A	4B01A.
1361A	9B02A.
	9B05A.
	9B25B.
	9B26B.
1362A	9B06A.
1363A	8B01A.
1370A	2B02A.
1371A	2A01A.
	2A02A.
	2A03A.
	2A04A.
	2A05A.
	2A06A.
1385A	7B02A.
	7B03A.
1388A	2B05A.
1391A	2B07A.
1416A	8A01A.
	8A02A.
1417A	8A02A.
1418A	8A01A.
	8A02A.
1431A	9A02A.
1460A	9A01A.
	9A21B.
	9A03A.
	9A22B.
1485A	7A01A.
	7A21B
	7A02A.
	7A22B.
	7A03A.
	7A23B.
	7A04A.
	7A24B.
	7B01A.
	7B02A.
	7B22B.
	7B03A.
1501A	6A08A.
	6A28B.
	6A29B.
	7A05A.
	7A06A.
	7A25B.
	7A26B.
	7A27B.
	7B94F.

SUPPLEMENT NO. 4 TO § 799.1.—CROSS REFERENCE LIST—Continued

Old ECCN	New ECCN
	7E94F.
1502A	5A02A.
	6A02A.
1510A	6A01A.
1516A	5A02A.
1517A	5A01A.
	5A02A.
1519A	5A02A.
	5B01A.
	5B02A.
1520A	5A02A.
	5B01A.
1522A	6A05A.
	6B05A.
1526A	5A05A.
	6A04A.
	6C04A.
1527A	5A11A.
1529A	3A02A.
	5B01A.
	5B02A.
1531A	3A02A.
1533A	3A02A.
	5B01A.
1537A	3A01A.
	5A06A.
1548A	6A02A.
	6A22B.
1549A	6A44B.
1553A	3A01A.
1555A	6A02A.
	6A42B.
1556A	6A02A.
1558A	3A01A.
1560A	3A01A.
1561A	1C01A.
1564A	3A01A.
1565A	4A01A.
	4A21B.
	4A02A.
	4A03A.
1567A	5A03A.
	5A04A.
1568A	3A01A.
1571A	6A06A.
1572A	3A02A.
1573A	3A01A.
1574A	3A01A.
1585A	6A03A.
1586A	3A01A.
1595A	6A07A.
	6B07A.
1610A	1C02A.
1631A	1C03A.
1675A	1C05A.
1710A	1C06A.
1733A	1C07A.
1746A	1A03A.
	1C08A.
	1C31B.
1754A	1A01A.
	1C09A.
1757A	3C01A.
	3C02A.
	3C03A.
	3C04A.
	6C02A.
1759A	8C01A.
1763A	1A02A.
	1C10A.
1767A	5C01A.
2018A	2B18A.
2118A	1B18A.
2317A	8A18A.
	0A18A.
	0E18A.
2319A	1B18A.
2406A	9A18A.

SUPPLEMENT NO. 4 TO § 799.1.—CROSS REFERENCE LIST—Continued

Old ECCN	New ECCN
2409A	6A18A.
	8A18A.
2410A	9A18A.
2414A	9A18A.
2418A	8A01A.
2460A	9A18A.
2603A	0A18A.
	0E18A.
2708A	1C18A.
2901A	0A18A.
	0E18A.
2913A	0A18A.
	0E18A.
3131A	1B19A.
	2A19A.
3261A	2A19A.
3336A	1B19A.
3362A	2A19A.
3363A	1B19A.
3604A	1C19A.
3605A	1C19A.
3607A	1C19A.
3608A	1C19A.
3609A	1C19A.
3709A	1C19A.
3711A	1C19A.
3712A	1C19A.
4075B	2B50B.
4094B	2B51B.
4099B	2B46B.
4118B	1B28B.
4127B	2A51B.
4128B	2A52B.
4131A	9B24B.
4133A	9B23B.
4203B	1B50B.
4261B	2A54B.
4302B	1B30B.
4312B	2B24B.
4337B	2A55B.
4360B	2B53B.
4362B	2B54B.
4363B	2A50B.
4517B	5A80D.
4518B	5A20B.
	5B20B.
4530B	3A51B.
4538B	3A44B.
4542B	3A43B.
4543B	3A48B.
4546B	3A49B.
4569B	3A50B.
4585B	6A43B.
4592B	1B51E.
4597B	3A90B.
4610B	1C51B.
4613B	1A44B.
4638B	1C52B.
4654B	1C53B.
4674B	1A45B.
4675B	1A46B.
4676B	1A47B.
4678B	1A51E.
4698B	1A48B.
4699G	1A48B.
4715B	1C57B.
4720B	1C54B.
4721B	1C55B.
4778B	1C80D.
4781B	1C81D.
4782B	1C82D.
4783B	1C83D.
4784B	1C84D.
4798B	1C60B.
4799B	1A84C.
4996B	1C88D.
4997B	1C61B.
4998B	1C61B.

SUPPLEMENT NO. 4 TO § 799.1.—CROSS REFERENCE LIST—Continued

Old ECCN	New ECCN
4999B	0A80D.
5091F	2B41E.
5129F	1B70E.
5132F	1B70E.
5133F	1B70E.
5134F	1B70E.
5135F	1B70E.
5140F	1B70E.
5141F	1B70E.
5165F	1B71E.
5167F	1B71E.
5170F	1B71E.
5312F	2B24B.
5398F	8A93F.
5460F	9A91F.
5480B	9A80B.
5529F	3A47E.
5539F	3A45E.
5541F	3A43B.
5542	3A43B.
5559	3A43B.
5560F	3A41E.
5584F	3A52E.
5592F	1B51E.
5597B	3A91B.
5611F	1A50E.
5612F	1A49E.
5678F	1A51E.
5680B	0A82C.
5797F	1C64E.
5997F	1C65E.
5998B	0A84C.
	0E84C.
5999B	0A82C.
6099G	See Note.
6199G	See Note.
6294F	2A94G.
6299G	See Note.
6394F	8A94F.
6399G	See Note.
6460F	9A91F.
6490F	9A84F.
6494F	8A94F.
	9A86F.
6498F	8A92F.
	8A94F.
	9A86F.
6499G	See Note.
6565G	4A96G.
6594F	4A96G.
6598F	5A93F.
	5A94F.
	7A94F.
6599G	See Note.
6699G	See Note.
6799G	See Note.
6899G	See Note.
6994G	9A94G.
6998F	0A86F.
	0E84C
6999G	See Note.
7599I	0A98I.
7999I	0A98I.
9499G	Deleted.
9999G	Deleted.

In addition to the changes enumerated in the table of cross references in this supplement, there are a number of new ECCNs. These new entries are not derived from previous ECCNs, but are multilaterally coordinated items controlled for national security purposes. A number of the previous ECCNs were decontrolled and therefore removed from the current list.

Dated: August 22, 1991.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 91–20541 Filed 8–28–91; 8:45 am]

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federal register

Thursday,
August 29, 1991

Part VII

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Final Program Priorities; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Final Program Priorities for Fiscal Year 1991

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of Final FY 1991 Research, Demonstration, and Service Program Priorities and Merit Selection Criteria under the Missing Children's Assistance Act.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing its Fiscal Year 1991 final program priorities for making grants and contracts under section 405 of the Missing Children's Assistance Act, title IV, of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended by the Juvenile Justice and Delinquency Prevention amendments of 1988, subtitle F of title VII of Public Law 100–90, November 1988.

FOR FURTHER INFORMATION CONTACT: Kathryn Turman, Director, Missing and Exploited Children's Program, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531 (202) 307–0598.

SUPPLEMENTARY INFORMATION: Responsibility for establishing annual research, demonstration, and service program priorities and criteria for making grants and contracts pursuant to section 405 of the Missing Children's Assistance Act rests with the Administrator of the Office of Juvenile Justice and Delinquency Prevention. For FY 1991, six new programs and four continuation programs will constitute all proposed section 405 priority funding areas. The Administrator is hereby announcing these final priorities, specifying merit and performance criteria to be applied in their review.

During FY 1991 additional new programs, or continuations of currently funded programs, may also be funded under sections 404 and 408 of the Missing Children's Assistance Act. Solicitations to fund all new title IV assistance awards in amounts exceeding $50,000 will be announced in the **Federal Register** and competitively awarded. Described below are discretionary programs being planned for funding under section 405 of the Missing Children's Assistance Act followed by a listing of continuation programs currently funded under section 405 which are proposed as eligible to receive continuation funding during their currently existing project periods. The final priorities take into consideration comments received during the 60-day public comment period following the announcement on June 3, 1991, of the Proposed Program Priorities in the **Federal Register**. This publication concludes with a summary of the substantive comments received and the responses of OJJDP to those comments. Full program announcements further detailing program strategies and application requirements will be published in the **Federal Register** within ten days of this publication inviting applications for those programs referenced as "new programs."

New Programs

Grants/Cooperative Agreements To Support Public or Private Nonprofit Missing Children's Agencies Service Activities

This program will provide grants for up to two years in amounts ranging from $25,000–$50,000 to support implementation of new or enhanced services to be provided by non-profit agencies, public agencies or combinations thereof in the following areas:

- Educating parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children;
- Providing information to assist in the locating and return of missing children;
- Aiding communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children;
- Assisting missing children and their families following the recovery of such children;
- Conducting activities to reduce the likelihood that individuals under 18 years of age will be removed from the control of their legal custodians without the custodian's consent; and,
- Providing services that minimize the negative impact of judicial and law enforcement procedures on children who are victims of abuse or sexual exploitation.

Up to $600,000 will be available that may support up to 24 assistance awards under this program initiative. Applications will be screened by a panel in the order received, and those applications meeting basic eligibility requirements and receiving a score of 65 or higher will be eligible for funding consideration, providing that necessary programmatic and budgetary revisions are successfully negotiated.

All applications received will be rated on the extent to which they meet the following criteria.

(1) The problem to be addressed by the project is clearly stated. The applicant must demonstrate an understanding of the extent and nature of the problem of missing and exploited children. (25 points)

(2) The objectives of the proposed project are clearly defined. (20 points)

(3) The project design is sound and contains program elements directly linked to the prevention and recovery of missing children and/or the provision of services to such children and their families. (25 points)

(4) The project management structure is adequate to the successful conduct of the project. (15 points)

(5) Organizational capability is demonstrated at a level sufficient to support the project successfully. The applicant must provide evidence of appropriate linkages with law enforcement and other missing children non-profit organizations. (10 points)

(6) Budgeted costs are reasonable, allowable and cost effective for the activities proposed to be undertaken. (5 points)

Applicant must provide evidence that the amount of the Federal grant will not exceed 25% of its current operating budget.

Program To Identify and Understand Risk Factors for Parental Abduction and Demonstrate Promising Prevention/Intervention Models

The goal of this three-phased program is to: (1) Learn more about the circumstances likely to precipitate the abduction of a child by a parent or family member, with specific attention given to the impact of domestic violence, and (2) to identify and document effective prevention and intervention strategies.

The objectives of this program are: (1) To investigate and document the circumstances most likely to result in the abduction of a child by a parent or family member; and, (2) to identify, demonstrate, and evaluate currently existing programs, public and private, that appear to be appropriate and effective interventions to prevent parental abductions.

The program will provide one research grant or cooperative agreement in an amount up to $450,000 for a period of 42 months. Phase I will be funded in an amount not to exceed $200,000 for 18 months, and Phase II and Phase III will be funded at a level of approximately $250,000 for 24 months. Phase I funding will support research to conduct an analysis of circumstances that place a child at risk of parental abduction. Phase II funding will provide for

research to identify promising public and non-profit programs, including mediation, currently used to prevent or intervene in parental abductions, determine how effectively they address the factors identified in Phase I as precipitating abductions, and Phase III will develop written training manuals and technical assistance for attorneys, judges, court social workers, and day care and school officials.

Product(s): The grantee will be responsible for preparing publication(s) describing risk factors for parental abductions and program interventions that are promising. These publications will be prepared in a style and format suitable for wide dissemination to family courts, prosecutors, social service agencies, and others working on the issue of family abductions.

All applications received will be rated on the extent to which they meet the following criteria.

(1) The problem to be addressed by the project is clearly stated. The applicant must demonstrate a clear understanding of the extent of the problem of parental abductions and associated factors such as parental custody laws. (25 points)

(2) The objectives of the proposed project are clearly defined. (20 points)

(3) The project design is sound and contains program elements directly related to the achievement of project objectives. (25 points)

(4) The project management structure is adequate to the successful conduct of the project. (15 points)

(5) Organizational capability is demonstrated at a level sufficient to support the project successfully. (10 points)

(6) Budgeted costs are reasonable, allowable and cost-effective for the activities proposed to be undertaken. (5 points)

Program to Increase Understanding of Child Exploitation

The First Report from the National Incidence Studies, "Missing, Abducted, Runaway, and Thrownaway Children in America," provided the juvenile justice and missing children's fields with a better understanding of the extent and nature of the missing child problem. This newly acquired information will assist Federal, state, and local planners in their efforts to design intervention for the various types of missing child cases. It is known that many children who are missing become the victims of sexual exploitation, including pornography and prostitution, however, little has been documented about the extent of the problem, the precipitating circumstances, or the system's response to the problem.

OJJDP will solicit applications to conduct a survey of current knowledge on the subject of child sexual exploitation (Phase I), to describe the legislation and statutes used by the States and the Federal government in the prosecution and punishment of offenders (Phase II), and to examine criminal justice system response and handling of sexual exploitation cases of missing children (Phase III).

Up to $400,000 will be available to support this three year study.

All applications received will be rated on the extent to which they meet the following criteria.

(1) The problem to be addressed by the project is clearly stated. (25 points)

(2) The objectives of the proposed project are clearly defined. (20 points)

(3) The project design is sound and contains program elements directly linked to the achievement of project objectives. (25 points)

(4) The project management structure is adequate to the successful conduct of the project. (15 points)

(5) Organizational capability is demonstrated at a level sufficient to support the project successfully. (10 points)

(6) Budgeted costs are reasonable, allowable and cost-effective for the activities proposed to be undertaken. (5 points)

Effective Screening of Child Care and Youth Service Workers

Adults, volunteers, and paid personnel, who work in agencies and organizations that provide services to and for children and youths are responsible for the guidance, supervision, and general well-being of those under their care. While most such workers are conscientious individuals of high moral values, too often an employee has been known to have victimized a young person (or numbers of children) through sexual exploitation. States vary greatly not only in requiring criminal background checks for prospective employees of agencies having responsibility for the care of children, but also in the information that would be available, automated or manually. In some cases the information for arrest for child sexual molestation and exploitation offenses may be in the juvenile or family court and not entered in the regular state criminal histories or the offenses may be plea bargained to a lesser offense that may not seem to be a sexual abuse offense.

This program will attempt to provide a comprehensive picture of what screening practices, including criminal records checks, are being utilized by both the public and private sector and the effectiveness of these practices. Existing state laws and policies with regard to criminal record screening will also be studied and annotated. This program will identify existing model programs being used by child care and youth serving agencies and organizations and recommend steps for the development of a national screening model(s) for states to adopt, including, but not limited to, criminal record checks.

Up to $200,000 is available to support this 18 month project.

All applications received will be rated on the extent to which they meet the following criteria.

(1) The problem to be addressed by the project is clearly stated. (25 points)

(2) The objectives of the proposed project are clearly defined. (20 points)

(3) The project design is sound and contains program elements directly linked to the achievement of project objectives. (25 points)

(4) The project management structure is adequate to the successful conduct of the project. (15 points)

(5) Organizational capability is demonstrated at a level sufficient to support the project successfully. (10 points)

(6) Budgeted costs are reasonable, allowable and cost-effective for the activities proposed to be undertaken. (5 points)

Training and Technical Assistance for Non-Profit Missing Children's Programs

This program will provide technical assistance and training to improve the capacity of nonprofit community based missing children's organizations to engage in activities that will successfully prevent the abduction and sexual exploitation of children, assist in the recovery of such children, and provide services to aid in the reunification of families. The goal of this project will be to achieve a high level of skill, sophistication and expertise among the private nonprofit agencies and other appropriate organizations serving missing and exploited children. Training will focus on internal structure and credibility, case protocol and documentation, victim assistance, coordination with law enforcement, photo dissemination, reunification preparation, assistance and follow up, issue and prevention education, community outreach, referrals, networking, information exchange, improving service delivery, and advocacy. The grantee may provide assistance in the development of

national standards, including a plan for certification, and may help facilitate the formation of a national organization of nonprofit organizations serving missing and exploited children.

Applications will be invited from public and private organizations. Up to $250,000 will be available for the implementation of a 24 month program. The program may be extended for a third year if grantee performance is satisfactory and funds are available.

All applications received will be rated on the extent to which they meet the following criteria.

(1) The problem to be addressed by the project is clearly stated. (10 points)

(2) The objectives of the proposed project are clearly defined. (15 points)

(3) The project design is sound and contains program elements directly linked to the achievement of project objectives. (25 points)

(4) The project management structure is adequate to support the successful conduct of the project. (20 points)

(5) Organizational capability is demonstrated at a level sufficient to support the project successfully. (25 points)

(6) Budgeted costs are reasonable, allowable and cost-effective for the activities proposed to be undertaken. (5 points)

Field-Initiated Program

Through the Field-Initiated Program, OJJDP encourages eligible parties to develop promising and new ideas that are relevant to the mission of OJJDP in carrying out the Missing Children's Assistance Act.

Customarily, the research, development and training programs which OJJDP has sponsored have addressed specific activities mandated by Congress. The Field Initiated Program however, invites imaginative and innovative approaches of researchers and practitioners to the discretionary activities authorized by section 405(a)(1–9) of the Missing Children's Assistance Act. Those approaches include research, demonstration, or service programs designed—

(1) To educate parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children;

(2) To provide information to assist in the locating and return of missing children;

(3) To aid communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children;

(4) To increase knowledge of and develop effective treatment pertaining to the psychological consequences, on both parents and children, of—

a. The abduction of a child, both during the period of disappearance and after the child is recovered; and

b. The sexual exploitation of a missing child;

(5) To collect detailed data from selected States or localities on the actual investigative practices utilized by law enforcement agencies in missing children's cases;

(6) To address the particular needs of missing children by minimizing the negative impact of judicial and law enforcement procedures on children who are victims of abuse or sexual exploitation and by promoting the active participation of children and their families in cases involving abuse or sexual exploitation of children.

(7) To address the needs of missing children (as defined in section 403(1)(A) and their families following the recovery of such children;

(8) To reduce the likelihood that individuals under 18 years of age will be removed from the control of their legal custodians without the custodians' consent; and,

(9) To establish or operate statewide clearinghouses to assist in locating and recovering missing children.

The Field Initiated Programs will have the following objectives:

(1) To promote and support research, development, demonstration and service programs that address innovative approaches to improving existing practices and policies that address activities identified in section 405(a) of the Missing Children's Assistance Act.

(2) To encourage new methods for addressing the issue of Missing Children.

(3) To develop knowledge that will lead to new techniques, approaches and methods addressing the problems of missing and exploited children and the prevention and deterrence of abduction and exploitation.

Through the Field Initiated Program, OJJDP is actively soliciting innovative program proposals. Applications should define the needs and problems expected to arise, and describe the objectives, strategy and methodology to be employed. A brief review of the history of the issue and current knowledge and approaches to addressing this issue should be included.

A total of $175,000 is available to support this program for a period of 18 months. Grants will be awarded in amounts up to $50,000. Applications will be screened by a panel in the order received, and those applications receiving a score of 75 or higher will be recommended for funding consideration, providing that the applicant agrees to make minor revisions that may be required by OJJDP.

All applications received will be rated on the extent to which they meet the following criteria:

(1) The problem to be addressed by the project is clearly stated. The applicant must demonstrate an understanding of the extent and nature of the problem of missing and exploited children. (20 points)

(2) The objectives of the proposed project are clearly defined. (15 points)

(3) The project design is sound and contains program elements directly linked to the prevention and recovery of missing children and/or the provision of services to such children and their families. The project design demonstrates an innovative approach to addressing the problem. (30 points)

(4) The project management structure is adequate to the successful conduct of the project. (10 points)

(5) Organizational capability is demonstrated at a level sufficient to conduct the project successfully. (10 points)

(6) Budgeted costs are reasonable, allowable and cost effective for the activities proposed to be undertaken. (10 points)

Continuation Programs

Listed below are programs currently funded under section 405 of the Missing Children's Assistance Act which are proposed as continuing program priorities for FY 1991 under their existing project period grants.

The following criteria, based on merit, will be considered in assessing the noncompeting continuation awards listed below.

(1) The results of title IV funding under the recipient's current award justify further program activity.

(2) The recipient has promptly submitted all required reports.

(3) The recipient has shown satisfactory progress in achieving the objectives of the project and has met all material terms and conditions of the award.

(4) The recipient's management practices have provided adequate stewardship of grantor agency funds.

Continuation Award—Missing and Exploited Children Comprehensive Action Program (MCAP) ($404,448; Project Period October 1, 1988–June 30, 1992

This award will provide continuation funding for the Missing and Exploited Children Comprehensive Action Program funded in 1988. MCAP is a

broad multi-agency community juvenile services coordination community action program. Primary program activity provides directed and supportive training and technical assistance to encourage, guide and focus community development and planning on important priority missing and exploited children issues. This award will provide for the administration sites of the training and technical assistance program products developed during the initial stages of the program in four sites.

Continuation Award—State Missing Children Clearinghouses Specialized Training ($225,000; September 30, 1991–March 31, 1992)

This award will provide continuation funding for the National Center for Missing and Exploited Children for the purpose of providing stipends for use by State Missing Children Clearinghouses in obtaining specialized training in the recovery and reunification of missing children. Stipends will cover training and transportation expenses for Clearinghouse personnel as well as the development and training and electronic bulletin board for 43 state clearinghouses.

Continuation Award—Federal Law Enforcement Training Center—Interagency Agreement; ($250,000; Project Period April 15, 1991–December 31, 1992)

This transfer of funds to the Department of the Treasury for the Federal Law Enforcement Training Center's law enforcement program will support a two day program for local criminal justice agencies on the recognition and investigation of sexual abuse, and exploitation of missing children. The program will focus on the state-of-the-art techniques of investigating the missing child and will include issues relative to runaways, abductions, parental kidnapping, and other missing categories. The two day program will be conducted at the local level as a technical assistance request.

Continuation Award—Investigation and Prosecution of Parental Abduction Cases; ($250,000; Project Period October 1, 1988–December 31, 1992)

The American Prosecutors Research Institute (APRI) received an award to implement a training and technical assistance program. The project has focused on the development of a directory of prosecutors who prosecute parental abduction cases, the development of a trial manual, the holding of a conference on investigation and prosecution of parental abduction cases and the provision of technical assistance. This award will continue the project for an additional twelve months enabling APRI to conduct training conferences and continue their technical assistance efforts. In addition, APRI will serve as a resource center on the issues related to the investigation and prosecution of parental abduction.

For all assistance awards funded under Title IV—Missing Children's Assistance Act, priority will be given to applicants who utilize volunteers in locating, reuniting, and providing other services to missing children and their families. In order to receive assistance for a fiscal year, applicants must give assurance that they will expend, to the greatest extent practicable, for such fiscal year an amount of funds (without regard to any funds received under any Federal law) that is not less than the amount of funds they received in the preceding fiscal year from State, local, and private sources.

In considering grant applications under this title, the Administrator will give priority to applicants who have demonstrated or demonstrate ability in successfully:

- Locating missing children or locating and reuniting missing children with their legal custodians;
- Providing other services to missing children or their families; or
- Conducting research relating to missing children.

Applicants will be expected to provide documentation of their success in achieving the above.

Discussion of Comments

The Missing and Exploited Children's program published its proposed Program Priorities for Fiscal Year 1991 in the **Federal Register** on June 3, 1991, for a 60-day period of public comment. The office received 14 letters commenting on the proposed plan. All comments have been considered in the development of this Final Program Plan for Fiscal Year 1991.

The majority of the letters received provided positive comments about the overall plan and its programs. Key strengths of the plan mentioned were its strong prevention orientation, the targeting of programs at both specific types of missing children as well as missing children generally, and the support for a wide range of activities. The program areas that received the most interest were Risk Factors in Parental Abduction and Effective Screening of Child Care and Youth Service Workers. The following is a summary of the substantive comments and the responses by OJJDP.

1. *Comment*: Eleven respondents representing family violence agencies and the legal community across the country expressed concern that the plan did not give enough attention to the impact of family violence on the problem of missing children. These respondents emphasized a need to address the correlation between domestic violence and both parental abductions and endangered runaways.

Response: OJJDP agrees with the respondents urging the inclusion and emphasis of family violence as a factor in many missing children cases. Risk Factors in Parental Abduction will include as a priority the exploration of the role of domestic violence as a motivation in parental abduction cases. The second phase of this grant will identify and examine programs to prevent or intervene in parental abductions, including those most appropriate and effective in cases where domestic violence is a factor. Both phases of this grant will be extended and the amount raised to $450,000. While it is not possible to address fully the impact of domestic violence on the problem of missing children in Fiscal Year 1991, OJJDP will strongly consider this issue in future program planning.

2. *Comment:* A number of respondents questioned the feasibility of Research on Mediation to Prevent or Resolve Parental Abductions since it would be difficult, if not impossible, to measure reliably the effectiveness of mediation. Respondents also pointed out that in most cases where domestic violence is a factor, mediation is not an appropriate intervention.

Response: Rather than fund a separate project focusing on mediation, OJJDP decided to address the issue by broadening the second phase of Risk Factors for Parental Abductions to examine a number of interventions, including mediation and custody investigations. This phase of the study will include an evaluation of the appropriateness of each intervention for cases involving spouse abuse and child abuse.

3. *Comment:* Five respondents expressed concern about the feasibility of the Training for Teachers and School Officials to assist them in recognizing indicators that suggest a child may be the victim of parental abduction. It was suggested that this curriculum cannot be developed until the research for risk factors has been undertaken. It was also suggested that day care providers be included in those educators who need to be trained.

Response: OJJDP concurs with the respondents on the need to have the training curriculum development flow from the research on risk factors.

Therefore, the Training for Teachers and School Officials grant will become a component of Phase III of Risk Factors for Parental Abductions. Day care providers will also be included.

4. *Comment:* Three respondents commented on the need for greater priority to be given to judicial and legal training and education, particularly with regard to parental abduction cases.

Response: OJJDP agrees strongly with the need for more comprehensive programs for training and technical assistance in this area. Revision of some existing legal and judicial publications is already underway. For FY 91, additional money has been provided to a continuing grant (APRI) to expand training and technical assistance on the investigation and prosecution of parental abduction cases. OJJDP will include judicial and legal training as a priority in FY 1992 and future program planning.

5. *Comment:* Regarding the Program to Increase Understanding of Child Exploitation, three respondents suggested that the funding amount be increased and the study expanded to three years in order to provide more detailed information. Respondents also pointed out the difficulty of conducting the national incidence study mentioned in the original notice, given the funding level and nature of the issue. The suggestion was also made to include a thorough analysis of both federal, state, and county legislation and the use and outcomes of prosecutions at all three levels related to it.

Response: OJJDP carefully reviewed the comments and redesigned the program to include the assessment of related legislation, handling of cases, and prosecution outcome. The amount of funding was increased to $400,000 and extended to three years. For its Fiscal Year 1992 Missing Children's Program Plan, OJJDP is considering a program to solicit ideas for appropriate research that will attempt to indicate the extent of child sexual exploitation.

6. *Comment:* Two respondents suggested that the focus of Effective Screening of Child Care and Youth Service Workers (development of a screening protocol) was too limited. It was also suggested that the Missing and Exploited Children's Program build on recent work done in this area and coordinate with other agencies.

Response: OJJDP will focus on building a comprehensive picture of what screening practices are being utilized by both the public and private sector and the effectiveness of these practices. Existing state laws and policies with regard to criminal record screening will also be studied and annotated. (Under the continuing Missing & Exploited Children's Comprehensive Action Program (M/CAP), local community teams participating in the program are currently developing policies and procedures for a sceening protocol for juvenile service workers of agencies participating in the program.) The funding amount has been increased to $200,000 and length of the grant has been extended to 18 months.

7. Comment: Three respondents representing non-profit agencies focusing on the problem of missing children suggested that funding be increased for the Grants and Cooperative Agreements to Support Public or Private Non-Profit Missing Children's Agencies Service Activities. Two of these respondents also suggested funding fewer agencies at larger amounts.

Response: OJJDP feels that the amount of funding for nonprofit organizations, along with funding for Technical Assistance and Training for the nonprofits and funding for a national conference for nonprofits in 1991, is sufficient for Fiscal Year 1991. The office will continue to provide support for nonprofit organizations and will take these comments under consideration as it develops future programs.

Dated: August 21, 1991.

Robert W. Sweet, Jr.,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 91-20704 Filed 8-28-91; 8:45 am]

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Reader Aids

Federal Register

Vol. 56, No. 168

Thursday, August 29, 1991

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, AUGUST

36723-36996	1
36997-37138	2
37139-37266	5
37267-37452	6
37453-37640	7
37641-37820	8
37821-38070	9
38071-38318	12
38319-40218	13
40219-40480	14
40481-40742	15
40743-41054	16
41055-41280	19
41281-41430	20
41431-41620	21
41621-41746	22
41747-41918	23
41919-42220	24
42221-42522	27
42523-42676	28
42677-42918	29

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
462 41022

3 CFR

Proclamations:
6319 37135
6320 37407
6321 40481
6322 41279
6323 41915
6324 41917
6325 41919
6326 42521
6327 42675

Executive Orders:
5327 (Revoked in part by PLO 6866 of July 26, 1991) 38083
May 19, 1913 (Revoked by PLO 6869) 41075
12772 41621

Administrative Orders:
Certification:
August 6, 1991 37819
Presidential Determinations:
No. 91-28 of April 16, 1991 40737
No. 91-29 of April 16, 1991 40739
No. 91-47 of August 2, 1991 40741

5 CFR

550 40360
575 40360
581 36723
950 42677
1200 41747
1201 41748
1203 41748

Proposed Rules:
333 36741
733 37480

7 CFR

2 42682
29 41921
220 37954
301 ..... 37606, 41890
318 36724
354 36724
401 36724
729 38319
736 40219
905 37641
906 40743
916 40220
917 40220
927 40483
931 40744
945 37822
967 42523
989 ..... 37642, 38071
998 37645
1126 42221
1207 40226
1240 37453
1421 42683
1427 ..... 41431, 41749
1446 38319
1468 40232
1472 40232
1477 41055
1485 40745
1493 41391
1570 42222
1712 42460
1719 42460
1737 42523
1739 42460
1746 42460
1786 37267
1924 40240
1944 41764
1951 41764
1955 40240

Proposed Rules:
Ch. VI 40446
51 41491
52 42649
271 40146
272 40570
273 ..... 40146-40164, 40570
274 40164
278 40579
280 40164
301 41311
318 38351
354 ..... 37481, 41605
425 41313
701 37499
800 ..... 37302, 40812
917 37863
920 42543
926 42543
955 40812
966 42554
967 36742
985 37500
997 40269
1106 42240
1120 42240
1126 42240
1132 42240
1137 42284
1138 42240
1413 ..... 40272, 41082
1712 42496
1719 42496
1739 42496
1746 42496

1930.....42384
1944.....42384
1951.....42384
1965.....42384
3200.....41190

8 CFR

103.....41767
210a.....38331
214.....38331, 41623
240.....41445
241.....38331
242.....38331
247a.....41767
338.....38485

Proposed Rules:

204.....41084
245.....37864

9 CFR

50.....36997
92.....41726
113.....37823
166.....37827, 41605
317.....41445
319.....41445
327.....38333

Proposed Rules:

92.....37025
101.....38352
112.....38352
113.....38352
130.....37481, 41605
308.....40274
317.....41967
318.....40274
327.....38361, 41162
381.....40274, 41967

10 CFR

2.....36998, 40664
20.....40757, 41448
21.....41448
26.....41922
30.....40664, 40757
31.....40757
34.....40757
39.....40757
40.....40664, 40757
50.....40178, 40664
52.....37828
60.....40664
61.....40664
70.....40664, 40757
71.....37828
72.....40664
73.....41448
110.....38335, 40664
150.....40664
170.....37828
171.....37828

Proposed Rules:

Ch. I.....41633
20.....42546
35.....42546
50.....41493, 41968
1049.....36743
1705.....38089

11 CFR

106.....42380
113.....41890
9005.....42380
9007.....42380
9012.....42380
9034.....42380
9036.....41891, 42380
9038.....42380
9039.....42380

Proposed Rules:

114.....41496

12 CFR

19.....38024, 41726
32.....37272
225.....38048
262.....38048
263.....38048
308.....37968
508.....38302
509.....38302
512.....38302
513.....38302
611.....42649
620.....42649
621.....42649
701.....37276, 37828
741.....37276
747.....37762
1617.....40484

Proposed Rules:

Ch. X.....41022
34.....42546
356.....37673
500.....41972
516.....41972
543.....41972
544.....41972
545.....41972
546.....41972
552.....41972
556.....41972
563.....41972
563b.....41972
563f.....41972
566.....41972
571.....41972
574.....37162, 41972
584.....41972
922.....37303
931.....37303
932.....37303

13 CFR

107.....37459
108.....41055
121.....37276, 37648, 41057, 41787, 42524

Proposed Rules:

121.....38364, 41891

14 CFR

21.....37279, 41048
25.....37279, 41635
27.....41048
29.....41048, 41635
33.....41635
39.....37139-37144, 37282, 37462-37470, 37649, 38337, 38338, 40494, 40770-40774, 41058, 41449, 41927, 41928, 42224-42230
71.....41059, 41060
73.....37607
91.....41048
93.....41200
95.....41929
97.....41060
107.....41422
108.....41422
158.....37127
413.....41062
415.....41062

Proposed Rules:

21.....36972-36976
36.....36976
39.....36747, 36748, 37167-37169, 37317-37320, 38090, 40278-40282, 40581, 40813
43.....36976
71.....38092, 40660, 40814, 41097, 41633, 41634
91.....36976
141.....36976
147.....36976

15 CFR

19.....41281
771.....40494
773.....40494, 42652
776.....40494
778.....40494
779.....40494, 42652
799.....40494, 42824
1160.....41281
1170.....41281

Proposed Rules:

770.....42665
771.....42665
772.....42665
773.....42665
774.....42665
775.....42665
801.....37170
2301.....38004, 38007

16 CFR

1500.....37831

Proposed Rules:

Ch. I.....37026
1700.....38093

17 CFR

1.....42683
211.....36999
231.....36999
241.....36999
270.....38485

Proposed Rules:

1.....37026, 38174
3.....37026, 38174
150.....37049
240.....41635, 42550
249.....42550
270.....41635

18 CFR

141.....41450, 41453
271.....37145
401.....37954

Proposed Rules:

37.....41098
284.....38374, 42712

19 CFR

10.....40776
18.....40776
24.....37838
125.....40776
141.....42526
145.....42526
171.....40776
172.....40776
200.....36725
356.....37802

Proposed Rules:

4.....40283
142.....42568

20 CFR

404.....36932, 40780, 41788
416.....36932, 41454
422.....41788

Proposed Rules:

655.....37145

21 CFR

5.....42527
172.....42685
173.....42685
178.....41455, 41456
310.....37792
333.....41008
500.....40502
510.....37472, 37473, 41902
520.....37473
524.....37473
558.....37838, 41902
589.....40502
878.....36871
1301.....36726, 36727
1302.....42231

Proposed Rules:

Ch. I.....42668
101.....40660, 42380
102.....40660
130.....42380
131.....42380
133.....42380
135.....42380
136.....42380
137.....42380
139.....42380
145.....42380
146.....42380
150.....42380
152.....42380
155.....42380
156.....42380
158.....42380
160.....42380
161.....42380
163.....42380
164.....42380
166.....42380
168.....42380
169.....42380
206.....41313
207.....41313
314.....41313
333.....37622
357.....38391
803.....41314
888.....37954

22 CFR

41.....41068

Proposed Rules:

121.....42285
211.....42766
1007.....37866

23 CFR

635.....37000
1325.....41394
1327.....41394

24 CFR

200.....41790
201.....36980
203.....36980
207.....42798

221.....42798
231.....42798
234.....36980
235.....37147, 41791
241.....42798
570.....41936
888.....37148
889.....36728

Proposed Rules:
81.....41022

25 CFR
Ch. III.....40702

26 CFR
1.....40245, 40507, 41792
31.....40246
35a.....42687
52.....40246
54.....40507
602.....40245, 40507, 41792

Proposed Rules:
1.....38391–38399, 40285, 40815–40842, 41102–41105, 41496, 41891, 41992, 41993
7.....41993
48.....42287
52.....40286

27 CFR
24.....38486

Proposed Rules:
9.....37501, 40583
178.....41105

28 CFR
44.....40247

29 CFR
870.....40660
1910.....37650
1926.....41793
2676.....40551

Proposed Rules:
507.....37175
2510.....36750
2617.....36750

30 CFR
901.....41794
913.....37011
914.....37013–37016
920.....37839
944.....41795
946.....37153

Proposed Rules:
740.....38175, 42712
761.....38175, 42712
772.....38175, 42712
784.....40286
817.....40286
914.....37868, 37869
931.....37051, 37870
935.....37871, 42299
944.....41314
950.....37873, 42712

31 CFR
17.....40781
535.....40552
550.....37156

32 CFR
255.....41940
295.....37873
552.....37130
626.....37019
627.....37019
706.....37284
755.....42232
1904.....41457
1905.....41458

Proposed Rules:
199.....41496

33 CFR
1.....41392
100.....40553, 42687
110.....40360
117.....37474, 38072, 40418, 41283, 41460–41462
161.....37475
165.....37851, 37852, 40250, 40251, 40360, 41284, 42234, 42687
334.....42527

Proposed Rules:
Ch. II.....40446
100.....37886
110.....38093
117.....40420, 41498
161.....36910, 40946
165.....37052
334.....41500

34 CFR
347.....40194

Proposed Rules:
300.....41266

35 CFR
251.....40554
253.....40554

36 CFR
7.....37158, 41942
28.....42788
1191.....38174

Proposed Rules:
13.....37262
51.....41894
219.....42300

37 CFR
1.....42528
201.....38340

Proposed Rules:
1.....37321, 40660, 41890
10.....37321, 40660, 41890

38 CFR
36.....40556, 40792

Proposed Rules:
3.....40661
4.....37053
13.....40661

39 CFR
111.....36729, 41462

Proposed Rules:
111.....36750
3001.....42713

40 CFR
51.....42216
52.....37475, 37651, 38073, 40252, 40253, 41284, 41463
60.....41391
61.....37158
80.....37020
81.....37285, 37288, 37654
147.....41071
180.....40257, 40258, 41464, 41465, 42530
186.....40258
261.....41072, 41164, 41286 41944, 42504
265.....42504
266.....42504
268.....41164
271.....37290, 37291, 41164, 41626, 41958
272.....41626, 41958
280.....38342
712.....42688
716.....42688
721.....40204

Proposed Rules:
Ch. I.....40446, 42572
51.....40843
52.....37195, 38399, 40287, 40843, 41500, 42302, 42572
60.....40843
61.....37196, 41811
63.....42305
122.....40948
136.....37331
146.....41108
180.....40291, 42574–42580
260.....37331
261.....37331
280.....40292
721.....42714
744.....37686

41 CFR
101–16.....42162
101–17.....42166
101–41.....40259
101–48.....40259
301–8.....37478
302–1.....40946

42 CFR
57.....40563, 40720, 40728
60.....42696
400.....38074
405.....41726
406.....38074
407.....38074
1003.....42532

Proposed Rules:
413.....41110
417.....38485
441.....37054
448.....37054
489.....37054

43 CFR

Proposed Rules:
3800.....41315

Public Land Orders:
6866.....38083
6867.....40263
6868.....40263
6869.....41075
6870.....42541
6871.....42539
6872.....42540
6873.....42540
6874.....42540
6875.....42539

44 CFR
64.....41291, 41295
65.....41296, 41298
67.....38485, 41299–41303

Proposed Rules:
67.....41315–41323

45 CFR
97.....38345

Proposed Rules:
3.....42015
232.....42581
233.....38094
302.....42581

46 CFR
16.....41392
28.....40364
221.....40661

Proposed Rules:
Ch. IV.....37505
514.....42016
540.....40586
550.....37069
580.....37069
581.....37069
586.....38404

47 CFR
0.....36729
1.....37665, 40566
2.....42702
22.....37853
25.....42702
36.....42706
64.....36729, 40793
73.....36733–36735, 40264, 40566, 40568, 40569, 40799, 40800, 41075, 41076, 41466, 41805, 41961, 42707
76.....37954, 41077
87.....38083
90.....41467, 41468
97.....37160, 40800

Proposed Rules:
0.....41502
1.....41502
2.....41502
25.....38406
64.....40844
73.....36751, 36752, 40295, 40296, 40589–40592, 40843, 40844, 40847, 41113, 41811–41814, 42016, 42017, 42306
76.....40847
95.....41502

48 CFR
Ch. I.....41728
1.....37257
2.....41729, 41744
3.....41729
4.....41744
5.....37257, 41730, 41744
7.....41744
8.....37257, 41744
9.....37257
10.....37257
12.....41731, 41744
13.....41730
14.....37257, 41732
15.....37257, 41732, 41734
16.....37257
17.....37257
19.....37257, 41730
20.....41735
25.....37257, 41735
26.....41736
27.....37257

30.....41744
31.....37257, 41738, 41739
33.....37259
35.....37257
36.....37257
42.....37257
43.....37257, 41744
44.....37257
45.....37257, 41740
49.....37257
50.....41740
52.....37257, 41729, 41731–41734, 41736, 41744
53.....41741
219.....37963
232.....37963, 38174
252.....37963, 38174
352.....37668
901.....41962
904.....41962
908.....41962
909.....41962
914.....41962
915.....38174, 41962
917.....38174
922.....41962
933.....41962
935.....41962
942.....41962
943.....41962
950.....38174
952.....41962
970.....38174, 41962
971.....41962
1510.....42235
1552.....42235
1839.....38485
2801.....37859

Proposed Rules:

7.....37404
31.....40714
32.....40716
42.....40714, 40716
52.....37404
245.....40848
328.....42586
352.....42586
922.....38096
937.....38096
952.....38096
970.....38096, 42584, 42588

49 CFR

28.....37292
199.....41077
385.....40801
391.....40806
531.....37478
571.....38084
572.....41077
1002.....42236
1011.....37860, 41304
1151.....37860
1152.....38175
1180.....41806

Proposed Rules:

Ch. X.....40592
107.....36992, 37505
171.....37505
172.....37505
173.....37505
175.....37505
177.....37505
178.....37505
218.....40296
225.....40593
229.....40296
350.....40848
396.....40848
552.....42715
571.....37332, 38099–38105, 40852, 40853, 41815, 42307, 42380
572.....38108
630.....38256
1037.....36752

50 CFR

17.....40265, 41473
20.....41608, 42806
23.....41806
215.....36735
216.....41304, 41308
227.....42541
228.....41628
253.....41489
641.....37606, 42711
661.....37161, 37671, 38086, 38087, 40268, 41631
663.....37022
672.....36739, 38346
675.....38346, 40809, 40810, 41309
685.....37023, 37300

Proposed Rules:

Ch. I.....40446
Ch. IV.....40446
Ch. VI.....40594
17.....36753, 37200, 37513, 40002, 40854
20.....40297, 42198
32.....42018
33.....42018
216.....40594
217.....36753
227.....36753
251.....42590
669.....41114
685.....37070, 41643

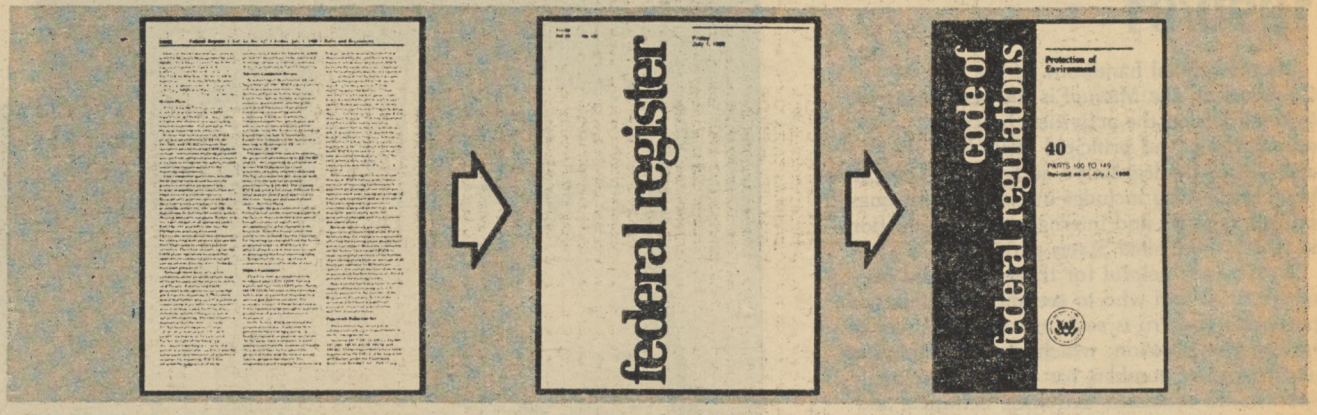
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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List August 22, 1991

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