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MONDAY, AUGUST 7, 1978

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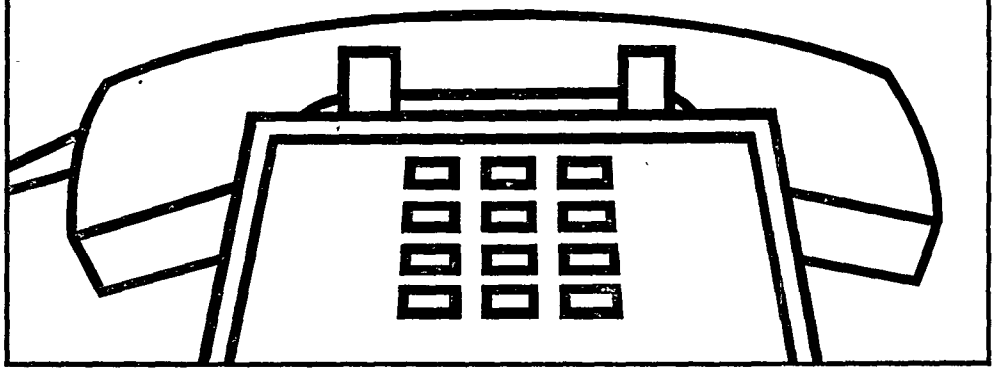

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H.R. 11877 ..... Pub. L. 95-331
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H.J. Res. 945 ..... Pub. L. 95-332
Making an urgent appropriation for the black lung program of the Department of Labor, and for other purposes, for the fiscal year ending September 30, 1978. (Aug. 2, 1978; 92 Stat. 417). Price: $.50.

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Title 3—The President

PROCLAMATION 4580

National Grandparents Day, 1978

By the President of the United States of America

A Proclamation

Our nation was shaped by the wisdom and courage of our founding fathers, and by the steadfastness of succeeding generations who have sustained their vision through two turbulent centuries of challenge and growth.

Each American family is similarly shaped and guided by its forbears. Just as a nation learns and is strengthened by its history, so a family learns and is strengthened by its understanding of preceding generations. As Americans live longer, more and more families are enriched by their shared experiences with grandparents and great-grandparents.

The elders of each family have the responsibility for setting the moral tone for the family and for passing on the traditional values of our nation to their children and grandchildren. They bore the hardships and made the sacrifices that produced much of the progress and comfort we enjoy today. It is appropriate, therefore, that as individuals and as a nation, that we salute our grandparents for their contribution to our lives.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Sunday, September 10, 1978, as "National Grandparents Day." I urge officials of Government at the national, state, and local levels, and of voluntary organizations to plan appropriate activities so that the contributions that our grandparents have made may be appropriately recognized.

I urge each citizen to pause and to reflect on the influence his grandparents have had in shaping his own destiny, and on the legacy bestowed upon our contemporary society by his grandparents' generation.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of August, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-22163 Filed 8-4-78; 10:38 am]

rules and regulations

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 month.

[3410-01]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 15—NONDISCRIMINATION

Subpart B—Nondiscrimination—Direct USDA Programs and Activities

PROHIBITION OF AGE DISCRIMINATION

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule amends the Department's rules governing nondiscrimination in direct USDA programs and activities by prohibiting age discrimination. The Department amends its nondiscrimination rules affecting direct assistance in order to make its rules consistent with the policy of the Age Discrimination Act of 1975

EFFECTIVE DATE: This amendment becomes effective August 7, 1978.

FOR FURTHER INFORMATION CONTACT:

William C. Payne, Jr., Program Planning and Evaluation Division, Office of Equal Opportunity, Washington, D.C. 20250, phone 447-4806.

SUPPLEMENTARY INFORMATION: On December 30, 1977, notice was published in the FEDERAL REGISTER (42 FR 65202) inviting comments not later than January 30, 1978, on a proposed amendment to title 7, part 15, subpart B, of the Code of Federal Regulations. One comment was received questioning the authority and wisdom of adopting such a proposed amendment.

After consideration of all relevant matter presented, including the proposal, and other available information, it is hereby determined that title 7, part 15, subpart B, of the Code of Federal Regulations should be and is amended by adding the word "age" after the word "sex" in § 15.51 (a) and (b), and by adding a new subsection (c) which sets out certain exemptions.

Accordingly, 7 CFR 15.51 is amended to read as follows:

§ 15.51 Discrimination prohibited.

(a) No agency, officer, or employee of the U.S. Department of Agriculture, shall exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, religion, sex, age, or national origin under any program or activity administered by such agency, officer, or employee.

(b) No agency, officer, or employee of the Department shall on the ground of race, color, religion, sex, age, or national origin deny to any person in the United States: (1) Equal access to buildings, facilities, structures, or lands under the control of any agency in this Department, and (2) under any program or activity of the Department, equal opportunity for employment, for participation in meetings, demonstrations, training activities or programs, fairs, awards, field days, encampments, for receipt of information disseminated by publication, news, radio, and other media, for obtaining contracts, grants, loans, or other financial assistance or for selection to assist in the administration of programs or activities of this Department.

(c) It shall not be a violation of this section if: (1) As a matter of policy, age is taken into account as a factor necessary to the normal operation or the achievement of any statutory objective of any program or activity; or (2) the program or activity is established under a law which: (i) Provides any benefits or assistance to persons based upon the age of such persons, or (ii) established criteria for participation in age-related terms or describes intended beneficiaries or target groups in such terms.

Dated: August 1, 1978.

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc. 78-21825 Filed 8-4-78; 8:45 am]

[3410-16]

CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

PART 661—PUBLIC INFORMATION AND RIGHT TO PRIVACY

Availability of Information

AGENCY: Soil Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule prescribes the availability of information and the procedures for obtaining information under the Freedom of Information Act and Privacy Act as implemented by the regulations of the Secretary of Agriculture and the Soil Conservation Service.

EFFECTIVE DATE: August 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Verne M. Bathurst, Deputy Administrator for Administration, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, telephone 202-447-6297.

SUPPLEMENTARY INFORMATION: On January 18, 1977, the Soil Conservation Service published a proposed rule (42 FR 3311) to review present regulations on the availability of information under the Freedom of Information Act and implement the Privacy Act of 1974 as it applies to the Soil Conservation Service. As set out in the proposed rulemaking, the regulations of the Secretary of Agriculture are to be followed.

Two comments were received from the general public. The concern of the two comments was the exemption of certain records.

DISCUSSION OF COMMENTS

WHAT RECORDS ARE EXEMPT

Records exempt from access to the general public were the concern of the two comments received. Comment No. 1 read as follows:

"Sec. 661.5 *Exempt records.* Written records of periodic and special inspections of installed project measures should be open and available to the public. We ask clarification that these inspection records will not

fall under category (2) of this section—inventories and evaluations."

Records of inspection of installed project measures maintained by the Soil Conservation Service are available under the Freedom of Information Act upon request.

Comment No. 2 read in part as follows:

"The Freedom of Information Act, 5 U.S.C. 552, is a legislative plan that requires disclosure, upon request, of records of governmental agencies. The liberal disclosure requirement is limited by nine specific exemptions, 5 U.S.C. 552(b), which are to be narrowly construed in order to assure public access to all governmental records whose disclosure would not significantly harm specific governmental interests. *Soucie v. David*, 145 U.S. App. Ct., D.C. 144, 448 F. 2d 1067 (1971), *Washington Research Project, Inc. v. Department of Health, Education, and Welfare*, 366 F. Supp. 929 (1973). *B & C Tire Co. v. Internal Revenue Service, Department of Treasury*, 376 F. Supp. 708 (1974).

"Proposed revision 661.5 would significantly broaden the scope of the 552(b)(4) exemption. Section (b)(4) exempts 'trade secrets and commercial or financial information obtained from a person and privileged or confidential.' The proposed revision will withhold 'to the maximum extent permitted' by (b)(4) conservation plans including those supporting cost share contracts, inventories and evaluations, any recorded information which shows scope of a farm operation or other enterprises including boundaries and economic data collected during the planning process, and economic data collected from individuals which is used for evaluation or watershed, RC&D and other projects.

"These revisions are a serious and unwarranted evasion of the public's right of access to Government controlled information. They are overly broad and unnecessarily vague. They essentially exempt all records that justify the economic underpinnings of watershed projects. The proposed revisions would allow the agency to withhold information essential to the assessment of any project, such information would include cost share figures, data supporting 100-year storm delineations and data supporting flood damage and benefit analysis. The revisions mandate court action for any person who seriously questions a watershed project."

The Soil Conservation Service has determined that all records except those exempt under 5 U.S.C. 552 or a court decision will be available for inspection and copying.

Accordingly, 7 CFR, Chapter VI, Part 661 is revised and published as a final.

NORMAN A. BERG,
Associate Administrator.

JULY 31, 1978.

Subpart A—Availability of Records and Materials

Sec.
661.1 General.
661.2 Public access and copying.
661.3 Request for records.
661.4 Appeals.
661.5 Exempt records.

Subpart B—Right to Privacy

661.6 General.
Appendix A—Availability of Information.

AUTHORITY: 5 U.S.C. 552, 552a; 7 CFR 1.1-1.16, 1.110-1.123.

Subpart A—Availability of Records and Materials

§ 661. General.

This part is issued in accordance with the regulations of the Secretary of Agriculture at 7 CFR 1.1-1.16 implementing the Freedom of Information Act, 5 U.S.C. 552. The Secretary's regulations, as implemented by the regulations in this part, govern the availability to the public of records of the Soil Conservation Service and the records for which the Soil Conservation Service has custodial responsibility.

§ 661.2 Public access and copying.

Soil Conservation Service will make available for public inspection and copying those materials covered by 5 U.S.C. 552(a)(2) as set out in the Secretary's regulations.

§ 661.3 Requests for records.

Requests for records under 5 U.S.C. 552(a)(3) will be made in accordance with 7 CFR 1.3(a). The titles and mailing addresses of the officials in Soil Conservation Service authorized to receive requests for records are shown in appendix A of this subpart. Authority is hereby delegated to these officials to make determinations regarding such requests in accordance with 7 CFR 1.4(c).

§ 661.4 Appeals.

Any person whose request for records above is denied shall have the right to appeal that denial in accordance with 7 CFR 1.3(e). All appeals shall be addressed to: Administrator, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013.

§ 661.5 Exempt records.

Records exempt under 5 U.S.C. 552(b) may be withheld in accordance with 7 CFR 1.11.

Subpart B—Right to Privacy

§ 661.6 General.

Soil Conservation Service implementation of the Privacy Act of 1974, 5 U.S.C. 552a is contained in the regulations of the Secretary, 7 CFR 1.110-1.123.

APPENDIX A-AVAILABILITY OF INFORMATION

The following list pertaining to the availability of information are published in accordance with the requirement and pursuant to the authority of sections 552, 559 of Title 5, United States Code.

REQUEST FOR EXAMINATION OR COPY OF RECORDS

General

Request for examination and copying of a record or for copies of records shall be made to the Deputy Administrator for Administration, Soil Conservation Service, U.S. Department of Agriculture, P.O. box 2890, Washington, D.C. 20013, or to the State Conservationist in any of the listed state offices.

SOIL CONSERVATION SERVICE, STATE OFFICE LOCATION

State Conservationist, Wright Building, 138 South Gay St., P.O. Box 311, Auburn, Ala. 36830.

State Conservationist, Suite 129, Professional Bldg., 2221 East Northern Lights Blvd., Anchorage, Alaska 99504.

State Conservationist, 230 North 1st Ave., Federal Bldg., Phoenix, Ariz. 85025.

State Conservationist, Federal Bldg., Room 5029, 700 West Capitol St., P.O. Box 2323, Little Rock, Ark. 72203.

State Conservationist, 2828 Chiles Rd., Davis, Calif. 95616.

State Conservationist, Mansfield Professional Park, Route 44A, Storrs, Conn. 06268.

State Conservationist, Treadway Towers, Suite 2-4, 9 East Loockerman St., Dover, Del. 19901.

State Conservationist, Federal Bldg., P.O. Box 1208, Gainsville, Fla., 32602.

State Conservationist, Federal Bldg., 355 East Hancock Ave., P.O. Box 832, Athens, Ga. 30603.

State Conservationist, 300 Moana Blvd., Ala, Room 4316, P.O. Box 50004, Honolulu, Hawaii 96850.

State Conservationist, Room 313, 2490 West 26th Ave., P.O. Box 17107, Denver, Colo. 80217.

State Conservationist, Federal Bldg., 200 West Church St., P.O. Box 678, Champaign, Ill. 61820.

State Conservationist, Atkinson Square-West, Suite 2200, 5610 Crawfordsville Rd., Indianapolis, Ind. 46224.

State Conservationist, 823 Federal Bldg., 210 Walnut St., Des Moines, Iowa 50309.

State Conservationist, 760 South Broadway, P.O. Box 600, Salina, Kans. 67401

State Conservationist, 333 Waller Ave., Lexington, Ky. 40504.

State Conservationist, 3737 Government St., P.O. Box 1630, Alexandria, La. 71301.

State Conservationist, USDA Bldg., University of Maine, Orono, Maine 04473.

State Conservationist, Hartwick Bldg., Room 522, 4321 Hartwick Rd., College Park, Md. 20740.

State Conservationist, 29 Cottage St., Amherst, Mass. 01002.

State Conservationist, Room 345, 304 North 8th St., Boise, Idaho 83702.

State Conservationist, Milner Bldg., Room 590, 210 South Lamar St., P.O. Box 610, Jackson, Miss. 39205.

State Conservationist, 555 Vandiver Dr., Columbia, Mo. 65201.
State Conservationist, Federal Bldg., P.O. Box 970, Bozeman, Mont. 59715.
State Conservationist, Federal Bldg.-U.S. Courthouse, Room 345, Lincoln, Nebr. 68508.
State Conservationist, U.S. Post Office Bldg., P.O. Box 4850, Reno, Nev. 89505.
State Conservationist, Federal Bldg., Durham, N.H. 03824.
State Conservationist, 1370 Hamilton St., P.O. Box 219, Somerset, N.J. 08873.
State Conservationist, 517 Gold Ave., SW., P.O. Box 2007, Albuquerque, N. Mex. 87103.
State Conservationist, U.S. Courthouse and Federal Bldg., 100 South Clinton St., Room 771, Syracuse, N.Y. 13260.
State Conservationist, 1405 South Harrison Rd., East Lansing, Mich. 48823.
State Conservationist, 200 Federal Bldg. and U.S. Courthouse, 316 North Robert St., St. Paul, Minn. 55101.
State Conservationist, 200 North High St., Room 522, Columbus, Ohio 43215.
State Conservationist, Agriculture Center Bldg., Farm Rd. and Brumley St., Stillwater, Okla. 74074.
State Conservationist, Federal Bldg., 1220 Southwest 3d Ave., Portland, Oreg. 97204.
State Conservationist, Federal Bldg. and Courthouse, Box 985 Federal Square Station, Harrisburg, Pa. 17108.
State Conservationist, Caribbean Area, Room 633 Federal Bldg., Chardon Ave., G.P.O. Box 4868, Hato Rey, P.R. 00936.
State Conservationist, 222 Quaker Lane, West Warwick, R.I. 02893.
State Conservationist, 240 Stoneridge Dr., Columbia, S.C. 29210.
State Conservationist, 200 4th St., SW., P.O. Box 1357, Huron, S. Dak. 57350.
State Conservationist, Federal Office Bldg., 310 New Bern Ave., Fifth Floor, P.O. Box 27307, Raleigh, N.C. 27611.
State Conservationist, Federal Bldg., P.O. Box 1458, Bismarck, N. Dak. 58501.
State Conservationist, Federal Bldg., 101 South Main St., P.O. Box 648, Temple, Tex. 76501.
State Conservationist, 4012 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138.
State Conservationist, Burlington Square, Suite 205, Burlington, Vt. 05401.
State Conservationist, Federal Bldg., Room 9201, 400 North 8th St., P.O. Box 10026, Richmond, Va. 23240.
State Conservationist, 360 U.S. Courthouse, West 920 Riverside Ave., Spokane, Wash. 99201.
State Conservationist, 75 High St., P.O. Box 865, Morgantown W. Va. 26505.
State Conservationist, 4601 Hammersley Rd., Madison, Wis. 53711.
State Conservationist, Federal Office Bldg., P.O. Box 2440, Casper, Wyo. 82601.
State Conservationist, 675 U.S. Courthouse, Nashville, Tenn. 37203.

Only those matters pertaining to the particular State and matters of general application will be available in each State office.

[FR Doc. 78-21800 Filed 8-4-78; 8:45 am]

[3410-05]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1978 Crop Rice Supplement]

PART 1421—GRAIN AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 Crop Rice Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) Final loan and purchase availability dates, (2) maturity dates, (3) loan and purchase rates, (4) premiums and discounts, and (5) location differentials under which Commodity Credit Corporation (CCC) will extend price support on 1978 crop rice. This rule is needed in order to satisfy statutory requirements which provide that price support shall be made available to rice producers who comply with program provisions. This rule will permit eligible rice producers to obtain loans and purchases on their eligible 1978 crop rice.

DATE: Effective August 7, 1978.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3727 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Dalton Ustynik (ASCS), 202-447-6611.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on April 26, 1978, 43 FR 17964, stating that the Secretary of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for 1978 crop rice. Such determinations included determining loan rates, premiums, and discounts for grades, classes, other qualities, location differentials, and other provisions as may be needed to carry out the program. Interested persons were given until May 30, 1978, to submit recommendations, views, and comments. Three responses were received. Two commented that the target and loan prices as published in the FEDERAL REGISTER were adequate. One recommended an increase in the target price. Due to statutory directives, it was determined that the target and loan prices would remain as published.

FINAL RULE

The general regulations governing price support for the 1978 and subsequent crops, as amended, and the 1978 and subsequent crops rice loan and purchase program regulations, as amended, are further supplemented, as stated herein, for the 1978 crop of rice. The material previously appearing in this subpart remains in full force and effect as to the crops to which it was applicable. Accordingly, the regulations in §§ 1421.325 through 1421.328 and the title of the subpart are revised to read as follows:

Subpart—1978 Crop Rice Loan and Purchase Program

Sec.
1421.325 Purpose.
1421.326 Availability.
1421.327 Maturity of loans.
1421.328 Loan and purchase rates.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 401, 63 Stat. 1051, as amended, sec. 702, 91 Stat. 940 (7 U.S.C. 1441 and 1421).

Subpart—1978 Crop Rice Loan and Purchase Program

§ 1421.325 Purpose.

This subpart contains additional program provisions which, together with the applicable provisions of the regulations contained in the general regulations governing price support for the 1978 and subsequent crops, as amended, and the 1978 and subsequent crops rice loan and purchase program regulations, as amended, apply to loans and purchases for 1978 crop rice.

§ 1421.326 Availability

(a) *Loans.* A producer must request a loan on his 1978 crop eligible rice on or before March 31, 1979.

(b) *Purchases.* Producers desiring to offer eligible rice not under loan for purchase must execute and deliver to the county ASCS office prior to April 30, 1979, a purchase agreement (Form CCC-614) indicating the approximate quantity of rice they will sell to CCC.

§ 1421.327 Maturity of loans.

Unless demand is made earlier, loans on rice will mature on April 30, 1979.

§ 1421.328 Loan and purchase rates.

(a) *Farm storage loans.* The loan rate for farm storage rice shall be $6.40 per hundredweight for any class. The settlement rate shall be the applicable basis rate specified in paragraph (c) of this section, adjusted in accordance with the provision of this section and §§ 1421.311 and 1421.22.

(b) *Warehouse storage loans and purchases.* The loan rate for rice stored modified commingled and identity preserved in an approved warehouse shall be the applicable basic rate specified in paragraph (c) of this section, adjusted as provided in paragraphs (e) and (f) of this section. The rate for loans on rice stored commingled in an approved warehouse and for settlement for modified commingled and identity preserved loans and purchases shall be the applicable basic rate specified in paragraph (c) of this section, adjusted in accordance with the provisions of this section and §§ 1421.311 and 1421.22.

(c) *Basic rates.* The basic rate per 100 pounds of rice shall be computed as follows: Multiply the milling yield (in pounds per hundredweight) of whole kernels by the applicable loan value for whole kernels) as shown in the table below according to class) and round the result to the nearest hundredth. Similarly, multiply the difference between the total milling yield and the whole kernels yield (in pounds per hundredweight) by the applicable loan value for broken rice and round the result to the nearest hundredth. Add the results (as rounded) of the two computations to obtain the basic loan and purchase rate per 100 pounds of rice and express such rate in dollars and cents.

Loan value for whole kernels and broken rice

[In cents per pound]

Rough rice class	Whole kernels	Broken rice
Long grains	11.25	4.65
Medium grains	9.75	4.65
Short grains	9.75	4.65

(d) *Premium.* The basic rate determined under paragraph (c) of this section shall be adjusted for grade U.S. No. 1 by the following premium:

	Cents per 100 lb
Grade U.S. No. 1	5

(e) *Discounts.*—(1) *Grade.* The basic rate determined under paragraph (c) of this section shall be adjusted for grades below U.S. No. 2 by the following discounts:

	Cents per 100 lb
Grade U.S. No. 3	15
Grade U.S. No. 4	30
Grade U.S. No. 5	30

(2) *Smut damage.* The rate of rice evidencing smut damage shall be further adjusted by the following discounts:

	Cents per 100 lb
Percent smut damage:	
Trace	0
0.1 to 1.0	5
1.1 to 2.0	10
2.1 to 3.0	15
3.1 and over	25

(f) *Location differentials.* For rice produced in the areas specified below, discounts for location (to adjust for transportation costs of moving the rice to an area where competitive milling facilities are available) shall be applied to the basic rate determined under paragraph (c) of this section and shall be in addition to any adjustment under paragraphs (d) and (e) of this section. *Provided, however,* That if such rice is transported and stored in a rice producing area where no location differential is applicable, no discount for location shall be applied.

Differential table

Area	Discount per 100 lb
Imperial County, California, and adjacent counties in Arizona and California	$2.20
State of Florida	2.11
States of North Carolina and South Carolina	2.05
Counties of Marion, Pike, and St. Charles, Mo.	1.42
Counties of Lafayette, Little River, and Miller, Arkansas; Bowie, Texas; McCurtain, Oklahoma; and Bossier Parish, Louisiana	.14

Signed at Washington, D.C., on July 31, 1978.

RAY FITZGERALD,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 78-21834 Filed 8-4-78; 8:45 am]

[3410-05]

PART 1427—COTTON

Subpart—1978 Crop Supplement to Cotton Loan Program Regulations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: Commodity Credit Corporation (CCC) is publishing the 1978 crop supplement to the cotton loan program regulations. The supplement contains the base loan rates by warehouse location for upland cotton effective through September 30, 1978, loan rates for extra long staple cotton, premiums and discounts for upland cotton, and micronaire differences applicable to all 1978 crop cotton. A later amendment to this supplement will contain loan rates for upland cotton effective October 1. Price support loans will be available to eligible producers on 1978 crop cotton under such rates.

EFFECTIVE DATE: August 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Dalton Ustynik, ASCS, 202-447-6611 P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On December 22, 1977, a notice was published in the FEDERAL REGISTER (42 FR 64127) regarding certain determinations CCC was to make with respect to the loan programs for the 1978 crops of upland and extra long staple cotton. No comments were received. The location and quality differentials announced by CCC are considered to be fair and equitable and will be applicable to the 1978 crop of cotton. Minor revisions were made in the 1978 location differentials because of changes in transportation costs. The 1978 location differentials maintain a reasonable relationship between production areas and assure fair loan values for cotton as to location.

In accordance with the provisions of section 103(f) of the Agriculture Act of 1949, as amended by section 602 of the Food and Agriculture Act of 1977, it has been determined that 85 percent of the average spot market price for the 4 year period ending July 31, 1977, was 50.28 cents per pound and that 90 percent of the adjusted average price quoted for C.I.F. Northern Europe for the first 2 full weeks of October 1977 was 44.00 cents per pound. Accordingly, as the statute provides that the loan level shall be the smaller of these prices, the base loan rate for 1978 crop upland cotton through September 30, 1978, has been determined to be 44 cents per pound.

Effective October 1, 1978, the base loan rate at average location for upland cotton will be 48.00 cents per pound as provided by the Emergency Agricultural Act of 1978 (Pub. L. 95-279, approved May 15, 1978), and an amendment to these regulations reflecting the increased base loan rates by warehouse location will be published at a later date.

The cotton loan program regulations issued by CCC, containing loan operating provisions are supplemented as shown below for the 1978 crop of cotton.

Section 1427.101 contains the schedule of base loan rates by warehouse location for upland cotton based on the 44.00-cent rate. These rates will apply through September 30 1978. A revised schedule reflecting the 48.00-cent rate will be published at a later date. Sections 1427.102-1427.103 contain the schedules of premiums and discounts for grade and staple length and mi-

cronaire differences for upland cotton which were announced by press release on June 1, 1978, and will apply to both the 44.00-cent and 48.00-cent loan rates, basis strict low middling 1 1/16-inch cotton, micronaire 3.5 through 4.9, net weight at average location. Sections 1427.104-1427.105 contain the base loan rates and micronaire differences for eligible qualities of extra long staple cotton which were also announced by press release on June 1 and are based on the national average loan rate of 83.20 cents per pound, net weight.

FINAL RULE

Accordingly, 7 CFR 1427.100 through 1427.105 and the title of the subpart are revised to read as follows, effective as to the 1978 crops of upland and extra long staple cotton. The material previously appearing in these sections remains in full force and effect as to the crop years to which it was applicable.

Subpart—1978 Crop Supplement to Cotton Loan Program Regulations

Sec.
1427.100 Purpose.
1427.101 Schedule of base loan rates for eligible 1978 crop upland cotton by warehouse location effective through September 30, 1978.
1427.102 Schedule of premiums and discounts for grade and staple length of eligible 1978 crop upland cotton.
1427.103 Schedule of micronaire differentials for 1978 crop upland cotton.
1427.104 Schedule of loan rates for eligible qualities of 1978 crop extra long staple cotton by warehouse location.
1427.105 Schedule of micronaire differentials for 1978 crop extra long staple cotton.

AUTHORITY: Secs. 4, 5, 62 Stat. 1070 (15 U.S.C. 714 b and c); secs. 101, 103, 401, 63 Stat. 1051 (7 U.S.C. 1441, 1444, 1421); sec. 602, 91 Stat. 934 (7 U.S.C. 1444); and sec. 102, 92 Stat. 240 (7 U.S.C. 1444).

§ 1427.100 Purpose.

This subpart is for the purpose of announcing that loans will be available on upland and extra long staple cotton of the 1978 crop under the terms and conditions stated in the cotton loan program regulations issued by CCC and contained in this part 1427. This subpart also contains schedules to be used in determing loan rates on 1978 crop cotton.

§ 1427.101 Schedule of base loan rates for eligible 1978 crop upland cotton by warehouse location effective through September 30, 1978.

[In cents per pound, net weight]

ALABAMA

City	County	Basis SLM white 1 1/16 "4134" loan rate
Albertville	Marshall	44.75
Aliceville	Pickens	44.55
Atmore	Escambia	44.55
Attalla	Etowah	44.95
Bella Mina	Limestone	44.75
Birmingham	Jefferson	44.75
Decatur	Morgan	44.75
Demopolis	Marengo	44.55
Eclectic	Elmore	44.75
Elkmont	Limestone	44.75
Eutaw	Greene	44.55
Fayette	Fayette	44.75
Frisco City	Monroe	44.55
Gadsden	Etowah	44.95
Geraldine	De Kalb	44.75
Greenbrier	Limestone	44.75
Haleyville	Winston	44.75
Hamilton	Marion	44.55
Hartselle	Morgan	44.75
Havana Junction	Hale	44.55
Huntsville	Madison	44.75
Hurtsboro	Russell	44.95
McCullough	Escambia	44.55
Madison	Madison	44.75
Marion	Perry	44.75
Montgomery	Montgomery	44.75
Moundville	Hale	44.55
New Hope	Madison	44.75
Northport	Tuscaloosa	44.55
Opelika	Lee	44.95
Panola	Sumter	44.55
Red Bay	Franklin	44.55
Scottsboro	Jackson	44.75
Section	do	44.75
Selma	Dallas	44.75
Sulligent	Lamar	44.55
Sweet Water	Marengo	44.55
Tallassee	Elmore	44.75
Tuscombia	Colbert	44.55
Union Springs	Bullock	44.75
Wetumpka	Elmore	44.75

ARIZONA

City	County	Basis SLM white 1 1/16 "4134" loan rate
Eloy	Pinal	42.90
Phoenix	Maricopa	42.90
Picacho	Pinal	42.90
Yuma	Yuma	42.90

ARKANSAS

City	County	Basis SLM white 1 1/16 "4134" loan rate
Blytheville	Mississippi	44.45
Bradley	Lafayette	44.30
Brinkley	Monroe	44.45
Clarendon	do	44.45
Cotton Plant	Woodruff	44.45
Dell	Mississippi	44.45
Dumas	Desha	44.45
Earle	Crittenden	44.45
England	Lonoke	44.45
Eudora	Chicot	44.45
Evadale	Mississippi	44.45
Forrest City	St. Francis	44.45
Helena	Phillips	44.45
Hughes	St. Francis	44.45
Jonesboro	Craighead	44.45
Leachville	Mississippi	44.45
McCrory	Woodruff	44.45
McGehee	Desha	44.45
Marianna	Lee	44.45
Marked Tree	Poinsett	44.45
Marvell	Phillips	44.45
Newport	Jackson	44.45

ARKANSAS—Continued

City	County	Basis SLM white 1 1/16 "4134" loan rate
North Little Rock	Pulaski	44.45
Osceola	Mississippi	44.45
Pine Bluff	Jefferson	44.45
Portland	Ashley	44.45
Trumann	Poinsett	44.45
Walnut Ridge	Lawrence	44.45
West Memphis	Crittenden	44.45
Wynne	Cross	44.45

CALIFORNIA

City	County	Basis SLM white 1 1/16 "4134" loan rate
Bakersfield	Kern	42.90
El Centro	Imperial	42.90
Fresno	Fresno	42.90
Imperial	Imperial	42.90
Kerman	Fresno	42.90
Pinedale	do	42.90
Tulare	Tulare	42.90

FLORIDA

City	County	Basis SLM white 1 1/16 "4134" loan rate
Jay	Santa Rosa	44.75

GEORGIA

City	County	Basis SLM white 1 1/16 "4134" loan rate
Allentown	Wilkinson	45.20
Arabi	Crisp	44.95
Arlington	Calhoun	44.75
Atlanta	Fulton	45.20
Augusta	Richmond	45.45
Bartow	Jefferson	45.20
Blakely	Early	44.75
Byrumville	Dooly	44.95
Cadwell	Laurens	45.20
Camilla	Mitchell	44.75
Chauncey	Dodge	45.20
Cochran	Bleckley	45.20
Columbus	Muscogee	45.20
Comer	Madison	45.45
Cordele	Crisp	44.95
Dawson	Terrell	44.95
DeSoto	Sumter	44.95
Dexter	Laurens	45.20
Doerun	Colquitt	44.75
Dublin	Laurens	45.20
Eastman	Dodge	45.20
Edison	Calhoun	44.75
Elko	Houston	45.20
Fitzgerald	Ben Hill	44.95
Funston	Colquitt	44.75
Hawkinsville	Pulaski	45.20
Jeffersonville	Twiggs	45.20
Lumpkin	Stewart	44.95
McDonough	Henry	45.20
Madison	Morgan	45.20
Marshallville	Macon	45.20
Meigs	Thomas	44.75
Metter	Candler	45.20
Midville	Burke	45.20
Monroe	Walton	45.20
Montezuma	Macon	45.20
Moultrie	Colquitt	44.75
Norman Park	do	44.75
Omega	Tift	44.95
Pinehurst	Dooly	44.95
Pitts	Wilcox	44.95
Reynolds	Taylor	45.20
Rome	Floyd	45.20
Rutledge	Morgan	45.20
Sandersville	Washington	45.20
Sasser	Terrell	44.95
Senoia	Coweta	45.20
Shellman	Randolph	44.75
Social Circle	Walton	45.20
Sycamore	Turner	44.95
Tennille	Washington	45.20
Trion	Chattooga	45.20
Unadilla	Dooly	44.95
Vienna	do	44.95
Wadley	Jefferson	45.20
Watkinsville	Oconee	45.45
Waynesboro	Burke	45.20
Winder	Barrow	45.45
Wrightsville	Johnson	45.20
Yatesville	Upson	45.20

LOUISIANA

Alexandria	Rapides	44.30
Bernice	Union	44.30
Cheneyville	Rapides	44.30
Delhi	Richland	44.45
Ferriday	Concordia	44.45
Lake Providence	East Carroll	44.45
Mansfield	De Soto	44.30
Mer Rouge	Morehouse	44.45
Monroe	Ouachita	44.45
Natchitoches	Natchitoches	44.30
Newellton	Tensas	44.45
New Orleans	Orleans	44.45
Oak Grove	West Carroll	44.45
Plain Dealing	Bossier	44.30
Rayville	Richland	44.45
Shreveport	Caddo	44.30
Tallulah	Madison	44.45
Winnsboro	Franklin	44.45

MISSISSIPPI

Aberdeen	Monroe	44.50
Batesville	Panola	44.50
Belzoni	Humphreys	44.45
Canton	Madison	44.50
Carthage	Leake	44.50
Clarksdale	Coahoma	44.45
Cleveland	Bolivar	44.45
Como	Panola	44.50
Corinth	Alcorn	44.50
Drew	Sunflower	44.45
Flora	Madison	44.45
Greenville	Washington	44.45
Greenwood	Leflore	44.45
Grenada	Grenada	44.50
Gulfport	Harrison	44.45
Hollandale	Washington	44.45
Holly Springs	Marshall	44.50
Houston	Chickasaw	44.50
Indianola	Sunflower	44.45
Inverness	....do	44.45
Itta Bena	Leflore	44.45
Kosciusko	Attala	44.50
Leland	Washington	44.45
Marks	Quitman	44.45
New Albany	Union	44.50
Paynes	Tallahatchie	44.45
Pontotoc	Pontotoc	44.50
Quitman	Clarke	44.45
Ripley	Tippah	44.50
Rolling Fork	Sharkey	44.45
Rosedale	Bolivar	44.45
Ruleville	Sunflower	44.45
Shaw	Bolivar	44.45
Shelby	....do	44.45
Shuqualak	Noxubee	44.50
Sledge	Quitman	44.45
Tunica	Tunica	44.45
Tutwiler	Tallahatchie	44.45
Vicksburg	Warren	44.45
Yazoo City	Yazoo	44.45

MISSOURI

Arbyrd	Dunklin	44.45
Caruthersville	Pemiscot	44.45
Gideon	New Madrid	44.45
Hayti	Pemiscot	44.45
Kennett	Dunklin	44.45
Lilbourn	New Madrid	44.45
Malden	Dunklin	44.45
Portageville	New Madrid	44.45
Sikeston	Scott	44.45

NEW MEXICO

Artesia	Eddy	43.90
Deming	Luna	43.70
Las Cruces	Dona Ana	43.90
Lovington	Lea	44.10
Roswell	Chaves	43.90

NORTH CAROLINA

Charlotte	Mecklenburg	45.55
Cherryville	Gaston	45.55
Conway	Norhampton	45.45
Dunn	Harnett	45.45
Edenton	Chowan	45.45
Enfield	Halifax	45.45
Falls	Wake	45.45
Fayetteville	Cumberland	45.45
Gibson	Scotland	45.45
Jackson	Northampton	45.45
Laurenburg	Scotland	45.45
Lincolnton	Lincoln	45.55
Lumberton	Robeson	45.45
Morven	Anson	45.55
Nashville	Nash	45.45
Parkton	Robeson	45.45
Pembroke	....do	45.45
Raeford	Hoke	45.45
Red Springs	Robeson	45.45
Rich Square	Northampton	45.45
Roanoke Rapids	Halifax	45.45
Salisbury	Rowan	45.55
Scotland Neck	Halifax	45.45
Shelby	Cleveland	45.55
Smithfield	Johnston	45.45
Tarboro	Edgecombe	45.45
Wagram	Scotland	45.45
Weldon	Halifax	45.45
Wilson	Wilson	45.45
Woodland	Northampton	45.45

OKLAHOMA

Altus	Jackson	44.15
Chickasha	Grady	44.15
Frederick	Tillman	44.15
Mount View	Kiowa	44.15

SOUTH CAROLINA

Abbeville	Abbeville	45.55
Allendale	Allendale	45.45
Anderson	Anderson	45.55
Bamberg	Bamberg	45.45
Bennettsville	Marlboro	45.45
Bishopville	Lee	45.45
Calhoun Falls	Abbeville	45.55
Cameron	Calhoun	45.45
Chester	Chester	45.55
Chesterfield	Chesterfield	45.55
Clio	Marlboro	45.45
Columbia	Richland	45.55
Dalzell	Sumter	45.45
Darlington	Darlington	45.45
Denmark	Bamberg	45.45
Dillon	Dillon	45.45
Edgefield	Edgefield	45.55
Elloree	Orangeburg	45.45
Estill	Hampton	45.45
Gaffney	Cherokee	45.55
Greenville	Greenville	45.55
Hartsville	Darlington	45.45
Heath Springs	Lancaster	45.55
Lake City	Florence	45.45
Lamar	Darlington	45.45
Manning	Clarendon	45.45
Marion	Marion	45.45
Newberry	Newberry	45.55
Norway	Orangeburg	45.45
Orangeburg	....do	45.45
Pendelton	Anderson	45.55
Pinewood	Sumter	45.45
Rock Hill	York	45.55
Spartanburg	Spartanburg	45.55
St. Matthews	Calhoun	45.45
Summerton	Clarendon	45.45
Sumter	Sumter	45.45
Timmonsville	Florence	45.45
Williston	Barnwell	45.45

TENNESSEE

Ripley	Lauderdale	44.50
Tiptonville	Lake	44.50

TENNESSEE—Continued

Brownsville	Haywood	44.50
Covington	Tipton	44.50
Dyersburg	Dyer	44.50
Five Points	Lawrence	44.55
Henderson	Chester	44.50
Jackson	Madison	44.50
Memphis	Shelby	44.50
Milan	Gibson	44.50

TEXAS

Abernathy	Hale	44.10
Ballinger	Runnels	44.15
Big Spring	Howard	44.10
Bovina	Parmer	44.10
Brownfield	Terry	44.10
Brownsville	Cameron	44.10
Bryan	Brazos	44.15
Cameron	Milam	44.15
Childress	Childress	44.15
Cleburne	Johnson	44.15
Colorado City	Mitchell	44.15
Cooper	Delta	44.30
Corpus Christi	Nueces	44.15
Corsicana	Navarro	44.15
Crockett	Houston	44.15
Crosbytun	Crosby	44.10
Dimmitt	Castro	44.10
Ennis	Ellis	44.15
Fabens	El Paso	43.90
Floydada	Floyd	44.10
Gainesville	Cooke	44.30
Galveston	Galveston	44.30
Greenville	Hunt	44.30
Hamlin	Jones	44.15
Harlingen	Cameron	44.10
Haskell	Haskell	44.15
Hearne	Robertson	44.15
Hillsboro	Hill	44.15
Houston	Harris	44.30
Hubbard	Hill	44.15
Kenedy	Karnes	44.15
Lamesa	Dawson	44.10
Levelland	Hockley	44.10
Littlefield	Lamb	44.10
Lockhart	Caldwell	44.15
Lockney	Floyd	44.10
Lubbock	Lubbock	44.10
McKinney	Collin	44.30
Memphis	Hall	44.15
Morton	Cochran	44.10
Muleshoe	Bailey	44.10
Navasota	Grimes	44.15
Needville	Fort Bend	44.30
O'Donnell	Lynn	44.10
Paducah	Cottle	44.15
Pecos	Reeves	44.10
Plainview	Hale	44.10
Quanah	Hardeman	44.15
Quitaque	Briscoe	44.10
Ralls	Crosby	44.10
Raymondville	Willacy	44.10
Rochester	Haskell	44.15
Rule	....do	44.15
San Angelo	Tom Green	44.15
Seagraves	Gaines	44.10
Seymour	Baylor	44.15
Slaton	Lubbock	44.10
Snyder	Scurry	44.15
Stamford	Jones	44.15
Stanton	Martin	44.10
Sudan	Lamb	44.10
Sweetwater	Nolan	44.15
Tahoka	Lynn	44.10
Taylor	Williamson	44.15
Temple	Bell	44.15
Terrell	Kaufman	44.30
Texarkana	Bowie	44.30
Tulia	Swisher	44.10
Turkey	Hall	44.10
Vernon	Wilbarger	44.15
Waco	McLennan	44.15
Waxahachie	Ellis	44.15
Winters	Runnels	44.15

§ 1427.102 Schedule of premiums and discounts for grade and staple length of eligible 1978 crop upland cotton.

[Basis strict low middling 1 5/16 inches, net weight]

Grade	Code	Staple length (inches): 1 3/16 thru 2 9/32 (26-29)	1 5/16 (30)	1 11/32 (31)	1 (32)	1 1/32 (33)	1 1/16 (34)	1 3/32 (35)	1 1/8 (36)	1 5/32 and longer (37 and longer)
		Points per pound								
White:										
SM and better	(11 and 21)	−505	−410	−310	−170	55	210	235	270	370
MID plus	(30)	−520	−425	−330	−190	30	185	215	250	345
MID	(31)	−530	−440	−340	−205	15	165	195	230	325
SLM plus	(40)	−590	−490	−410	−290	−85	70	95	120	215
SLM	(41)	−620	−525	−445	−345	−150	0	30	65	145
LM plus	(50)	−700	−625	−545	−445	−305	−180	−160	−125	−75
LM	(51)	−745	−670	−590	−500	−380	−265	−240	−220	−185
SGO plus	(60)	−955	−890	−815	−750	−645	−590	−580	−565	−565
SGO	(61)	−1,000	−945	−870	−805	−720	−670	−665	−655	−655
GO plus	(70)	−1,155	−1,105	−1,055	−1,005	−930	−890	−885	−880	−880
GO	(71)	−1,200	−1,145	−1,100	−1,050	−935	−955	−950	−940	−940
Light spotted:										
SM and better	(12 and 22)	−555	−465	−375	−265	−55	80	110	135	225
MID	(32)	−610	−530	−440	−330	−150	−10	15	50	140
SLM	(42)	−700	−640	−560	−470	−365	−255	−240	−205	−175
LM	(52)	−895	−830	−765	−705	−655	−615	−610	−595	−595
Spotted:										
SM and better	(13 and 23)	−760	−700	−630	−555	−435	−370	−360	−340	−330
MID	(33)	−835	−780	−715	−635	−550	−495	−490	−475	−475
SLM	(43)	−970	−915	−860	−810	−750	−715	−715	−705	−705
LM	(53)	−1,105	−1,055	−1,010	−975	−925	−910	−905	−900	−900
Tinged: [1]										
SM	(24)	−1,050	−1,005	−975	−945	−910	−900	−895	−845	−845
MID	(34)	−1,105	−1,055	−1,025	−935	−960	−950	−950	−900	−900
SLM	(44)	−1,185	−1,130	−1,100	−1,075	−1,035	−1,030	−1,030	−935	−985
LM	(54)	−1,300	−1,250	−1,220	−1,190	−1,155	−1,140	−1,140	−1,110	−1,110
Light gray:										
SM and better	(16 and 26)	−670	−580	−480	−365	−175	−30	0	40	130
MID	(36)	−810	−720	−630	−530	−410	−265	−250	−215	−185
SLM	(46)	−1,065	−975	−905	−840	−730	−660	−640	−625	−625
Gray:										
SM and better	(17 and 27)	−820	−730	−655	−570	−475	−370	−355	−320	−285
MID	(37)	−1,080	−985	−915	−845	−765	−705	−690	−675	−675
SLM	(47)	−1,310	−1,220	−1,150	−1,110	−1,055	−1,005	−1,000	−935	−985

[1] Cotton classed as "Yellow Stained" (Middling and better grades) will be eligible for loan, if otherwise eligible, at a discount 200 points greater than the discount applicable to the comparable quality in the color group "Tinged."

Grade symbols: SM—Strict Middling; MID—Middling; SLM—Strict Low Middling; LM—Low Middling; SGO—Strict Good Ordinary; GO—Good Ordinary.

§ 1427.103 Schedule of micronaire differences for 1978 crop upland cotton.

Micronaire reading:	*Points per pound*
5.3 and above	−130
5.0 through 5.2	−60
3.5 through 4.9	0
3.3 through 3.4	−60
3.0 through 3.2	−105
2.7 through 2.9	−300
2.6 and below	−555

§ 1427.104 Schedule of loan rates for eligible qualities of 1978 crop extra long staple cotton by warehouse location.

[In cents per pound, net weight—Micronaire 3.5 and above [1]]

Grade	Staple length (inches): 1-3/8: cotton stored in Approved warehouses in— Arizona and California	1-3/8: cotton stored in Approved warehouses in— New Mexico, Texas, and other States	1-7/8 and longer: cotton stored in approved warehouses in— Arizona and California	1-7/8 and longer: cotton stored in approved warehouses in— New Mexico, Texas, and other States
1	89.70	90.30	90.20	90.80
2	88.80	89.40	89.25	89.85
3	86.80	87.40	87.25	87.85
4	84.80	85.40	85.05	85.65
5	82.80	83.40	83.00	83.60
6	60.40	61.00	60.65	61.25
7	48.00	48.60	48.20	48.80
8	45.40	46.00	45.65	46.25
9	44.00	44.60	44.25	44.85

[1] A micronaire premium of 50 points (0.50 cents) per pound is included in the loan rate for each eligible quality; thus, the national average loan rate reflected in the above schedule is 83.70 cents per pound. Cotton with micronaire range "3.5 and above" will be subject to the discounts in the schedule of micronaire differences for ELS cotton which follows:

§ 1427.105 Schedule of micronaire differentials for 1978 crop extra long staple cotton.

Micronaire reading:	Points per pound
3.5 and above	0
3.3 through 3.4	−100
3.0 through 3.2	−200
2.7 through 2.9	−400

Signed at Washington, D.C., on July 26, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-21498 Filed 8-4-78; 8:45 am]

[3410-05]

[1978 Crop Supplement to Cotton Regulations, Amdt. 1]

PART 1427—Cotton

Subpart—1978 Crop Supplement to Cotton Loan Program Regulations Loans Rates Effective October 1, 1978

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: These regulations contain the upland cotton base loan rates by warehouse location effective October 1, 1978, as required by the Emergency Agricultural Act of 1978. This rule is needed to advise producers and others of the adjusted loan rate.

EFFECTIVE DATE: August 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Dalton Ustynik (ASCS), P.O. Box 2415, Washington, D.C. 20013, 202-447-6611.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of section 103(f) of the Agriculture Act of 1949, as amended by section 102 of the Emergency Agricultural Act of 1978, it has been determined that 85 percent of the average spot market price, during the 3 years ending July 31, 1975, and 1976, was 46.76 cents per pound and that 90 percent of the adjusted average price quoted for C.I.F. Northern Europe, for the 15-week period beginning July 1, 1977, was 47.15 cents per pound. As the statute provides that the loan level effective October 1, 1978, shall be the smaller of these prices but in no event less than 48 cents per pound, the base loan rate for 1978 crop upland cotton, effective October 1, 1978, has been determined to be 48 cents per pound.

The average loan rate for 1978 crop upland cotton effective through September 30, 1978, is 44.00 cents per pound based upon the provisions of the Food and Agriculture Act of 1977 (Pub. L. 95-113, approved September 29, 1977). Since loans are now being made on the 1978 crop and information as to the increased loan rates is needed immediately by producers, it is found and determined that compliance with the notice of proposed rulemaking procedure would be unnecessary and contrary to the public interest. Therefore, this amendment is issued without compliance with such procedure.

FINAL RULE

Section 1427.101 is amended, effective October 1, 1978, to provide the base loan rates for 1978 crop upland cotton. The material previously appearing in this section remains in full force and effect as to the cotton to which it was applicable. The amended section reads as follows:

§ 1427.101— Schedule of base loan rates for eligible 1978 crop upland cotton by warehouse locations effective October 1, 1978.

ALABAMA

City	County	Basis SLM white 1 1/16 "4134" loan rate
Albertville	Marshall	48.75
Aliceville	Pickens	48.55
Atmore	Escambia	48.55
Attalla	Etowah	48.95
Bella Mina	Limestone	48.75
Birmingham	Jefferson	48.75
Decatur	Morgan	48.75
Demopolis	Marengo	48.55
Eclectic	Elmore	48.75
Elkmont	Limestone	48.75
Eutaw	Greene	48.55
Fayette	Fayette	48.75
Frisco City	Monroe	48.55
Gadsden	Etowah	48.95
Geraldine	De Kalb	48.75
Greenbrier	Limestone	48.75
Haleyville	Winston	48.75
Hamilton	Marion	48.55
Hartselle	Morgan	48.75
Havana Junction	Hale	48.55
Huntsville	Madison	48.75
Hurtsboro	Russell	48.95
McCullough	Escambia	48.55
Madison	Madison	48.75
Marion	Perry	48.75
Montgomery	Montgomery	48.75
Moundville	Hale	48.55
New Hope	Madison	48.75
Northport	Tuscaloosa	48.55
Opelika	Lee	48.95
Panola	Sumter	48.55
Red Bay	Franklin	48.55
Scottsboro	Jackson	48.75
Section	do	48.75
Selma	Dallas	48.75
Sulligent	Lamar	48.55
Sweet Water	Marengo	48.55
Tallassee	Elmore	48.75
Tuscumbia	Colbert	48.55
Union Springs	Bullock	48.75
Wetumpka	Elmore	48.75

ARIZONA

City	County	Basis SLM white 1 1/16 "4134" loan rate
Eloy	Pinall2846.90	
Phoenix	Maricopa	46.90
Picacho	Pinal	46.90
Yuma	Yuma	46.90

ARKANSAS

City	County	Basis SLM white 1 1/16 "4134" loan rate
Blytheville	Mississippi	48.45
Bradley	Lafayette	48.30
Brinkley	Monroe	48.45
Clarendon	do	48.45
Cotton Plant	Woodruff	48.45
Dell	Mississippi	48.45
Dumas	Desha	48.45
Earle	Crittenden	48.45
England	Lonoke	48.45
Eudora	Chicot	48.45
Evadale	Mississippi	48.45
Forrest City	St. Francis	48.45
Helena	Phillips	48.45
Hughes	St. Francis	48.45
Jonesboro	Craighead	48.45
Leachville	Mississippi	48.45
McCrory	Woodruff	48.45
McGehee	Desha	48.45
Marianna	Lee	48.45
Marked Tree	Poinsett	48.45
Marvell	Phillips	48.45
Newport	Jackson	48.45
North Little Rock	Pulaski	48.45
Osceola	Mississippi	48.45
Pine Bluff	Jefferson	48.45
Portland	Ashley	48.45
Trumann	Poinsett	48.45
Walnut Ridge	Lawrence	48.45
West Memphis	Crittenden	48.45
Wynne	Cross	48.45

CALIFORNIA

City	County	Basis SLM white 1 1/16 "4134" loan rate
Bakersfield	Kern	46.90
El Centro	Imerial	46.90
Fresno	Fresno	46.90
Imperial	Imperial	46.90
Kerman	Fresno	46.90
Pinedale	do	46.90
Tulare	Tulare	46.90

FLORIDA

City	County	Basis SLM white 1 1/16 "4134" loan rate
Jay	Santa Rosa	48.75

GEORGIA

City	County	Basis SLM white 1 1/16 "4134" loan rate
Allentown	Wilkinson	49.20
Arabi	Crisp	48.95
Arlington	Calhoun	48.75
Atlanta	Fulton	49.20
Augusta	Richmond	49.45
Bartow	Jefferson	49.20
Blakely	Early	48.75
Byrumville	Dooly	48.95
Cadwell	Laurens	49.20
Camilla	Mitchell	48.75
Chauncey	Dodge	49.20
Cochran	Bleckley	49.20
Columbus	Muscogee	49.20
Comer	Madison	49.45
Cordele	Crisp	48.95
Dawson	Terrell	48.95
De Soto	Sumter	48.95
Dexter	Laurens	49.20
Doeron	Colquitt	48.75
Dublin	Laurens	49.20
Eastman	Dodge	49.20
Edison	Calhoun	48.75
Elko	Houston	49.20
Fitzgerald	Ben Hill	48.95
Funston	Colquitt	48.75
Hawkinsville	Pulaski	49.20

GEORGIA—Continued

City	County	Basis SLM white 1 1/16" "4134" loan rate
Jeffersonville	Twiggs	49.20
Lumpkin	Stewart	48.95
McDonough	Henry	49.20
Madison	Morgan	49.20
Marshallville	Macon	49.20
Meigs	Thomas	48.75
Metter	Candler	49.20
Midville	Burke	49.20
Monroe	Walton	49.20
Montezuma	Macon	49.20
Moultrie	Colquitt	48.75
Norman Park	do	48.75
Omega	Tift	48.95
Pinehurst	Dooly	48.95
Pitts	Wilcox	48.95
Reynolds	Taylor	49.20
Rome	Floyd	49.20
Rutledge	Morgan	49.20
Sandersville	Washington	49.20
Sasser	Terrell	48.95
Senoia	Coweta	49.20
Shellman	Randolph	48.75
Social Circle	Walton	49.20
Sycamore	Turner	48.95
Tennille	Washington	49.20
Trion	Chattooga	49.20
Unadilla	Dooly	48.95
Vienna	do	48.95
Wadley	Jefferson	49.20
Watkinsville	Oconee	49.45
Waynesboro	Burke	49.20
Winder	Barrow	49.45
Wrightsville	Johnson	49.20
Yatesville	Upson	49.20

LOUISIANA

City	County	Basis SLM white 1 1/16" "4134" loan rate
Alexandria	Rapides	48.30
Bernice	Union	48.30
Cheneyville	Rapides	48.30
Delhi	Richland	48.45
Ferriday	Concordia	48.45
Lake Providence	East Carroll	48.45
Mansfield	De Soto	48.30
Mer Rouge	Morehouse	48.30
Monroe	Ouachita	48.45
Natchitoches	Natchitoches	48.30
Newellton	Tensas	48.45
New Orleans	Orleans	48.45
Oak Grove	West Carroll	48.45
Plain Dealing	Bossier	48.30
Rayville	Richland	48.45
Shreveport	Caddo	48.30
Tallulah	Madison	48.45
Winnsboro	Franklin	48.45

MISSISSIPPI

City	County	Basis SLM white 1 1/16" "4134" loan rate
Aberdeen	Monroe	48.50
Batesville	Panola	48.50
Belzoni	Humphreys	48.45
Canton	Madison	48.50
Carthage	Leake	48.50
Clarksdale	Coahoma	48.45
Cleveland	Bolivar	48.45
Como	Panola	48.50
Corinth	Alcorn	48.50
Drew	Sunflower	48.45
Flora	Madison	48.45
Greenville	Washington	48.45
Greenwood	Leflore	48.45
Grenada	Grenada	48.50
Gulfport	Harrison	48.45
Hollandale	Washington	48.45
Holly Springs	Marshall	48.50
Houston	Chickasaw	48.50
Indianola	Sunflower	48.45
Inverness	do	48.45
Itta Bena	Leflore	48.45
Kosciosko	Attala	48.50
Leland	Washington	48.45
Marks	Quitman	48.45
New Albany	Union	48.50
Paynes	Tallahatchie	48.45
Pontotoc	Pontotoc	48.50
Quitman	Clarke	48.45

MISSISSIPPI—Continued

City	County	Basis SLM white 1 1/16" "4134" loan rate
Ripley	Tippah	48.50
Rolling Fork	Sharkey	48.45
Rosedale	Bolivar	48.45
Ruleville	Sunflower	48.45
Shaw	Bolivar	48.45
Shelby	do	48.45
Shuqualak	Noxubee	48.50
Sledge	Quitman	48.45
Tunica	Tunica	48.45
Tutwiler	Tallahatchie	48.45
Vicksburg	Warren	48.45
Yazoo City	Yazoo	48.45

MISSOURI

City	County	Basis SLM white 1 1/16" "4134" loan rate
Arbyrd	Dunklin	48.45
Caruthersville	Pemiscot	48.45
Gideon	New Madrid	48.45
Hayti	Pemiscot	48.45
Kennett	Dunklin	48.45
Lilbourn	New Madrid	48.45
Malden	Dunklin	48.45
Portageville	New Madrid	48.45
Sikeston	Scott	48.45

NEW MEXICO

City	County	Basis SLM white 1 1/16" "4134" loan rate
Artesia	Eddy	47.90
Deming	Luna	47.70
Las Cruces	Dona Ana	47.90
Roswell	Chaves	47.90
Lovington	Lea	48.10

NORTH CAROLINA

City	County	Basis SLM white 1 1/16" "4134" loan rate
Charlotte	Mecklenburg	49.55
Cherryville	Gaston	49.55
Conway	Northampton	49.45
Dunn	Harnett	49.45
Edenton	Chowan	49.45
Enfield	Halifax	49.45
Falls	Wake	49.45
Fayetteville	Cumberland	49.45
Gibson	Scotland	49.45
Jackson	Northampton	49.45
Laurenburg	Scotland	49.45
Lincolnton	Lincoln	49.55
Lumberton	Robeson	49.45
Morven	Anson	49.55
Nashville	Nash	49.45
Parkton	Robeson	49.45
Pembroke	do	49.45
Raeford	Hoke	49.45
Red Springs	Robeson	49.45
Rich Square	Northampton	49.45
Roanoke Rapids	Halifax	49.45
Salisbury	Rowan	49.55
Scotland Neck	Halifax	49.45
Shelby	Cleveland	49.55
Smithfield	Johnston	49.45
Tarboro	Edgecombe	49.45
Wagram	Scotland	49.45
Weldon	Halifax	49.45
Wilson	Wilson	49.45
Woodland	Northampton	49.45

OKLAHOMA

City	County	Basis SLM white 1 1/16" "4134" loan rate
Altus	Jackson	48.15
Chickasha	Grady	48.15
Frederick	Tillman	48.15
Mount View	Kiowa	48.15

SOUTH CAROLINA

City	County	Basis SLM white 1 1/16" "4134" loan rate
Abbeville	Abbeville	49.55
Allendale	Allendale	49.45
Anderson	Anderson	49.55
Bamberg	Bamberg	49.45
Bennettsville	Marlboro	49.45

SOUTH CAROLINA—Continued

City	County	Basis SLM white 1 1/16" "4134" loan rate
Bishopville	Lee	49.45
Calhoun Falls	Abbeville	49.55
Cameron	Calhoun	49.45
Chester	Chester	49.55
Chesterfield	Chesterfield	49.55
Clio	Marlboro	49.45
Columbia	Richland	49.55
Dalzell	Sumter	49.45
Darlington	Darlington	49.45
Denmark	Bamberg	49.45
Dillon	Dillon	49.45
Edgefield	Edgefield	49.55
Elloree	Orangeburg	49.45
Estill	Hampton	49.45
Gaffney	Cherokee	49.55
Greenville	Greenville	49.55
Hartsville	Darlington	49.45
Heath Springs	Lancaster	49.55
Lake City	Florence	49.45
Lamar	Darlington	49.45
Manning	Clarendon	49.45
Marion	Marion	49.45
Newberry	Newberry	49.55
Norway	Orangeburg	49.45
Orangeburg	do	49.45
Pendelton	Anderson	49.55
Pinewood	Sumter	49.45
Rock Hill	York	49.55
Spartanburg	Spartanburg	49.55
St. Matthews	Calhoun	49.45
Summerton	Clarendon	49.45
Sumter	Sumter	49.45
Timmonsville	Florence	49.45
Williston	Barnwell	49.45

TENNESSEE

City	County	Basis SLM white 1 1/16" "4134" loan rate
Ripley	Lauderdale	48.50
Tiptonville	Lake	48.50
Brownsville	Haywood	48.50
Covington	Tipton	48.50
Dyersburg	Dyer	48.50
Five Points	Lawrence	48.55
Henderson	Chester	48.50
Jackson	Madison	48.50
Memphis	Shelby	48.50
Milan	Gibson	48.50

TEXAS

City	County	Basis SLM white 1 1/16" "4134" loan rate
Abernathy	Hale	48.10
Ballinger	Runnels	48.15
Big Spring	Howard	48.10
Bovina	Parmer	48.10
Brownfield	Terry	48.10
Brownsville	Cameron	48.10
Bryan	Brazos	48.15
Cameron	Milam	48.15
Childress	Childress	48.15
Cleburne	Johnson	48.15
Colorado City	Mitchell	48.15
Corpus Christi	Nueces	48.15
Corsicana	Navarro	48.15
Crosbyton	Crosby	48.10
Dimmitt	Castro	48.10
Ennis	Ellis	48.15
Fabens	El Paso	47.90
Floydada	Floyd	48.10
Gainesville	Cooke	48.30
Galveston	Galveston	48.30
Greenville	Hunt	48.30
Hamlin	Jones	48.15
Harlingen	Cameron	48.10
Haskell	Haskell	48.15
Hearne	Robertson	48.15
Hillsboro	Hill	48.15
Houston	Harris	48.30
Hubbard	Hill	48.15
Kenedy	Karnes	48.15
Lamesa	Dawson	48.10
Levelland	Hockley	48.10
Littlefield	Lamb	48.10
Luckhart	Caldwell	48.15
Lockney	Floyd	48.10
Lubbock	Lubbock	48.10
McKinney	Collin	48.30

TEXAS—Continued

City	County	Basis SLM white 1⅛ "4134" loan rate
Cooper	Delta	48.30
Crockett	Houston	48.15
Memphis	Hall	48.15
Morton	Cochran	48.10
Muleshoe	Bailey	48.10
Navasota	Grimes	48.15
Needville	Fort Bend	48.30
O'Donnell	Lynn	48.10
Paducah	Cottle	48.15
Pecos	Reeves	48.10
Plainview	Hale	48.10
Quanah	Hardeman	48.15
Quitaque	Briscoe	48.10
Ralls	Crosby	48.10
Raymondville	Willacy	48.10
Rochester	Haskell	48.15
Rule	do	48.15
San Angelo	Tom Green	48.15
Seagraves	Gaines	48.10
Seymour	Baylor	48.15
Slaton	Lubbock	48.10
Snyder	Scurry	48.15
Stamford	Jones	48.15
Stanton	Martin	48.10
Sudan	Lamb	48.10
Sweetwater	Nolan	48.15
Tahoka	Lynn	48.10
Taylor	Williamson	48.15
Temple	Bell	48.15
Terrell	Kaufman	48.30
Texarkana	Bowie	48.30
Tulia	Swisher	48.10
Turkey	Hall	48.10
Vernon	Wilbarger	48.15
Waco	McLennan	48.15
Waxahachie	Ellis	48.15
Winters	Runnels	48.15

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 (b) and (c); secs. 101, 103, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421); sec. 602, 9 (Stat. 934 (7 U.S.C. 1444); and sec. 102, 92 Stat. 240 (7 U.S.C. 1444))).)

Signed at Washington, D.C., on July 26, 1978.

RAY FITZGERALD,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 78-21499 Filed 8-4-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Maintaining Integrity of Structures, Systems, and Components Important to Safety During Construction at Multiunit Sites

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to require that, for multiunit sites, applicants for construction permits and operating licenses take proper precautions to assure the integrity of structures, systems, and components important to the safety of the operating unit or units during all construction activities. The amendments are being made in response to a petition for rulemaking filed by the Business and Professional People for the Public Interest. A notice of proposed rulemaking inviting public comments was published in the FEDERAL REGISTER on July 14, 1977. The effect of the amendments will be to formalize and clarify specific requirements as they apply to multiunit sites and to codify existing licensing practice. The rule would apply to applications received 6 months after the effective date of the rule.

EFFECTIVE DATE: September 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Morton R. Fleishman, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-443-5921.

SUPPLEMENTARY INFORMATION: By mailgram dated March 24, 1975, the Business and Professional People for the Public Interest (BPI), David Dinsmore Comey, director of environmental research, requested that the Nuclear Regulatory Commission (NRC) amend its regulation, 10 CFR part 50, to require licensees to shut down operating units of nuclear power units at multiunit facilities during periods when work on a unit under construction could compromise the integrity of the engineered safety features of an operating unit or units. As a basis for the petition, the petitioners referred to the fire which occurred on March 22, 1975, in the electrical cabling at TVA's Browns Ferry Nuclear Station.

A notice of the filing of a petition for rulemaking was published in the FEDERAL REGISTER on May 9, 1975 (40 FR 20371). Three sets of comments were received regarding the petition. All recommended denial of the petition on the general basis that the existing regulations provided the Commission with measures to deal with such situations as the petitioners had stated.

The Commission reviewed the applicable portions of the regulations as well as the manner in which the NRC staff conducts its licensing reviews and concluded that, while the present regulations and staff procedures during licensing reviews do provide a basis for effective action to be taken relative to safety at multiunit sites, the importance of the safety issues raised warranted amending the regulations to add specific requirements in this area. As a result, on July 14, 1977, the Commission published in the FEDERAL REGISTER (42 FR 36268) a notice of proposed rulemaking inviting written suggestions or comments on the proposed rule by August 29, 1977. The purpose of the proposed amendments was to formalize and clarify the specific requirements as they apply to multiunit sites and to explicitly state where and how the information developed should be presented.

Four persons submitted comments regarding the proposed amendments. Copies of the comments received may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Generally, comments either were similar to the comments received after publication of the notice of the petition for rulemaking or were similar to questions that were raised internally among the Commission's staff during the preparation of the proposed rule. For example, one of the commenters wanted to apply the rule to general maintenance and repair activities as well as construction activities. This was considered during the proposed rule phase and it was concluded that the existing regulations clearly covered such other activities. Another commenter suggested that it would be more appropriate to provide guidance on the subject in a regulatory guide. This question was also previously considered and it was decided that, since the regulations did not specifically address multiunit sites, they should be appropriately amended.

Another commenter questioned the practicality of requiring applicants for construction permits to identify potential hazards and recommended that the rule be restated to elicit how the construction activities will be controlled to assure the integrity of the operating reactor. Since the applicant for the construction permit for the new unit may not necessarily be the same as the licensee of the operating plant, the applicant might have no control over the operating plant. For this reason, the Commission thinks it would be more desirable to divide the responsibilities under the rule between the applicant for the new unit and the licensee for the existing unit. Further detailed guidance relative to specific safety items will be provided by appropriately revising Regulatory Guide 1.70, "Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants."

Another commenter felt that the present regulations were adequate and need not be amended. This option was also previously considered but the NRC believed that although the existing regulations do provide a basis for action, they do not explicitly cover construction at multiunit sites and thus should be clarified.

As previously indicated, no significant new adverse comments or signifi-

cant questions have been received as a result of the notice of proposed rulemaking. Accordingly, after consideration of the comments that were received and other factors, the Commission has adopted the proposed amendments to part 50 without change as set forth below.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to 10 CFR part 50 are published as a document subject to codification.

Section 50.34 of 10 CFR part 50 is amended by adding a new subparagraph (11) to paragraph (a) and a new subparagraph (6)(vii) to paragraph (b) to read as follows:

§ 50.34 Contents of applications: Technical information.

(a) * * *

(11) On or after February 5, 1979, applicants who apply for construction permits for nuclear powerplants to be built on multiunit sites shall identify potential hazards to the structures, systems and components important to safety of operating nuclear facilities from construction activities. A discussion shall also be included of any managerial and administrative controls that will be used during construction to assure the safety of the operating unit.

(b) * * *

(6) * * *

(vii) On or after February 5, 1979, applicants who apply for operating licenses for nuclear powerplants to be operated on multiunit sites shall include an evaluation of the potential hazards to the structures, systems, and components important to safety of operating units resulting from construction activities, as well as a description of the managerial and administrative controls to be used to provide assurance that the limiting conditions for operation are not exceeded as a result of construction activities at the multiunit sites.

(Sec. 161b, Pub. L. 83-703, 68 Stat. 948; sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 2201(b), 5841).)

Dated at Washington, D.C. this 1st day of August 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-21794 Filed 8-4-78; 8:45 am]

[7590-01]

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Extending date for full implementation of rule.

SUMMARY: Because of delays in receiving, installing and testing components of physical security systems at the various licensee facilities to fully implement 10 CFR 73.55 and because of the need for time in the decision process for the Commission's proposed material access authorization program, in particular with respect to its effect on the use of physical searches, the Nuclear Regulatory Commission is amending its regulations granting a one-time extension to delay full implementation of the physical protection requirements of 10 CFR 73.55 from August 24, 1978 to February 23, 1979. Licensees will be expected to expedite full implementation of the regulation, including purchases and installation of both explosive and metal detectors by February 23, 1979.

EFFECTIVE DATE: August 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert A. Clark, Chief, Reactor Safeguards Licensing Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-492-7230.

SUPPLEMENTARY INFORMATION: On February 24, 1977, the Nuclear Regulatory Commission published in the FEDERAL REGISTER (42 FR 10836) effective amendments to its regulations in 10 CFR part 73 "Physical Protection of Plants and Materials." These amendments identified measures to be taken for the protection of nuclear power reactors against industrial sabotage in the interest of common defense and security and the public health and safety. The licensees are required to implement their security plan and comply with these increased protection requirements by August 24, 1978. Most licensees have worked toward expeditious and full implementation of these requirements. However due to: (1) Delays in receiving long lead-time equipment and obtaining specific equipment which is not readily available, (2) delays in construction caused by adverse weather conditions, and (3) delays in installation and testing of equipment, some licensees have indicated they will not be in full compliance with these amended regulations by August 24, 1978.

On September 29, 1977 the Nuclear Regulatory Commission published in the FEDERAL REGISTER (42 FR 51607) an amendment to one of the requirements of the effective rule relieving until August 24, 1978, or until the Commission directs otherwise prior to that date, the physical "pat down" search requirement for individuals who are regular employees of the licensee at the site at which the licensee is authorized to operate a nuclear power reactor. However, the impact of the proposed material access authorization program, now under consideration by the Commission, on the need for physical "pat down" searches of licensee employees will not be known until the Commission has made a final decision on whether to require such a program. Public hearings on the program have just been completed so that the Commission decision on the program is not expected until after August 24, 1978. The staff considers the material access authorization program to be an important factor in safeguards program effectiveness. The Commission is also satisfied that the use of electronic metal and explosive search devices for licensee employees is fully satisfactory as an interim measure for detecting devices which could be used for industrial sabotage.

In consideration of: (1) The need for extension of implementation time; (2) the recognized value of the Commission's material access authorization program; and (3) the lack of urgency to require "pat down" searches for employees, the Nuclear Regulatory Commission has decided to delay, granting a one-time extension to the full implementation requirement of 10 CFR 73.55 from August 24, 1978 to February 23, 1979. The February 23, 1979 date to establish full implementation is final. Licensees are expected to expedite full implementation of the regulation, including the purchase and installation of both explosive and metal detectors by that date.

The Commission has determined that this action is consistent with the common defense and security and the protection of public health and safety. The Commission has, for good cause, found that notice and public procedure on this amendment are unnecessary because all affected persons will receive the benefit of having more time to meet the requirements of 10 CFR 73.55. The amendment is also made effective immediately on publication in the FEDERAL REGISTER (August 7, 1978) because it serves to relieve a restriction currently imposed on affected licensees of the Commission.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to title 10 chapter I, Code of Federal Regulations, part 73 is pub-

lished as a document subject to codification.

§ 73.55 [Amended]

1. Section 73.55 of 10 CFR part 73 is amended to change the date of August 24, 1978 to February 23, 1979 in the three places it appears in the unnumbered prefatory paragraph, including the sentences which were added pursuant to the FEDERAL REGISTER notice of September 29, 1977 (42 FR 51607).

Effective date: August 7, 1978.

(Sec. 161i, Pub. L. 83-703, 68 Stat. 948, Pub. L. 93-377, 88 Stat. 475; Sec. 201, Pub. L. 93-438, 88 Stat. 1242-1243, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 2201, 5841).)

Dated at Washington, D.C., this 1st day of August, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-21793 Filed 8-4-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-CE-15-AD; Amdt. 39-3275]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model B19, C23, B24R, and C24R Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Beech Model B19, C23, B24R, and C24R airplanes. The AD requires a one-time inspection of the stabilator trim tab actuator rod for proper attachment of the clevis fittings to the rod and rework if necessary. This action will assure continued structural integrity of the trim tab actuator rod, the failure of which could have an adverse effect on aircraft controllability.

DATES: Effective Date August 14, 1978. Compliance: Within 25 hours time-in-service after the effective date of this AD.

ADDRESSES: Beechcraft Service Instructions No. 0994, applicable to this AD, may be obtained from local Beechcraft Aviation and Aero Centers or Beech Aircraft Corp., Commercial Service Department, 9709 East Central, Wichita, Kans. 67201. A copy of the service instructions cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Mo. 64106 and Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: During a routine inspection of a Beech Model B19 airplane, the stabilator trim tab actuator rod was found to have a loose clevis fitting on one end. Investigation of the trim tab actuator rod revealed that one of the two rivets that secures the clevis fitting to the rod was mislocated, leaving only one rivet actually securing the clevis fitting to the rod. The rivet that was holding the clevis fitting to the actuator rod was carrying all the load normally carried by two rivets and, for this reason, had become worn and loose. The clevis fittings must be secured to the actuator rod with two rivets to assure continued structural integrity of the rod assembly. Otherwise, this condition, if not detected and corrected, could result in separation of the clevis fitting from the actuator rod, thereby disconnecting the trim tab from its control system. The resulting free tab could have an adverse effect on aircraft controllability.

Subsequently, to correct this condition, the manufacturer issued Beechcraft Service Instructions No. 0994, which recommends a one-time inspection of the trim tab actuator rod for proper rivet location, security of rivets and security of clevis fittings within 25 hours time-in-service on Beech Model B19, C23, B24R, and C24R airplanes. Models C23, B24R, and C24R are included because they utilize the same trim tab actuator rod as the Model B19.

Accordingly, since an unsafe condition is likely to exist in other aircraft of the same type design, an AD is being issued applicable to certain serial numbers of Beech Model B19, C23, B24R, and C24R airplanes, making compliance with Beechcraft Service Instructions No. 0994 mandatory.

The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal authors of the document are: William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

ADOPTION OF THE AMENDMENT

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

BEECH: Applies to the following models and serial number airplanes certificated in all categories:

Model and Serial Numbers

B19—MB-558 through MB-886.
C23—M-1413, M-1414, M-1416 through M-1418, M-1420 through M-1422, M-1424 through M-1438, M-1440 through M-1446, M-1448 through M-2009, M-2011 through M-2015, and M-2017 through M-2020.
B24R—MC-151 through MC-448, MC-450, and MC-451.
C24R—MC-449, MC-452 through MC-559, MC-561 through MC-563, MC-565 through MC-568 and MC-571.

Compliance: Required as indicated unless already accomplished.

To assure continued structural integrity of the rod between the stabilator trim tab actuator and the trim tab, within the next 25 hours time-in-service after the effective date of this AD, accomplish the following:

A. Visually inspect both ends of the stabilator trim tab actuator rod for proper rivet location, security of rivets and security of clevis fittings and rework if necessary, all in accordance with Beechcraft Service Instructions No. 0994 or later approved revisions.

B. Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective on August 14, 1978.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo. on July 28, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-21684 Filed 8-4-78; 8:45 am]

[4910-13]

[Docket No. 76-SW-59; Amdt. 39-3271]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Helicopter Textron Models 206A and 206B Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires replacement of the tail rotor drive shaft support bearing hangers on certain Bell Helicopter Textron (BHT) helicopters. This AD will complement and extend the effectivity of amendment 39-2897, (42 FR 24717), AD 77-10-06, which currently provides, in part, for this bearing hanger replacement on other helicopters of these models. This AD is needed to provide for the applicable helicopters the safety and reliability features from a bearing hanger of an improved design. This improvement will minimize the possibility of hazardous loss of directional control due to failure of the tail rotor drive shaft which may be expected as a secondary response to failure of the support bearing.

DATES: Effective September 14, 1978. Compliance required within the next 500 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletin and technical bulletins may be obtained from the Service Manager, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Tex. 76101. A copy of the service bulletin and the technical bulletins are contained in the rules docket (room 916, 800 Independence Avenue SW., Washington, D.C. 20591), or at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76106.

FOR FUTHER INFORMATION CONTACT:

Wilbur F. Wells, Propulsion Section, Engineering and Manufacturing Branch, ASW-214, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Tex. 76101, telephone 817-624-4911, extension 524.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of the tail rotor drive shaft support bearing hangers with an improved design bearing hanger on certain BHT models 206A and 206B helicopters was published in the FEDERAL REGISTER at 43 FR 14970. The proposal was prompted by reports of bearing failures which could result in bearing seizure. Subsequently, tail rotor drive shaft failure and possible hazardous loss of directional control of the helicopter could occur.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Those who commented objected to the proposed rule primarily because of their individual maintenance capabilities and their corresponding service experience did not indicate compliance with the replacement requirements in the notice was necessary for safety. The FAA cannot agree with this concept since data from a broadly based service difficulty reporting system available to the FAA does reflect a failure history, not only of the bearing but also the sequential failure of the tail rotor drive shaft due to bearing seizure.

DRAFTING INFORMATION

The principal authors of this document are Wilbur F. Wells, Flight Standards Division, Southwest Region, and James O. Price, Office of the Regional Counsel, Southwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, section 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

BELL HELICOPTER TEXTRON (BHT). Applies to models 206A and 206B helicopter, serial Nos. 148 and 414 through 913, certificated in all categories.

Compliance is required within the next 500 hours time in service after the effective date of this airworthiness directive unless already accomplished.

To minimize the possibility of loss of directional control due to failure of the tail rotor drive shaft, remove and replace the tail rotor drive shaft bearing hangers with improved bearing hangers as specified below:

a. Table follows.

Remove (shim type)	Install (spring type)
One (1) hanger P/N 206-040-345-5.	One (1) hanger P/N 206-040-345-9, or P/N206-040-355-1
One (1) hanger P/N 206-040-346-5.	One (1) hanger P/N 206-040-346-17
Five (5) hangers P/N 206-040-338-1.	Five (5) hangers P/N 206-040-338-9

b. Shim type hangers modified to the spring type using instructions provided in Technical Bulletin No. 206-77-7 will be acceptable for compliance with this AD.

c. All spring clamp type bearing hangers, P/N's 206-040-338-9, 206-040-355-1, 206-040-345-9, and 206-040-346-17 must be installed with the spring on the left side of the tail boom.

d. To prevent bearing hangers from chafing the drive shaft cover, the cover must be modified in accordance with Bell Helicopter Co. Technical Bulletin No. 206-76-2 dated January 7, 1976, (misdated 206-76-2), or later FAA approved revision or FAA approved equivalent.

e. Removal and replacement, as prescribed by paragraph a., must be in accordance with the applicable maintenance and overhaul instructions.

Bell Helicopter Co. Service Bulletin No. 206-77-9 pertains to and provides instructions for accomplishing the intent of this AD. The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part thereof pursuant to U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Service Manager, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Tex. 76101. These documents may also be examined at Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76106, and at Federal Aviation Administration Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591.

Equivalent means of compliance with the modifications prescribed by this Airworthiness Directive may be approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

NOTE.—The incorporation by reference in this document was approved by the Director of the Federal Register on June 19, 1967.

Issued in Fort Worth, Tex., on July 17, 1978.

HENRY L. NEWMAN,
Director,
Southwest Region.

[FR Doc. 78-21620 Filed 8-4-78; 8:45 am]

[4910-13]

[Docket No. 78-NE-06; Amdt. 39-3274]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft JT9D Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires a repetitive inspection of the No. 4 bearing compartment sump on all Pratt & Whitney Aircraft JT9D

turbofan engines not incorporating a No. 4 bearing compartment annular strainer element in accordance with Service Bulletin No. 4860. The AD is needed to prevent plugging of the No. 4 bearing compartment oil scavenge tube which could result in a fracture of the sixth stage turbine disk.

DATES: Effective date—September 12, 1978.

Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from Pratt & Whitney Aircraft, Division of United Technologies Corp., 400 Main Street, East Hartford, Conn. 06108. Copies of the service bulletins are contained in the rules docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Daniel P. Salvano, Aerospace Engineer, Propulsion Section, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803, telephone 617-273-7347.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring a repetitive inspection of the No. 4 bearing compartment sump on JT9D engines not incorporating an annular strainer element was published in the FEDERAL REGISTER at 43 FR 14517. The FAA has determined that coke from the No. 4 bearing compartment can block the compartment oil scavenge tube. This blockage permits the compartment to flood with oil. Oil is forced past the carbon seals into the area immediately behind the sixth stage turbine disk. The heat in this area can ignite the oil which thermally overstresses the disk, resulting in a disk failure. The inspection would detect the accumulation of coke in the compartment to preclude these failures.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Comments were received from several airlines.

One commentator made the following recommendations:

1. Since Tt6 is less on engines operated at JT9D-3A ratings than engines operated at JT9D-7 ratings, the interval for the inspections should be increased for these engines.
2. If unacceptable coke deposits are found during inspection, a 250 hour flyback limit should be allowed if the oil scavenge tube is replaced.

Another commentator stated that the work "cleaning" be changed to "inspection" in the sentence " * * * No. 4 bearings compartments having more than 6,000 hours time in service since new or the last cleaning per ASB 4826." A compartment that passes the borescope inspection is relatively clean and can go to the 5,000 hour repetitive inspection interval. Under the present wording, a compartment that was satisfactorily inspected prior to the effective date of the AD would have to be cleaned within 1,500 hours.

The FAA has given careful consideration to these comments and does not agree with the first commentator. Even though testing does show some decrease in the No. 4 compartment wall temperature for engines operating at JT9D-3A ratings, the temperatures are still above those required to produce coke. Also, the rate of build up of coke on the walls is unknown. In view of the above, an increase in the inspection interval for JT9D-3A operators cannot be substantiated. The rate of migration of the carbon clinkers to the scavenge tube is unknown, and testing has shown that all the engine oil can be lost in less than 5 minutes with a completely blocked tube. Therefore, the FAA does not believe that installing a clean scavenge tube provides an adequate level of safety to operate for 250 hours prior to cleaning.

The FAA agrees with the intent of the last comment concerning reinspection of the compartment in less than 5,000 hours. The wording in the proposal might be interpreted to require reinspection of the compartment 1,500 hours after the effective date of the AD. Therefore, the words "unless already accomplished" have been added to paragraph 2 to give credit for inspections accomplished prior to the effective date of the AD.

The notice proposed to exclude engines "incorporating an annular strainer element P/N 774104." Since the notice appeared in the FEDERAL REGISTER, P&WA has issued Service Bulletin No. 4860, which provides not only the strainer element part number but the instructions for its installation. Therefore, the AD has been revised to exclude engines incorporating the annular strainer element in accordance with this bulletin in lieu of specifying P/N 774104.

DRAFTING INFORMATION

The principal authors of this document are Daniel P. Salvano, Propulsion Section, Engineering and Manufacturing Branch, Flight Standards Division, and George L. Thompson Associate Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

PRATT & WHITNEY AIRCRAFT: Applies to all Pratt & Whitney Aircraft JT9D turbofan engines not incorporating an annular strainer element, in accordance with Pratt & Whitney Service Bulletin 4860, dated March 16, 1978, or later FAA approved revision, in the No. 4 bearing compartment.

Compliance is required as indicated.

To preclude failures of sixth stage turbine disks due to a plugged No. 4 bearing compartment oil scavenge tube, inspect the inside of the No. 4 bearing compartment sump for coke in accordance with the provisions of Pratt & Whitney Alert Service Bulletin No. 4826, dated October 17, 1977, or later FAA approved revision, in accordance with the following schedule:

Engines with No. 4 bearing compartments having more than 6000 hours time in service since new or the last cleaning per ASB 4826:

1. Must have a daily visual tailpipe check for oil leakage from the No. 4 bearing compartment. If leakage is noted, the compartment must be inspected prior to further flight. The daily visual check may be discontinued after accomplishing the compartment inspection noted below. A flight crewmember may perform the daily check.

NOTE.—For the purpose of this AD, compliance with the daily visual check may be shown by recording accomplishment in accordance with FAR 121.380 or by amending the manual required by FAR 121.133 to include the check.

2. Must have the compartment inspected within the next 1500 hours time in service after the effective date of this AD, unless already accomplished, and every 5000 hours time in service thereafter.

Engines having unacceptable coke formation in the forward portion of the No. 4 compartment sump area, as defined in figure 2 of ASB 4826, must have the sump and compartment oil scavenge tube cleaned in accordance with the JT9D Engine Manual, P/N 646028, section 72-53-00, prior to further flight.

Upon request of the operator, an equivalent method of compliance with the requirements of this AD may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, New England Region.

Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, New England Region, may adjust the initial inspection interval specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corp., 400 Main Street, East Hartford, Conn. 06108. These documents may also be examined at the Federal Aviation Administration, New England Region, 12 New England Executive

Park, Burlington, Mass., and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its Headquarters in Washington, D.C., and at FAA, New England Region Headquarters, Burlington, Mass.

This amendment becomes effective September 12, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Issued in Burlington, Mass., on July 27, 1978.

NOTE.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 19, 1967.

ROBERT E. WHITTINGTON,
Director, New England Region.

[FR Doc. 78-21621 Filed 8-4-78; 8:45 am]

[4910-13]

[Docket No. 18190; Amdt. 39-3276]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls-Royce, Ltd., Spey 511-8 Engines

AGENCY: Federal Aviation Adminstration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an initial inspection, and repetitive inspections, of the engine fuel system screens, and eventual replacement of the high-pressure fuel pump in certain Rolls-Royce Ltd. Spey 511-8 engines. This AD is necessary to prevent possible engine flameout in flight which may be caused by debris from a deteriorating high-pressure fuel pump blocking the engine fuel system screen and resulting in a reduction of airplane performance.

DATES: Effective August 21, 1978. Compliance schedule—as prescribed in body of the AD.

ADDRESSES: The applicable service bulletin and technical manuals may be obtained from: Technical Publications Department, Rolls-Royce Ltd., P.O. Box 31, Derby, England DE2 8BJ.

A copy of the service bulletin is contained in the rules docket for this amendment in Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30

SUPPLEMENTARY INFORMATION: There have been reports of in-flight engine flameouts on airplanes having the Rolls-Royce Spey 511-8 engines installed. The flameouts were caused by blockage of the strainer located in the primary inlet to the high-pressure fuel shutoff valve to the degree that fuel starvation of the engine occurred. The blockage has been found to originate from a deteriorating engine high-pressure fuel pump rotor port face causing metallic debris to be released into the engine fuel supply line. Since this condition is likely to exist or develop on other engines of the same type design, an airworthiness directive is being issued which requires: (a) An initial inspection of the engine high-pressure shutoff valve strainer to establish freedom from debris; (b) installation of a serviceable high-pressure fuel pump if certain metallic debris is found; (c) repeat inspections of the strainer at the primary inlet of the high-pressure fuel shutoff valve until the engine high-pressure fuel pump has been replaced with a modified pump; and (d) the eventual replacement of each engine high-pressure fuel pump with a modified pump.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are M. F. Rammelsberg, Europe, Africa, and Middle East Region, F. H. Kelley, Flight Standards Service, and P. Lynch, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

ROLLS-ROYCE, LTD. Applies to model 511-8 engines which have high-pressure fuel pumps with 1,500 or more hours' time in service, installed on, but not limited to, Grumman Gulfstream 1159 airplanes, that have high-pressure fuel shutoff valves which are modified in accordance with Lucas Service Bulletin Sp 73-158 and the associated engine high-pressure fuel pump is not modified to Lucas Service Bulletin Sp 73-127 or Lucas Service Bulletin Sp 73-212.

Compliance is required as indicated, unless already accomplished.

To prevent in-flight engine flameouts, accomplish the following:

1. Within 25 hours' time in service after the effective date of this AD, unless accomplished in the last 50 hours' time in service, inspect the primary inlet strainer of the high-pressure fuel shutoff valve for the accumulation of debris in accordance with Rolls-Royce Spey Engine Service Bulletin Sp 73-182, Revision 1, dated December 1977, or FAA-approved equivalent, as follows:

(a) If no metallic debris is found:

(i) Clean the strainer, and

(ii) Return the strainer to service.

(b) If debris is found which contains hard bronze particles:

(i) Remove the high-pressure fuel pump, and

(ii) Install a pump found to be serviceable in accordance with Lucas Overhaul Manual, Chapter 73, or an FAA-approved equivalent.

(c) If debris is found which contains light silver metallic material:

(i) Clean and reinstall the strainer, and

(ii) Inspect the low-pressure governor main inlet strainer in accordance with Rolls-Royce Spey Engine Maintenance Manual, Chapter 73-20-21, or an FAA-approved equivalent.

(d) If debris is found in the low-pressure governor main inlet screen which contains hard bronze particles, install a replacement high-pressure fuel pump in accordance with paragraph 1(b)(ii) of this AD.

(e) If debris is found in the low-pressure governor main inlet screen which contains light silver metallic material:

(i) Clean the strainer and reinstall, and

(ii) Install a replacement high-pressure fuel pump in accordance with paragraph 1(b)(ii) of this AD, or

(iii) Return to service for a maximum of 10 hours' time in service, provided the opposite engine is not being operated under the same restriction, and before additional time in service, install a replacement high-pressure fuel pump in accordance with paragraph 1(b)(ii) of this AD.

2. Repeat the inspection specified in paragraph 1 of this AD at 50-hour intervals until the installation required by paragraph 3 of this AD is accomplished.

3. Within 2,000 hours' high-pressure fuel pump time in service after the effective date of this AD, unless already accomplished, install a high-pressure fuel pump which has been modified in accordance with Lucas Service Bulletin Sp 73-127 or Lucas Service Bulletin Sp 73-212, or an FAA-approved equivalent.

4. Equivalent methods of compliance with this AD or adjustment of the inspection intervals required by this AD may be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, APO New York 09667, if the request is submitted through an FAA maintenance inspector and contains substantiating data to justify the interval or method of compliance for that operator.

5. In accordance with the provisions of FAR 21.197 and FAR 21.199, the aircraft may be flown to a base where the inspections or modifications required by this AD may be accomplished.

This amendment becomes effective August 21, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Washington, D.C., on July 27, 1978.

JAMES M. VINES,
Acting Director,
Flight Standards Service.

[FR Doc. 78-21687 Filed 8-4-78; 8:45 am]

[4910-13]

[Docket No. 78-CE-3-AD; Amdt. 39-3273]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Model 336 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Cessna Model 336 airplanes, which requires modification of the aircraft weight and balance data to change the aft center of gravity (CG) limits and the installation of an advisory placard to eliminate unsatisfactory pitch control forces at low airspeeds in the power approach landing configuration.

EFFECTIVE DATE: October 14, 1978. Compliance: Required within 100 hours time-in-service after the effective date of this AD.

FOR FURTHER INFORMATION CONTACT:

Donald L. Page, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: On March 30, 1978, the FAA proposed to amend part 39 of the Federal Aviation regulations (14 CFR Part 39) by adding a new AD applicable to Cessna Model 336 airplanes (43 FR 13390). The AD requires modification of the aircraft weight and balance data to change the aft center of gravity limits and the installation of an advisory placard to eliminate unsatisfactory pitch control forces at low airspeeds in the power approach landing configuration.

Interested persons were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. No comments to the docket were received.

This AD is necessary because the Cessna Model 336 airplane exhibits unacceptable stick force characteristics at the existing aft center of gravity limit in the landing configuration with some power settings. Specifically, at power settings of 75 percent or higher, the force required to pull the control column aft decreases as the airspeed decreases and changes to a push force of 7 pounds at stall. This condition increases pilot workload and the possibility that the pilot will lose control of the airplane under critical flight conditions requiring a high degree of pilot concentration. Since the condition described herein is likely to exist or develop in other aircraft of the same type design, an AD is being issued as proposed in the notice, applicable to Cessna Model 336 airplanes, requiring that the aft center of gravity limits of the airplane be reduced to a value at which acceptable flight characteristics have been demonstrated.

DRAFTING INFORMATION

The principal authors of this document are Donald L. Page, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation regulations (14 CFR 39.13) is amended by adding the following new AD:

CESSNA. Applies to Model 336 airplanes.

Compliance: Required as indicated, unless already accomplished.

To provide loading instructions which will limit aircraft loading to an acceptable center of gravity, within the next 100 hours time in service after the effective date of this AD, accomplish the following:

(A) Modify the Cessna weight and balance data included in the Model 336 airplane as follows:

(1) Modify the center of gravity moment envelope on page 1 by drawing a straight line between the two points (3,900 pounds—548,730 pounds-inches and 2,500 pounds—351,751 pounds-inches) and cover or obliterate the lines establishing the right side of the existing center of gravity moment envelope.

(2) Modify the normal category center of gravity limits chart on page 2 by drawing a vertical line at the 140.7 inches aft of datum point from the 2,500 to 3,900 pounds lines and cover or obliterate the lines establishing the right side of the existing normal category center of gravity limits envelope.

(B) Below the existing capacity placard located on the baggage compartment door install a permanent placard which reads as follows:

"CAUTION—AFT CENTER OF GRAVITY LIMITATION MAY RESTRICT LOADING OF THIS COMPARTMENT TO LESS THAN 365 POUNDS"

and operate the aircraft in accordance with this limitation. This placard should be fabricated of 0.032-inch minimum thickness aluminum or plastic material with minimum 3/16-inch high stamped or engraved letters and installed using threaded or rivet-type fasteners.

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective October 14, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and § 11.89 of the Federal Aviation regulations (14 CFR 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on July 25, 1978.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 78-21854 Filed 8-4-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ASW-25]

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

Alteration of Transition Area: Mexia, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Mexia, Tex. The intended effect of the action is to realine controlled airspace for aircraft executing instrument approach procedures to the Mexia-Limestone County Airport. The circumstance which created the need for the action was mis- alinement of the original airspace designation along the 155° bearing of the Limestone County navigational aid (NDB) instead of the 163° bearing.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 15, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 25834) stating that the Federal Aviation Administration proposed to alter the Mexia,

Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Mexia, Tex., transition area. This action realines controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument procedures established for the Mexia-Lime- stone County Airport.

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR part 71) as republished (43 FR 440) is amended, effective 0901 GMT, November 2, 1978, as follows: In subpart G, § 71.181 (43 FR 440), the Mexia, Tex., transition area is amended as follows:

That airspace extending from 700 feet above the surface within a 6.5-mile radius of Mexia-Limestone County Airport (latitude 31°38'20" N., longitude 96°30'52" W.) and within 3.5 miles each side of the 163° bearing from the Limestone County NDB (latitude 31°38'16" N., longitude 96°30'43" W.) extending from the 6.5-mile radius area to a point 12 miles southeast of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on July 27, 1978.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc. 78-21855 Filed 8-4-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-WE-12]

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

Alteration of Transition Area, Riverside, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the 700-foot transition area at Riverside, Calif., so as to provide additional controlled airspace for radar vector services to be provided by Ontario Approach Control.

EFFECTIVE DATE: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261, telephone 213-536-6182.

SUPPLEMENTARY INFORMATION:

HISTORY

The purpose of this amendment to subpart G of part 71 of the Federal Aviation regulations (14 CFR Part 71) is to alter the Riverside, Calif., 700-foot transition area.

On June 26, 1978, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (43 FR 27559) stating that the Federal Aviation Administration proposed to alter the 700-foot transition area at Riverside, Calif., to provide additional controlled airspace for radar vector services to be provided by Ontario Approach Control.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and DeWitte T. Lawson, Jr., Esq., Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, effective 0901 G.m.t., September 7, 1978.

§ 71.181 [Amended]

1. By amending § 71.181 (43 FR 440) of part 71 of the Federal Aviation Regulations as set forth below:

RIVERSIDE, CALIF.

Delete all between latitude 33°38'00" N., longitude 117°09'00" W.; and to latitude 33°46'00" N., longitude 117°45'00" W., and substitute therein: To latitude 33°43'00" N., longitude 117°15'00" W.; to latitude 33°43'00" N.; longitude 117°25'00" W., to latitude 33°39'00" N., longitude 117°25'00" W.; to latitude 33°39'00" N., longitude 117°30'00" W.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348); and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on July 27, 1978.

FRANK HAPPY,
Acting Director, Western Region.

[FR Doc. 78-21686 Filed 8-4-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-ASW-24]

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

Designation of Transition Area: Madill, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Madill, Okla. The intended effect of the action is to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Madill Municipal Airport. The circumstance which created the need for the action was a requirement to provide capability for flight under instrument flight rules (IFR) procedures to the airport. Coincident with this action, the airport is changed from visual flight rules (VFR) to IFR status.

EFFECTIVE DATE: November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 15, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 25835) stating that the Federal Aviation Administration proposed to designate the Madill, Okla., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation regulations (14 CFR 71) designates the Madill, Okla., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Madill Municipal Airport utilizing the Ardmore, Okla., VORTAC.

DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation regulations (14 CFR part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., November 2, 1978, as follows:

In subpart G, 71.181 (43 FR 440), the following transition area is added:

MADILL, OKLA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Madill Municipal Airport, Madill, Okla., (latitude 34°08'25" N., longitude 96°48'42" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on July 26, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-21685 Filed 8-4-78; 8:45 am]

[4910-13]

[Docket No. 18155; Amdt. No. 95-280]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 95—IFR ALTITUDES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribe new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provides for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective: September 7, 1978.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 25 FR 6489 and paragraph 802 of order FSP 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this amendment does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on July 27, 1978.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

[FR Doc. 78-21619 Filed 8-4-78; 8:45 am]

§95.1001 DIRECT ROUTES—U.S.

FROM	TO	MEA
Santa Maria, Ca. VOR	Halibut INT, Ca.	5000
Fayetteville, Ark. VOR	Modes INT, Ark.	*3600
*3100—MOCA		
Modes INT, Ark.	*Siler INT, Ark.	**8000
*8000—MRA		
**3600—MOCA		
Drake, Ark. VOR	Stows INT, Ark.	4000
Stows INT, Ark.	Burns INT, Ark.	*6000
*3000—MOCA		
Fort Smith, Ark. VOR	Westy INT, Ark.	4500
*High Rock INT, Bh.	Grand Bahama, Bh. NDB	16000
*16000—MCA High Rock INT, NW-bound		

BAHAMA ROUTES

49V is added to read:

Biscayne Bay, Fla. VOR	Rumba INT, Bh.	*3000
*1200—MOCA		
Rumba INT, Bh.	Nassau, Bh. VOR	*2000
*1400—MOCA		

57V is amended to read:

Ft. Lauderdale, Fla. VOR	Bimini, Bh. VOR	2000
Bimini, Bh. VOR	Carey INT, Bh.	*2000
*1300—MOCA		
Carey INT, Bh.	Nassau, Bh. VOR	*2000
*1400—MOCA		
Ft. Lauderdale, Fla. VOR	Dekal INT, Fla.	
Via N alter.	Via N alter.	2000
Dekal INT, Fla.	Linle INT, Bh.	
Via N alter.	Via N alter.	*12000
*1200—MOCA		
Linle INT, Bh.	Nassau, Bh. VOR	
Via N alter.	Via N alter.	*2000
*1400—MOCA		

54V is amended to read in part:

Isaac INT, Bh.	Linle INT, Bh.	*8500
*1200—MOCA		
Linle INT, Bh.	Nassau, Bh. VOR	*2000
*1400—MOCA		

66V is amended to read:

Ft. Lauderdale, Fla. VOR	Janus INT, Fla.	2000
Janus INT, Fla.	Padus INT, Bh.	*4000
*1200—MOCA		
Padus INT, Bh.	Freeport, Bh. VOR	*2000
*1400—MOCA		

65V is amended by adding:

Freeport, Bh. VOR	*Ropps INT, Bh.	**2000
*6000—MRA		
**1400—MOCA		
Ropps INT, Bh.	Elder INT, Bh.	*8000
*1200—MOCA		
Elder INT, Bh.	*Adoor INT, Fla.	26000
*30000—MRA		

1 Lima is amended to read:

Satellite, Fla. NDB	*Stage INT, Bh.	**2000
*11500—MCA Stage INT, SE-bound		
**1400—MOCA		
Stage INT, Bh.	Grand Bahama, Bh. NDB	15000

§95.1001 DIRECT ROUTES—Cont'd.

FROM	TO	MEA
Grand Bahama, Bh. NDB	*Deers INT, Bh.	16000
*16000—MCA Deers INT, NW-bound		
Deers INT, Bh.	Eleuthera, Bh. NDB	*2000
*1300—MOCA		
Eleuthera, Bh. NDB	Lassi INT, Bh.	*2000
*1300—MOCA		
Lassi INT, Bh.	Raham INT, Bh.	*2000
*1200—MOCA		
Raham INT, Bh.	Grand Turk, Bh. NDB	*2000
*1300—MOCA		

6 Lima is amended to read:

Rock Sound, Bh. NDB	Eleuthera, Bh. NDB	*2000
*1400—MOCA		
Eleuthera, Bh. NDB	Bimini, Bh. NDB	*2000
*1300—MOCA		

8 Lima is amended to read in part:

Plantation, Fla. NDB	Janus INT, Fla.	*2000
*1400—MOCA		
Janus INT, Fla.	Padus INT, Bh.	*2000
*1200—MOCA		
Padus INT, Bh.	Freeport, Bh. NDB	*2000
*1400—MOCA		

10 Lima is added to read:

Plantation, Fla. NDB	Lanni INT, Fla.	*2000
*1400—MOCA		
Lanni INT, Fla.	Munro INT, Bh.	*2000
*1200—MOCA		
Munro INT, Bh.	Freeport, Bh. NDB	1500

20 Lima is amended to read:

Eleuthera, Bh. NDB	Deers INT, Bh.	*2000
*1300—MOCA		
Deers INT, Bh.	Freeport, Bh. NDB	*2000
*1400—MOCA		
Freeport, Bh. NDB	West End, Bh. NDB	*2000
*1400—MOCA		
West End, Bh. NDB	Stage INT, Bh.	*2000
*1300—MOCA		
Stage INT, Bh.	Satellite, Fla. NDB	*2000
*1400—MOCA		

ATLANTIC ROUTES

R55 is amended to read:

Winny INT, Offshore Atlantic	Polly INT, Offshore Atlantic	25000
		MAA—45000

A20 is amended to read:

Kennedy, N.Y. VORTAC	Int 184 M rad Hampton VORTAC & 155 M rad Kennedy VORTAC	31000
		MAA—45000
Int 184 M rad Hampton VORTAC & 155 M rad Kennedy VORTAC	Champ INT, Offshore Atlantic	33000
		MAA—45000

B23 is amended to read:

Sea Isle, N.J. VORTAC	Int 112 M rad Salisbury VORTAC & 143 M rad Sea Isle VORTAC	19000
		MAA—45000
Int 112 M rad Salisbury VORTAC & 143 M rad Sea Isle VORTAC	Champ INT, Offshore Atlantic	33000
		MAA—45000

§95.5000 HIGH ALTITUDE RNAV ROUTES

FROM TO	DISTANCE TOTAL	GEOGRAPHIC LOCATION DISTANCE	FROM	TRACK ANGLE	MEA	MAA
J888R is amended to read in part:						
Kulik, Alas. W P	73				28000	
Rhode, Alas. W P				244/064 to Rhode		
J808R is deleted:						
J809R is deleted:						
J831R is deleted:						
J832R is deleted:						
J833R is deleted:						

§95.5500 HIGH ALTITUDE RNAV ROUTES

FROM TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE	FROM GEOGRAPHIC LOCATION	TRACK ANGLE	MEA	MAA
J944R is deleted:						
J946R is deleted:						
J947R is deleted:						
J960R is deleted:						
J962R is deleted:						
J963R is deleted:						
J965R is deleted:						
J996 is amended to read in part:						
Nerka, Alas. W P	129				18000	45000
Carbu, Alas. W P				047/227 to Carbu		
Carbu, Alas. W P	117	11	Carbu	046/228 to COP	18000	45000
Amott, Alas. W P				048/226 to Amott		

§95.6013 VOR FEDERAL AIRWAY 13
is amended to read in part:

FROM	TO	MEA
Int 359 M rad Rich Mountain VOR & 312 M rad Ft. Smith VOR Via Walter. *3000–MOCA	Razorback, Ark. VOR Via Walter	*3700
Razorback, Ark. VOR *4500–MRA **2700–MOCA	*Pinne INT Mo.	**3000
Pinne INT, Mo. *2700–MOCA	Neosho, Mo. VOR	*3000
Werlo DME Fix, Ark.	Razorback, Ark. VOR N-bound	3000
	S-bound	3500

§95.6014 VOR FEDERAL AIRWAY 14
is amended to read in part

FROM	TO	MEA
Terre Haute, Ind. VOR	Indianapolis Ind. VOR	2700

§95.6020 VOR FEDERAL AIRWAY 20
is amended to read in part

FROM	TO	MEA
Grant INT, Ga. *2500–MOCA	Liner INT, Ga.	*3000
Liner INT Ga. *2500–MOCA	Sinco INT, Ga.	*4000

§95.6050 VOR FEDERAL AIRWAY 50
is amended to read in part

FROM	TO	MEA
Terre Haute, Ind. VOR	Indianapolis, Ind. VOR	2700

§95.6063 VOR FEDERAL AIRWAY 63
is amended to read in part

FROM	TO	MEA
McAlester, Okla. VOR *3000–MOCA	Razorback, Ark. VOR	*4000
Razorback, Ark. VOR *2700–MOCA	Gamps INT, Mo	*3000

§95.6066 VOR FEDERAL AIRWAY 66
is amended to read in part

FROM	TO	MEA
Grant INT, Ga. *2500–MOCA	Liner INT, Ga.	*3000
Liner INT, Ga. *2500–MOCA	Sinco INT Ga.	*4000

§95.6071 VOR FEDERAL AIRWAY 71
is amended to read in part

FROM	TO	MEA
Casks INT, Ark. Via Walter. *3500–MOCA	Razorback Ark. VOR Via Walter	*4000
Razorback, Ark. VOR Via Walter. *2700–MOCA	Gamps INT, Mo. Via Walter	*3000

§95.6072 VOR FEDERAL AIRWAY 72
is amended by adding

FROM	TO	MEA
Razorback, Ark. VOR *2700–MOCA	Reeds INT Mo.	*3200

§95.6072 VOR FEDERAL AIRWAY 72
is amended to delete

FROM	TO	MEA
Fayetteville, Ark. VOR *2700–MOCA	Reeds INT Mo.	*3200

95 6097 VOR FEDERAL AIRWAY 97
is amended to read in part:

FROM	TO	MEA
Indianapolis, Ind. VOR	Leban INT, Ind.	
Via W alter.	Via W alter.	2700

95.6140 VOR FEDERAL AIRWAY 140
is amended to read in part:

FROM	TO	MEA
*Pryon INT, Okla	Razorback, Ark. VOR	*3400
*2900–MRA		
**2800–MOCA		
Adair INT, Okla.	Razorback, Ark VOR	
Via N alter.	Via N alter	*3400
*2800–MOCA		
Razorback, Ark VOR	Spray INT, Ark	3000
Villo DME Fix, Ark	Walnut Ridge, Ark. VOR	
	W bound	3000
	E-bound	2400

95 6155 VOR FEDERAL AIRWAY 155
is amended to read in part

FROM	TO	MEA
Grant INT, Ga.	Liner INT, Ga	*3000
*2500–MOCA		
Liner INT, Ga.	Sinco INT, Ga	*4000
*2500–MOCA		

95 6171 VOR FEDERAL AIRWAY 171
is amended to read in part:

FROM	TO	MEA
Moize INT, Ind	Honos INT, Ind	*2700
2100–MOCA		
Moize INT Ind	Honos INT Ind	
Via E alter	Via E alter	*2700
2100–MOCA		

95 6177 VOR FEDERAL AIRWAY 177
is amended to read in part

FROM	TO	MEA
Madison Wis VOR	Stevens Point, Wis VOR	3000

95 6190 VOR FEDERAL AIRWAY 190
is amended to read in part:

FROM	TO	MEA
*Texas INT Ill	Evansville IND VOR	2000
2500–MRA		

95 6210 VOR FEDERAL AIRWAY 210
is amended to read in part

FROM	TO	MEA
Blink INT, Pa.	Towen INT Pa	7000
Towen INT, Pa.	Josen INT Pa	4000
Josen INT, Pa.	Lancaster Pa VOR	3000

§95.6216 VOR FEDERAL AIRWAY 216
is amended to read in part:

FROM	TO	MEA
Mankato, Kans. VOR	Fazed INT, Kans.	*3600
*3100–MOCA		
Fazed INT, Kans.	O'Dell INT, Neb.	*3600
**3000–MOCA		

§95.6225 VOR FEDERAL AIRWAY 225
is amended to read in part:

FROM	TO	MEA
Goody INT, Fla.	*Gummy INT, Fla.	
Via E alter.	Via E alter.	2000
*4000–MRA		
Gummy INT, Fla.	Fort Myers, Fla. VOR	
Via E alter.	Via E alter.	2000

§95.6233 VOR FEDERAL AIRWAY 233
is amended to read in part:

FROM	TO	MEA
Lansing, Mich. VOR	Mt. Pleasant, Mich. VOR	2600

§95.6243 VOR FEDERAL AIRWAY 243
is amended to read in part:

FROM	TO	MEA
Cloverport INT, Ky.	*Jiger INT, Ind.	**4000
*3500–MRA		
**2000–MOCA		

§95.6267 VOR FEDERAL AIRWAY 267
is amended to read in part:

FROM	TO	MEA
Tebbs INT, Ga.	*Bosly INT, Ga.	**5000
*3000–MRA		
**1700–MOCA		

§95.6274 VOR FEDERAL AIRWAY 274
is amended to read in part:

FROM	TO	MEA
Pellston, Mich. VOR	Grand Rapids, Mich. VOR	2900

95.6323 VOR FEDERAL AIRWAY 323
is amended to read in part:

FROM	TO	MEA
Macon, Ga. VOR	Nalix INT, Ga.	*3000
*2500–MOCA		
Nalix INT, Ga.	Husky INT, Ga.	*3000
*2000–MOCA		

§95.6289 VOR FEDERAL AIRWAY 289
is amended to read in part:

FROM	TO	MEA
Fort Smith, Ark. VOR	Mulby DME Fix, Ark.	
	NE-bound	*4000
	SW-bound	*3000
*2500–MOCA		

§95.6305 VOR FEDERAL AIRWAY 305
is amended to read in part:

FROM	TO	MEA
Little Rock, Ark. VOR	Dumpi DME Fix, Ark.	
	N-bound	4000
	S-bound	2000

§95.6403 HAWAII VOR FEDERAL AIRWAY 3
is amended to read in part:

FROM	TO	MEA
Makua INT, Hawaii	Pa INT, Hawaii	5000

95.6421 VOR FEDERAL AIRWAY 421
is amended to read in part:

FROM	TO	MEA
Zeons DME Fix, Colo.	Gunnison, Colo. VOR	16100
*12500–MCA Gunnison VOR S-bound		
*Gunnison, Colo. VOR	Wendt INT, Colo.	
	S bound	13000
	N-bound	17000
*13000–MCA Gunnison VOR, N-bound		

§95.6448 VOR FEDERAL AIRWAY 448
is amended by adding:

FROM	TO	MEA
Rubel INT, Wash.	Moses Lake, Wash. VOR	
Via S alter.	Via S alter.	4000

§95.6454 VOR FEDERAL AIRWAY 454
is amended to read in part:

FROM	TO	MEA
Grant INT, Ga.	Liner INT, Ga.	*3000
*2500–MOCA		
Liner INT, Ga.	Sinco INT, Ga.	*4000
*2500–MOCA		

§95 6536 VOR FEDERAL AIRWAY 536
is amended to read in part:

FROM	TO	MEA
Hempp INT, Ore.	Redmond, Ore. VOR	10000

§95.7087 JET ROUTE NO. 87 is amended to delete:

FROM	TO	MEA	MAA
Humble, Tex. VORTAC	Dallas-Fort Worth, Tex. VORTAC	18000	45000

§95.7015 JET ROUTE NO. 15 is amended to delete:

FROM	TO	MEA	MAA
Humble, Tex. VORTAC	Austin, Tex. VORTAC	18000	45000
Austin, Tex. VORTAC	Junction, Tex. VORTAC	18000	45000

§95.7105 JET ROUTE NO. 105 is amended to delete:

FROM	TO	MEA	MAA
Dallas-Fort Worth, Tex. VORTAC	Fayetteville, Ark. VORTAC	18000	45000
Fayetteville, Ark. VORTAC	Springfield, Mo. VORTAC	18000	45000

§ 95.7087 JET ROUTE NO. 87 is amended by adding:

FROM	TO	MEA	MAA
Humble, Tex. VORTAC	Navasota, Tex. VORTAC	18000	45000
Navasota, Tex. VORTAC	Dallas-Fort Worth, Tex. VORTAC	18000	45000

§ 95.7015 JET ROUTE NO. 15 is amended by adding:

FROM	TO	MEA	MAA
Humble, Tex. VORTAC	Junction, Tex. VORTAC	18000	45000

§ 95.7105 JET ROUTE NO. 105 is amended by adding:

FROM	TO	MEA	MAA
Dallas-Fort Worth, Tex. VORTAC	Razorback, Ark. VORTAC	18000	45000
Razorback, Ark. VORTAC	Springfield, Mo. VORTAC	18000	45000

2. By amending Sub-part D as follows:

§ 95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM	
V-186 is amended by adding:			
Van Nuys, Ca. VOR	Ontario, Calif. VOR	33	Ontario
V-71 is amended to delete:			
Hot Springs, Ark. VOR	Fayetteville, Ark. VOR	42	Hot Springs
V-71 is amended by adding:			
Hot Springs, Ark. VOR	Razorback, Ark. VOR	42	Hot Springs

[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regulations No. 4]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Subpart B—Quarters of Coverage and Insured Status Crediting Quarters of Coverage to Calendar Years

AGENCY: The Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: The final rule changes the way in which a quarter of coverage is determined to reflect the "Social Security Amendments of 1977." Beginning January 1, 1978, a quarter of coverage is determined on the basis of the total amount of wages paid, and self-employment income credited, to a person in a calendar year.

EFFECTIVE DATE: August 7, 1978.

ADDRESSES: Although a notice of proposed rulemaking is being dispensed with, consideration will be given for future changes to any comments about the final rule which are submitted in writing to the Acting Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203 within a period of 45 days following the publication of the final rule in the FEDERAL REGISTER. Copies of all comments received in response to this final rule will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

John W. Modler, Legal Assistant, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7337.

SUPPLEMENTARY INFORMATION: Insured status is a requirement for the payment of benefits and for the establishment of a period of disability under title II of the Social Security Act. A person is insured when he or she is credited with a required number of quarters of coverage.

1. QUARTERS OF COVERAGE

For calendar years before 1978, a quarter of coverage is generally any calendar quarter in which a person has been paid at least $50 in wages or credited with at least $100 of self-employment income. Pub. L. 95-216, however, changes the way in which a quarter of coverage is determined for calendar years after 1977.

Section 352 of Pub. L. 95-216 provides that for calendar year 1978 the amount of wages and self-employment income which a person must have to be credited with a quarter of coverage shall be $250. Therefore, a person shall be credited with a maximum of four quarters of coverage for calendar year 1978 when his or her annual earnings for that year reach or exceed $1,000.

For calendar years after 1978, the amount of wages and self-employment income a person must have to be credited with a quarter of coverage shall be determined on the basis of a formula in section 213(d) of the Social Security Act (42 U.S.C. 413(d)). On or before November 1, 1978, and of every year thereafter, the Secretary shall determine and publish in the FEDERAL REGISTER the amount of wages and self-employment income which a person must have to be credited with a quarter of coverage in the following calendar year. Changes in these amounts will be based on average total wages reported to the Secretary of the Treasury for the calendar year before the year in which the determination is made. (How this determination is to be made will be defined more specifically in a regulation to be published later.)

For calendar years after 1977, a quarter of coverage shall only be assigned to a specific calendar quarter in certain instances. It shall be assigned if it is necessary to enable a person to meet the requirements for insured status, for entitlement to a computation or recomputation of his or her primary insurance amount, or to establish a period of disability.

2. CREDITING SELF-EMPLOYMENT INCOME

Section 351 of Pub. L. 95-216 changes the way in which self-employment income is credited for purposes of determining quarters of coverage for taxable years beginning after 1977. It provides that for a taxable year which is a calendar year or wholly within a calendar year self-employment income shall be credited to that calendar year. For any other taxable year, self-employment income shall be allocated proportionately to the 2 calendar years, portions of which are included within the taxable year. The allocation shall be based on the number of months in each calendar year which are included completely within that taxable year. The calendar month in which the taxable year ends shall be treated as included completely within that taxable year.

This final rule reflects statutory provisions already in effect; therefore, a notice of proposed rulemaking is unnecessary (5 U.S.C. 553(b)(B)). Although a notice of proposed rulemaking is being dispensed with, consideration will be given for future changes to any comments about the final rule which are submitted in writing to the Acting Commissioner of Social Security.

The final rule is to be issued under the authority of sections 205 and 1102 of the Social Security Act; 49 Stat. 624 and 49 Stat. 647, as amended; 42 U.S.C. 405 and 1302.

(Catalog of Federal Domestic Assistance Programs Nos. 13.802, Social Security Disability Insurance and 13.803-4, Social Security Retirement and Survivors Insurance.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: March 29, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: July 25, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 404 of chapter III of title 20 of the Code of Federal Regulations is amended as follows:

§ 404.103 [Amended]

1. The heading of § 404.103 is revised to read:

§ 404.103 Quarters of coverage for calendar years before 1978.

2. Section 404.103a is added to read as follows:

§ 404.103a Quarters of coverage for calendar years after 1977.

(a) *Amount required for a quarter of coverage.* (1) For calendar year 1978, the amount of wages and self-employment income which a person must have to be credited with a quarter of coverage shall be (subject to the limitations in § 404.104) $250 for each quarter up to the maximum of four quarters when annual earnings reach or exceed $1,000.

(2) The Secretary shall, on or before November 1, 1978, and of every year thereafter, determine and publish in the FEDERAL REGISTER the amount of wages and self-employment income which a person must have to be credited with a quarter of coverage in the following calendar year. The amount

required for a quarter of coverage for a calendar year after 1978 shall be the larger of:

(i) The amount in effect in the calendar year in which the determination is made; or

(ii) The amount determined by:

(*a*) Multiplying $250 by the ratio of:

(*1*) The average of the total wages reported to the Secretary of the Treasury for the calendar year before the year in which the determination is made, to

(*2*) The average of the total wages reported to the Secretary of the Treasury for 1976, and

(*b*) Rounding the product:

(*1*) To the next higher multiple of $10 where the product is a multiple of $5 but not of $10, or

(*2*) To the nearest multiple of $10 in any other case.

(b) *Assigning quarters of coverge.* A quarter of coverage is assigned to a specific calendar quarter only if it is necessary to enable a person to meet the requirements for a fully or currently insured status, for entitlement to a computation or recomputation of his or her primary insurance amount, or to establish a period of disability.

(c) *When a quarter of coverage is acquired.* Where a quarter of coverage is assigned to a specific calendar quarter under paragraph (b) of this section, the quarter of coverage is acquired as of the first day of the calendar quarter.

§ 404.107 [Amended]

3. The heading of § 404.107 is revised to read:

§ 404.107 Quarters of coverage for taxable years beginning before 1978; crediting self-employment income to calendar quarters.

4. Section 404.107a is added to read as follows:

§ 404.107a Quarters of coverage for taxable years beginning after 1977; crediting self-employment income to calendar years.

For purposes of determining quaraters of coverage under § 404.103a(a), self-employment income derived during any taxable year is credited as follows:

(a) *Calendar taxable year or taxable year wholly within a calendar year.* For a taxable year which is a calendar year or both begins with or during a calendar year and ends with or during that calendar year, self-employment income shall be credited to that calendar year.

(b) *Other taxable year.* For any other taxable year, self-employment income shall be allocated proportionately to the two calendar years, portions of which are included within the taxable year, on the basis of the number of months in each calendar year which are included completely within the taxable year. The calendar month in which the taxable year ends shall be treated as included completely within that taxable year.

§ 404.108 [Amended]

5. In paragraph (b) of § 404.108, the cross-references in the first sentence are changed from "(see §§ 404.103(f) and 404.109)" to "(see §§ 404.103(f), 404.103a(c), and 404.109."

[FR Doc. 78-21561 Filed 8-4-78; 8:45 am]

[4110-07]

[Regulations No. 10]

PART 410—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, TITLE IV

Subpart E—Payment of Benefits

Subpart F—Determinations of Disability, Other Determinations, Administrative Review, Finality of Decisions, and Representation of Parties

Subpart G—Rules for the Review of Denied and Pending Claims Under the Black Lung Benefits Reform Act (BLBRA) of 1977

REVIEW OF DENIED AND PENDING CLAIMS UNDER THE BLACK LUNG BENEFITS REFORM ACT OF 1977

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: These amendments implement provisions of recent legislation affecting the black lung benefits program. Included in these amendments are: (1) Broader definitions of "miner" and "pneumoconiosis," (2) modified evidentiary requirements, (3) procedures relating to the requirement that each claimant whose claim has been denied or was pending as of March 1, 1978, be given the opportunity to have the claim reviewed under the revised evidentiary requirements; and (4) other substantive changes made by the recent legislation. These rules explain the revised statutory and evidentiary provisions of the law and the role of the Social Security Administration (SSA) in the review of denied and pending part B claims.

DATES: Effective August 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry Short, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7455.

SUPPLEMENTARY INFORMATION: On June 6, 1978, a notice of proposed rulemaking and proposed amendments to subparts E, F, and G of regulations No. 10 were published in the FEDERAL REGISTER (43 FR 24542).

The Black Lung Benefits Reform Act (BLBRA) of 1977: (1) Broadens the definitions of "miner" and "pneumoconiosis" for purposes of establishing entitlement to black lung benefits, (2) modifies the standards used to determine whether a miner is or was totally disabled due to pneumoconiosis or whether the miner's death was due to pneumoconiosis, (3) requires that each person who has had a claim for black lung benefits denied or whose claim for black lung benefits is pending be given the opportunity to have the claim reviewed under the revised statutory and evidentiary requirements; and (4) makes certain other substantive changes in the Federal Coal Mine Health and Safety Act of 1969, as amended.

REVIEW OF PENDING AND PREVIOUSLY DENIED CLAIMS

The Department of Health, Education, and Welfare's Social Security Administration and the Department of Labor's Office of Workers' Compensation Programs (OWCP) are responsible for the review of pending and denied claims under the new law. SSA may consider only the evidence on file as of March 1, 1978. Evidence on file is evidence actually in a person's SSA part B black lung claims folder and includes the individual's earnings record on file with SSA. The OWCP may accept the evidence in the claims file, and any additional evidence, if the evidence on file is not sufficient for approval of the claim.

SSA will notify each claimant, whose part B claim has been denied by or is pending in SSA or the courts, that upon his or her request the claim will be reviewed under the new law. Where the claimant is deceased those persons who may be entitled to benefits as a survivor of the claimant have the right to elect review of a denied or pending claim. The claimant will have 6 months from the date notification is sent to exercise the review option and will be given the opportunity to select either SSA or OWCP to review the claim. If entitlement to benefits is established under the new law, benefits will be paid under part C of the act. Such benefits may be paid back to January 1, 1974.

Part B claims pending before SSA or the courts will continue to be processed under the old law for payment of benefits under part B, including benefits for periods prior to January 1, 1974, at the same time that the claims

are being reviewed at the claimant's request by either SSA or OWCP under the BLBRA of 1977. Claimants would then have two separate and independent claims pending for benefits.

Election by claimants to have their pending claims reviewed by either the SSA or the OWCP under the BLBRA of 1977 for payment of benefits back to January 1, 1974, will not affect the processing of their pending part B claims under the old law for payment of benefits under part B.

Claimants selecting review by SSA will be notified by SSA of the initial decision. Following SSA's determination, whether or not the claim is approved, it becomes the responsibility of the OWCP and is forwarded to them. They will be responsible for assigning liability for payment of benefits. If a claimant disagrees with any part of SSA's initial decision of approval and wishes to have it reviewed, the claimant must request review by OWCP. If SSA does not approve the claim, OWCP will then review it and provide opportunity for the claimant to submit additional evidence, if the evidence then in file is insufficient to approve the claim.

BROADENED DEFINITIONS OF MINER AND PNEUMOCONIOSIS

These regulations redefine the term "miner" to include self-employed miners and individuals who work or have worked in coal mine construction or transportation in or around a coal mine or coal preparation facility to the extent they were exposed to coal dust as a result of their employment. The term "pneumoconiosis" is amended to include its sequelae, including respiratory and pulmonary impairments.

REVISED EVIDENCE REQUIREMENTS AND MODIFIED DISABILITY STANDARDS

These new rules: 1. Prohibit the rereading of an X-ray previously submitted by the claimant in support of a claim if the X-ray was taken by a radiologist or qualified technician and interpreted by a board certified or board eligible radiologist, and there is other evidence of a pulmonary or respiratory impairment. This rule will not apply if there is evidence of fraud or the X-ray is not of good enough quality to demonstrate the presence of pneumoconiosis.

2. Provide that autopsy reports shall be accepted for the purpose of determining pneumoconiosis unless there is evidence of fraud or inaccuracy in the report.

3. Provide that, in the case of a deceased miner where there is no medical or other relevant evidence, affidavits will suffice to establish total disability or death due to pneumoconiosis.

4. Provide that coal mine employment at the time of death of a deceased miner shall not be used as conclusive evidence that the miner was not totally disabled.

5. Provide that if the work conditions of a living miner indicate a reduced ability to do the miner's usual work, his or her coal mine employment shall not be used as conclusive evidence that the miner is not totally disabled.

6. Provide that no miner who is engaged in coal mine employment (except those with complicated pneumoconiosis) shall be entitled to any benefits while so employed. Any miner who has been determined to be eligible for benefits because of a claim filed while such miner was engaged in coal mine employment shall be entitled to such benefits if his or her employment terminates within 1 year after the date the determination becomes final.

7. Provide that State workmen's compensation payments will be cause for reducing a miner's black lung benefits only where the State payments are payable based on pneumoconiosis.

8. Provide that survivors of miners who died on or before December 31, 1973, can receive benefits under part B if the miner had 25 years or more of employment in a coal mine prior to June 30, 1971, unless it can be proved that the miner was not partially or totally disabled due to pneumoconiosis at the time of death.

OTHER MAJOR CHANGES

These rules also provide: 1. That the Social Security Act (title II) procedures for permitting survivors to negotiate jointly payable checks may be used in the black lung benefits program.

2. Penalties for fraud.

3. That SSA will notify miners entitled to benefits under part B of title IV of the Federal Coal Mine Health and Safety Act of 1969 (the act), as amended, of their potential eligibility to medical services and supplies under part C of title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended.

Claimants who have part B claims which are pending or have been denied and who request review of these claims under the BLBRA of 1977 may need to refer to both SSA and DOL regulations. Department of Labor regulations were published with a notice of proposed rulemaking on April 25, 1978. (See 43 FR 17722-17773 and a correction at 43 FR 19863, May 9, 1978.)

COMMENTS ON NOTICE OF PROPOSED RULEMAKING

Interested parties were given the oportunity to submit data, comments, or arguments within 30 days with regard to the proposed amendments.

Four groups have submitted comments. A labor organization is concerned that the section dealing with jointly payable checks is not sufficiently detailed to enable a surviving payee to determine how to proceed following the death of the joint payee. This procedure, while new to the black lung benefit program, is in accord with established SSA procedures for other benefit programs. It is generally handled by local social security offices; since the regulation directs the surviving payee to these offices, we do not anticipate that the lack of specific instructions in the regulation section will cause any hardship. This same group is concerned because our definition of pneumoconiosis does not specifically include cancer or diseases of bacteriological or viral origin. However, to the extent that these diseases constitute a respiratory or pulmonary impairment arising out of coal mine employment, they are included in the prior definitions of pneumoconiosis. From the context of the comments we believe the writer fully understands this and was merely suggesting more specificity. We feel this is not necessary. It is not intended of course that any cancer or disease of bacteriological or viral orgin not affecting the respiratory or pulmonary systems or not arising out of coal mine employment be included.

The same group feels that the regulation section dealing with the question of the disability of a working miner should be amended so as to assure the miner an opportunity to be examined and informed of the results even though still working. The proposal, as stated by the writer, would require development of evidence and this is not permitted under SSA's limited role in the provisions of the BLBRA.

Mention was also made of problems encountered in assuring coverage of strip and auger miners; however, this comment was not specifically directed at the proposed regulations. By defining a miner as any person who works or has worked in or around a coal mine our regulations do encompass these two groups.

This same commentator and mediacal group have suggested several changes with regard to X-ray rereadings. First, these commentators point out that the term "board elgible" has a highly technical meaning and recommend it be deleted from our regulations. However, since the term appears in the law we have no authority to delete it from our regulations.

Second, both of these commentators have suggested that the prohibition against X-ray rereadings apply if the initial reading was done by a govern-

ment "B" reader. However, the law requires that the initial reading be performed by a "board eligible" or "board certified" radiologist for the prohibition to apply. If the "B" reader meets this requirement then the prohibition against rereading applies. Accordingly, the inclusion of a provision covering "B" readers is not necessary to these regulations. Third, one writer feels that the requirement that other evidence of a respiratory or pulmonary impairment be present for the X-ray rereading prohibition to apply is too restrictive. As the writer pointed out, however, this section of our regulations does comply with the law. Fourth, some concern was expressed with regard to the absence in the proposed regulations of a reference to the 1971 International Labor Office (ILO) classification of chest radiographs. The 1971 ILO classification has already been published in 20 CFR 410.428 and, of course, applies to the review mandated by the BLBRA.

A contractors' association has recommended that the definition of miner contained in § 410.702(h) be amended to provide that coal mine construction workers be considered miners only to the extent that they are exposed to coal dust conditions substantially similar to underground coal mining and not merely to the extent of coal dust exposure in or around a coal mine. The commentator's view follows substantially that of the report of the Senate Human Resources Committee which accompanied S. 1538. However, we cannot accommodate this suggested change. This regulation section is in comformity with the law and follows the guidance provided by the House and Senate Conference Committee as expressed in their report dated February 2, 1978. This same commentator expressed regret that a hearing was not held on these regulations. Because of the statutory requirement that final regulations be published no later than the end of the fourth month following the month in which the BLBRA of 1977 was enacted there was insufficient time for hearings.

A black lung association group pointed out, with regard to reduction of a person's benefits because of receipt of workmen's compensation payments, that there may be cases where a miner is receiving State payments based partly on pneumoconiosis and partly on another impairment. This is a procedural matter and we are providing for such an event in our operating instructions. We have adopted a suggestion made by this same group and have amended § 410.591 to show the outcome of a claim for medical benefits under part C will not jeopardize a person's eligibility for part B benefits. They also suggested that, with regard to § 410.699a, penalties be imposed on persons making false statements for the purpose of preventing benefits as well as on the person making false statements for the purpose of obtaining benefits. Section 12(a) of the BLBRA only provides for penalizing individuals who make false statements in order to obtain benefits; hence, we cannot accommodate this suggestion. The group also felt that § 410.701 should explicitly state that evidence dated later than July 1, 1973, will be considered probative of a miner's disability on July 1, 1973. The regulation as written does not limit the evidence to a specific period of time and our operating guides do make explicit what the group suggests.

Question has been raised with regard to our statement that SSA's jurisdiction in a survivor's claim is limited to cases where the miner died prior to January 1, 1974. While section 435 of the Act mandates a review of all claims, this does not alter SSA's jurisdiction—which is for part B claims only. The regulation has been amended to clarify that SSA does have jurisdiction of claims filed by survivors of miners entitled to part B benefits at the time of death, regardless of when death occurred, provided that the claim is filed within 6 months of the miner's death or before January 1, 1974, whichever is later. It was also felt by this same writer that § 410.702(f)(3) is not consistent with the BLBRA in that it does not include miners not suffering pneumoconiosis. Since the law requires that to be eligible a miner must be disabled due to pneumoconiosis, we believe § 410.702(f)(3) accurately reflects the law. Suggestions for more detail in the regulations with regard to what constitutes disability due to pneumoconiosis, elaboration of the term pulmonary or respiratory impairment, procedures with regard to good cause for a claimant's failure to file timely, and the manner in which workmen's compensation benefits unrelated to pneumoconiosis are removed have not been adopted since these are all procedural matters to be covered in our operating instructions which, of course, are available to the public. It was also suggested that § 410.702(i) be expanded to clarify that other evidence of a pulmonary impairment is not required by the interim standards. We believe that the regulation (§ 410.702(i)) is clear enough and shows that the other evidence requirement applies solely to the X-ray rereading prohibition.

We believe that section 435(a)(1)(A) of the act supports our view of evidence on file with regard to § 410.704(e) and we have not, therefore, accommodated the suggestion that evidence on file be expanded to include evidence in the possession of DOL. Following the guidance provided by the House and Senate Conference Committee with regard to simultaneous processing of claims pending or denied before both HEW and DOL we have not removed the restriction, as has been suggested by one writer, against DOL processing of the part C claim while SSA is processing the part B claim.

Section 410.704(b) has been revised slightly to avoid any misconceptions that benefits for a pending part B claim approved on review may be paid only for periods prior to January 1, 1974. Benefits under part B are payable for the life of the claimant. The regulation has also been amended to clarify that survivors and the persons having an interest in the claim may elect review under the BLBRA where the original claimant is deceased, or otherwise incompetent. A number of minor errors have been corrected and references to specific DOL regulation parts added.

The amendments are hereby adopted as revised and set forth below.

(Sec. 411 of the Federal Coal Mine Health and Safety Act of 1969, as amended; 85 Stat. 793, 30 U.S.C. 921.)

(Catalog of Federal Domestic Assistance Program No. 13.802—Special Benefits for Disabled Coal Miners.)

Dated: July 26, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: July 28, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 410 of chapter III of title 20 of the Code of Federal Regulations is amended as follows:

1. Section 410.505 is revised to read as follows:

§ 410.505 Payees.

(a) *General.* Benefits may be paid as appropriate, to a beneficiary (see § 410.110(r)), to a qualified dependent (see § 410.511), or to a representative payee on behalf of a beneficiary or dependent (see § 410.581ff). Also where an amount is payable under part B of title IV of the act for any month to two or more individuals who are members of the same family, the Social Security Administration may, in its discretion, certify to any two or more of such individuals joint payment of the total benefits payable to them for such month.

(b) *Joint payee dies before cashing check.* Where a check has been issued for joint payment to an individual and spouse residing in the same household and one of them dies before the check is cashed, the Social Security Administration may give the survivor permission to cash the check. The permission

is carried out by stamping the face of the check. An official of the Social Security Administration or the Treasury Disbursing Office must sign and name the survivor as the payee of the check (see 31 CFR 360.8). Where the uncashed check is for benefits for a month after the month of death, authority to cash the check will not be given to the surviving payee unless the funds are needed to meet the ordinary and necessary living expenses of the surviving payee.

(c) *Adjustment or recovery of overpayment.* Where a check representing payment of benefits to an individual and spouse residing in the same household is negotiated by the surviving payee in accordance with the authorization in paragraph (b) of this section and where the amount of the check exceeds the amount to which the surviving payee is entitled, appropriate adjustment or recovery with respect to such excess amount shall be made in accordance with section 204(a) of the act (see subpart F of part 404).

2. In § 410.515 paragraph (a)(3) is revised to read as follows:

§ 410.515 Modification of benefit amounts. General.

* * * * *

(a) * * * (3) The receipt by a beneficiary of payments made because of the disability of the miner due to pneumoconiosis under State laws relating to workmen's compensation (including compensation for occupational disease), unemployment compensation, or disability insurance (see § 410.520).

* * * * *

3. In § 410.520 paragraph (a) is revised to read as follows:

§ 410.520 Reductions; receipt of State benefit.

(a) As used in this section, the term "State benefit" means a payment to a beneficiary made because of the disability of the miner due to pneumoconiosis under State laws relating to workmen's compensation (including compensation for occupational disease), unemployment compensation, or disability insurance.

* * * * *

4. A new § 410.591 is added to read as follows:

§ 410.591 Eligibility for services and supplies under part C of title IV of the act.

The Social Security Administration will notify each miner entitled to benefits on the basis of a claim filed under part B of the title IV of the Act of his or her possible eligibility for medical services and supplies under part C of title IV of the Act. Application for medical benefits under part C will not jeopardize a person's eligibility for part B benefits, regardless of the outcome of the claim for part C benefits. The DOL regulations covering the time period in which the miner must file with DOL for these benefits are published at 20 CFR Part 725.[1]

5. A new section, 410.699a is added to read as follows:

§ 410.699a Penalties for fraud.

The penalty for any person found guilty of willfully making any false or misleading statement or representation for the purpose of obtaining any benefit or statement or payment under this part shall be:

(1) A fine of up to $1,000, or

(2) Imprisonment for not more than 1 year, or

(3) Both (1) and (2).

6. Subpart G is added to read as follows:

Subpart G—Rules for the Review of Denied and Pending Claims Under the Black Lung Benefits Reform Act (BLBRA) of 1977

Sec.
410.700 Background.
410.701 Jurisdiction for determining entitlement under part B.
410.702 Definitions and terms.
410.703 Adjudicatory rules for determining entitlement to benefits.
410.704 Review procedures.
410.705 Duplicate claims.
410.706 Effect of SSA determination of entitlement.
410.707 Hearings and appeals.

AUTHORITY: (Sec. 411, Stat. 793 and 30 U.S.C. 902).

Subpart G—Rules for the Review of Denied and Pending Claims Under the Black Lung Benefits Reform Act (BLBRA) of 1977

§ 410.700 Background.

(a) The Black Lung Benefits Reform Act of 1977 broadens the definitions of "miner" and "pneumoconiosis" and modifies the evidentiary requirements necessary to establish entitlement to black lung benefits. Section 435 of the Black Lung Benefits Reform Act of 1977 requires that each claimant whose claim has been denied or is pending be given the opportunity to have the claim reviewed under this Act. The purpose of the subpart G is to explain the changes and the procedures, and rules which are applicable with regard to the Social Security Administration's review of part B claims in light of the BLBRA of 1977.

(b) Two Government agencies are responsible for the review of claims. The Department of Health, Education, and Welfare, Social Security Administration, upon the request of the claimant, is responsible for the review of claims filed with the Social Security Administration under part B of title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, except those claims filed under section 415 of the Act. The Department of Labor, Office of Workers' Compensation Programs is responsible for the review of the following claims:

(1) Claims filed under part C of title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended;

(2) Part B claims filed under section 415 of the Act; and

(3) Those part B claims for which the claimant elects review by DOL. The Department of Labor regulations explaining the review procedures for these claims are published at 20 CFR Part 727.[1]

§ 410.701 Jurisdiction for determining entitlement under part B.

In order for the Social Security Administration to approve a claim under this subpart G, the evidence on file must show, in a living miner's claim, that the miner was totally disabled due to pneumoconiosis prior to July 1, 1973. In a survivor's claim, the evidence must show (1) that the decreased miner was either totally disabled due to pneumoconiosis at the time of death, or that death was due to pneumoconiosis, and that death occurred prior to January 1, 1974, or (2) that the miner was entitled to part B benefits at the time of death, and that the survivor filed for benefits either within 6 months of such death or before January 1, 1974, whichever is later, regardless of when such death occurred.

§ 410.702 Definitions and terms.

The following definitions shall apply with regard to review under this subpart G.

(a) *"Denied Claim" defined.* Denied claim means: (1) Any claim that was filed with the Social Security Administration under part B of title IV of the Act; and

(2) Entitlement to benefits was not established; and

(3) The time limit for any further appeal has expired.

(b) *"Pending Claim" defined.* Pending claim means: (1) Any claim that was filed with the Social Security Administration under part B of title IV of the Act; and

(2) Entitlement to benefits has not been established; and

(3) The time limit for any appeal has not expired or action is still pending on an appeal which was requested timely, or on which an extension of time to request appeal has been granted.

[1]Published as a notice of proposed rulemaking on April 25, 1978 (43 FR 17722-17773) with a correction on May 9, 1978 (43 FR 19863).

(c) *"Withdrawn Claim" defined.* Withdrawn claim means: Any claim that was filed with the Social Security Administration under part B of title IV of the Act which has been previously withdrawn at the request of the claimant. This claim shall not be considered a pending or denied claim.

(d) *"Pneumoconiosis" defined.* In addition to the definition of pneumoconiosis contained in §§ 410.110(o) and 410.401(b), pneumoconiosis means a chronic dust disease of the lung and its sequelae, including respiratory and pulmonary impairments, arising out of coal mine employment.

(e) *"Evidence on File" defined.* Evidence on file is evidence in the black lung claims file as of March 1, 1978, and includes the individual's earnings record.

(f) *Determining total disability—the working miner.* A miner shall be considered totally disabled when pneumoconiosis prevents the miner from engaging in gainful employment requiring the skills and abilities comparable to those of any employment in a mine or mines in which he or she previously engaged with some regularity and over a substantial period of time.

(1) In the case of a living miner if there are changed circumstances of employment indicative of reduced ability to perform the miner's usual coal mine work, such miner's employment in a mine shall not be used as conclusive evidence that the miner is not totally disabled.

(2) A deceased miner's employment in a mine at the time of death shall not be used as conclusive evidence that the miner was not totally disabled.

(3) Any miner not totally disabled by complicated pneumoconiosis who has been determined to be eligible for benefits as a result of a claim filed while the miner is engaged in coal mine employment shall be entitled to such benefits if his or her employment terminates within one year after the date the determination becomes final.

(g) *Survivor entitlement for deceased miner—25 years or more coal mine employment.* If a miner died on or before March 1, 1978, and had worked for 25 years or more in one or more coal mines before June 30, 1971, the eligible survivors of the miner shall be entitled to the payment of benefits at the same rate as that under section 412(a)(2) of the Act, unless it is established that at the time of the miner's death the miner was not partially or totally disabled due to pneumoconiosis.

(h) *"Miner" defined.* A miner is any person who works or has worked in or around a coal mine or coal preparation facility in the extraction, preparation or transportation of coal, and any person who works or has worked in coal mine construction or maintenance in or around a coal mine or coal preparation facility. A coal mine construction or transportation worker shall be considered a miner to the extent such individual is or was exposed to coal dust as a result of his or her employment in or around a coal mine or preparation facility. In the case of an individual employed in coal transportation or coal mine construction, there shall be a rebuttable presumption that such individual was exposed to coal dust during all periods of such employment occurring in or around a coal mine or coal preparation facility for purposes of determining whether such individual is or was a miner. The presumption may be rebutted by evidence which demonstrates that the individual was not regularly exposed to coal dust during his or her employment in or around a coal mine or preparation facility or that the individual was not regularly employed in or around a coal mine or coal preparation facility. An individual employed by a coal mine operator, regardless of the nature of such individual's employment, shall be considered a miner unless such individual was not employed in or around a coal mine or coal preparation facility. A person who is or was a self employed miner, independent contractor, or coal mine worker, as described in this paragraph, shall be considered a miner for the purposes of this subpart.

(i) *X-ray rereading prohibition.* Where there is other evidence, such as the kind in § 410.414(c), that a miner has a pulmonary or respiratory impairment, a board certified or board eligible radiologist's interpretation of a chest X-ray taken by a radiologist or qualified technician will be accepted if: (1) It is of a quality sufficient to demonstrate the presence of pneumoconiosis and; (2) it was submitted in support of a claim, unless it is established that the claim has been fraudulently represented.

(j) *Acceptance of autopsy reports.* Unless there is reason to believe that an autopsy report is not accurate, or that the condition of the miner is being fraudulently misrepresented, an autopsy report concerning the presence of pneumoconiosis and the stage of advancement of the disease will be accepted if it is already on file.

(k) *Acceptance of affidavits-miner deceased.* Where there is no medical evidence or other relevant evidence (see § 410.414(c) to establish total disability or death due to pneumoconiosis of a deceased miner, affidavits from the spouse and other individuals having knowledge of the deceased miner's physical condition will be sufficient to establish total disability or death due to pneumoconiosis if they are already on file.

§ 410.703 Adjudicatory rules for determining entitlement to benefits.

(a) *General.* Section 402(f)(2) of the Act provides that the criteria and standards to be applied to a claim reviewed under section 435 of the Act, for determining whether a miner is or was totally disabled due to pneumoconiosis or died due to pneumoconiosis, shall be no more restrictive than the criteria applicable to a claim filed with the Social Security Administration on or before June 30, 1973, under part B of title IV of the Act. In keeping with this provision, the interim evidentiary rules and disability criteria contained in § 410.490 will be applicable for this review.

(b) *Payment provisions.* The DOL has sole responsibility for assigning liability for payment purposes. The DOL regulations relating to the amount of benefits payable, the manner of payment and all other provisions published at 20 CFR Part 725 [1] shall be applicable to a claim approved under this subpart.

(c) *Date from which benefits are payable.* Benefits for claims reviewed under this subpart G for which entitlement to benefits is established under the BLBRA of 1977 are payable on a retroactive basis for a period which begins no earlier than January 1, 1974.

§ 410.704 Review procedures.

(a) *Notification.* Each claimant who has filed a claim for benefits under part B of title IV of the Act, and whose claim is either pending before the Social Security Administration or the courts or has been denied on or before March 1, 1978, will be mailed a notice advising that, upon the request of the claimant, the claim shall be:

(1) Reviewed by the DHEW, Social Security Administration or DOL, Office of Workers' Compensation Programs to see whether entitlement to benefits may be established under the BLBRA of 1977; and

(2) If review by the Social Security Administration is requested, the review will be made on the basis of the evidence on file as of March 1, 1978; and

(3) If review by the Office of Workers' Compensation Programs is requested, the Office of Workers' Compensation Programs will provide an opportunity for additional evidence to be submitted for consideration prior to a determination.

(b) Where the claimant is mentally incompetent or physically incapable, or is a minor, review of the claim may be elected by those people described in § 410.222. Where the original claimant

[1] Published as a notice of proposed rulemaking on April 25, 1978 (43 FR 17722-17773) with a correction on May 9, 1978 (43 FR 19863).

is deceased, any person who may be entitled to benefits as a survivor of the claimant, including those described in § 410.570(c), may elect review of the claim.

(c) *Effect of review of a pending part B claim under the BLBRA of 1977 on the pending claim.* Part B claims pending before the Social Security Administration or the courts will continue to be processed under the old law at the same time that these claims are being reviewd by the Social Security Administration, at the claimant's request, under the BLBRA of 1977. Claimants would then have two separate and independent claims for benefits pending. Where claims for benefits are reviewed, upon request, under this subpart G and it is determined that entitlement to benefits is established under the BLBRA of 1977, part C benefits may be paid back to January 1, 1974. Where pending part B claims continue to be processed under the old law and it is determined that the claimant is entitled to benefits under the old law, then the benefits may include payment for periods prior to January 1, 1974. Part C benefits payable to an individual for periods beginning with January 1, 1974, are offset by part B benefits payable for the same periods to the individual. Election by claimants to have their pending claims reviewed under the BLBRA of 1977 for payment of benefits back to January 1, 1974, will not affect the processing of their pending part B claims under the old law for payment of benefits prior to January 1, 1974.

(d) *Response to notification.* A request for review by the Social Security Administration or the Office of Workers' Compensation Programs, must be received by the Social Security Administration within 6 months from the date on which the notice is mailed. Upon receipt, the request will be dated and made a part of the claims file. If a request for review by the Social Security Administration or the Office of Workers' Compensation Program is not received by the Social Security Administration within 6 months from the date the notice is mailed, the claimant shall be considered to have waived the right of review afforded by this subpart G unless "good cause" can be established for not responding within this time period. "Good cause" may be established in the following situations:

(1) Circumstances beyond the individual's control, such as extended illness, mental or physical incapacity, or communication difficulties; or

(2) Incorrect or incomplete information furnished the individual by the Social Security Administration; or

(3) Unusual or unavoidable circumstances, the nature of which demonstrate that the individual could not reasonably be expected to have been aware of the need to respond within this time period.

"Good cause" for failure to respond timely does not exist when there is evidence of record that the individual was informed that he or she should respond timely and the individual failed to do so because of negligence or intent not to respond.

(e) *Changing election.* After a claimant has elected review by the Social Security Administration, he or she may change the election any time prior to the date an initial determination is made. If a claimant has elected review by the Office of Workers' Compensation Programs. The claimant may change the election if the Social Security Administration has not yet forwarded the file to the Office of Workers' Compensation Programs. Once the file is forwarded to the Office of Workers' Compensation Programs, a claimant's right to change the election from the Office of Workers' Compensation Programs to the Social Security Administration is governed by the regulations of DOL.

(f) *Social Security Administration review elected.* (1) If review by the Social Security Administration is requested, a complete review of the evidence on file will be made to see if the file establishes entitlement to benefits under the BLBRA of 1977. Evidence on file is evidence in the black lung claims file as of March 1, 1978, and includes the individual's earnings record. In the case of a pending claim which is being appealed, this review will not be delayed because of the pending claim. If it is determined that eligibility to benefits can be established, the claims file, including all evidence and other pertinent material in the claims file, will be transferred to the Office of Workers' Compensation Programs for processing and assignment of liability in accordance with regulations published by DOL at 20 CFR part 727.[1] The decision of the Social Security Administration approving the claim will be binding upon the Office of Workers' Compensation Programs as an initial determination of the claim. The Social Security Administration will notify the claimant of its approval. If the claimant disagrees with any part of the Social Security Administration's determination of approval, the claimant may request review of this determination by the Office of Workers' Compensation Programs. The Social Security Administration has no authority under BLBRA of 1977 to process an appeal of any determination made by it in reviewing these denied and pending part B claims.

(2) If it is determined that the evidence on file is insufficient to support an award of benefits, the claims file, including all pertinent evidence in the claims file, will be transferred to the Office of Workers' Compensation Programs for further review in accordance with regulations published at 20 CFR Part 727.[1] The Social Security Administration will notify the claimant of this action.

(g) *DOL, Office of Workers' Compensation Programs review elected.* If review by the Office of Workers' Compensation Programs is requested, the claims file and all pertinent material will be forwarded to the Office of Workers' Compensation Programs, without review by the Social Security Administration, for processing by the Office of Workers' Compensation Programs in accordance with regulations published at 20 CFR Part 727.[1]

§ 410.705 Duplicate claims.

(a) *Approved by the Social Security Administration—denied or pending with the Office of Workers' Compensation Programs.* A person whose part B claim for benefits was approved by the Social Security Administration and who also filed a part C claim with the Office of Workers' Compensation Programs which is pending or has been denied shall be entitled to a review of the part C claim by the Office of Workers' Compensation Programs under the BLBRA of 1977.

(b) *Denied or pending with the Social Security Administration—approved by the Office of Workers' Compensation Programs.* A person who has filed a part B claim with the Social Security Administration which is pending or has been denied and who has also filed a part C claim with the Office of Workers' Compensation Programs, which has been approved, shall be entitled, upon request, to a review of the pending or denied part B claim in light of the BLBRA of 1977 by either the Social Security Administration or the Office of Workers' Compensation Programs, in accordance with this subpart.

(c) *Pending or denied by the Social Security Administration and the Office of Workers' Compensation Programs.* A person who has filed a claim both with the Social Security Administration and the Office of Workers' Compensation Programs and whose claims are either pending with or have been denied by both agencies shall have the claim reviewed under the BLBRA of 1977 by the Social Security Administration if such review is requested by the claimant. If the claim is not approved by the Social Security Administration it shall be forwarded to the Office of Workers' Compensation Programs for further review as provided in § 410.704(e)(2). During the pendency of review proceedings by the

[1]Published as a notice of proposed rulemaking on April 25, 1978 (43 FR 17722-17773) with a correction on May 9, 1978 (43 FR 19863).

Social Security Administration, if any, no action shall be taken by the Secretary of Labor with respect to the part C claim which is pending or has been denied by DOL. If the claimant does not respond to notification of his or her right to review by the Social Security Administration within 6 months of the notice (see § 410.704(c)) unless the period is enlarged for good cause shown, the Office of Workers' Compensation Programs shall proceed under DOL's regulations at 20 CFR Part 727 [1] to review the claim originally filed with the Secretary of Labor. If the claimant, upon notification by the Social Security Administration of his or her right to review (see § 410.704(a)) requests that the claim originally filed with the Social Security Administration be forwarded to the Office of Workers' Compensation Programs for review, or if more than one claim has been filed with the Secretary of Labor by the same claimant, such claims shall be merged and processed with the first claim filed with the Office of Workers' Compensation Programs.

§ 410.706 Effect of the Social Security Administration determination of entitlement.

Under section 435 of the BLBRA of 1977 a determination of entitlement made by the Social Security Administration under this subpart G is binding on the Office of Workers' Compensation Programs as an initial determination of eligibility.

§ 410.707 Hearings and appeals.

The review of any determination made by the Social Security Administration of a claim under this subpart will be made by the Office of Workers' Compensation Programs. If the Social Security Administration does not approve the claim following its review under this subpart, the claim will be referred to the Office of Worker's Compensation Programs, and the Office of Workers' Compensation Programs will automatically review the claim. The Office of Workers' Compensation Programs will provide an opportunity for the claimant to submit additional evidence if it is needed to approve the claim. See § 410.704(e)(2) of this subpart. If the Social Security Administration approves the claim but the claimant disagrees with any part of the Social Security Administration's determination, he or she may request the Office of Workers' Compensation Programs to review the Social Security Administration's determination. See § 410.704(e)(1) of this subpart.

[FR Doc. 78-21779 Filed 8-4-78; 8:45 am]

[1] Published as a notice of proposed rulemaking on April 25, 1978 (43 FR 17722-17773) with a correction on May 9, 1978 (43 FR 19863).

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 921-7]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Amendments to Kraft Pulp Mills Standard and Reference Method 16

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action amends the standards of performance for Kraft pulp mills by adding a provision for determining compliance of affected facilities which use a control system incorporating a process other than combustion. This amendment is necessary because the standards would place control systems other than combustion at a disadvantage. The intent of this amendment is to remove any preclusion of new and improved control systems. This action also amends Reference Method 16 to insure that the testing procedure is consistent with the promulgated standards.

EFFECTIVE DATE: August 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: Standards of performance for Kraft pulp mills were promulgated on February 23, 1978. On March 31, 1978, the National Council for Air and Stream Improvement (NCASI) requested two changes to these standards to prevent their interpretation in a manner which was inconsistent with their intent. The purpose of these amendments, therefore, is to clarify the intent of the standards.

OXYGEN CORRECTION FACTORS

In § 60.283(a)(1), the percent oxygen to which TRS emissions must be corrected was specified. The purpose of this specification was to provide a consistent basis for the determination of TRS emissions. Ten percent was selected because it reflected the observed oxygen concentrations on facilities controlled by the best system of emission reduction which was incineration. The NCASI pointed out, however, that the specification of a 10-percent oxygen level on sources which characteristically contain higher levels would effectively discourage the development of control technologies other than incineration.

The purpose of an emission standard is to reduce total emissions to the atmosphere. If an emission control technique should evolve which is capable of achieving the same mass rate of emissions from a given facility, use of that technique should be permitted. The standard, as written, could have inhibited the development of new technologies, if misinterpreted. Therefore, to remove this potential source of misinterpretation, § 60.283(a)(1)(v) has been added to the standard to provide for correction to untreated oxygen concentration in the case of brown stock washers, black liquor oxidation systems, or digester systems.

REFERENCE METHOD 16

The second point of concern to the NCASI was the correction factor to be applied for sampling system losses contained in the post-test procedures (paragraph 10.1) of method 16. The specific concern was the specification that a test gas be introduced at the beginning of the probe to determine sample loss in the sampling train. The data base for the promulgated standard considered only TRS losses in the sampling train, not the probe or probe filter. Consequently, the post-test procedures are amended to require the determination of sampling train losses by introducing the test gas after the probe filter consistent with the data base supporting the promulgated standards.

MISCELLANEOUS

The Administrator finds that good cause exists for omitting prior notice and public comment on these amendments and for making them immediately effective because they simply clarify the existing regulations and impose no additional substantive requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for revisions determined by the Administrator to be substantial. Since the costs associated with the proposed amendments would have a negligible impact on consumer costs, the Administrator has determined that the proposed amendments are not substantial and do not require preparation of an economic impact assessment.

Dated: August 1, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 60 of chapter I, title 40 of the Code of Federal Regulations is amended to read as follows:

1. In § 60.283, paragraph (a)(1) is amended to read as follows:

§ 60.283 Standard for total reduced sulfur (TRS).

* * * * *

(a) * * *

(1) * * *

(v) The gases from the digester system, brown stock washer system, condensate stripper system, or black liquor oxidation system are controlled by a means other than combustion. In this case, these systems shall not discharge any gases to the atmosphere which contain TRS in excess of 5 ppm by volume on a dry basis, corrected to the actual oxygen content of the untreated gas stream.

* * * * *

2. In appendix A, paragraph 10.1 of method 16 is amended to read as follows:

* * * * *

10. POST-TEST PROCEDURES

10.1 Sample line loss. A known concentration of hydrogen sulfide at the level of the applicable standard, ± 20 percent, must be introduced into the sampling system in sufficient quantities to insure that there is an excess of sample which must be vented to the atmosphere. The sample must be introduced immediately after the probe and filter and transported through the remainder of the sampling system to the measurement system in the normal manner. The resulting measured concentration should be compared to the known value to determine the sampling system loss.

For sampling losses greater than 20 percent in a sample run, the sample run is not to be used when determining the arithmetic mean of the performance test. For sampling losses of 0-20 percent, the sample concentration must be corrected by dividing the sample concentration by the fraction of recovery. The fraction of recovery is equal to one minus the ratio of the measured concentration to the known concentration of hydrogen sulfide in the sample line loss procedure. The known gas sample may be generated using permeation tubes. Alternatively, cylinders of hydrogen sulfide mixed in air may be used provided they are traceable to permeation tubes. The optional pretest procedures provide a good guideline for determining if there are leaks in the sampling system.

* * * * *

(Sec. 111, 301(a)), Clean Air Act as amended (42 U.S.C. 7411, 7601(a)).)

[FR Doc. 78-21801 Filed 8-4-78; 8:45 am]

[4910-59]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. LVM 77-03; Notice 3]

PART 531—PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

Exemption From Average Fuel Economy Standards

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

ACTION: Final decision to grant exemption from average fuel economy standards.

SUMMARY: This notice exempting Checker Motors Corp. (Checker) from the generally applicable average fuel economy standard of 18.0 miles per gallon (mpg) for 1978 model year passenger automobiles and establishing an alternative standard is issued in response to a petition by Checker. The alternative standard is 17.6 mpg.

DATE: The exemption and alternative standard apply in the 1978 model year.

FOR FURTHER INFORMATION CONTACT:

Douglas Pritchard, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-755-9384.

SUPPLEMENTARY INFORMATION: The National Highway Traffic Safety Administration (NHTSA) is exempting Checker from the generally applicable passenger automobile average fuel economy standard for the 1978 model year and establishing an alternative standard.

This exemption is issued under the authority of section 502(c) of title V of the act. Section 502(c) provides that a manufacturer of passenger automobiles that manufactures fewer than 10,000 vehicles annually may be exempted from the generally applicable average fuel economy standard if that generally applicable standard is greater than the low volume manufacturer's maximum feasible average fuel economy and if the NHTSA establishes an alternative standard applicable to that manufacturer at the manufacturer's maximum feasible average fuel economy. In determining the manufacturer's maximum feasible average fuel economy, section 502(e) of the act requires the NHTSA to consider:

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

This final rule was preceded by a notice announcing the receipt of a petition for exemption from the 1978 standard (42 FR 64169; December 22, 1977) and a proposed decision to grant an exemption to Checker for the 1978 model year (43 FR 24871; June 8, 1978). Only one comment on the notice of receipt was submitted. That commenter urged that Checker be exempted "in the name of common sense." No comments were received on NHTSA's proposal to exempt Checker from the generally applicable standard of 18.0 mpg for the 1978 model year and to establish an alternative standard for Checker at 17.6 mpg during the 1978 model year.

Accordingly, in consideration of the foregoing, 49 CFR Part 531 is amended by adding § 531.5(b)(3) to read as set forth below.

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(3) Checker Motors Corp.

AVERAGE FUEL ECONOMY STANDARD

Model year:	Miles per gallon
1978	17.6

The program official and attorney principally responsible for the development of this decision are Douglas Pritchard and Stephen Kratzke, respectively.

(Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2005); delegation of authority at 41 FR 25015, June 22, 1976.)

Issued on July 31, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-21876 Filed 8-4-78; 8:45 am]

proposed rules

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.

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Parts 210, 211, and 212]

STANDBY PRODUCT ALLOCATION AND PRICE REGULATIONS AND IMPOSED ALLOCATION FRACTIONS

Cancellation of Hearings

AGENCY: Economic Regulatory Administration, Department of Energy

ACTION: Notice of cancellation of hearings.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the cancellation, due to insufficient public response, of 3 of the 10 hearings previously announced in the notice of proposed rulemaking and public hearing concerning standby product allocation and price regulations and imposed allocation fractions (43 FR 29565, July 10, 1978). The three canceled hearings and their previously scheduled dates are as follows: August 9, 1978, Cheyenne, Wyo.; August 10, 1978, Pittsburgh, Pa.; and August 10, 1978, Milwaukee, Wis.

ADDRESS: Interested parties are invited to submit written comments by September 15, 1978, to Public Hearing Management, Room 2313, Box SX, 2000 M Street NW., Washington, D.C 20461

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 222A, Washington, D.C. 20461, 202-254-5201.

Stan Vass, Office of Regulations and Emergency Planning, 2000 M Street NW., Room 2304, Washington, D.C 20461, 202-254-8034.

Cheryl B. Anderson, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461, 202-566-9567 or 566-2085.

Issued in Washington, D.C., August 2, 1978

DOUGLAS G. ROBINSON,
Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 78-21934 Filed 8-4-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 18198]

AIRWORTHINESS DIRECTIVES

Agusta Model A109A Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to add an airworthiness directive (AD) that would require repetitive inspections of the tail rotor gear box attachment provisions for defects and for proper installation, replacement of defective parts if necessary, and installation adjustments on Costruzioni Aeronautiche Giovanni Agusta Model A109A helicopters. The AD is needed to detect and correct conditions which could lead to the possible failure of the tail rotor mounting and consequent loss of control.

DATES: Comments must be received on or before October 6, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24) Docket No. 18198, 800 Independence Avenue SW., Washington, D.C. 20591. The applicable service bulletin may be obtained from: Costruzioni Aeronautiche Giovanni Agusta, Cascina Costa (Gallarate), Italy. A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

It has been determined that the tail rotor gear box attach sleeve, P/N 109-0435-29-3, and shim, P/N 109-0372-18-5, are subject to cracking, fretting, and wear. This could result in failure of the tail rotor gear box mounting, possible destruction of the tail rotor, and loss of control on Agusta Model A109A helicopters. Since this condition is likely to exist or develop on other helicopters of the same type design, the proposed AD would require inspection for defects and for proper installation, replacement of defective parts if necessary, and installation adjustments, as appropriate on Agusta Model A109A helicopters.

DRAFTING INFORMATION

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, and S. Podberesky, Office of the Chief Counsel.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

COSTRUZIONI AERONAUTICHE GIOVANNI AGUSTA. Applies to Model A109A helicopters certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent possible tail rotor gear box mounting failure, within the next 50 hours time in service after the effective date of this AD and, thereafter, at intervals not to exceed 100 hours time in service since the previous inspection, accomplish the following in accordance with Agusta Bollettino Tecnico No. 109-10, dated April 11, 1978, or an FAA-approved equivalent (hereinafter referred to as the Service Bulletin):

(a) Inspect the tail rotor gear box attach nutplates for condition and security. Re-

place any defective nutplates that are found.

(b) Inspect the tail rotor gear box attach sleeve and shim, P/N 109-0435-29-3 and P/N 109-0372-18-5, respectively, for cracks, fretting, nicks, and wear.

(c) If a cracked sleeve or shim are found during the inspection required by paragraph (b) of this AD, replace the defective part with a serviceable part of the same part number or, in the case of sleeves, by P/N 109-0435-29-5.

(d) If a sleeve is found to have wear, fretting, or nicks, during the inspection required by paragraphs (b) of this AD, and if—

(1) They are not more than 0.2 mm (0.008 in.) in depth, remove the defect; and

(2) If they are more than 0.2 mm (0.008 in.) in depth, replace the sleeve with a sleeve of the same part number or P/N 109-0435-29-5.

(e) If a shim is found to have wear, fretting, or nicks during the inspection required by paragraph (b) of this AD, replace the shim with a new part of the same number.

(f) Inspect and, as necessary, correct the alignment and coaxiality between the sleeve and helicopter tail boom, and the sleeve-to-shim flatness fit, in accordance with Paragraph 6 of the Service Bulletin.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 27, 1978.

JAMES M. VINES,
Acting Director,
Flight Standards Service.

[FR Doc. 78-21810 Filed 8-4-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 18197]

AIRWORTHINESS DIRECTIVES

Societe Nationale Industrielle Aerospatiale Model SA 330F Puma Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to add an airworthiness directive (AD) that would require repetitive inspections of the tail boom and pylon for cracks and loose rivets and, if necessary, modifications on Societe Nationale Industrielle Aerospatiale (SNIAS) Model SA 330F helicopters. The proposed AD is prompted by reports of cracking in service which could result in excessive tail deflection, possible tail rotor failure, and a loss of helicopter control.

DATES: Comments must be received on or before October 6, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24) Docket No. 18197, 800 Independence Avenue SW., Washington, D.C. 20591. The applicable service bulletins may be obtained from: Societe Nationale Industrielle Aerospatiale, Division Helicopters, Service Technique Apres-Vente, Boite Postale 13, 13722 Marignane, France. Copies of the service bulletins are contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of cracks and loose rivets on the tail boom and pylon of SNIAS Model SA 330F Puma helicopters. Such cracking could result in excessive tail deflection and possible tail rotor failure. Since this condition is likely to exist or develop on other helicopters of the same type design, the proposed AD would require repetitive inspections and, if necessary, modification of the tail boom and pylon on SNIAS Model SA 330F helicopters.

DRAFTING INFORMATION

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, and S. Poderesky, Office of the Chief Counsel.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 3913 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

SOCIETE NATIONALE INDUSTRIELLE AEROSPATIALE (SNIAS). Applies to Model SA 330F Puma helicopters, certificated in all categories.

Compliance is required as indicated, unless already accomplished.

(a) To detect tail boom cracks and prevent excessive tail deflection, accomplish the following on helicopters that do not incorporate SNIAS Modification AMS 07.11.464 or SA 330 Service Bulletin No. 53.09:

(1) Within the next 50 hours time in service after the effective date of this AD and, thereafter, at intervals not to exceed 50 hours time in service since the previous inspection, inspect the tail boom structure at frame 12349 beneath the intermediate gear box forward attachment for cracks in accordance with Puma SA 330 Service Bulletin No. 05.30, dated March 8, 1973, or an FAA-approved equivalent.

(2) If during an inspection required by paragraph (a)(1) of this AD, only one crack that does not break through the doubler is found, continue to inspect in accordance with paragraph (a)(1) of this AD at intervals not to exceed 25 hours time in service since the provious inspection until incorporation of SA 330 Service Bulletin No. 53.09, dated March 8, 1973, or an FAA-approved equivalent.

(3) If during an inspection required by paragraph (a)(1) or (a)(2) of this AD, any crack is found extending to the end of the doubler, P/N 330F.24.2019.21, or into its flange, or more than one crack is found, replace the doubler, P/N 330A.24.2019.21 in accordance with Puma SA 330 Service Bulletin No. 53.09, dated March 8, 1973, or an FAA-approved equivalent.

(b) To detect tail pylon cracks and prevent excessive tail deflection, accomplish the following on helicopters that incorporate SNIAS Modification 07.11.141/S256 or that are fitted with a tail skid without a reinforcement plate under the tail skid attachment fitting:

(1) Within the next 50 hours time in service after the effective date of this AD and, thereafter, at intervals not to exceed 50 hours time in service since the previous inspection, inspect the tail pylon structure for cracks and loose rivets in accordance with Puma SA 330 Service Bulletin 05.33, dated August 1, 1973, or an FAA-approved equivalent (hereinafter referred to as Service Bulletin).

(2) If during an inspection required by paragraph (b)(1) of this AD, a defect is found that is specified in subparagraphs (1) and (2) of the "Compliance" paragraph of the Service Bulletin—

(i) Continue to inspect in accordance with paragraph (b)(1) of this AD at intervals not to exceed 25 hours time in service since the previous inspection; and

(ii) Within 25 hours time in service after finding the defect, reinforce the tail structure in accordance with Puma SA 330 Serv-

ice Bulletin No. 53.12, dated October 24, 1973, or an FAA-approved equivalent.

(3) If during an inspection required by paragraph (b)(1) or (b)(2)(i), a defect is found that is not specified in subparagraphs (1) and (2) of the "Compliance" paragraph of the Service Bulletin, within the next 25 hours time in service after finding the defect, repair the defect in accordance with the Puma Structural Repair Manual, or an FAA-approved equivalent.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on July 27, 1978.

JAMES M. VINES,
Acting Director,
Flight Standards Service.

[FR Doc. 78-21809 Filed 8-4-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Ch. II]

[EDR-221C; Docket No. 24322; dated: July 28, 1978]

REPORTING DATA PERTAINING TO FREIGHT ORIGIN-DESTINATION TRAFFIC MOVEMENT BY CERTAIN AIR CARRIERS AND FOREIGN AIR CARRIERS

Enactment of Part; Termination of Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Termination of Rulemaking in Docket 24322; EDR-221.

SUMMARY: Because of the reduced role the Board is playing in the regulation of domestic freight, we are terminating an inactive proceeding which proposed a new part to its Economic Regulations. The proposed rules would have established a comprehensive system of reporting freight origin-destination traffic movement by certain air carriers and foreign air carriers but are not required.

DATES: Adopted: July 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Daniel Prywes, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5437.

SUPPLEMENTARY INFORMATION: In EDR-221, Docket 24322, dated March 16, 1972, the Board proposed to establish a comprehensive reporting system for freight origin and destination traffic movements by certain air carriers and foreign air carriers. More recently, the Federal Aviation Act was amended to delete the Board's authority to find interstate air cargo rates unjust or unreasonable. Pub. L. 95-163, enacted on November 9, 1977.

In Order 78-4-100 at p. 10 (Apr. 19, 1978), the Board noted that "[i]n view of the reduced role the Board will play in regulating domestic air freight, we have also decided not to proceed with the rulemaking contemplated in our earlier decision to consider regular freight origin and destination reports." This action implements the Board's decision in Order 78-4-100 by formally terminating the rulemaking proceeding in EDR-221, Docket 24322.

Accordingly, the Civil Aeronautics Board terminates the proceeding initiated by EDR-221 in Docket 24322.

(Secs. 204(a), 402, 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757, and 766 (as amended by 83 Stat. 103); 49 U.S.C. 1324, 1372, 1377.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-21878 Filed 8-4-78; 8:45 am]

[6320-01]

[14 CFR Parts 221, 302]

[EDR-360; PDR-55; Docket No. 33113; dated: July 28, 1978]

CONSTRUCTION, PUBLICATION, FILING, AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board proposes to change the deadlines for complaints seeking suspension of tariffs and answers to such complaints. Specifically, the period for complaints and answers would ordinarily be 10 days and 6 days respectively, and would begin to run as of the issued date of the tariff. The proposal is designed to simplify the filing procedure for complaints and answers by making it uniform for almost all categories of tariffs. It is also designed to allow the Board more time to consider complaints and answers, and to permit an earlier decision on those complaints.

DATES: Comments by: September 5, 1978. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESS: Twenty copies of comments should be sent to Docket 33113, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

John Freeman, Attorney-Advisor, Rates and Agreements, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5791.

SUPPLEMENTARY INFORMATION: This proposed rule reevaluates the Board's procedures for filing complaints and answers to complaints seeking suspension of tariffs. Its effect, in almost all instances, is to allow parties a period of 10 days to file complaints and 6 calendar days to file answers.

The rule proposed by this notice seeks to accomplish three objectives: (1) To provide a uniform procedure for filing complaints and answers for all categories of tariffs; (2) to provide the Board with more time to consider tariffs, complaints and answers in light of the longer advance filing period required by Pub. L. 95-163; and, (3) to simplify the procedures by which such complaints and answers are filed with the Board.

In order to achieve these objectives, it appears to be necessary to change the method by which the complaint period has been measured. Previously, complaints were due a fixed number of days before the tariff was to become effective. However, the existence of many different tariff categories, together with their differing notice periods, make it unwieldy to provide a uniform schedule for the filing of complaints and answers. For example, complaints against domestic tariffs filed on 45 days notice under the current scheme would be due 12 days after filing, but, if the same tariff were filed on 60 days notice, the complainant would have 27 days after the filing. We therefore propose that all tariff publications be required to bear an issued date, and that such issued date represent the point at which the 10-day complaint period shall commence. In order to insure that the issued date also represents the point at which the public is provided with notice of a carrier's tariff provisions, we propose to require that tariffs be posted and filed with the Board no later than the issued date contained within the tariff publication. We also proposed to eliminate the option of using a posting date on a tariff publication in lieu of an issued date.

The elimination of the posting date option and the calculation of posting and complaint filing requirements from the issued date will not foreclose

any option presently available to carriers. As an example, if a carrier elects to file a tariff on more than the required statutory notice, it can put an earlier issued date on the tariff and thereby require earlier filing of complaints; or it can use the last permissible filing date as the issued date, thereby allowing later posting and filing of complaints. Nothing will preclude the filing of a tariff earlier than the issued date shown thereon, although the proposed rule will require that the tariff be filed no later than the issued date, as is presently the case with the optional posting date procedure.

Specifically, we propose to change the due date for complaints requesting the suspension of a tariff governing interstate and overseas air transportation from 33 days prior to the effective date of the tariff to 10 days after the issue date contained within the tariff.[1] Answers to such complaints would due within 6 calendar days after the complaint has been filed, instead of the present deadline of 6 workng days.

This notice also proposes to change the due date for complaints requesting the suspension of a tariff governing foreign air transportation from 25 days before the effective date of the tariff to 10 days after the issued date contained within the tariff. Answers to such complaints would be due within 6 calendar days after the filing of the complaint, instead of the present deadline of 5 days. However, in no event would the deadline for complaints against foreign tariffs be later than the current 25 days before the tariff's effective date, and answers to complaints filed less than 26 days before the effective date would still be due 5 calendar days after the complaint.

In addition to our desire to achieve simplicity and uniformity, we also seek to reallocate the available time between the filing of the tariff and its ultimate effective date. This proposal would provide the Board with additional time to consider the tariffs, complaints, and answers filed before it, while continuing to allow a reasonable amount of time for parties to draft the complaints and answers. Currently, for a domestic tariff, the Board would have about 12 days after the answer to the complaint was filed to decide whether to suspend the tariff. For foreign tariffs, the Board's decision period can be even shorter.[2] This is true no matter how far in advance of the effective date the tariff was filed. Under Pub. L. 95-163, and various bilateral agreements, many tariffs must be filed on more than 30 days notice,[3] but our current rules do not move up complaint and answer periods to permit us to take advantage of that additional time.[4] The proposed rule would give us about 14 days after answers are filed to act on a domestic tariff filed on 45 days notice. Thus, by amending Part 302 in the manner detailed above, the Board would have a more reasonable amount of time to consider tariff filings, together with complaints and answers regarding their suspension, while imposing no unreasonable burden upon those filing under the new deadlines.

Where the statutory notice period is significantly enlarged, we would endeavor to take final action in advance of the tariff's effective date, thus giving the carrier and the public better notice of our intent.

Accordingly, the Board proposes to amend part 221 of its Economic Regulations (14 CFR part 221) and part 302 of its Procedural Regulations (14 CFR part 302) as follows:[5]

PART 221—CONSTRUCTION, PUBLICATION, FILING, AND POSTING OF TARIFFS OF AIR CARRIER AND FOREIGN AIR CARRIERS

1. Section 221.22 would be amended by revising subparagraph (b)(5) to read as follows:

§ 221.22 Sepecifications applicable only to loose-leaf taraiff publications.

* * * * *

(b) *Information required on all interior pages.* Each original page and revised page following the title page of a looseleaf tariff shall contain the following information in the location specified:

* * * * *

(5) In the lower left corner, the issued date of the page.

2. Section 221.31 would be amended by revising subparagraph (a)(10) to read as follows:

§ 221.31 Title page.

(a) *Contents.* Except as otherwise required in this part, or by other regulatory agencies, the title page of every tariff shall contain the following information to be shown in the order named in subparagraphs (1) to (12) of this paragraph and shall contain no other matter:

* * * * *

(10) *Issued date.* The date on which the tariff is issued shall be shown in the lower left-hand portion of the title page in the following manner:

Issued:————, 19—

(Show month, date, and year in full, using no abbreviations)

Tariffs must be received by the Board on or before the designated issued date. (See §§ 221.160(d) and 221.171 of this part.)

3. Section 221.112 would be amended by revising paragraph (b)(7) to read as follows:

§ 221.112 Amending book tariff by supplement (also applicable to supplements to loose-leaf tariffs when such supplements are specifically authorized in this part).

* * * * *

(b) *Title page of supplement.* Except as otherwise provided in this part, the title page of each supplement shall contain the following information to be shown in the order named below, and shall contain no other matter:

* * * * *

(7) *Issued date.* The date on which the supplement is issued shall be shown in the lower left-hand portion of the title page. Tariffs must be received by the Board on or before the designated issued date. (See §§ 221.160(d) and 221.171.)

4. Section 221.160 would be amended by adding paragraph (d) to read as follows:

§ 221.160 Required notice.

* * * * *

(d) *Issued date.* All tariff publications must be received by the Board

[1] For a tariff filed on 45-day notice, this change would provide complainants 10 days rather than the 12 days they have under the current rule.

[2] In order to give the President 10 days notice of our decision, we would have to act as soon as 8 days after receiving the answer.

[3] The previous 30-day notice period for tariff filings has now been replaced by a notice period of 60 days for direct air freight carriers, and a 45-day notice period for indirect air freight carriers and for all passenger tariff.

[4] By PR-169, December 30, 1977, the Board amended § 302.505(b) of its Procedural Regulations to require complaints requesting suspension of interstate and overseas tariffs to be filed 33 days prior to the effective date of the tariff, rather than the previous 18-day deadline. This change did not provide the Board with additional time to consider complaints and answers, as it was designed merely to reflect the recent requirement of Pub. L. 95-163 that the Board act to suspend those tariffs at least 15 days before they are to become effective. Thus, the Board continues to be required to review tariffs, complaints, and answers within a very limited time frame.

[5] The Board has issued a proposed rule (EDR-353, PDR-52, PSDR-51; 43 FR 16503) which, if adopted, would provide a suspend-free zone for tariffs within a 50 percent range of the DPFI fare level. The proposed rule would also revise the procedures for filing complaints seeking suspension of tariffs. Should we adopt that proposed rule before the one proposed in this notice, we may have to make technical alterations in the latter proposal.

on or before the designated issued date.

5. Section 221.171 would be amended by revising paragraph (c) to read as follows:

§ 221.171 Posting at stations, offices, or locations other than principal or general office.

* * * * *

(c) Tariff publications shall be posted by each carrier party thereto no later than the issued date designated thereon except that in the case of carrier stations, offices, or locations situated outside the United States, its territories and possessions, the time shall be not later than 5 days after the issued date, and except that a tariff publication which the Board has authorized to be filed on shorter notice shall be posted by the carrier on like notice as authorized for filing.

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

6. Section 302.505 would be amended by revising paragraphs (b), (c), and (f) to read as follows:

§ 302.505 Complaints requesting suspension of tariffs—answers to such complaints.

* * * * *

(b) A complaint requesting suspension, pursuant to section 1002(g) of the act, of a tariff for interstate or overseas air transportation ordinarily will not be considered unless made in conformity with this section and filed no more than ten (10) days after the issued date contained within such tariff.

(c) A complaint requesting suspension, pursuant to section 1002(j) of the act, of a new tariff in foreign air transportation ordinarily will not be considered unless made in conformity with this section and filed no more than ten (10) days after the issued date contained within such tariff, but in no event later than twenty-five (25) days prior to the effective date of the tariff.

* * * * *

(f) Answers to complaints shall be filed within six (6) calendar days after the complaint is filed: *Provided, however,* That answers to complaints requesting suspension pursuant to section 1002(j) of the act filed less than twenty-six (26) days before the tariff is to become effective shall be filed within five (5) calendar days after such complaint is filed.

(Secs. 204, 403, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, as amended (49 U.S.C. 1324, 1373).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-21877 Filed 8-4-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240, 241, and 249]

[Release No. 34-15015; File No. S7-611]

LOST AND STOLEN SECURITIES

Advance Notice of Intent To Engage in Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Advance notice of intent to engage in rulemaking.

SUMMARY: The Commission requests comment on the provisions and operation of the Lost and Stolen Securities Program and on the redesignation of the Securities Information Center, Inc. ("SIC") to maintain and operate the data base of reported missing, lost, counterfeit or stolen securities. In initially implementing the Lost and Stolen Securities Program, the Commission provided that its first year of operation would be conducted on a pilot basis and that the designation of SIC would terminate at the end of the pilot year. Comments are solicited in order that the Commission may assess whether modifications to the Lost and Stolen Securities Program may be appropriate and whether a redesignation of SIC should be made for an additional specified term.

DATE: Comments must be received on or before September 8, 1978.

ADDRESS: Persons wishing to submit written views, data, and comments should file three copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All submissions should refer to File No. S7-611 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Gregory C. Yadley, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, telephone 202-376-8129.

SUPPLEMENTARY INFORMATION: In order to facilitate conversion of the pilot phase of the Lost and Stolen Securities Program (the "Program") to a more permanent basis, the Commission has determined that it is appropriate at this time to solicit comments concerning the provisions and operation of the Program. Subsequent to the review and analysis of these comments by the staff of the Commission, the Commission may propose amendments to rule 17f-1 (17 CFR 240.17f-1) reflecting the views of interested persons submitted in response to this release.

BACKGROUND

Problems relating to missing, lost, counterfeit or stolen securities were outlined by the Commission, in 1970 [1] and were subsequently the subject of a series of Congressional hearings.[2] Implementation of a system to receive reports and inquiries concerning missing, lost, counterfeit and stolen securities was recommended by members of Congress, the industry, and law enforcement agencies. To accomplish this objective, the Securities Acts Amendments of 1975 [3] introduced new section 17(f)(1) into the Securities Exchange Act of 1934 (the "Act") and provided that certain financial institutions [4] shall make reports and inquiries with respect to missing, lost, counterfeit or stolen securities in accordance with rules promulgated by the Commission. The section also provides that reports and inquiries shall be made to the "Commission or other person designated by the Commission" and that reasonable fees may be charged for the processing of such data.

On December 6, 1976, the Commission adopted § 240.17f-1 establishing reporting and inquiry requirements with respect to missing, lost, counterfeit or stolen securities.[5] On August 5, 1977, the final, amended version of the section was published,[6] and on Janu-

[1] Study of Unsafe and Unsound Practices of Brokers and Dealers, Report and Recommendations of the Securities and Exchange Commission (pursuant to section 11(h) of the Securities Investor Protection Act of 1970), December 1970.

[2] Organized Crime—Stolen Securities, hearings before the Permanent Subcommittee on Investigations, Senate Committee on Government Operations, 92d Cong., 1st Sess. (1971); 93d Cong., 1st Sess. (1973); 93d Cong. 2d Sess. (1974).

[3] Pub. L. 94-29 (June 4, 1975).

[4] The institutions subject to section 17(f)(1) are enumerated in the statute as follows: Every national securities exchange, member thereof, registered securities association, broker, dealer, municipal securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System, and bank whose deposits are insured by the Federal Deposit Insurance Corporation.

[5] Securities Exchange Act Release No. 13053, 41 FR 54923 (December 6, 1976). Certain technical amendments to the section were made by the Commission in Securities Exchange Act Release No. 13280, 42 FR 11829 (March 1, 1977). Further amendments regarding the role of transfer agents in the program were proposed in Securities Exchange Act Release No. 13281, 42 FR 11844 (March 1, 1977) and incorporated into the rule in Securities Exchange Act Release No. 13832, 42 FR 41022 (August 12, 1977).

[6] Securities Exchange Act Release No. 13832, 42 FR 41022 (August 12, 1977).

ary 2, 1978, the computerized system for the processing of reports and inquiries became fully operational.

In order to monitor the effectiveness of § 240.17f-1 and the system designed to carry out its provisions, the Commission determined that the lost and stolen securities program should be instituted initially on a pilot basis, through December 31, 1978. Furthermore, the Commission determined that it would be appropriate to designate another person, as provided for in the statute, to receive and process the reports and inquiries for which the Commission is the appropriate instrumentality, as defined by the section [7] at least for purposes of the pilot program. Accordingly, the Commission solicited plans from persons interested in acting as the Commission's designee, and, after analysis of the submissions, designated the Securities Information Center, Inc. ("SIC") to act on its behalf [8] through the pilot year ending December 31, 1978.

SOLICITATION OF PUBLIC COMMENTS

Inasmuch as the pilot year and SIC's term of designation will expire on December 31, 1978, the Commission solicits public comment at this time on the provisions of § 240.17f-1, the operation of the program to date, and on the question whether it would be appropriate for the Commission to redesignate SIC to receive and process reports and inquiries made pursuant to the section.

To focus the attention of public commentators, those aspects of the program which are of particular concern to the Commission are outlined below. Public comment relative to these issues will assist in the formulation of appropriate amendments to the section.

1. *Institutions subject to § 240.17f-1.* The financial institutions required to make reports and inquiries with respect to missing, lost, counterfeit, or stolen securities pursuant to § 240.17f-1 include nearly 20,000 institutions and a broad variety of securities and banking entites.[9] Preliminary research suggests that it may be appropriate to exempt from the operation of the section certain classes or subclasses of these institutions or to limit the application of the section with respect to such institutions. Similarly, it may be appropriate to broaden the scope of the section to include additional classes of financial institutions or to impose greater requirements on certain classes or subclasses of institutions. The Commission invites comments on these issues and seeks assistance in identifying appropriate criteria for making such determinations.

2. *Securities encompassed by § 240.17f-1.* Although section 17(f)(1) of the act applies to all securities, under § 240.17f-1, securities issues for which CUSIP numbers have not been assigned are exempted from the reporting and inquiry provisions of the program. Comments are requested concerning the appropriateness of this exemption, its permanent incorporation into the section, and whether other types of securities should be exempted.

3. *Appropriate Instrumentalities.* Section 240.17f-1 specifies that reports and inquiries shall be made to the "appropriate instrumentality." For securities issued by the U.S. Government, an agency or instrumentality of the U.S. Government, the International Bank for Reconstruction and Development, the Inter-American Bank, or the Asian Development Bank, the appropriate instrumentality is any Federal Reserve Bank or Branch.[10] For reports and inquiries regarding all other securities, the appropriate instrumentality is the Commission or its designee. This bifurcation of the responsibility for the processing of reports and inquiries resulted, in part, from the desire to take advantage of the information contained on the Federal Reserve Banks' "Checklist of Lost or Stolen Securities." At the time of the enactment of section 17(f) of the act, this manually accessed checklist had been used by member banks of the Federal Reserve System for nearly 6 years.[11]

Information is requested from interested members of the public as to whether the framework of dual appropriate instrumentalities provided by the section is appropriate or whether a unified central data base would be preferable. In addition, comments as to any difficulties experienced due to the concept or operation of the two appropriate instrumentalities are invited.

With respect to corporate and municipal securities, the Commission determined to exercise its authority to designate another entity to process reports and inquiries. As stated earlier, SIC's term as the Commission's designee expires on December 31, 1978. The Commission must, therefore, either designate SIC for another specified period of time or designate another entity to receive and process the reports and inquiries made pursuant to the section. While the staff's experience with SIC has been positive and unofficial comments from industry sources have been favorable, the Commission, in conformity with concepts of fairness, solicits submissions from other persons interested in serving as the Commission's designee.[12]

In formulating submissions to the Commissison; prospective designees should consider carefully the "Criteria for a Lost and Stolen Securities Reporting and Inquiry System" set forth in the Appendix, and should detail the manner in which their proposed system would operate, and include an estimate of the costs for establishment and operation of such a system and a plan for allocation of such costs.

Additionally, in order to assist the Commission in its evaluation of SIC and its processing system, and to aid in the formulation of system improvements, comments are invited from interested persons concerning their experience in working with SIC, their suggestions for modifications of the design and operation of its system, and the appropriate number of years for which a designation should be made.

4. *Reporting requirement.* Section 240.17f-1 provides that all institutions subject to its provisions shall report the discovery of the loss of any security to the appropriate instrumentality and to a registered transfer agent for the issue. A report to the appropriate law enforcement agency is also required in cases of suspected criminality. The section sets forth differing time requirements within which such reports shall be made, depending on the type of loss involved and the circumstances involved in the loss.[13] The attention of commentators is directed towards the appropriateness of these time requirements and the possibility that other circumstances exist that might make desirable the inclusion in the section of new time frames applicable to such circumstances.

All reports of loss are required to be made on Commission Form X-17F-1A. The Commission solicits suggestions regarding appropriate modifications in

[7] Under § 240.17f-1, reports and inquiries are directed to the "appropriate instrumentality." In the case of U.S. Government securities, the appropriate instrumentality is any Federal Reserve Bank or branch thereof. The Commission is the appropriate instrumentality for all other securities, including State and municipal issues.

[8] Securities Exchange Act Release No. 13538, 42 FR 26495 (May 24, 1977). AutEx, Inc. was originally named as the designee. Subsequently, as a result of the acquisition of AutEx by ITEL Corp., SIC was created as a wholly owned subsidiary of ITEL Corp.

[9] *See* note 4, *supra*.

[10] Section 240.17f-1(a)(2)(i).

[11] During the drafting stages of rule 17f-1, the Federal Reserve Banks offered to serve as an appropriate instrumentality on a "temporary" basis in order to facilitate implementation of section 17(f). At that time, it was understood that the Federal Reserve Bank would not be held to a permanent commitment but would consider at a later date whether it was desirable to continue to play such an active role in the Commission's program.

[12] Section 17(f)(1)(A) of the act does not require that a designation be made but provides that reports and inquiries shall be made to the Commission or other person designated by the Commission.

[13] For example, if there is a substantial belief that criminality is involved in the loss, the report must be made one day after discovery. Section 240.17f-1(b)(1)(i).

the format and graphics of the form, as well as the information required to be submitted on the form, in order to facilitate its use, make it more informative, and encourage its use by the transfer agent community as a "uniform stop transfer order form." Comments are also requested as to whether copies of the reporting form, Form X-17F-1A, should be sent to other entities.[14]

5. *Inquiry requirements.* Section 240.17f-1 requires reporting institutions to make inquiry whenever securities come into their possession or keeping unless an exemption applies. The section does not specify the time at which such inquiries must be made. It is expected, however, that a reporting institution will make inquiry prior to giving value, particularly if the securities or circumstances appear to be suspicious, in order to verify that the securities have not been reported as missing, lost, counterfeit or stolen. Comments are welcome as to whether amendment of the section to require inquiry within certain specified time periods would be desirable and, if so, the appropriate lengths of such time periods.

Presently, the section provides that a reporting institution need not inquire if the security is received: (1) Directly from the issuer or issuing agent at issuance; (2) from another reporting institution or a Federal Reserve Bank in its capacity as fiscal agent; or (3) from a customer of the reporting institution and is registered in the name of such customer or its nominee.[15] In addition, for the purposes of the pilot program only, certain additional exemptions from inquiry are available: Corporate and municipal security issues not assigned CUSIP numbers [16] and receipts involving securities of $10,000 or less are exempt, as are inquiries by registered transfer agents.[17]

Specific comments are solicited as to the desirability of continuing or incorporating permanently into § 240.17f-1 these special exemptions. With respect to the $10,000 *de minimus* exemption from inquiry, comments are sought concerning whether the exemption amount should be lowered to bring a greater number of transactions into the scope of the inquiry provisions, or whether it should be raised, to focus on those transactions with the greatest potential losses. Comments are also invited as to whether the exemption amount should vary, depending on the nature of the security involved. Finally, comments regarding the appropriateness of additional exemptions from required inquiry, on either a provisional or a permanent basis, are solicited.[18]

F. *System design and fee structure.* The SIC processing system provides for two levels of user access with respect to inquiries. A reporting institution must choose to be either a "direct inquirer" or an "indirect inquirer" at the time of its registration in the Program. Direct inquiries have the ability to access the data base directly while indirect inquirers must process their inquiries through a direct inquirer.

This scheme of classification for participation was created with a view towards minimizing the monetary and administrative costs of the program. This interest also guided the Commission in its formulation of the pricing schedule for reporting institutions.[19] Usage fees are based on the aggregate volume of items processed by SIC and are apportioned among the direct inquirers according to classifications based on size.[20] This billing structure was deemed to be preferable to a "per item" or a "flat fee" system because it would avoid any disincentive to making permissive inquiries of the system and would allocate the costs of the program in a reasonable manner. Under this scheme, the smallest institutional classifications of direct inquirers have been charged $26.75 over the first two quarters of the pilot year without any limitation on the number of reports and inquiries submitted.

In formulating the pricing schedule, the Commission attempted to minimize the fees applicable to smaller institutions in the expectation that they would choose direct inquirer status. Such has not been the case; only one half of the originally estimated number of direct inquirers actually elected this status. Comments from interested persons are solicited as to whether the direct/indirect inquirer status option has achieved its purpose of making the benefits of the program available to all institutions subject to section 17(f)(1) of the act, while minimizing their costs and, in addition, whether this billing system, which is based on the size of the institution, has proven just and workable and, if not, what alternatives should be considered.

REQUEST FOR COMMENTS REGARDING STAFF INTERPRETATIONS OF § 240.17f-1

Since the implementation of the program, the staff of the Commission has issued several interpretations and no action letters concerning various provisions of § 240.17f-1. In this regard, the Commission solicits comment as to whether they should be provisionally or permanently incorporated into the section. Several of the specific areas addressed are summarized as follows:

REPORTING PROVISIONS

1. *Warrants.* The staff declined a request that warrant cards, representing rights, be exempted from the reporting provisions of § 240.17f-1. The rationale for this position is that although individual rights are generally of minimal value, the number of rights represented by a warrant card is correlated to the number of shares a stockholder owns and, thus aggregated, can have a considerable value.[21]

2. *Losses during completion of delivery, deposit or withdrawal.* With regard to subsections (b)(2)(ii)(B) and (b)(2)(iii)(C) of the section, regarding the time and party to report a loss when securities are delivered "over the window," the staff published an interpretation stating that copies of delivery bills, stamped by receiving institutions "Received Subject to Count and Examination" and returned to delivering institutions, are "receipts" under the section and thereby create an obligation on the part of the receiving institution to report any losses to the appropriate instrumentality.[22]

3. *Timely submission of report.* Due to the difficulties certain institutions have faced in researching the data required to be submitted in the report of loss, the staff has published interpretations of the reporting requirements of the section stating that in instances where no criminal activity is suspected a report must be made under subparagraph (b)(2) of the section as soon as the reporting institution has available to it the CUSIP and certificate

[14] It has been informally suggested to the staff that the designated examining authority of a broker-dealer should receive a copy of the form in order to better assist them in their monitoring of the activities of their members.

[15] Section 240.17f-1(c)(1)(i)-(iii).

[16] Consequently, short term securities such as commercial paper are not subject to the requirements of § 240.17f-1 during the pilot program.

[17] *See* Securities Exchange Act Release No. 13832, 42 FR 41024 (Aug. 12, 1977).

[18] For example, it has been informally suggested to the staff that inquiry should not be required in the case of bearer securities where the institution taking such securities into its possession sold such securities to the person delivering them and proof of purchase is offered.

[19] Direct inquirers shoulder the costs of the system. Indirect inquirers are charged no fees by SIC but, rather, are subject to whatever fees they agree to pay their direct inquirer. One benefit of this approach is that it significantly alleviates problems relating to the frequent collection of small bills from large numbers of persons, a problem which the Securities Investors Protection Corp. has experienced to a great extent in its collection of assessment fees.

[20] Billing classifications are based on the amount of deposits for banks, annual revenue for securities organizations, and number of shares issued in the case of non-bank transfer agents.

[21] Letter to Morgan Guaranty Trust Co., dated Mar. 13, 1978 (public availability date Apr. 13, 1978).

[22] Letter to Northwestern Trust Co., dated Feb. 28, 1978 (public availability date Mar. 29, 1978).

inquirer is appropriate, whether the present pricing structure is just and workable, and whether reasonable alternatives to this system exist;

11. Whether the staff interpretations of § 240.17f-1, described above, should be modified and/or incorporated into the section; and

12. Whether any other aspect of § 240.17f-1 and the Program not enumerated above should be modified in any way.

The Commission invites comments on any of the matters raised above. Comments should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments should refer to File No. S7-611 and will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JULY 31, 1978.

APPENDIX

CRITERIA FOR A LOST AND STOLEN SECURITIES REPORTING AND INQUIRY SYSTEM

The Commission suggests that any person interested in serving as the Commission's designee for the processing of reports and inquiries under § 240.17f-1 consider the following criteria in developing plans for submission. While the Commission believes that this program may be best implemented by a system containing the following characteristics, the Commission encourages the submission of alternatives which would implement § 240.17f-1 in an efficient manner.

GENERAL CONSIDERATION

In formulating a system for the receipt and processing of reports and inquiries relative to lost and stolen securities, prospective designees should be mindful of the Commission's overriding interest in providing institutions subject to § 240.17f-1 a means for compliance therewith which is low in cost, flexible to meet varied and changing needs, and readily understandable from a user's standpoint. The designee will be subject to continuing direction and review by the Commission. It is contemplated that the designee will operate a manual, computer-assisted system. To guard against misuse of the system, proposed systems should provide adequate security procedures for their operational facility and files as well as a means by which the identity of the reporting or inquiring institution may be verified as an authorized subscriber.

The increased use of securities depositories and book-entry recordkeeping has the potential over a period of time to greatly reduce the lost and stolen securities problem, and consequently, the scope of the Commission's program. Accordingly, the start-up costs of any system to implement § 240.17f-1 should be as low as possible.

REPORTING AND INQUIRY CONSIDERATIONS

The "reporting institutions" subject to § 240.17f-1 will include entities of differing size, geographic location, and frequency of contact with the system. Consequently, proposed systems should have sufficient flexibility to deal with these institutions as their needs require. This flexibility should entail the capacity to receive reports submitted via the mails, telephone, and telex. Consideration should also be given to designing a system that would allow high volume entities the capability of computerized or on-line input.

Prospective designees should also provide for the prompt receipt and incorporation of reports into a computerized record file. Proposed systems should have the capacity to include within the data base reports of securities losses, counterfeits, and thefts occurring prior to the effective date of § 240.17f-1 as well as all reports made subsequent to the effective date of the section. The system should also include a procedure by which reports are removed from the computerized record upon notice of recovery by a reporting institution. Furthermore, the system should have the capacity to generate hard copy confirmations, and the designee should have procedures for the periodic transmittal of such confirmations to the reporting entities.

The system should have the flexibility to promptly respond to inquiries in a variety of ways, including by telephone, mail, and telex, as well as other electronic means. The system should initially verify that the person making inquiry is an authorized subscriber. The system should be able to provide an accurate response to the inquiry promptly and to provide the inquirer with a hard copy confirmation. In addition, it should have the capacity to store a record of inquiries. Such records should be able to be retrieved by the name of the subscriber as well as the name of the particular security.

COST AND FEES

All proposed systems should include estimates of the cost of implementation, the amount of time necessary to initiate the system, the cost of operation, the method of billing subscribers, and allocation of the costs of the system among subscribers. Prospective designees should include in their submissions a detailed schedule for the equitable allocation of the costs of the program. All fee schedules will be subject to the approval of the Commission and the designee will be responsible for the collection of fees.

SYSTEM CAPACITY

The system should be capable of handling fluctuations in volume without loss of efficiency. While it is contemplated that the designee will process approximately 10,000 items per day, proposed systems should be sufficiently flexible to operate smoothly at volume levels of at least 15,000 items per day.

RECORDKEEPING

The data base will be the property of the Commission, and the original tapes, as well as a hard-copy of the information contained therein, must be transmitted to the Commission at the termination of the period of designation or upon request. The Commission will periodically require reports by the selected designee detailing the information compiled in the system and the operation of the designee's plan. In addition, the designee shall keep a current and true record, available for inspection by the Commission, with respect to each report, inquiry, confirmation, correction or other information received pursuant to this designation, the time of and means by which such report, inquiry or other information was received, the time of response, the means by which a response was given, and the nature of the response. The designee shall also make available for the Commission's inspection all records and accounts of amounts billed to reporting institutions and account for all expenses incurred by the designee. Such records for any calendar year shall be kept for three years after the end of the term of designation.

OTHER CONSIDERATIONS

In making a designation, the Commission will consider the following factors, among others: The cost of implementing the system, the amount of time necessary to initiate the system, the costs of operation, the costs of compliance to reporting institutions, the compatibility of the system with existing securities information systems, the ability of the system to respond to fluctuations in reporting and inquiry volume in an efficient manner, the experience of the designee in managing similar programs, and the method of allocating costs and billing subscribers.

[FR Doc. 78-21803 Filed 8-4-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 25, 35, 105, 249]

[FRL 915-1]

PUBLIC PARTICIPATION IN PROGRAMS UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT, THE SAFE DRINKING WATER ACT, AND THE CLEAN WATER ACT

Proposed Rule and Notice of Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The provisions which follow include proposed regulations which would establish overall public participation requirements for programs under the Safe Drinking Water Act, the Resource Conservation and Recovery Act, and the Clean Water Act. These would replace existing regulations for public participation in water programs and interim final regulations for public participation in solid waste management programs. The proposed regulations also include provisions implementing the new overall public participation requirements with respect to the municipal wastewater treatment facility construction grant program. Where appropriate, regulations applicable to other Clean Water Act, Safe Drinking Water Act, and Resource Conservation and Recovery Act programs will be supplemented or revised at a later date to specify where the new overall public participation procedural re-

number of the security, provided, however, that the institution acts in good faith in promptly researching this data. This extension of time is not available, however, where the circumstances surrounding the loss suggest possible criminal activity.[23]

4. *Report to Law Enforcement.* Subparagraph (b)(ii) of § 240.17f-1 provides that all reporting institutions shall promptly report to the appropriate law enforcement agency upon the discovery of the theft or loss of any security where there is a substantial basis for believing that criminal activity was involved. To clarify those instances where such reports should be submitted to law enforcement, the staff issued an interpretation stating that an institution does not necessarily have a "substantial basis" for such a belief in those instances where the institution's knowledge of the loss or theft is based on unsubstantiated information given to it by another party.[24]

INQUIRY PROVISIONS

1. *Exemption upon receipt from another reporting institution.* In an interpretative letter, the staff expressed the opinion that the exemption from inquiry available upon receipt of securities from another reporting institution is also available in those instances where the delivering institution is affiliated with and under the common control of a reporting institution and acts solely as a "certificate drop." [25]

2. *Exemption upon receipt from a Federal Reserve Bank.* Under § 240.17f-1(c)(i), inquiry is not required in instances where a reporting institution receives securities from a Federal Reserve Bank in its capacity as fiscal agent. This exemption is not available under the section, therefore, when securities are delivered by the Federal Reserve Bank from a safekeeping account. The staff has issued an interpretation providing that when securities are delivered to a reporting institution by the Federal Reserve Bank out of the safekeeping account of another reporting institution and such securities had been delivered to the Federal Reserve Bank by a reporting institution, inquiry is not required.[26]

3. *The $10,000 de minimus exemption.* In order to ease implementation of § 240.17f-1 during the pilot program, inquiry is not required in the case of transactions involving securities of less than $10,000 (face value in the case of bonds and market value in the case of stocks). The staff of the Commission, however, has interpreted this exemption to include securities up to and including $10,000 exactly, in recognition of the fact that most debt securities are issued in $5,000 face value denominations, and in the interest of reducing the burden imposed by the section on municipal securities brokers and dealers.[27] In addition, the staff has interpreted this exemption to apply not to the individual certificates involved in a transaction, but rather to the transactions as a whole.[28]

4. *Transfer agent exemption.* For the purposes of the pilot program, registered transfer agents are exempted from § 240.17f-1's requirements that reporting institutions inquire with respect to securities coming into their possession or keeping. The staff of the Commission has interpreted this exemption to be applicable to a transfer agent engaged as an exchange, conversion, or redemption agent or depository or tender agent (whether such transfer agent is acting as the issuer's transfer agent or as a depository or tender agent in connection with a so-called "unfriendly tender offer"), as long as such transfer agent maintains or is provided with current and accurate records of stop transfer instructions and inquiry of such records is made for each item received prior to issuing a new certificate, transferring record ownership, disbursing funds, or otherwise completing the transaction.[29]

REQUEST FOR COMMENTS REGARDING PROVISIONS AND OPERATION OF § 240.17F-1

Inasmuch as the pilot year and SIC's term of designation expire on December 31, 1978, the Commission solicits public comment at this time on the provisions and operation to date of § 240.17f-1, on the appropriateness of the continued applicability of the special pilot program exemptions, and the redesignation of SIC to receive and process reports and inquiries made pursuant to the section. In particular, the Commission solicits comments pertaining to the items enumerated below. In responding, all commentators should attempt to furnish the Commission with data supporting their views to the greatest extent possible.

1. Whether any classes or subclasses of institutions defined as "reporting institutions" under § 240.17f-1 should be exempted from the provisions of the section and whether any class or subclass of institution within the jurisdiction of the Commission not now subject to the section should be included in the program;

2. Whether the present exemption from the program of securities of an issue not assigned a CUSIP Number should continue and whether other types of securities should also be exempted;

3. Whether the present framework of dual appropriate instrumentalities is appropriate or whether a unified central data base would be preferable, and, particularly, whether the concept or operation of the two appropriate instrumentalities has resulted in any difficulties in complying with the section;

4. Whether the Commission should redesignate SIC or designate another entity for the purposes of receiving and processing reports and inquiries made pursuant to the section.[30]

5. Whether the time requirements within which reports must now be made are appropriate and whether other circumstances exist for which specific time requirements should be provided;

6. Whether the report form, Form X-17F-1A, should be modified in terms of its format and graphics and in terms of the information required, and whether the form has proven useful to identify and trace missing, lost, counterfeit and stolen securities;

7. Whether inquiries should be made within certain time periods and, if so, within what time periods;

8. Whether the exemptions from inquiry provided for the purposes of the pilot program should be continued, continued in a modified form, or allowed to lapse, and, particularly, whether the present de minimus exemption for transactions involving securities of $10,000 or less (face value in the case of bonds and market value in the case of stocks) should be increased, decreased, made a permanent part of the rule, or allowed to lapse;

9. Whether additional exemptions from inquiry should be permitted on either a provisional or permanent basis;

Whether the present program allowing for an election of participation status as either a direct or an indirect

[23] Letter to First Trust Co. of St. Paul, dated Mar. 20, 1978 (public availability date Apr. 20, 1978).

[24] Letter to Continental Stock Transfer & Trust Co., dated Jan. 12, 1978 (public availability date Feb. 12, 1978).

[25] Letter to First National Bank of Boston, dated Jan. 12, 1978 (public availability date Feb. 12, 1978).

[26] Letter to Bankers Trust Co., dated Mar. 21, 1978 (public availability date Apr. 21, 1978).

[27] Letter to Federal Reserve Bank of St. Louis, dated Jan. 12, 1978 (public availability date Feb. 12, 1978). Although the rationale was based on the situation presented by debt security transactions, in order to avoid confusion the interpretation was designed to apply to equity securities as well.

[28] For example, where four $5,000 bonds are used as collateral for a single loan, the total transaction exceeds $10,000, and the $10,000 de minimus exemption from inquiry may not be claimed. See letter to LaSalle National Bank, dated Dec. 7, 1977 (public availability date Jan. 7, 1978).

[29] Letter to the Stock Transfer Association, dated Mar. 8, 1978 (public availability date Apr. 8, 1978).

[30] Persons interested in acting as the Commission's designee should submit a plan for their program in accordance with the instructions outlined in Appendix A.

quirements will be applicable. The proposed regulations would apply to cover activities which occur after the date of promulgation and to grants and significant grant amendments made after that date. Existing public participation regulations would remain applicable, in uncodified form, to all other ongoing activities.

DATES: Public hearing: September 26, 1978 from 1:30 p.m. to 5:30 p.m. and 7:30 p.m. to 10:30 p.m. Comments must be received on or before October 6, 1978.

ADDRESSES: Public hearing: Department of Commerce Auditorium, 14th and E Streets NW, Washington, D.C.

Send requests to speak to: Ned Sullivan, Environmental Protection Agency, WH-556, 401 M Street SW., Washington, D.C. 20460. (For additional information regarding requests to speak and the agenda for the hearing see below).

Send written comments to: Lee Daneker, Environmental Protection Agency, WH-556, 401 M Street SW., Washington, D.C. 20460.

Telephone service: EPA will provide, during the hours and on the days specified below, a toll-free telephone number to assist the public in making comments or requesting clarifications regarding the proposed public participation regulations (CFR 40 Parts 25 and 35). The toll-free number is 800-424-9390. The toll-free line will be open only from 1 p.m. to 5 p.m., eastern daylight time, from September 5 through 8, September 25 through 29, and October 2 through 6, 1978. This line will be open for the sole purpose of hearing comments and providing information on the proposed public participation regulations.

Comments submitted may be inspected at the Public Information Reference Unit, EPA Headquarters, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ned Sullivan, Environmental Protection Agency, WH-556, 401 M Street, SW., Washington, D.C. 20460, 202-755-0511.

PUBLIC HEARING

A hearing to receive comments on the proposed public participation regulations will be held at the Department of Commerce Auditorium, 14th and E Streets NW., Washington, D.C., from 1:30 p.m. to 5:30 p.m. and 7:30 p.m., to 10:30 p.m., on September 26, 1978.

Individuals wishing to comment are requested to submit their names, addresses, and telephone numbers to Ned Sullivan, Environmental Protection Agency, WH-556, 401 M Street SW., Washington, D.C. 20460. Requests should indicate the length of time each individual wishes to comment and any preference to time. Statements will be limited to a maximum of 10 minutes. Individuals who request to comment will be notified in advance of the time scheduled for their statement. Time will be reserved for unscheduled comments. Each individual who plans to comment is requested to submit one typewritten copy of his or her statement at the hearing. The hearing record will be closed at the end of the hearing; however, as indicated above, written and telephone comments on the proposed regulations will be accepted by EPA if they are received no later than October 6, 1978. The agenda for the hearing is as follows: Afternoon session: Introductory presentation, 1:30-1:50; Question and answer session, 1:50-2:10; Scheduled presentations, 2:10-4:45; Unscheduled testimony, 4:45-5:30; Recess, 5:30. Evening session: Introductory presentation, 7:30-7:50; Question and answer session, 7:50-8:10; Scheduled presentations, 8:10-9:45; Unscheduled testimony, 9:45-10:30; Adjourn, 10:30.

BACKGROUND

It is EPA policy that EPA, State and substate agencies implementing the Clean Water Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act shall provide for, encourage, and assist public participation.

All Federal programs are intended to serve the public interest, and all government agencies are, by definition, public servants. EPA's programs directly and indirectly affect the lives of all citizens. These citizens have the right to share in program decisions, and public servants who implement Federal environmental statutes have the responsibility to seek out and be responsive to the concerns of the public in their decisions. The term "the public" in the broadest sense means the people as a whole, the general populace which all Federal programs are intended to serve.

For any given program decision, however, there are a number of identifiable "segments of the public" which have an interest in the outcome. These comprise individuals and organizations, governmental and nongovernmental. Interested and affected segments of the public may be directly impacted by a decision, either beneficially or adversely, or they may be indirectly affected or otherwise have some concern about the decision. The segments of the public relevant to any given decision tend to changeover time, as do their interests in given issues.

EPA wishes to insure that all intersted and affected members of the public have an opportunity to participate in decisionmaking processes under agency programs. In addition to private citizens, parties affected by agency action may include but are not limited to representatives of consumer, environmental, and minority associations; trade, industrial, and labor organizations; agricultural organizations; public health, scientific, and professional societies; civic associations; public officials; and governmental and educational associations. Special effort should be made to insure that public interest groups and citizens representing themselves, whose resources and access to decisionmaking may be limited, have every opportunity to participate.

It is useful to reflect on the specific meanings of some of the terms used above. The term "participate" means to take part, to have a role in program deliberations prior to a decision being made. The term "encourage" means to stimulate. The term "assist" means to help, aid, give support. The term "responsive" means providing a timely answer or reply; reacting in a receptive manner; demonstrating that serious consideration has been given to public comment.

Public participation is that part of the decisionmaking process that seeks to determine the "public interest" in any given decision. "Public interest" may be defined as the composite of continuously shifting individual and group values, viewpoints, concerns, and interests. It is inevitable in many decisions that the "public interest" will be partially determined by controversy. These controversies must be aired early so that issues can be resolved and timely decisions made.

DEVELOPMENT OF PROPOSED REGULATIONS FOR PUBLIC PARTICIPATION

Since November 1977, a working group in the Office of Water and Waste Management (OWWM) has been reviewing public participation requirements for its areas of responsibility. The working group developed a set of concept papers addressing revisions to overall public participation requirements for all programs under OWWM and new requirements for public participation in the municipal wastewater treatment construction grants program. These concept papers were finalized in early March and circulated to approximately 7,000 interested parties including more than 3,000 who were mailed draft construction grant regulations dated March 3, 1978. The working group has held two public meetings to receive comment on the concept papers, met with EPA staff in all 10 EPA regions, received numerous verbal comments telephoned to the

Agency, and met with several outside interest groups including representatives of several States and municipalities and of the Association of State and Interstate Water Pollution Control Agencies.

As a result of these outreach activities, the Agency has received more than 300 written comments on the concept papers. After considering all comments, the working group has revised the concept papers. The revisions include: (1) Proposed 40 CFR part 25 which would establish overall public participation requirements in programs under the Resource Conservation and Recovery Act, safe Drinking Water Act, and Clean Water Act programs. (When the proposed 40 CFR part 25 is promulgated as a final regulation, the existing 40 CFR part 105 (Public Participation in Water Pollution Control) and interim-final 40 CFR part 249 (Public Participation in Solid Waste Management) will be deleted. (2) Proposed revisions to 40 CFR part 35, which would implement the new part 25 with respect to the wastewater treatment facility construction grants program.

Major issues raised in comments are summarized below. Each issue is followed by an explanation of changes which are reflected in the proposed regulations or other ways in which the Agency has responded to comments received on the concept papers.

DISCUSSION OF COMMENTS RECIEVED ON THE CONCEPT PAPER FOR PUBLIC PARTICIPATION IN CLEAN WATER ACT, SAFE DRINKING WATER ACT, AND RESOURCE CONSERVATION AND RECOVERY ACT PROGRAMS

1. *Consistency.* One of the issues highlighted for public comment in the concept papers was whether the new part 25 would apply only to water programs or to other OWWM programs under the Safe Drinking Water Act and the Resource Conservation and Recovery Act as well. Comment has been virtually unanimous in favor of a single overall set of public participation requirements for all OWWM programs. Accordingly the proposed regulations have been drafted to cover activities under the Resource Conservation and Recovery Act and the Safe Drinking Water Act, as well as under the Clean Water Act.

Several commenters indicated that the concept papers should not be limited to OWWM programs, but should apply to all EPA activities. The Agency hereby requests public comment on whether such an expansion in scope would be desirable.

2. *Discretion.* The concept papers solicited comment on the degree of discretion which should be allowed in establishing public participation requirements. A closely related issue was the extent to which elements of a public participation program should be specified in regulation or in guidance. Many, although not all, governmental agencies commenting upon the regulations favored wide discretion and extensive use of guidance. A large volume of citizen comment called for significantly limiting discretion; these comments indicated that permitting broad discretion often frustrates active participation by leaving potential citizen participants unaware of their rights and opportunities to become involved. Some individuals provided examples of instances in which discretion had been exercised in a manner which did not foster participation in agency programs. While EPA recognizes such problems, we also recognize that flexibility is needed for effective environmental management. We have responded to several comments identifying areas where discretion should be expanded or where the use of guidance would be more appropriate than regulation. As a result, the current proposals provide considerable added flexibility, especially in the area of advisory group responsibilities, organization, membership, and relation to grantee agencies.

3. *Role of elected and appointed decisionmaking officials.* Many commenters pointed out that the concept papers did not devote sufficient attention to the role of State and municipal officials. We concur. Accordingly, the current proposals place strong emphasis on the legal authority official decisionmakers and encourage their inclusion on advisory groups.

4. *Advisory groups.* Several Agency programs are already utilizing advisory groups as a public participation mechanism where careful scrutiny of a plan or project by an informed group of citizenry is needed. The advisory group requirements included in the concept papers were intended to foster the formation of an informed core group of citizens which would assist elected and appointed decisionmaking officials by becoming familiar with plans and programs funded by Federal grants, making recommendations to decisionmaking officials, and encouraging interchange and mutual education among interests represented on the group.

Many commenters suggested that the advisory group requirements were too stringent and would be difficult to apply in some planning areas. Others indicated that the requirements represent a vital initiative to insure formation of truly balanced advisory groups. Strong support was expressed for the requirement that a majority of advisory group members be private citizens and members of public interest groups and for the provision that would bar any person with a financial conflict of interest from the advisory group. These two requirements were also the subject of significant critical comment. A number of comments cited instances in which individuals with a financial stake in various grant-supported activities have made constructive contributions to advisory group deliberations. The lack of encouragement for placing elected officials on advisory groups was also criticized by a number of commenters.

The Agency concurs with much of the comment calling for changes in advisory group requirements. The proposed regulations provide considerably more flexibility in the form of encouragement for membership by State and local public officials, and permitting advisory group membership by individuals with an economic stake in the project activities. However, the Agency cannot ignore the large volume of comment indicating that private citizens and public interest representatives should make up at least half of the advisory group. Accordingly, this requirement has been retained with the qualification that this portion of advisory group membership should reflect a balance of community interests.

The proposed regulations establish two categories of advisory group membership for purposes of addressing potential conflicts of interest (See § 25.4(d)(4)(iii)). The proposed regulations do not prohibit membership by economically interested persons as the concept paper would have. However, such a prohibition does apply to the private citizen, public interest group membership category. All advisory group members would be required to disclose any financial interest which they have in the plan or project.

Some comments stated that the portions of the requirements addressing advisory group duties and organization, and the responsibilities of the grantee to the advisory group were too detailed. Other comments pointed out that these features are critical in determining the effectiveness of an advisory group and should be of major concern to EPA in its role of providing grants for State and local assistance. The Agency concurs with both perspectives reflected above. The concept papers have been revised to include considerably less detail in these areas; however, the Agency will provide guidance addressing advisory group structure, duties, and staff support.

Strong support was expressed for the concept of training advisory groups to fulfill their role. Accordingly, the training provision of the concept papers has been retained. However, the Agency has determined that it is appropriate to address the content of the training in guidance. Therefore, the portions of the concept paper

which discussed training content are not included in the proposed regulations.

5. *Paperwork.* Comments have indicated that the public participation work plan, the responsiveness summary, and the summary of public participation which were defined in the concept papers might frustrate the EPA (and Federal Government) policy of reducing unnecessary paperwork. Some comments indicated that the summary of agency response and the summary of public participation appeared to be duplicative. Many other comments indicated that the work plan, responsiveness summary, and public participation summary would be important mechanisms to assure adequate public participation. Comments indicated that these documents would assist citizens to participate by enabling them to know what participation opportunities existed and to learn how agencies have taken their participation into account in decisionmaking. Many citizen comments indicated that, under the present system, feedback on participation is frequently inadequate. We concur with these comments. In addition, the Agency's experience suggests that the responsiveness summary, the public participation work plan, and the public participation summary are needed if the Agency is to fulfill its management responsibility to monitor public participation performance.

We are very concerned, however, with avoiding unnecessary paperwork and have revised the requirements of the public participation summary to indicate that it will require no work which duplicates responsiveness summaries. In addition, EPA is indicating here, and will reiterate in program guidance, that the work plan and, when appropriate, other required material are intended to be brief documents which merely outline Agency plans and action. They will not be lengthy materials which are a burden to prepare.

6. *Advance notice of public hearings and meetings.* The concept papers included a public hearing notice requirement of 45 days. The present requirement is 30 days. Many commenters with experience in hearing participation have strongly supported this change. They indicated that under current requirements they often do not receive notices or hearing materials in time to thorougly prepare hearing testimony. This is of particular concern because the complex issues discussed in hearings in many Agency programs require more than just a few days for thoughtful preparation. Government agencies have, for the most part, indicated that they see no need to change the current notice reuirement and would oppose extending the notice period to 45 days.

The proposed regulations specify a 45-day notice for hearings; however, the Agency wishes to hear additional public comment on this issue. We especially invite comment on whether or not 30 days has generally provided adequate time for notices to be mailed and received, hearing documents to be obtained and reviewed, and testimony prepared.

The proposed regulations permit reduction of advance notice of public meetings from the normally required 45 days to a lesser period. No limitation on the reduction is specified. The Agency solicits comment on whether an absolute minimum of advance notice for public meetings should be set and, if so, what the minimum time should be.

7. *Reimbursement of participation expenses.* The Agency has received considerable comment, both pro and con, regarding reimbursement of advisory group out-of-pocket expenses such as transportation, parking, or child care. This is currently a grant-eligible expense, but many agencies have exercised their discretion not to apply for grant funding to pay such costs. Some agencies opposed reimbursement on the basis of their opinion that costs do not inhibit participation in any way. Many citizen commenters indicated their belief that covering advisory group expenses will encourage more active participation, espicially by low-income individuals. Given the general balance of comment between the two points-of-view described above, the proposed regulations neither require nor prohibit reimbursement of advisory group member expenses. Before departing from the current practice, the Agency wishes to hear further comment on the issue. Comment on whether the administration of reimbursement systems need be an excessive burden (assuming proper guidance) would be particularly helpful.

Some comment has addressed the issue, raised in the concept paper, of whether reimbursement or some other form of Government assistance for costs of participation (other than out-of-pocket costs of advisory group members) would be appropriate. Much of this comment, especially interest expressed at public meetings, strongly supports at least a pilot program to provide technical assistance or expert advice to assist participation.

The Agency is currently conducting an experimental program to reimburse selected participants in a rulemaking conducted under the Toxic Substances Control Act (TSCA). However, rulemaking activities differ significantly from many of the environmental control programs administered by the Agency. Considering these differences, the additional time that would be required for a thorough evaluation of the TSCA experience, and the EPA's strong commitment to assist public participation, the Agency does not believe it to be appropriate to defer action on assistance in nonrulemaking activities until the TSCA results are evaluated. The Agency will begin development of a pilot program to explore means to provide technical or expert assistance to participants in programs (other than rulemaking activities) under the Clean Water Act, Resource Conservation and Recovery Act, and the Safe Drinking Water Act.

DISCUSSION OF COMMENTS RECEIVED ON THE CONCEPT PAPER FOR PUBLIC PARTICIPATION IN THE MUNICIPAL WASTEWATER TREATMENT FACILITY CONSTRUCTION GRANT PROGRAM:

Recognizing that wastewater treatment projects vary in complexity and community impact, the proposed public participation requirements institute a two-tiered program: An abbreviated public participation program, suitable to less complex projects with only moderate or minimal community impact, and a full-scale program, for projects of greater complexity and community impact.

It is currently estimated that a maximum of 30 percent of the Step 1 (facility planning) projects would require a full-scale public participation program in fiscal year 1979. Exemptions from the abbreviated public participation program would be available for certain minor projects upon approval of the Regional Administrator.

Significant issues raised in comments submitted on the construction grant public participation concept paper are as follows:

1. *Discretion.* Many commenters supported the public participation requirements outlined in the March concept papers and suggested additional requirements which should be applied to assure an adequate level of public participation. Many other commenters indicated that the concept papers were already too detailed and suggested that they be revised to provide more discretion to States, localities, and EPA regions.

The proposed regulations provide more flexibility and discretion than did the concept papers. Specific areas where flexibility or discretion have been provided are as follows:

The criteria that trigger the full-scale program were modified to permit the Regional Administrators increased discretion in making these determinations.

The criteria for exempting projects were modified to permit grantees with minor projects to petition the Regional Administrator for an exemption

from the abbreviated program requirements.

Advisory groups are required for the full-scale program to assist the grantee by providing a mechanism for consultation by an informed core group of citizens. This is considered an essential element for adequate public involvement in projects with potentially significant social, economic or environmental consequences However, considerable flexibility has been provided in advisory group requirements (see the discussion of Advisory Groups above).

2. *Resources.* Implementation of a full-scale program for a maximum of 30 percent of new Step 1 projects and an abbreviated program for the remaining projects (minus exemptions) would, as many commenters pointed out, increase the resources demands on EPA, States, and Grantees. The Agency recognizes the resource requirements of an adequate public participation effort and is taking action to meet its own staff requirements, particularly in the regional offices. State resources may be augmented by funds available for State management assistance under section 205(g) of the Clean Water Act of 1977. At the local level, the required public participation activities will be eligible 75 percent Federal funding. The additional local costs for public participation should be small in comparison to the total project costs, particularly construction and operating costs. Currently, the facilities planning process (Step 1) where the proposed public participation requirements are concentrated accounts for only 2 to 5 percent of the total cost of a municipal wastewater treatment project. Small additional expenditures in the facility planning stage ultimately can assist a community to achieve significant savings through development of projects which are less costly to build or operate.

3. *Early Public Involvement.* Numerous comments from many interests stressed the importance of informing and involving the public in the early, formative stages of the facilities planning process. The Agency agrees that public input should be focused in the early stages of facilities planning. However, since activities prior to step 1 grant award are not grant eligible, the Agency is reluctant to impose public participation requirements at that stage. Consequently, the proposed regulations include no pre-Step 1 grant award public participation requirements except public notification and consultation in development of the plan of study and a brief outline of the public participation program in the plan of study. The agency encourages, but does not require, grantees to undertake other early involvement activities, especially during plan of study development.

4. *Paperwork.* See discussion of paperwork above.

5. *Coordination with Water Quality Management Planning.* The water quality management planning program (authorized by section 208 of the Clean Water Act) and the municipal wastewater treatment construction grants program (authorized by section 201 of the Act) are closely related. Many commenters urged that 208 advisory groups be used for 201 planning.

EPA agrees that there must be formal liaison between 201 and 208 planning and public participation activities. It is Agency policy to encourage such coordination whenever possible; however, the mechanism for coordination will be left to local discretion. The Agency believes that the different geographic scope of 208 advisory groups and the already heavy demands upon their time militate against mandating that 208 advisory groups also provide detailed advice to 201 planners. This would, however, be acceptable to the Agency if grantees determined that it is the most effective approach.

6. *Public participation in Steps 2 and 3.* The concept papers raised the issue of requiring that a public participation program continue in Step 2 (design) and Step 3 (construction) of the construction grant process. Comment was mixed on this matter. The current proposal provides that the grantee, after consultation with the public and the advisory group where appropriate, can plan and conduct public participation activities in Step 2 and Step 3. The grantee must prepare and have approved a brief work plan for public participation to make such activities grant eligible. The proposed regulations also require public notice, information, and consultation in the adoption of the user charge system and the industrial cost recovery system which are not usually finalized until sometime in Step 2 or Step 3.

7. *Public participation staffing in full-scale program.* Many commenters indicated that the term "public participation specialist" which was used in the March concept papers, would require a community to recruit and hire highly trained professionals at considerable expense. These individuals might not be familiar with the community and its interests and problems. Other commenters suggested that EPA require the public participation staff to be very familiar with the community. It was suggested that public participation functions should be carried out by a community organization or local public interest group under contract to the grantee.

Academic training will not be a requirement for the public participation staff. To indicate the type of staffing which will satisfy the requirement, the term in the proposed regulations has been changed from "public participation specialist" to "public participation coordinator." The Agency is sympathetic with the concept of meeting public participation staff requirements through a contract to a community group, but it questions whether this should be a requirement. Additional public comment on this issue is invited.

Many commenters indicated that an advisory group must have its own staff to be effective. The Agency does not have enough information at this time to require that advisory groups to facility planning processes be provided with their own staff. However, the intent of the general advisory group requirements in Part 25 is that the grantee provide staff support to the advisory group.

8. *Delay.* Some commenters indicated that the public participation requirements would substantially increase the time required to construct facilities for municipal wastewater treatment. These contentions were not supported by data demonstrating that public participation necessarily results in delay. Some projects begun after promulgation of the new regulations may take more time in facility planning due to public participation activities; however, public participation can also shorten project time by permitting faster progress through environmental reviews, avoiding time-consuming controversy, promoting public acceptability of the approved plan, and thus helping to obtain passage of bond issues to pay the local share.

NOTE: The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: July 31, 1978.

DOUGLAS M. COSTLE,
Administrator.

1. 40 CFR is amended by deleting Parts 105 and 249.

2. 40 CFR is amended by adding a new Part 25 reading as follows:

PART 25—PUBLIC PARTICIPATION IN PROGRAMS UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT, THE SAFE DRINKING WATER ACT, AND THE CLEAN WATER ACT

Sec.
25.1 Purpose and scope.
25.2 Policy and objectives.
25.3 Information and consultation responsibilities.
25.5 Enforcement.
25.7 Legal proceedings.
25.9 Rulemaking.
25.11 Grant work elements.
25.13 Responsiveness summaries.
25.15 Summary of public participation.

25.17 Assuring compliance with requirements.
25.19 Coordination and nonduplication.

AUTHORITY: Sec. 101(e), Clean Water Act, as amended (33 U.S.C. 1251(e)); sec. 7004(b) of the Resource Conservation and Recovery Act (42 U.S.C. 6974(b)); sec. 1450(a)(1) of the Safe Drinking Water Act, as amended (42 U.S.C. 300j-9).

§ 25.1 Purpose and scope.

(a) This part sets forth requirements for public participation in activities described in paragraph (b) under the Clean Water Act, the Resource Conservation and Recovery Act, and the Safe Drinking Water Act.

(b) The activities covered by this part are:

(1) EPA rulemaking;

(2) EPA administration of permit programs;

(3) Development by EPA of major informational materials intended for wide distribution to the public;

(4) When a Deputy Assistant Administrator determines it to be appropriate, development by EPA of strategy and policy guidance memoranda;

(5) Development and implementation of plans, programs, construction, and other activities supported with EPA grants to State, interstate, regional, and local agencies (hereinafter referred to as "State and substate agencies");

(6) Delegation of programs to States and substate agencies, and administration of such delegated programs;

(7) Such other activities as the Assistant Administrator for Water and Waste Management, the Assistant Administrator for Enforcement, or any EPA Regional Administrator deems appropriate in view of the Agency's responsibility to involve the public in significant decisions.

(c) Activities which are not covered by this part, except as otherwise provided under paragraph (b)(7) or (d) of this section, are activities under Parts 33, 39, 40, 45, and 46 of this chapter.

(d) Some programs covered by regulations in this chapter contain further provisions concerning public participation. Therefore, the reader should review both the provisions in this part and the provisions elsewhere in this chapter which are applicable to the program of interest. Regulations governing public information use and release are set forth in Part 2 of the chapter.

(e) These regulations are applicable to the activities of all grantees whose grants are awarded after (the effective date of final regulations), and to all other covered activities of EPA, State and substate agencies which occur after that date. These regulations will be applicable to ongoing grants or other activities upon any significant change in the activity (for example, upon a significant proposed increase in project scope of a construction grant). Parts 105 and 249 will no longer appear in the Code of Federal Regulations; however, they will remain applicable, in uncodified form, to grants awarded prior to the effective date of this part and to all other ongoing activities.

§ 25.2 Policy and objectives.

(a) It is EPA policy that EPA and all State and substate agencies participating in activities described in § 25.1 will provide for, encourage, and assist the participation of the public to the fullest extent practicable. Those responsible for covered activities must continuously strive to make public participation happen. Particular emphasis must be directed toward encouragement and assistance, including determining why the public does not participate in an action and overcoming the identified obstacles. Merely conferring with the public after a final agency decision does not meet this policy requirement.

(b) The following shall be the objectives of all actions of EPA and State and substate agencies under this part:

(1) To assure that the public understands official programs and proposed actions, and that government understands public concerns;

(2) To assure that no significant government decision on any activity covered under this part is made without consultation with interested and affected segments of the public;

(3) To assure that government action is responsive to the maximum extent feasible to public concerns, and to demonstrate that public concerns are evaluated and considered;

(4) To promote public support of environmental laws;

(5) To keep the public informed of significant issues and proposed project or program changes as they arise;

(6) To foster a spirit of openness and mutual trust among EPA, States, substate agencies and the public; and

(7) To continuously strive to make public participation happen, by using all feasible means to furnish opportunities for participation and by stimulating and supporting participation.

§ 25.3 Information and consultation responsibilities.

(a) *General.* EPA, State, and substate agencies shall conduct a continuing program for public information and participation in the development and implementation of activities covered by this part. Where functions are delegated to a State by EPA, the State shall be responsible for meeting the requirements for public participation which EPA otherwise would be required to meet.

(b) *Information and assistance requirements.* Public information is a necessary prerequisite for meaningful, active public involvement. Informational activities must be designed to encourage and facilitate the public's participation in all significant decisions, particularly where alternative courses of action are proposed. Each agency shall provide continuing policy, program, and technical information and assistance at the earliest practicable times and at places easily accessible to interested or affected persons and organizations. Fact sheets, news releases, newsletters, and other publications may be used for this purpose. Informational materials must be comprehensive and easily understood. Special efforts shall be made to clearly and concisely summarize complex technical materials for public and media uses. Lengthy documents should be summarized (noting where the full document can be obtained). Information must be timely. It is essential that informational materials highlight significant issues that will be the subject of decision-making. Whenever possible, the social, economic, and environmental consequences of proposed decisions should be clearly stated. Agencies should identify segments of the public likely to be affected by agency decisions and target specific informational materials toward them (in addition to the materials directed toward the general public). Each agency shall provide in a convenient location or locations, one or more central public collections or depositories of relevant documents. Examples of such documents are grant and permit applications, permits, effluent discharge information, compliance schedule reports, and materials specified in section 208(b) of the Clean Water Act. Copying facilities at reasonable cost should be available. Requests for information directed to the agency shall be promptly handled.

(c) *Public notification.* Each agency shall develop and maintain a list of persons and organizations who have expressed an interest in or may by the nature of their purposes, activities or members be affected by or have an interest in any covered activities. Those on the list shall receive timely and periodic distribution of materials under paragraph (b) of this section. In addition, the Agency shall provide written notification to those on its mailing list and media at times when major decisions are being made and in conjunction with consultation activities under paragraphs (d)(2), (3) and (4) of this section. Where specific hearing or other notice requirements exist in law or other regulations in this chapter, such actions shall be supplemented, to the extent not duplicative, with informal notice to all interested persons or organizations having requested in advance such notice. All advance notifi-

cations under this part must be provided sufficiently in advance of Agency action to permit time for public response; generally, this should not be less than 30 days. Media publication which is obscure (e.g., legal notification pages) shall not be acceptable as the sole means of public notification.

(d) *Public consultation.*—(1) *General.* "Public consultation" means an exchange of views between governmental agencies and interested or affected persons and organizations in order to meet the objectives set forth in § 25.2 Three common forms of public consultation, discussed further below, are public hearings, public meetings, and advisory groups; other less formal consultation mechanisms include review groups, ad hoc committees, task forces, workshops, seminars, and informal personal communications with individuals and groups. Public consultation must be preceded by timely information activities under paragraphs (b) and (c) of this section, and must occur sufficiently in advance of decisionmaking to permit response to public views prior to agency action. EPA, State and substate agencies shall provide for early and continuing public consultation in any significant action covered by this part. In addition to holding hearings and meetings as specifically required in this chapter, a hearing or meeting shall be held if there is significant public interest or if EPA, the State or substate agency determines that a hearing or meeting would be useful.

(2) *Public hearings.*—(i) *Applicability.* Where nonadjudicatory public hearings are required in this chapter, the following minimum requirements apply. These requirements are subordinate to any more stringent requirements found elsewhere in this chapter or otherwise imposed by EPA, State or substate agencies. Procedures developed for adjudicatory hearings required by this chapter shall be consistent with the public participation objectives of this part, to the extent practicable.

(ii) *Notice.* A notice of each hearing shall be well publicized, and shall also be mailed to the list of interested and affected persons and organizations under § 25.3(c). Except as otherwise specifically provided elsewhere in this chapter, these actions must occur at least 45 days prior to the date of the hearing. The notice shall identify the matters to be discussed at the hearing and shall be accompanied by a fact sheet supplementing the contents of the notice with a discussion of the agency's tentative determination on major issues (if any), a bibliography of relevant materials, and procedures for obtaining further information. Reports, documents and data relevant to the discussion at the public hearing shall be available to the public for a reasonable time prior to the hearing, generally not less than 30 days.

(iii) *Locations and time.* Hearings must be held at times and places which, to the maximum extent feasible, avoid travel hardships and facilitate attendance by the public. Accessibility of public transportation, and use of evening and weekend hearings, should be considered. In the case of statewise programs, holding more than one hearing should be considered.

(iv) *Scheduling presentations.* Witnesses at public hearings shall be scheduled in advance when necessary to ensure maximum participation and allotment of adequate time for all speakers. However, some time must be reserved for unscheduled testimony. Blocks of time may be considered for major categories of witnesses.

(v) *Conduct of hearing.* The agency conducting the hearing shall inform the audience of the issues involved in the decision to be made, the considerations the agency will take into account under law and regulations, the agency's tentative determinations (if any), and the information which is particularly solicited from the public. The agency should hold a question and answer period before presentations begin. Procedures shall not unduly inhibit free expression of views (for example, by onerous written statement requirements or qualification of witnesses beyond minimum identification).

(vi) *Record.* A transcript or other record of public hearing proceedings shall be developed and made promptly available at no more than cost to anyone who requests it.

(3) *Public meetings.* Public meetings differ from public hearings only in that they are less formal, formal presentation scheduling is not required, and a record of proceedings need not be maintained. The requirements of § 25.3(d)(2) (ii) and (iii) are applicable to public meetings, except that the notice requirement of 45 days may be reduced, if the notice specifies a reason.

(4) *Advisory groups.*—(i) *Applicability.* The requirements of this section on advisory groups shall be met whenever provisions in parts 30 or 35 of this chapter require use of an advisory group by State or substate agencies involved in activities supported by an EPA grant.

(ii) *Role.* Primary responsibility for decisionmaking in environmental programs is vested by law in the elected and appointed officials who serve on public bodies and agencies at various levels of government. Public participation in environmental quality planning must, however, extend to all segments of the public. Accordingly, where EPA finds that there is a need for continued attention of an informed core group of citizens, advisory groups are required in program regulations. Such advisory groups will not be the sole mechanism for public participation, but will complement other mechanisms. They are intended to assist the decisionmaking officials by making recommendations on important issues. In addition, advisory groups can encourage a constructive interchange among the various interests present on the group and enhance the prospect of community acceptance of agency action.

(iii) *Membership.* (A) Generally, where the activity has a particular geographic focus, the advisory group shall be made up of persons who are residents of that geographic area.

(B) A majority of advisory group members shall be private citizens and representatives of public interest groups reflecting a balance of interests in the project area. For purposes of this requirement, a "public interest group" is an organization which represents a general civic, social, environmental, or public health perspective in the community and which does not directly reflect the economic interests of its membership or general economic interests otherwise appropriately represented under paragraph (d)(4)(iii)(C) of this section. While the private citizens and representatives of public interest groups must include interested and affected persons, no person may be included on the portion of the advisory group addressed by this paragraph who is likely to incur a substantial financial gain or loss as a result of any action likely to be taken by the grantee.

(C) The grantee should also provide an opportunity for representation on the advisory group of public elected and appointed officials and of organizations representing substantial economic interests of the community (for example, farmers' organizations in areas which are agricultural). Advisory group members appointed under this paragraph are not subject to the conflict-of-interest provision set forth in paragraph (d)(4)(iii)(B) of this section.

(D) The grantee shall require all prospective advisory group members to make written disclosure of personal and organizational economic interests in the activity as a condition of membership on the advisory group, in accordance with supplementary EPA guidance.

(iv) *Grantee support and responsibilities.* The grantee shall designate a staff contact who will be responsible for day-to-day coordination between the advisory group, the grantee, and the grantee's consultant. The grant agreement shall include a budget item

for this staff contact. Where substantial portions of the grantee's responsibilities will be met under contract, the grantee shall require a similar designation, and budget specification, of its contractor. In the latter event, the grantee, need not designate a separate staff contact on its own staff, if the Regional Administrator determines that the contractor's designation will result in an adequate level of coordination. In all cases, the staff contact shall be located in the project area. The grantee shall provide the advisory group with information and other appropriate support in accordance with EPA guidance.

(v) *Advisory group authority and duties.* The advisory group shall be appointed by the grantee in accordance with the requirements of this section. The advisory group shall undertake its responsibilities fully and promptly in accordance with the policies and requirements of this part. Nothing shall preclude the right of the advisory group to request EPA to perform an evaluation of the grantee's compliance with the requirements of this part. EPA will provide supplementary guidance on advisory group coordination responsibilities, organization, and procedures.

(vi) *Training and assistance.* EPA will promptly provide appropriate written guidance and project information to the newly formed advisory group and may provide advice and assistance to the group throughout the life of the project. EPA will develop and carry out a program to provide a training session for the advisory committee and appropriate grantee representatives promptly after its formation. The grantee will provide that any additional needed training or information is provided to advisory group members as the need arises.

(vii) *Grantee recordkeeping requirements.* The grantee shall prepare a written statement of its responses to any formal recommendation of the advisory group, which shall be available to the public. The grantee shall record the names and addresses of each member of the advisory group, with the attributes of each in relation to the requirements of § 25.3(d)(4)(iii) and shall provide a copy to EPA and make the list available to the public.

§ 25.5 Enforcement.

Each State and substate agency shall develop internal procedures for receiving and insuring proper consideration of information and evidence submitted by citizens about violations of pollution control requirements. Public effort in reporting violations shall be encouraged, and the agency shall make available information on reporting procedures. Alleged violations shall be promptly investigated by the Agency.

§ 25.7 Legal proceedings.

EPA and each State and substate agency shall provide full and open information on legal proceedings to the extent not inconsistent with court requirements, and where such disclosure would not prejudice the conduct of the litigation. EPA actions shall be consistent with the statement of policy issued by the Department of Justice with regard to affording opportunities for public comment before the Department of Justice consents to a proposed judgment in an action to enjoin discharges of pollutants into the environment. (See Title 28, Code of Federal Regulations, Chapter I, § 50.7)

§ 25.9 Rulemaking.

In addition to providing an opportunity for public hearings on proposed and interim regulations, EPA shall invite and consider comments in writing from any interested or affected persons and organizations. All such comments shall be part of the public record and a copy of each comment shall be available for public inspection. EPA will maintain a docket of comments received and Agency responses, if any. Notices of proposed and interim rulemaking, as well as final rules and regulations, shall be distributed in accordance with § 25.3(c) to interested or affected persons promptly after publication. Each notice shall include information as to the availability of the full texts of rules and regulations (where these are not set forth in the notice itself) and places where copying facilities shall be available at reasonable cost to the public. Under Executive Order 12044 (March 23, 1978), further EPA guidance will be issued concerning public participation in EPA rulemaking. A summary of public participation will be published as part of the preamble to interim and final regulations.

§ 25.11 Grant work elements.

(a) This section is applicable to activities under § 25.1(b)(4) except as otherwise provided in parts 30 or 35.

(b) Each grant applicant shall set forth in the application a public participation work plan or work element which reflects how public participation will be provided for, encouraged, and assisted in accordance with this part. This work plan or element shall cover the project period. At a minimum, the work plan or element shall state:

(1) Staff and budget resources to be devoted to public participation by category;

(2) A proposed schedule of public participation activities according to major points in the program;

(3) The types of consultation to be used;

(4) Informational mechanisms to be used; and

(5) The segments of the public targeted for involvement.

(c) All reasonable costs of public participation incurred by grantees which are identified in an approved public participation work plan or element, or which are otherwise approved by EPA, shall be allowable.

§ 25.13 Responsiveness summaries.

At specific decision points specified in program regulations, agencies are required to prepare a responsiveness summary. This document is an identification of the public participation activity conducted; a summary of the public's views, comments, criticisms, and suggestions; and the Agency's specific responses in terms of modifications to the proposed action or an explanation for rejection of proposals made by the public. The responsiveness summary shall accompany the record of the decision. Responsiveness summaries shall be made available to the public. Responsiveness summaries shall be used as part of evaluations required under this part or elsewhere in this chapter.

§ 25.15 Summary of public participation.

Each agency which conducts any activities required under this part shall prepare a summary of public participation where specified in program regulations. The summary shall describe the matters brought before the public, the measures taken by the agency to meet its responsibilities under this part and related provisions elsewhere in this chapter, the public response, and the agency's response to significant comments. Responsiveness summaries may be used to meet appropriate portions of these requirements to avoid duplication. The summary of public participation shall be forwarded to the appropriate EPA Assistant Administrator or Regional Administrator as required in program regulations and shall be made available to the public.

§ 25.17 Assuring compliance with requirements.

(a) *Grant programs.*—(1) *Grant applications.* EPA shall review the public participation work plan (or, if no work plan is required for the particular grant by this chapter, the public participation element) included in the grant application to determine consistency with all policies and requirements of this part. No grant shall be awarded unless EPA is satisfied that the public participation policies

and requirements of this part and part 35 will be met.

(2) *Compliance.*—(i) *Evaluation.* EPA shall evaluate grantee compliance with public participation requirements using the work plan, responsiveness summary, summary of public participation, and other available information. The adequacy of public participation effort shall be judged in relation to the requirements of §§ 25.2 and 25.3. In conducting such evaluation, EPA may request additional information from the grantee, including records of hearings and meetings, and may invite public comment on the performance of the grantee. The evaluation will be undertaken as part of any midproject review required in various programs under this chapter; where no such review is required the review shall be conducted at an approximate midpoint in continuing EPA oversight activity. EPA may, however, undertake such evaluation at any point in the project period, and will do so whenever it believes there may be a failure to meet public participation requirements.

(ii) *Remedial actions.* Whenever EPA determines that public participation requirements are not fully met, EPA shall take actions which it deems appropriate to assure that the adverse effects of the failure are mitigated and the failure is not repeated. For ongoing projects, such action shall include, at a minimum, imposing more stringent requirements on the grantee for the next budget or other period of the project (including such actions as more specific output requirements and milestone schedules for output achievement; interim EPA review of public participation activities and materials prepared by the grantee; and phased release of grant funds based on compliance with milestone schedules). EPA may terminate or suspend part or all of a grant for noncompliance with public participation requirements, and may take such other further actions it deems appropriate in accordance with the provisions of parts 30 and 35 of this chapter (see, in particular, §§ 30.340 and 30.615-3, and subpart H of part 30).

(b) *Water permit programs.* Compliance with public participation requirements in the permit programs (see part 124) administered by approved States shall be monitored by EPA during the annual review of the State's water program (see § 35.570) and during the review of State permit programs. Failure to comply with public participation requirements may constitute grounds for withdrawing the program from a State.

(c) *Other covered programs.* [Reserved]

§ 25.19 Coordination and nonduplication.

Public participation activities and materials required under this part may be combined with closely related programs or activities wherever such combination will enhance the economy, the effectiveness, or the timeliness of the effort, enhance the clarity of the issue, and not be detrimental to participation by the widest possible public. Hearings and meetings may be held jointly by more than one agency on the same matter, where such procedure does not conflict with the policy above. Special efforts shall be made to coordinate public participation procedures under this part and applicable regulations elsewhere in this chapter with environmental assessment and analysis procedures under 40 CFR Part 6. Interstate agencies particularly are encouraged to develop combined proceedings on behalf of the States concerned.

3. 40 CFR Part 35 Subpart E is amended by revising § 35.903(o) to read as follows:

§ 35.903 Summary of construction grant program.

* * * * *

(o) It is the policy of the Environmental Protection Agency to provide for, encourage, and assist public participation in the construction grant program. Public participation is required:

(1) In the development of the State project priority system and list under § 35.915;

(2) In the development of facilities plans, in accordance with § 35.917-5;

(3) In the development of user charge systems, in accordance with § 35.925-11, and industrial cost recovery systems, in accordance with § 35.925-12; and

(4) In the delegation of administrative responsibilities for the construction grant program under § 35.1000 et seq.

4. 40 CFR Part 35, Subpart E is amended by revising § 35.917-1(g) to read as follows:

§ 35.917-1 Content of facilities plans.

* * * * *

(g) A summary of public participation, consistent with § 25.15 of this chapter and § 35.917-5(g).

5. 40 CFR Part 35, Subpart E is amended by revising § 35.917-5 to read as follows:

§ 35.917-5 Public participation.

(a) *General.* Public participation in the facilities planning process shall be provided for, encouraged, and assisted consistent with section 101(e) of the Act and with part 25 of this chapter. Citizens shall be provided with information about and shall be given the opportunity to become involved in:

(1) The assessment of local water quality problems and needs;

(2) The identification and evaluation of appropriate waste treatment technologies and locations for treatment works;

(3) The evaluation of social, economic, fiscal, and environmental impacts; and

(4) The resolution of other significant facilities planning decisions.

(b) *Abbreviated public participation program.* Public participation in the facilities planning process (except for those projects exempt under paragraph (c) of this section and those qualifying for the full-scale program under paragraph (d) of this section) shall include, but not be limited to, the following:

(1) Public notification and consultation in development of the plan of study.

(2) An outline in the plan of study of the types of consultation and information mechanisms to be used, the segments of the public targeted for involvement, the mechanisms for coordination with any pertinent 208 public participation programs, projected budget and staff commitments, and the schedule for public participation as part of the schedule for completion of specific tasks (see § 35.920-3(a)(1)).

(3) Submission to EPA of a brief public participation work plan (see § 25.11 of this chapter) within 45 days after the date of acceptance of a step 1 grant award. The work plan shall be widely distributed to groups and individuals who may be interested in or affected by the project. A project fact sheet shall accompany the work plan and shall identify the professional consulting engineer responsible for preparation of the facilities plan. The work plan shall set forth:

(i) Staff and budget resources committed to public participation;

(ii) A schedule of public participation activities according to major points in the program;

(iii) Types of public consultation mechanisms to be used (see § 25.3(d) of this chapter);

(iv) Types of informational materials and mechanisms to be used and methods for distribution;

(v) Segments of the public targeted for involvement; and

(vi) Coordination mechanisms with any pertinent 208 public participation programs.

(4) Consultation with the public (see § 25.3(d) of this chapter) early in the facilities planning process when the assessment of the existing and future situations is being made and before the selection of alternatives for evalu-

ation according to the cost-effectiveness analysis procedures.

(5) A public meeting when alternatives are largely developed but before an alternative or plan has been selected.

(6) A public hearing in accordance with § 25.3(d)(2) of this chapter prior to the adoption of the facilities plan. This public hearing may be held in conjunction with the public hearing on the draft environmental impact statement under § 6.914 of this chapter.

(7) Efforts to keep the public continously informed of the progress of the facilities planning process, especially treatment alternatives, costs, and environmental impacts.

(8) A summary of public participation (in accordance with §§ 25.15 and 35.917-5(g) of this chapter).

(c) *Exemption from public participation program requirements.* (1) Upon petition by the grant applicant, the Regional Administrator may exempt from the requirements of paragraphs (b) and (d) of this section, except for the public hearing required by § 35.917-5(b) and public disclosure of costs, projects in which only minor plant upgrading or minor sewer rehabilitation is anticipated by the State Project Priority List. Before granting any exemption, the Regional Administrator shall issue a public notice of intent to waive the above requirements and shall allow 30 days for response. If responses indicate that serious local issues exist, then the Regional Administrator shall deny the exemption.

(2) During the facilities planning process, if the Regional Administrator determines that the project no longer meets the exemption criteria stated above, then the exemption to public participation program requirements lapses. The grantee, in consultation with the Regional Administrator, shall then undertake public participation activities commensurate with the abbreviated Public Participation Program but adjusted for constraints imposed by facilities planning activities already completed.

(3) If a project is segmented, the Regional Administrator shall look at the project as a whole when considering any petition for exemption.

(d) *Full-scale Public Participation Program criteria.* (1) A full-scale Public Participation Program under paragraph (e) of this section is required for all projects for which EPA prepares an Environmental Impact Statement under part 6 of this chapter during facilities planning. In addition, a full-scale program under paragraph (e) is required during facilities planning for any other project for which the Regional Administrator determines that enhanced public access to decisionmaking is needed because of the possibility of particularly acute effects on matters of citizen concern, as indicated by one or more of the following:

(i) Significant change in land use or impact on environmentally sensitive areas;

(ii) Significant increase in treatment plant, interceptor capacity or sewered area;

(iii) Substantial total cost to the community or substantial cost to user (i.e., costs not reimbursed under grant);

(iv) Significant general public controversy;

(v) Significant impact on local population or economic growth;

(vi) Substantial opportunity for use of innovative or alternative technology.

(2) A full-scale Public Participation Program shall be initiated as soon as the determination in subparagraph (1) of this paragraph is made. Generally, the determination should be made prior to or with the award of the step 1 grant. However, if the Regional Administrator's determination under subparagraph (1) of this paragraph to require a full-scale program occurs after initiation of facility planning because of newly discovered circumstances, the grantee shall initiate an expanded public participation program at that point. The Regional Administrator shall determine that the expanded program is at least as inclusive as a normal full-scale Public Participation Program, except for constraints imposed by facilities planning activities already completed.

(e) *Full-scale Public Participation Program.* The full-scale Public Participation Program shall include the following:

(1) All of the requirements for an abbreviated Public Participation Program contained in paragraph (b) of this section, except that a public meeting, rather than other public consultation mechanisms, is required when the assessment of the existing and future situations is being made and before the alternatives to be studied are selected.

(2) A public participation coordinator designated or hired by the grantee immediately after the step 1 grant award.

(3) A public advisory group established by the grantee immediately after the step 1 award, in compliance with the advisory group requirements of § 25.3(d)(4) of this chapter.

(4) Consultation with the advisory group and the public:

(i) In the development of the work plan;

(ii) Early in the facilities planning process when the assessment of the existing and future situations is being made and before the selection of alternatives for evaluation according to the cost-effectiveness analysis procedures;

(iii) When alternatives are largely developed but before an alternative or plan has been selected;

(iv) Otherwise as appropriate.

(f) *Public notification.* Adequate advance notice of public meetings and public hearings shall be provided the public, consistent with § 25.3(d)(2) of this chapter. Generally, 45 days (but not less than 30 days) notice shall be provided. Appropriate local and State agencies, State and regional clearinghouses, interested environmental groups and appropriate local public officials should receive written notice of public meetings and hearings.

(g) *Reporting.* The grantee shall prepare responsiveness summaries in accordance with § 25.13 of this chapter and this section. For projects conducted under the abbreviated Public Participation Program the grantee shall prepare responsiveness summaries following the public consultation and the public meetings required by paragraph (b) of this section, and also as a part of the summary of public participation (see § 25.15 of this chapter) in the completed facilities plan. For projects conducted under the full-scale Public Participation Program the grantee shall prepare responsiveness summaries following the required public meetings and as a part of the summary of public participation in the completed facilities plan. The grantee shall promptly and widely distribute copies of the responsiveness summaries to interested or affected members of the public and will submit a copy to EPA separately or in conjunction with progress reports (see 40 CFR Part 35 § 917-3(d)).

(h) *Relationship between facility planning (201) and water quality management planning (208).* The grantee must provide for a formal liaison between the facilities planning advisory group (or the grantee, where there is no advisory group) and any areawide advisory committee established under section 208 of the act.

6. 40 CFR Part 35 Subpart E is amended by revising § 35.920-3(a)(1) and by adding a new subparagraph (10) to § 35.920-3(b) to read as follows:

§ 35.920-3 Contents of application.

(a) * * *

(1) A plan of study presenting (i) the proposed planning area; (ii) an identification of the entity or entities that will be conducting the planning; (iii) the nature and scope of the proposed step 1 project and public participation program, including a schedule for the completion of specific tasks; and (iv)

an itemized description of the estimated costs for the project;

* * * * *

(b) * * *

(10) A work plan for public participation for steps 2 and 3 if the grant applicant, after consultation with the public and its advisory group (if one exists), determines it to be necessary;

7. 40 CFR Part 35 Subpart E is amended by revising § 35.925-11 to read as follows:

§ 35.925-11 User charges.

That, in the case of grant assistance awarded after March 1, 1973, for a project involving step 2 or step 3, an approvable plan and schedule of implementation have been developed, with adequate public information and consultation, for a system of user charges to assure that each recipient of waste treatment services within the applicant's service area will pay its proportionate share of the costs of operation and maintenance (including replacement as defined in § 35.905-17 of this chapter) of all waste treatment service provided by the applicant and the applicant must agree that such system(s) will be maintained. See Appendix B to this subpart.

8. 40 CFR Part 35 Subpart E is amended by revising paragraph (a) of § 35.925-12 to read as follows:

§ 35.925-12 Industrial cost recovery.

(a) That, in the case of any grant awarded after March 1, 1973, for a project involving step 2 or step 3, signed letters of intent have been received by the applicant from each significant industrial user to pay that portion of the grant amount allocable to the treatment of its wastes. Each such letter shall also include a statement of the industrial user's intended period of use of the treatment works. A significant industrial user is one that will contribute greater than 10 percent of the design flow or design pollutant loading of the treatment works. In addition, the applicant shall inform and consult with the public about the industrial cost recovery system and must agree to require all industrial users to pay that portion of the grant amount allocable to the treatment of wastes from such users.

9. 40 CFR Part 35 Subpart E is amended by revising paragraph (h) of § 35.928-1 of the interim final regulations published in the FEDERAL REGISTER on April 25, 1978, to read as follows:

§ 35.928-1 Approval of the industrial cost recovery system.

* * * * *

(h) *Adoption of system.* The industrial cost recovery system must be incorporated in one or more municipal legislative enactments or other appropriate authority. If the project is a regional treatment works accepting wastewaters from other municipalities, the subscribers receiving waste treatment service from the grantee shall have adopted industrial cost recovery systems in accordance with section 204(b)(1)(B) of the act and these regulations. Such industrial cost recovery systems shall also be incorporated in the appropriate municipal legislative enactments or other appropriate authority of all municipalities contributing waste to the system. Affected segments of the public shall be consulted prior to adoption of the industrial cost recovery system.

10. 40 CFR Part 35 Subpart E is amended by revising paragraph (e) of § 35.929-2 of the interim final regulations published in the FEDERAL REGISTER on April 25, 1978, to read as follows:

§ 35.929-2 General requirements for all user charge systems.

* * * * *

(e) *Adoption of system.* The user charge system must be incorporated in one or more municipal legislative enactments or other appropriate authority. If the project is a regional treatment works or part of a regional system accepting wastewaters from other municipalities, the subscribers receiving waste treatment services from the grantee shall have adopted user charge systems in accordance with section 204(b)(1)(A) of the Clean Water Act and §§ 35.929 through 35.929-3. Such user charge systems shall also be incorporated in the appropriate municipal legislative enactments or other appropriate authority of all municipalities contributing waste to the system. Affected segments of the public shall be informed of the financial impact of the user charge system on them and shall be consulted prior to adoption of the system.

11. 40 CFR Part 35 Subpart E is amended by adding a new paragraph (r) to § 35.940-1 to read as follows:

§ 35.940-1 Allowable project costs.

* * * * *

(r) Reasonable costs of public participation incurred by grantees which are identified in a public participation work plan, or which are otherwise approved by EPA, shall be allowable.

[FR Doc. 78-21871 Filed 8-4-78; 8:45 am]

[6560-01]

[40 CFR Part 180]

[FRL 940-4; PP 6E1700 and 7E1894/P79]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical Oxytetracycline

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that oxytetracycline be used on peaches. The proposal was submitted by the Interregional Research Project No. 4. This amendment to the regulations would establish a maximum permissible level for residues of oxytetracycline on peaches.

DATE: Comments must be received on or before September 6, 1978.

ADDRESS: Send comments to Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401 East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (WH-567), Office of Pesticide Programs, EPA (202-755-2516).

SUPPMEMENTARY INFORMATION: Dr. C. C. Compton, coordinator, Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the agricultural experiment stations of Connecticut, Delaware, Georgia, Illinois, Maryland, Michigan, Missouri, North Carolina, New Jersey, New York, and South Carolina has submitted pesticide petitions (PP 6E1700 and 7E1894) to the EPA. These petitions request that the Administrator propose that 40 CFR 180.337 be amended by the establishment of a tolerance for residues of the pesticide chemical oxytetracycline in or on the raw agricultural commodity peaches at 0.1 part per million (ppm).

Prior to the issuance of this proposal, there were discussions within the Agency as to whether oxytetracycline should be characterized as a fungicide or antimicrobial agent. Both terms are correct descriptors since the pesticide contains aspects of both. Therefore, oxytetracycline is being described in this proposl as a pesticide without specific reference to either descriptor.

The data submitted in the petition and other relevant material have been

evaluated. The toxicological data considered in support of the proposed tolerances included lifetime feeding studies in rats showing that 3,000 ppm did not effect the animals. Using a conservative safety factor of 2,000, the acceptable daily intake (ADI) for man is 0.075 mg/kg of body weight/day (or 45 mg for a 60-kg man). The recommended oral does of oxytetracycline for humans when used as a drug is 250 mg; in veterinary medicine, higher doses are recommended. Other factors also considered in support of the proposed tolerance were that: (1) Continued use of oxytetracycline for fungal control should not, theoretically, foster rapid development of resistance on the part of target or (nontarget) microbial forms present, (2) there is little risk that oxytetracycline-resistant gut flora will be selected in humans consuming treated pears and peaches, and (3) high exposure groups of humans have not shown incidence of bacterial disease beyond groups not exposed to antibacterials. Thus, agricultural workers subject to higher exposure than the general population would not be expected to be subject to adverse effects.

A tolerance for residues of oxytetracycline was previously established on pears at 0.35 ppm, and the nature of the residues is adequately understood. An adequate analytical method based on the standard testing procedure for antibiotics is available. There are no pending regulatory actions against continued registration of oxytetracycline and no data considered desirable but currently lacking.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before September 6, 1978, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control numbers, "PP6E1700 and 7E1894/P79." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Office of the Federal Register from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

It is proposed that part 180, subpart C, § 180.337 be revised by alphabetically reformatting the section into an alphabetized columnar listing, deleting the word "hydrochloride" from the heading and text, and alphabetically inserting the new tolerance of 0.1 ppm on peaches, as follows:

§ 180.337 Oxytetracycline; tolerances for residues.

Tolerances are established for residues of oxytetracycline in or on the following raw agricultural commodities:

Commodity:	Parts per million
Peaches	0.1
Pears	0.35

[FR Doc. 78-21908 Filed 8-4-78; 8:45 am]

[7527-01]

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

[45 CFR Part 1705]

PRIVACY ACT OF 1974

Proposed Regulations for Implementation

AGENCY: National Commission on Libraries and Information Science.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing regulations implementing the Privacy Act of 1974. The regulations set forth the procedures under which the public may determine what systems of records are maintained by the Commission and procedures on how access may be gained for purposes of review, amendment, and/or correction of those records.

DATE: Comments are due on or before September 6, 1978.

ADDRESS: Comments should be addressed to the System Manager, National Commission on Libraries and Information Science, 1717 K Street, NW., Suite 601, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT:

Alphonse F. Trezza, Executive Director, National Commission on Libraries and Information Science, 1717 K Street NW., Suite 601, Washington, D.C. 20036, 202-653-6252.

SUPPLEMENTARY INFORMATION: The only file maintained by NCLIS will be the White House Conference Delegate/Alternate Certification File, which will be created from information submitted by persons designated by the several States and territories as delegates or alternates to the White House Conference on Library and Information Services. The file will be maintained only so long as it is useful to the White House Conference process, and in any event, will be destroyed on or before September 30, 1980.

ALPHONSE F. TREZZA,
Executive Director.

It is proposed to add Part 1705 to Title 45 of the Code of Federal Regulations.

PART 1705—PRIVACY REGULATIONS

Sec.
1705.1 Purpose and scope.
1705.2 Definitions.
1705.3 Procedures for requests pertaining to individual records in the D/AC File.
1705.4 Times, places, and requirements for identification of individuals making requests.
1705.5 Disclosure of requested information to individuals.
1705.6 Request for correction or amendment to the record.
1705.7 Agency review of request for correction or amendment of the record.
1705.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
1705.9 Disclosure of record to a person other than the individual to whom the record pertains.
1705.10 Fees.
1705.11 Penalties.
1705.12 Exemptions.

AUTHORITY: 5 U.S.C. 552a.

§ 1705.1 Purpose and scope.

These procedures provide the means by which individuals may safeguard their privacy by obtaining access to, and requesting amendments or corrections in, information, if any, about these individuals which is contained in the White House Conference Delegate/Alternate Certification File (D/AC File), which is under the control of the National Commission on Libraries and Information Science (hereafter, the Commission).

§ 1705.2 Definitions.

For the purpose of these procedures:

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item or set of items about an individual that is maintained by the Commission in either hard copy or computerized form, including name, residence and other information obtained from the form, "Certification of State/Territorial Delegates/Alternates to the White House Conference on Library and Information Services."

(d) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 1705.3 Procedures for requests pertaining to individual records in the D/AC File.

(a) An individual who wishes to know whether the D/AC File contains a record pertaining to him or her shall submit a written request to that effect to the System Manager at the Commission. The System Manager shall, within 10 days of receipt of such submission, inform the individual whether the D/AC File contains such a record.

(b) An individual who desires access to any identified record shall file a request therefor addressed to the System Manager indicating whether such individual intends to appear in person at the Commission's offices or whether he or she desires to receive a copy of any identified record through the mail.

§ 1705.4 Times, places, and requirements for identification of individuals making requests.

(a) An individual who, in accord with § 1705.3(b) indicated that he or she would appear personally shall do so at the Commission's offices, 1717 K Street NW., Suite 601, Washington, D.C., between the hours of 8:30 a.m. and 4 p.m. Monday through Friday (legal holidays excluded) and present either: (1) The response from the System Manager indicating that such a record exists; or (2) a copy of the executed certification form, as well as another suitable form of identification, such as a valid drivers license or equivalent.

(b) In response to a request for mail delivery, the Commission will mail only to the home address appearing in the D/AC File a copy of the record for that individual within 10 working days.

§ 1705.5 Disclosure of requested information to individuals.

Upon verification of identity, the System Manager shall disclose to the individual (a) the information contained in the record which pertains to that individual; and (b) the accounting of disclosures of the record, if any, required by 5 U.S.C. 552a(c).

§ 1705.6 Request for correction or amendment to the record.

If a person wishes a change to be made in the record, he or she should follow the procedures for making changes which are included in the instructions accompanying the certification form by which the information was obtained. Copies of these instructions will be mailed to any delegate/alternate upon request.

§ 1705.7 Agency review of request for correction or amendment of the record.

Within 10 days of the receipt of the request to correct or to amend the record, the System Manager will acknowledge in writing such receipt and promptly either: (a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete and inform the individual of same; or (b) inform the individual of his or her refusal to correct or amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 1705.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the System Manager to correct or to amend his or her record may submit a request for review of such refusal to the Chairman of the Commission, 1717 K Street NW., Suite 601, Washington, D.C. 20036. The Chairman will, not later than 30 days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Chairman extends such 30-day period. If, after his or her review, the Chairman also refuses to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Chairman's determination under 5 U.S.C. 552a(g)(1)(A).

§ 1705.9 Disclosure of record to a person other than the individual to whom the record pertains.

An individual to whom a record is to be disclosed in person may have a person of his or her own choosing accompany the individual when the record is disclosed.

§ 1705.10 Fees.

(a) The Commission will not charge an individual for the costs of making a search for a record or the costs of reviewing the record. When the Commission makes a copy of a record as a necessary part of the process of disclosing the record to an individual, the Commission will not charge the individual for the cost of making that copy.

(b) If an individual requests the Commission to furnish him or her with a copy of the record (when a copy has not otherwise been made as a necessary part of the process of disclosing the record to the individual), the Commission will charge a fee of $0.25 per page (maximum per page dimension of 8½ by 13 inches) to the extent that the request exceeds $5 in cost to the Commission. Requests not exceeding $5 in cost to the Commission will be met without cost to the requester.

§ 1705.11 Penalties.

Title 18 U.S.C. 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years or both to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. Section 552a(i)(3) of the Privacy Act (5 U.S.C. 552a(i)(3)), makes it a misdemeanor, subject to a maximum fine of $5,000, to knowlingly and willfully request or obtain any record concerning an individual under false pretenses. Section 552a(i) (1) and (2) of the Privacy Act (5 U.S.C. 552a(i) (1) and (2)) provide penalties for violations by agency employees of the Privacy Act or regulations established thereunder.

§ 1705.12 Exemptions.

No Commission records system is exempted from the provisions of 5 U.S.C. 552a as permitted under certain conditions by 5 U.S.C. 552a (j) and (k).

[FR Doc. 78-21874 Filed 8-4-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 61]

[CC Docket No. 78-36; FCC 78-510]

IMPLICATIONS OF THE TELEPHONE INDUSTRY'S PRIMARY INSTRUMENT CONCEPT

Report and Order Terminating Inquiry

AGENCY: Federal Communications Commission.

ACTION: Report and Order terminating inquiry.

SUMMARY: The Federal Communications Commission declined to commence rulemaking on the telephone industry's primary instrument concept, which proposed that subscribers to single line telephone service should be required to lease one telephone set from the telephone company. The Commission concluded that the proposal was basically inconsistent with the subscriber's right to provide his own telephone set and that the industry had not shown public detriment such as might justify a restriction of the subscriber's rights.

EFFECTIVE DATE: Nonapplicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Ruth V. Reel, 202-632-6363.

REPORT AND ORDER

Adopted: July 13, 1978.

Released: August 2, 1978.

In the matter of implications of the telephone industry's primary instrument concept, CC Docket No. 78-36.

1. By Notice of Inquiry released on February 6, 1978 (FCC 78-67; 43 FR 6151) the Commission instituted this proceeding to explore the telephone industry's Primary Instrument Concept (PIC) which proposes that each single line subscriber to basic telephone service should be required to lease one telephone set from the telephone company. Comments and reply comments have been received from the telephone industry and various other interested persons. The formal comments are summarized in the appendix hereto, and the principal contentions of the parties are treated in the discussion below. We have also received and considered a number of informal comments by interested persons, and these submissions have been associated with the record.

2. The telephone industry[1] and National Telephone Cooperative Association (NTCA) have requested that we hear oral argument in this matter. American Satellite Corp. has filed in opposition, and the Computer and Business Equipment Manufacturers Association (CBEMA) has indicated its view that the need for oral argument is less strong than in other complex proceedings. Upon consideration of these requests and the record as a whole, we have decided not to entertain oral argument. The comments and reply comments of the telephone industry and NTCA seem to fully set forth their positions in support of PIC and the asserted social objectives. Contrary to the suggestion of the industry, we have experienced no difficulty in understanding the extensive discussion of the issues contained in the record, and we consider that record to be adequate for decision. It does not appear to us that oral argument would be sufficiently useful to warrant the delay necessarily entailed in this extra, discretionary procedure. Considering the unsettling effect of the pending unresolved proposal on the telephone and equipment supply industries and their customers, we conclude that an expeditious resolution of this matter is in the public interest.

3. The National Association of Regulatory Utility Commissioners (NARUC), with the support of various State commissions, has requested that we convene a Federal-State Joint Board to prepare a recommended decision in this proceeding. While recognizing the interest and concern of NARUC and State regulatory agencies regarding the PIC proposal, we feel that the issues addressed in the comments and the questions before us for decision are such that a Joint Board is not necessary and would not be particularly helpful. We note that this is an inquiry, rather than a rulemaking proceeding like Docket No. 19528. Moreover, the central issue goes to whether PIC is consistent with established Federal policies, a question that lies peculiarly within the competence of this Commission. Thus, we decline to convene a Federal-State Joint Board.

SUMMARY

4. Upon careful consideration of the telephone industry showing in light of the entire record, we have concluded that PIC is fundamentally inconsistent with the principles of *Hush-a-Phone, Carterfone, Mebane* and the registration program.[2] The principal arguments advanced by the industry in support of PIC have already been considered and rejected in those decisions. Notwithstanding the industry's failure to demonstrate any significant changed circumstances, we have taken another look at the merits of its position. We again reject the industry's premise that a carrier instrument is an integral part of complete telephone service. We find no showing of public detriment such as might warrant a restriction on the single line subscriber's right to furnish his own primary instrument within the *Carterfone* principle. The telephone industry has not established the validity of its principal contentions that single line subscribers would not adequately maintain their equipment, with resulting public harm, and that PIC is necessary for testing to effectuate telephone company responsibilities. The industry has not claimed any technical or economic harm, and its other asserted grounds either will not withstand analysis or are contrary to our previous findings. Being further of the view that PIC would be unlawful under sections 201(b) and 202(a) of the Communications Act if initiated by a telephone carrier, we decline to institute rulemaking looking toward adoption of any such requirement.

THE INDUSTRY'S PIC PROPOSAL

5. As refined by its comments in this proceeding, the telephone industry is proposing that residential and business subscribers to single line telephone service be required to lease, as part of basic telephone service, one piece of customer-premises terminal equipment from the serving telephone company. This so-called "primary instrument" could be either a standard telephone or optional equipment of the serving carrier which has minimum capabilities equivalent to a standard instrument. The PIC requirement would not apply to private line, multi-line, or data services. The industry defines "multi-line service" as multiple lines or trunks entering a single piece of common equipment which is so arranged that the selection of alternate paths to these lines is possible from connected terminal devices. According to the industry, "data service" is the connection of any registered device to the network that functions as a data modem, either via data jacks or standard voice jacks or by data access arrangements.

6. The charges for a standard instrument and its maintenance would be included in the charge for basic exchange telephone service. There would be additional charges for optional carrier equipment, with no refund or credit for not taking the standard instrument. The subscriber would be permitted to disconnect the carrier instrument and substitute his own equipment at all times except during telephone company testing. Though the customer need use the carrier's instrument only for testing, the full monthly lease charge for such primary instrument would remain applicable. Apart from the requirement that the subscriber lease and have available on his premises a carrier instrument for testing, the subscriber could obtain other terminal equipment from any source and use it any time except during testing.

7. The telephone industry bases its PIC proposal exclusively on the asserted social benefits to be realized by telephone subscribers. Thus, the industry expressly disclaims any reliance on economic or technical harm to the telephone network or the public, and

[1] Filing jointly are: The Organization for the Protection and Advancement of Small Telephone Companies, the United States Independent Telephone Association, American Telephone & Telegraph Co., Central Telephone & Utilities Corp., Continental Telephone Corp., GTE Service Corp., and United Telecommunications, Inc.

[2] *Hush-a-Phone Corp.* v. *U.S.*, 238 F.2d 266 (D.C. Cir. 1956); *Carterfone*, 13 FCC 2d 420, on reconsideration 14 FCC 2d 571 (1968); *AT&T on behalf of Mebane Home Telephone Co.*, 53 FCC 2d 473 (1975), aff'd *Mebane Home Telephone Co.* v. *FCC*, 535 F.2d 1324 (D.C. Cir. 1976); *First Report and Order* in Docket No. 19528, 56 FCC 2d 593 (1975), on reconsideration 57 FCC 2d 1216 (1976), 58 FCC 716 (1976) and 59 FCC 2d 83 (1976); *Second Report and Order in Docket No. 19528*, 58 FCC 2d 736 (1976), on reconsideration 61 FCC 2d 396 (1976) and 64 FCC 2d 1058 (1977), aff'd *sub nom North Carolina Utilities Commission* v. *FCC*, *552 F.2d 1036 (4th Cir. 1977), cert. den.* —— U.S. ——, 46 LW 3219.

has accordingly declined to submit any economic data in justification of PIC. The principal social benefits claimed are that PIC would allegedly provide a reasonable balance between maintenance of a regulated, quality telephone service and maximum customer choice in the selection of terminal equipment. More particularly, the industry states that PIC would facilitate carrier testing, serve as a reference set for the subscriber, encourage maintenance of terminal equipment, aid in prompt restoral of service, permit orderly introduction of technological innovations in the network, and facilitate transition under the Commission's registration program.

8. Another basic tenet of the industry position is its assumption that a standard telephone set supplied by the carrier is an essential, nonseverable element of complete telephone service. Because the service and the telephone are regarded as one, and since subscribers can otherwise use their own equipment except during testing, the industry considers PIC to be consistent with *Carterfone*. The complete service premise likewise forms one basis for the industry contention that PIC involves no unreasonable tying contrary to antitrust principles, there being no tying and tied products—only one complete service. Since the primary instrument is deemed to be an integral part of basic service, the industry claims that PIC will not result in carrier domination of the terminal equipment market. Similarly, as one complete service is involved, the industry believes that the charge for the telephone set and its maintenance should be included in the monthly charge for exchange service. It opposes unbundling into separate charges for the service, terminal and maintenance components or affording subscribers the option of purchasing carrier sets. Indeed, under PIC, telephone sets purchased from a telephone company would not qualify as the primary instrument provided by the serving carrier.

DISCUSSION

BACKGROUND

9. The industry's PIC proposal must be considered in the perspective of antecedent interconnection decisions over the last several years. While we have repeatedly described this background in other contexts and in the Notice of Inquiry in this proceeding, we think it worthwhile to review briefly the landmark decisions once again.

10. For many years prior to 1968 the tariffs of the telephone companies prohibited the connection of customer terminal equipment to the telephone network. The first real break with this carrier imposed bar came in 1968 in the Commission's *Carterfone* decision which was premised on the broad principle laid down in *Hush-a-Phone* as to the "telephone subscriber's right reasonably to use his telephone in ways which are privately beneficial without being publicly detrimental." *Carterfone* held that the prohibition against interconnection in the telephone company tariffs was unlawful under Sections 201(b) and 202(a) of the Communications Act because it indiscriminately barred the use of harmless as well as any harmful devices. Subsequently, in *Mebane* the Commission held that the broad principle of *Hush-a-Phone* and *Carterfone* extends to customer terminal equipment which may replace telephone system equipment.

11. Thus, since 1969 telephone subscribers have had the right to provide their own terminal equipment, including main station telephones. However, the post-*Carterfone* tariffs of the telephone companies initially permitted interconnection of such equipment to the network only through telephone company "connecting arrangements," allegedly required to protect the network from technical harm.[3] The comments of the telephone industry note that very few subscribers exercised the option to provide their own telephone sets under the post-*Carterfone* tariffs, in part due to the cost of the required connecting arrangement. Following lengthy rulemaking proceedings in Docket No. 19528, conducted with the assistance of a Federal-State Joint Board, the Commission concluded in 1975 that adequate network protection could be provided by means other than the required use of carrier-provided connecting arrangements. The same order established standards for protective circuitry for all terminal equipment and an FCC Registration Program to insure compliance with such standards.[4] Initially, this registration program was limited to data and ancillary devices, thus continuing the requirement for carrier connecting arrangements for customer-provided main stations and certain other equipment. After further proceedings the Commission in 1976 expanded the scope of the registration program to include main stations and other equipment items as well.[5] In the course of the latter decision the Commission considered and rejected a proposal by GTE Service Corp. that main stations should not be included in the registration program as "it is important that there be at least one telephone company-provided instrument on the customer's premise to assure compatibility with the telephone network and fulfill the telephone company's 'end-to-end' service responsibility" (*Second Report* in Docket No. 19528, 58 FCC 2d 736, 741). In rejecting the proposed requirement for a carrier-provided main station, the Commission stated (58 FCC 2d at 741-742):

> However, the telephone companies have provided connecting arrangements without an associated telephone instrument, and therefore must have themselves concluded that there is no such necessity. [Footnote omitted.] Second, in the First Report and Order, compatibility was distinguished from network harm (e.g., see paragraph 22, and § 68.110(a) of the rules). Third, the telephone companies do not even now have "end-to-end" responsibility where customer-provided equipment is used. They are only responsible for the service which they provide. When a customer chooses to use equipment not provided by the telephone company, the telephone company is only responsible for providing adequate communication line service. Obviously, the telephone company cannot be responsible for the performance of equipment which it does not provide, install and maintain.[6a]

12. The Commission's decisions in docket No. 19528 were appealed to the U.S. Court of Appeals for the Fourth Circuit. Although the appellants included A.T. & T., the United States Independent Telephone Association, and other large independent telephone companies, GTE did not seek judicial review of the adverse ruling on its main station proposal. Pending judicial review, the effectiveness of portions of the Commission's orders, including the registration of main stations, was stayed by the court. Following judicial affirmance of the Commission's actions, appellants sought Supreme Court review. On October 3, 1977, the Supreme Court denied certiorari,[6] and the FCC registration program for main stations and other equipment became effective shortly thereafter by operation of law with the issuance of the judicial mandate.

13. On October 3, 1977, on the same day that the Supreme Court denied certiorari, Congressmen Lionel Van Deerlin and Louis Frey, respectively the chairman and ranking minority member of the House Subcommittee on Communications, forwarded for our attention the industry's PIC proposal

[3] See, *AT&T Foreign Attachment Tariff Revisions*, 15 FCC 2d 605 (1968), on reconsideration 18 FCC 2d 871 (1969).

[4] *First Report and Order* in Docket No. 19528, 56 FCC 2d 593 (1975), on reconsideration 57 FCC 2d 1216 (1976), 58 FCC 716 (1976) and 59 FCC 2d 83 (1976).

[5] *Second Report and Order in Docket No. 19528*, 58 FCC 2d 736 (1976), on reconsideration 61 FCC 2d 396 and 64 FCC 2d 1058 (1977), *aff'd sub nom North Carolina Utilities Commission v. FCC*, 552 F. 2d 1036 (4th Cir. 1977), cert. den. U.S. 46 LW 3219.

[6a] Customers who choose to use equipment not supplied by the telephone company assume the risk that this equipment will not perform adequately. Presumably, suppliers of inadequate equipment will not remain in the market for very long. The rules in part 68, however, assure that in failing to operate properly, even inadequate equipment will not harm the telephone network.

[6] 46 LW 3219.

to exempt primary instruments from the registration program—a proposal akin to that just finally rejected in docket No. 19528. Several parties to this proceeding argue that PIC and its supporting rationale have already been rejected in *Carterfone* and docket No. 19528, and should not be belatedly reconsidered now. Indeed, CBEMA goes so far as to urge that *Carterfone* is res adjudicata and A.T. & T., as a party defendant, should be bound by the result.

14. Despite the timing of PIC, so close on the heels of a long controversy we thought was finally laid to rest, we decline to exercise our descretion to refuse to reexamine the matter at this juncture. *Hush-a-Phone, Carterfone,* and docket No. 19528 were only partly adjudicative of past disputes among the parties. More broadly, they involved important questions of public policy and interpretations of law with potentially farflung consequences for the general public, special user groups, and the interconnect and telephone industries. Questions of broad public policy are always subject to reexamination with evolving circumstances to assure that the interest of the public continues to be well served or that some important material factor has not been overlooked. Accordingly, we will take a fresh look at PIC to determine whether any new factors have been presented which may warrant a different public interest determination now. At the same time, with full appreciation of the sound reasons underlying the doctrine of finality, we will accord little, if any, weight to arguments identical to those we have previously rejected where there is no showing of changed circumstances or overlooked factors.

CONSISTENCY WITH CARTERFONE PRINCIPLES

15. We discuss first the industry's argument that PIC is consistent with *Carterfone.* This argument rests on the twofold contention that: (1) The telephone set is part of the telephone network as an inextricable element of complete telephone service; and (2) the customer rights upheld in the *Carterfone* line of cases concerned any additional equipment augmenting that network, a freedom not restricted by PIC.

16. *Hush-a-Phone* and *Carterfone* confirmed the existence of broad consumer rights under sections 201(b) and 202(a) of the Communications Act. Rather than carving out any carrier "rights," these cases and the statute establish corresponding carrier responsibilities, by making unlawful any unjust or unreasonable interference with these consumer rights by the carrier. Every telephone customer has a protected right "reasonably to use his telephone in ways which are privately beneficial without being publicly detrimental" (*Hush-a-Phone Corp.* v. *U.S.,* 238 F. 2d 266). See also, *Carterfone,* 13 FCC 2d 420, 423. Among the ways a customer can reasonably use telephone service is by supplying his own terminal equipment, including telephones, PBX's and key systems, provided only that he does not harm the telephone network or cause other public detriment. We expressly rejected in *Mebane* the argument that the customer's right to interconnect can be curtailed where the device he seeks to interconnect can be regarded as a substitution for telephone system equipment, stating (53 FCC 2d at 477-478):

> * * * we believe that here as in *Carterfone* it would be unjust, unreasonable and unlawful under section 201(b) of the act to restrict the customer's right to use beneficial interconnection devices that are not publicly detrimental, through a blanket prohibition against interconnection of devices that may involve some substitution of telephone company equipment. The determining factor should be whether there is harm to the telephone network, irrespective of whether the particular interconnection device is one of the nature involved in *Carterfone* or a PBX or key system. To make a distinction based solely on whether there is a substitution of telephone company equipment, would be an arbitrary and unreasonable infringement of the subscriber's right in the absence of technical harm or other public detriment. A subscriber has a statutory right under section 201(b) not to be subjected to tariff restrictions which indiscriminately bar interconnection of customer-provided equipment without regard to harm.

The judicially affirmed rationale in *Mebane,* while there specifically applied to PBX's and key systems, is equally applicable to telephone sets used as "main stations."

17. Nor do we see any other legal or rational basis for distinguishing the telephone set from all other terminal equipment and requiring that the customer obtain it from the telephone company. That the carriers have traditionally furnished the telephones with the service does not establish that they are required to do so, or warrant any inferences about the public interest.[7] While the definitions contained in sections 3 (a), (b) and (r) of the Communications Act are sufficiently broad to permit the inclusion of terminal equipment in interstate communication by wire or radio and in telephone exchange service, these definitions do not require that the provision of terminals be a common carrier service and they do not contain any distinction between telephone sets and other terminal equipment or between main stations and extension telephones. Nor does the act contain any requirement that the carrier furnish a terminal of any kind as part of any communications service. Indeed, the carrier's duty under section 201(a) is to furnish service "upon reasonable request"; nowhere in the act does the carrier have any right to furnish service or equipment that the customer does not request or want. The act is sufficiently broad to allow the Commission to permit a carrier to furnish a telephone set in conjunction with communications service where requested by the customer, subject to the statutory and regulatory requirements governing the furnishing of communications common carrier services. But to read into the act any requirement for carrier terminal offerings as part of complete service is not justified by the statutory language, and would fly in the face of the *Carterfone* principle.

18. Further, we have not been shown any compelling practical reason why telephone service must be linked with a carrier supplied telephone set. There are significant distinctions between the basic utility service and the supply of terminal equipment. We are aware of no instance in recent history where any entity has sought to duplicate the local exchange lines and central office equipment of the telephone company. In contrast, there have been multiple suppliers of user terminal equipment, including telephone sets, since *Carterfone.* Indeed, the telephone industry concedes that the supply of terminal equipment is not a natural monopoly. Obviously, telephone service cannot be utilized, and in that sense is incomplete, without some kind of terminal equipment. It does not follow, however, that the service must be completed by a carrier-provided set rather than one obtained from an independent supplier. Other basic utility services, such as electricity and gas, are similarly incomplete until connected to some device such as a light bulb or gas furnace which is necessary to make the service useful. However, the customer need not purchase the light bulb or the furnace from the utility unless he chooses to do so.[8] The severability of telephone service from the telephone terminal is further reflected in the telephone industry's statement that there is no technical or economic distinction between a main station, sought to be carrier-supplied, and an extension telephone, which could be independently supplied, under PIC. Either will suffice to make the customer's service complete. The industry comments make no claim that a carrier telephone set is necessarily superior

[7] See, *MCI Telecommunications Corp.* v. *F.C.C.,* 561 F. 2d 365 (D.C. Cir., 1977), cert. den. —— U.S. ——, 46 LW 3453 (1977).

[8] Contrary to the suggestion of the telephone industry, we see no significant difference in this respect because gas and electricity are one-way utility services, whereas telephone service involves two-way communications.

to a customer set provided that the latter is properly maintained. If the telephone companies should cease supplying terminals altogether, the public could still receive complete telephone service through the use of terminals obtained from independent sources.

19. The contention that one telephone set is an integral part of basic service is essentially, in our view, merely another form of the oft-rejected argument that the telephone company must have complete end-to-end service responsibility. We expressly rejected this end-to-end responsibility argument in *Carterfone* (13 FCC 2d at 424) and again in the *Second Report* in docket No. 19528 (58 FCC 2d at 739-740). Indeed, if customers have the right to supply any and all of their own terminal equipment, as they have been permitted to do since the post-*Carterfone* tariffs in 1969, this necessarily means that the telephone company cannot have complete end-to-end service responsibility including terminals. Customer terminals lie outside of the carrier's areas of responsibility and are not an integral part of the carrier's service. PIC recognizes that a carrier terminal is not an integral part of service to multiline, data, and private line subscribers and, for reasons discussed later, we find unconvincing the attempt to differentiate single line subscribers. We note also that the telephone companies do not have end-to-end responsibility in other instances apart from data and multiline subscribers. Thus, as CBEMA points out, independent telephone companies, particularly those lacking a terminal manufacturing affiliate, presently may procure telephones from a variety of nontelephone company sources. Subscribers to basic telephone service may interconnect with private line facilities of independent carriers or private systems utilizing terminals and other equipment which is not the responsibility of the telephone company. In all international telephone calls the U.S. carriers are responsible for only half of the circuit and the remainder is provided by foreign entities over facilities and terminals outside the control and the responsibility of the U.S. telephone carriers, who also have no control over maintenance of such equipment. In short, the U.S. telephone carriers have long been accustomed to providing service for which they are only partially responsible. No justification or necessity has been shown for initiating an end-to-end responsibility only for domestic single line telephone service. Indeed, we note that the industry in its reply comments no longer bases PIC on any claim of end-to-end service responsibility. While this concession appears eminently reasonable in the circumstances, we think that the essentially equivalent argument that the carrier telephone terminal is an indispensable part of the carrier's complete telephone service must also fall.

20. Accordingly, we conclude that a telephone set supplied by the carrier is not an integral part of basic telephone service, and that PIC is not consistent with *Carterfone* by reason of any theory of complete service. The customer's right to provide his own terminal equipment, in the absence of a persuasive showing of overriding public detriment, prevails for telephone sets just as for any other kind of terminal equipment. In this connection we find entirely lacking in merit the industry's related suggestion that PIC is consistent with *Carterfone* because the subscriber could provide any other terminal equipment he chooses so long as he leases one carrier telephone set for testing. If that one required carrier telephone set is an infringement of *Carterfone* rights, it matters not that the customer's rights are not otherwise curtailed. Thus, the crux of the telephone industry's position, in our view, is the sufficiency of its attempted showing that PIC is necessary to avoid public detriment. Only on the basis of an adequate showing of this nature could PIC be regarded as consistent with *Carterfone*.

21. The telephone industry does not rest PIC on the kind of alleged public detriment which was considered in *Carterfone*, docket No. 19528 and docket No. 20003 [9]—the alleged necessity of protecting the telephone network from technical harm or of avoiding higher rates for residential telephone service. The industry states that it is not attempting to justify PIC on technical or economic grounds and therefore has not answered the economic questions in the notice. Since there is no other substantial showing of potential technical or economic harm in the record, our consideration of PIC will assume that no technical or economic harm would flow to the telephone network or the public from customer ownership of primary instruments. While customer equipment proceedings have historically involved assertions of technical or economic harm, the "public detriment" test of *Hush-a-Phone*, and *Carterfone*, and *Mebane* is broader than these specific types of alleged detriment. "Public detriment" encompasses also any other kind of potential harm to the public which is sufficiently imminent and grave as to unavoidably require a curtailment of individual choice in order to protect the public at large. The telephone industry's showing of public harm must stand alone, as it is proper to bear in mind that customer owned telephone sets are not alleged to cause any technical or economic harm to the public.

22. The industry's assertion of public harm relies solely on the social benefits it claims would result from PIC. As the industry expresses it (Joint Comments, p. 3):

> The principal benefit is that PIC will provide a reasonable balance between maximum customer choice in the selection of terminal equipment and the maintenance of quality basic telephone service for single-line subscribers. PIC accomplishes this balance by providing a reasonable and logical distinction between regulated service responsibilities of the telephone companies and the competitive provision of terminal equipment.

The industry also phrases its position thus (Joint Comments, p. 5):

> PIC provides a reasonable, recognizable, and easily understood method of separating public service responsibilities and accountabilities from those of competitive equipment supply, with a minimum of subscriber uncertainty and misunderstanding.

23. Leaving aside questions in the record as to whether there has actually beem much regulation of carrier terminal equipment and maintenance,[10] we are not persuaded that PIC constitutes the only reasonable way to draw a line between regulated carrier responsibilities and competitive equipment supply. With no requirement for a carrier-provided primary instrument there is still a reasonable, easily recognized distinction between services and equipment furnished by the carrier, for which it is accountable to the customer and regulatory authorities, and any equipment provided by the customer for which the carrier has no responsibility. As we stated in the *Second Report* in Docket No. 19528, 58 FCC 2d at 741-742, carriers are only responsible for the service which they provide. When a customer uses his own equipment, the telephone company is "only responsible for providing adequate communication line service" and obviously "cannot be responsible for the performance of equipment which it does not provide, install and maintain." (Id.) Assuming the desirability of a clear line between the regulated and nonregulated activi-

[9] In *Carterfone*, we considered claims of technical and economic harm to the network. Docket No. 19528 was concerned exclusively with technical harm, and docket No. 20003 dealt with economic harm. *First Report and Order* in docket No. 20003, 61 FCC 2d 766 (1976).

[10] CBEMA asserts that the concept of telephone companies being fully accountable to State and Federal regulation is without significance for terminals. It claims that the FCC Registration Program constitutes the first attempt at regulation, and that there has been no detailed regulation of installation and maintenance practices for terminal equipment. Moreover, it seems doubtful that there can be much effective regulation of charges for carrier terminal equipment and maintenance where these items are bundled into the charge for basic service.

ty, as well as between the carrier's responsibilities and those of the customer or independent equipment supplier, we think that an acceptable, logical line presently exists and that PIC is not necessary for this purpose.

24. In asserting the other principal social benefit, "maintenance of quality basic telephone service" or "continuity of service," the telephone industry points out that the ability to communicate with others depends on a properly functioning telephone—both yours and the other person's. As nearly as we can ascertain from the industry's comments, the only concrete substance to these generalities is the contention that PIC is necessary to encourage prompt repair and maintenance of telephone sets and to facilitate telephone company testing. As suggested by CBEMA, IBM, and Computer and Communications Industry Association (CCIA), this appears to be the heart of the telephone industry claim of public detriment. We will therefore examine the maintenance and testing showings particularly carefully to determine whether they make is necessary to restrict the customer's rights in order to protect the public at large from substantial harm.

25. As already noted, the telephone industry does not contend that the terminal equipment of independent suppliers is inferior to telephone company equipment if properly maintained. Rather the thrust of the industry position is that even if carrier and customer equipment is identical at the outset, single line residential and business subscribers would be less likely to maintain customer equipment to the degree allegedly essential for high quality telephone service and effective telephone company testing. Admitting that it cannot make any reliable estimates as to the number of single line customers who would be unwilling or unable to repair their equipment, the industry postulates that it is "human nature" to postpone repairs as long as possible. Moreover, the industry believes that PIC would provide incentives encourageing prompt repair because the cost of maintenance is included in the monthly serivce charge, so the customer need make no additional outlay for maintenance, and the telephone company replaces a malfunctioning set, so the customer need not do without the telephone during repairs.

26. It has not been established that telephone company maintenance of telephone sets generally consists of any more than repairing or replacing the instrument when trouble is reported by the subscriber. CBEMA has submitted evidence, to which we accord some weight, that Pacific Telephone and Telegraph Company has no program of inspecting individual telephone sets periodically to see if they need maintenance, though some central offices do automatically scan lines and terminal equipment to detect actual or potential causes of trouble.[11] Since that telephone company's maintenance of telephone sets basically consists of responding to trouble reports and repairing or replacing the telephone as necessary and given the customary uniformity of practices and procedures among the various Bell System companies, it may be inferred that the Bell System generally has no program of preventative maintenance for telephone sets. Moreover, since PIC contemplates that the customer would be required to plug in the carrier instrument only when he is aware that the telephone company is testing, automatic scanning by the central office when any terminal equipment is not in use falls outside the scope of PIC.

27. The argument that independent equipment supply is apt to result in inferior or dilatory maintenance has been rejected by this Commission and other regulatory authority. The New York Public Service Commission (NYPSC), a party to this proceeding,[12] has found that the same quality of service is likely to result from customer telephones. As CBEMA points out, the Bell System Quarterly Reports to this Commission tend to show that carrier equipment is not superior in performance to that of outside suppliers from the standpoint of trouble reports. Moreover, we have found in Docket Nos. 20003 and 19129 that equipment maintenance and reliability, rather than deteriorating, generally have improved in the competitive equipment marketplace. *First Report* in Docket No. 20003, 58 FCC 2d at 736, 742 n. 8P; *Final Decision and Order* on Phase II of Docket No. 19129, 64 FCC 2d 1, 26-27, 40-41 (1977). We also recognized in Docket No. 19528 that business subscribers have a strong incentive to avoid interruption in telephone service (*Second Report* in Docket No. 19528, 58 FCC 2d at 743). Assuming the validity of the telephone industry's assertions that multiline and data subscribers have a more substantial investment in terminal equipment and are apt to maintain a closer relationship with equipment suppliers, it does not follow from these circumstances that the single line business subscriber is less likely to have a malfunctioning terminal repair. The crucial factor, it seems to us, is how essential is the terminal to the conduct of the business. We think it is reasonable to assume that any businessman who relies substantially on the telephone in the conduct of his business, and this should include most businessmen, will have a strong incentive to have a malfunctioning telephone repaired promptly to minimize harm to his business. We see no compelling basis for concluding that the single line business subscriber and those who communicate with him need Commission enforced protection by the telephone company on this score.

28. In considering residential subscribers, the potential size of the customer terminal market, and the adequacy of customer maintenance, we must proceed without any hard data. The telephone industry has declined to submit any estimate as to the size of the customer market on the ground that this information is proprietary. As indicated, the industry also professes to be unable to make any reliable estimate as to the number who would be unwilling or unable to repair their equipment. Since this information does not appear elsewhere in the record, perhaps these questions are unavoidably speculative at this point. The telephone industry states that under the post-*Carterfone* tariffs only 0.018 percent of all main stations were provided by subscribers. We note, however, that the Registration Program has been effective as to main stations since October 1977. We assume that there has been no substantial flood toward customer ownership of main stations in the intervening months to May 1978 when reply comments were filed in this proceeding. For, if that had been the case, we are confident from past experience that the telephone industry would have called such a circumstance to our attention. Since the telephone industry has supported its position in terms of assumptions and presumptions, our consideration of this aspect must necessarily consist largely of assessing the reasonableness of those assumptions against others that could be made. As NYPSC correctly points out, there is no evidence before us that customer ownership of terminal equipment affects the quality of telephone service.

29. While it may be reasonable to assume that some residential subscribers would postpone repairs to malfunctioning telephone sets as long as possible, it seems equally reasonable to assume that many others would repair defective terminals promptly. In the absence of any estimate as to the per-

[11] While it is our understanding that some telephone companies operating in unusually heavy moisture areas, such as Florida, test telephone sets periodically due to this special problem, we are not aware of any general practice of this nature.

[12] Though we granted NYPSC leave to make a late filing of its reply comments on or before June 2, 1978, such reply comments were not received until June 8, 1978, together with another motion for acceptance of late filing. Recognizing the particular concern of State commissions and the speical experience of NYPSC, and since consideration of its submission will not delay our decision, we will accept the late filing.

centage that might be delinquent, we think it likely that those who would repair prompty would far exceed those who might not. In the current circumstances subscribers who choose to furnish their own equipment in lieu of taking advantage of the available option of carrier equipment and maintenance by this very act demonstrate a particular interest in terminal equipment and a willingness to assume responsibility for caring for it. Indeed, NYPSC postulates that some customers will take "better care of equipment and be more cognizant of timely repairs because of the vested interest and pride of customer ownership." Moreover, the very fact that telephone service is practically universal tends to show the critical importance of this service to most residential subscribers. We cannot presume that there would be many residential subscribers who would long permit any disruption or serious impediment to their telephone service due to faulty terminal equipment while continuing to pay the carrier for a service that the malfunctioning terminal has rendered useless or substantially impaired.

30. Moreover, many residential subscribers are accustomed to being responsible for the repair of their own equipment which is necessary to the effective use of other important services, such as the furnace, the refrigerator, the television set, etc. As NATA points out, there are a variety of arrangements whereby independent suppliers sell or lease terminal equipment, including warranties and service contracts. Where a supplier has no provision for maintenance, the subscriber can resort to independent repairmen. While the telephone industry claims a marked advantage in that it replaces the faulty telephone, there is no showing in the record that independent suppliers or repairmen would not, or could not upon sufficient subscriber demand, loan the subscriber a working telephone to use while his terminal is being repaired. This argument is largely inapplicable to subscribers who own more than one telephone. Any service problem with independent suppliers and repairmen would probably be self-correcting in time, as we recognized in Docket No. 19528 (*Second Report*, 58 FCC 2d 742, n. 8). For, if it became known in the community that adequate repair service was not readily available either from the equipment supplier or from other repairmen, presumably very few subscribers would exercise the option to supply their own equipment in lieu of an instrument maintained by the telephone company. We think that this presumption applies also to subscribers in rural areas if independent repair service proves to be relatively inaccessible, as the Rural Electrification Administration believes. The subscriber's freedom to go elsewhere for terminal equipment, like the freedom to compete, inevitably bears with it some risk of economic loss or lack of satisfaction. He should not be denied his freedom of choice for that reason.

31. In this connection, it is pertinent that we are not determining whether subscribers should be required to lease basic telephone equipment from the telephone company or required to furnish their own telephone sets. There is no question in this proceeding of restricting in any manner the subscribers option to lease basic telephone sets from the telephone company should they choose to do so. Many of the telephone industry's arguments in support of PIC could turn out to be significant selling points in persuading customers to use telephone company equipment in lieu of providing their own, particularly if they are so located as to make the telephone company offer appear more advantageous or if the experience in their area with independent repair service is poor. Assuming that the telephone industry's equipment, maintenance and repair service are as superior as it suggests, it should have little difficulty in persuading most single line subscribers of the merits of its competitive case. In that event, the incidence of customer-provided equipment would probably be so insignificant as to cast doubt on the necessity for regulatory intervention. On the other hand, if the telephone industry cannot succeed competitively without regulatory coercion, because the equipment and repair service of independent suppliers and repairmen are superior or less costly or offer other advantages, then the answer surely is not regulatory coercion but protection of the consumers option, and indeed right, to select what they think most beneficial. The important point is that subscribers now have available, at their option, all the asserted benefits of PIC without being subject to any mandatory requirement.

32. Turning now to the central question of impact on the public, we recognize that the industry's concern is directed not only to the subscriber who furnishes his own telephone set but also to those who communicate with him. As the industry correctly points out, telephone communication is two-way and may be adversely affected by the malfunctioning telephone set of the other party. Accepting the possibility of such public impact, we question the magnitude of the problem and the appropriateness of PIC as a remedy. Apart from the lack of evidence in this record as to what percentage of subscribers supplying their own equipment would be negligent about repairs, we anticipate no widespread danger to the quality of the telephone service available to the public at large. While all telephone subscribers have the potential to communicate with all other subscribers, it is physically impossible, if only within the constraints of time, for any telephone subscriber to communicate with all or even a large percent of the 60 million or so other subscribers. The more likely situation would seem to be that an ordinary telephone subscriber might, with varying frequency, communicate with a relatively small number of relatives, friends, business and other organizations, and perhaps receive a few unsolicited telephone calls. Relatives, friends, and business or organizational acquaintances are in a position to exert considerable pressure on the owner of the problem telephone to have it repaired, if they feel that the technical quality of communication with him is unsatisfactory.

33. At the same time, we cannot discount the possibility that while individual maintenance problems would probably have small spheres of public influence, the cumulative effect of a number of such problems could be more substantial—though probably not of a magnitude such as to have any significant impact on the Nation's telephone service. Fully recognizing the possibility of some public detriment, we are nevertheless of the view that PIC is not an appropriate means of protecting the public. If A.T. & T. or any other telephone carrier were to initiate a PIC requirement, we would be obliged to find the requirement unlawful under sections 201(b) and 202(a) of the Communications Act. For here, as in *Carterfone* and *Mebane*, what is entailed is an indiscriminate proscription of customer provided main stations without regard to whether the telephone subscriber would maintain his equipment properly or not. In the interest of protecting the public from the few who might not adequately maintain their telephones, PIC would infringe upon the rights of all those who would repair promptly and sufficiently and cause no detriment whatever to the public. We could not find it in the public interest or lawful to adopt a requirement which the telephone industry could not lawfully initiate, particulary since we have not been shown that there is no other remedy that could be targeted more precisely against those causing any problem.[13]

34. We consider next the telephone industry's claim that PIC is necessary

[13] For example, the telephone company might alternatively tariff a provision to the effect that service to any subscriber whose terminal equipment is maintained in such poor condition as to adversely affect the service of others will be suspended until the offending equipment is repaired. This would probably require a minor change in § 68.3 of our rules (definition of "harm").

for testing. The industry states that at least 12 percent of all telephones experience trouble each year, 40 percent of the station troubles involve components that may affect transmission and impair conversations, and 70 to 80 percent of trouble reports require a test of the line. There is no indication to the contrary in this record, and we will accept these statements arguendo for purposes of this proceeding. The industry further asserts that the single line subscriber must have on his premises, and pay monthly charges for, a telephone company instrument to enable the carrier to perform static and dynamic tests to ascertain whether any trouble is with the line or the telephone set. According to the industry, a subscriber set will not suffice for this purpose because it may not afford a recognizable line termination and, even if technically equivalent to a carrier instrument at the outset, may not have been properly maintained. The alternative testing measures suggested in the Notice (para. 10, D2.6) offer only partial solutions and might involve extra cost, the industry claims, whereas PIC would provide a complete answer to the testing problem.

35. It appears appropriate to clarify once again the extent of the telephone company's responsibility for testing in instances of subscriber terminal equipment. As we stressed in Docket No. 19528, telephone companies are "only responsible for the service which they provide" and in the case of customer terminals are "only responsible for providing adequate communication line service" (*Second Report* in Docket No. 19528, 58 FCC 2d at 741-742). Thus, the telephone company's testing responsibility is at an end when it determines that the line is functioning properly or it restores a defective line. The carrier has no responsibility for diagnosing what may be wrong with the customer's telephone set or how it may be causing transmission problems.

36. That being the case, we are inclined to agree with IBM's contention that the telephone company's testing responsibilities for ascertaining line-related problems generally do not require dynamic testing.[14] Accepting the telephone industry position that static testing requires a recognizable line termination, we are not persuaded that a known termination requires adoption of PIC. While PIC is one means of achieving a known termination, it seems unnecessarily broad to require the subscriber to pay monthly charges for, and house, a carrier telephone set which he may not otherwise use simply in order to afford a known termination in the event of testing, particularly since there are other ways of achieving a known termination which do not infringe consumer rights.

37. In the first place, § 68.312 of the rules limits the range of permissible on-hook impedance levels of ringers in registered equipment. We modified this section of the rules to accommodate A.T. & T.'s concern about standards compatible with static testing, in order to assure that the electrical characteristics of all ringers would be within standards acceptable to the telephone company, at least for certain static testing purposes. This, together with § 68.106(a) of our rules, should give the carriers access to specific information about the termination characteristics of customer telephone sets. As IBM asserts, there is little basis for assuming that ringers in customer telephones would be less reliable over time than ringers in carrier sets, since the ringer is one of the most dependable of telephone components due to its passive electrical nature. North American Telephone Association (NATA) also states that references for testing purposes are as well known or knowable for customer sets as for carrier instruments, as shown by the experience of independent telephone companies who obtain telephones from diverse sources.

38. We see no intrinsic reason why a customer telephone set could not serve, or be made to serve, as well as a carrier set for testing purposes, though it may be more cumbersome for the carrier to ascertain the characteristics of a particular set in the absence of a uniform standard. Should the telephone carriers believe that uniform termination characteristics would be desirable or that additional uniform qualities are necessary for effective testing, we would readily entertain a petition for rulemaking to appropriately amend Part 68 of the rules in these respects. Indeed, several other parties to this proceeding (CBEMA, IBM, Computer and Communications Industry Association, Telecommunications International Union, and American Petroleum Institute) have urged us to prescribe termination criteria and any additional qualities necessary for testing, so that independent equipment suppliers could provide a primary instrument which meets the specifications and all telephones—carrier and non-carrier—could participate effectively in testing. We consider this to be a much more reasonable approach than PIC to testing needs, if uniformity is in fact necessary.[15]

39. There appear to be other available means, aside from PIC, for determining whether trouble is in the line or the customer equipment. One means, suggested by IBM and made feasible by the increasing use of plugs and jacks, is for the subscriber to take his telephone set to a neighbor whose telephone line and set are in working order. If the subscriber's telephone works satisfactorily on his neighbor's line, he has reason to think that the problem is with his own line. Conversely, if the telephone gives problems on the neighbor's working line, the subscriber knows that he should seek repair service for his set. If still in doubt, he could borrow the neighbor's working telephone and try it on his own line. According to the telephone industry, 35 percent of single line customers had jacks at the end of 1977 and 85 percent will have jacks within 7 years. Hence, this simple solution will become increasingly available.

40. Another possible method, where the telephone company is unable to tell through central office static tests whether the line is functioning satisfactorily, is to dispatch a telephone company repair truck with a carrier telephone set to the subscriber's premise and charge the subscriber for the house call. It is our understanding that some telephone companies already charge the subscriber where it is determined that the fault lies with the customer equipment and not with the line. A charge to the occasional subscriber who causes the expense would appear more reasonable than requiring all subscribers with their own terminal equipment to pay a monthly charge for a primary instrument whether or not trouble arises or it is even needed for diagnostic purposes. Moreover, while the telephone company's responsibility does not extend beyond the line in the case of customer terminals, there is nothing to preclude it from voluntarily offering a diagnostic service in its tariff, so that the subscriber could call on the carrier and compensate it for diagnostic service if necessary, and then have any noncarrier equipment at fault repaired by the supplier or independent repairman.[15a]

41. In short, we are not satisfied from this record that PIC is necessary

[14] According to the telephone industry, "dynamic" testing is to evaluate the interaction of the telephone with the network to determine complete functioning service. Thus, the telephone company works with the subscriber to establish whether he can dial, receive ringing signals and converse satisfactorily. "Static" testing is a "snapshot" electrical measurement of the electrical characteristics of the pair of wires from the central office to the telephone set. Static testing, which requires a known line termination, is done while the telephone set is on the hook or in idle position.

[15] We would also be willing to explore other testing alternatives, including those suggested in the Notice (para. 10, D2.6) which the telephone industry concedes might afford a partial solution, or the series jack suggested by IBM.

[15a] As was suggested in the Notice, much automatic test equipment which could be used for these purposes is already in use in central offices for telephone company installers and repairmen. Such equipment could be made available for more general use on a compensatory basis.

for testing or that alternative means for assigning trouble to the line or the set have been sufficiently explored.

42. Mindful of the industry's admonition that testing is only one aspect of the claimed social benefits which should be considered all together, we turn to the remaining assertions that PIC would serve as a reference set, aid in an emergency restoral of service, facilitate technological innovation in the network, and ease transition under the Registration Program. We are aware of the usefulness of a working reference point in diagnosing equipment trouble, as Tele-Tron Co. graphically depicts in its comments. However, the reference point need not necessarily be a carrier telephone set. As IBM has indicated, it could be a neighbor's line known to be in working order or a working line at a repair center.[15b] Or if a subscriber owns two telephones, and one works, he may be able to use that telephone as a reference set. A subscriber with only a single telephone might borrow the neighbor's working telephone to serve as a reference set. Or he could take advantage of, and pay for, any diagnostic service voluntarily offered in the telephone company tariff which might include a carrier instrument to serve as a reference set. Under the circumstances, we conclude that PIC is not essential to the achievement of a reference point, however useful a reference point may be.

43. The industry states that PIC would aid in emergency restoral of service because the telephone company would have total responsibility for restoring all components of the service and the lack of a carrier instrument with known characteristics would hamper dynamic testing if that were needed to restore service to the customer's premise. We are somewhat at a loss to see how this bare statement, with no examples or other amplification, adds much to the industry's testing argument. Many emergencies, due to storms for example, must involve disruptions in the company's lines which surely can be restored by the telephone company without dynamic testing of every customer line. Moreover, it is conceivable that the efforts of multiple repair entities added to those of the telephone company might facilitate a faster restoral of service than the telephone company could accomplish alone. If dynamic testing of individual subscriber lines is required for some emergencies, then the necessary uniform characteristics could be included in the petition for rulemaking we have invited.

[15b] It should be noted that most repair orders are initiated by customers who telephone the carrier's repair service. If the subscriber's telephone is not working, he has to seek out another telephone to place a service call. Thus, his neighbor may already be involved.

44. Concerning technological innovation in the network, it is our understanding from our long regulatory association with this industry, that in introducing technological innovations into the network the industry has consistently been constrained by the characteristics of its enormous existing plant, and any changes which have had the potential for rendering unusable existing terminal equipment have been phased-in very slowly. A.T. & T. alone presently has an investment of about $100 billion in plant, and the total industry plant includes some 90 million telephones. Rather than planning technological changes which would require sudden widespread changes in central offices, or render large numbers of existing terminals unusable at one, A.T. & T. and other suppliers of telecommunications services and equipment go to considerable lenghts in the design and use of new technology so as to be compatible with existing central office and subscriber plant, as well as to cause changes thereto gradually. The major innovations which the telephone companies state they have introduced—inductive loading of cable pairs, common battery telephone exchanges, direct distance dialing, automatic message accounting, the 500-type telephone instrument, use of fine guage wire in distribution plant, and electronic switching within central offices—have had varying potentials for rendering existing terminal equipment obsolete. In most cases these innovations were introduced in such a manner that they could coexist with existing plant, and after passage of time their efficiencies were increasingly made available through usage of the new plant. Indeed, of these listed innovations, only the development of the 500-type telephone instrument involved a basic change to terminal design itself, and the increased efficiencies of this design, as compared with predecessor ones, allowed its use not only on all circuits where the predecessor telephones could be used (and could continue to be used after the new instrument was introduced), but also on more "lossy" circuits where the older telephones could not be used. The basic 500-type terminal design, and its network-interface parameters, have remained unchanged since that telephone was introduced around 1950. Moreover, although the telephone network itself has seen dramatic technological changes over the ensuing 28 years, these changes have been intorduced in a manner which retains the network's compatibility with the basic 500-type telephone design. We find it hard to conceive of a new technological change in the network which would require immediate replacement of the telephone companies' 90 million telephones, or that would somehow be compatible with the carriers' telephones and not those of independent suppliers (which use the same network-interface parameters for their designs as the basic 500-type telephone). However, if the industry were contemplating an innovation which would be expected to render customer sets useless, it need not refrain from introducing that technological change for that reason. Of course, the telephone industry should inform independent suppliers as soon as practicable[16] concerning the timing and nature of the impending change so that they could manufacture, and their customers could buy, new equipment which would be compatible. While owners of obsolete equipment may face the choice of buying new compatible equipment or of again leasing a telephone company instrument, this is a risk which the customer assumes when he decides to furnish his own equipment. Of course, even if the subscriber were bound by PIC, this would not give him any protection against possible obsolescence of any other terminal equipment which he owned.

45. Moreover, this aspect of innovation must be considered in the broader context of innovation generally. We have repeatedly found that the competitive equipment marketplace has stimulated innovation on the part of both independent suppliers and telephone companies, thereby affording the public a wider range of terminal choices and other benefits.[17] See, for example, *First Report* in Docket No. 20003, 61 FCC 2d at 867; *Final Decision and Order on Phase II* in Docket No. 19129, 64 FCC 2d 1, 26, 40-41 (1977); *First Report* in Docket No. 19528, 56 FCC 2d 503, 601-602. In Docket No. 19129 we found that while the Bell System entities have been innovative to a substantial extent, "such internal innovation has frequently

[16] In the *Notice* (at D5.5) we inadvertently referred to § 68.106 of the rules, whereas the proper reference should have been to § 68.110(b). The latter section requires the telephone company to notify the customer when it is making changes that would affect the customer's equipment. Similar notice, in major trade publications for example, could appropriately be given to equipment manufacturers. This section in essence requires that customers be given the same opportunity to maintain their telephone service uninterrupted as those using carrier equipment, where a technological development is phased-in which will render existing equipment unusable.

[17] Innovation and other benefits to the public have included the availability of new equipment features, improved maintenance and reliability, improved installation features facilitating the making of changes, the options of owning or leasing, and competitive pricing and payment options. *First Report* in Docket No. 20003, 61 FCC 2d at 867.

been undertaken or spurred only by the stimulus of competition" (64 FCC 2d at 41). The very fact that the telephone instrument has remained basically unchanged over the past 28 years, while technology in communications, computers, and competitive terminals has been rapidly advancing, indicates that the public might well benefit from some competitive stimulus to telephone terminal technology. Some parties, such as IBM, Computer and Communications Industry Association, and Independent Data Communications Manufacturers Association, predict that single line subscribers, the largest communications consumer market, are about to be the beneficiaries of a breakthrough that would bring into widespread use home and small business data terminals, digital telephones, and terminals combining voice and data functions. These and other parties voice concern that PIC might make the supply of such terminals the exclusive prerogative of the telephone industry, as it seems unlikely that many homes would have more than one home data terminal.[18] In view of the wholesome effects of competition on innovation, the benefits accruing to the public, and the potential for significant new developments in home and small business terminals, we deem it contrary to sound public policy to restrict a large segment of the home and business terminal market from any real competition by diverse suppliers. We believe that there will be no significant impediment to innovation by the telephone industry in the absence of PIC, and that the stimulus to innovation and other benefits likely to flow from competition in primary instruments are of overriding public importance.

46. Finally, concerning the industry's argument that PIC would ease the transition under the Registration Program, we note first that PIC is not intended as a temporary measure. The industry expects PIC to continue indefinitely though, like any other rule or policy, it would be subject to review and modification by the Commission after a reasonable period. Rather than being transitional, PIC would permanently carve out a very large exception to *Carterfone* and the Registration Program, and in this sense constitutes a belated attempt by the industry to seek reconsideration of our decision in Docket No. 19528 not to exempt main stations. Even if the telephone industry were seeking a bona fide transition period or a phase-in of main stations, no good cause has been shown for such relief. Though the Registration Program has been effective since October 1977 for main stations, we have had no significant complaints from the telephone industry, consumers or anyone else about concrete problems.[19] Thus, either consumers are taking advantage of the primary instrument option of the Registration Program so gradually as to afford a kind of transition period or the Registration Program is operating so smoothly, despite larger numbers, as to make a transition period unnecessary.

CONCLUSIONS AND ORDER

47. In sum, all of the social benefits claimed for PIC are now available at the subscribers' option without being forcefully imposed by the carriers or this Commission. Considering the telephone industy's asserted grounds for PIC, both individually and collectively, we find and conclude that there has been no showing of public detriment such as might warrant a mandatory requirement for a carrier instrument and interference with the consumer's present right to provide his own primary instrument if he chooses. Hence, PIC is patently inconsistent with *Hush-a-Phone, Carterfone,* and *Mebane* and, if initiated by a carrier, would be unjust, unreasonable, and unlawful within the meaning of section 201(b) of the Communications Act. We have already concluded that PIC would be unlawful within the meaning of section 202(a) of the act, if carrier initiated,[20] since it imposes a blanket prohibition against ownership of primary instruments by single line residential and business customers without distinguishing between those who would adequately maintain their own terminals and those who might not. The industry's failure to show that the bulk of single line business and residential subscribers would not adequately maintain their equipment also makes the proposed discrimination between these consumers and multiline and data subscribers on maintenance grounds unreasonable and unlawful under section 202(a). We would not adopt a proposal that would be unlawful if initiated by the carriers unless there were compelling public interest reasons for doing so. No such reasons have been established here.

48. Since PIC would also be contrary to the Registration Program, the industry seeks rulemaking to modify Part 68 of the Rules in this respect. We determined in Docket No. 19528 and elsewhere[21] that the public benefits from diversity in the supply of terminal equipment and that consumers for this further reason should have the option of furnishing their own terminals, includng main stations. Among these benefits as found in Docket No. 20003 (61 FCC 2d at 867), are: The public's wider range of options as to terminal devices, competitive stimulus to innovation by telephone companies and independent suppliers, the availability of new equipment features, improved maintenance and reliability, improved installation features including ease of making changes, competitive sources of supply, the option of leasing or owning equipment, and competitive pricing and payment options. We considered and rejected the basic arguments of the telephone industry in support of PIC in those proceedings, concluding that they either lacked merit or were outweighed by the benefits of competitive supply. The industry has shown no new circumstances warranting any different conclusions or modification of our decisions in *Carterfone, Mebane,* and Docket No. 19528. We remain of the opinion that the proven and reasonably anticipated public benefits from the competitive supply of terminal equipment, including primary instruments, take precedence over the consideration surged by the telephone industry. If anything, this judgment is the more firm in light of potential developments in home and small business terminals and the heightened desirability of protecting the consumers' freedom of options in such circumstances. Accordingly, we decline to exercise our discretion to institute rulemaking looking toward the adoption of PIC.

49. Having determined that PIC is contrary to the principles of *Carterfone* and the Registration Program and that good cause has not been shown for initiating procedures to modify these principles, we believe it unnecessary to resolve other questions posed in the Notice.[22] Some comments nevertheless appear in order. CCIA particularly and to a lesser extent the Department of Justice have argued that PIC would be questionable under antitrust principles and precedents with respect to unlawful tying arrangements. Insofar as the telephone industry responds that there is only one "complete service," our rejection of this concept leaves the antitrust question without adequate answer. Thus, aside from *Carterfone* and our

[18] The parties also point out that home data terminals would probably be portable and connected through voice jacks, thus falling within PIC under the definitions of the present industry proposal.

[19] Though some individual telephone companies have asserted a fear of economic repercussions, these have been in the nature of speculation or arguments on behalf of PIC rather than reports of actual instances of difficulties.

[20] See paragraphs 27-33 above.

[21] *First Report* in Docket 19528, 56 FCC 2d at 601-602; *Second Report* in Docket No. 19528, 58 FCC 2d at 740-741; *First Report* in Docket No. 20003, 61 FCC 2d at 867; *Final Decision on Phase II* of Docket No. 19129, 64 FCC 2d at 26, 40-41.

[22] The request of the Organization for Use of the Telephone, Inc., that we require telephone/hearing aid compatibility can appropriately be pursued in the pending proceedings in CC Docket No. 78-50.

public interest judgment on communications grounds, PIC has antitrust uncertainties which would have to be more satisfactorily resolved before we could undertake to propose rulemaking.

50. PIC has other troublesome overtones. Of these we note only the contention of some parties that full and fair competition between carriers and independent suppliers of terminal equipment necessitates that local exchange rate structures be unbundles to provide separate charges for components such as exchange access, wiring, equipment, and maintenance. Otherwise, they assert, customers do not have a fair choice, and may end up paying for equipment and maintenance which they do not receive.

51. In view of our disposition of PIC, we decline to explore such questions further in this proceeding. Moreover, we do not here have a sufficient factual record on which to base any decision. We therefore do not reach the telephone industry assertion that charges for carrier instruments used for both intrastate and interstate services, and such questions as credit allowances for customer-provided equipment and unbundling, lie totally outside of FCC jurisdiction and are exclusively the prerogative of state regulatory authorities.

52. Accordingly, in light of all of the foregoing: *It is ordered,* That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

SUMMARY OF COMMENTS ON PIC

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POSITIONS OF THE PARTIES

THE TELEPHONE INDUSTRY (JOINT COMMENTS)[1]

A1. In support of its primary instrument concept (PIC), the telephone industry asserts its belief that there are important social benefits to be realized for single line, largely residential, subscribers. The single most important benefit is that PIC would allegedly provide a reasonable balance between maintenance of a regulated, basic quality telephone service and maximum customer choice in the selection of terminal equipment. Basing PIC solely on social grounds, the telephone industry says that it does not seek to justify the concept on technical or economic grounds, though convinced that there would be ramifications of this nature. However, as additional social reasons the industry claims that PIC would facilitate testing, serve as a reference set, encourage prompt repair, aid in prompt restoral of service, permit optimal network efficiency through technological innovation, and facilitate transition under the Registration Program. PIC is not put forth as a temporary measure, as no set termination is envisioned; however, it is subject to review and modification by the Commission or Congress, say in 7-10 years. Prompt Commission action is desirable because PIC currently can be accomplished with minimum cost and very little customer inconvenience. Delay in implementing PIC may create a situation which is irreversible or difficult to change.

A2. Another fundamental tenet of the telephone industry position is the assumption that the standard telephone set is an essential element of basic telephone service. The primary instrument is thought to be a reasonable, recognizable and easily understood method of separating telephone company accountability from competitive areas. Also, the ability to communicate depends on properly functioning telephone sets, both calling and called. Because the standard telephone is part of a single service, there is no question of any unreasonable tie-in under antitrust policies. Nor does PIC raise any other antitrust question, since good faith proposals to Congress and regulated services are immune from antitrust actions. However, Commission action on PIC could affect pending antitrust suits, and may require pre-emption of state action. Because the primary instrument is an integral part of single line basic service, PIC will not result in carrier domination of the terminal equipment market. Indeed, PIC is not based on any natural monopoly theory—only complete service.

A3. Being part of basic telephone service, PIC is also consistent with *Carterfone.*[2] Telephone service has traditionally been considered to include the terminal equipment provided by the telephone company. *Carterfone* concerned customer equipment augmenting the telephone network, which includes the telephone set. Under PIC customers can use their own equipment except when testing. Moreover, PIC mitigates the possibility of public detriment, and hence is consistent with the Registration Program which focuses on avoidance of network harm. In maintaining the traditional concept of a complete service, PIC preserves the very service that interconnection and competition were intended to enhance. Therefore, adoption of PIC would require no modification of *Carterfone.*

A4. PIC is not predicated on complete end-to-end service for all customers. The different treatment of multiline subscribers is reasonable in view of their comparatively fewer numbers, the availability of alternate lines, their significant investment in equipment and the tendency of such equipment vendors to maintain a close relationship with their customers and to be more aware of their requirements—including maintenance. Vendors of equipment for the single-line customer may not be as well established or accessible, which increases the risk and uncertainty. Moreover, the single line customer with only one telephone has no alternate means of service during repairs, a loss largely avoidable with PIC since the telephone company provides another working telephone. However, if the Commission is of the view that PIC is unlawfully discriminatory as to multiline and data subscribers, it has jurisdiction to expand the concept to include these subscribers.

A5. Because the standard instrument is an integral part of basic service and the customer pays for this service as an entirety, the lack of a credit allowance for the standard instrument where the customer chooses optional equipment is reasonable. Such standard instruments are not set aside and do not require any separate accounting treatment. In any event, the question of charges is properly before the state jurisdictions, and the telephone industry would not object to a state determination that a credit is required. The basic service charge is determined on a residual basis, and not by individual costs. The combined charges are just and reasonable and there would be no advantage to the public in unbundling rates. Nor should customers have the option of purchasing telephone sets from carriers; the primary instrument is part of basic service which is furnished on a recurring charge basis. Telephone sets purchased from a telephone company would not qualify under PIC if owned by the subscriber.

A6. PIC is provided as an essential element of basic service and not necessarily as a "main station." There is no technical or economic reason for distinguishing between main and extension stations, though there are service and other distinctions. As of the end of 1977 main stations constituted 51.2% of the total market for the Bell System and a higher percentage for independent telephone companies. The telephone industry currently provides virtually all main sta-

[1] Filing jointly are National Telephone Cooperative Association, Organization for the Protection & Advancement of Small Telephone Companies, United States Independent Telephone Association, American Telephone & Telegraph Co., Central Telephone & Utilities Corp., Continental Telephone Corp., GTE Service Corp., and United Telecommunications, Inc.

[2] *Carterfone,* 13 FCC 2d 420, on reconsideration 14 FCC 2d 571 (1968).

tions, with 0 to .018% customer provided. Under the post *Carterfone* tariffs very few subscribers exercised the option to provide their own telephone sets. Due to customer choice of the decorator shell program and the very small incidence of true customer-owned sets, there has been no past problem with customer sets. There is also a lack of experience on which to base reliable estimates as to the number of single line customers unwilling or unable to repair their equipment. PIC would continue to permit customer ownership of decorator shells, with carrier ownership of the working components of the set. Since the industry does not distinguish between main and extension stations, it does not classify complaints in this way. About 12 to 20% of residence telephones are replaced or repaired each year due to trouble conditions. Forty percent of the station troubles involve components that are likely to casue transmission problems and impair conversations.

A7. The telephone industry states that forecasts as to market conditions for customer ownership of telephone sets, with or without PIC, are proprietary and hence have not been supplied. Concerning the economic questions in the Notice of Inquiry, the industry reiterates that it is not relying on economic considerations in support of PIC, only social. Moreover, it is assertedly difficult to respond to the scenarios posed in the Notice (Question C), with any degree of meaningful specificity in view of the significant changes anticipated from the Registration Program, which render past experience meaningless, and many other variables. By making arbitrary assumptions, the industry calculates, on the basis of one set of assumptions, that at a 10% loss of carrier main stations the revenue requirements of the industry would increase approximately $100 million. Calculating on the basis of a second set of assumptions, at a 100% loss of carrier sets the revenue requirements would increase by approximately $1,500 million.[3] However, the industry disclaims these analytical efforts as unreliable, and believes that further analyses would not produce any more reliable results.

A8. PIC encourages the maintenance essential to high quality service. Even if customers and carrier telephone sets are identical at the outset, a lack of maintenance may result in a degradation of performance over time. There are incentives to both the telephone company and the customer to keep the carrier-supplied primary instrument in good repair and functioning properly. The cost of maintenance is included in the monthly service charge, so that the customer need make no additional outlay for maintenance, and the carrier will replace a malfunctioning set that must be removed for repair. It is human nature to postpone repairs as long as possible. At least 12% of telephones experience trouble each year, and 40% of the station troubles involve components that are likely to cause transmission problems and impair conversations. A test of the line is required for 70-80% of all trouble reports. The carriers also initiate tests, up to 35 a year for the average user. The results of some tests could be distorted if the line is not terminated in a carrier instrument. The carrier instrument provides a recognizable termination, which may not be the case for instruments from outside suppliers. The suggested alternative of a test termination unit has problems. Such a unit is not capable of performing all tests, and the cost of installation is significant. The unit costs $4.00 and installation costs $9-$19 depending on whether a special visit is required. Other alternatives suggested in the Notice provide only partial solutions to the total testing problem; PIC provides a means of doing it all.

A9. By way of clarification as requested in the Notice, the industry states that multiline service is where multiple lines or trunks enter a single piece of common equipment which is so arranged that the selection of alternate paths to these lines is possible from connected terminal devices. Telephones with access to more than one line, but without interposed common equipment, are not multiline. Thus, multiple lines terminating on multiple single line telephones would be within PIC for each line. PIC would also apply to a 510 set, convenience key telephones, and secretarial pick-up on the same premise. PIC would not apply to WATS, one-way trunks and loops, extended area outgoing only, FX or one-way CCSA, as these are not basic service. There is a need for one PIC for each of several lines entering a premise because this avoids problems of discrimination, promotes administrative ease of handling, and is easily understandable for subscribers. Shared use of one PIC among several lines would cause inconvenience to the customer and possibly delay the detection and correction to trouble when reported. In some instances, technical considerations might prevent interchangibility of instruments between lines.

A10. Data service is the connection of any registered device to the network that functions as a data modem, either via data jacks or standard voice jacks, or by data access arrangements. Where a customer has a mixture of lines, PIC would apply to single line terminations but not to data modems, data jacks, or data access arrangements. If a standard telephone set were to be connected via a data jack, it would be excluded from PIC. However, this would be wasteful since a data jack is more costly than a voice jack and the customer could receive no data service while the telephone was connected.

A11. In joint reply comments the telephone industry stresses again that PIC is consistent with the *Carterfone* principle and is based solely on social benefits. Testing is only one aspect of these social benefits which should be considered all together. The industry states that PIC is not premised on end-to-end responsibility nor on economic grounds—specifically a concern over a loss of return on telephone company investments in instruments. Questions as to rate structures, unbundling, cross-subsidy and credit allowances the industry regards as intrastate matters, which are outside of FCC jurisdiction and irrelevant to PIC. Responding to antitrust arguments in the comments of others, the telephone industry asserts that there would be no antitrust problem if the Commission were to adopt PIC since it would constitute regulatory action. On this point reliance is placed particularly on *Gordon* v. *New York Stock Exchange, Inc.*, 422 U.S. 659 (1975); *United States* v. *National Association of Securities Dealers*, 422 U.S. 694 (1975).[4] The remaining state regulation of rates is also claimed to be immune from antitrust attack.[5] Finally, the industry seeks to lay to rest fears expressed in the comments that PIC might spread to other services, re-emphasizing that PIC does not apply to multiline, data or private line services.

NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

A12. The National Telephone Cooperative Association states that its members support PIC, but that this requirement should be made optional for rural telephone companies as permitted by State regulation. In view of the relatively little experience with customer equipment under the Registration Program, the Association advocates permitting a limited degree of variation to gain practical experience.

ROCHESTER TELEPHONE CO.

A13. Though not taking a position on PIC, Rochester Telephone comments on its experience with customer provided equipment and wiring in its service area. Rochester permits its customers to install both equipment and wiring under its certification program, and also sells installed carrier equipment and associated wiring to its customers. Pursuant to an order of the New York Public Service Commission Rochester's tariff is unbundled to provide separate charges for equipment, wiring and exchange access. In general, Rochester states, its experience with this program has been satisfactory. It is unable to identify any material adverse effect on the network or evidence of economic harm. Indeed, the company is better off to the extent that the customer buys carrier equipment in lieu of purchasing from the interconnect industry. Rochester requests that we address the question of carrier or State interconnection policies which may be more liberal than the FCC program and make a determination on the question of preemption.

A14. *Illinois Telephone Association* submitted testimony by its Chief Engineer, John W. Kissel, in support of PIC. Mr. Kissel takes the position that there should be a credit for customer provided extension telephone to encourage customer reporting to the telephone company, but no credit for customer main stations. He further asserts that extension charges and those for touch-tone service should be unbundled, and that installation charges should be reviewed to make sure they cover costs.

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[3] Under the first set of calculations it was assumed that removed instruments would remain in Account 231 until fully depreciated, jacks would be supplied when main stations were removed, and other variables would remain constant. Under the second set of calculations, it was assumed that the removed sets were retired with no salvage value, main stations would be jacked when carrier extension sets were removed, and other assumptions were the same as for the first set of calculations. The change in assumptions resulted in higher revenue requirements under the second set.

[4] Other antitrust cases cited by the industry include: *FCC* v. *RCA Communications, Inc.*, 346 U.S. 86 (1953); *Phonetele, Inc.* v. *AT&T*, 435 F. Supp. 207 (C.D. Cal. 1975), appeal pending; *Dasa Corp.* v. *General Telephone Co. of California*, 1977-2 Trade Case § 61, 610 (C.D. Cal. 1977), appeal pending; *Western Electric Co.* v. *Milgo Electronic Corp.*, No. 74-1601-Civ. CA (S.D. Fla., Sept. 20, 1976), appeal dismissed, 568 F. 2d 1203 (5th Cir. 1978).

[5] Citing *Parker* v. *Brown*, 317 U.S. 341 (1943); *Mobilfone* v. *Commonwealth Telephone Co.*, 1978-1 Trade Case § 61, 873 (3rd Cir. 1978), aff'g 428 F. Supp. 131 (E. D. Pa. 1977).

A15. *Shenandoah Telephone Company* submitted material reflecting its views that the Registration Program is likely to have an adverse effect on rates for rural telephone service and that PIC should be adopted to minimize the potential loss of revenue. In order to meet the competition the telephone company is proposing to lower its charge for extension telephones, and to offset the decrease in revenue by charging higher rates for other services. It does not propose to give any credit for customer main stations since these should be provided by the telephone company. Shenandoah believes that it is in the public interest for a telephone company to be singly responsible for telephone service since the preponderance of customer complaints relate to transmission quality and involve the telephone set.

STATE REGULATORY AUTHORITIES

A16. *National Association of Regulatory Utility Commissioners (NARUC).* By letter dated November 7, 1977, before this proceeding began, NARUC advised the Commission that it "believes the Primary Instrument Concept is necessary for the protection of the individual subscriber and will foster the goal of dependable universal service." On March 10, 1978 NARUC requested the Commission to form a Federal-State Joint Board to prepare a recommended decision in this docket, on the basis of a claimed relationship with other Joint Board proceedings. Renewing this request in its comments, NARUC refrained from addressing the merits and stated that it does not appear for or against PIC.

A17. *Individual State Commissions.* The State Commissions of New York, West Virginia and Oregon filed statements of intervention indicating an intent possibly to participate at a later stage in this proceeding. Several other State Commissions filed reply comments or resolutions on the merits.

A18. *The State Corporation Commission of the Commonwealth of Virginia* endorses PIC and urges its adoption by the FCC. That Commission comments that PIC would differentiate basic telephone service from the competitive terminal equipment market and keep the telephone company responsible to customers and accountable to regulatory commissions for the quality and reliability of basic telephone service—a factor of prime importance to the Virginia Commission. It further asserts that PIC would smooth the transition under the Registration Program and facilitate testing, maintenance, and emergency restoration of service. If PIC is not adopted, the Virginia Commission joins in NARUC's request for a Federal-State Joint Board.

A19. The *State of California* and its *Public Utilities Service Commission* also seek the establishment of a Joint Board. Noting that they have taken a position in favor of PIC before the House Subcommittee on Communications, California and its Utilities Commission state their belief that complete service to individual subscribers should include a working telephone as there is no assurance that telephones purchased at retail outlets would either work or be compatible with the particular central office requirements in the area. Part 68 of this Commission's rules does not prescribe service standards for registered equipment. Moreover, PIC contributes to the telephone company's operating efficiency by eliminating unnecessary home service calls. State regulation will provide a forum for disputes on service or rates between the customers and the telephone company. During the past year the California Commission has processed more than 15,000 such requests—an effort that would be wasted for disputes involving customer-owned equipment. Similar comments supporting PIC were filed by the Public Service Commissions of Alabama, Mississippi, and South Carolina.

A19a. *New York Public Service Commission.*[5a] According to NYPSC, adoption of PIC would offend the public interest because the elimination of privately beneficial options for the vast majority of single line, largely residential subscribers would preclude them from enhancing the use of basic service by adding terminal equipment of their own choice, except at an economic penalty. PIC would severly limit individual consumer choice since the majaority of subscribers have only one telephone, and force the consumer to pay for the carrier's maintenance process, which is more costly than other options. NYPSC's experience with several New York State companies shows that there is no need to institute PIC to maintain quality telephone service. There is no evidence that customer ownership of terminal equipment affects the quality of basic service. PIC is not needed to provide a dividing line between regulated and nonregulated areas; New York companies have used various points of customer company demarcation to define ownership and maintenance limits, without any detectable confusion or service deterioration. PIC is inconsistent with *Carterfone*, absent any adequate showing of public detriment, and constitutes a regressive measure instead of an evolutionary approach.

All of the claimed "social benefits" of PIC are now available as options. Moreover, they rest on the presumed superiority of telephone company equipment and maintenance, which has not been established. There is no evidence of any natural monopoly in the telephone terminal equipment or that a carrier instrument is an essential part of basic telephone service. Any operational telephone instrument can be considered a part of basic telephone service, regardless of who provides that instrument. The industry's maintenance and testing arguments do not justify PIC. Apart from the admitted lack of evidence as to customer maintenance habits, customers who are incapable of maintaining their facilities personnally will probably choose either carrier equipment and maintenance or rely on an outside agent to install and maintain their equipment adequately. Some customers will take better care of equipment and be more cognizant of timely repairs because of the "vested interest and pride of ownership." The argument that single line subscribers with only one telephone will have a significantly higher risk of experiencing total loss of service than similar customers with several telephones is true whether or not that single telephone is customer owned or carrier provided. It is the total loss of service which will prompt the customer to take remedial action to restore service to an acceptable level.

The industry neglects to point out in its testing argument that some telephone company tests are performed routinely, automatically, and at random intervals on subscriber lines, even though no trouble has been reported on the line. Thus, even under PIC a subscriber might be unaware that the telephone company was testing and might not have the carrier instrument connected.[5b] If the FCC Registration Program does not now provide adequate assurance that a "recognizable" termination exists during the testing phase, then the correct action is to modify the existing registration program, not to adopt PIC. Dynamic testing, under a program of customer ownership of terminal equipment, would no longer be the responsibility of the telephone company. It is the subscriber who performs such testing and he does so every time he uses his telephone, since the ultimate operational test is his perception of how well his instrument is working. There are many alternative options which would permit the customer to diagnose whether the fault lies in his instrument or the telephone company's facilities; PIC is not necessary for this purpose. Nor is PIC necessary for telephone company innovation, particularly since the industry will continue to control technological innovation on switching and distribution systems, to which advances in terminal equipment must be geared.

The telephone industry in pointing to minor incidence of customer owned telephone sets under the connecting arrangement tariffs, omits any mention of the economic and technical impediments to the use of Bell-type connective arrangements for single-line applications. The cost of the connecting arrangement and of any required modifications to the customer's set, precluded a beneficial tradeoff. In some cases the cost of leasing a protective connecting arrangement was greater than the monthly cost of leasing three carrier instruments. While the industry finds it impossible to forecast subscriber demand for telephone sets, NYPSC believes that demand has been limited by present tariff structures. The telephone company refusal to make a credit allowance where the standard instrument is not taken can only be intended to coerce the subscriber into taking and using the standard instrument. PIC is clearly anticompetitive and not in the public's best interest. Unbundling of rates and full expensing of installation costs should make customer ownership more favorable. Thus, in NYPSC's opinion, technological advances, tariff revisions, and greater public awareness of ownership options can only serve to stimulate demand.

Finally, NYPSC urges rejection of the industry suggestion that we preempt New York State's inside wiring investigation and preclude NYPSC from taking action with respect to customer provision of inside wiring up to the primary instrument. Voluntary carrier programs also should not be superseded. NYPSC has perhaps the greatest source of data on interconnection from experience with Rochester Telephone Co. and its subsidiaries. Preemption could negate the positive aspects of these programs, which have shown encouraging results.

FEDERAL AGENCIES

A20. *General Services Administration,* commenting on behalf of the Executive

[5a] Due to NYPSC's late filing (see footnote 12 of this Report), we omit paragraph numbers in summarizing its comments.

[5b] Contrary to the suggestion of the telephone industry, a study of Bell-type PCA's provided for single-line installations reveals no capability for through dc continuity testing of station sets from the central office.

Agencies of the United States, asserts that PIC is a belated attempt by the telephone industry to reverse the regulatory policies developed by the Commission and the courts during the last 10 years and that the industry has not made a sufficient public interest showing to warrant its adoption. In support of this position GSA urges that PIC is inconsistent with *Carterfone*, under which there has already been afforded a 10-year transition period with no showing of public detriment resulting from the connection of private equipment. Moreover, the comments of the telephone industry do not sufficiently address the antitrust problems posed by the Notice or make a compelling argument for end-to-end service and the need for PIC for innovation purposes. The principal contention of GSA appears to be that an extension of PIC to multiline subscribers would have a significant adverse impact on the Executive agencies for which there is no basis in the record.

A21. *Department of Defense* (Defense Communications Agency), filing separately, similarly claims that there is no factual basis whatsoever for extending PIC to multiline and data subscribers. If the disparate treatment of single line versus multiline and data subscribers is deemed to be unlawfully discriminatory, DOD states that PIC should be rejected.

A22. *Department of Agriculture, Rural Electrification Administration*, comments in support of PIC. REA states that its borrowers have invested $227 million in station apparatus, the major portion for equipment that would be considered primary instruments. For these borrowers, 25-35 percent of all trouble reports involve telephone sets. Rural residents do not have as ready access to repair firms and hence must rely more heavily on telephone companies for maintenance. REA has a policy of financing only end-to-end telephone systems, and would not finance customer owned equipment or lines.

A23. The *Department of Justice*[6] sums up PIC as "a bad idea, proposed at the wrong time" which should not be further considered by the Commission. The principal argument of Justice is that further consideration of PIC would be tantamount to reopening long resolved technical issues and reexamining the role of competition in promoting greater customer choice in terminal equipment—matters which the Commission and the courts have laid to rest. The telephone industry has advanced virtually no new facts to support PIC nor any rationale that will withstand analysis. Adoption of PIC would be a regressive step that would unnecessarily create confusion among users and regulators, give rise to preemption questions and stimulate private antitrust suits.

A24. The Department claims that PIC would unfairly discriminate among different classes of customers despite the absence of any credible justification for the discrimination. It is far easier for the industry to impose the burden of PIC upon the highly fragmented, largely uninformed and generally acquiescent single line portion of the business than upon large users who would not tolerate an abrupt reversal of the existing, liberalized procompetitive rules. The Commission should not withdraw from residential and small business users the benefits of competitive choice they now enjoy, while continuing to afford major business users those benefits. Especially should the Commission not do so since competition in terminal equipment is one kind of competition all parties, including telephone companies, acknowledge has paid substantial public dividends and has produced concrete results in expanding diversity of choice available to telephone customers.

A25. Finally, the Department of Justice urges that adoption of PIC would create antitrust uncertainties which would provoke needless public and investment community turmoil. Though citing numerous antitrust precedents defining unlawful tying arrangements, Justice refrains from taking a position for the reason that it lacks sufficient information at this juncture to form a definitive opinion on the antitrust legality of PIC. However, Justice maintains that Commission action adopting PIC would not block private antitrust suits, but would likely stimulate them.

LABOR ORGANIZATIONS

A26. The *Communications Workers of America*, while supporting PIC as a means of keeping end-to-end responsibility for telephone service in the telephone companies and maintaining their revenues, fear that PIC may be a step toward exclusion of telephone companies from the supply of terminal equipment. Noting that equipment and its installation are labor intensive, CWA believes that the telephone companies should remain in the terminal equipment business. CWA asserts that PIC should be modified to eliminate the fee for the standard instrument where the customers take optional equipment from the telephone company. CWA seeks modification of the Registration Program to add affirmative certification that the equipment will function and measures to enforce the product liability of equipment suppliers. CWA also requests that part 68 and form 730 be amended to specify the country of origin of terminal equipment, as "domestic" manufacture can mean assembly of foreign produced parts.

A27. In addition to espousing the reasons put forth by the telephone industry, the *Telecommunications International Union* (TIU) contends that PIC is needed to maintain a large and productive workforce employed by the telephone companies. These employees already cope with automation and are threatened by imported equipment. However, TIU questions the industry's assertion that PIC would promote the orderly introduction of innovation. According to TIU, the introduction of innovation was not orderly before terminal competition arose, and innovations like electronic switches are not the result of changes in the terminal market. Moreover, the basic technology of the telephone set has remained unchanged for a long time, and technological change in the network does not change the telephone set. Nevertheless, TIU maintains that PIC is a necessary response of the telephone companies to competitive challenge, since the continuous rental of terminals helps subsidize service. Pointing out further that the adoption of PIC would be contrary to rulings of the New York Public Service Commission and that some other State regulatory agencies are highly active, TIU urges us to allow scope for the New York regulations. TIU also asserts that PIC should be modified to delete the requirement for a strandard instrument where optional carrier equipment is taken, and to charge the customer who chooses to use his own equipment only the cost of using the telephone company instrument for testing. TIU is of the opinion that usage sensitive pricing should extend to the cost of restoring service in emergencies. Despite the registration program, terminal equipment freedom is not substantially used by residential and small business subscribers. However, TIU supplies no numerical estimates as to customers choosing to do so. TIU states that the FCC should prescribe uniform standards for primary instruments.

A28. *Michigan State AFL-CIO* notes that many firms have begun importing telephone company equipment as a result of *Carterfone* and the Registration Program. Claiming that at least 100,000 American jobs are at stake, it supports PIC as the only practical means of keeping some portions of the terminal equipment market within the end-to-end service concept. Michigan State AFL-CIO also asserts that the Commission should either cover all equipment suppliers by tariff or deregulate all.

CONSUMER

A29. *Consumer Federation of America* and *Consumers' Union* urge rejection of PIC. They are in favor of *Carterfone*, including main stations, and competition in the sale of terminals. Being of the view that the present interconnection policy is a means of insuring that the potential benefits of a competitive marketplace accrue to the consumer, they think this is a critical period for consumer choice with the advent of sophisticated terminals and widening consumer usage. PIC would discourage single line subscribers from taking advantage of this situation, as they would have to pay twice. Moreover, PIC renders the marketplace less attractive to the development and introduction of new equipment. In reply comments, these consumer groups urge that the telephone industry has failed to demonstrate that PIC will not restrict consumer choice or that it offers offsetting benefits.

A30. *Organization for Use of the Telephone, Inc.*, an advocate for various hearing-impaired consumers, asserts that about 20 percent of carrier supplied main stations do not have the capability of transmitting sound by hearing aid induction coils, despite available technology. The organization requests us to require telephone/hearing aid compatibility, using the Bell System "blue grommet" (coin station) technical standards on the ground that this would benefit hearing impaired consumers, and those who communicate with them, without causing public harm.

A31. Among the few *individual consumers* commenting, Russell F. Halberg and J. E. Begley oppose PIC as an unnecessary forced market which is assertly an attempt by the telephone companies to "salvage a little bit of the anticompetitive situation they had originally." On the other hand, Allan J. Goodmanson supports PIC as a reasonable step to insure testing and operating continuity.

LARGE USERS

A32. The *American Petroleum Institute* (Central Committee on Communications) agrees with the objectives of the telephone

[6] Although the reply comments of the Department of Justice were belatedly submitted on May 16, 1978, we will consider them in the interest of a full record. However, we remind the Department that under § 1.415 governing proceedings conducted pursuant to rulemaking procedures, authorization of the Commission is required for late filings.

industry, but maintains that PIC is not necessary to achieve them. It proposes instead a cooperative effort by the telephone companies, equipment manufacturers and users to find a comprehensive solution to the problem. Among the approaches worth exploring API suggests modification of Part 68 to require that telephone sets have minimum capabilities for testing (as specified by the telephone industry), including appropriate terminations to meet the needs of static testing and the ability to participate in such additional functional tests as may be required in the view of telephone companies, users and equipment manufacturers. On PIC the Petroleum Institute asserts that the industry proposal is inconsistent with established federal policies and no logical reasons have been set forth by the industry to alter those policies. Moreover, it sees PIC as an unreasonable tie-in, contrary to antitrust principles, which would not be immunized from antitrust suits by FCC action.

A33. *Utilities Telecommunications Council* likewise claims that PIC is not essential to meet telephone company objectives. The Utilities Council believes that PIC is a fundamental modification of "Carterfone" which has not been justified by the telephone industry. In any event, if adopted PIC should be limited to only single line subscribers, not to a mixture of single line and multiline, and energy utilities should be exempted from its application altogether. Energy users are highly sophisticated, in many cases operate their own private systems, and by the nature of their business can be counted on to repair promptly.

A34. *Action Communications Systems, Inc.* urges that PIC, if adopted, should be restricted to single line residential and business subscribers. So long as PIC is not applied to multiline voice service, Action agrees with the telephone industry on PIC. However, application of PIC to multiline subscribers would cause undue harm and inconvenience, as service would be interrupted, there would be no realistic assurance of continuing service, and space requirements would be unrealistic.

CARRIERS (NONTELEPHONE)

A35. *MCI Telecommunications, Inc.* et al., in opposition to PIC, claims that the concept has already been rejected by the Commission (Second Report in Docket No. 19528, 58 FCC 2d 736, 741, 746 (1976)). MCI asserts that PIC is anticompetitive, and would have "devastating" impact on single line business customers. MCI submits that the industry has failed to show any public detriment from the present policy or to advance any other reasons for PIC not already rejected.

A36. *American Satellite Corporation* takes the position that PIC should not preclude the use of customer equipment with private line service. It expresses particular concern that the telephone companies might refuse to terminate "Other Common Carrier" service in a single line telephone set if the customer does not subscribe to basic telephone service. ASC seeks assurance that PIC will not be used by the telephone industry to increase either the cost or the difficulty of obtaining private line service by subscribers of single line serivce. By proposing a very broad and ambiguous definition of "single line" and a narrow definition of "multiline" service, the telephone industry seeks to bring the largest possible number of customers within the purview of PIC. Despite the industry disclaimer that PIC will affect private line service, ASC thinks that these definitions create substantial doubt as to whether present and potential private line customers would incur additional expenses or inconvenience in obtaining private line service by virtue of PIC.

EQUIPMENT SUPPLIERS

A37. *Carterfone Communications Corporation* considers PIC to be unreasonable and unduly discriminatory, as well as an unwarranted interference with the subscribers right to use the telephone system in ways that are privately beneficial without being publicly detrimental. It asserts that the telephone industry has made no adequate showing that non-harmful interconnection must be prohibited in order to permit telephone companies to carry out their responsibilities. It is in the best interest of the public that no single group provide all terminals for the telephone system. PIC is overly broad and would come close to eliminating certain portions of the interconnect industry. There are other simpler means of accomplishing the industry's objectives if the public interest requires that they be met. The largest potential market is the single-line customer and the availability of the interconnect alternative affords them benefits in pricing and technological development.

A38. *Tele-Tron* Company offers its view that PIC works, an opinion allegedly shared by others in the interconnect industry. Tele-Tron, as an experiment, replaced all the telephones in its office with non-carrier equipment. When the telephone line went dead, it unplugged all the customer equipment and plugged in the carrier instrument, which worked. Tele-Tron quickly located and removed the problem telephone. While still using customer equipment, Tele-Tron appreciates having the carrier instrument around for checking. Most of the inquiries Tele-Tron receives are for extension telephones, not main stations. In the absence of PIC, Tele-Tron believes there would be fewer customer telephones as customers would become alienated from repair problems and receiving bills from both telephone and non-telephone repair men.

A39. *National Retail Merchants Association* argues that the difficulties associated with PIC should not obscure several points worth of consideration. Competition should be developed at a pace which will protect the telephone companies from a precipitious and economically wasteful loss of non-resusable inside wire and station investment, since competition is supposed to lead to a more efficient resource use and not to premature obsolescence of useful facilities. Further, the terminal equipment market would have an orderly growth so that new sellers will not be immediately injected into responsibility for customer maintenance. Some potential sellers of equipment will not enter the market if sales responsibility embodies a function of assuring equipment buyers uninterrupted access to communications. At the point of sale, extension and primary instrument buyers are indistinguishable. NRMA concludes: "The least attractive form of competition is one where the market is divided among a few unregulated suppliers, many of whom would not provide adequate repair service, and telephone companies, which under rate making and accounting constraints, would be forced to satisfy their revenue needs in the remaining markets they still control.

A40. *Computer and Business Equipment Manufacturers Association* (CBEMA) claims that PIC is a direct contradiction of *Hush-A-Phone*[7] and *Carterfone* and present regulatory policies. The customer rights there upheld are rooted in the Communications Act and are thus beyond the Commission's legal power to restrict. Although the Commission cannot modify *Carterfone* in that sense, rulemaking is the appropriate procedure for considering the PIC proposal. The public policy considerations in favor of a competitive terminal market do not call for reestablishing a monopoly, particularly since the telephone industry has not made a compelling showing in support of PIC.

A41. The basic thrust of CBEMA's comments is that the industry's arguments for PIC are not new, but rather have been repeatedly rejected by the Commission. CBEMA claims that PIC is really based on fear of economic competition and a desire for greater monopoly control of all telephone service. The First Report in Docket No. 20003 (61 FCC 2d 766, 769) found that the telephone industry is healthy and gowing—service, revenues and profits—and this growth is not endangered by interconnection despite the authorization of private ownership of main stations. It is reasonable to expect greater growth now, since increased equipment rentals are expected and greater use of terminal equipment generally brings greater use of service. Docket No. 19129 64 FCC 2d 1, 26-27) recently affirmed the economic benefits of competition. Thus, the need for monopoly cannot be economically justified in the face of enlarged growth even in an era of competition.

A42. PIC would give the telephone industry a competitive advantage, reaching beyond standard instruments to small business data terminals and sophisticated residential terminals of all kinds (for example, transaction telephones and speakerphones). PIC would also retard the supply of innovative equipment to the largest segment of consumers and further subject them to monopoly pricing and the "whims of monopoly decisions as to which terminals to offer."

A43. Concerning the telephone industry's technical arguments, CBEMA claims that *Carterfone* rejected the argument that the terminal is a necessary part of end to end service. Indeed, we do not have end-to-end service now in many instances. Since the beginning of private line services there has been no realistic end to end control over equipment. Moreover, independent telephone companies in the United States and overseas use a variety of terminal equipment. The depiction of the telephone companies as fully accountable to state and federal regulatory authorities is without significance in the terminal equipment field. The registration program is a first attempt at terminal regulation. There is no detailed regulation of installation and maintenance practices in the terminal equipment area.

A44. The Bell System's quarterly reports to the Commission, which summarize trouble reports received on carrier and customer equipment, show that carrier equipment is not superior to that of outside suppliers. Independent telephone companies obtain telephones from a number of non-carrier sources with no evidence of unusual failure. Moreover, the New York Public Service

[7] *Hush-A-Phone Corp.* v. *U.S.*, 238 F. 2d 266, 269 (D.C. Cir. 1956).

Commission has found that the same quality of service is likely to result from customer telephones. The testing justification shows that not a whole telephone but only certain termination criteria are necessary when tests are conducted after a customer reports trouble. The Commission could add termination criteria to Part 68, so that all telephones would allow testing. The only clear requirement for telephone company testing is that one can dial properly and receive transmission from the test board. Noncareer equipment could perform these functions as well as carrier equipment. Moreover, as in the case of termination criteria there is no reason why any additional qualities needed for testing could not be put in Part 68, so that all telephones—carrier and noncarrier—could participate in testing.

A45. CBEMA appends testimony on behalf of Pacific Telephone and Telegraph Company to the effect that telephone company maintenance of terminals basically consists of responding to trouble reports and repairing or replacing the telephone as necessary. For ordinary main stations, the company has no program of inspecting individual sets periodically to see if they require maintenance, though some central offices do automatically scan lines and hence terminal equipment, both carrier and noncarrier owned, to detect actual or potential causes of trouble.

A46. CBEMA notes that the telephone industry's argument concerning innovation in the network was considered and rejected in Docket No. 19528 (First Report, 56 FCC 2d 503, pars. 240-246). The Commission there found that a competitive market innovates faster. With adequate notice, competitive suppliers can keep pace with changes in the network.

A47. Pointing in its reply comments to the telephone industry's failure to submit any of the economic analyses requested in the Notice, CBEMA states that industry has abandoned all prior claims of economic or technical harm from customer terminals and has otherwise failed to carry out it burden of proof on PIC. CBEMA contends that the telephone carriers have responded to the Notice with no more than generalized arguments about the social benefits of assuring that single line telephone service will remain fully operational due to carrier maintenance of equipment and have not submitted any probative evidence to show that the maintenance provisions for customer owned telephones registered under Part 68 are not sufficient to assure working telephone service. The argument of "complete service", put forth by the industry in claiming consistency with *Carterfone* as well as to refute antitrust questions, was rejected in *Mebane Home Telephone Company*, 53 FCC 2d 473,476. Moreover, CBEMA notes, the telephone industry admits there is no demographic evidence that single line subscribers are less sophisticated or less likely to properly maintain their equipment than multiline subscribers. Thus, the industry's claim to that effect is a generalized and admittedly unsupported assertion as to what it believes to be the likely maintenance practices of subscribers, which underlies the concomitant claim as to the social benefits of PIC. This unsupported assertion also undercuts the industry's testing justification for PIC, since the joint comments concede that noncarrier telephones could perform functional tests if properly maintained. In view of the telephone industry's failure to carry the burden of supporting PIC, CBEMA urges rejection of the proposal.

A48. *North American Telephone Association (NATA)*, which took no position on PIC in its initial comments, asserts in reply comments that PIC is "pernicious" and has not been supported by hard data or facts because there is no justification for it. NATA claims that social benefits do not exist in the abstract but must be assessed on the basis of economic and technical effect, which the carriers have not supplied. Carrier provided terminal equipment is not the only terminal equipment which will serve for testing purposes. References for testing are as well known or knowable for customer sets as for carrier instruments, as shown by the experience of independent telephone companies which obtain telephones from diverse sources. Carriers do not perform regular maintenance on telephone sets, only when the subscriber requests service. The argument that customers are more apt to seek such carrier maintenance because of bundled rates fails to take account of the variety of arrangements under which independent suppliers sell or lease terminal equipment. NATA claims that warranties or service contracts are as effective as bundled carrier rates in achieving prompt and proper repairs. Nor is PIC necessary to establish a clear division of responsibility for service and repair. Customers with their own equipment know that companies—including telephone companies—do not ordinarily offer service for equipment that they do not provide. In short, customer equipment can serve equally as well as carrier equipment for purposes of testing and continuity of service.

A49. PIC has no valid economic or competitive justification. Indeed, the industry does not rely on economic grounds and withholds information on competitive impact as proprietary. Despite the virtual certainty that if PIC were adopted, customers would end up paying for equipment and maintenance which they do not receive, the industry flatly refused to propose tariff changes to unbundle rates. The lack of a credit for customers taking optional carrier equipment, or using PIC only for testing, clearly raises issues of unjust or unreasonable rate discrimination under section 202(a) of the act. On its face PIC has anticompetitive overtones, yet the industry makes it impossible to assess the extent by withholding information on competitive impact. The industry has not dispelled concern that PIC would result in a telephone industry monopoly in the single line market which would permit it to preserve a dominant position in the multiline market by underpricing. These concerns are amplified by the broad definition of the types of service to which PIC would apply. No other adequate public interest justification has been supplied for PIC, which is not privately beneficial but rather costly and anticompetitive, inverting the *Hush-A-Phone* principle.

A50. *Computer and Communications Industry Association* (CCIA) takes the position that PIC clearly contravenes the *Carterfone* line of cases. Indeed, CCIA believes that *Carterfone* is res adjudicata and AT&T, as a party defendant, should be bound by the result. In any event, since the Commission has rejected the notion of complete end-to-end service, the burden of demonstrating that the public interest requires modification of *Carterfone* is on proponents of the change. This burden the telephone industry clearly has not met.

A51. The industry's principal claim of "social benefits" comes down to its testing, maintenance and repair contentions. The testing argument does not suffice since independent equipment can perform tests as well as telephone company standard or optional equipment. Moreover, if there is merit to the testing argument, competitive vendors should be permitted to provide a primary instrument which meets the necessary specifications. CCIA favors expansion of the Registration Program to include an interconnect standard for the primary instrument which will prescribe the minimum characteristics necessary for testing purposes by the carrier. It also believes that customers should be able to call on the carrier and compensate it for diagnostic service, and then have any noncarrier equipment at fault repaired by the vendor. Customers should be informed in advance that they face this service situation.

A52. CCIA discusses at some length antitrust cases on tying arrangements, concluding that PIC would constitute a violation of Section 1 of the Sherman Act. Under current legal standards, market power in the tying product or service (basic single line service) as well as commerce in the tied product telephone vastly exceed the requirements of *Fortner Enterprises* v. *United States Steel Corp.*, et al, 394 U.S. 495 (1969). "Technical compatibility" arguments have been rejected before; to require nontheless that only the telephone industry could provide primary instruments for testing purposes would clearly violate policies expressed in *International Salt Co., Inc.* v. *United States*, 332 U.S. 392 (1947) and *United States* v. *International Business Machines Corp.*, 298 U.S. 131 (1936). As previously pointed out, independently supplied primary instruments could satisfy any testing requirements particularly if minimum standards were prescribed in Part 68 of the rules.

A53. In reply comments CCIA takes issue with the telephone industry claim that Commission adoption of PIC would provide immunity from antitrust suits. Repeals of antitrust laws by implication are strongly disfavored and have been found only in cases of plain repugnancy between antitrust and regulatory provisions. *Gordon* v. *New York Stock Exchange*, 422 U.S. 659 (1975); *United States* v. *Philadelphia National Bank*, 374 U.S. 321, 350-351 (1963). Since the industry's stated objectives can be achieved by alternative means (specification of primary instrument standards without making the telephone industry the monopoly supplier), which are not objectionable on antitrust grounds, there should be no implied repeal. Moreover, the Commission's Amicus brief in *United States* v. *AT&T*, (Civil Action No. 74-1698, D.C. Cir.), states that the Commission has never considered its authority over equipment interconnection to displace the antitrust laws. The industry's semantic device of claiming PIC is part of a single service does not refute the plain facts that there are two distinct products, one monopoly and one competitively supplied, which constitutes tying and tied products.

A54. In view of the telephone industry concept of PIC as an evolutionary approach, CCIA is concerned that PIC might ultimately be expanded to encompass a much broader class of terminals. CCIA looks forward to

a time when many if not most residences will have a basic terminal (although not likely more than one) and the smallest of businesses will be able to use similar technology. CCIA's concern is directed primarily toward the imporant class of home data terminals (regardless of the type of jack used) as well as data devices that might be connected through a standard, less expensive, voice jack. Voice and data jacks are subject to change and afford a dubious basis for distinguishing between basic telephone and data services. The Commission should continue to distinguish between voice and data service, but not on the basis of underlying technology. New technology may include a digital telephone. Because of the industry emphasis on evolution, the implications of an expansion of PIC in the direction of home data terminals should be carefully considered by the Commission.

A55. CCIA further asserts that consideration of PIC should not rest on market share assumptions as high as those indicated in the Notice. CCIA believes that the independent share of the main station market would be much lower. In any event, if the demand for consumer equipment should turn out to be higher, it is important to ask why consumers prefer independent equipment. Finally, CCIA urges that charges for primary instruments should be unbundled, even in the absence of PIC, to enable consumers to make informed decisions.

A56. *Independent Data Communications Manufacturers Association* (IDCMA) claims that the telephone industry has failed to justify the application of PIC to single line data communications equipment users, raising the twofold spectre of monopoly extension and a return of the discredited data access arrangement approach to interconnection. While purporting to exempt data users, the industry would apply PIC to data devices connected via voice jacks. Since only the telephone company can provide optional equipment in lieu of the standard instrument, this means that the telephone company would provide terminal devices incorporating both data equipment and the functions of a primary instrument. The added cost of a data jack would dictate that the customers obtain such a device from the telephone company. Moreover, data equipment for residential or small business use is portable and hence likely to be connected through a voice jack. This could lead to a telephone industry monopoly in this area, not because its equipment is better but because the telephone industry has carved out a market segment as its exclusive domain for reasons other than technical or economic.

A57. IDCMA asserts further that bunding of charges gives the telephone industry an opportunity to manipulate charges for carrier optional equipment. The Commission ought to allow the user to make the most convenient and economical application of data communications equipment and telecommunications service. The social benefits of competitive supply of terminal equipment are well established and not now controverted; these social benefits offset and outweigh the social arguments advanced in support of PIC.

A58. *International Business Machines Corporation (IBM)*, after tracing the history of terminal equipment competition, identifies the public interest benefits as a tendency toward lower terminal equipment rates, stimulation of technological innovation, and greater responsiveness to customer service needs by all equipment suppliers including telephone companies. IBM claims that adoption of PIC would largely reverse those terminal equipment policies and diminish the benefits. The telephone industry has advanced no arguments justifying reversal of the Commission's interconnection policies. The claims of "continuity of service" and "orderly introduction of technological innovation" have already been rejected by the Commission. Second Report in Docket No. 19528, 58 FCC 2d 736, 741 (1976); First Report in Docket No. 20003, 61 FCC 2d 766, 865 (1976).

A59. Not only is the argument as to customer maintenance unsupported, but it seems far more likely that independent suppliers, in order to meet competition, will strive to offer adequate maintenance. The carriers' argument that customer equipment, though originally on a par with carrier equipment, will deteriorate for lack of maintenance is at odds with the Commission's finding in Docket No. 20003 that equipment maintenance and reliability, rather than deteriorating, have improved as a result of the competitive marketplace (First Report in Docket No. 20003, 61 FCC 2d 766). Moreover, even if quality of service problems arise, they would probably be self-correcting since suppliers of inadequate equipment presumably will not remain in the market for very long (Second Report in Docket No. 19528, 58 FCC 2d 736, 742 n. 8). The carriers have not supported their contention that customers and independent suppliers will be unable to cope with maintenance, and the reasonable assumption is that they would do so. A customer using defective equipment would only decrease the utility of his own telephone service, not threaten basic telephone service on the public network (First Report in Docket No. 19528, 56 FCC 2d 503, 602).

A60. IBM asserts that the legitimate objectives of equipment testing can be achieved with PIC. The Commission's interconnection policies place on the customer responsibility for maintaining his terminals at a performance level satisfactory to him. The telephone company is responsible only for providing adequate communication line service. Thus, the only tests the telephone company need perform are those necessary to determine whether particular service problems are line-related or service related. This determination does not require dynamic testing or adoption of PIC. Static testing by itself is capable of isolating line related transmission problems and distinguishing them from other problems, as recently confirmed by testimony on behalf of New York Telephone Company before the New York Public Service Commission. Indeed, IBM points out that with modular plugs and jacks the customer can simply connect his telephone to his neighbor's working line and determine trouble responsibility in most instances. Since the telephone company has no duty to identify or correct problems in customer equipment, it does not need to conduct dynamic tests for that purpose.

A61. The "recognizable line termination" required for effective static testing can be supplied either by the customer telephone itself or by interconnection of any one of several available electrical devices. § 68.312 of the rules, which the Commission modified to take account of AT&T's concern about standards compaible with static testing, limits the permissible on-hook impedance level of ringers in registered equipment, thereby assuring that the electrical characteristics of all ringers are within standards AT&T has acknowledged to be acceptable for at least certain static testing purposes. The fact that static testing considerations largely influenced AT&T's proposed modification of § 68.312 suggests that present standards are sufficient to assure that the ringer in every registered telephone has impedance characteristics compatible with effective static testing. If those standards are presently inadequate, the carriers need only identify the deficiencies and propose appropriate revisions to § 68.312.

A62. The notification provided for in § 68.106(a) of the rules, together with acknowledged testing practices, gives the carriers access to specific information about the termination characteristics of customer equipment. Such notification is designed to aid in the performance of both routine maintenance and repairs by allowing the telephone company to keep complete and accurate records of all equipment connected to each telephone line (First Report in Docket No. 19528, 56 FCC 2d 503, 611 (1975).) Moreover, the carriers have an established practice of testing when there is a line or station transfer, such as the initial connection or subsequent addition of customer equipment. This also would enable them to gain the particular information necessary for subsequent static testing. Should the carriers need more precise information for purposes of static testing, they could propose revisions to the Commission's rules to require manufacturers to specify, on each piece of equipment, the impedance characteristics of the ringer. The customer could then provide this information to the carrier, along with other information required by § 68.106.

A63. Finally, IBM asserts, there is no reason to believe ringers in customer telephone will be any less reliable in the long run than those in carrier telephones. Due to its passive electrical nature, the ringer is among the most dependable of the telephone's components.

A64. The series jack, already a basic part of the carriers' equipment, inventory, or any one of the devices suggested in the Notice would be acceptable termination alternative to PIC, as the carriers in effect have admitted. However, none of these devices need be used, since the ringer in a customer telephone is itself sufficient to provide the termination characteristics necessary for effective static testing. In view of these alternatives, the carriers' testing rationale cannot justify adoption of PIC.

A65. In conclusion, IBM claims that adoption of PIC would be contrary to sound public policy. By requiring a customer who desires to purchase terminal equipment from an independent source to obtain at least one additional instrument from the telephone company at recurring monthly charges—regardless of whether he needs it or will use it, PIC would produce socially wasteful and expensive duplication. Moreover, carriers would devote their resources and capacity to the production of unneeded equipment rather than to more useful areas of endeavor. PIC, in essence, is a variation of the earlier requirement for a carrier connecting device, a restriction which the Commission found disserves the public interest in view of the registration alternative. Unlike in Docket No. 19528, where at least a consensus existed that public harm might

result, here the carriers have not advanced any creditable argument of technical or economic harm. PIC would obviously assist the carriers in marketing equipment, extensions and optional equipment as well as standard telephones, and lessen the incentive for competitive manufacturers and distributors to enter. The adverse effect on the public is potentially greater since PIC would likely spread from ordinary telephone equipment to the multipurpose instruments of the future.

A66. *Action Communications Systems*, a manufacturer of equipment for multiline subscribers, asserts that PIC, if adopted, should be limited to single line business and residential subscribers. Application of PIC to multiline customers would cause undue harm and hardship, according to Action. As examples, it claims that communications service would be interrupted, continuing service could not be realistically assured, and space requirements would be unrealistic.

[FR Doc. 78-21907 Filed 8-4-78; 8:45 am]

[6712-01]

[47 CFR Parts 63 and 64]

[CC Docket No. 78-95; CC Docket No. 78-96]

GRAPHNET SYSTEMS, INC. APPLICATION TO PARTICIPATE IN THE HINTERLAND DELIVERY OF INTERNATIONAL COMMUNICATIONS MESSAGES; REGULATORY POLICIES CONCERNING THE PROVISION OF DOMESTIC PUBLIC MESSAGE SERVICES BY ENTITIES OTHER THAN THE WESTERN UNION TELEGRAPH CO.

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: An order is released extending the time for filing reply comments 3 days, to August 3, 1978. Graphnet Systems, Inc. requested this short extension citing the complexity of comments to which it will be replying, and the press of other regulatory business on its staff, and noted that no party will be prejudiced by the extension. The unopposed request is granted by the Chief, Common Carrier Bureau under delegated authority.

DATES: Reply comments must be received on or before August 3, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Michael S. Slomin, Policy and Rules Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, 202-632-9342.

Adopted: July 31, 1978.

Released: August 2, 1978.

Order. In the matter of Graphnet Systems, Inc., Application to Participate in the Hinterland Delivery of International Communications Messages, CC Docket No. 78-95, File No. W-P-C 1430. Regulatory Policies Concerning the Provision of Domestic Public Message Services by Entities other than the Western Union Telegraph Co. and Proposed Amendment to Parts 63 and 64 of the Commission's Rules, CC Docket No. 78-96.[1]

Graphnet Systems, Inc., has requested a 3-day extension of time, to August 3, 1978, for filing reply comments herein. In support, Graphnet cites the complexity of the filed comments to which it will be responding, and the press of other regulatory matters including current congressional hearings on proposed legislation affecting the Communications Act. Graphnet's request is unopposed, and it would appear that no party will be prejudiced by granting it. Accordingly, *it is hereby ordered*, Pursuant to authority delegated in § 0.303(c) of the Commission's rules, 47 CFR 0.303(c), that the time for filing reply comments in this proceeding is hereby extended to August 3, 1978; reply comments may be filed on or before that date.

LARRY F. DARBY,
Acting Chief,
Common Carrier Bureau.

[FR Doc. 78-21915 Filed 8-4-78; 8:45 am]

[6712-01]

[47 CFR Part 67]

[Docket No. 21264]

INTEGRATION OF RATES AND SERVICES FOR THE PROVISION OF COMMUNICATIONS BY AUTHORIZED COMMON CARRIERS BETWEEN THE UNITED STATES MAINLAND AND HAWAII, ALASKA, AND PUERTO RICO/VIRGIN ISLANDS

Memorandum Opinion and Order Extending Time for Filing Comments, Replies, and Responses

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order, Docket 21264.

SUMMARY: Acting Chief, Common Carrier Bureau, grants an extension of time for the filing of comments, replies, and responses before the Federal-State Joint Board. ITT Companies requested an extension of 6 weeks. It was determined that good cause exists for a 3-week extension.

DATES: Filing dates extended to:

Comments: August 21, 1978.
Replies: October 10, 1978.
Responses: October 30, 1978.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Francis L. Young, Room 530, 202-632-7084.

MEMORANDUM OPINION AND ORDER

Adopted: July 28, 1978.

Released: July 31, 1978.

In the matter of integration of rates and services for the provision of communications by authorized common carriers between the United States mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands, Docket No. 21264.[1]

1. Before the Federal-State Joint Board for its consideration are: (a) The request for extension of time, filed July 18, 1978, by the ITT Companies (All America Cable and Radio, Inc.; ITT Communications, Inc.—Virgin Islands; and Virgin Islands Telephone Co.); (b) comments, filed July 21, 1978, by Puerto Rico Telephone Authority and Puerto Rico Telephone Co. (PRTA/PRTC). The ITT Companies request an extension of 6 weeks of the dates presently established for comments, replies and responses in this proceeding. PRTA/PRTC do not object to an extension of 3 to 4 weeks for the filing of comments. However, PRTA/PRTC object to any extension of more than 1 to 2 weeks of the established dates for replies and responses.

2. In support of their requests the ITT Companies assert that the staff recommendation which is the basis for their comments, as well as the studies they must perform, require extensive additional effort which cannot be accomplished within the current schedule. In addition, the ITT Companies note that the staff recommendation introduces the new concept of a possible time-phased implementation of the final step of rate integration and of the separations methodology. Thus, the ITT Companies assert, new studies will have to be prepared to address this hypothesis. PRTA/PRTC assert that in light of the present circumstances a short deferral of the date for comments may be appropriate. PRTA/PRTC argue that a lesser extension of the subsequent dates would still leave more than ample time for preparing these submissions.

3. The ITT Companies have demonstrated good cause for a brief extension of time for filing comments, replies, and responses. Although time is of the essence, an extension of 3 weeks appears warranted and would not duly delay this proceeding. PRTA/PRTC's

[1] See 43 FR 30840, July 13, 1978.

[1] See 43 FR 23746, June 1, 1978.

request that only a brief extension be made to the dates for replies and responses does not appear justified. The time frame between the submission dates was selected by the Joint Board to provide maximum opportunity for the parties to prepare detailed responsive pleadings within reasonable bounds. No good cause has been shown warranting compression of this schedule. It should be noted that the assertion of the ITT Companies that the staff recommendatoin introduces the possible phasing of the final step of rate integration is not supported by the record. The staff recommendation suggests, for the first time, the possibility of a phasing of the separations methodology if the record so supports.

4. *Accordingly, it is ordered,* pursuant to delegated authority, that the dates for filing comments, replies, and responses are extended to the following dates:

Comments: August 21, 1978.
Replies: October 10, 1978.
Responses: October 30, 1978.

5. *It is further ordered,* That the request for extension of time, filed July 18, 1978, by the ITT Companies is granted to the extent indicated herein and is denied in all other respects.

FEDERAL COMMUNICATIONS COMMISSION,
LARRY F. DARBY,
Acting Chief,
Common Carrier Bureau.

[FR Doc. 78-21906 Filed 8-4-78; 11:46 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[48 CFR]

FEDERAL ACQUISITION REGULATION PROJECT

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of availability of draft regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment segments of the draft Federal Acquisition Regulation. The regulation is being developed to replace the current system of procurement regulations. It will be a single uniform acquisition regulation for use by all Federal executive agencies in the acquisition of supplies and services with appropriated funds.

DATE: Comments must be received on or before October 6, 1978.

ADDRESS: Copies of the draft regulation may be obtained from and comments should be submitted to: William W. Thybony, Assistant Administrator for Regulations, 726 Jackson Place NW., Room 5002, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

William W. Thybony, 202-395-4946.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce the proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, all future notices of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following segments of the draft Federal Acquisition Regulation are available for public and Government agency review and comment: [1]

FEDERAL ACQUISITION PRINCIPLES

SUBCHAPTER A—GENERAL

PART 1—FEDERAL ACQUISTION REGULATION SYSTEM

1.000 Scope of Part.
1.1 Purpose; Authority; Applicability; Issuance.
1.2 FAR System Administration [Reserved].
1.3 Agency Acquisition Regulations.
1.4 Deviations from the FAR.
1.5 Public Participation.
1.6 Contracting Authority and Responsibilities.

PART 2—DEFINITIONS AND SPECIAL POLICIES

2.1 Definition of Words and Terms.

The introductory material contains a brief background and purpose statement in addition to a list of Federal Acquisition Principles.

Part 1—Federal Acquisition Regulation System, in 1.1 through 1.6, prescribes the operation of the FAR system.

1.000 Scope of Part is a summary listing of the contents of part 1.

1.1 Purpose. States that the purpose of the FAR is to create uniform policies and procedures for the acquisition of supplies and services by all executive agencies and is designed for direct application by contracting officers and all levels of acquisition management.

Issuing Authority. Cites the Office of Federal Procurement Policy Act, the Federal Property and Administrative Services Act, and the Armed Services Procurement Act as the basic authorities for the FAR.

Applicability. Provides that the FAR is applicable to all executive agencies as defined in Pub. L. 93-400 for the acquisition of all supplies and services, made with appropriated funds.

Issuance. Describes the arrangement of the Federal Acquisition Regulatory System in Title 48 of the Code of Federal Regulations which has been set aside solely for this system. It also describes the arrangement of the FAR itself, including numbering, cross references, citations, and availability of copies.

1.2 FAR System Administration [Reserved].

1.3 Agency Acquisition Regulations. Prescribes a comprehensive system for agency implementing or supplementing regulations with strict controls designed to arrest and reduce the proliferation of layers of agency regulations and procedures affecting acquisition. It also establishes a parallel numbering system between the FAR and agency acquisition regulations. Any proposed agency acquisition regulation that may have applicability, or may be beneficial to more than one agency shall be referred for possible incorporation in the FAR.

1.4 Deviations from the FAR. Defines what constitutes deviations from the FAR and establishes a policy to keep them to a minimum. It provides procedures for documentation and notification to the OFPP for individual and class deviations, and allows agency exceptions to the FAR in specialized circumstances when authorized by the Administrator.

1.5 Public Participation. Provides a system to assure public participation in the formulation of acquisition policy. It requires notice for comment in the FEDERAL REGISTER for significant changes or additions to the FAR as well as direct mailing to interested parties and provision for public meetings.

1.6 Contracting Authority and Responsibility. Discusses the contracting authority and delegations within the agencies and the role and authority of the contracting officer.

Part 2—Definitions and Special Policies.

2.1 Definitions of Words and Terms. Contains a partial list of general definitions applicable throughout the regulation. Definitions unique to individual parts will be found in those parts.

This segment of the FAR does not present entirely new policy, however it does place new emphasis on the independent authority of the contracting officer and control of agency implementing or supplementing regulations.

[1] A copy of the draft regulation is filed with the Office of the Federal Register as part of the original document. It is proposed that the final regulations be renumbered consistent with 1 CFR 21.11.

Anyone interested in commenting on this segment of the FAR may obtain a copy by writing to: Mr. William W. Thybony, Assistant Administrator for Regulations, 726 Jackson Place NW., Room 5002, Washington, D.C. 20503, phone 202-395-4946. Comments must be received not later than October 6, 1978.

Dated: July 31, 1978.

LESTER A. FETTIG,
Administrator.

[FR Doc. 78-21867 Filed 8-4-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

HUNTING

Opening of Pinckney Island National Wildlife Refuge, S.C., to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior Department.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given that it is proposed to add Pinckney Island National Wildlife Refuge, S.C., to the list of refuge areas open for the hunting of big game. The Director has determined that this action would be in accordance with the provisions of all laws applicable to the area, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest, and that such use is compatible with the management objectives established for the refuge. Hunting, subject to annual special regulations, will provide population controls necessary to the proper management of wildlife on the refuge.

DATES: Comments on this proposed rulemaking will be accepted until September 6, 1978.

ADDRESS: Comments may be addressed to the Director, U.S. Fish and Wildlife Service, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Donald G. Young, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-4307.

SUPPLEMENTARY INFORMATION: Donald G. Young is also the primary author of this proposed rule. Pinckney Island, a 4,000-acre island in coastal South Carolina, was donated to the Fish and Wildlife Service in 1976. At the time of donation, the estuarine property included three small islands nearby. In total, this island contains about 2,800 acres of salt marsh, 600 acres of agricultural land and 700 acres of timberland. Natural vegetation is typical of southern coastal islands. Loblolly pine, palms, laurel, and water oaks comprise the woodlands.

The harvest of big game on Pinckney Island, prior to Service ownership, was managed as part of a private hunting program operated by Pinckney Island Plantation. Under private management, the deer population was maintained at 100 animals. It has been determined that the island habitat will support a population of 100 animals, therefore, this proposal would continue that level of management. Records indicate that the white-tailed deer population has increased from a level of 25 in 1972 to the present level of 150.

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), an environmental assessment has been prepared on this proposal, and it is available for public inspection and copying in Room 2024, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, or upon your request to the Director at the address provided above. On the basis of this assessment, the Director has determined that this rulemaking does not constitute a major Federal action significantly affecting the human environment.

NOTE.—U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring the preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Accordingly, it is proposed to amend 50 CFR Part 32 by the addition of Pinckney Island National Wildlife Refuge as follows:

§ 32.31 List of open areas; big game.

SOUTH CAROLINA

PINCKNEY ISLAND NATIONAL WILDLIFE REFUGE

Dated: August 1, 1978.

LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service.

[FR Doc. 78-21875 Filed 8-2-78; 4:14 pm]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Parts 611 and 672]

GROUNDFISH OF THE GULF OF ALASKA

Fishery Management Plan Amendment; Implementing Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of approval of fishery management plan amendment; proposed regulations.

SUMMARY: This document is intended to accomplish two purposes. First, it amends the fishery management plan (FMP) for the Gulf of Alaska Groundfish Fishery by extending the established optimum yields (OY's), statement of U.S. capacity, and total allowable level of foreign fishing (TALFF) from December 31, 1978 to October 31, 1979. The document also publishes proposed amendments to the presently proposed implementing foreign and domestic regulations which would make the regulations conform to a November 1 opening date.

DATE: Comments will be received until September 21, 1978.

ADDRESS: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Washington, D.C. 20235. Please mark "Alaska Groundfish" on outside of the envelope.

FOR FURTHER INFORMATION CONTACT:

Harry L. Rietze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99807, telephone 907-586-7221.

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

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 21, 1978, a fishery management plan (FMP) prepared by the North Pacific Fishery Management Council was published by the Secretary of Commerce (Secretary) (43 FR 17242). That FMP established conservation and management measures for both the foreign and domestic groundfish fisheries in the Gulf of Alaska under authority of the Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, as amended. Proposed regulations to implement the plan were also published on April 21, 1978 (43 FR 17013 for foreign vessels; 43 FR 17242 for vessels of the United States).

The FMP was designed to conserve and manage groundfish resources in

the Gulf of Alaska during 1978. The purpose of the amendment and proposed implementation regulations are (1) to extend the time frame of the FMP so that conservation and management measures will be in effect through October 31, 1979, (2) and to conform the phrasing of the regulations to be consistent with a fishing year beginning on November 1. No adverse impact is anticipated to the groundfish resources or to domestic and foreign fishermen because both the OY and the TALFF's remain unchanged.

The Assistant Administrator for Fisheries, under a delegation of authority from the Secretary, has determined that the amendment to the FMP extending the OY's and TALFF's through October 31, 1979 is (1) necessary and appropriate to the conservation and management of Gulf of Alaska groundfish resources, (2) is consistent with the National Standards and other provisions of the Act and other applicable law; and (3) does not constitute a major federal action requiring the preparation of an environmental impact statement.

The FMP is revised as follows:

1. SUMMARY: Delete "during 1978" in the title; delete "during 1978" in the heading after "SUMMARY".

2. List of tables, table 61, delete "in 1978" add ", 1978 and 1979", table 62 delete "in 1978".

3. Sec. 2.0, first paragraph, 5th line, delete "during 1978".

4. Sec. 3.5.1.3, 12th paragraph, 5th line, delete "possibly as much as 10 cents per pound by the end of 1978.".

5. Sec. 5.2.2: First paragraph, last sentence, add "and 1979"; second paragraph, 3rd line, add "and 1979" after "1978."; 15th line, after "1978." add "and 1979.". Add new sentence at the end of paragraph: "Reallocations from the reserve will be used to raise DAH as necessary should joint ventures develop.".

6. Sec. 5.2.2.1, first paragraph, line 9, delete "in 1978"; line 11, add "and 1979" after "for 1978.".

7. Sec. 5.2.2.2, delete "in the year" after "later.".

8. Sec. 5.7.2.1, first paragraph, 11th line, add "and for 1979" after "1978".

9. Table 61, in the title to table 61 delete "in 1978" and add ", 1978 and 1979".

10. Sec. 6.1: Fifth paragraph, line 10, delete "1978" substitute "1979"; line 10, add "and 1979" after "1978"; line 15, delete "1979" substitute "1980".

11. Sec. 6.2, seventh paragraph, line 15, delete "in 1978".

12. Sec. 6.3, First paragraph, line 4, delete "in 1978".

13. Sec. 7.0: First paragraph, line 2, add "and 1979" after "1978"; line 4, delete "Sept. 1977", substitute "July 1978". Fourth paragraph, line 1, delete "for 1978".

14. Sec. 8.3.2.3(A), delete "calendar" substitute "fishing".

15. Sec. 8.9.1, first paragraph, line 3, under "Estimated Management Costs" delete "1978".

16. Sec. 8.9.2, paragraph 1, line 1, delete "1978".

Signed at Washington, D.C. this 1st day of August 1978.

ROLAND A. FINCH,
Acting Director,
National Marine Fisheries Service.

It is proposed that 50 CFR 611.92 be amended as follows:

1. 50 CFR 611.92(b)(1)(i)(B) between the words "the" and "Year" add "fishing", so that the sentence reads: (B) Quarterly during the fishing year, the Regional Director * * *.

2. 50 CFR 611.92(b)(2)(iii)(A) and (e)(1) revised to read as follows:

§ 611.92 Gulf of Alaska trawl fishery.

* * * * *

(b) * * *

(2) * * *

(iii) The foreign nation has not caught more than 25 percent of its allocation for all species combined during the period from December 1 to May 31.

(A) If a foreign nation catches 25 percent of its allocation before May 31, the Regional Director shall close the Gulf of Alaska to all fishing by vessels of that nation for all species regulated under this section until June 1.

* * * * *

(e) *Gear Restrictions.* (1) During the period between December 1 and May 31, trawl vessels subject to this section may use only pelagic trawls (trawls in which neither the net nor the otter boards operates in contact with the bottom) equipped with recording netsonde devices functioning properly during each tow.

* * * * *

It is also proposed that 50 CFR 672 be amended as follows: 50 CFR 672.4(a) revised to read:

§ 672.4 Incidental catch of halibut.

(a) When the Regional Director determines that the estimated total incidental trawl catch of halibut in any statistical area during the period from December 1 through May 31 of any fishing year reaches the amount listed below, he shall close that statistical area to trawling by vessels of the United States until June 1.

[FR Doc. 78-21795 Filed 8-4-78; 8:45 am]

notices

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.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation No. A639]

ILLINOIS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Macoupin County, Ill., as a result of tornadoes May 12, 1978.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 subpart C, exhibit D, paragraph V B, including the recommendation of Governor James R. Thompson that such designation be made.

Applications for emergency loans must be received by this Department no later than January 19, 1979, for physical losses and July 23, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans.

The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 31st day of July 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-21836 Filed 8-4-78; 8:45 am]

[3410-02]

Federal Grain Inspection Service

GRAIN STANDARDS

Request for Transfer of designation by the O. S. Smith Grain Inspection, Bellevue, Ohio

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: Notice that the O. S. Smith Grain Inspection, Bellevue, Ohio, has requested transfer of its designation as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended, to Mr. Dennis L. Boltenhouse, who has filed an application for such designation. This notice also requests comments on the proposed transfer and invites other interested persons to make application for designation as an official agency at Bellevue.

DATE: Comments and/or applications by September 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street SW., Room 2405, Auditors Building, Washington, D.C. 20250, 202-447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing and supervision of weighing of grain, at inland locations where the Administrator determines there is a need for such services (7 U.S.C. 79 and 7 U.S.C. 79a). Under the Act, such designation shall terminate triennially but may be renewed in accordance with the criteria and procedure prescribed (7 U.S.C. 79(g)(1) and 79a(c)).

The O. S. Smith Grain Inspection, Bellevue, Ohio, has requested that its designation under the Act to operate as an official agency at Bellevue, Ohio, be transferred, effective June 1, 1978, to Mr. Dennis L. Boltenhouse, a licensed inspector from the Columbus Grain Inspection, Columbus, Ohio. Mr. Dennis L. Boltenhouse has applied for designation in accordance with Section 7(f)(1) of the Act (7 U.S.C. 79(f)(1)) to operate as the official agency at Bellevue, Ohio, to be known as the D. L. Boltenhouse Grain Inspection. This application does not preclude other interested persons from making similar application.

In order to continue orderly inspection services at Bellevue, Ohio, the D. L. Boltenhouse Grain Inspection is given an interim designation as the official agency at Bellevue, Ohio, effective June 1, 1978, in accordance with section 26, 101(a) of the regulations (7 CFR 26.101(a)) under the Act. Accordingly, the interim designation which is the subject of this notice will remain in effect until a decision on a new designation occurs under the terms of the amended Act.

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)) provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Interested persons are hereby given opportunity to submit written views or comments with respect to the interim designation and the requested transfer of official agency designation. All views or comments should be submitted in writing, in duplicate, and mailed to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street SW., Room 2405, Auditors Building, Washington, D.C. 20250, not later than September 6, 1978.

Under the provisions of Section 7(f)(1), interested persons are also given opportunity to make application for designation to operate as an official agency at Bellevue, Ohio, Pursuant to the requirements in Section 7(f)(1)(A) of the Act, as amended, (7 U.S.C. 79(f)(1)(A)) and section 26.96 of the regulations (7 CFR 26.96). Persons wishing to apply for designation to operate as an official agency at Bellevue should contact the Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, for the appropriate forms and mail their applications to the Director's Office at the above cited address, not later than September 6, 1978.

Consideration will be given to the views and comments filed and to any applications submitted and to all other information available to the U.S. Department of Agriculture before a final determination is made with respect to the official agency designation. All views, comments and applications submitted pursuant to this notice will be made available for public inspection at the above office of the Director during

regular business hours (7 CFR 1.27(b)).

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on: August 1, 1978.

L. E. BARTELT,
Administrator.

[FR Doc. 78-21837 Filed 8-4-78; 8:45 am]

[3410-16]

Soil Conservation Service

PRESQUE ISLE STREAM WATERSHED PROJECT, MAINE

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mantle Brook Watershed portion of the Presque Isle Stream Watershed Project, Aroostook County, Maine.

The environmental assessment of this federally assisted action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. Warwick M. Tinsley, Jr., State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment and one single purpose floodwater retarding structure.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by contacting Mr. Warwick M. Tinsley, Jr., State Conservationist, Soil Conservation Service, USDA Office Building, Orono, Maine 04473; 207-866-2132. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until September 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, P.L. 83-566, (16 U.S.C. 1001-1008).)

Dated: July 27, 1978.

JOSEPH W. HASS
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-21799 Filed 8-4-78; 8:45]

[3410-16]

WARNER DRAW WATERSHED PROJECT, UTAH

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the St. George-Washington Canal Intake and Sluicing Structure, Washington County, Utah.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George D. McMillan, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project measure concerns a plan to modify the existing irrigation diversion structure and associated settling basin and sluice gates. The measures to be installed will improve the efficiency of the structure to handle the large amounts of sediment carried by the river and diverted into the irrigation canal.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George D. McMillan, State Conservationist, Soil Conservation Service, Room 4012, Federal Building, 125 South State Street, Salt Lake City, Utah 84138, 801-524-5051. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until September 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566 (16 U.S.C. 1001-1008.)

Dated: July 27, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-21798 Filed 8-4-78; 8:45 am]

[4112-92]

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Solicitation for Request for Proposal

TECHNICAL SUPPORT FURNISHED BY CONTRACTOR

SUBJECT: Compliance Systems Services, RFP 105-78-7102.

SUMMARY: The Contractor shall furnish all necessary qualified personnel, facilities, materials and services to provide technical support to the Architectural and Transportation Barriers Compliance Board (A. & T.B.C.B.). The services may be required with respect to any program or activity area of its member and nonmember agencies pertaining to barrier-removal activities. Technical support will be required to accomplish the following six identified tasks:

1. Implementing the pilot agency accessibility compliance system.
2. Accessibility audit of selected member and nonmember agencies.
3. Conduct a major review of the Architectural and Transportation Barriers Compliance Board's activities to assess their efforts and impact upon the state of accessibility of federally owned, leased, assisted buildings or structures.
4. Develop, test, and refine general training module(s) and materials on accessibility for member and nonmember field staff training.
5. Assist the Board in the execution of compliance reviews in the standard metropolitan statistical area (SMSA) encompassing the ten standard Federal regional cities.
6. Refinement and expansion of the A. & T.B.C.B.'s automated complaint tracking system.

ELIGIBLE APPLICANTS: This requirement is restricted to public and private nonprofit organizations only.

DATES: All requests for the RFP received during the first 20 days of the solicitation period will be honored. All other requests will be filed on a supply available, first-come, first-served basis. Please enclose three self-addressed mailing labels.

ADDRESS: Department of Health, Education, and Welfare, Office of Human Development Services, Contracts Branch, Room 3193, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201. Attention: Contracting Officer, RFP 105-78-7102.

Dated: July 31, 1978.

ROBERT JOHNSON,
Executive Director.

[FR Doc. 78-21850 Filed 8-4-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 32035; Order 78-7-170]

PUERTO RICO-NORTHERN EUROPE SERVICE INVESTIGATION

Order Terminating Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of July 1978.

By Order 78-1-118, January 11, 1978, the Board instituted the *Puerto Rico-Northern Europe Service Investigation*, Docket 32035, to consider the remanded applications of Eastern and Pan American for scheduled passenger authority between Puerto Rico and London in the *Transatlantic Route Proceeding*, Docket 25908.

On June 28, 1978, Pan American filed a letter with the Board stating that it did not wish to prosecute its application. Subsequently, on July 10, 1978, Eastern filed a motion requesting that its application be dismissed.

No answers to Pan American's or Eastern's dismissal requests have been received.

In view of these facts, we have decided to terminate the *Puerto Rico Northern Europe Service Investigation*, Docket 32035, and dismiss, without prejudice, the applications of Eastern and Pan American which were consolidated in that docket.[1]

Our determination to terminate the investigation is based upon the following facts. First, Puerto Rico was included as a U.S. coterminal point in the *United States-Benelux Low-Fare Proceeding*, Docket 30790. Thus it will have an opportunity to demonstrate its need for low-fare service to Europe. Second, both applicants have requested that the Board dismiss their applications. Finally, no other carriers have indicated an interest in prosecuting applications in Docket 32035. In terminating the proceeding, however, we are not foreclosing the possibility of hearing the needs of San Juan for additional service to Europe at a later date, should a need be shown and carrier aplications filed.

It is therefore ordered, That:

1. The *Puerto Rico-Northern Europe Service Investigation*, Docket 32035, be terminated;

2. The applications of Eastern Air Lines, Inc., and Pan American World Airways, Inc. in Docket 25908 be dismissed, without prejudice;

3. The motion of Eastern Air Lines, Inc. to dismiss its application in Docket 25908 for San Juan-Northern Europe authority be granted; and

4. Petitions for reconsideration of this order shall be filed 20 days after the service date of this order.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[2]
PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-21879 Filed 8-4-78; 8:45 am]

[1]The motion of eastern is granted.

[2]All Members concurred.

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State Government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the *Current Population Reports*—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1977, for which tabulations were completed between July 1, 1978 and July 31, 1978.

Dated: August 1, 1978.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

State/place or special area	County	Date of census	Population
Arkansas:			
Warren City	Bradley	May 16, 1978	7,031
Illinois:			
Crestwood Village	Cook	May 11, 1978	9,314
Greenville City	Bond	Apr. 19, 1978	5,037
Michigan:			
Roscommon Township	Roscommon	May 16, 1978	2,655
Pennsylvania:			
Manchester Township	York	May 8, 1978	7,413
Wisconsin:			
Richland Center City	Richland	May 15, 1978	4,710

[FR Doc. 78-21832 Filed 8-4-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

INTERNATIONAL CODES OF PRACTICE FOR FISHERY PRODUCTS

Availability and Use

The National Marine Fisheries Service is making available two International Codes of Practice for fresh and canned fish. These Codes of Practice are intended to provide guidance in the manufacture of fish and fishery products.

The Food and Agriculture Organization (FAO) and World Health Organization (WHO) created the Joint FAO/WHO Food Standards Program in 1962. The FAO/WHO Codex Alimentarius Commission was established to implement this program. The Commission currently has 114 member countries which participate in drafting and adopting food standards and codes of hygienic and technological practice covering a wide range of food commodities. These codes are based on the best technological information available, including basic principles established from research results. After adoption by the Commission, these standards and codes are sent to Governments of member countries for their use.

The purposes of the Joint FAO/WHO Food Standards Program are to: (1) Protect the health of consumers worldwide by insuring fair practices in international food trade; (2) promote the coordination of all food standards work undertaken by international governmental and non-governmental organizations; (3) determine priorities, and initiate and guide the preparation of draft standards and codes of practice through and with the aid of appropriate organizations; (4) finalize standards and codes of practice and after acceptance of the standards by governments, to publish them in a Codex Alimentarius either as regional or worldwide standards.

The Codex Alimentarius Commission has recently completed and distributed advisory codes of practice for fresh and canned fish.

The National Marine Fisheries Service has various responsibilities for programs relating to fishery development, utilization, and operation of a voluntary inspection and certification program. In light of these responsibilities, NMFS plans to publish the codes and distribute them to NMFS inspectors, industry representatives, and other interested parties.

Persons interested in obtaining copies of the Codes should write to the Department of Commerce, National Marine Fisheries Service, Seafood Quality and Inspection Division, Washington, D.C. 20235.

These advisory codes of practice to assist the industry do not relate to regulatory Good Manufacturing Practice Regulations which are established and administered by the U.S. Food and Drug Administration.

FOR FURTHER INFORMATION CONTACT:

James R. Brooker, Seafood Quality and Inspection Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

Dated: July 28, 1978.

R. L. CARANAHAN,
Deputy Assistant Administrator for Administration.

[FR Doc. 78-21861 Filed 8-4-78; 8:45 am]

[3510-11]

Travel Service

TRAVEL ADVISORY BOARD

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974) notice is hereby given that the Travel Advisory Board of the U.S. Department of Commerce will meet on September 26, 1978, at 9 a.m., in Room 4833, of the Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Established in July 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purpose of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended. A detailed agenda for the meeting will be published in the FEDERAL REGISTER in advance of the meeting.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available the presentation of oral statements will be allowed.

Sue Barbour, Travel Advisory Board Liaison Officer, the U.S. Travel Service, Room 1860, U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202-377-4752) will respond to public request for information about the meeting.

FABIAN CHAVEZ, Jr.,
Assistant Secretary for Tourism, U.S. Department of Commerce.

[FR Doc. 78-21852 Filed 8-4-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

BENCHMARK CARPET MILLS, INC.

Provisional Acceptance of Consent Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of consent agreement.

SUMMARY: The Commission has provisionally accepted a consent agreement containing a cease and desist order offered by Benchmark Carpet Mills, Inc., trading as Decorator Carpets, and two corporate officers, in which they agree to cease and desist from selling and distributing in commerce certain carpets that fail to conform to the carpet standard and from failing to disclose, prominently and conspicuously, the letter "T" on all labels and/or invoices pertaining to the handling of carpets and rugs which have had a fire-retardant treatment within the intent and meaning of 16 CFR 1630.32. If finally accepted, this consent agreement will settle allegations of the Commission staff that Benchmark Carpet Mills, Inc. and corporate officers have violated the provisions of the Flammable Fabrics Act.

DATES: Written comments on the provisionally accepted consent agreement must be received by the Commission by August 22, 1978).

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of the agreement may be viewed or obtained from the Office of the Secretary, Consumer Product Safety Commission, 3d Floor, 1111 18th Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

George J. Miller, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C., phone 301-492-6629.

Dated: August 1, 1978.

SHELDON D. BUTTS,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-21839 Filed 8-4-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that closed meetings of the DIA Scientific Advisory Committee will be held as follows:

Wednesday, September 6, 1978, The Pentagon, Washington, D.C.
Thursday, September 7, 1978, The Airlie House, Airlie, Va.

The entire meetings commencing at 0900 hours are devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the United States Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical intelligence matters.

Dated: August 1, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 78-21866 Filed 8-4-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

ARIZONA PUBLIC SERVICE CO.

[Docket Nos. ER76-530, ER76-626, ER76-717 and ER76-721]

Order Affirming Initial Decision

AUGUST 1, 1978.

This proceeding involves applications filed with the Federal Power Commission (FPC)[1] in the above dockets by Arizona Public Service Co. (Arizona) seeking approval of increases of approximately $4.5 million annually in its rates for wholesale electric service. Following hearings ordered by the FPC[2] the presiding judge on December 19, 1977, issued his initial decision in the case. The Commission in this order affirms the initial decision subject only to certain minor modifications.

In his initial decision the presiding judge considered and resolved numerous issues raised by the parties involving the determination of Arizona's test year cost of service, the allocation of costs to Arizona's jurisdictional service, and the apportionment of costs among the various classes of wholesale customers. He approved a rate of return of 9.41 percent on Arizona's net investment rate base including a return on common equity of 12.75 percent. The judge also decided certain limited issues pertaining to the applicable terms and conditions of service.

Exceptions have been filed to the initial decision by Arizona; Arizona Electric Power Cooperative and Papago Tribal Utility Authority (jointly); Arizona Power Authority, et al.; and the Commission staff. Briefs opposing exceptions were filed by the same parties and, in addition, by a group of Arizona's Electrical and Irrigation District Customers. Upon review of the parties' exceptions, the Commission finds them to be for the most part without merit. The Commission finds that the conclusions reached by the presiding judge in his well-reasoned decision are reasonable, supported by the evidence, and consistent with sound ratemaking prinicples and Commission precedent. The Commission shall therefore affirm the initial decision subject only to the limited modifications hereafter noted.

1. The presiding judge approved Arizona's classification of production operating and maintenance expenses on the basis of ⅔ to demand and ⅓ to energy.[3] AEPCO supports this method on the ground that it is difficult to make a precise classification of these expenses and that Arizona's proposed method represents the general industry practice. In approving this method, the presiding judge appears to have relied on the argument that it represents "general industry practice." He also cites a report on hydroelectric power evaluation issued by the FPC in 1968 as supporting the method.

The Commission staff takes exception to the judge's approval of Arizona's proposed classification. Relying on its own "classification index" the staff argues that a substantially greater proportion of production O&M expenses should be classified as energy and a substantially lesser proportion classified as demand.[4] The staff argues that no studies were presented by Arizona in support of its proposed classification. The staff also argues that the FPC's 1968 study is not representative of current trends and has not been shown to be representative of Arizona's actual experience. The Commission agrees with the staff on this issue.

The staff's classification index is based upon an analysis of the individual accounts comprising the production O&M expenses. Except for account No. 555, purchased power, each account is considered as 100 percent demand-related or 100 percent energy-related depending on the predominant nature of the account. In the Commission's judgment the staff's study is clearly superior to Arizona's rule-of-thumb method for purposes of classifying the production O&M expenses. The staff's classification-index shows that the energy related proportion of these expenses has been increasing over time and that the company's proposed method is not representative of current experience. For the above reasons the Commission approves and adopts the staff's recommended classification of production O&M expenses.

2. In developing the capitalization for purposes of determining Arizona's rate of return, the presiding judge included amounts in account 281[5] at zero cost in accordance with the FPC's then prevailing policy. Subsequent to the initial decision, this Commission in opinion No. 12[6] determined that amounts in account 281 should be deducted from rate base rather than included in the capitalization at zero cost.

In accordance with the policy expressed in opinion No. 12, the $973,000 of deferred taxes in Arizona's account 281 shall be removed from the capitalization and deducted instead from the rate base. However, since the amount in account 281 is so small in relation to Arizona's total capitalization (less than one tenth of one percent), this adjustment has no effect on the overall rate of return, which remains 9.41 percent.[7]

On February 7, 1978, several of Arizona's wholesale customers who are parties to this proceeding filed a motion requesting the Commission to hold oral argument. The issues in this proceeding have been fully argued in the parties' briefs and the Commission finds that no useful purpose would be served by holding oral argument thereon. The motion shall accordingly be denied.

The Commission orders: (A) Except as modified by this order, the presiding judge's initial decision is affirmed.

(B) Except to the extent granted all exceptions to the initial decision are denied.

(C) The motion for oral argument is denied.

(D) Within 30 days from the date of this order, Arizona shall submit revised rates in accordance with the terms of the initial decision and of this order.

(E) Within 10 days following Commission approval of the filing required by paragraph (D) above, Arizona shall refund to its customers all amounts collected in excess of the approved rates together with interest at the rate of 9 percent per annum. Within 10 days thereafter, Arizona shall submit a statement of refunds and interest paid.

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[1] This proceeding began before the FPC. Pursuant to the Department of Energy Organization Act, it is now before this Commission effective as of October 1, 1977. The term "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC" when used otherwise the reference is to the FERC.

[2] See orders issued in these dockets on March 31, 1976; April 23, 1976; May 14, 1976; and September 28, 1976.

[3] Of the total production operating and maintenance expenses of $23,855,642, $15,161,014 were classified as demand and $8,694,628 as energy.

[4] The staff would classify $15,001,833 as energy and $8,853,809 as demand.

[5] Accumulated deferred income taxes resulting from accelerated amortization.

[6] Minnesota Power & Light Co., docket No. E-8492, issued April 14, 1978.

[7] Table follows.

	Capitalization	Ratio	Cost	Return
	Thousands	*Percent*		*Percent*
Long-term debt	$671,663	51.53	7.49	3.86
Preferred stock	168,561	12.93	7.90	1.02
Common equity	463,223	35.54	12.75	4.53
Total	11,303,447	100.00		9.42

(F) Upon compliance by Arizona with the terms of this order, this proceeding shall be terminated.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21840 Filed 8-4-78; 8:45 am]

[6740-02]

[Docket No. CI77-483]

CIG EXPLORATION, INC.

Order Granting Rehearing for Purposes of Further Consideration and Granting Intervention Out of Time

JULY 31, 1978.

By letter order issued June 14, 1978, we issued a temporary certificate of public convenience and necessity to CIG Exploration, Inc. authorizing a sale of natural gas to Colorado Interstate Gas Co. (Colorado). The certificate was conditioned that if any of the costs associated with processing, dehydration, compression or other conditioning of the subject gas were included in the rates of the purchaser then the purchaser will be required to prove that these costs have not been compensated for in the applicable national ceiling rate. The order also provided that this condition is subject to whatever action is taken by the Commission on rehearing in docket Nos. CI77-412, CP77-558, and CP77-577.

On June 30, 1978, Colorado filed a petition to intervene in the captioned case and an application for rehearing of the above order. The application raises objections in connection with the provisions relating to costs of conditioning the subject gas.

The Commission finds: Participation in this proceeding by Colorado may be in the public interest.

The Commission orders: (a) Colorado is permitted to intervene in the captioned proceeding subject to the rules and regulations of the Commission; Provided, however, that the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and Provided, further, that the admission of such intervenor shall not be construed as recognition by the Commission entered in this docket.

(B) The application for rehearing of our order of June 14, 1978, filed by Colorado, is hereby granted solely for the purpose of affording further time for consideration. Since this order is not a final order on rehearing, no response to the order will be entertained by the Commission in accordance with the terms of section 1.34 of the Commission's rules of practice and procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21841 Filed 8-4-78; 8:45 am]

[6740-02]

[Docket No. CP74-317 et al.]

GREAT LAKES GAS TRANSMISSION CO.

Order Amending Order Issuing Certificate of Public Convenience and Necessity, Granting Petition To Intervene, and Denying Petition To Intervene

AUGUST 1, 1978.

On March 2, 1978, Great Lakes Gas Transmission Co. (Petitioner) filed in docket No. CP74-317 et al., a petition to amend the order of July 7, 1977 (58 FPC ——), issued by the FPC in the instant docket [1] pursuant to section 7(c) of the Natural Gas Act so as to authorize Petitioner to continue to transport natural gas for Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin) pursuant to a February 22, 1978, amendment to petitioner's gas transportation contract with Michigan Wisconsin dated May 20, 1974, which amendment includes a change in the quantity of gas to be transported, an increase in the transportation rate charged, and changes in the facilities to be constructed and the schedule therefor, all as more fully set forth in the petition to amend.

The July 7, 1977, order authorized petitioner to transport 90,000 Mcf of gas per day for the first contract year, 182,000 Mcf of gas per day for the second contract year, and 291,000 Mcf of gas per day for the third contract year [2] for Michigan Wisconsin and to construct and operate the facilities necessary therefor, in order to accommodate Michagan Wisconsin's schedule for the development of three storage fields (Capac, Muttonville, and Leonard).

Due to a change in Michigan Wisconsin's schedule for the development of the Capac and Leonard Storage fields, Petitioner and Michigan Wisconsin amended the May 20, 1974, agreement to provide: (1) That the transportation periods set forth in terms of contact years in section 1 of article II of the May 20, 1974, agreement will be redesignated as follows:

Period [3] and Contract Quantity

Phase I, 90,000 Mcf.
Phase II, 182,000 Mcf.
Phase III, 219,000 Mcf.

Therefore, petitioner will not be required to transport the 291,000 Mcf of gas per day during the third contract year but rather will provide a peak day transportation service of up to 182,000 Mcf of gas per day for the entire period of the agreement unless the parties mutually agree otherwise; (2) that the Capac-Leonard delivery point will be moved on the main line in Michigan; (3) that the demand charge credit of 8.67 cents per Mcf will be substituted for the demand charge credit of 4.65 cents per Mcf previously authorized; and (4) that the transportation rate from April 1, 1978, to the termination of phase II will be determined as follows:

for each month the charges shall be the sum of (1) the demand charge of $1.546 per Mcf multiplied by the contract quantity, and (2) the volume charge of 3.67 cents per Mcf multiplied by the volume of gas delivered by petitioner to Michigan Wisconsin.

This revised rate is designed in the same manner as the rates approved in the July 7, 1977, order.[4] The rate is

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[1] On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977), and Executive Order No. 12009, 42 FR 46267 (Sept. 14, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the the DOE Act.

[2] The first contract year means the period commencing at 12 p.m. on the date that natural gas is first delivered pursuant to the authorization sought in the original application and ending on 12 p.m. on April 1, 1976, and thereafter the term contract year shall mean the period form the end of the immediately preceding contract to 12 p.m. on the first day of the next April.

[3] The term phase I means the period commencing at 12 p.m. on the date natural gas is first delivered hereunder and ending at 12 p.m. on September 1, 1978; the term phase II means the period commencing at 12 p.m. on September 1, 1978, and terminating on the date which shall be mutually agreed upon between the parties; and the term phase III means the date commencing concurrently with the termination of phase II and terminating on the date of termination of this agreement.

[4] The FPC issued petitioner a temporary certificate on June 2, 1975, authorizing the transportation of the first contract year volume of 90,000 Mcf per day for 1 year at the rate of 5 cents per Mcf. By authorization granted April 28, 1976, and April 15, 1977, this temporary certificate was extended for two successive 1-year periods for service at a rate of 9 cents per Mcf, which was based upon the actual cost of the facilities installed by petitioner.

based on the annualized incremental cost of service related to the facilities required for the phase II transportation service for the contract year beginning April 1, 1979, which will generate in that year an overall rate of return of 10.22 percent. The new rate is necessary due to an increase in the cost to petitioner of the installation of facilities in the contract year 1978-79 as a result of the lapse of time between the execution of the transportation contract and the construction of all facilities. The cost estimates in the original application were based upon the assumption that second-year facilities would be installed during the contract year 1976-77 rather than 1978-79.

Petitioner now proposes to construct additional loop pipeline. This additional loop is necessary to counteract the drop in pressure that would otherwise result from moving the gas to the new location of the Capac-Leonard delivery point. In addition, it will provide more security on petitioner's system.

The total estimated cost of the proposed modifications of the facilities is $17,940,200, an increase of $6,649,244 from the original estimate of $11,290,965.

Approval of the proposed amendment will not constitute a major Federal action significantly affecting the quality of the human environment.

After due notice by publication in the FEDERAL REGISTER on March 20, 1978 (43 FR 11595), a timely petition to intervene in support of the petition to amend was filed by Michigan Wisconsin. A late petition to intervene in opposition to the petition to amend was filed by James Leonard Elsman wherein he avers: (1) That his land is being condemned by petitioner pursuant to authorization in this proceeding; (2) that he has never had notice of this proceeding; and (3) that the environmental report filed by petitioner is substantially inaccurate as has been recently revealed in depositions taken in collateral litigation. No reason is given for the late filing.

On April 28, 1978, Petitioner filed an answer to Elsman's petition to intervene wherein it is stated (1) that Elsman's property, which is just downstream from the pipeline authorized in the July 7, 1977, order, is being condemned subject to the authorization granted in the July 7, 1977, order pursuant to section 7(h) of the Natural Gas Act. Such condemnation proceedings are pending against Elsman in the United States District Court, Eastern District, Northern Division, in Michigan; (2) that Elsman was given notice of the original proceeding in this docket by the publication in the FEDERAL REGISTER on July 2, 1974 (39 FR 244); and (3) that the environmental report filed by petitioner in the proceeding which authorized the loop that crosses Elsman's properties was supported by expert testimony, was reviewed and found to be sufficient, and that in any event, because final authorization for that project issued without objection by any party, Elsman now has no right to intervene.

The Commission finds that since the only matters now pending in this proceeding are wholly unrelated to matters sought to be raised by Elsman, and because authorization was granted and became final in the original proceeding in this docket which authorized the pipeline loop that crosses Elsman's property, he has not shown an interest which could be affected in this proceeding as required by section 1.8(b)(2) of the Commission's rules of practice and procedure.[5] Furthermore, the Commission agrees with Petitioner that Elsman was given notice of the original proceeding in this docket by the publication in the FEDERAL REGISTER on July 2, 1974.[6]

No further petitions to intervene, notices of intervention, or protests to the granting of the petition to amend have been filed.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order in docket No. CP74-317, et al., issued July 7, 1977, be amended as hereinafter ordered and conditioned.

(2) Participation by Michigan Wisconsin in this proceeding may be in the public interest.

(3) James Leonard Elsman does not have an interest in this proceeding sufficient to participate as an intervener herein.

The Commission orders: (A) The order issued July 7, 1977, in docket No. CP74-317 is amended, so as to authorize petitioner to construct additional pipeline loop and to continue to transport natural gas for Michigan Wisconsin pursuant to a February 22, 1978, amendment to Petitioner's gas transportation contract with Michigan Wisconsin dated May 20, 1974, except insofar as it proposes to increase the transportation rate charged by petitioner, as hereinbefore described and as more fully described in the petition to amend in this proceeding. In all other respects, said order shall remain in full force and effect.

(B) The authorization granted in paragraph (A) above and the rights granted thereunder are conditioned upon petitioner's compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(3), (c)(4), (e), (f), and (g) of section 157.20 of such regulations.

(C) The facilities authorized by paragraph (A) above shall be constructed and placed in actual operation, as required by paragraph (b) of section 157.20 of the regulations under the Natural Gas Act, within one year of the date of this order.

(D) Petitioner's proposal to increase the transportation rate from that authorized in the July 7, 1977, order, is denied. Petitioner should make a filing pursuant to section 4(d) of the Natural Gas Act in order to accomplish that objective.

(E) Michigan Wisconsin is permitted to intervene subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition to intervene; and *Provided, further,* That the admission of such intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

(F) The petition of James Leonard Elsman for leave to intervene in this proceeding is denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21842 Filed 8-4-78; 8:45 am]

[5] See, e.g., Algonquin Gas Transmission Co., docket No. CP76-85, (58 FPC——), and Pacific Power and Light Co., et al., docket No. E-7746, et al. (57 FPC——), wherein interventions were denied for failure to show an interest which could be affected by the proceeding.

[6] "A notice of hearing * * * required or authorized to be given by an Act of Congress, or which may otherwise may properly be given, shall be deemed to have been given to all persons residing within the States of the Union and the District of Columbia * * * when the notice is published in the FEDERAL REGISTER * * *" (44 U.S.C. 1508, 1968). See also *Buckner Trucking, Inc.* v. *U.S.*, 354 F. Supp. 1210, wherein it was held that publication in the FEDERAL REGISTER is legally deemed notice to all interested parties.

[6740-02]

[Docket No. CI78-429]

MESA PETROLEUM CO.

Order Granting Rehearing for Purposes of Further Consideration and Granting Intervention Out of Time

JULY 31, 1978.

By letter order issued June 14, 1978, we issued a temporary certificate of public convenience and necessity to Mesa Petroleum Co., authorizing a sale of natural gas to El Paso Natural Gas Co. (El Paso). The certificate was conditioned that if any of the costs associated with processing, dehydration, compression or other conditioning of the subject gas were included in the

rates of the purchaser then the purchaser will be required to prove that these costs have not been compensated for in the applicable national ceiling rate. The order also provided that this condition is subject to whatever action is taken by the Commission on rehearing in docket Nos. CI77-412, CP77-558, and CP77-577.

[6740-02]

[Docket No. CI78-789]

MESA PETROLEUM CO.

Order Granting Rehearing for Purposes of Further Consideration and Granting Intervention Out of Time

JULY 31, 1978.

By letter order issued June 14, 1978, we issued a temporary certificate of public convenience and necessity to Mesa Petroleum Co. authorizing the sale of natural gas to EL Paso Natural Gas Co. (El Paso). The certificate was conditioned that if any of the costs associated with processing, dehydration, compression or other conditioning the subject gas were included in the rates of the purchaser then the purchaser will be required to prove that these costs have not been compensated for in the applicable national ceiling rate. The order also provided that this condition is subject to whatever action is taken by the Commission on rehearing in docket Nos. CI77-412, CP77-558, and CP77-577.

On June 29, 1978, El Paso filed a petition to intervene in the captioned case and an application for rehearing of the above order. The application raises objections in connection with the provisions relating to costs of conditioning the subject gas.

The Commission finds: Participation in this proceeding by El Paso may be in the public interest.

The Commission orders: (A) El Paso is permitted to intervene in the captioned proceeding subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this docket.

(B) The application for rehearing of our order of June 14, filed by El Paso is hereby granted solely for the purpose of affording further time for consideration. Since this order is not a final order on rehearing, no response to the order will be entertained by the Commission in accordance with the terms of section 1.34 of the Commission's rules of practice and procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21843 Filed 8-4-78; 8:45 am]

On June 29, 1978, El Paso filed a petition to intervene out of time in the captioned case and an application for rehearing in connection with the provisions relating to costs of conditioning the subject gas.

The Commission finds: Participation in this proceeding by El Paso may be in the public interest.

The Commission orders: (A) El Paso is permitted to intervene in the captioned proceeding subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this docket.

(B) The application for rehearing of our order of June 14, 1978, filed by El Paso is hereby granted solely for the purpose of affording further time for consideration. Since this order is not a final order on rehearing, no response to the order will be entertained by the Commission in accordance with the terms of section 1.34 of the Commission's rules of practice and procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21844 Filed 8-4-78; 8:45 am]

[6740-02]

[Docket No. RP78-77]

MISSISSIPPI RIVER TRANSMISSION CORP.

Order Accepting for Filing and suspending Proposed Rate Increase and Tariff Changes, Initiating Hearing, Establishing Procedures, and Granting Interventions

JULY 31, 1978.

On June 30, 1978, Mississippi River Transmission Corp. (MRT) tendered for filing the proposed tariff sheets, listed in appendix A to this order. These provide for an annual increase in jurisdictional revenues of $21.4 million, institution of a new winter period quantity charge for storage service, and waiver of overrun penalties under certain conditions for customers whose contract demands are 5,000 Mcf per day or less. An effective date of August 1, 1978, is requested.

Public notice of the filing was issued on July 10, 1978, providing for protests or petitions to intervene to be filed on or before July 21, 1978. The petitioners to intervene are listed in appendix B to this order. All have demonstrated an interest in this proceeding which warrants their participation, and intervention by them shall be permitted.

MRT states that the proposed rate increase reflects increases in operating and maintenance expenses, the costs of capital and related taxes, as well as the partial amortization of a substantial loss of gas stored at its West Unionville Storage Field. MRT proposes an overall rate of return of 13.12 percent, including a return on equity of 15 percent, and an increase in the composite depreciation rate to 5.5 percent. MRT states that at the West Unionville Field it has lost through migration approximately 33.7 Bcf of stored gas valued at $13,412,414. MRT proposed to amortize this amount over 5 years, after appropriate reduction for tax effects. In docket No. RP78-80, MRT has separately requested the authorization to make the accounting changes necessary to reflect and ammortize this loss.

Based on a review of MRT's filing, the Commission finds that the proposed rate increase and tariff modifications have not been shown to be just and reasonable and may be unjust, unreasonable and unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept MRT's revised tariff sheets for filing, suspend their use for five months to become effective on January 1, 1979, subject to refund and the conditions stated below, and set the matter for hearing.

MRT's cost of service includes the addition of certain facilities which have been certificated or do not require specific certificate authorization, but which are not now in service. MRT states that these facilities will be placed in service by the end of the test period. Section 154.63(e)(2)(ii) of the Commission's filing regulations provides that test period adjustments for new facilities may be made only for those facilities that have been certificated by the filing date and will be in service by the end of the test period. The Commission shall grant waiver of this regulation and accept MRT's filing as tendered, upon condition that on or before January 1, 1979, MRT file revised tariff sheets reflecting elimination of all facilities not in service by the end of the test period and adjustment of the estimated balance of advance payments in Account 166 to the actual balance at the end of the test period, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. This waiver is granted upon condition

(except motions to sever, consolidate, or dismiss) as provided for in the rules of practice and procedure.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21846 Filed 8-4-78; 8:45 am]

[6740-02]

[Docket No. CI78-456]

SOUTHLAND ROYALTY CO.

Order Granting Rehearing for Purposes of Further Consideration and Granting Intervention Out of Time

JULY 31, 1978.

By letter order issued June 14, 1978, we issued a temporary certificate of public convenience and necessity to Southland Royalty Co. authorizing a sale of natural gas to El Paso Natural Gas Co. (El Paso). The certificate was conditioned that if any of the costs associated with processing, dehydration, compression, or other conditioning of the subject gas were included in the rates of the purchaser then the purchaser will be required to prove that these costs have not been compensated for in the applicable national ceiling rate. The order also provided that this condition is subject to whatever action is taken by the Commission on rehearing in Docket Nos. CI77-412, CP77-558, and CP77-577.

On June 29, 1978, El Paso filed a petition to intervene out of time in the captioned case and an application for rehearing of the above order. The application raises objections in connection with the provisions relating to costs of conditioning the subject gas.

The Commission finds: Participation in this proceeding by El Paso may be in the public interest.

The Commission orders: (A) El Paso is permitted to intervene in the captioned proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserting rights and interests as specifically set forth in the petition to intervene; *And provided further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this docket.

(B) The application for rehearing of our order of June 14, 1978, filed by El Paso, is hereby granted solely for the purpose of affording further time for consideration. Since this order is not a final order on rehearing, no response to the order will be entertained by the Commission in accordance with the terms of section 1.34 of the Commission's rules of practice and procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21847 Filed 8-4-78; 8:45 am]

[6740-02]

[Docket No. CI78-739]

TEXAS PACIFIC OIL CO., INC.

Order Granting Rehearing for Purposes of Further Consideration and Granting Intervention Out of Time

JULY 31, 1978.

By letter order issued June 14, 1978, we issued a temporary certificate of public convenience and necessity to Texas Pacific Oil Co., Inc., authorizing a sale of natural gas to El Paso Natural Gas Co. (El Paso). The certificate was conditioned that if any of the costs associated with processing, dehydration, compression, or other conditioning of the subject gas were included in the rates of the purchaser, then the purchaser will be required to prove that these costs have not been compensated for in the applicable national ceiling rate. The order also provided that this condition is subject to whatever action is taken by the Commission on rehearing in Docket Nos. CI77-412, CP77-558, and CP77-577.

On June 29, 1978, El Paso filed a petition to intervene out of time in the captioned case and an application for rehearing of the above order. The application raises objections in connection with the provisions relating to costs of conditioning the subject gas.

The Commission finds: Participation in this proceeding by El Paso may be in the public interest.

The Commission orders: (A) El Paso is permitted to intervene in the casptioned proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; *And provided further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this docket.

(B) The application for rehearing of our order of June 14, 1978, filed by El Paso, is hereby granted solely for the purpose of affording further time for consideration. Since this order is not a final order on rehearing, no responses to the order will be entertained by the Commission in accordance with the terms of section 1.34 of the Commission's rules of practice and procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21848 Filed 8-4-78; 8:45 am]

[6740-02]

[Docket No. CP78-424]

UNITED GAS PIPE LINE CO.

Notice of Application

AUGUST 1, 1978.

Take notice that on July 14, 1978, United Gas Pipe Line Co. (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in docket No. CP78-424 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 500 Mcf of natural gas per day for Tri-State Brick & Tile Co., Inc. (Tri-State), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant request authorization to transport up to 500 Mcf of natural gas per day for Tri-State pursuant to the terms and conditions of a gas transportation agreement dated June 6, 1978, between the two companies. It is indicated that Tri-State has acquired the gas proposed to be transported herein from U.S. Energy Search, Inc., from production in the Magee Field in Smith and Simpson Counties, Miss. It is stated that Tri-State would deliver or cause to be delivered such quantity of gas to Applicant for Tri-State's account at a point of receipt to be constructed on Applicant's 16-inch pipeline in Simpson County, Miss. It is further stated that Applicant would construct the necessary measuring and regulating station at Simpson County at Tri-State's expenses at an estimated cost of $15,407. Applicant states that it would receive such gas for Tri-State's account at said point and redeliver equivalent volumes, less an allowance for fuel and company-used gas, to Mississippi Valley Gas Co. (Mississippi Valley) at the outlet side of the existing sales station where Applicant currently delivers gas to Mississippi Valley in Jackson, Hinds County, Miss., under a service agreement between Mississippi Valley and Applicant, dated November 17, 1975. It is indicated that Mississippi Valley would redeliver the gas to Tri-State at its plant in Jackson, Miss.

It is stated that the proposed transportation service is for a term of 2 years beginning on the date deliveries of gas commence hereunder, or for a lesser period as may be required by the Commission authorization.

It is indicated that Tri-State would pay Applicant for gas transported hereunder an amount per Mcf equal to

that MRT shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission approval tracking provision, those adjustments required by this order, and those required by other Commission orders.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act that the commission enter upon a hearing concerning the lawfulness of the rates, terms and conditions proposed by MRT and that the proposed tariff changes be accepted for filing and suspended as ordered below.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15, and the Commission's regulations, a public hearing shall be held concerning the lawfulness of the tariff changes proposed by MRT.

(B) Pending hearing and decision, and subject to the conditions of this order, MRT's proposed tariff changes are accepted for filing and suspended for 5 months, until January 1, 1979, when they shall be permitted to become effective, subject to refund and the conditions stated below, upon motion filed in accordance with the provisions of the Natural Gas Act.

(C) On or before January 1, 1978, MRT shall file substitute tariff sheets and supporting cost and revenue data in accordance with the Commission's rules and regulations, to reflect (1) the elimination of all costs associated with facilities not placed in service by the end of the test period, and (2) the actual balance of advance payments in account No. 166 as of the end of the test period. The inclusion of a higher overall advance payments balance shall be permitted to increase the original suspended rates.

(D) Waiver of section 154.63(e) (2)(ii) of the regulations is granted subject to the conditions set forth in paragraph (C) above. This waiver is granted upon condition that MRT shall not be permitted to make adjustments to the suspended rates prior to hearing to offset any net downward adjustments required by ordering paragraph C, except of course, adjustments pursuant to Commission approved tracking provisions or other Commission orders.

(E) The petitioners to intervene listed in appendix B to this order shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations; *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(F) The Commission staff shall prepare and serve top sheets on all parties on or before November 1, 1978.

(G) A presiding administrative law judge, to be designated by the chief administrative law judge for that purpose (18 CFR 3.5(d)) shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets in a hearing room of the Federal Energy Regulation Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding administrative law judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate or dismiss) as provided for in the rules of practice and procedure.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

MISSISSIPPI RIVER TRANSMISSION CORP., DOCKET NO. RP78-77

FERC GAS TARIFF, FIRST REVISED VOLUME NO. 1

Sixty-sixth revised sheet No. 3A.[1]
First revised sheet No. 3C.
Fourteenth revised sheet No. 4.
Fourteenth revised sheet No. 5.
Fourteenth revised sheet No. 6.
Fourth revised sheet No. 7.
Fourth revised sheet No. 7A.
Third revised sheet No. 27A.
Fifth revised sheet No. 27B.
Fourth revised sheet No. 27J.
First revised sheet No. 27L.
Fifteenth revised sheet No. 33.
Eighteenth revised sheet No. 34.
FERC Gas Tariff, orginal volume No. 2.
First revised sheet No. 86.

APPENDIX B

MISSISSIPPI RIVER TRANSMISSION CORP., DOCKET NO. RP78-77

Timely petition to intervene have been filed by: Laclede Gas Co., Associated Natural Gas Co.

[FR Doc. 78-21845 Filed 8-4-78; 8:45 am]

[1]This sheet was described by MRT as "Revised Sheet No. 3A" without the proper page designation which we have assigned here.

[6740-02]

[Docket No. RP78-75]

NORTHERN NATURAL GAS CO. (PEOPLES NATURAL GAS DIVISION)

Order Accepting for Filing and Suspending Proposed Rate Increase and Initiating Hearing

JULY 28, 1978.

On June 30, 1978, Northern Natural Gas Co., Peoples Natural Gas Division (Peoples) filed in Docket No. RP78-75 a revised tariff sheet[1] which would increase jurisdictional revenues by $49,596 annually. Peoples requests an effective date of July 31, 1978. For the reasons stated below, the Commission shall accept the revised tariff sheet for filing, suspend it for 5 months and set the matter for hearing.

Public notice of Peoples' filing was issued on July 21, 1978, providing for the filing of protests or petitions to intervene on or before August 7, 1978. Since the period for filing petitions to intervene does not expire until after the date of this order, rulings on any such petitions will be handled in a subsequent order.

Peoples states that the principal reason for its rate increase request is to recover increased operating expenses. It claims an overall rate of return of 11.375 percent which corresponds to a 14.723-percent return on equity capitalization.

The Commission finds that Peoples' proposed rates have not been shown to be just and reasonable. Accordingly, they shall be suspended for the full 5-month statutory period and the matter set for hearing.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates proposed by Peoples and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15, and the Commission's regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Peoples.

(B) Pending hearing and decision, and subject to the conditions of this order, Peoples' proposed rate increase is accepted for filing and suspended for 5 months, until December 31, 1978, when it shall be permitted to become effective, subject to refund, upon motion filed in accordance with the provisions of the Natural Gas Act.

(C) The Commission staff shall prepare and serve top sheets on all parties on or before October 22, 1978.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)) shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions

[1]Twenty first Revised Sheet No. 3a, Original Volume No 4

Applicant's average jurisdictional transmission cost of service in effect from time to time in Applicant's northern rate zone, as such may be determined by Applicant based on rate filings made from time to time with the Commission, less any amount included in such average jurisdictional transmission cost of service which is attributable to gas consumed in the operation of Applicant's pipeline system, which current average jusidictional transmission cost of service, exclusive of the cost of gas consumed in Applicant's operation, is 24.56 cents per Mcf in its northern rate zone.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by its in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-21849 Filed 8-4-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

ISSUANCE OF PROPOSED DECISION AND ORDER BY THE OFFICE OF HEARINGS AND APPEALS

Week of July 17, 1978 through July 21, 1978

Notice is hereby given that during the period July 17 through July 21, 1978, the proposed decision and order which is summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.

RICHARD T. TEDROW,
Acting Director,
Office of Hearings and Appeals.

JULY 26, 1978.

PROPOSED DECISION AND ORDER

Monsanto Co., Houston, Tex., DXE-1329 Crude oil.

Monsanto Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm requested that it be permitted to continue to sell certain of the crude oil produced from the Hendrick "A" property, located on the Hendrick Field in Winkler County, Tex., at upper tier ceiling prices. On July 18, 1978, the DOE issued a proposed decision and order which determined that the Monsanto exception request be granted.

[FR Doc. 78-21802 Filed 8-4-78; 8:45 am]

[3128-01]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

July 10 through July 14, 1978

Notice is hereby given that during the period July 10 through July 14, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within 10 days of service. For purposes of the new procedures, the date service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m.

and 5 p.m., e.d.t., except Federal holidays.

RICHARD T. TEDROW,
Acting Director,
Office of Hearings and Appeals.

JULY 26, 1978.

PROPOSED DECISIONS AND ORDERS

Arizona Fuels Corp., Salt Lake City, Utah, DXE-1046, crude oil.

Arizona Fuels Corp. filed an application for exception from the provisions of 10 CFR 211.67 (the domestic crude oil entitlements program). The exception request, if granted, would relieve Arizona Fuels of its obligation to purchase entitlements. On July 14, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Mapco, Inc., Tulsa, Okla., DEE-0532 Natural gas Liquids.

Mapco, Inc. filed an application for exception form the provisions of 10 CFR, Part 212, Subpart K, in which the firm requested that it be permitted to sell natural gas liquids and natural gas liquid products produced for its benefit from the Tyrone natural gas processing plant, located in Texas County, Okla., at prices in excess of the maximum levels permitted under the provisions of subpart K. On July 14, 1978, the Department of Energy issued a proposed decision and order which determined that the Mapco exception request be granted.

Pennzoil Producing Co., Houston, Tex., DEE-0085, DEE-0086, Crude oil.

Pennzoil Producing Co. filed two applications for exception from the provisions of 10 CFR 212.73. The exception requests, if granted, would permit Pennzoil to sell the crude oil produced from the McGraw sand unit and the Woodruff sand unit located in Yazoo County, Miss., at prices in excess of the maximum permissible levels specified in section 212.73. On July 10, 1978, the DOE issued a proposed decision and order which determined that the exception requests should be granted.

[FR Doc. 78-21804 Filed 8-4-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 940-3]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from July 24, 1978 through July 28, 1978. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days; the date of submission of comments is September 18, 1978. The thirty (30) day period for each final statement begins the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: August 2, 1978.

WILLIAM D. DICKERSON,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Landownership adjustment proposal, Chugach National Forest, Alaska, July 25: This proposal presents a description of two landownership adjustment proposals made by the Chugach Natives, Inc., and Koniag Inc., that affect the Chugach National Forest. Chugach Natives, Inc., proposes 230,000 to 255,000 acres of the Chugach National Forest in the Prince William Sound area in exchange for its second-round village and its regional lands in the Bremner and Copper River watersheds and on the Kenai Peninsula. Koniag Inc., proposes to acquire the remainder of the national forest land on Afognak Island, which totals approximately 310,000 acres, in exchange for the majority of its village and regional lands on the Alaska Peninsula (USDA-FS-R10-DES(ADM)-7801) (EPA Order No. 80800).

SOIL CONSERVATION SERVICE

Draft

Marshland Watershed Project, Snohomish County, Wash., July 28: This proposal concerns watershed protection and flood prevention in Snohomish County, Wash. The project would finish the remaining works of improvement involving the reconstruction and raising of approximately 2.9 miles of existing levee to provide the same level of protection as is now being provided by the 2 reaches of levee along the Snohomish River. This will require raising the levee in some sections (USDA-SCS-ES-WS-(ADM) (EPA Order No. 80814).

Final supplement

Lake Verret Watershed (S-3), Ascension, Assumption, and Idberville Parishes, La., July 26: Proposed is a project for watershed protection, flood prevention, and drainage in Ascension, Assumption, and Iberville Parishes, La. Approximately 168 miles of channel work with appurtenant measures, structures for water control, and measures to minimize adverse effects to fish and wildlife will be installed. There will be a loss of about 29 acres of type 7 wetland due to project channel rights-of-way; channel rights-of-way required for construction will occupy about 5 acres. Additional effects include the clearing of 1,200 acres of forest land, and a reduction in air quality (USDA-SCS-EIS-WS(ADM)-78-1-(F)-LA) (EIS Order No. 80803).

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn.: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Shoreline Development in Pago Pago Harbor, American Samoa, July 28: This proposal concerns a comprehensive evaluation program which will be used by the COE, Honolulu District, in granting, denying, or conditioning permits within Pago Pago Harbor, Tutuila Island, American Samoa. Those types of activities which may require preparation of a separate environmental statement are identified. The development of the comprehensive evaluation program was based on an analysis of the cumulative environmental effects of past construction activities in Pago Pago Harbor (Honolulu District) (EPA Order No. 80817).

Final

Hahn Shopping Center, Corte Madera, Marin County, Calif., July 28: The project involves the filling of 45 acres of grasslands and marsh with 500,000 cubic yards of dry fill, including both fill and surcharge. This acreage in addition to 17 acres of previously filled land is to be used as a site for the Hahn Shopping Center, a regional shopping center situated in the Corte Madera, Marin County. Adverse impacts include a decrease in water quality from project runoff, increases in air and noise pollution, the loss of 45 acres of wildlife habitat, and an increase in local traffic (San Francisco District). Comments made by: EPA, DOT, State and local agencies, groups, individuals, and businesses. (EPA Order No. 80822).

Draft supplement

South fork Zumbro River watershed (S-2), Rochester and Olmsted Counties, Minn., July 24: This statement supplements a final EIS filed in May 1973, concerning flood control of the Zumbro River basin located in Rochester and Olmsted Counties, Minn. The proposed plan is a combination of structural and nonstructural measures proposed by the Corps and Soil Conservation Service (SCS). This statement considers comments and objections to a supplement filed in November 1976. The selected plan includes channel modification, levees, and other features, combined with SCS headwater reservoirs and land treatment measures (Chief of Engineers). (EPA Order No. 80797).

The review period for the following draft supplement has been waived for the 45-day review. The review will terminate on September 7, 1978.

Portsmouth Refinery and Terminal, permit, Virginia, July 28: This proposal concerns the Hampton Roads Energy Co.'s (HERCO) application for COE permit approval to construct an oil refinery complex on the west bank of the Elizabeth River in Portsmouth, Va. This work includes: (1) Construction of a marine terminal, (2) dredging of tanker and barge mooring areas

and access channels, and (3) installation of an oil spill containment system. The purpose of this statement is to consider additional refinery capacity on the eastern seaboard and alternative sites (Norfolk District). (EPA Order No. 80824).

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Proposed Port Fourchon development plan, Lafourche County, La., July 28: The proposed action is approval of a loan offer to the greater Lafourche Port Commission to fund the fourth phase of a multiport facility to accommodate the needs of the fishing/seafood industry, recreation/tourism industry; the offshore oil industry, and the Louisiana Offshore Oil Port, Inc. (LOOP), in Lafourche Parish, La. These actions will include channel dredging, relocation, and maintenance of Belle Pass entrance channel, stone jetty and drainage improvements, dredging and stabilization of a floatation canal, and construction of a bulkhead. (EPA Order No. 80823).

Final

Listing of three sea turtles as threatened species, July 26: Proposed is the listing and protection, by regulation, of the Green Sea Turtle (Chelonia Mydas), the Loggerhead Sea Turtle (Caretta Caretta), and the Pacific Redley Sea Turtle (Lepid Ochelys Olivacea), as threatened species under the authority of the Endangered Species Act of 1973. The action is designed to prevent further decline in the populations of the three species of sea turtles. The major adverse impact will be a short-term economic impact and will be suffered by those who take, import, export, and trade these species and/or their products. Comments made by: COE, EPA, CEQ, State and local agencies, groups, individuals, and businesses. (EPA Order No. 80804).

Draft supplement

Atlantic Billfish/Shark, Preliminary Management, Florida, July 28: This statement supplements a final EIS filed in January 1978 concerning a preliminary fishery management plan for Atlantic billfishes and sharks, which prohibited the retention of billfishes and other nontarget species taken incidental to directed fisheries for tunas and sharks within the U.S. Fisheries Conservation Zone, and sets shark allocations for foreign nations. The proposed action is to extend into the 1979 fishing season the fishing plan and the implementation of procedures to protect nontarget species in directed foreign shark fisheries by imposing area and gear limitations. (EPA Order No. 80821.)

Proposed NOAA West Regional Center Development, several counties, Washington, July 28: This proposal supplements a final EIS filed in January 1976 concerning the NOAA West Regional Center Development. This statement describes and considers 10 alternative sites on which NOAA proposes to construct about 550,000 square feet of building space, 300,000 square feet of outdoor work space and mooring space for 12 fishery and oceanographic vessels. The purpose of the project is to consolidate the major organizational components of NOAA which are presently located at several sites in and around Seattle. (EPA Order No. 80819.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. John Hagan, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, 404-597-7458.

Final

United States Steel Corp., No. 8 Blast Furnace, Permit, Jefferson County, Ala., July 26: The action proposed is the issuance of a NPDES permit to the United States Steel Corp. for the modernization of the steel plant facilities at Fairfield, Jefferson County, Ala. These changes will include the addition of a new blast furnace and auxiliaries, a third Q-BOP furnace, a 57-oven coke battery, 4 additional soaking pits, and the idling of 4 old coke batteries. These changes will replace existing blast furnace operations at the United States Ensley Steel Plant. The blast furnace complex will occupy 13.15 acres of the total 5,000 acres involved in the Fairfield Operations. (EPA/904-9-78-015.) Comments made by: HEW, USDA, HUD, DOI, COE, and State and local agencies. (EPA Order No. 80805.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Austin Lake, Nollwood Development Corp., Permit, Kalamazoo County, Mich., July 28: This proposal considers the issuance of a Federal permit to the Nollwood Development Corp. for land alternatives at Austin Lake, Portage, Kalamazoo County, Mich. The proposed permit application involves the placement of fill sand dredged from a marsh into 2 acres of the same marsh adjacent to Austin Lake, for the purpose of raising low ground areas to a grade suitable for residential construction. Once the 2 acres of marsh are filled, the applicant would develop an additional 8 adjacent acres of uplands into residential homesites. (Detroit District.) (EIS Order No. 80816.)

Glen Iris subdivision, Harris County, Tex., July 27: The proposed action is for HUD to accept for home mortgage insurance the proposed Glen Iris subdivision on 254 acres located in Harris County, Tex. When completed in approximately 6 years the subdivision will contain about 1,280 single-family homes plus some convenience shopping facilities. The applicant is White & White Inc. (HUD-RO6-EIS-78-31D.) (EPA Order No. 80806.)

The notice of availability for the following draft EIS was not published by the EPA. However, the draft EIS was made available to commenting parties on or before April 28, 1978.

Regency Woods, Proposed Master Plan, King County, Wash., July 28: This proposal concerns an application for HUD Home Mortgage Insurance Funds by Ipold, Inc., for the Regency Woods Proposed Subdivision in King County, Wash. Application has been made for preliminary subdivision approval on, and zone classifications within a 228-acre site, and mortgage insurance for 501 single-family dwellings on 130.40 acres of land. The project will also include aproximately 196 rental apartments, 160 condominium units, and 75,000 square feet of retail/service commercial space. (HUD-R10-EIS-78-D1.) (EPA Order No. 80828.)

Final

The Foothills Development, Tucson, Pima County, Ariz., July 27: Proposed is the granting of HUD/FHA Mortgage Insurance for the Foothills Development, located in Pima County approximately 3.75 miles north of Tucson, Ariz. The project calls for development of a planned residential area contained on 621 acres (594 single-family dwellings and 70 townhouse units) with an estimated ultimate population of 2,300. The development is expected to have some adverse effects on energy consumption, modification of land forms, native plants, animals, and infrastructure. (HUD-RO9-EIS-77-1F.) Comments made by: DOI, USDA, 2 VA, 2 AHP, 2 State and local agencies. (EPA Order No. 80807.)

Lakemeer Subdivision, Tennessee, July 27: Proposed is a residential community on about 667 acres located northeast of Memphis, Tenn. Development plans include single-family, multifamily, and commercial land uses. Focal point of the development will be a 35-acre fishing lake surrounded by single-family lots with a 1.5 acre park to provide fishing and picnic areas. Adverse impacts include no endangered species habitat; noise levels and air quality generally remain within acceptable limits. (HUD-RO4-EIS-77-16F.) Comments made by: HEW, DOI, FERC, USDA, EPA, State and local agencies. (EPA Order No. 80810.)

Walnut Grove Woods, Memphis, Shelby County, Tenn. July 27: Proposed is a subdivision about 900 acres located in east Shelby County, Tenn. along Wolf River east of Memphis city limits. It is proposed to develop the site in single-family, multifamily, commercial, and office uses, in accordance with existing zoning regulations. Adverse impacts include endangered species habitat; increased stormwater runoff, and increased noise levels and air quality. Five families would be displaced. (HUD-RO4-EIS-77-17F.) Comments made by: DOI, HEW, DOC, USDA, State and local agencies. (EPA Order No. 80811.)

Kirby Meadows Subdivision, Shelby County, Tenn., July 27: Proposed is the development of 260 acres in southeast Shelby County, Tenn. into the Kirby Meadows Subdivision. Plan implementation calls for the construction of single-family, multifamily, commercial and office structures for a planned community of approximately 1,700 families. Adverse impacts include an increase in stormwater runoff, the covering of six minor archeological sites; construction-related pollution; and increased levels of air and noise pollution. (HUD-RO4-EIS-77-15F.) Comments made by: GSA, HEW, DOI, USDA, State and local agencies. (EPA Order No. 80812.)

SECTION 104(h)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Communmity Development Act. Copies may be obtained from the office of the appror-

iate local executive. Copies are not available from HUD.

Draft

Corcoran Fringe Wastewater Facilities, Kings County, Calif, July 27: Proposed is the release of Federal funds by HUD for the construction of the Corcoran Fringe Wastewater Facility in Kings County, Calif. Three alternatives are under consideration as follows: (1) Construction of a community collection system and connection to the existing facility; (2) construction of a community collection system and a treatment facility which would be independent of the existing city facility; and (3) rehabilitation of individual disposal systems and implementation of a maintenance district. (No-project.) (EPA Order No. 80809.)

Lafayette Place Urban Development, Boston, Suffolk County, Mass., July 28: The proposed lafayette place development project represents a public and private investment program in the center of downtown Boston and encompasses a major retail/hotel complex, a new city garage and ancillary public improvements. The project area, extenting generally from Washington Street to Chaunncy and Essex Streets and from Avon Street to Hayward Place and Exeter Place, encompasses approximately 6 acres or predominantly vacant land, in the city of Boston, Suffolk County, Mass. The program's goal are to rejuvenate the retail area along Washington Steeet and foster round-the-clock activity in the core of downtown Boston. (HUD (CDBG)-RO1-EIS-78-1D.) (EPA Order No. 80820.)

4447 Duke Street Rehabilitation, Alexandria, Fairfax County, Va. July 28: The proposal is an application for funds to rehabilitate the existing Shirley Duke and Regina Apartments located on Duke Steet in Alexandria, Fairfax County, Va. The project activities include the replanning and reconstruction of the interior units to provide 2,113 one and two bedroom units, replacement of roofs and interior utility systems, commercial construction of seven recreational areas, paving of parking areas and minor rehabilitation of the commercial area. (HUD-000-35198-PM-SR.) (EPA Order No. 80813.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

West-Central Colorado Coal Resources Development, several counties, Colorado, July 28: The proposed actions of this statement are the review and consideration for approval of the needed leases and applications associated with six mining and reclamation plans to mine Federal and private coal on existing leases by 1980, 1985, and 1990. The statement contains a two-level analysis of regional impacts associated with the proposed mining and reclamation plans and site-specific analyses of the plans. Two alternatives are considered which include a no-build and an alternative which involves a different rate of production. (USDI-DES-78-28.) (EPA order No. 80818.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P-518, Washington, D.C. 20555, 301-492-8446.

Final

Blue Hills Station Units 1 and 2, Newton County, Tex., July 25: The proposed action is the construction by Gulf States Utilities Co. of the Blue Hills Station Units 1 and 2 in eastern Texas. The station will employ 2 pressurized water reactors to produce outputs of approximately 2,814 MWt each. Two steam turbine generators will use the heat produced to provide approximately 957 MWe (gross) each. The action will result in commitment of approximately 123 acres, and may have adverse effects on the red-cockaded woodpecker, and endangered species, site preparation and construction may adversely impact the Mill Creek Watershed. (NUREG-0449.) Comments made by: AHP, USDA, COE, EPA, FPC, HEW, DOI, DOT, State and local agencies. (EPA order No. 80799.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

North Camp Creek Parkway Extension, Fulton and Douglas Counties, Ga., July 27: This proposed action concerns the construction of the North Camp Creek Parkway Extension which will begin at the intersection of Butner Road and the existing Camp Creek Parkway in Fulton County and will extend to Lower River Road in Douglas County, Ga. Features of the project include a four-lane, controlled access parkway extension of approximately 5.7 miles in length. In addition to a no-build alternative, three others are considered. (FHWA-GA-EIS-78-02-D.) (EPA order No. 80808.)

U.S. 2 from Surrey easterly to Rugby, Ward, McHenry, and Pierce Counties, N. Dak., July 24: The proposed project is the construction of a two-lane roadway parallel to the existing roadway on U.S. 2 from Surrey to the Souris River crossing and from Towner to Rugby in Ward, McHenry, and Pierce Counties, N. Dak. The project would provide a four-lane divided highway approximately 46 miles long. The proposed improvement requires purchasing additional right-of-way. The existing roadway will remain in place to serve as part of the four-lane facility. (FHWA-ND-EIS-78-03D.) (EPA order No. 80795.)

Bucklin Hill Area Transportation Improvements, Kitsap County, Wash., July 25: The proposed project is intended to improve the existing Bucklin Hill Road, Kitsap County, Wash. A new or improved transportation facility will connect WA-303 on the east and WA-3 on the west. The purpose of the proposed facility is to relieve the current and projected traffic congestion problems on Bucklin Hill Road and in the city center Silverdale area. In addition to no-build, two alternatives are being considered which consist of upgrading of the existing Bucklin Hill Road or new corridors in the Clear Creek Valley. (Region 10.) (FHWA-WA-EIS-78-03D.) (EPA order No. 80802.)

Final

California 101, Santa Clara County, July 28: Proposed is the improvement of California 101 in Santa Clara County, Calif. The roadway will be an initial six-lane facility running 11.8 miles from Cochran Road in Morgan Hill to Ford Road in San Jose. Seven interchanges are planned. The project will displace seven families and will require 819 acres and land. Construction noise and air pollution and disruption will result. (FHWA-CA-EIS-74-13-F.) Comments made by: DOI, COE, EPA, DOC, HEW, USDA, DOT, State and local agencies, groups, individuals, and businesses. (EPA order No. 80815.)

U.S. 275-U.S. 81, Norfolk, Madison County, Nebr., July 25: The proposed roadway improvement involves the upgrading and reconstruction of a segment of Norfolk Avenue and 13th Street in Norfolk, Nebr. The segment of highway under consideration on Norfolk Avenue begins at 15th Street and extends approximately 0.55 mile easterly terminating immediately east of Ninth Street. The segment of highway on 13th Street begins immediately south of Pasewalk Avenue and extends approximately 0.97 miles to north of Nebraska Avenue. Improvements consists of widening both streets to four lanes with curb medians, sidewalks, intersections, and driveways. (Region 7.) (FHWA-NEBR-EIS-76-09-F.) Comments made by: DOT, USAF, COE, USDA, HUD, DOI, EPA, State and local agencies. (EPA order No. 80798.)

CA 16, Cheney Stadium-Narrows Bridge, Pierce County, Wash., July 24: Proposed is the reconstruction of Bantz Boulevard (CA 16) from the vicinity of Cheney Stadium near Center Street to Sixth Avenue in Tacoma, Wash. The balance of the highway to the Tacoma Narrows Bridge would then be constructed on a route approximately following north Ninth Street. This four-lane facility (ultimately planned as a six-lane freeway) is designed with four interchanges, two grade separations, two bike-pedestrian structures, two frontage roads, a storm sewer system, and a storm water storage basin at China Lake. The project is 3.4 miles in length. Families, businesses, and utilities will be relocated. (Region 10.) (FHWA-WA-EIS-76-03-F.) Comments made by: COE, USDA, HUD, EPA, State and local agencies. (EPA order No. 80796.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Draft

Pittsburgh Light Rail Transit Reconstruction, Allegheny County, Pa., July 25: The proposal of this statement concerns the reconstruction of portions of 22.5 miles of a trolly system currently in operation in the South Hills Corridor, Pittsburgh, Allegheny County, Pa. This project includes complete reconstruction of 10.5 miles of the system including the Mt. Lebanon via Beechview trolly line and a section of the Shannon-Library and Shannon-Drake line south of Castle Shannon, rehabilitation of power and communications systems on the other 12 miles of the system, and construction of a new downtown Pittsburgh Distribution System. (UTMA-PA-03-0012.) (EPA order No. 80801.)

RETRACTION NOTICE

OFFICIAL RETRACTION

The following final EIS was filed with EPA on June 5, 1978 and the availability was published in the FEDERAL REGISTER on

June 16, 1978. It has come to our attention that the EIS distribution was not completed until July 31, 1978. Therefore, the thirty (30) day review period for the final EIS will terminate on August 30, 1978.

Final

Missouri River Erosion (South Dakota, Nebraska, North Dakota, Montana) July 31: The proposed action is to provide streambank erosion control at critical erosion problem areas on open reaches of the Missouri River between Fort Peck, Mont. and Sioux City, Iowa. There are currently 52 critical erosion problems in the study area which consists of the states of South Dakota, Nebraska, North Dakota, and Montana. Protection techniques will include flow control structures, van dikes, windrow revetments, artificial hard points, composite bankline revetment, sandfill revetments, and tree retards. (Missouri River Division.) (EIS order No. 80306.)

[FR Doc. 78-21884 Filed 8-4-78; 8:45 am]

[6560-01]

[FRL-940-2 OTS-046001]

TSCA SECTION 4 ONCOGENICITY AND CHRONIC TOXICITY TESTING STANDARDS

Public Participation Meeting

AGENCY: Environmental protection Agency (EPA).

ACTION: Notice of public participation meeting.

SUMMARY: EPA will convene a public participation meeting on Tuesday, August 15, 1978, to solicit comments and information from industry, environmentalists, and the public on testing standards for oncogenic and chronic toxic effects and the related quality assurance requirements. The EPA Work Group responsible for developing testing rules under section 4 of the Toxic Substances Control Act will discuss with the public a working draft of the testing standards. The draft will be distributed at the meeting; advance copies are available.

ADDRESS: The meeting hours will be 10 a.m. to 4 p.m. in Room 2117 of the Waterside Mall, EPA, Washington, D.C.

FOR FURTHER INFORMATION AND TO SECURE ADVANCE COPIES OF THE DRAFT CONTACT:

Dr. Carl Morris, Environmental Protection Agency, TS-792, Room 609 East Tower, 401 M Street SW., Washington, D.C. 20460; phone 202-755-4863.

Dated: August 1, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-21911 Filed 8-4-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

CBEMA AND IBM

Filing of Separate Petitions for Declaratory Ruling Regarding New York Telephone Co.'s Compliance With § 64.702 of the Commission's Rules in Offering Certain Services With the Dimension 2,000 PBX

AUGUST 2, 1978.

The Computer and Business Equipment Manufacturers Association (CBEMA) and International Business Machines Corp. (IBM) filed petitions for declaratory ruling on June 16, 1978 and July 5, 1978, respectively, seeking a Commission determination that the offering in New York State by New York Telephone Co. of certain elements included in Feature Package 9 of its Dimension 2,000 PBX service constitute the offering of data processing services in contravention of section 64.702 (47 CFR § 64.702) of the Commission's Rules.

Comments on the two petitions are due on or before August 31, 1978 and reply comments are due on or before September 15, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-21909 Filed 8-4-78; 8:45 am]

[6712-01]

[FCC 78-556]

NEW FINANCIAL QUALIFICATIONS

Standard for Aural Broadcast Applicants

AUGUST 2, 1978.

The Commission has decided to change its current financial qualification standard for those parties applying for new radio broadcast stations and for those assignors and transferees of "bare" radio construction permits. The new standard requires that applicants demonstrate the ability to construct the station and operate the facility for 3 months, without relying upon advertising or other revenue to meet these costs.

In announcing this policy change, the Commission considers its action to be one which will provide a more reasonable and realistic financial qualification standard for all aural applicants and will specifically benefit minority applicants seeking entry into the radio broadcast service. The Commission's decision here is based, in large part, on the finding, in its Minority Ownership Task Force Report, that station financing has been a principal barrier to minority broadcast ownership.

The current financial qualification standard (the ability to meet construction and operating costs for 1 year without revenue), applied to new station applications in all broadcast services, was first announced in *Ultravision Broadcasting Co.*, FCC 65-581, 1 F.C.C. 2d 544 (1965), and the Public Notice (1 F.C.C. 2d 550) which accompanied the decision's adoption. The experience gained over the past 13 years demonstrates that, for radio services, the rationale which once supported this policy no longer is persuasive.

In adopting the "*Ultravision* test" the Commission established a stringent financial standard aimed at ensuring that successful applicants would possess the means of operating the proposed facility on a continuing basis. It was the Commission's concern that parties with insufficient resources might be unable to sustain operation, thus interrupting service to the public. These failures, the Commission reasoned, might also discourage qualified potential licensees from applying. This policy, insofar as its application to television matters is concerned, has been useful in achieving its stated goal. Insofar as radio services are concerned, however, such an exacting standard does not appear to be required.

We have been unable to conclude that the failure rate of AM and FM radio stations has been substantially affected by *Ultravision*. New radio station success or failure usually is determined by market forces and quality of management, rather than by the liquidity of the licensee. Also, the financial costs of constructing and operating a radio facility usually are far less demanding that those costs associated with television construction and operation. Moreover, the seemingly inexhaustible demand for AM and FM stations appears to negate those fears that qualified applicants might be discouraged by station failures.

It is our conclusion, in modifying the financial qualifications standard for radio services, that a new aural applicant must demonstrate that he has a sufficient capital reserve to cover constructions costs and that initial start-up period between inauguration of broadcast service and the point where advertising accounts begin to "pay-off." We believe that a fairly conservative 90-day standard will serve adequately. This standard also applies to those parties seeking to be the transferee or assignee of a construction permit for an unbuilt and nonoperational radio facility. The *Ultravision* standard still will be applied to all television matters.

The new standard—the ability to meet construction costs and operation for 3 months without revenue—will be

applied immediately to all aural new station applications, including pending applications in hearing status.

Action by the Commission July 27, 1978. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, White, and Brown.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-21910 Filed 8-4-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Amendment No. 6 to Commission order No. 1 (Revised)]

ORGANIZATION AND FUNCTIONS OF THE FEDERAL MARITIME COMMISSION

Section 7. Specific Authorities Delegated to the Managing Director

Commission Order No. 1 is hereby amended to add the following new § 7.22, delegating authority to the Managing Director with respect to certain Labor Management Agreements:

§ 7.22. Authority to (1) determine, upon request of a party filing a new collective bargaining agreement between a labor union and a maritime multi-employer bargaining unit, whether the agreement (or any specific provision thereof) is temporarily exempt from the filing and approval requirements of section 15, Shipping Act, 1916, or whether the agreement (or any specific provision thereof) is entitled to interim approval pending subsequent determination by the Commission, and (2) grant such temporary exemption or interim approval for a period not to exceed 100 days from the date of such grant. This authority must be exercised in a manner consistent with the Commission's Interim Policy Statement of June 12, 1978 (46 CFR 530.9), and all other Commission policies which may exist at the time of exercising such authority. The Commission must also be advised monthly of all determinations and grants made pursuant to this authority.

Dated: June 12, 1978.

RICHARD J. DASCHBACH,
Chairman.

[FR Doc. 78-21883 Filed 8-4-78; 8:45 am]

[6730-01]

TAMPA PORT AUTHORITY ET AL.

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the field offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before August 28, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity, allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-2810-1.

Filing Party: Guy N. Verger, Port Director, Tampa Port Authority, 811 Wynkoop Road, P.O. Box 2192, Tampa, Fla. 33601.

Summary: Agreement No. T-2810-1, between the Tampa Port Authority (Port) and Uiterwyk Cold Storage Corp. (Uiterwyk), modifies the basic agreement with Edward-Stephen of Tampa, Inc., subleased to Uiterwyk under FMC Agreement No. T-2811. Agreement No. T-2810 provides for Uiterwyk's lease of land along with preferential berthing rights to an adjacent dock and apron, at the Holland Terminal Area, East Bay, Hookers Point, Tampa, Fla. The purpose of the modification is to provide that the Port shall pave 1.7 acres of land within the leased premises at an estimated cost of $40,000 plus site preparation costs. Uiterwyk will amortize all costs in connection with said paving over a 10-year period, payable monthly in advance.

Agreement No.: T-3683.

Filing Party: Guy N. Verger, Port Director, Tampa Port Authority, 811 Wynkoop Road, P.O. Box 2192, Tampa, Fla. 33601.

Summary: Agreement No. T-3683, between the Tampa Port Authority (Port) and Southport Stevedores, Inc. (SSI), provides for the Port's 2-year lease (with a renewal option) to SSI of 7.21 acres of bare land, 1,170 feet of dock space and 57,451 square feet of building space at the George B. Howell Maritime Center, Tampa, Fla., to be used by SSI in its operation of an import, export, warehousing, terminal operation, and stevedoring business thereon. As compensation, SSI shall pay the Port $1,500 per acre for a total of $10,815 annually net to be applied against a minimum annual financial guarantee of $130,000 to be met monthly in advance. In addition, SSI shall pay the Port, according to the Port's tariff, all dockage, sheddage, and wharfage fees accruing from SSI's use of the leased premises, said fees to be credited to the minimum annual financial guarantee.

Agreement No.: T-3685.

Filing Party: Richard L. Landes, Deputy, Offices of the City Attorney of Long Beach, City Hall, 333 West Ocean Boulevard, Long Beach, Calif. 90802.

Summary: Agreement No. T-3685, between the City of Long Beach (Port) and Maersk Line Pacific, Ltd., (Maersk), provides for the Port's 3-year (with renewal options) nonexclusive preferential assignment to Maersk of certain premises at Berths 228-229, Pier G, Long Beach, Calif., together with adjacent wharf premises and two 40 Long Ton Paceco MACH Portainers, all to be used by Maersk for the operation of a marine terminal pursuant to the Port's tariff. As compensation, Maersk shall pay to Port $78,741.24 per month for the use of Parcel IB, $15,692.09 per month for the use of Parcel IC and $13,500 per crane per month, subject to a guaranteed minimun usage of 750 hours per crane per annum, and effective up to a maximum of 900 hours usage per crane per annum. Crane usage in excess of 900 hours per crane per annum shall be subject to a variable cost increase adjustment. Maersk shall asssess, bill, collect, and retain all charges accruing in connection with the use of the premises in accordance with the schedule of rates in the Port's tariff; however, in the event tariff charges for dockage, wharfage, wharf storage, and demurrage shall be increased by the Port during the term of this agreement, Maersk shall pay to Port, no sooner than July 1, 1979, 50 percent of the difference between the tariff charges in effect as of the commencement of the term of this agreement and the increased tariff charges thereafter accruing from operations on the assigned premises.

Agreement No.: T-3688.

Filing Party: Mr. D. W. Gwin, L. A. Parish, Inc., 61 Saint Joseph Street, Mobile, Ala. 36601.

Summary: Agreement No. T-3688, between the Lake Providence Port Commission (Port) and Lake Providence Terminal Co., Inc. (LPTC), provides for the Port's 3-year (with renewal options) lease to LPTC of certain premises at Lake Providence, East Carroll Parish, La., to be operated as a marine terminal facility. As compensation, LPTC shall pay Port $0.10 per ton for bulk cargo handled by LPTC and $0.18 per ton for general cargo handled by LPTC, subject to a guaranteed minimum rental of $23,400 for the primary lease term and $48,000 during any extensions or renewals. In addition, LPTC shall collect and pay to Port the Port's terminal use charge of $0.10 per ton. LPTC shall publish its own tariff subject to the Port's approval.

Agreement No.: 2846-39.

Filing Party: David C. Jordan, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 2846-39, among the member lines of the West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference (WINAC) modifies the basic agreement to provide that the Conference may agree upon and publish uniform credit rules including rules pertaining to bonding and security requirements and provisions for denying credit.

Agreement No.: 9984-13

Filing Party: Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, N.Y. 10004.

Summary: Agreement No. 9984-13, among the member lines of the South Atlantic-

North Europe Rate Agreement, modifies the basic agreement by deleting the present termination date applicable to "interior Points" (Sept. 30, 1978) thereby making the interior points authority an unlimited part of the basic agreement.

By Order of the Federal Maritime Commission.

Dated: August 2, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-21881 Filed 8-4-78; 8:45 am]

[6730-01]

[Fact Finding Investigation No. 9]

POSSIBLE REBATES AND SIMILAR MALPRACTICES IN THE UNITED STATES FOREIGN COMMERCE

Extension of Investigation

By Order of July 9, 1976, the Federal Maritime Commission instituted Fact Finding Investigation No. 9 (FEDERAL REGISTER Vol. 41, No. 141, July 21, 1976). This nonadjudicatory proceeding was instituted into the practices of rebates, absorptions, allowances in excess of those set forth in the tariff, and any other method of obtaining or allowing other persons to obtain transportation of property at less than the rates or charges which would otherwise be applicable in the United States foreign commerce.

Since its institution, Fact Finding Investigation No. 9 has been utilized as an integral part of the Commission's program into rebates and other malpractices in the foreign commerce of the United States. While Fact Finding Investigation No. 9 was initially instituted for a 2-year period, the Commission's continuing investigation into these matters raises the possibility that the compulsory processes authorized by Fact Finding Investigation No. 9 may have to be utilized to fully develop cases still pending final resolution.

Therefore, it is ordered, That pursuant to sections 22 and 27 of the Shipping Act, 1916 (46 U.S.C. 821 and 826) and section 214(a) of the Merchant Marine Act of 1936 (46 U.S.C. 1124(a)), Fact Finding Investigation No. 9 is extended for one year after publication of this Order in the FEDERAL REGISTER.

It is further ordered, That Tony P. Kominoth, Deputy Director, Bureau of Enforcement, is designated Assistant Investigative Officer.

It is further ordered, That Notice of this Order be published in the FEDERAL REGISTER.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-21882 Filed 8-4-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on July 31, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC and ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before August 25, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL COMMUNICATIONS COMMISSION

The FCC requests an extension without change clearance of Form 130-A, Notice of Frequency Assignment to Earth Station—Receiving. Form 130-A is required by section 2.603(a) of the FCC rules and by the International Telecommunications Union Radio Regulations No. 9A and appendix 1A. Form 130-A is filed by operators of satellite systems to notify the International Frequency Registration Board of assignment to a receiving earth station. The FCC estimates that approximately 125 notices are received annually and that respondent burden averages 1 hour per response.

The FCC requests an extension without change clearance of Form 130-B, Notice of Frequency Assignment to Space Station—Receiving. Form 130-B is required by section 2.603(a) of the FCC rules and by the International Telecommunications Union (ITU) Radio Regulations No. 9A and appendix 1A. The form is filed by operators of satellite systems to notify the International Frequency Registration Board of assignment to a receiving space station. The FCC estimates that approximately 125 notices are received annually and that respondent burden averages 1 hour per response.

The FCC requests an extension without change clearance of Form 130-E, Notice of Frequency Assignment to Earth Station—Transmitting. Form 130-E is required by section 2.603(a) of FCC rules and by the International Telecommunications Union (ITU) Radio Regulations No. 9A and appendix 1A. The form is filed by operators of satellite systems to notify the International Frequency Registration Board of the ITU of the frequency assignment of a transmitting earth station. The FCC estimates that approximately 125 notices are received annually and that respondent burden averages 1 hour per response.

The FCC requests an extension without change clearance of Form 130-S, Notice of Frequency Assignment to Space Station—Transmitting. Form 130-S is required by section 2.603(a) of the FCC rules and by the the International Telecommunications Union (ITU) Radio Regulations No. 9A and appendix 1A. The form is filed by operators of satellite systems to notify the International Frequency Registration Board of the ITU of the frequency assignment of a transmitting space station. The FCC estimates that approximately 125 notices are received annually and that respondent burden averages 1 hour per response.

The FCC requests an extension without change clearance of Form 440-A, Supplemental Information for Application in the Experimental Radio Services Involving Government Contracts. Form 440-A is required by sections 5.55(d)(2) and 5.57(b) of the FCC rules and regulations. Form 440-A is required when applicants must provide supplemental information regarding an application for experimental radio service when the application involves a Government contract. The FCC estimates approximately 900 supplemental forms are received annually and that respondent burden averages 30 minutes per response.

The FCC requests an extension without change clearance of Form 442, Application for New or Modified Radio Station Authorization Under Part 5 of the FCC rules—Experimental Radio Services (other than Broadcast). Form 442 is required by section 5.55 (b) and (c) of the FCC rules and regulations. The form is required to be filed when applying for new or modified stations authorization in the Nonbroadcast Experimental Radio Services. The FCC estimates that approximately 800 applications are received annually and that respondent burden average 3 hours per application.

The FCC requests an extension without change clearance of Form 740, Statement Regarding the Importation of Radio Frequency Devices Capable

of Causing Harmful Interference. Form 740 is required to be filed with the entry papers needed for entering a United States Custom Service port-of-entry for each shipment of radio frequency devices such as transmitters, receivers, and walkie talkies. The form is prescribed by subpart K of part 2 of the FCC rules and regulations. The FCC estimates that approximtely 72,000 statements will be filed annually and that respondent burden will average 12 minutes per response.

INTERSTATE COMMERCE COMMISSON

The ICC requests an extension without change clearance of Form C-1, Annual Report—Persons Furnishing Cars or Protective Services to Railroads or Express Companies. Form C-1 is required to be filed by persons furnishing cars to railroads or express companies, other than refrigerator car lines owned or controlled by railroad companies and owning or operating 10 or more cars, pursuant to section 20 of the Interstate Commerce Act. Data collected by Form C-1 are used for economic regulatory purposes. The ICC estimates that respondents number approximately 156 and that reporting burden averages 2 hours per report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-21812 Filed 8-4-78; 8:45 am]

[4110-83]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1978:

Name: National Advisory Council on Health Professions Education.

Date and Time: September 6-7, 1978, 8:30 a.m.

Place: Conference Room 10-53, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782.

Open: September 6—8:30 a.m. to 12:30 p.m. (10:30 a.m. to 12:30 p.m. will be structured study for Council members). Closed for remainder of the meeting.

Purpose: The Council advises the Secretary concerning the programs authorized by the Health Professions Educational Assistance Act of 1976, including recommendations on contracts, grant applications for construction, capitation, special projects, and financial need. These and other programs are designed to enable the health professions education institutions to meet the Nation's health manpower requirements.

Agenda: Agenda items for the open portion of the meeting will include Bureau update, and Update on 1979 Budget. The remainder of the meeting will be closed to the public for the review of applications for Capitation Waivers, Capitation Plans, and Area Health Education Centers Proposals. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings or other relevant information should contact Mrs. Lynn Stevens, Bureau of Health Manpower, Room 3-22, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6508.

Agenda items are subject to change as priorities dictate.

Dated: July 31, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-21858 Filed 8-4-78; 8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Meeting; Amendment

This amends the July 5, 1978, notice (43 FR 29034) of the August 3, 1978, closed meeting of the National Advisory Council on Vocational Education from 8:30 a.m. to 4 p.m. at the Western Hill Guest Ranch, Wagner, Okla.

A summary of the proceedings of the closed session will be available within 14 days after the date of the meeting at the Office of the Council's Executive Director, 425 13th Street NW., Suite 412, Washington, D.C. 20004.

Signed at Washington, D.C., on August 1, 1978.

GEORGE WALLRODT,
Acting Executive Director.

[FR Doc. 78-21838 Filed 8-4-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 5302, Honolulu, Hawaii 96850.

The applicant requests a permit to capture (take) two pairs of Marianas mallards (*Anas oustaleti*) from the Marianas Islands and place them in the Hawaii Waterfowl Propagation Facility to enhance the survival and propagation of the species. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-2935. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by September 6, 1978. Please refer to the file number when submitting comments.

Dated: August 2, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-21824 Filed 8-4-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: International Animal Exchange, 1489 East Nine Mile Road, Ferndale, Mich. 48220.

The applicant requests a permit to export one male cheetah (*Acinomyx jubatus*) to the Granby, Canada Zoo, for enhancement of population. The animal was born in captivity. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-2474. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by September 6, 1978. Please refer to the file number when submitting comments.

Dated: August 2, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-21823 Filed 8-4-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Regional Director, U.S. Fish and Wildlife Service, 17 Executive Drive NE., Atlanta, Ga. 30323.

The applicant requests a permit to take (capture) snail darters (*Percina tanasi*) from wherever found in sufficient numbers to establish a propagation and transplant program to enhance the survival of the species. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-1412. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by September 6, 1978. Please refer to the file number when submitting comments.

Dated: August 2, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-21822 Filed 8-4-78; 8:45 am]

[4310-55]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Andrew Henry Durr, 4871 Oxford Road, Macon, Ga. 31210.

The applicant wishes to apply for a captive self-sustaining population permit authorizing the purchase and sale for propagation those species of pheasants listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-2492. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above adress by September 6, 1978. Please refer to the file number when submitting comments.

Dated: August 2, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-21821 Filed 8-4-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Minnesota Zoological Garden, 12101 Johnny Cake Ridge Road, Apple Valley, Minn. 55124.

The applicant requests a permit to purchase in interstate commerce, two pairs of turquoise parakeets (*Neophema pulchella*) from Richard Rundel, Sonoma, Calif., for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-2979. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by September 6, 1978. Please refer to the file number when submitting comments.

Dated: August 2, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-21820 Filed 8-4-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: North American Wildlife Center, Route 1 Box 1 580, Golden, Colo. 80401.

The applicant requests a permit to salvage endangered species in Colorado for rehabilitation on their premises for enhancement of survival.

Documents and other information submitted with this application are available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file No. PRT 2-2759. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by September 6, 1978. Please refer to the file number when submitting comments.

Dated: August 2, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-21819 Filed 8-4-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Sea World of Florida, 7007 Sea World Drive, Orlando, Fla. 32809.

The applicant requests a permit to import, for enhancement of propagation, two male and one female white-winged wood ducks (*Cairina scutulata*) from the Wildlife Trust, Slimbridge, England. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned File No. PRT 2-2962. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by September 6, 1978. Please refer to the file number when submitting comments.

Dated: August 2, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-21818 Filed 8-4-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Charles Sivelle, 41 Westcliff Drive, Dix Hills, N.Y. 11746.

The applicant requests a permit to export, for propagation, two pairs of captive bred white-eared pheasants (*Crossoptilon crossoptilon*) to the Kohn Zoological Garden, West Germany. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by

writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned File No. PRT 2-2990. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by September 6, 1978. Please refer to the file number when submitting comments.

Dated: August 2, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-21817 Filed 8-4-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: San Diego Zoological Gardens, P.O. Box 551, San Diego, Calif. 92112.

The applicant requests a permit to export, for enhancement of propagation, two pairs of ruffed lemurs (*Lemur variegatus*) to the Bristol, England, Zoological Society. Humane care and treatment has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned File No. PRT 2-2986. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by September 6, 1978. Please refer to the file number when submitting comments.

Dated: August 2, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-21816 Filed 8-4-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: San Diego Zoological Gardens, P.O. Box 551, San Diego, Calif. 92112.

The applicant requests a permit to purchase in interstate commerce, to enhance propagation, one captive-bred male black and white ruffed lemur (*Lemur variegatus*) from the Dulce Primate Center. Humane care and treatment during transport has been indicated by the applicant

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned File No. PRT 2-2985. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by September 6, 1978. Please refer to the file number when submitting comments.

Dated: August 2, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 78-21814 Filed 8-4-78; 8:45 am]

[4310-55]

ISSUANCE OF PERMIT FOR MARINE MAMMALS

This notice is a correction of a notice of issuance of a marine mammal permit published in the FEDERAL REGISTER, vol. 43, No. 137 (43 FR 78-19568) on July 17, 1978.

On March 9, 1978, a notice was published in the FEDERAL REGISTER (43 FR 78-6194), vol. 43, No. 47 that an application had been filed with the U.S. Fish and Wildlife Service by Scripps Institution of Oceanography for a permit to take 25 sea otters (*Enhydra lutris*) in Alaska for purposes of scientific research.

Notice is hereby given that on June 14, 1978, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the U.S. Fish and Wildlife Service issued a permit, PRT 2-1609, to Scripps Institution of Oceanography authorizing the capture of twenty-five (25) sea otters for scientific research subject to certain conditions set forth therein. The permit is available for public inspection during normal business hours at the Fish and Wildlife Service (WPO), 1717 H Street NW., Room 534, Washington, D.C.

Dated: August 2, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-21813 Filed 8-4-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-37]

JAPAN ENGINEERING DEVELOPMENT CO.

Intent To Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 CFR 1245.405(e), the National Aeronautics and Space Administration announces its intention to grant to the Japan Engineering Development Co., Tokyo, Japan, a limited, exclusive patent license in Japan for the two NASA-owned inventions covered by the Japanese counterparts of (1) U.S. Application Serial No. 858,770 for "Low Profile Circularly Polarized Antenna," filed by NASA on December 8, 1977; and (2) U.S. Patent No. 3,493,401 for "Fire Resistant Coating Composition," issued to NASA on February 3, 1970. Copies of the above U.S. patent application can be purchased from the National Technical Information Services, Springfield, Va. 22161, at a cost of $3.75 a copy. Interested parties should submit written inquiries or comments within 60 days to the Assistant General Counsel for Patent Matters, Code GP-4, National Aeronautics and Space Administration, Washington, D.C. 20546.

Dated: July 31, 1978.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc. 78-21865 Filed 8-4-78; 8:45 am]

[4510-30]

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

MEETING (PURSUANT TO PRIOR NOTICE)

The sixth meeting of the NCUC will be held in the Conrad Hilton Hotel, Lake Superior "A" Room, Chicago, Ill., on August 29, 30, 31, 1978. The meeting will begin at 11 a.m., August 29, and conclude at 12:15 p.m., August 31. The tentative agenda follows:

AGENDA

Tuesday, August 29, 1978 (11 a.m.)

1. "Reflections of an Employment Security Administrator," Samuel C. Bernstein, former Administrator, Illinois Employment Security Agency, currently manpower advisor to the Mayor of Chicago—11 a.m. to 12:30 p.m.

LUNCH

2. Commission discussion: First Interim Report (Chairman's draft—Unemployment Compensation Plan No. 1)—Financing—2 p.m. to 5:30 p.m.

ADJOURN

Wednesday, August 30, 1978 (9 a.m.)

3. Visits to Illinois local claims office and State Agency Central Office—9 a.m. to 11:30 a.m.

4. Presentation by Illinois Agency—11:30 a.m. to 12:30 p.m.

LUNCH

5. Public Hearings—2 p.m. to 5:30 p.m.

ADJOURN

Thursday, August 31, 1978 (9 a.m.)

6. Continuation of discussion of First Interim Report—Financing—9 a.m. to 11:30 a.m.—Coverage.

7. Business session—11:30 a.m. to 12:15 p.m.

ADJOURN

Any person, group, or organization wishing to testify before this Commission should submit a written request and a copy of remarks to NCUC offices before August 15, 1978.

Other telephone inquiries and communications concerning this meeting should be directed to:

James M. Rosbrow, Executive Director, NCUC, Room 7000 PHB, 601 D Street NW., Washington, D.C. 20213, phone 202-376-7034.

Signed at Washington, D.C., this 1st day of August 1978.

JAMES M. ROSBROW,
Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 78-21868 Filed 8-4-78; 8:45 am]

[4510-30]

MEETING

The seventh meeting of the NCUC will be held in the Westward Hilton, Anchorage, Alaska, on September 22 and conclude at 12:30 p.m. on September 24. Telephone inquiries and communication concerning the meeting should be directed to:

James M. Rosbrow, Executive Director, NCUC, Room 7000 PHB, 601 D Street NW., Washington, D.C., phone 202-376-7034.

Signed at Washington, D.C., this 1st day of August 1978.

JAMES M. ROSBROW,
Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 78-21869 Filed 8-4-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-592 and STN 50-593]

ARIZONA PUBLIC SERVICE CO., ET AL. (PALO VERDE NUCLEAR GENERATING STATION, UNITS 4 AND 5)

Receipt of Antitrust Information and Application for Construction Permits and Operating Licenses: Time for Submission of Views on Antitrust Matters

Arizona Public Service Co. on behalf of itself and 10 joint applicants—Southern California Edison Co., El Paso Electric Co., San Diego Gas & Electric Co., Nevada Power Co., Department of Water and Power of the city of Los Angeles, city of Anaheim, city of Burbank, city of Glendale, city of Pasadena, and city of Riverside, Calif. (the applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed portions of their application. These parts which consist of the safety analysis report, general and financial information were accepted for docketing on March 31, 1978, and are assigned docket Nos. STN 50-592 and STN 50-593.

In addition a portion of the application filed contains the information requested by the Attorney General for the purpose of an antitrust review of the application as set forth in 10 CFR 50, appendix L, and was also accepted for docketing and is assigned docket Nos. STN 50-592-A and STN 50-593-A.

The application is for authorization to construct and operate two pressurized water reactors designated as the Palo Verde Nuclear Generating Station, units 4 and 5 on the applicants' site in Maricopa County, Ariz. The reactor is designed for operation at a core power level of 3,800 megawatts thermal, with an equivalent net electrical output of approximately 1,307 megawatts.

A notice of hearing setting forth the radiological issues to be considered during the review is being published separately. A date for submitting petitions for leave to intervene on radiological issues is set forth in the notice of hearing.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before July 6, 1978. The request should be filed in connection with docket Nos. STN 50-592-A and STN 50-593-A.

The environmental report was tendered but initially rejected and is expected to be resubmitted on or before September 1, 1978. A separate notice of receipt and availability for this remaining portion will be published at that time. A deadline for filing of other contentions relating to matters covered in the omitted material will be established by the Board subsequent to acceptance of the environmental report for a detailed review.

After the environmental report has been received and analyzed by the Commission's Director of Nuclear Reactor Regulation or his designee, a draft environmental statement will be prepared by the Commission's staff. Upon preparation of the draft environmental statement, the Commission will cause to be published in the FEDERAL REGISTER a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be noticed in the FEDERAL REGISTER.

Copies of the individual portions of the application, as noted above are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Ariz. 85004.

Dated at Bethesda, Md., this 20th day of April 1978.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-16334 Filed 6-13-78; 8:45 am]

[7590-01]

[Docket No. 50-344SP]

PORTLAND GENERAL ELECTRIC CO., ET AL.

Evidentiary Hearing

AUGUST 1, 1978.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities"; Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection"; and Part 2, "Rules of Practice," notice is hereby given that an evidentiary hearing will be held before an Atomic Safety and Licensing Board (Board) to consider an Order for Modification of License in connection with Facility License No. NPF-1, which authorizes operation of the Trojan Nuclear Plant (the facility) located in Rainier, Oreg., by the li-

censee Portland General Electric Co., the city of Eugene, Oreg., and Pacific Power & Light Co.

On May 26, 1978, the Office of Nuclear Reactor Regulation issued an Order for Modification of License concerning the design of the control building walls at the Trojan facility. This Order was published in the FEDERAL REGISTER on June 1, 1978 (43 FR 23768). The Order requires that the control building walls be brought into substantial compliance with the approved seismic design criteria by June 1, 1979, and provides for interim operation of the facility under certain specified conditions.

The conditions under which interim operation would be permitted are as follows:

(1) No modification which may in any way reduce the strength of the existing shear walls shall be made without prior NRC approval; and

(2) In the event that an earthquake occurs that exceeds the facility criteria for a 0.11G peak ground acceleration at the plant site, the facility shall be brought to a cold shutdown condition and inspected to determine the effects of the earthquake on the facility. Operation cannot resume under these circumstances without prior NRC approval.

The Order further provided that:

(1) On or before June 1, 1979, the Control Building shall be brought into substantial compliance with Technical Specification 5.7.1 and the intended design margins of that Technical Specification shall be restored by design modifications such that:

(a) The Control Building OBE capacity of 0.15g is met using 2 percent damping as required by FSAR Table 3.7.1;

(b) The Control Building OBE capability of 0.15g and SSE capability of 0.25g are met using a yield strength for reinforcing steel of 40,000 p.s.i. in accordance with ASTM minimum values as required by FSAR section 3.8.1.3.3;

(c) The masonry portions of the Control Building Code requirements for reinforced grouted masonry as specified in FSAR section 3.8.1.4;

(2) On or before July 1, 1978, the Licensee shall submit to the Acting Director, Office of Nuclear Reactor Regulation, for review and approval, a proposed schedule for actions to be taken to bring the Control Building into substantial compliance with the requirements and intended design margins of Technical Specification 5.7.1, as specified in (1) above.

(3) On or before September 1, 1978, the Licensee shall submit to the Acting Director, Office of Nuclear Reactor Regulation, for review and approval, a detailed description of the actions, design changes, and modifications, as well as supporting analyses, and a request for any license amendment necessary for implementation of the proposed modifications that are proposed to bring the Control Building into substantial compliance with the requirements and intended design margins of Technical Specification 5.7.1, as specified in (1) above.

An Atomic Safety and Licensing Board to rule on petitions and/or requests for leave to intervene in this proceeding was duly established on June 29, 1978. Following a special prehearing conference held on July 24-25, 1978, the Board issued an Order Concerning Requests for Hearing and Intervention Petitions dated July 27, 1978. The Board, pursuant to the provisions of 10 CFR 2.714, granted the requests for hearing and intervention petitions of the Columbia Environmental Council (CEC), Coalition for Safe Power (CFSP), Stephen M. Willingham, and consolidated the petitions and intervention of David M. McCoy, C. Gail Parson, and Nina Bell. At the same time, the Board granted the request of the State of Oregon to participate as an interested State pursuant to the provisions of 10 CFR 2.715(c).

The evidentiary hearing will begin on September 6-8, 1978, at 9 a.m., local time, at Room 103, Interstate Commerce Commission, The Pioneer Courthouse, 555 Yamhill, SW., Portland, Oreg. 97204.

The evidentiary hearing will be conducted by an Atomic Safety and Licensing Board which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel, consisting of Dr. Kenneth A. McCollom, Dr. Hugh C. Paxton, members, and Marshall E. Miller, Esq., chairman.

The scope of the evidentiary hearing, in accordance with the notice for opportunity for hearing, is limited to the following two issues:

(1) Whether interim operation prior to the modifications required by this Order should be permitted, and

(2) Whether the scope and timeliness of the modifications required by this Order to bring the facility into substantial compliance with license are adequate from a safety standpoint.

The evidentiary hearing to commence on September 6-8, 1978, shall address these issues in the order in which they appear above. The attention of the parties is directed to 10 CFR 2.743(b), as amended, which provides that in any proceeding in which advance written testimony is to be used, each party shall serve copies of its proposed written testimony on each other party at least fifteen (15) days in advance of the session of the hearing at which its testimony is to be presented.

All documents filed in this proceeding are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oreg.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene as noted above may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted in this proceeding at the discretion of the Board, within such limits and on such conditions as may be determined by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, Nuclear Regulatory Commission, Washington, D.C. 20555, not later than September 7, 1978. A person permitted to make a limited appearance does not become a party, but may state his or her position and raise questions which he or she would like to have answered to the extent that the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's Rules of Practice, must be filed by the parties to this proceeding (other than the Regulatory Staff) not later than August 28, 1978.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Hearing Board designated for this proceeding, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's Rules of Practice, an original and twenty (20) conformed copies of each such paper with the Commission.

It is so ordered.

Dated at Bethesda, Md., this 1st day of August 1978.

For the Atomic Safety and Licensing Board.

MARSHALL E. MILLER,
Chairman.

[FR Doc. 78-21957 Filed 8-4-78; 8:45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its regulatory guide series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing spe-

cific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory guide 8.22, "Bioassay at Uranium Mills," describes an acceptable bioassay program for uranium mills. The purpose of the uranium bioassay program is to verify that workers' intake of uranium is within regulatory limits. Bioassay results thus serve to confirm independently the results of air sampling programs.

Comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed, or (2) improvements in all published guides are encouraged at any time. Public comments on regulatory guide 8.22 will, however, be particularly useful in evaluating the need for an early revision if received by October 4, 1978.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatoy guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 31st day of July 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-21786 Filed 8-4-78; 8:45 am]

[7590-01]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-28, issued to Vermont Yankee Nuclear Power Corp. which revised technical specifications for operation of the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vt. The amendment is effective as of its date of issuance.

This amendment allows an increase in the pH of water discharged from the cooling towers from pH 8.0 to pH 8.5.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings are required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for this amendment and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to this action other than that which has already been predicted and described in the Commission's final environmental statement of the facility dated July 1972.

For further details with respect to this action, see (1) the application for amendment dated August 4, 1977, as supplemented March 10, 1978, (2) Amendment No. 46 to License No. DPR-28, and (3) the Commission's related environmental impact appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vt.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 31st day of July 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-21785 Filed 8-4-78; 8:45 am]

[7590-01]

[Docket Nos. 50-266, 50-301]

WISCONSIN ELECTRIC POWER CO. (POINT BEACH NUCLEAR PLANT, UNITS 1 AND 2)

Hearing on Amendments to Facility Operating Licenses, and of Special Prehearing Conference

JULY 31, 1978.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection", and Part 2, Rules of Practice", notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (Board) to consider the application of Wisconsin Electric Power Co. (licensee) for an amendment to facility operating license Nos. DPR-24 and DPR-27, which currently authorize licensee to possess, use and operate the Point Beach Nuclear Plant, unit Nos. 1 and 2 (the facility) located in the town of Two Creeks, Manitowoc County, Wis. The proposed amendments would increase the authorized storage capacity of the spent fuel storage pools from 351 fuel assemblies to 1,502 fuel assemblies, and involve modifications to the spent fuel cask handling system.

The hearing, which will be scheduled to begin in the vicinity of the site of the Point Beach facility, will be conducted by an Atomic Safety and Licensing Board which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Dr. Emmeth A. Luebke and Dr. Paul W. Purdom, members and Marshall E. Miller, Esq., chairman.

A notice of proposed issuance of amendments to facility operating licenses was published by the Nuclear Regulatory Commission in the FEDERAL REGISTER on May 10, 1978 (43 FR 20064). The notice provided that any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license.

A timely petition for leave to intervene and request for hearing filed by Lakeshore Citizens For Safe Energy (Lakeshore) was granted on July 31, 1978, by an Atomic Safety and Licensing Board established to rule on petitions for leave to intervene in this proceeding. At the same time, the State of Wisconsin was granted leave to participate as an interested state under 10 CFR 2.715(c).

A special prehearing conference will be held by the Hearing Board at 9

a.m., local time, on August 17, 1978 at the Carlton Inn Ballroom, 1515-A Memorial Drive, Two Rivers, Wis. 54241, to consider pertinent matters in accordance with 10 CFR 2.751a

The date and place of the the subsequent evidentiary hearing will be set by the Board, and notice thereof will be published in the FEDERAL REGISTER. The specific issues to be considered at the hearing will be determined by the Board.

For further details with respect to the matters under consideration, see the application for amendments dated March 21, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Manitowoc Public Library, 808 Hamilton Street, Manitowoc, Wis. 54220, and at the University of Wisconsin, Stevens Point Library, Stevens Point, Wis. 54481.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene as noted above may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted in this proceeding at the discretion of the Board, within such limits and on such conditions as may be determined by the Board. Persons, desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, not later than September 6, 1978.

A person permitted to make a limited appearance does not become a party, but may state his or her position and raise questions which he or she would like to have answered to the extent that the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be filed by the parties to this proceeding (other than the regulatory staff) not later than August 28, 1978.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Hearing Board designated for this proceeding, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and twenty (20) conformed copies of each such paper with the Commission.

It is so ordered.

Dated at Bethesda, Md. this 31st day of July 1978.

For the Atomic Safety and Licensing Board designated to rule on petitions for leave to intervene.

MARSHALL E. MILLER,
Chairman.

[FR Doc. 78-21784 Filed 8-4-78; 8:45 am]

[7590-01]

[Docket Nos. 50-445A and 50-446A]

TEXAS UTILITIES GENERATING CO., ET AL.

Notice of Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following advice from the Attorney General of the United States, dated August 1, 1978, with respect to an operating license application for Comanche Peak Steam Electric Station, units No. 1 and No. 2:

This letter responds to your communication of June 26, 1978, which seeks our advice on the competitive implications of issuing an operating license in the above-captioned matter. By order of June 21, 1978, the Commission found that changed circumstances in the licensee's [1] activities had occurred such as to require that further antitrust review be undertaken. Under the Atomic Energy Act [2] this threshold "significant changes" determaination by the Commission requires that the Attorney General be consulted concerning the advisability of holding an antitrust proceeding at the operating license stage.

Prior to this determination of changed circumstances, the Department rendered antitrust advice on the subject nuclear plant as well as on other nuclear units planned within the State of Texas. In our letter of January 17, 1974, we had advised that an antitrust hearing on the Comanche Peak application would not be necessary providing the applicant would agree to certain conditions that would attach to the construction permit. Those conditions basically provided for: (1) Access to the Comanche Peak and future nuclear units; (2) supporting requests for membership in the Texas Interconnected System (TIS); (3) reserve sharing; (4) transmission services; and (5) emergency and maintenance support. In our view, based on an analysis of the competitive situation at that time, the implementation of these conditions would have prevented the maintenance or creation of a situation inconsistent with the antitrust laws, as specified in section 105 (c)(5), 15 U.S.C. § 2523, which we judged would otherwise occur.

By letter dated February 21, 1978, the Department presented a detailed analysis of the considerations which led it to conclude that in reference to the South Texas Project, units 1 and 2, the competitive situation in the Texas electric power markets had changed significantly subsequent to our earlier advice letter to you.[3] In our view, the use by HL&P and TU of their dominance to enforce an "intrastate only" policy through the threat of disconnection, could injure other elecric systems in the area and foreclose competition from utilities now operating in interstate commerce, and, thus, consituted a situation inconsistent with the antitrust laws warranting an antitrust hearing.[4] In the Department's judgment, those considerations are equally applicable to developments that pertain to the subject nuclear plant and have transpired since our January 17, 1974, advice letter.

As noted in our letter of February 21, 1978, the situation in Texas has changed significantly since the prior letters of advice. The Licensee of the above-captioned application, on or about May 4, 1978, [sic] along with HL&P, opened the electrical interconnections that had historically been maintained with other Texas electric utilities. For an approximate one year period, applicant refused to reestablish those interconnections except on the condition that those other systems would refrain from buying, selling or exchanging power with systems operating in interstate commerce. During this period, other smaller utilities in the area experienced significant increases in the costs of power and decreased ability to compete with applicant and with one another as a direct result of the refusal of applicant and HL&P to interconnect.

Applicant and HL&P insist that any coordination arrangements into which either enters will be conditioned specifically on the "intrastate only" operation of the utilities participating in those arrangements. This policy has been employed by TU specifically in reference to the Comanche Peak facility and in its more recent offers to sell capacity and economy energy with other utilities.

As noted in our letter of February 21, 1978, the present situation in Texas renders participation in nuclear generation and increased coordination among utilities both within and outside the state of critical importance to the competitive ability of the other systems with which TU now competes or could compete. It was concern about the potentially adverse effects. upon competition of the intrastate only policy that led to the reservation (in condition 11 of the con-

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[1] The licensee or Applicant means Texas Utilities Co. (TU) and its various operating and service subsidiary companies including Dallas Power & Light Co., Texas Electric Service Co., and Texas Power & Light Co., each of which is a joint owner of the Texas Utilities Generating Co.

[2] Section 105(c)(2).

[3] The Department had advised by letter dated May 17, 1974, that an antitrust hearing on the Allen's Creek Nuclear Generating Station would not be necessary and by letter dated October 22, 1974 that an antitrust hearing on the South Texas Project would not be necessary.

[4] The Commission subsequently ordered an antitrust hearing on the operating license application for the South Texas Project. TU's petition to intervene as a full party in that proceeding was granted by the Atomic Safety and Licensing Board on June 21, 1978.

struction permit) of the freedom to reassess the effects of this policy should subsequent events render a reexamination necessary.

It is the Department's view that, because of applicant's and HL&P's adherence to a policy of intrastate only operations in light of the present market situation, and considering the unprecedented disruptive action of disconnection undertaken by applicant and HL&P to enforce this policy and agreement, an antitrust hearing is necessary to determine whether additional conditions should be attached to the operating license of the Comanche Peak units in order to eliminate a situation inconsistent with the antitrust laws.

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's "rules of practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by September 6, 1978, either (1) by delivery to the NRC Docketing and Service Branch at 1717 H Street NW., Washington, D.C. or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

For the Nuclear Regulatory Commission.

ARGIL TOALSTON,
Acting Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

[FR Doc. 78-27129 Filed 8-4-78; 9:47 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No. SA-463]

AIRCRAFT INCIDENT—LA GUARDIA AIRPORT, N.Y.

Public Hearing

Notice is hereby given that the National Transportation Safety Board will convene a public hearing at 9 a.m. (local time) on August 29, 1978, in the Starlight Garden Room 1 and 2 of the International Hotel, John F. Kennedy International Airport, Jamaica, N.Y.

The public hearing will be held in connection with the Safety Board's investigation of an incident involving a North Central Airlines, Inc., DC-9, N957N, and a Cessna Citation, N51MW, at La Guardia Airport, N.Y., June 21, 1978.

MARTIN SPEISER,
Senior Hearing Officer.

AUGUST 2, 1978.

[FR Doc. 78-21859 Filed 8-4-78; 8:45 am]

[7555-02]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SCIENCE, TECHNOLOGY AND DEVELOPMENT ADVISORY COMMITTEE

Notice of Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the establishment of the Science, Technology, and Development Advisory Committee is necessary, appropriate, and in the public interest in connection with performance of the duties imposed upon the Director, Office of Science and Technology Policy (OSTP) by the National Science and Technology Policy, Organization and Priorities Act of 1976. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular A-63, Revised.

1. Name of group: Science, Technology, and Development Advisory Committee.

2. Purpose and function: In March 1978, the President decided to create a Foundation for International Technological Cooperation in the reorganized foreign aid structure. To develop detailed plans for the Foundation, a planning office has been established reporting to Governor Gilligan, Chairman of the Development Coordination Committee. OSTP has been instrumental in developing the concept of the Foundation and the Planning Office; the Advisory Committee being established will advise me on the concept and early planning of the Foundation, as well as on related policy issues and programs of the U.S. Government. The specific functions of this Committee will be:

To provide general guidance for the OSTP and the FITC Planning Office;

To make suggestions and review proposals for priorities among program areas and projects in the initial phase of FITC activities;

To review proposals for relationships of the FITC and AID and other current agencies and departments and to universities, Federal laboratories, foundations, corporations, and other private institutions that are significant participants in the U.S. development efforts;

To assist in the identification of individuals and Government programs in developing countries who can work with the FITC in collaborative efforts to develop programs and projects; and

To advise on related programs and policies concerned with applying science and technology to developing country needs.

In order to provide a source of advice and expertise on the issues involved, the Advisory Committee will be established to draw together experts from academia, labor, foundations, and industry.

3. Effective date of establishment and duration: The Advisory Committee is established to provide advice to the Director of the Office of Science and Technology Policy and to the Special Assistant to the President for Budget and Organization, and is established for 18 months from the date the charter is filed with the standing committees of Congress having legislative jurisdiction for the Office of Science and Technology Policy.

4. Membership: The Advisory Committee will be comprised of approximately 20 individuals from industry, academia, labor, and foundations having qualifications for providing expert knowledge in the fields of agriculture, health, forestry, engineering, energy, economics, sociology, and other scientific and technological fields pertinent to development.

5. Advisory Committee operation: The Advisory Committee will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463), OSTP policy and procedures, OMB Circular No. A-63, Revised, and other directives and instructions issued in implementation of the act.

FRANK PRESS,
Director.

[FR Doc. 78-21833 Filed 8-4-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 15009. File No 4-281]

American Stock Exchange, Inc., and New York Stock Exchange, Inc.

Temporary Order

Notice is hereby given that the Securities and Exchange Commission has issued an order, pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934 (the "Act"), authorizing certain self-regulatory organizations to act jointly, in accordance with a plan (the "plan") filed with the Commission, with respect to matters as to which they share authority under the Act in planning, developing, operating, and regulating a national market facility consisting of a consolidated quotation system (the "quotation system"). The order authorizes those self-regulatory organizations to implement that facility on a temporary basis as a means of facilitating a national market system in accordance with the requirements of section 11A of the Act.[1]

[1] The temporary authorization granted herein includes not only the specific self-

Footnotes continued on next page

BACKGROUND

On July 25, 1978, the New York Stock Exchange, Inc. ("NYSE") and American Stock Exchange, Inc. ("Amex") (collectively, the "participants") filed jointly with the Commission a "Plan for the Purpose of Implementing Rule 11Ac1-1 Under the Securities Exchange Act of 1934." [2] The plan contemplates creation of a Consolidated Quotation Association ("CQA"), similar in structure to the Consolidated Tape Association which governs the consolidated transaction reporting system ("consolidated system"), to oversee the development and implementation of a consolidated data stream for quotation information with respect to reported securities (i.e., securities as to which last sale information is made available in the consolidated system). the plan would (i) establish joint procedures to govern the collection, processing, and dissemination of quotation information by the participating market centers, (ii) provide for selection and evaluation of an exclusive processor to collect quotation information from the participating market centers and make that information available to quotation vendors, and (iii) establish fees relating to the receipt of quotation information. A complete copy of the plan is available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.[3]

In connection with implementation of the plan, the participants have requested that the Commission approve the plan and "issue an order pursuant to section 11A(a)(3)(B) of the * * * Act * * * evidencing such approval."[4] Section 11A(a)(3)(B) authorizes the Commission, in furtherance of the statutory directive to facilitate the development of a national market system,

by rule or order, to authorize or require self-regulatory organizations to act jointly with respect to matters as to which they share authority under [the Act] in planning, developing operating, or regulating a national market system (or a subsystem thereof) or one or more facilities thereof;

As more fully discussed below, the Commission has determined, subject to certain conditions, to grant the request of the participating self-regulatory organizations to permit immediate implementation of the plan, on a temporary basis, because it believes that the plan constitutes a step toward the development of a national market system.[5]

II. DESCRIPTION OF PLAN

The following is a summary description of the Plan as filed with the Commission.[6]

A. PURPOSE OF PLAN

The stated purpose of the plan is to enable its participants, through joint procedures, to make quotation information available as required by subparagraph (b)(1) of rule 11Ac1-1. The plan provides that each of the participants will collect the information specified in the rule from broker-dealers and furnish it to a plan processor ("processor"), which will sequence and transmit the information by means of a consolidated high-speed data transmission line to vendors and subscribers. The Processor will transmit data for both network A and network B securities through the same high speed line.[7]

B. ADMINISTRATION OF THE PLAN

The plan, if approved, will be administered by an operating committee composed of one representative from each of the participants. Each representative will have one vote on all matters considered by the operating committee and, with the exception of certain financial matters, all action taken by the operating committee requires the affirmative vote of a majority of the total number of members. However, any proposed amendment to the plan requires the approval of each of the participants and the Commission.[8]

The operating committee would be authorized by the plan to act directly or by delegation to subcommittees. It would have authority to oversee development of the quotation system in accordance with specifications agreed upon by each of the participants and, after the system becomes operational, it would have the authority to develop the procedures and make the administrative decisions necessary to facilitate the operation of the system in accordance with the plan and to monitor compliance with its terms.[9]

C. OPERATION OF QUOTATION SYSTEM

The plan provides that each participant collect, and furnish to the processor, all quotation information required to be made available by participants under subparagraph (b)(1) of rule 11Ac1-1. Thus, pursuant to subparagraphs (b)(1) (i) and (ii) of the rule, each bid and offer furnished to the processor is required to be accompanied by the quotation size or aggregate quotation size and each bid and offer furnished by a national securities association is required to be accompanied by an appropriate symbol identifying the broker or dealer who made such bid or offer. The participants have agreed to furnish the quotation information as promptly as possible and in any event to insure that, on the average and under normal conditions, bids and offers will be furnished to the processor within approximately 1 minute of the time that they are communicated to the participant. The participants agree that they shall have as an objective the reduction of the time period for furnishing quotation information to the processor.[10]

Pursuant to subparagraph (b)(3)(i) of rule 11Ac1-1, whenever any participating exchange determines that the level of trading activity or the existence of unusual market conditions with respect to a security is such that the participant is incapable of complying with subparagraph (b)(1) of the rule in a manner which accurately reflects the current state of the market in such security on the floor of the participant, the participant is required to notify the processor, which would then notify quotation vendors and other persons as required by the rule. Each participant is required to monitor the activity or conditions which formed the basis for its notification to the processor, and when it determines that it is once again capable of collecting, processing, and making available the quotation information with respect to the security required by subparagraph (b)(1) of the rule, the exchange involved is required to renotify the processor. The processor, in turn, is required to transmit that renotifica-

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Footnotes continued from last page

regulatory organizations named above, but also any other self-regulatory organization which agrees to become a participant in the quotation system by subscribing to the plan.

[2] The Commission understands that copies of the plan have been furnished to the Boston Stock Exchange, Inc. ("BSE"), Cincinnati Stock Exchange, Inc. ("CSE"), National Association of Securities Dealers, Inc. ("NASD"), Pacific Stock Exchange, Inc. ("PSE), and Philadelphia Stock Exchange, Inc. ("Phlx") and that, with the exception of the CSE, all of those self-regulatory organizations are contemplating participation in the quotation system.

[3] See File No. 4-281.

[4] Letter from Robert C. Hall, executive vice president, NYSE, to Andrew M. Klein, Director, Division of Market Regulation, July 24, 1978. The plan provides that it shall become effective as to participants only at such time as it has been approved by the Commission.

[5] The Commission's approval of the plan, on a temporary basis, is conditioned on the participating self-regulatory organizations not implementing that portion of the plan which prescribes the furnishing of quotation information with respect to a particular reported security during any regulatory halt initiated by the market center which is the "primary" market for that security.

[6] The complete text of the plan is contained in File No. 4-281 and, as indicated above, is available for public inspection at the Commission's Public Reference Room.

[7] Network A reports transactions in NYSE-listed securities which occur on any of the participating exchanges, in the "third market," or through instinet. Network B reports transactions in Amex and certain regional listed securities.

[8] Plan, at 9-11.

[9] Id. at 10-11.

[10] Id. at 15-16, 19-20.

tion to quotation vendors and other persons.[11]

The plan also provides that whenever the processor has been informed that the "primary" market for a security has halted or suspended trading in a security, the processor is required to give notice to the other participants, and quotation vendors and other persons. Upon receipt of such notice, each participant, after providing the processor with an appropriate indication, shall cease, during the period of the regulatory halt or suspension, furnishing quotation information with respect to such security to the processor. When the processor has been informed that the "primary" market has ended the halt or suspension of trading, the processor is required to renotify the same persons and, upon receipt of such renotification, each participant is required to recommence furnishing quotation information to the processor with respect to such security.[12]

The processor is required to validate the quotation information received from any participant for proper format, but not perform any other validation function. Thus, the processor would reject a bid or offer which is incorrect as to format; however, the accuracy of all information furnished to quotation vendors and other persons will be the sole responsibility of the participants.[13]

The plan provides that all quotation information received by the processor will be transmitted to quotation vendors and other persons by means of a high speed data transmission line. The quotation information will be transmitted without alteration and in the sequence in which it is received from the participants.[14]

The plan provides for the collection and dissemination of quotation information between 9:30 a.m. and 4:15 p.m., eastern time, Monday through Friday: *Provided*, That at least one of the participants is open for trading. In addition, the plan provides for collection and dissemination of quotations after hours if requested by any participant, provided the requesting participant agrees to pay all costs and expenses which would not have been incurred by the processor had it not conducted operations during such additional period.[15]

D. CONTRACTS BETWEEN THE PROCESSOR AND PARTICIPANTS

Pursuant to the plan, a standard form contract would be entered into between the processor and each participant which, among other things, would describe the respective obligations of the processor and the participant with respect to the plan. In addition, each contract would provide for the reimbursement of the processor for its operating expenses in connection with the operation of the quotation system. Further, each such contract would provide for the indemnification of the processor with respect to any liability or expense incurred by or threatened against the processor as a result of the furnishing of any quotation information by the participant to the processor.[16]

The plan provides that the contract between the processor and any participant terminates upon the withdrawal from the plan of such participant.[17] In addition, the operating committee is authorized to terminate all contracts between the processor and the participants if the operating committee determines that the processor has failed to perform its functions in a reasonably acceptable manner in accordance with the provisions of the plan or that the processor's reimbursable expenses have become excessive and are not justified on the basis of reasonable costs. The operating committee may not otherwise replace the processor except through an amendment to the plan (which requires unanimous consent) or after expiration of the contracts.[18]

The Securities Industry Automation Corp. ("SIAC") has been engaged to serve as processor for an initial term of 5 years. During the fifth year of the initial term, the plan provides that the operating committee review the question of the continuance of SIAC as processor, taking into consideration such factors as experience, technological capability, quality and reliability of service, relative costs, backup facilities, and regulatory considerations. Thereafter, the plan requires the operating committee to undertake a further review, at least every 2 years (or from time to time when requested by any two participants), as to whether the then processor should be continued. The commission must be informed of any such review and furnished with a copy of any report prepared as part of such review.[19]

E. RELATIONSHIP BETWEEN THE PARTICIPANTS, QUOTATION VENDORS AND SUBSCRIBERS

1. *Contracts with quotation vendors and subscribers.* The plan authorizes the NYSE to act on behalf of all the participants in entering into contracts with quotation vendors and other persons regarding access to the high-speed transmission line.[20] The operating committee, however, must approve interrogation devices provided or made available by quotation vendors, including all functions of such devices involving the display of, or based upon, quotation information made available by the processor. The plan also requires that each contract with a vendor which contemplates offering a quotation information service utilizing an interrogation device provide that the vendor will display quotation information on a "nondiscriminatory" basis and in compliance with the act and any rules thereunder, and, in the event interrogation devices supplied by such vendors are not capable of (i) displaying quotation size, and (ii) indicating when bids and offers are not firm because an exchange participant has invoked the "unusual markets" exception to rule 11Ac1-1, such vendor shall, as soon as reasonably practicable, cause such interrogation devices to have both such capabilities.[21]

With respect to subscribers to vendor quotation services, the plan authorizes the NYSE (with respect to network A securities) and the Amex (with respect to network B securities) to act on behalf of all participants in executing contracts regarding the furnishing of quotation information. Subscribers currently receiving quotations from the NYSE and Amex pursuant to contracts with those exchanges can receive quotation information based on the consolidated data stream by executing a new agreement with the NYSE and/or the Amex (as the case may be). New subscribers will be required to submit an application for approval by the NYSE or Amex. Any application disapproved by the NYSE or Amex will be referred to the Operating Committee for final decision. The Operating Committee may disapprove an application when it determines that such action is necessary or for the protection investors.[22]

2. *Charges to recipients.*—a. *General provisions of the plan.* The plan states generally that "[c]harges to recipients shall not be set below the level necessary to recover costs that were considered by the Amex and NYSE in determining charges to (persons currently receiving Amex and NYSE quotations), and shall be designed with the goal of achieving a revenue structure which [(i)] prevents abrupt disloca-

[11] Id. at 15-17.
[12] Id. at 25-27.
[13] Id. at 17-18.
[14] Id. at 18-19.
[15] Id. at 28-29.
[16] Id. at 12-13.
[17] Any participant not then subject to the rule is permitted to withdraw from the plan on 60 days' notice to the processor and each of the other participants, provided that a withdrawing participant would remain liable for its obligations with respect to accrued operating expenses of the processor and indemnification of the processor. Id. at 54.
[18] Id. at 13-14.
[19] Id. at 14-15.
[20] In addition, any person using quotation information in connection with a computer input service must enter into additional contracts with the NYSE (with respect to network A securities) or the Amex (with respect to network B securities).
[21] Id. at 20-23.
[22] Id. at 23-25

tions in the revenue currently derived [by the Amex and NYSE for quotation dissemination] and [(ii)] avoids precipitous rate increases to recipients * * *."[23]

Charges to recipients of quotation information for network A securities may increase above certain minimum rates,[24] and charges for quotation information for network B securities may be set at a level different from the rates provided in the plan,[25] by an affirmative vote of two-thirds of the members of the operating committee: *Provided, however,* That the charges to be imposed on persons who are broker-dealer members of the NYSE for quotation information for network A securities may not be set higher than the minimum rates provided in the plan prior to the seventh year after the commencement of operations under the plan if two or more members of the operating committee vote against such an increase. Charges once set, other than a charge for quotation information for network B securities, may not be reduced without the unanimous vote of the operating committee. In addition, except as provided above, any modification to any charges, or any method of calculation of charges, may be made only by an amendment to the plan.[26]

No charges shall be made to a participant for receiving quotation information so long as that participant is subject to, and not in default under, a contract with the NYSE or Amex which provides that (i) quotation information will be furnished to the participant only at premises occupied solely by the participant or on the participant's trading floor, (ii) the quotation information will be used by the participant solely for regulatory and surveillance purposes, or for any other purpose approved by the operating committee, and (iii) the quotation information will not be retransmitted from, or otherwise made available to, any person not located within, or on, such premises or trading floor.[27]

b. *Charges to subscribers (network A).* The CQA plan contemplates three categories of subscribers for purposes of establishing charges for the receipt of quotation information for network A securities: (1) Broker-dealers which are members of the NYSE; (ii) broker-dealers which are not members of the NYSE but are members of one of the other participating market centers; and (iii) all others. The proposed fee structure for each category is as follows:

(i) Broker-dealers which are members of the NYSE.—Currently NYSE members are charged $35 per month for the first terminal on which NYSE quotations can be displayed and $3.50 per month for each additional terminal. Under the plan, minimum charges for consolidated quotation information would initially be at that level. The plan provides, however, for periodic increases in those rates over a 6-year period in order to bring those rates in line with the rates currently being charged to non-NYSE members for the receipt of NYSE quotations.[28]

(ii) Broker-dealers which are not members of the NYSE but are members of one of the other participating market centers.—Currently, subscribers which are not NYSE members are charged rates which are approximately 60 percent higher than those charged NYSE members—$57 per month for the first terminal on which NYSE quotations can be displayed and $5.70 per month for each additional terminal. Under the plan, minimum charges for consolidated quotation information would continue at that level for the first 5 years of the plan, at which time the fees for all broker-dealers which are members of any participant would be equalized.[29]

(iii) All others.—Currently, persons who would be in this category (SECO broker-dealers, members of any self-regulatory organization which is not a participating market center, and institutional and individual investors) pay the same rates as persons in category (ii) above—$57 per month for the first terminal on which NYSE quotations can be displayed and $5.70 per month for each additional terminal. Under the plan, minimum charges for consolidated quotation information would initiate at that level, but would be increased by 8 percent approximately 2 months after commencement of operations under the plan, and by an additional 8 percent in each of the next 5 years.[30]

The following table sets forth the proposed fees for each of the three categories of subscribers:

TABLE 1.—*Proposed CQA Quotation Fees* [1]

	Category (i) NYSE members		Category (ii) non-NYSE member of participant		Category (iii) all others	
	First unit	Each additional	First unit	Each additional	First unit	Each additional
Year 1:						
First 2 months	$35.00	$3.50	$57.00	$5.70	$57.00	$5.70
Next 10 months	40.00	4.00	57.00	5.70	61.50	6.15
Year 2	43.00	4.30	57.00	5.70	66.50	6.65
Year 3	46.50	4.65	57.00	5.70	72.00	7.20
Year 4	50.00	5.00	57.00	5.70	77.50	7.75
Year 5	54.00	5.40	57.00	5.70	84.00	8.40
Year 6	58.50	5.85	58.50	5.85	90.50	9.05

B. CHARGES TO SUBSCRIBERS

(NETWORK B)

Charges for the receipt of quotation information for Network B securities would initially be identical for all subscribers and would be set at the rate currently charged for the receipt of Amex quotations—$8.25 per terminal. After the CQA Plan has been in operation for approximately two months, charges would be raised approximately 4 percent for subscribers who are broker-dealer members of a participating market center and 12 percent for all other subscribers—thereby creating two categories of subscribers for purposes of charges for the receipt of consolidated quotation information for Network B securities. Following this initial increase, charges to each category of subscribers would be increased 8 percent per year in each of the next five years.

The following table sets forth the proposed fees for each of the two categories of Network B subscribers:

TABLE 2.—*Proposed CQA quotation fees network B*

	Category (i) broker-dealer member of participant—each unit	Category (ii) all others—each unit
Year 1:		
First 2 months	$8.25	$8.25
Next 10 months	8.60	9.25
Year 2	9.30	10.00
Year 3	10.05	10.80
Year 4	10.85	11.65
Year 5	11.70	12.60
Year 6	12.65	13.60

[23] Id. at 38.
[24] See table 1 infra.
[25] See table 2 infra.
[26] Plan, at 38-39.
[27] Id. at 40.

[28] The plan calls for an increase in rates to NYSE members of 15 percent approximately 2 months after the plan becomes effective, with increases of 8 percent per year scheduled in each of the next 5 years. Id. at 41-43.

[29] Id. at 43-44.
[30] Id. at 42-43.

C. CHARGES TO OTHER PERSONS

Charges to quotation vendors and other persons for access to the high speed transmission line will be set at a rate designed to recover the actual expenses incurred by the Processor relating to the operation of that line.[31]

F. FINANCIAL ARRANGEMENTS AMONG THE PARTICIPANTS

The plan sets forth the agreed upon sharing of income and expenses associated with making available network A and network B quotation information. As to each network, a participant's "annual share" of net income for any calendar year will be measured by the number of transactions reported by all participants during that year. For example, if the NYSE reports four-fifths of the total number of transactions for network A securities disseminated under the joint industry plan, then NYSE's annual share of the net income from that network will be four-fifths.

Under the plan income and expenses associated with the distribution of consolidated quotation information will be separated into two parts. One part consists of the income received from all high speed line access charges and the expenses relating to the maintenance of the high speed line. The second part consists of all other income received as a result of making available quotation information (this will consist primarily of the charges collected from subscribers who use interrogation units) and the expenses relating to the furnishing of quotation information (other than those relating to the high speed line), including administrative expenses, legal expenses, etc.

Total expenses relating to operation of the high speed line for both networks A and B will be deducted from total charges collected from high speed line access charges, and the differences divided between network A and network B in proportion to the number of transactions reported in the consolidated system for each network. For example, if the total high speed line access charges amount to $50,000 in a given calendar year and if total high speed line costs equal $48,000, there would be $2,000 of net income from operation of the high speed line to be divided between network A and network B. If, during the calendar year, the number of transactions reported for network A amounted to 75 percent of the total number of transactions reported during that period for both networks, then 75 percent of the $2,000 net income would be allocated to network A and the remaining 25 percent would be allocated to network B. The proportion of the high speed line net income allocated to network A under this formula would be combined with the other net income relating to network A, i.e., the total of all income received relating to network A (other than high speed line access charges) less the total of all network A expenses other than high speed line expenses.

The amount resulting from this combination of the two kinds of net income would then be allocated among participants as follows:

Network A.—In each of the first 2 calendar years, the NYSE would first be allocated 50 percent of this combined net income and the remaining 50 percent would be allocated among all of the network A participants (including the NYSE) according to their respective annual shares. After the second calendar year, all of the combined net income of network A would be allocated among network A participants according to their respective annual shares.[32]

Network B.—In the first calendar year, the Amex would first be allocated 50 percent of this combined net income and the remaining 50 percent would be allocated among all of the network B participants (including the Amex) according to their respective annual shares. In the second calendar year, the Amex would first be allocated 10 percent of the combined net income and the remaining 90 percent would be allocated among all of the network B participants according to their respective annual shares. After the second calendar year, all of the combined net income would be allocated among network B participants according to their respective annual shares.[33]

III. TEMPORARY APPROVAL

Section 11A(a)(2) of the act, added by the Securities Acts Amendments of 1975 (the "1975 Amendments"), directs the Commission, having due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets, to use its authority under the act to facilitate the establishment of a national market system for securities in accordance with certain congressional findings and objectives. These findings and objectives are set forth in section 11A(a)(1) of the act.

On January 26, 1978, the Commission issued a statement on the national market system setting forth the Commission's views as to "those steps which it believes must be taken over the next year to facilitate development of the kind of national market system envisioned by the Congress and mandated by the 1975 amendments." [34] Among the steps described by the Commission in the January release was

[the] adoption of rule 11Ac1-1 under the act, which is designed to facilitate the prompt development of a composite quotation system by improving the quality and reliability of quotation information to securities information vendors * * * by exchanges and third market makers.[35]

In discussing the need for improved dissemination of quotation information, the Commission described the availability of comprehensive quotation information as a fundamental building block of the national market system and stated its belief that such information

will improve both brokers' and public investors' knowledge of current prices at which reported securities can be bought or sold throughout the country. In turn, availability of (comprehensive quotation information) should (i) lead to increased efforts by brokers to make informed order routing decisions from among the various competing market centers (in order to choose that particular market affording, at a particular point in time, the most favorable execution opportunities to their customers); (ii) foster improvements in existing methods of routing orders to all market centers; (iii) enhance fair competition among markets; and (iv) otherwise advance the objectives of a national market system specified by the Congress in section 11A(a) of the act.[36]

In the release announcing the adoption of rule 11Ac1-1, the Commission encouraged the self-regulatory organizations to plan for joint implementation of the rule by stating that, in its view, "any arrangement among all of the various exchanges and associations leading to centralized processing, sequencing and validation of quotations would be beneficial." [37] In its release deferring the effective date of the rule to August 1, 1978, the Commission stated that

[it] continues to believe that joint implementation of the rule would be in the public interest and would further the purposes of the act by facilitating the development of an important facility of a national market system—a composite quotation system.[38]

The Commission then went on to state that

[it * * * appears that the creation of a single data stream (for quotation information) would result in reduced costs for both the self-regulatory organizations and the vendors by eliminating the necessity for duplicative facilities, data transmission lines and personnel, and by resolving potential timing and sequencing problems.[39]

The plan as filed, in the Commission's view, represents a positive response to these statements. Although it now appears that at least one market center may decide to report its quotations directly to vendors, rather than through participation in the

[31] *Id.* at 46-48.

[32] Id. at 33-34.

[33] Id.

[34] Securities Exchange Act Release No. 14416 (January 26, 1978) at 26, 43 FR 4358 (the "January release").

[35] Id.

[36] Id. at 27-28, 43 FR 4358.

[37] Securities Exchange Act Release No. 14415 (January 26, 1978) at 51, 43 FR 4349.

[38] Securities Exchange Act Release No. 14711 (April 27, 1978) at 5, 43 FR 18556.

[39] Id.

plan, the development of the plan demonstrates the ability of the various self-regulatory organizations to continue to work cooperatively and resolve individual differences in order to make genuine progress toward a national market system.[40]

Because the Commission believes that the consolidated quotation data stream contemplated by the plan may provide an appropriate basis for the creation of a composite quotation system—an essential element of a national market system—the Commission is presently of the view that commencement of the quotation system, in the manner described in the plan, on the temporary basis contemplated by this order pending solicitation of public comment and final Commission action with respect to the plan, is in the public interest. The Commission further believes that, in light of the August 1, 1978 effective date of rule 11Acl-1 and the fact that those market centers which have signed the plan (and those market centers which are expected to do so prior to August 1, 1978) have relied on the consolidated quotation collection and dissemination facilities provided for in the plan to meet their obligations under the rule with respect to the availability of quotation information to vendors, immediate implementation of the plan is necessary to ensure full compliance with the rule on its effective date by all participating market centers and that, therefore, good cause exists for temporary Commission authorization of joint self-regulatory action in this case.[41]

[40] The Commission regards the development of a comprehensive quotation system as a laudable contribution to prompt progress toward achievement of a national market system and hopes that all market centers will participate in the plan. Persons commenting on the plan are requested to analyze the implications of one or more market centers not participating in the consolidated quotation data stream contemplated by the plan, particularly in terms of (i) the effects on quotation dissemination during regulatory halts, and (ii) of the ability of any such market center to participate in revenues received by the CQA under the plan or to charge individually for quotation information. Furthermore, the Commission requests interested persons to address whether the Commission should require all market centers to participate in the plan and make available quotations to vendors only by means of a single, consolidated data stream.

[41] In approving the plan on a temporary basis, the Commission, of course, expresses no view as to whether, after receipt of public comment and further study, the plan, in its present form, will be found to conform to the requirements of the act. In that connection, we note that modification of the plan may become necessary, on the basis of experience.

IV. Conditional Nature of Order and Request for Public Comment

The Commission has determined to permit implementation of the plan, in the manner proposed by the participants (except as described below), for a period of 180 days. During that time, the Commission intends to monitor the implementation of the plan by the participants and, at the conclusion of the 180 day period, to determine, on the basis of that experience and on the basis of public comment on the plan and related issues, whether to issue an order authorizing the participants to act jointly in implementing the plan on a permanent basis.

The Commission has determined, however, that one provision of the plan as filed should not be implemented at this time, even on a temporary basis. That provision establishes requirements with respect to the dissemination of quotation information for a particular reported security by a participating market center during a regulatory halt initiated by the "primary" market for that security.

As discussed above, the plan provides that, upon initiation of a regulatory halt with respect to a particular reported security by the "primary" market for that security, all participants shall cease disseminating quotation information with respect to that security until notified that the "primary" market has terminated such regulatory halt. Because market centers other than the "primary" exchange markets do not have back-up facilities to disseminate quotations to vendors during such a regulatory halt, the practical effect of this provision would be to require every participant to halt trading during any regulatory halt initiated by the "primary" maket because of the inability of those market centers to make quotations available to vendors, as required by rule 11Acl-1, during the pendancy of the halt.

The regulatory halt provision of the plan, in our view, raises legal and policy questions with respect to the appropriateness of halting all trading during a regulatory halt initiated by one market center which we do not believe should be resolved in the absence of public comment. In addition, because the practical effect of the provision would be to prevent all trading by participating market centers during a regulatory halt initiated by the "primary" market, and, in particular, would prevent any market center from resuming trading after such a halt is initiated before trading resumes in the "primary" market, implementation of the regulatory halt provision of the plan may, in our view, impose a burden on competition not necessary or appropriate in furtherance of the purposes of the act. Accordingly, the Commission has determined that its temporary order approving implementation of the plan be conditioned on the participants not implementing that provision of the plan proscribed the dissemination of quotation information for any reported security by any participating market center during a regulatory halt initiated by the "primary" market with respect to such security.

Notice is hereby given that any interested person may submit written views, data and arguments with respect to the plan (or any provision thereof) not later than October 1, 1978. The Commission is particularly interested in receiving comment with respect to the following aspects of the plan: (i) The provision proscribing the dissemination of quotation information during a regulatory halt,[42] (ii) the proposed fee schedules for subscribers,[43] (iii) the time parameters within which participating market centers are expected to collect quotation information and transmit that information to the processor, and (iv) the proposed voting arrangements and allocation of revenues. Persons wishing to make such submissions should file six copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to file No. 4-281 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

* * * * *

It is hereby ordered, Pursuant to section 11A(a)(3)(B) of the act, that, subject to the terms and conditions described above, the self-regulatory organizations named above (and any other self-regulatory organization which agrees to be a participant in the plan) are authorized for 180 days from the date of this order, to act jointly in planning, developing, operating or regulating the quotation system in accordance with the terms of the plan.

By the Commission.

George A. Fitzsimmons,
Secretary.

[FR Doc. 78-21806 Filed 8-4-78; 8:45 am]

[42] In particular, the Commission requests commentators to focus on the impact of the regulatory halt provision on the ability of any market center to resume trading following initiation of a regulatory halt before trading resumes in the "primary" market.

[43] In particular, the Commission requests commentators to address the appropriateness of fees for quotation information which are not uniform with respect to all categories of subscribers.

[8010-01]

[Release No. 15016]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Changes

JULY 31, 1978.

On June 15, 1978, the New York Stock Exchange, Inc. ("NYSE") 11 Wall Street New York, N.Y. 10005 (SR-NYSE-78-37) filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of proposed rule changes clarifying exchange rules which provide that an NYSE transaction can be compared and settled in different clearing agencies pursuant to the applicable rules of each clearing agency. The rule changes also clarify rules which provide that transactions not submitted to a qualified clearing agency for comparison shall be compared in accordance with the rules of the NYSE and transactions not submitted to a qualified clearing agency for settlement shall be settled in accordance with the rules of the NYSE.

Notice of the proposed rule changes together with the terms of substance of the proposed rule changes was given by publication of a Commission release (Securities Exchange Act Release No. 34-14877, June 22, 1978) and by publication in the FEDERAL REGISTER (43 FR 78276, June 29, 1978). All written statements with respect to the proposed rule changes which were filed with the Commission and all written communications relating to the proposed rule changes between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. §552) were made available to the public at the Commission's public reference room.

The Commission finds that the proposed rule changes are consistent with the requirements of the act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of sections 11A, 17A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the act, that the above-mentioned proposed rule change be, and they hereby are, approved.

By the Commission, by the division of market regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-21805 Filed 8-4-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 09/09-0205]

NEVADA-CALIFORNIA BUSINESS VENTURES, INC.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to section 107.102 (1978) by Nevada-California Business Ventures, Inc., 2801 Vassar Street, Reno, Nev. 89502, with a branch office at 34512 Embarcadero Place, Dana Point, Calif. 92629, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. et seq.).

The proposed officers, directors, and principal stockholders are:

Morris E. Harrison, 34781 Doheny Place, Capistrano Beach, Calif. 92624, president, manager, and director, 6.67 percent.

Marion Vic Walberg, P.O. Box 4196, Incline Village, Nev. 89450, vice president and director, 10 percent.

E. Day Carman, 2411 East Coast Highway, Corona Del Mar, Calif. 92625, secretary, 6.67 percent.

John F. Fleming, 25102 Del Prado, Dana Point, Calif. 92629, treasurer and director, 6.67 percent.

Mr. Morris E. Harrison was formerly a president and a director of San Joaquin Capital Corp., another SBIC.

No one else other than Mr. Marion V. Walberg, will own as much as 10 percent of the applicant's stock.

The SBIC will begin operations with an initial capitalization of $300,000. They will have a diversified investment policy. The applicant, a California corporation, intends to make investments in small business concerns principally around Reno, Nev.; with exposure in the State of California and other parts of the United States.

Matters involved in SBA's consideration of the application include (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and regulations), and (3) whether the proposed licensing action would be in furtherance of the purpose of the Act.

Notice is hereby given that any person may, not later than August 22, 1978, submit to SBA in writing comments on the proposed SBIC to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Reno, Nev., and Dana Point, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: July 28, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-21828 Filed 8-4-78; 8:45 am]

[8025-01]

REGION VIII ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Denver will hold a public meeting at 9:30 a.m., on Wednesday, September 20, 1978, at the Federal Building, U.S. Courthouse, 1961 Stout Street, Room 1083, 10th Floor, Denver, Colo., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Douglas F. Graves, District Director, U.S. Small Business Administration, 721 19th Street, Room 426, Denver, Colo., 303-837-3673.

Dated: July 27, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-21826 Filed 8-4-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1505]

SOUTH DAKOTA

Declaration of Disaster Loan Area

Brown County and adjacent counties within the State of South Dakota constitute a disaster area as a result of damage caused by high winds, heavy rains, tornadoes and flooding which occurred on June 15, 1978 and June 29, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on September 28, 1978, and for economic injury until the close of business on April 30, 1979 at:

Small Business Administration, District Office, Eighth and Main Avenue, Sioux Falls, S. Dak. 57102.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008.)

Dated: July 28, 1978.

ROGER H. JONES,
Acting Administrator.

[FR Doc. 78-21827 Filed 8-4-78; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 99.1.100]

AID REPRESENTATIVE, SUDAN

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the AID Representative, Sudan, the authority to sign:

1. U.S. Government contracts, grants, or amendments thereto: *Provided,* That the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent; and

2. Contracts with individuals for the services of the individual alone: *Provided,* That the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent.

The authority herein delegated may be redelegated in writing, in whole or in part, by said AID Representative at his discretion to the person or persons designated by the AID Representative as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons ceases to hold the office of Contracting Officer for AID Programs, or until the redelegation is revoked by the AID Representative, whichever shall first occur. The authority so redelegated by the AID Representative may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated may be exercised by duly authorized persons who are performing the functions of the AID Representative in an acting capacity.

Actions within the scope of this delegation and any redelegation hereunder heretofore taken by officials designated in such delegation or redelegation are hereby ratified and confirmed.

This redelegation of authority is effective immediately.

Dated: July 27, 1978.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc. 78-21856 Filed 8-4-78; 8:45 am]

[4710-02]

[Redelegation of Authority No. 99.1.99]

AID REPRESENTATIVE, SOMALIA

Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the AID Representative, Somalia, the authority to sign:

1. U.S. Government contracts, grants or amendments thereto: *Provided,* That the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent; and

2. Contracts with individuals for the services of the individual alone: *Provided,* That the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent.

The authority herein delegated may be redelegated in writing, in whole or in part, by said AID Representative at his discretion to the person or persons designated by the AID Representative as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons ceases to hold the office of Contracting Officer for AID Programs, or until the redelegation is revoked by the AID Representative, whichever shall first occur. The authority so redelegated by the AID Representative may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated may be exercised by duly authorized persons who are performing the functions of the AID Representative in an acting capacity.

Actions within the scope of this delegation and any redelegation hereunder heretofore taken by officials designated in such delegation or redelegation are hereby ratified and confirmed.

This redelegation of authority is effective immediately.

Dated: July 27, 1978.

HUGH L. DWELLEY,
Director, Office of Contract Management.

[FR Doc. 78-21857 Filed 8-4-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

SPECIAL COMMITTEE 134—GENERAL PURPOSE ELECTRONIC TEST EQUIPMENT

Meeting

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 RTCA Special Committee 134 on general purpose electronic test equipment to be held August 24-25, 1978, Conference Room 9W67, National Center No. 1, Naval Electronics Systems Command, 2511 Jefferson Davis Highway, Arlington, Va. commencing at 9 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) approval of minutes of third meeting held June 22-23, 1978; (3) discuss new working organization format; (4) briefing on Federal procurement policy pertaining to commercial products; (5) briefing on proposed changes to Federal procurement statutes as introduced by Senator Chiles; (6) general discussion of warranties; (7) working groups meeting in separate sessions; (8) consideration of status reports from working groups; (9) discussion of schedule of activities and establish prospective completion date; and (10) other business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006, 202-296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on July 24, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-21663 Filed 8-4-78; 8:45 am]

[4910-06]

Federal Railroad Administration

MINORITY BUSINESS RESOURCE CENTER ADVISORY COMMITTEE

Meeting

Pursuant to section 19 (a) and (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 Minority Business Resource Center Advisory Committee to be held August 31, 1978, at 10 a.m. until 5 p.m. at the Department of Transportation, 400 7th Street SW., Room 4234, Washington, D.C. 20590. The agenda for the meeting is as follows:

NECIP Minority Business Plan.
Minority Contractors Assistance Project.
Contract Status Report.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Mr. Harvey C. Jones, Advisory Committee Staff Assistant, Minority Business Resource Center, Federal Railroad Administration, 400 7th Street SW., Washington, D.C. 20590, telephone 202-426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on August 2, 1978.

KENNETH E. BOLTON,
Executive Director.

[FR Doc. 78-21851 Filed 8-4-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. LVM 77-06; Notice 1]

AUTOMOBILI FERRUCIO LAMBORGHINI S.p.A.

Petition for Exemption From Average Fuel Economy Standards

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

ACTION: Notice of receipt of a petition for exemption from average fuel economy standards.

SUMMARY: This notice announces the receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition submitted by Automobili Ferrucio Lamborghini S.p.A. (Lamborghini). The petition requests that the NHTSA exempt model years 1978-1980 passenger automobiles manufactured by Lamborghini from the generally applicable passenger automobile average fuel economy standards for those model years, and establish lower, alternative standards for those vehicles. In accordance with agency procedures, this notice summarizes the petition, describes the options available to the NHTSA in responding to the petition, and invites written public comment thereon.

COMMENT CLOSING DATE: 25 days after publication of this notice in the FEDERAL REGISTER (September 1, 1978).

ADDRESS: Comments on the Lamborghini petition should refer to Docket No. LVM 77-06 and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 7th Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Douglas Pritchard, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-755-9383.

SUPPLEMENTARY INFORMATION: Part A of Title III of the Energy Policy and Conservation Act (Pub. L. 94-163) amended the Motor Vehicle Information and Cost Savings Act (hereinafter referred to as "the Act") by adding a new Title V. That title requires the Secretary of Transportation to implement and administer a program for improving the fuel economy of new automobiles sold in the United States. Authority to administer the program was delegated by the Secretary to the Administrator of the NHTSA; 41 FR 25015, June 22, 1976.

Section 502(a)(1) of the Act establishes average fuel economy standards for passenger automobiles at 18.0 miles per gallon (m.p.g.) for 1978, 19.0 m.p.g. for 1979, and 20.0 m.p.g. for 1980. They then steadily rise to a level of 27.5 m.p.g. for 1985 and thereafter. Under 49 CFR Part 523, Vehicle Classification, published at 42 FR 38362, July 28, 1977, passenger automobiles include station wagons, sedans, coupes, and sport cars.

Section 502(a) of the act provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards if those standards are more stringent than the maximum feasible average fuel economy achievable by the low volume manufacturer, and if the NHTSA establishes alternative standards for the low volume manufacturer at the manufacturer's maximum feasible level. A low volume manufacturer under the act is one which manufactures (within or without the United States) fewer than 10,000 passenger automobiles in the model year for which the exemption is sought (hereinafter "the affected model year"), and which manufactured fewer than 10,000 passenger automobiles in the second model year preceding the affected model year. In its determination of the maximum feasible average fuel economy, the NHTSA is required by the act to consider—

(1) Technological feasibility;
(2) Economic practicability;
(3) The effect of other Federal motor vehicle standards on fuel economy; and
(4) The need of the Nation to conserve energy.

Part 525 of Title 49, Code of Federal Regulations, establishes the format and content requirements for petitions requesting exemption from the generally applicable passenger automobile average fuel economy standards and describes the procedures that the NHTSA follows in acting on these petitions (42 FR 39374, July 28, 1977). Section 525.8 of that rule states that the NHTSA will publish a notice announcing receipt of a petition. This notice is published in response to that section.

Publication of this notice of receipt of a petition does not represent any agency decision or other exercise of judgment concerning the merits of Lamborghini's petition.

LAMBORGHINI'S PETITION

Lamborghini is an independent producer of passenger automobiles with headquarters in Bologna, Italy. It produces automobiles which it characterizes as "high performance vehicles," and states that it competes with Jaguar, Porsche, Ferrari, Maserati, and other specialized manufacturers. Annual production during the 1978-1980 model years is scheduled to be about 275 vehicles, with approximately 120 of these automobiles being sold in the United States. Lamborghini produces its own engines and transmissions, in contrast to many smaller manufacturers which purchase these components from a larger manufacturer.

At present and for all model years through 1980, the company will sell three vehicle configurations in the United States. A vehicle configuration is a classification of automobiles that includes all automobiles produced by the same manufacturer with the same inertia weight and which are equipped with the same engine, emission control system, transmission type (e.g., manual, automatic, or semi-automatic) and axle ratio. This is a simplification of the Environmental Protection Agency's definition of the term which can be found a 40 CFR 600.002-77(a)(24).

The four-seat Lamborghini, which was the only configuration sold in the United States during the 1977 model year, had an average fuel economy of 10.9 miles per gallon (m.p.g.). The 1977 models of both Lamborghini's two-seat automobiles has an average fuel economy of 11.2 m.p.g. The United States versions of these automobiles were tested by Lamborghini in Italy, but were never actually sold in the United States.

For the 1978 model year, Lamborghini projects that it will sell 55 of its four-seat vehicles in the United States and 70 of its two-seaters. Based on this projected sales mix, Lamborghini indicates that its 1978 average fuel economy will be 11.0 m.p.g. For the 1979 and 1980 model years, Lamborghini projects that it will sell 50 of its four-seaters in the United States and 70 of its two-seaters, for annual total sales of 120 automobiles in the United States. This slight mix shift, coupled with planned weight decreases and engine efficiency improvements, lead Lamborghini to project an average fuel economy of 11.5 m.p.g. in the 1979 model year and 12.0 m.p.g. in the 1980 model year.

Lamborghini urges that its projected average fuel economy level in each model year be found to be its maximum feasible average fuel economy in that model year. Lamborghini emphasized the relative lightness of its automobiles compared to automobiles produced by its competitors. Lamborghini claims that its automobiles "avoid any unnecessary weight" because of the company's extensive use of light alloy steel, and an all-aluminum body on one of the two seat models. With respect to the aerodynamic drag of these vehicles, Lamborghini asserts that the nature of these high performance vehicles requires that the aerodynamic design of the vehicles ensure the lowest wind resistance, and the highest fuel ecomomy possible, consistent with the overall design of the vehicle. Lamborghini also states that its engine displacements are relatively low, with two configurations having a displacement of approximately 240 cubic inches, while the other configuration has a displacement of 183 cubic inches. The 240 cubic inch engine is a V-12, and the 183 cubic inch engine is a V-8.

Lamborghini has examined several other means for improving its fuel economy, but these other means were rejected. Lamborghini's axle ratio, which currently ranges from 4.09 to 4.45 on the Lamborghini configurations, can not be reduced according to the petition, because "a significant reduction of the axle ratio would worsen the cars' driveability and they would no longer be competitive with the high performance cars of competitors."

The petition also indicates that Lamborghini cannot further reduce the size of its engines, because "any further reduction would make the automobiles no longer competitive with their competition."

Mix shifts are said to offer little in the way of fuel economy gains, since the configurations have very similar fuel economy (11.2 mpg for the two-seaters and 10.9 mpg for the four seater). There are no high mileage automobiles that can be averaged in with these high performance cars, so Lamborghini asserts that it is at a significant disadvantage when compared with larger manufacturers.

Lamborghini further stated that it has investigated the possibility of using fuel injection as its fuel metering system and stated that it believes this system would considerably improve the fuel economy of Lamborghini automobiles. However, Lamborghini states that it will need about 3 years to develop and test the fuel injection system, before installing it on all the company's automobiles. The need for this leadtime precludes the possibility of fuel injection being used on the company's automobiles before the 1981 model year.

The financial capabilities of Lamborghini were characterized in the petition as "not allowing strong investments on production facilities or on research and development." One factor said to particularly limit the company's efforts is the lack of its own laboratory facilities for fuel economy research. Lamborghini uses the facilities of its carburetor supplier, Weber, to conduct its research, but states that being forced to use other laboratories places heavy limits on its research capabilities.

In its petition, Lamborghini claims that the effect of other Federal standards on the fuel economy of its vehicles is to reduce it by 5 to 10 percent. Lamborghini did not indicate whether this reduction is expected in all affected model years, nor did the company indicate what portion of this reduction would be caused by Federal safety damageability, emission, and noise standards respectively.

Because of all these factors, Lamborghini stated that its currently planned average fuel economy is its maximum feasible average fuel economy, and thus petitions the NHTSA to exempt it from the otherwise applicable average fuel economy standards and establish average fuel economy standards for Lamborghini of 11, 11.5, and 12 mpg for the 1978, 1979, and 1980 model years, respectively.

NHTSA Options

The NHTSA will carefully evaluate the Lamborghini petition and all comments received thereon. Following this evaluation, the NHTSA could find that Lamborghini plans to use all reasonably available means and strategies for improving its average fuel economy and that its projected average fuel economy for each affected model year is its maximum feasible average fuel economy for that model year. Alternatively, the NHTSA could find that Lamborghini has some additional means and strategies available to it to improve its average fuel economy above the projected level for one or all of the affected model years, and make a determination of the maximum feasible average fuel economy that could be achieved for each affected model year if those means and strategies were implemented.

If Lamborghini's maximum feasible average fuel economy for any affected model year is determined by this agency to be equal to or greater than the generally applicable standard, the petition will be denied for that model year. If Lamborghini's maximum feasible average fuel economy for any affected model year is determined to be less than the generally applicable standard, the petition may be granted for that model year.

If Lamborghini's petition is granted for any affected model year, the NHTSA will establish an alternative average fuel economy standard applicable to Lamborghini during that model year. The act permits the NHTSA to establish that standard in one of three ways: (1) a standard may be established specifically for Lamborghini (2) classes, based on design, size, price, or other factors, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

Copies of the Lamborghini petition, as well as supporting materials, other information, and any comments received, are available for public inspection in the docket section between 8 a.m. and 4 p.m., Monday through Friday.

Comments on the Lamborghini petition are invited from the public. These comments must be in writing, refer to Docket No. LVM 77-06, be submitted to the address for comments, and must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commentors to detail their primary arguments in a succinct and concise fashion. It is requested, but not required, that five copies of the comments be submitted.

All comments received before the close of business on the comment closing date indicated above will be consid-

ered. Comments received after the closing date will be considered to the extent practicable. Comments received too late for consideration in developing a proposed decision on this petition will be considered in reaching a final decision.

Issued in Washington, D.C. on August 2, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-21880 Filed 8-4-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Office of the Secretary

ADVISORY COMMITTEE ON THE INTERNATIONAL MONETARY SYSTEM

Meeting

Notice is hereby given that the Advisory Committee on the International Monetary System will meet at the Treasury Department on September 15, 1978.

The meeting is called in order to obtain the opinions of the participants in the Advisory Committee regarding international monetary questions to be discussed at the annual meeting of the Board of Governors of the International Monetary Fund on September 25-28 and the related meeting of the Interim Committee of the Board of Governors.

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set forth in 5 U.S.C. 552b(c)(1) and that the public interest requires such meeting be closed to public participation.

Any comment or inquiry with respect to this notice can be addressed to Donald Syvrud, Director, Office of International Monetary Affairs, U.S. Department of the Treasury, Washington, D.C. 20220, 202-566-5365.

Dated: July 26, 1978.

ANTHONY M. SOLOMON,
Under Secretary for Monetary Affairs.

[FR Doc. 78-21863 Filed 8-4-78; 8:45 am]

[4810-22]

ADVISORY COMMITTEE ON THE INTERNATIONAL MONETARY SYSTEM

Meeting

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463 entitled "Federal Advisory Committee Act" and the authority vested in me by Treasury Department Order 190 (revision 14) dated July 1, 1977, I hereby determine that the meeting of the Advisory Committee on the International Monetary System to be held on September 15, 1978, in Washington, D.C., with officials of the Treasury Department, is concerned with matters falling within the exemptions to public disclosure listed in subsection (c) of 552b of Title 5 of the United States Code, and that the public interest requires that such meeting be closed to public participation.

My reasons for this determination are as follows: Meetings of the Interim Committee of the Board of Governors of the International Monetary Fund (IMF), and of the Board of Governors itself, are scheduled, respectively, for September 24 and September 25-28, 1978. The Secretary of the Treasury is U.S. Governor of the IMF and, in that position, is the U.S. representative to the Interim Committee, and has primary responsibility for implementing U.S. policy with respect to the International Monetary Fund. It would be helpful and prudent for the Secretary to obtain the opinion and advice of leading members of the U.S. international financial community, the academic community, and representatives of important sectors of the economy, concerning the formulation of United States' views and positions regarding issues that may arise at the upcoming IMF meeting.

The forthcoming international monetary discussions bear upon important aspects of the relationship between the economies of the United States and other countries, including the relationship between the U.S. financial system and the international financial system. The discussions will cover subjects under negotiation with other governments, in particular, the size and distribution of a further increase in IMF quotas and the question of future allocations of Special Drawing Rights.

The advice to be rendered by the Advisory Committee relating to U.S. views and positions to be taken in these discussions, if it became public prematurely, could adversely affect the course of these discussions and negotiations, and consequently the interests of the United States.

Therefore, the meeting of the Advisory Committee on the International Monetary System will concern matters involving our relations with foreign governments and which, pursuant to Executive Order 11652 (March 8, 1972), fall within the area of exemption covered by section 552b(c)(1) of Title 5 of the United States Code.

The Director, Office of International Monetary Affairs, is responsible for maintaining records of the meeting of the committee and for providing the annual report setting forth a summary of the committee's activities and such other matters as may be informative to the public consistent with the provisions of 5 U.S.C. 552.

Dated: July 26, 1978.

ANTHONY M. SOLOMON,
Under Secretary for Monetary Affairs.

[FR Doc. 78-21864 Filed 8-4-78; 8:45 am]

[4810-22]

LIGHT BULBS FROM HUNGARY

Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of light bulbs from Hungary are being, or are likely to be, sold at less than fair value within the meaning of the Anitdumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market.

There appears to be substantial doubt that imports of the subject merchandise allegedly sold at less than fair value have caused injury or are likely to cause injury to an industry in the United States. This case is therefore being referred to the U.S. International Trade Commission for an investigation to determine whether there is reasonable indication of injury or likelihood of injury.

EFFECTIVE DATE: August 7, 1978.

FOR FURTHER INFORMATION CONTACT:

David P. Mueller, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On June 21, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel on behalf of Westinghouse Electric Corp. indicating a possibility that light bulbs from Hungary are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The merchandise under consideration is described as, "lamps, medium base, household type, designed to op-

erate at one or more wattages over 14 but not over 150, provided for in item 686.90 of the Tariff Schedules of the United States." This merchandise is commonly referred to as light bulbs.

Petitioner alleges that margins of dumping ranged from 234 percent to 357 percent, based on a comparison between Hungarian light bulb prices to the United States and prices of similar light bulbs in West Germany.

In the petition, Hungary was characterized as a state-controlled economy within the meaning of section 205(c) of the Act (19 U.S.C. 164(c)). As such, it was alleged that Hungarian home market prices could not properly be used in determining foreign market value and pursuant to § 153.7, Customs Regulations (19 CFR 153.7), the home market prices of the West German manufacturer were chosen by petitioner as a surrogate. Although Treasury has accepted the methodology of the petitioner in establishing the possibility that sales of light bulbs exported from Hungary to the United States may have been at less than fair value, further investigation will be undertaken to determine, first, whether the economy of Hungary is state-controlled to the extent that under section 205(c) of the Act (19 U.S.C. 164(c)), sales or offers of sale of such or similar merchandise in Hungary may not be used in the determination of foreign market value and, thus, fair value. If that is found to be the case, a determination will be made as to whether sales by an unrelated third party, producing and selling similar merchandise in West Germany, form an appropriate basis for calculating foreign market value and, thus, fair value.

Petitioner has furnished information concerning alleged injury or likelihood of injury to a domestic industry as a result of imports of light bulbs from Hungary at less than fair value. This information relates primarily to increase in Hungarian light bulb imports, alleged underselling of comparable products sold by petitioner by the allegedly dumped Hungarian light bulbs, decreased capacity utilization and reduced capital investment. However, a review of all information presently available indicates that domestic production and sales of petitioner and the entire U.S. industry have increased each year from 1975 through 1977 while Hungarian light bulb imports declined from 1976 to 1977 both absolutely and as a share of the U.S. market. It also appears that the market share held by petitioner and other domestic producers combined has consistently been above 90 percent since 1975 and has increased each year from 1975-1977. Petitioner's market share declined slightly from 1975 to 1976 but then increased in 1977 to virtually the same level as 1974. During this same period, imports of light bulbs from Hungary were at no time more than 5 percent of the U.S. market. Much of petitioner's information regarding reduced capacity utilization, employment and hours worked uses 1973 as a base year. The most significant decline in sales and production faced by petitioner and the domestic industry occurred from 1973 to 1974, during which period Hungarian imports and total imports declined both absolutely and as a share of the U.S. market. Petitioner has been able to increase both its list and net prices over the past three calendar years, including periods in which Hungarian light bulb sales were occurring.

Therefore, it has been concluded that there is substantial doubt of injury, or likelihood of injury, to an industry in the United States as a result of imports of such merchandise from Hungary. Accordingly, the U.S. International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the Act.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. Should the International Trade Commission, within 30 days of receipt of the advice cited in the preceding paragraph, advise the Secretary that there is no reasonable indication that an industry in the United States is being, or is likely to be, injured by reason of the importation of such merchandise into the United States, the Department will publish promptly in the FEDERAL REGISTER a notice terminating the investigation. Otherwise the investigation will continue to conclusion.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

Dated: August 1, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-21862 Filed 8-4-78; 8:45 am]

[4810-40]

[Supplement to Department Circular Public Debt Series—No. 17-78]

TREASURY NOTES

Series N-1981

AUGUST 2, 1978.

The Secretary of the Treasury announced on August 1, 1978, that the interest rate on the notes designated Series N-1981, described in Department Circular—Public Debt Series—No. 17-78, dated July 27, 1978, will be 8⅝ percent. Interest on the notes will be payable at the rate of 8⅝ percent per annum.

L. W. PLUMLY,
Acting Fiscal Assistant Secretary.

[FR Doc. 78-21853 Filed 8-4-78; 8:45 am]

[1505-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 118]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-19631 appearing on page 30638 in the issue of Monday, July 17, 1978 on page 30641 in the 1st column, the 1st full paragraph, the 13th line should read, "MC 143127 (Sub-6TA) * * * United States in and east of MN, IA, * * *".

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6351-01]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., August 11, 1978.

PLACE: 5th Floor Hearing Room, 2033 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Fiscal year 1980-1984 budget.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1599-78 Filed 8-3-78; 3:55 pm]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 2:30 p.m., August 11, 1978.

PLACE: 8th Floor Conference Room, 2033 K Street N.W., Washington, D.C.

MATTER TO BE CONSIDERED: Market Surveillance.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1598-78 Filed 8-3-78; 3:55 pm]

[6712-01]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Monday, August 7, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Oral argument.

MATTER TO BE CONSIDERED:

SUBJECT

Policy to be followed in future licensing of facilities for overseas communications (Docket No. 18875).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: August 1, 1978.

[S-1596-78 Filed 8-3-78; 9:00 am]

[7020-02]

4

[USITC SE-78-36B]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 32220, published July 25, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Thursday, August 3, 1978.

CHANGES IN THE MEETING: Agenda Item No. 7 [Bicycle tires and tubes (Inv. TA-201-33)—briefing] previously announced as open to the public, was closed to the public by a vote of a majority of the entire membership of the Commission.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1595-78 Filed 8-3-78; 9:00 am]

[8010-01]

5

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of August 7, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Wednesday, August 9, 1978, at 10 a.m. An open meeting will be held on Thursday, August 10, 1978, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402 (a) (8), (9)(i), and (10).

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, August 9, 1978, at 10 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory authorities.
Order compelling testimony.
Institution of injunctive actions.
Settlement of injunctive actions.
Freedom of Information Act appeals.
Chapter XI proceeding.
Regulatory matter bearing enforcement implications.

The subject matter of the open meeting scheduled for Thursday, August 10, 1978, at 10 a.m., will be:

1. Consideration of a rulemaking petition filed by Mr. N. C. Webb, requesting that the Commission amend 17 CFR 201.4(a), relating to petitions for rulemaking, to: (1) Allow members of the public to submit either the text or the substance of a proposed rule rather than requiring a petition for rulemaking to include the text of any proposal; and (2) to describe the procedure by which such petitions are handled.

2. Discussion concerning the revision of forms and reports filed by management investment companies, including: (1) Proposed adoption of revised Form N-8A, the notification of registration under the Investment Company Act of 1940; (2) proposed adoption of two new integrated registration forms to be used by management investment companies to register their securities under the Securities Act of 1933, to register as an investment company under the Investment Company Act of 1940, or both; (3) proposed adoption of revised Form N-1R, the annual report form under the Investment Company Act of 1940 and the Securities Exchange Act of 1934; (4) proposed adoption of new Rule 8b-16 under the Investment Company Act of 1940, which would require all investment companies which file Form N-1R to file an annual update of their registration statement within 90 days of the close of the

fiscal year; (5) proposed solicitation of comments concerning certain items in registration statement forms which impose new reporting requirements; (6) proposed notification of registrants concerning the Commission's determination of requests under the Freedom of Information Act regarding certain information; and (7) proposed release withdrawing a proposal to revise the filing deadline for investment company annual reports.

3. Discussion concerning sales load variation with respect to the purchase of additional shares by mutual fund shareholders, including: (1) Withdrawal of proposed Rule 22d-4, which would have exempted under certain specified conditions, investment companies, underwriters, and dealers with respect to sales of redeemable securities issued by a registered investment company to persons who were shareholders of that company offering redeemable securities whose shares were underwritten by the same underwriter; (2) proposed interpretative release on section 22(d) of the Investment Company Act of 1940 as permitting mutual fund shares to be offered to present fund shareholders at reduced or eliminated sales loads; and (3) proposed amendment to Rule 134 under the Securities Act of 1933, so as to permit such offers to be transmitted to shareholders without being accompanied by a prospectus.

FOR FURTHER INFORMATION, PLEASE CONTACT:

John Ketels at 202-755-1129.

AUGUST 2, 1978.

[S-1594-78 Filed 8-3-78; 9 am]

[8010-01]

6

SECURITIES AND EXCHANGE COMMISSION.

STATUS: Closed meeting.

DATE AND TIME: Thursday, August 3, 1978, immediately following the open meeting scheduled for 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

The following items will be considered by the Commission at a closed meeting scheduled for Thursday, August 3, 1978, immediately following the open meeting.

Formal order of investigation.
Consideration of settlement of injunctive action.
Consideration of settlement of administrative proceeding of an enforcement action.
Freedom of Information Act appeal.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of the matter and that no earlier notice thereof was possible.

AUGUST 3, 1978.

[S-1597-78 Filed 8-3-78; 3:55 pm]

federal register

MONDAY, AUGUST 7, 1978
PART II

ENVIRONMENTAL PROTECTION AGENCY

AIR QUALITY SURVEILLANCE AND DATA REPORTING

Proposed Regulatory Revisions

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 51, 52, 53, 58, 60]

[FRL 907-1]

AIR QUALITY SURVEILLANCE AND DATA REPORTING

Proposed Regulatory Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes to revise the requirements for ambient air quality monitoring for purposes of the State implementation plans (SIP's) and for reporting air quality data to EPA as required by section 110(a)(2)(C) of the Clean Air Act (act). The new regulations would be in a new part 58 entitled, "Ambient Air Quality Surveillance." This new part would contain the requirements and criteria concerned with ambient air monitoring. Also included in the new part 58 would be provisions which would address other requirements of the act including provisions for monitoring criteria and air quality index reporting as required by section 319, "Air Quality Monitoring"; provisions for data reporting which would enable EPA to satisfy the requirements of section 313, "Additional Reports to Congress"; and provisions for public notification of information related to air quality standards violations which would satisfy the requirements of section 127, "Public Notification."

DATES: Comments must be received on or before October 6, 1978.

ADDRESSES: Send comments to: Robert Neligan, Director, Monitoring and Data Analysis Divison (MD 14), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, N.C. 27711.

FOR FURTHER INFORMATION CONTACT:

William M. Cox, Monitoring and Data Analysis Division (MD 14), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, N.C. 27711, 919-541-5312.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 14, 1971 (36 FR 15486), the Administrator of the Environmental Protection Agency promulgated regulations for the preparation, adoption, and submittal of State implementation plans (SIP's) under section 110 of the Clean Air Act, as amended. These regulations included requirements for States to establish and operate networks of ambient air monitoring stations and to report the resulting data to EPA. The data were to be used, among other things, for developing control strategies, in tracking attainment and maintenance of national ambient air quality standards (NAAQS), and in analyzing air quality trends.

In October 1975, at the request of the Deputy Administrator of the Environmental Protection Agency, a Standing Air Monitoring Work Group (SAMWG) was established. The Work Group was to critically review and evaluate current air monitoring activities and to develop air monitoring strategies which would be more cost effective, help to correct identified problems, improve overall current operations, and adequately meet projected air monitoring goals. Members of the Work Group represent State and local air pollution control agencies and EPA program and regional offices.

SAMWG's review indicated that the current ambient monitoring program is basically effective in providing information for support of SIP activities. Several areas, however, were identified where deficiencies existed and needed correction. The principal areas where corrections are needed are summarized below.

1. In some cases, data are being reported to the EPA central data bank from more stations than are absolutely necessary for adequate national control programs assessments and pollutant trends analysis.

2. Existing regulations coupled with resource constraints do not allow State and local agencies sufficient flexibility to conduct special purpose monitoring studies.

3. Resource constraints and diversity of the data needs frequently result in untimely or incomplete reporting of air quality data. Adequate air quality data for national problem assessments and routine trend analysis are in some cases not available to agency headquarters until 12-18 months after each calendar quarter.

4. Lack of uniformity in station location and probe siting, sampling methodology, quality assurance practices, and data handling procedures have resulted in data of unknown quality.

The recommendations of SAMWG are intended to correct the deficiencies listed above. These recommendations are contained in a strategy document, "Air Monitoring Strategy for State Implementation Plans," EPA 450/2-77-010, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, June 1977. This document has been distributed to State and local air pollution control agencies and is available for public inspection at the Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. The revisions being proposed today are intended to implement the recommendations contained in the SAMWG strategy document.

The revisions being proposed today also respond to certain requirements of section 319 of the Clean Air Act. This section, which was added to the act on August 7, 1977, essentially requires the development of uniform air quality monitoring criteria and methodology, reporting of a uniform air quality index in major urban areas, and the establishment of an air quality monitoring system throughout the United States which utilizes uniform monitoring criteria and provides for monitoring stations in major urban areas that supplement, but not duplicate, State monitoring. Section 319 also provides that EPA or some other Federal agency or department will monitor air quality in major urban areas where States fail to provide the necessary monitoring. EPA does not believe that a federally run monitoring system will be necessary for pollutants now regulated under State implementation plans. EPA believes that the monitoring network provided for in the State implementation plan, when fully implemented, would be adequate for this purpose since the network would: (1) Be operated in adherence with uniform quality assurance and monitor siting criteria and use EPA approved methods, and (2) be of sufficient size and distribution to preclude the need for supplemental Federal monitoring. Also, under non-SIP related requirements, States would carry out the requirements for daily air quality index reporting. EPA intends to limit direct Federal monitoring for pollutants for which NAAQS are established to those few cases where States are unable to comply with these requirements. Any one desiring a public hearing on the revisions being proposed today, specifically those associated with the requirements of section 319, should contact Mr. William M. Cox at the address previously noted. Public hearings will be scheduled if significant interest is demonstrated.

REGULATORY REVISIONS

A new 40 CFR part 58 entitled "Ambient Air Quality Surveillance" would be created to include most of the regulatory requirements dealing with air quality monitoring. The creation of this new part is for the purpose of consolidating ambient air quality monitoring requirements. Part 51 would not be an appropriate place for such a consolidation because the proposed regulations contain certain requirements which are not related to the SIP's.

The uniform air quality criteria which are being proposed as a result of both the SAMWG recommendations and section 319 relate to four major areas; quality assurance, monitoring methodology, sampling interval, and siting of instruments and instrument probes. The section 319 requirements for a uniform air quality index would be implemented by including in the new part 58 provisions for daily reporting of an air pollution index in major urban areas. Provisions for Federal operation of monitoring stations would also be included in the new part 58. Detailed discussions of these provisions are included below.

The monitoring criteria, as well as other detailed and lengthy material, appears in appendices to part 58. The appendices are as follows:

Appendix A—Quality Requirements for State and Local Air Monitoring Stations (SLAMS).
Appendix B—Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.
Appendix C—Ambient Air Quality Monitoring Methodology.
Appendix D—Network Design for State and Local Air Monitoring Stations (SLAMS) and National Air Monitoring Stations (NAMS).
Appendix E—Probe Siting Criteria for Ambient Air Quality Monitoring.
Appendix F—State and Local Air Monitoring Stations (SLAMS) Air Quality Annual Report.
Appendix G—Uniform Air Quality Index and Daily Reporting.

Section 51.17, air quality surveillance, which currently contains the requirements for an ambient air quality monitoring network for purposes of the SIP, would be revoked and replaced by requirements in part 58. The new requirements would provide for a SIP network of State and local air monitoring stations (SLAMS). It is intended that the new requirements provide enough flexibility that the SLAMS network could be evaluated on an annual basis and modified to meet changing data needs by adding, deleting, or relocating monitoring stations. It is also the intent that the majority of SLAMS networks be smaller than the currently existing monitoring networks which are described in or associated with the SIP's. Reducing the number of stations in the SLAMS network to only those that are truly necessary for SIP purposes should free some stations which the State could use for special studies for unspecified periods of time.

The additional stations not in the SLAMS network would be identified as special purpose monitoring (SPM) stations and would not be subject to any EPA requirements unless data were used for SIP purposes. More detail is provided concerning SPM stations under the discussion of the revisions.

The SLAMS data would be reported to the national air data bank (NADB) in the form of a summary report on an annual basis. This would eliminate the requirement currently in § 51.7, Reports for all individual data values to be repoted quarterly. Data use by the regional offices, however, differs from the NADB requirements. Reporting of individual data values to the regional office would be on the basis of agreements between the regional office and the State, depending on specific data needs in that region.

To provide EPA with timely data upon which to base national assessments and trends analysis, a national monitoring network would be established. This is in keeping with the intent of section 319 of the Clean Air Act. The national network would be operated by the States and would actually consist of certain select stations out of the SLAMS networks from which individual data values would be reported quarterly to EPA. As well as remaining as SLAMS, and continuing to be subject to the annual SLAMS summary reporting requirements, these stations would also be identified as national air monitoring stations (NAMS).

The number of stations in the State's NAMS network would be far less than are currently in the State's SIP network. The total reporting requirements of these proposed regulations, including the annual SLAMS report, would therefore be reduced from the current requirements for quarterly reporting of all data from all stations.

Resources

The initial intent of SAMWG was to correct deficiencies and develop a new monitoring strategy which would result in a more cost-effective use of ambient monitoring resources. It was intended that this would be done by designing a new SIP network consisting of only those stations considered necessary for SIP purposes. Fewer stations would be in the network thereby reducing the required operation and data reporting costs. After developing the quality assurance program, however, it became apparent that the efforts necessary to quantify the precision and accuracy of data and to ensure that only high quality data are collected and reported may go well beyond what many State and local agencies are currently doing. The result is that new or redirected resources may be needed for these agencies in order to fully implement the quality assurance program. Although resource intensive, the quality assurance program is felt to be entirely justified considering the economic impact of decisions based on ambient air quality data. Also, while initial resource requirements may be high, after the program gets underway it is anticipated that fewer resources will be needed to continue the quantification of precision and accuracy.

Considering that in some instances the new regulations may actually require significant additional resources, completion of the NAMS network would not be required until January 1, 1981, while completion of the full SLAMS network would be required two years later on January 1, 1983. Also, in order to reduce the impact on resources, flexibility exists concerning how many stations need be in the SLAMS network, and the annual review provisions would allow network modifications from year to year as resources or other factors dictate.

Historical Data Use

As the intent of the regulations (i.e., better quality data) is realized, some consideration should be given to the proper use of the previously collected data. Whereas uncertainties may be associated with the accuracy of the previous data, the question is whether these data are better than no data at all. Failure to use historical data would eliminate the possibility of documenting trends in air quality and would place control agencies in an impossible situation in assessing the results of control strategies.

In those instances when data are known to be biased, caution should be exercised when using the data depending on the extent of the bias. If there is no known bias but data validity is still uncertain, average values or various percentiles could still be useful for trend purposes. In general, data should be ignored only when they are known to be so inaccurate that it would be better to have no data at all. Thus, use of historical data should depend on the degree to which their validity or inaccuracy can be established and on their intended use.

Data Storage

EPA recognizes that some of the States do not have facilities for storing ambient air quality data. Accordingly, the NADB, or any regional office facilities, would be available for storing the State's data. Allowing the State the use of EPA facilities, however, would not constitute meeting the annual summary data reporting requirements for the SLAMS data. An annual summary would still have to be submitted with a verification of data accuracy as is required by these proposed regulations.

Additional Actions

The bulk of the revisions being proposed today are concerned with monitoring and with reporting of air quality data. The only other major revisions being proposed would change the

source emissions report now in § 51.7 from a semi-annual report to an annual report and would add requirements for reporting of lead and lead compound emissions. The decision to include lead emissions reporting requirements was made since the regulations requiring a lead SIP are being developed concurrently with these regulatory revisions.

It is anticipated that the lead regulations will be promulgated several months before these monitoring and reporting regulations. Since the first emissions report, which would be for calendar year 1979, would not be required until July 1, 1980, the reporting requirements for lead emissions are being included in today's package with other emissions reporting revisions. Air quality surveillance requirements for lead, however, are being included in the lead package since they take effect immediately upon promulgation. This procedure will also allow those persons interested in commenting on the lead regulations to see all the proposed regulations, other than emissions reporting, in one package. The lead air quality surveillance requirements will be incorporated without substantive change into the final promulgation of the air quality surveillance regulations being proposed today.

The requirements for reporting emissions and State actions that are currently in § 51.7 would appear in a new Subpart Q—Reports, in part 51. An addition would be made to these reporting regulations to require the State to report certain information relating to air pollution episodes and contingency plan actions. This information is required by an August 7, 1977, amendment to section 313 of the Clean Air Act to be included in EPA's annual report to Congress. A detailed discussion of the information is included under the discussion of the regulations.

REORGANIZATION OF PART 51

In an effort to make part 51 more readable and understandable, EPA intends to reorganize and expand the format of the regulations. The restructured regulations will contain as new subparts, information currently organized as sections. This will allow the use of more headings and will enable the reader to more readily find appropriate requirements. Subsequent to these proposed revisions other sections of part 51 will be rewritten and reorganized utilizing a similar format.

DISCUSSION OF REVISIONS—PART 51

The regulatory revisions to part 51 being proposed today revoke §§ 51.7, 51.17, and 51.17a; revise § 51.16; amend § 51.24; and establish Subpart J—Air Quality Monitoring, Subpart O—Miscellaneous Plan Content Requirements, and Subpart Q—Reports. The revisions to §§ 1.3, 51.6, 51.13, and 51.15 are described below in a section of this preamble devoted to a discussion of parts 51, 52, 53, and 60. All of the revisions discussed in that section of this preamble are related and, accordingly, are discussed collectively.

Section 51.16 Prevention of air pollution emergency episodes.

The use of tape samplers or other particulate monitors are desirable for use during air pollution episodes and for purposes of daily reporting of an index of air quality because they provide more frequent data at shorter time intervals.

Since the original promulgation of § 51.16 and appendix L, the latter of which suggests episode pollutant levels and describes example controls for those episode levels, it has become apparent that there is no universally consistent relationship between meaurements on the high-volume sampler (hi-vol) and the tape sampler. The discrepancy exists because the tape sampler measures light transmittance of collected particulate matter, which is affected by particle size and color, whereas the hi-vol measures mass. The values for light transmittance, expressed as COH's, in § 51.16 and appendix L, therefore, are not necessarily equivalent to the values given in micrograms per cubic meter ($\mu g/m^3$) which are the units of measurement for the hi-vol. The references to coefficients of haze (COH's) therefore, would be removed from § 51.16 as well as appendix L.

A guideline is currently under development which explains the procedure for establishing a site-specific relationship between the hi-vol and other particulate monitors. After such a relationship is established at a specific site, data from the particulate monitor can be directly converted to $\mu g/m^3$ to obtain a value that would correspond to a hi-vol measurement. If such a particulate monitor were determined to be adequate to measure particulate, it would be allowed for use at the specific site instead of a hi-vol; but only for purposes of air pollution episode monitoring and daily air pollution index reporting.

Monitoring for purposes of air pollution episodes and an air quality index is discussed in further detail below.

Section 51.24 Prevention of significant deterioration of air quality.

Paragraph (n)(3) would be added to § 51.24 to require that the plan contain provisions that the quality assurance requirements of appendix B to part 58 be followed by an owner or operator of a source required to monitor for purposes of prevention of significant deterioration. A similar requirement would be added to § 52.21.

SUBPART J—AMBIENT AIR QUALITY SURVEILLANCE

This subpart would replace § 51.17 which currently contains the requirements for a monitoring network. It would contain one section, § 51.190, as discussed below.

Section 51.190 Ambient air quality surveillance: Plan content.

This section would require the State to meet the requirements in part 58 pertaining to the ambient air quality monitoring network for purposes of the SIP. As previously discussed, part 58 would contain the monitoring requirements and criteria for the SIP as well as other ambient air quality monitoring. Paragraph (a) of this section would specify that the plan meet the plan content requirements of part 58 whereas paragraph (b) would require the State to meet other requirements of part 58 applicable to the State such as network design, continuation of station operation, and system modification.

SUBPART O—MISCELLANEOUS PLAN CONTENT REQUIREMENTS

This subpart would be established to contain requirements unrelated to material in other subparts. Upon promulgation it would include only § 51.285, however, at a later date, other sections would be added to this subpart.

Section 51.285 Public notification.

The provisions of this section would satisfy section 127 of the Clean Air Act which was added to the act on August 7, 1977. The provisions would reflect the section 127 requirements that the public be informed of NAAQS violations, health hazards associated with violations, pollution control measures, and ways in which the public can participate in rulemaking. The minimum requirements the State must meet would be to prepare and distribute an annual report containing such information. By January 1, 1980, the State would have to submit a SIP revision providing for the annual report. A guideline on this subject also is under development. The guideline will explain additional ways in which the State may meet the requirements of section 127. EPA solicits comments on this approach to implementing section 127.

SUBPART Q—REPORTS

This subpart would replace § 51.7 which currently contains reporting requirements for air quality data, emissions data, and actions by the State related to the SIP. Only the air quality reporting requirements of § 51.7 would be substantively revised and be trans-

ferred to the new part 58. The emissions data reporting requirements would be slightly revised and would appear as sections in the new subpart Q. The requirements for reporting State actions would remain largely unchanged and would also comprise several sections in subpart Q. The sections in this subpart are as follows:

Section 51.320 Annual air quality data report.

This section would require the State to meet the air quality reporting requirements of part 58 which are necessary for SIP purposes.

Section 51.321 Annual source emissions and State action report.

The semiannual source emissions and State actions report now described by § 51.7 would be changed to an annual report by this section. The State would have 6 months after the end of the calendar year in which to submit the report which would contain that calendar year's information. Requiring only one report annually and increasing the time period for submission from 45 days to 6 months is intended to reduce the reporting requirements on the States.

Section 51.322 Sources subject to emissions reporting.

This section would define which sources, and which emission points within those sources, are subject to emissions reporting. These requirements are somewhat different from those now existing in § 51.7. The minimum size facility for which CO emissions would be reported would be revised from 100 tons per year (TPY) to 1,000 TPY and the points within the facility from 25 TPY to 250 TPY. This more closely reflects the size of CO emitting facilities that potentially threaten the standards for CO.

The minimum size for lead-emitting facilities and also the emission points within the facilities would both be defined as 5 TPY. The facility size would not be defined any higher than the emission point size (5 TPY), as is done for other pollutants, to insure that all emission points greater than 5 TPY were reported regardless of facility size.

Section 51.323 Reportable emissions data and information.

This section would define the information that must be reported for the emission points defined in § 51.322. The States would be referred to the AEROS Users Manual for a description of the required data. This procedure would eliminate the necessity for repeating the lengthy information contained in the Aerometric and Emissions Reporting System (AEROS) Users Manual.

This section would also further define which emission points would be subject to submission of emissions information. This portion of § 51.323 is identical in substance to § 51.7(b)(3) with the exception that States would be required to update the year of record of data for facilities whose emissions have not changed. This requirement is in response to the fact that in some cases States fail to submit information for certain sources for which emissions have not changed. Users of the emissions data cannot be sure that the data are accurate in such an instance because the year of record will not be current. The State, if so desired, may meet this requirement by resubmitting the data as if it were new data.

Section 51.324 Progress in plan enforcement.

This section is a reorganization of § 51.7(b)(4) (i) and (ii). The reorganization and the addition of the word "point" in front of "source" were done for clarity. Paragraph (b)(4)(iii), which requires reporting the percent of sources in compliance, would be deleted in order to reduce reporting requirements.

Section 51.325 Contingency plan actions.

This section would be added in order to obtain certain information from the State so that the information could be included in EPA's annual report to Congress. Such information is required by an August 7, 1977, amendment to section 313 of the Clean Air Act. The information would consist of a summary and evaluation of contingency plan actions taken during the year and an account and explanation of any air pollution episode during which no contingency plan actions were taken.

Section 51.326 Reportable revisions.

This section is identical in substance to § 51.7(b)(5).

Section 51.327 Enforcement orders and other State actions.

This section is identical in substance to § 51.7(d).

Section 51.328 Plan prescribed actions.

This section is identical in substance to § 51.7(e) with the exception of changing "semi-annual report" to "annual report."

APPENDIX L—EXAMPLE REGULATIONS FOR PREVENTION OF AIR POLLUTION EMERGENCY EPISODES

The reference to COH's would be deleted from this appendix. This action is discussed above under § 51.16.

DISCUSSION OF REVISIONS—PARTS 51, 52, 53, 60

Parts 51, 52, 53, and 60 contain numerous references to §§ 51.7, 51.17, and 51.17a. Since these sections would be revoked and replaced in these proposed regulations by new subparts in part 51 or by portions of the new part 58, the references to the three revoked sections would be inaccurate. This action being proposed today would revise the references to the three revoked sections to refer to the appropriate sections in the revised part 51 or the new part 58. With several exceptions which are discussed below, the substance of the amended portions of parts 51, 52, 53, and 60 would remain unchanged.

Section 51.13 Control strategy, sulfur oxides and particulate matter.

The second sentence of paragraph (g) contains a reference to § 51.17 and a provision for using the continuous conductimetric method for measuring sulfur dioxide. The reference to § 51.17 would be replaced with a reference to appendix C of part 58. Provisions for using the continuous conductimetric method have previously been included in part 53 regulations, therefore, the provision for this method in § 51.13(g) is unnecessary and would be eliminated.

Section 51.15 Compliance schedules.

Paragraph (a)(2) of this section was designed to apply to the original submission of the SIP's. Recent EPA guidance supersedes these compliance schedule submission requirements in § 51.15(a)(2). Rather than correct the references to § 51.7 which are in paragraph (a)(2), the entire paragraph (a)(2) would be revoked since it is out of date.

Sections 52.779, 52.2029, and 52.2482 contain disapprovals of the Indiana, Pennsylvania, and Washington SIP's respectively since they did not meet the provisions of § 51.17. Since § 51.17 would be revoked and new SIP provisions would be required by part 58, it would be of no significance that the SIP, prior to submission by the State of the new SIP provisions, was disapproved. Accordingly, rather than correcting the references to § 51.17 in these three sections, the entire sections would be revoked.

Section 52.1175 Compliance schedules.

On May 31, 1972, the Michigan SIP was disapproved insofar as it did not provide for submission of compliance schedules in time for inclusion in the first semi-annual report required by § 51.7. This requirement appears in § 51.15(a)(2); however, as discussed above, paragraph (a)(2) would be removed from § 51.15. Also, § 51.7 would

be revoked and the semi-annual report would become an annual report. Section 52.1175 would be revised to indicate that the SIP was disapproved as not meeting the § 51.15 requirements as of May 31, 1972. This approach would preserve the dsapproval of the Michigan SIP even though those original requirements would be changed. The preservation of the disapproval would be necessary as a legal basis for any promulgation of compliance schedules.

DISCUSSION OF REVISIONS—PART 58

Section 319 of the Clean Air Act Amendments of 1977 requires that EPA promulgate regulations establishing a national air quality monitoring system which uses standardized measurement and reporting procedures, and provides for daily reporting of air quality based upon a uniform air quality index. The national network must not duplicate any monitoring being carried out by States required under any applicable implementation plan.

Further, section 319 specifically requires that any air quality monitoring required under section 110 must use the standardized measurements and reporting procedures and measure air quality according to the standard index developed for the national system.

It is EPA's intent that the regulations being proposed today for State implementation plan monitoring also serve as the basis for establishing a national monitoring system. It is EPA's judgment that this approach is in keeping with the intent of section 319, i.e., the States will essentially be made responsible for operation of the national air quality monitoring system and reporting according to a standard index. These regulations also require the use of specific monitoring methodology, quality assurance procedures, uniform instrument or instrument probe siting critieria, certain sampling intervals, and reporting of a standardized air pollution index.

The new part 58 would be established to contain the requirements and criteria for monitoring ambient air quality. The important divisions of this part are the monitoring criteria, the SIP requirements, the requirements pertaining to a national network (the NAMS provisions), the index reporting requirements, and the provisions for monitors operated by the Federal Government.

As stated above, lengthy and detailed material would be put into appendix form. It should be noted that these appendices are being proposed for comment and will be promulgated with the parts 51 and 58 regulations. Both the appendices and the regulations meet the definition of a rule under the Administrative Procedures Act (APA), 5 U.S.C. 551 et seq; therefore, the informal rulemaking procedures of section 553 of the APA are being followed for both. Sections of the appendices contain material that is intended as guidance and is not meant to be mandatory. The requirements in the appendices, in contrasts, are clearly written as such and will be mandatory upon promulgation.

SUBPART A—GENERAL

This first subpart would contain definitions, an explanation of the purpose of part 58, and the applicability of the requirements. Section numbers would be left available for later additions to this subpart.

SUBPART B—MONITORING CRITERIA

As discussed above, criteria have been established to insure quality and timely ambient air quality monitoring data for purposes of satisfying both the SAMWG recommendations and section 319 of the Clean Air Act. These criteria, in general, are lengthy and have been put in the form of appendices A, C, D, and E to part 58. These appendices will be discussed below. Sections 58.10 through 58.12 would require the appendices A, C, D, and E be followed.

Section 58.13 Sampling interval.

The sampling interval criteria would be included in this section. The criteria are similar to existing requirements; continuous sampling for automated instruments and one sample every 6 days for manual methods. The sampling interval criteria for PSD monitoring would be contained in appendix B.

Section 58.14 Special purpose monitors (SPM).

Following the proposed criteria should result in reliable data that can be considered comparable to any data collected under the criteria. If States wish to use data from SPM monitors for SIP purposes, those SPM monitors would have to meet the monitoring criteria established for SLAMS. Only by following that criteria would the data from SPM stations be comparable to SLAMS data and acceptable to EPA. This section reflects such a requirement.

The concept of the SPM stations provides that they would be used to supplement the SLAMS network in order to increase the overall effectiveness of the State's monitoring efforts. Although the SPM stations would likely not be permanent stations, for purposes of comparability, the States would be encouraged to follow the monitoring criteria of part 58 when operating SPM stations. If data were not used for SIP purposes, however, the State could use its discretion in the following the criteria.

SUBPART C—STATE AND LOCAL AIR MONITORING STATIONS (SLAMS)

Section 58.20 Air quality surveillance: Plan content.

This section would require submittal by January 1, 1980, of a SIP revision providing for a SLAMS network. Final completion of the SLAMS network, however, would not be necessary until January 1, 1983, as previously stated. It would be necessary for the SIP revision to delete the existing ambient air monitoring provisions in the SIP in order to avoid conflict with the added provisions for a SLAMS network.

The SIP revision would establish the SLAMS network, would apply the criteria of appendices A, C, D, and E (discussed below) to the monitoring stations, would provide that the surveillance system be reviewed annually, and would provide for monitoring during all stages of air pollution episodes. The annual review would be for purposes of continual assurance that optimum use were being made of monitoring resources. It is anticipated that monitoring stations in the SLAMS network could be added, deleted, or moved as data needs change from year to year.

Requiring the SIP to contain these provisions is based on section 110(a)(2)(C) of the act which requires the SIP to provide for "establishment and operation of appropriate devices, methods, systems, and procedures necessary to: (i) Monitor, compile, and analyze data on ambient air quality and, (ii) upon request, make such data available to the Administrator."

The State would be required by this section to maintain for inspection by the public and the regional office, information on each monitoring station such as the location of the station and the monitoring method being used. Individual station locations would not be part of the SIP and, therefore, modifications to the network could be made without requiring a formal SIP revision. This should encourage the State to make any needed yearly changes to the SLAMS network to make it more responsive to data needs or resource constraints.

The State would also keep available for inspection the statement of monitoring objectives and the spatial scale of representativeness for each station and a schedule for completion of the network. Determining the objective and spatial scale for each station is a step in the process of network design as described in appendix D to part 58. It is frequently necessary to have such information available when examining monitoring data in order to correctly interpret such data.

Section 58.21 SLAMS network design.

The State would be required to consult regional office representatives when designing the SLAMS network. The purpose of this requirement would be to input any experience available in the regional office into the process and also to assure that data needs of the regional office are met. The regional office would also participate in the annual review and system modification process discussed under § 58.25.

Section 58.22 SLAMS methodology.

This section would require that any SLAMS contain acceptable methodology at the time the station were put into operation as a SLAMS. The acceptable methodology would be specified in appendix C. That appendix would include any "grandfather" clauses now contained in § 51.17a.

Section 58.23 Monitoring network completion.

This section would establish January 1, 1983, as the date by which all SLAMS must be located and sited correctly and by which quality assurance procedures should be implemented. States would be given this extended period of time due to possible resource constraints which could make it impossible to complete the network and implement quality assurance procedures in a shorter time frame.

Section 58.24 Interim network.

Upon promulgation of these regulations § 51.17 would be revoked. Part 51 would, therefore, not require the SIP to contain provisions for ambient air quality monitoring until the January 1, 1980, submittal date for the SIP revision required by § 58.20. Section 58.24 requires that States continue to operate existing monitors until submittal of the January 1, 1980, SIP revision containing monitoring provisions. All monitoring stations now described in the plan would be kept in operation until the SIP revision was submitted. After submission of the SIP revision, only those monitoring stations identified as becoming a SLAMS in the new monitoring network would be kept in operation. This requirement would assure continuation of data collection while freeing those stations which would not become SLAMS as early as possible to be used for other purposes.

Section 58.25 System modification.

As discussed earlier, it is anticipated that States would continually review and modify their monitoring networks on an annual basis. This section requires the State to develop and implement a schedule for system modification if the annual review indicates such a change is warranted. The regional office would be involved in this procedure in order to be kept informed of the monitoring situation and to assure that their data needs are considered during any action to modify the network.

Section 58.26 Annual SLAMS summary report.

The reporting requirements for the SLAMS ambient air quality data would be contained in this section. The data for any calendar year would be summarized, certified by the State program director, and submitted on or before July 1 of the following calendar year. Appendix F to part 58 would specify the information that would be contained in the annual report.

In addition to the SLAMS data summary, certain information pertaining to incidents of pollutant concentrations reaching significant harm levels, as defined in § 51.16, would be reported. This information is required by section 313 of the Clean Air Act to be included in EPA's annual report to Congress as is the information discussed under § 51.325. The location, date, pollutant source, and duration of each incident would be reported.

Section 58.27 Compliance date for air quality data reporting.

The new reporting requirements described above for SLAMS data would take effect for data collected during 1981. Data collected prior to January 1, 1981, would be reported quarterly as is now required by § 51.7. The last quarterly report for 1980 would be submitted in January or February 1981.

Section 58.28 Regional Office SLAMS data acquisition.

Regional office data needs differ from region to region and in general differ from the proposed NADB requirements. Accordingly, this section is intended to allow the regional offices the authority to obtain individual data values or summaries as needed. It is anticipated that regional office personnel and State representatives will cooperatively develop a schedule for periodic submission of those data needed by the regional office. Such agreements may supplement the annual SLAMS data summary report required by § 58.26.

SUBPART D—NATIONAL AIR MONITORING STATIONS (NAMS)

The intent of the previously discussed NAMS network is to address certain requirements of section 319 of the Clean Air Act and also to provide a mechanism for collecting and submitting, in a timely fashion, data upon which to base national assessments of air quality. Appendix D will be used to select the NAMS. All NAMS will be selected from within the overall SLAMS network. The SLAMS annual report must include summarized statistics from the NAMS as well as from all other SLAMS. Individual data values or summaries from all or any part of the SLAMS may be considered at the national level.

Section 58.30 NAMS network establishment.

This section would require that a description of the NAMS network be submitted by January 1, 1980. This description would not be part of the SIP even though the submittal date coincides with the submittal deadline for the SLAMS SIP revision required by § 58.20. Since the NAMS would consist of certain selected SLAMS, the process of determining the locations for the NAMS would have to be a part of the exercise of designing the SLAMS network. This section would also contain the requirement that the network design procedure in appendix D for NAMS be followed during the SLAMS network design process.

Section 58.31 NAMS network description.

Certain information including station location, methodology, and monitoring objective would be needed at the national level for accurate interpretation of the NAMS data. This section would describe that information which would be included in the network description required by § 58.30. Also, a schedule for completing the NAMS would be required in order to determine the approvability of the network.

Section 58.32 NAMS approval.

The regional offices could use the data submitted through the NAMS reporting process, however, the regional office, through § 58.28, would have its own mechanism for obtaining air quality data. The offices of EPA at the national level, however, would be primarily concerned with the NAMS network design and completion since the NAMS data would be used for trends, certain special studies, and possibly national policy. Approval of the NAMS would, therefore, be at this level for purposes of assuring that national data needs were met.

Section 58.33 NAMS methodology.

As discussed below, a portion of appendix C would contain the methodology requirements for the NAMS. This section would require that all NAMS in existence at the time of network description submittal use the specified methodology. For stations established at some later date, the specified methodology would be required upon establishment of the station.

Section 58.34 NAMS network completion.

Those SLAMS designated as NAMS would in general be those stations considered to be located in the most important areas, i.e., areas of the highest pollution, areas with a combination of high pollution and high population exposure, etc. Since these NAMS would be the more important stations in the SLAMS network, they would be required to be in operation sooner than the remaining stations in the SLAMS network. January 1, 1981, would be the date by which all the NAMS would be required to be in operation and meeting all the requirements for NAMS.

Section 58.35 NAMS data submittal.

This section would establish the quarterly reporting requirements for NAMS data. The specific information to be submitted would be those data described in the AEROS users manual as necessary for completing the storage and retrieval of aerometric data (SAROAD) air quality data forms. The data would also be required to be validated according to procedures described in the AEROS users manual.

The validated data would be required to be submitted to NADB within 90 days of the end of the calendar quarter. The procedures for submittal of the NAMS data would be developed between the State and the appropriate regional office. For instance, the State may need to submit the data, at the end of 45 days in order to allow another 45 days for regional office review, return to the State for any corrections, and submittal to the NADB.

This section would also indicate that the data from stations designated as NAMS are also SLAMS data and are still subject to inclusion in the SLAMS annual summary report.

SUBPART E—AIR QUALITY INDEX REPORTING

Section 58.40 Index reporting.

This section would establish the requirement for certain large urban areas to report daily an index of air quality. The index and the section 319, Clean Air Act, requirement for such reporting will be discussed in detail under appendix G.

Due to resource constraints on State and local agencies, a phased approach is being proposed for implementing these index reporting requirements. Areas over 500,000 population would begin reporting January 1, 1981, since it has been determined that many of these areas are presently reporting an air quality index. Areas over 200,000 population would begin reporting 2 years later.

The population of urban areas for purposes of these requirements would be determined from a 1976 supplement to the 1970 U.S. census. At a later date an updated census could be used if it was determined that the additional areas should be included.

As provided in appendix G, data used for PSI purposes could be "real time" data that is not validated. Also, the PSI in some cases might be a projected value based on expected weather patterns and other such factors. In light of the reliability and nature of PSI based data, historical PSI values should not be used for air quality evaluation or for intercity comparisons. The nature of the data would be sufficient for informing the public of daily air quality; however, the data would not be acceptable for other purposes.

SUBPART F—FEDERAL MONITORING

Section 58.50 Federal monitoring.

This section would establish the prerogative of EPA to operate ambient air monitors in instances where the State failed to locate and operate a monitor. The circumstances under which this might occur are:

(a) Where a State failed to locate a SLAMS in an area where the regional office felt a monitor should be located in order to meet the monitoring network objectives described in appendix D, or

(b) Where a State failed to locate a NAMS in an area from which data were needed in order to meet EPA national data needs.

Failure to locate, or schedule to be located, a monitoring station during either the initial network design process or during any annual review of the network could precipitate location of a Federal monitoring station. Regional office personnel would participate in the initial network design process and thereby express their data needs and their interpretation of the appendix D monitoring objectives. EPA personnel have already visited States and regional offices and selected certain monitoring stations from the existing monitoring networks as candidates for NAMS. The States, therefore, would be aware of EPA data needs and criteria for approval of any network modifications resulting from the annual review process.

Section 58.51 Monitoring other pollutants.

This section establishes the fact that, for pollutants for which NAAQS do not exist, this agency may wish to establish uniform criteria and methodology whenever the Administrator determines that a nationwide, urban-oriented, monitoring program is necessary. Such criteria would pertain to quality assurance, instrument operation and siting, monitoring methods, and other aspects of monitoring that may be necessary to insure accurate and comparable data throughout the United States. EPA would strongly encourage that any other governmental agency proposing to establish such a nationwide, urban-oriented, monitoring system, develop uniform criteria for review by the EPA Administrator prior to implementing such a monitoring program.

APPENDIX A—QUALITY ASSURANCE REQUIREMENTS FOR STATE AND LOCAL AIR MONITORING STATIONS (SLAMS)

The findings and recommendations of SAMWG published in the previously discussed strategy document emphasized the importance of a quality assurance program in producing timely data that are complete, precise, accurate, and comparable. The findings of SAMWG indicated deficiencies in quality control as well as unknown precision and accuracy of the data being reported. In response to these findings and recommendations, the quality assurance program in appendix A was developed to remedy these problems.

The proposed quality assurance program, although resource intensive, is considered by EPA to be essential in order to reach the goal of producing timely data of the required precision, accuracy, completeness, and comparability. The quality assurance procedures would be required during the operation of the SLAMS network. It would also be necessary to follow the procedures, as required by § 58.14, when operating SPM stations for the purpose of collecting data to be used in support of SIP revisions or in developing control strategies.

The major items which would be required to be in a State SLAMS program are:

(a) Activities to demonstrate within control conditions. This consists of the actual operation procedures.

(b) Activities to assess agency precision and accuracy. This consists of data validation procedures.

(c) Participation in EPA's national quality assurance program. This section is concerned with performance and system audits.

(d) Calculations and reporting of precision and accuracy. This section deals with data handling.

The details of these areas are contained in appendix A.

APPENDIX B—QUALITY ASSURANCE REQUIREMENTS FOR PREVENTION OF SIGNIFICANT DETERIORATION (PSD) AIR MONITORING

This appendix contains the quality assurance requirements to be applied to monitoring stations operated for purposes of gathering data for prevention of significant deterioration actions. The requirements are similar to those contained in appendix A, however, there are enough differences to

warrant a separate appendix. These quality assurance requirements are necessary in order that data from PSD stations be comparable to the data from the SLAMS network.

APPENDIX C—AMBIENT AIR QUALITY MONITORING METHODOLOGY

The quality and comparability of ambient air quality data bears a direct relationship to the quality and comparability of the monitoring methods used to collect such data. One step in assuring data quality, therefore, is to assure the use of prescribed methodology.

The requirments in appendix C have been developed for the purpose of limiting allowable monitoring methodology to those methods which have been tested and proven reliable or to those for which reliability can be demonstrated.

The proposed appendix C would replace the methodology stipulations in the existing § 51.17 and § 51.17a and would also incorporate the nonconforming analyzer exceptions and the replacement dates for analyzers now in § 51.17a. Any monitoring station in the SLAMS network would have to meet these requirements.

There would be an additional requirement on those SLAMS which were also to be designated as NAMS. For those stations the requirements would specify that SO_2, NO_2, CO, and O_3 be measured by continuous analyzers. This requirement is intended to assure accurate and consistent data for assessment of national air quality trends and policy decisions.

The exceptions allowing the use of nonconforming analyzers appearing in the proposed appendix C are identical in substance to those in the existing § 51.17a. Essentially, these exceptions allow the use of certain monitors which do not conform to the reference or equivalent method specifications if it can be demonstrated that acceptable data will be generated for the circumstances under which the methods would be used.

Table B-1 of 40 CFR part 53 contains the concentration range requirements for reference or equivalent methods. These ranges do not extend high enough to include the significant harm levels described in § 51.16, nor do they include all the suggested air pollution eposode level concentrations in appendix L to 40 CFR part 51. The States are required by § 58.20(c) to provide from monitoring during air pollution episodes; however, by definition, reference or equivalent methods cannot be used at the higher concentrations. Section 4.0 of appendix C, therefore, allows the use in SLAMS of undesignated ranges on those analyzers which are designated reference or equivalent methods on ranges conforming to table B-1. These ranges may be used in any SLAMS but only when ambient levels require their use. For those SLAMS designated as episode stations, such a reference or equivalent method with a higher range would have to be used.

For any SLAMS designated as an episode monitoring station for particulate matter, measurement with a high-volume sampler every 6 days will not be sufficient to cover an episode. Appendix C, therefore, requires a method be used which has the capability of short-term measurements in the episode concentration ranges and for which a quantitative correlation can be established with the reference method for particulate matter. The guideline under development which describes the correlation process was discussed under § 51.16.

APPENDIX D—NETWORK DESIGN FOR STATE AND LOCAL AIR MONITORING STATIONS AND NATIONAL AIR MONITORING STATIONS (NAMS)

The operation of ambient air quality monitoring stations and collection of data, even though data are of adequate quality, is not in itself enough to sufficiently assess the air quality situation of an area. Some consideration must be given to the geographic location of monitoring stations in order to obtain data that are representative of the area, that are not unduly influenced by point sources, and that satisfy all the data needs of the agency for that area.

In some instances, data needs dictate geographical location parameters. In other instances, data interpretation requires specific consideration of station location in order to avoid misinterpretation of the data. In light of the importance of geographic location, appendix D is proposed in order to establish a uniform approach in the design of monitoring networks.

Appendix D would relate procedures for locating monitoring stations to monitoring objectives. The process of network development would be a joint effort between the State and regional office. The first step would be to determine the data needs of both so that the network can be designed accordingly. The number of stations would depend on data needs and other factors specific to an area.

An important step in the network design process would be to assure that an adequate number of NAMS are designated or established and that they are located appropriately. As previously explained, the NAMS, as a rule, would be selected from the stations that were located in the areas considered to be most critical or most representative of the areas of highest pollutant concentrations. Since the NAMS network in any State is part of an overall national air monitoring network, criteria are included in appendix D for determining the number and location for the NAMS.

APPENDIX E—PROBE SITING CRITERIA FOR AMBIENT AIR QUALITY MONITORING

After the process of network design is completed, stations have to be physically located. The most important considerations during siting of stations are to prevent interference from local objects, to keep monitors out of the reach of vandals, and to site the monitor or monitor probe so as to produce a sample representative of the breathing zone. Appendix E would consists of siting parameters which would specify minimum distances from roadways, buildings, trees, chimneys, and other obstructions in order to avoid interference from these objects. Vertical and horizontal distances would also be specified so that sampling can be conducted in the breathing zone while preventing vandalism.

APPENDIX F—STATE AND LOCAL AIR MONITORING STATIONS (SLAMS) AIR QUALITY ANNUAL REPORT

This appendix describes the information which would be required by § 58.26 to be submitted in the State's annual SLAMS summary report. Such information would be stored in the NABD data files and would be used at the national level to evaluate the overall effectiveness of States in achieving national ambient air quality standards and to augment the more detailed analysis performed on individual data values submitted from the NAMS.

APPENDIX G—UNIFORM AIR QUALITY INDEX AND DAILY REPORTING

As described above, the Clean Air Act (CAA) requires that regulations be promulgated establishing an air quality monitoring system throughout the United States which measures air quality according to a uniform air quality index and provides for daily analysis and reporting of air quality based on such uniform air quality index. The uniform air quality index being proposed today to fulfill these requirements is a modified form of the pollutant standards index (PSI). This appendix would describe the PSI and demonstrate the procedures and calculations required in order to obtain the index value and procedures for reporting the index. Detailed background and references are provided in order that the reader understand the basis for the PSI and the justification for requiring it. The PSI was developed and later published as guidance for use by State and local agencies on a voluntary basis. Prior to today's proposal, comments from State and local agencies were solicited regarding the possible use of PSI in meeting the re-

quirements of the CAA. These comments proved to be of great value in shaping appendix G.

Numerous agencies were concerned that mandated use of PSI would require additional ambient monitoring beyond that which would be provided by the SLAMS network. For example, most agencies point out that mandated daily reporting of TSP would greatly strain their capabilities since TSP sampling is ordinarily done at a frequency of once every 6 days. EPA believes that sampling for TSP every 6 days is sufficient for purposes of index reporting. Also, agencies normally increase the frequency of particulate measurements during episode conditions. These more frequent data could be integrated into the index computational structure.

A number of agencies asked for an exemption from the index reporting requirements in situations where an area has air quality consistently better than the standards for a pollutant. EPA agrees such an exemption is justified and provides for exemption in the proposed regulations for such cases. Similarly, the proposed appendix would not require index reporting on more than 5 days per week, thus allowing agencies the flexibility to not report the index during weekends when monitoring data and analysis capabilities are not normally available. Agencies would be urged to forecast the index for weekends in such situations.

Questions have been raised regarding the rigidity of the PSI structure and its descriptor words, health effects, and cautionary statements. EPA has considered these comments in light of the CAA which requires a uniform air quality index, and concludes that: (1) The breakpoints relating concentrations and index units must not vary among reporting agencies. To allow local variations (e.g., breakpoints based on local air quality standards and episode criteria) would be contrary to the terms of section 319 and would perpetuate public confusion about air quality. (2) Health descriptor words associated with the index should not vary among reporting agencies. This is necessary to insure that air quality described as unhealthy in one area is consistent with air quality similarly described in another area. To allow locally different descriptor words for identical PSI numerical values would not meet the criteria of a uniform index. Exceptions could be granted to agencies for reporting numerical values at or below 100 ("moderate" or "good"). For example, some agencies argue that background values of ozone are typically above 0.04 ppm almost every day which would effectively preclude them from announcing air quality as "good." Accordingly, EPA solicits additional comments on the issue of allowing agencies to describe air quality below PSI values of 100, as "good." (3) Both generalized health effects and cautionary statements should not be mandated for daily reporting but left to the discretion of the reporting agency. A number of commenters argued that these kinds of statements are more related to local actions to abate air pollution and its potential consequences and should not be part of federally mandated daily reporting system. Further, they argue that these generalized effects are not entirely supported by scientific evidence and thus not reasonable to mandate nationally. EPA understands the reservations regarding cautionary statements. The requirement for these statements, therefore, has been removed.

Two other issues were raised by commentors which warrant discussion. The first deals with the nature and responsibility for public reporting. Many reviewers were uncertain as to who would be responsible for insuring that prominent public notice be given on a daily basis. They point out that a daily index report could be rejected by local news media as being unworthy for public notice. In practice, this has not proven to be a problem since a number of State and local agencies have made satisfactory arrangements for television or newpaper coverage. Nevertheless, EPA solicits comments on: (1) How to effectively overcome the potential reluctance of news media in reporting daily air quality conditions, and (2) the most appropriate form of the regulation for accomplishing this.

The second, but related issue is that of timeless of the daily index report. Several agencies commented that reporting air quality conditions for a previous 24-hour period was of no practical use to the general public. They argue that the most meaningful way to make use of the index is to either report "current" conditions, or alternatively, forecast the air quality index. For example, the South Coast Air Quality Management District in California issues a quantitative forecast of PSD for each of several geographic subregions in the basin. The forecast is issued at 10 a.m. each day and applies to "worst" air quality conditions which are expected to occur during the reporting day.

Although some agencies do not have extensive air quality forecasting experience, the mechanism is available for cooperation among air pollution control agencies and State and local weather forecasting services. EPA solicits comments as to the adequacy of existing air quality forecasting technology and the feasibility of implementing a requirement that the uniform air quality index be forecast daily.

Impact Statements

In accordance with section 3 of Executive Order 12044 (43 FR 12661), these regulations have been determined not to present major economic consequences for the general economy, individual industries, geographical regions, or any levels of government. Accordingly, a regulatory analysis as defined in Executive Order 12044 has not been prepared. Similarly, no economic impact statement was deemed appropriate under Executive Orders 11821 or 11949.

Comments

All interested persons are invited to submit written comments on the proposed regulations set forth below and the associated appendixes. Comments received by EPA will be available for inspection during normal business hours at the Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460. The regulations proposed herein, with appropriate modifications will be effective on promulgation in the Federal Register.

Dated: July 7, 1978.

Douglas Costle,
Administrator.

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

EPA proposes to amend Part 51 of Title 40, Code of Federal Regulations, as follows:

1. The table of contents to this part is amended by adding, in the appropriate places, the following:

* * * * *

Subpart J—Ambient Air Quality Surveillance

Sec.
51.190 Ambient air quality surveillance: Plan content.

* * * * *

Subpart O—Miscellaneous Plan Content Requirements

51.285 Public notification.

* * * * *

Subpart Q—Reports

Air Quality Data Reporting

51.320 Annual air quality data report.

Source Emissions and State Action Reporting

51.321 Annual source emissions and State action report.
51.322 Sources subject to emissions reporting.
51.323 Reportable emissions data and information.
51.324 Progress in plan enforcement.

51.325 Contingency plan actions.
51.326 Reportable revisions.
51.327 Enforcement orders and other State actions.
51.328 Plan prescribed actions.

* * * * *

2. Section 51.3 is amended by revising the second sentence in paragraph (c) to remove the reference to § 51.17. As amended, § 51.3 reads as follows:

§ 51.3 Classification of regions.

* * * * *

(c) * * * The requirements applicable to priority IA regions shall be the same as those for other priority I regions, except that the requirements applicable to priority II regions under § 51.16 shall apply. * * *

3. Section 51.6 is amended by revising paragraph (e) to remove the reference to the § 51.7 semiannual report and adding a reference to the annual report required by § 51.321. As amended, § 51.6 reads as follows:

§ 51.6 Revisions.

* * * * *

(e) Revisions other than those covered by paragraphs (a) and (d) of this section must be identified and described in the next annual report required by § 51.321.

* * * * *

§§ 51.7 and 51.17 [Reserved]

4. Sections 51.7 and 51.17 are revoked and reserved.

5. Section 51.13 is amended by revising the second sentence of paragraph (g) to read as follows:

§ 51.13 Control strategy: Sulfur oxides and particulate matter.

* * * * *

(g) * * * Actual measurements must be used where available if based on use of the measurement methods specified in appendix C to part 58 of this chapter. * * *

* * * * *

§ 51.15 [Amended]

6. Section 51.15 is amended by revoking paragraph (a)(2).

7. Section 51.16 is amended by removing the two references to "COHs" in paragraph (a). As amended, § 51.16 reads as follows:

§ 51.16 Prevention of air pollution emergency episodes.

(a) * * *

Particulate matter—1,000 micrograms/cubic meter.

Sulfur dioxide and particulate matter combined—product of sulfur dioxide in micrograms/cubic meter, 24-hour average, and particulate matter in micrograms/cubic meter, 24-hour average, equal to 490×10^2.

* * * * *

§ 51.17a [Revoked]

8. Section 51.17a is revoked.

9. Section 51.24 is amended by adding paragraph (n)(3) to read as follows:

§ 51.24 Prevention of significant deterioration of air quality.

* * * * *

(n) * * *

(3) The owner or operator shall meet the requirements of appendix B to part 58 of this chapter during the operation of monitoring stations required under paragraph (n)(1) of this section.

10. Subpart J is added to read as follows:

Subpart J—Ambient Air Quality Surveillance.

§ 51.190 Ambient air quality surveillance: Plan content.

(a) The plan must meet the applicable requirements of subpart C of part 58 of this chapter pertaining to the establishment of an air quality surveillance system.

(b) In addition to implementing paragraph (a) of this section, the State shall also meet the applicable requirements of part 58 of this chapter pertaining to actions the State must take.

11. Subpart O—Miscellaneous Plan Content Requirements

§ 51.285 Public notification.

By January 1, 1980, the State shall submit a plan revision that contains provisions for:

(a) Notifying the public on a regular basis of instances or areas in which any primary standard was exceeded during any portion of the preceding calendar year,

(b) Advising the public of the health hazards associated with such an exceedance of a primary standard, and

(c) Increasing public awareness of:

(1) Measures which can be taken to prevent a primary standard from being exceeded, and

(2) Ways in which the public can participate in regulatory and other efforts to improve air quality.

12. Subpart Q is added to read as follows:

Subpart Q—Reports

AIR QUALITY DATA REPORTING

§ 51.320 Annual air quality data report.

The State shall meet the requirements of subpart C of part 58 of this chapter pertaining to the annual SLAMS data report.

SOURCE EMISSIONS AND STATE ACTION REPORTING

§ 51.321 Annual source emissions and State action report.

On an annual (calendar year) basis beginning with calendar year 1979, the State agency shall report to the Administrator (through the appropriate regional office) information as specified in §§ 51.323 through 51.326. Reports must be submitted by July 1 of each year for data collected and actions which took place during the period January 1 to December 31 of the previous year.

§ 51.322 Sources subject to emissions reporting.

(a) Point sources subject to the annual emission reporting requirements of § 51.321 are defined as follows:

(1) For particulate matter, sulfur dioxide, hydrocarbons, and nitrogen dioxide, any facility that actually emits a total of 90.7 metric tons (100 tons) per year or more of any one pollutant.

(2) For carbon monoxide, any facility that actually emits a total of 907 metric tons (1,000 tons) per year or more.

(3) For lead or lead compounds measured as elemental lead, any facility that actually emits a total of 4.5 metric tons (5 tons) per year or more.

(b) Annual emissions reporting requirements apply only to emissions of each pollutant from any individual emission point within the facility that emits:

(1) For particulate matter, sulfur dioxide, hydrocarbons, and nitrogen dioxide, 22.7 metric tons (25 tons) per year or more.

(2) For carbon monoxide, 227 metric tons (250 tons) per year or more.

(3) For lead or lead compounds measured as elemental lead, 4.5 metric tons (5 tons) per year or more.

§ 51.323 Reportable emission data and information.

(a) The State shall submit in the annual report the following emissions data and information:

(1) Emissions of particulate matter, sulfur dioxide, carbon monoxide, nitrogen dioxide, and hydrocarbons as specified by AEROS Users Manual, vol. II (EPA 450/2-76-029, OAQPS No. 1.2-039) to be coded into the National

Emission Data System (NEDS) point source coding forms, and

(2) Emissions of lead or lead compounds measured as elemental lead as specified by AEROS Users Manual, vol. II (EPA 450/2-76-029, OAQPS No. 1.2-039) to be coded into the Hazardous and Trace Emissions System (HATREMS) point source coding forms.

(b) Such emissions data and information specified in paragraph (a) of this section must be submitted on either paper forms, punched cards, or magnetic tape in the format of the NEDS point source coding forms or the HATREMS point source coding forms as appropriate.

(c) The emissions data and information specified by paragraph (a) of this section must be submitted in the annual report for any point source for which one of the following conditions occurs:

(1) A source achieves compliance at any time within the reporting period with any regulation of an applicable plan,

(2) A new or modified source receives approval to construct during the reporting period or begins operating during the reporting period,

(3) A source ceases operations during the reporting period, or

(4) A source's emissions have changed since the previous reporting period but the source is not covered by paragraphs (b) (1), (2), or (3) of this section.

(d) If, as determined by the State and the Regional Administrator, the emissions from any point source have not changed since the previous reporting period, the State shall update the year of record of the previously reported data and information specified by paragraph (a) of this section and submit the updated coding forms in the annual report.

§ 51.324 Progress in plan enforcement.

(a) For each point source, the State shall report any achievement made during the reporting period of any increment of progress of compliance schedules required by:

(1) The applicable plan, or

(2) Any enforcement order or other State action required to be submitted pursuant to § 51.327.

(b) For each point source, the State shall report any enforcement action taken during the reporting period and not submitted under § 51.327 which results in civil or criminal penalties.

§ 51.325 Contingency plan actions.

The State shall report any measures taken during the reporting period, and an evaluation of their effectiveness, such as those actions specified in the contingency plan required by § 51.16, to stop emissions of air pollutants causing or contributing to any incident of air pollution which corresponds to a stage of episode criteria as established in the contingency plan. The State shall also report an account of any episode stage, as established in the contingency plan, during which no action was taken by the State or local air pollution control agency and an explanation for the failure to take such action.

§ 51.326 Reportable revisions.

The State shall identify and describe all substantive plan revisions during the reporting period of the applicable plan other than revisions to rules and regulations or compliance schedules submitted in accordance with § 51.6(d). Substantive revisions shall include but are not limited to changes in stack-test procedures for determining compliance with applicable regulations, modifications in the projected total manpower needs to carry out the approved plan, and all changes in responsibilities given to local agencies to carry out various portions of the plan.

§ 51.327 Enforcement orders and other State actions.

(a) Any State enforcement order, including any State court order, must be submitted to the Administrator within 60 days of its issuance or adoption by the State.

(b) A State enforcement order or other State action must be submitted as a revision to the applicable implementation plan pursuant to § 51.6 and approved by the Administrator in order to be considered a revision to such plan.

§ 51.328 Plan prescribed actions.

(a) The State shall report on the status and progress of the following actions if the plan prescribed such action:

(1) Obtaining additional resources.

(2) Adopting new laws or regulations.

(3) Conducting studies to provide a basis for further actions directed toward the attainment and maintenance of national standards.

(4) Initiating new programs or expanding existing programs for the attainment and maintenance of national standards.

(b) The State shall make the report required under paragraph (a) of this section with the annual report as described in § 51.321, commencing with the first annual reporting period following submission of the plan provision that prescribes such action and ending with the completion of the action on which the State must report.

(c) The Administrator will identify those matters on which the State must report.

13. Appendix L is amended by removing references to "COHs" in paragraphs 1.1(b), 1.3(c), and 1.1(d). As amended, appendix L reads as follows:

APPENDIX L—EXAMPLE REGULATIONS FOR PREVENTION OF AIR POLLUTION EMERGENCY EPISODES

* * * * *

1.1 Episode criteria. * * *

(b) "Alert": * * *

Particulate—375 μ/m^3, 24-hour average.

SO_2 and particulate combined—product of SO_2 μ/m^3, 24-hour average, and particulate μ/m^3, 24-hour average equal to 65×10^3.

* * * * *

(c) "Warning": * * *

Particulate—625 μ/m^3, 24-hour average.

SO_2 and particulate combined—product of SO_2 μ/m^3, 24-hour average and particulate μ/m^3, 24-hour average equal to 261×10^3.

* * * * *

(d) "Emergency": * * *

Particulate—875 μ/m^3, 24-hour average.

SO_2 and particulate combined—product of SO_2 μ/m^3, 24-hour average, and particulate μ/m^3, 24-hour average equal to 393×10^3.

* * * * *

Subparts F through I, K through N, and P [Reserved]

14. Subparts F through I, K through N, and P are reserved.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

EPA proposes to amend part 52 of title 40, Code of Federal Regulations, as follows:

1. Section 52.21 is amended by adding paragraph (n)(3) to read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

* * * * *

(n) * * *

(3) The owner or operator shall meet the requirements of appendix B to part 58, title 40, Code of Federal Regulations, during the operation of monitoring stations required by paragraph (n)(1).

§§ 52.93, 52.140, 52.266, 52.479, 52.734, 52.1077, 52.1155, 52.1593, 52.2053, 52.2298, 52.2343, 52.2427, 52.2477 [Amended]

2. The following sections are amended by removing "§ 51.7" and replacing it with "§ 58.35."

52.93(b), second sentence.
52.93(c), second sentence.
52.140(b), second sentence.
52.140(c), second sentence.
52.266(d), first sentence.
52.479(c)(2), second sentence.
52.479(c)(3), second sentence.

52.734(b), second sentence.
52.734(c), third sentence.
52.1077(c)(2), second sentence.
52.1077(c)(3), second sentence.
52.1155(f), first sentence.
52.1593(d), first sentence.
52.2053(b), second sentence.
52.2053(c), third sentence.
52.2298(c), first sentence.
52.2343(b), second sentence.
52.2343(c), second sentence.
52.2427(d)(2), second sentence.
52.2427(d)(3), second sentence.
52.2477(c)(2), second sentence.
52.2477(c)(3), second sentence.

§§ 52.779, 52.2029, and 52.2482 [Reserved]

3. Sections 52.779, 52.2029, and 52.2482 are revoked and reserved.

4. Section 52.1160 is amended by revising the last sentence in paragraph (1). As amended, § 52.1160 reads as follows:

§ 52.1160 Monitoring reports.

* * * * *

(1) * * * In addition, all air quality data collected at SLAMS will be summarized and submitted as an annual summary report to the Administrator as required by § 58.26 of part 58 of this chapter.

* * * * *

5. Section 52.1175 is amended by revising paragraph (a) to read as follows:

§ 52.1175 Compliance schedules.

(a) The requirements of § 51.15(a)(2) of this chapter as of May 31, 1972 (36 FR 22398) are not met since rule 336.49 of the Michigan Air Pollution Control Commission provides for individual compliance schedules to be submitted to the State agency by January 1, 1974. This would not be in time for submittal to the Environmental Protection Agency with the first semiannual report.

PART 53—AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

EPA proposes to amend part 53 of title 40, Code of Federal regulations, as follows:

§ 53.16 [Amended]

Section 53.16 is amended by removing the citation "§ 51.17a(a)(4)" from the third sentence of paragraph (e)(1) and from subdivision (iv) of the first sentence in paragraph (e)(2) and replacing the citations with "section 2.3 of appendix C to part 58".

PART 58—AMBIENT AIR QUALITY SURVEILLANCE

EPA proposes to amend Title 40, Code of Federal Regulations by adding a new part 58 to read as follows:

Subpart A—General Provisions

Sec.
58.1 Definitions.
58.2 Purpose.
58.3 Applicability.

Subpart B—Monitoring Criteria

58.10 Quality assurance.
58.11 Monitoring methods.
58.12 Siting of instruments or instrument probes.
58.13 Sampling interval.
58.14 Special purpose monitors.

Subpart C—State and Local Air Monitoring Stations (SLAMS)

58.20 Air quality surveillance: Plan content.
58.21 SLAMS network design.
58.22 SLAMS methodology.
58.23 Monitoring network completion.
58.24 Interim network.
58.25 System modification.
58.26 Annual SLAMS summary report.
58.27 Compliance date for air quality data reporting.
58.28 Regional office SLAMS data acquisition.

Subpart D—National Air Monitoring Stations (NAMS)

58.30 NAMS network establishment.
58.31 NAMS network description.
58.32 NAMS approval.
58.33 NAMS methodology.
58.34 NAMS network completion.
58.35 NAMS data submittal.

Subpart E—Air Quality Index Reporting

58.40 Index reporting.

Subpart F—Federal Monitoring

58.50 Federal Monitoring.
58.51 Monitoring other pollutants.
Appendix A—Quality Assurance Requirements for State and Local Air Monitoring Stations (SLAMS).
Appendix B—Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.
Appendix C—Ambient Air Quality Monitoring Methodology.
Appendix D—Network Design for State and Local Air Monitoring Stations (SLAMS) and National Air Monitoring Stations (NAMS).
Appendix E—Probe Siting Criteria for Ambient Air Quality Monitoring.
Appendix F—State and Local Air Monitoring Stations (SLAMS) Air Quality Annual Report.
Appendix G—Uniform Air Quality Index and Daily Reporting.

AUTHORITY: Sec. 301(a) of the Clean Air Act (42 U.S.C. 7601) unless otherwise noted.

Subpart A—General Provisions

§ 58.1 Definitions.

As used in this part, all terms not defined herein have the meaning given them in the Act:

(a) "NAMS" are national air monitoring stations which are a subset of the SLAMS ambient air quality monitoring network.

(b) "SLAMS" are State and local air monitoring stations which make up the ambient air quality monitoring network which is required by § 58.20 to be provided for in the State's implementation plan. This definition does not imply that the term "SLAMS" includes the physical structure or facility in which the SLAMS monitor is located. Any combination of SLAMS, NAMS, PSD, or SPM monitors may occupy the same facility or structure without affecting the respective definitions of those monitoring stations.

(c) "PSD station" means any station operated for the purpose of establishing the effect on air quality of the emissions from a proposed source for purposes of prevention of significant deterioration as required by § 51.24(n) of part 51 of this chapter.

(d) "SO_2" means sulfur dioxide.

(e) "NO_2" means nitrogen dioxide.

(f) "CO" means carbon monoxide.

(g) "O_3" means ozone.

(h) "Plan" means an implementation plan, approved or promulgated pursuant to section 110 of the Clean Air Act.

(i) "Administrator" means the Administrator of the Environmental Protection Agency (EPA) or his authorized representative.

(j) "Regional Administrator" means the Regional Administrator of 1 of the 10 EPA Regional Offices or his authorized representative.

(k) "Local agency" means any local government agency, other than the State agency, which is charged with the responsibility for carrying out a portion of a plan.

(l) "State agency" means the air pollution control agency primarily responsible for development and implementation of a plan under the Act.

§ 58.2 Purpose.

(a) This part contains criteria and requirements for ambient air quality monitoring and requirements for reporting ambient air quality data and information. The monitoring criteria pertain to the following areas:

(1) Quality assurance procedures for monitor operation and data handling.

(2) Methodology used in monitoring stations.

(3) Sampling interval.

(4) Siting parameters for instrument probes.

(b) The requirements pertaining to provisions for an air quality surveillance system in the State implementation plan are contained in this part.

(c) This part also acts to establish a national ambient air quality monitoring network for the purpose of providing timely air quality data upon which to base national assessments and

policy decisions. This network will be operated by the States and will consist of certain selected stations from the States' SLAMS networks. These selected stations will remain as SLAMS and will continue to meet any applicable requirements on SLAMS. The stations, however, will also be designated as national air monitoring stations (NAMS) and will be subject to additional data reporting and monitoring methodology requirements.

(d) Requirements for daily reporting an index of ambient air quality to insure that the population of major urban areas are informed daily of local air quality conditions are also included in this part.

§ 58.3 Applicability.

This part applies to State air pollution control agencies and any local air pollution control agency to which the State has delegated authority to monitor ambient air quality for purposes of meeting the air quality surveillance system requirements of § 58.20.

Subpart B—Monitoring Criteria

§ 58.10 Quality assurance.

(a) The State shall meet the quality assurance requirements of appendix A to this part during operation of the SLAMS air quality monitoring network.

(b) The plan must provide that the owner or operator of a proposed source meet the quality assurance requirements of appendix B to this part during the operation of any ambient air quality station operated as a PSD station.

§ 58.11 Monitoring methods.

The requirements of appendix C to this part, which specify appropriate an acceptable monitoring methods, must be met by any SLAMS. In addition, any SLAMS also designated as a NAMS must meet the specific applicable requirements of appendix C pertaining to NAMS.

§ 58.12 Siting of instruments or instrument probes.

The requirements of appendix E to this part, which specify siting parameters for monitoring instruments or instrument probes, must be met by any SLAMS.

§ 58.13 Sampling interval.

(a) Ambient air quality data collected at any SLAMS must be collected as follows:

(1) Hourly averages for continuous analyzers, and

(2) At least one 24-hour sample every 6 days for manual methods.

(b) Ambient air quality data collected at any PSD station must be collected at intervals specified in appendix B to this part.

§ 58.14 Special purpose monitors.

Any ambient air quality monitoring station other than a SLAMS from which the State intends to use the data as part of a control strategy demonstration or as support for a plan revision must meet the requirements for SLAMS described in § 58.22 and, after January 1, 1983, meet the requirements for SLAMS described in §§ 58.10, 58.12, and 58.13.

Subpart C—State and Local Air Monitoring Stations (SLAMS)

§ 58.20 Air quality surveillance: Plan content.

By January 1, 1980, the State shall adopt and submit to the Administrator a revision to the plan which will:

(a) Provide for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and local air monitoring stations (SLAMS) which measure ambient concentrations of those pollutants for which standards have been established in part 50 of this chapter.

(b) Provide for meeting the requirements of appendixes A, C, D, and E to this part.

(c) Provide for the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan and identify any SLAMS designated as an air pollution episode monitoring station.

(d) Provide for the review of the air quality surveillance system on an annual basis to determine if the system meets the monitoring objectives defined in appendix D to this part. Such review must identify needed modifications to the network such as termination or relocation of unnecessary stations and/or location of new stations which are necessary.

(e) Provide for having a SLAMS network description, including the following information for each SLAMS, available at the time of plan revision submittal for public inspection and submission to the Administrator upon request:

(1) The SAROAD site identification form.

(2) The sampling and analysis method.

(3) The sampling schedule.

(4) The monitoring objective and spatial scale of representativeness as defined in appendix D of this part.

(5) A schedule for:

(i) Locating and placing into operation each SLAMS which is not located and operating at the time of plan revision submittal,

(ii) Implementing quality assurance procedures of appendix A to this part for each SLAMS for which such procedures are not implemented at the time of plan revision submittal, and

(iii) Resiting each SLAMS which does not meet the requirements of appendix E of this part at the time of plan revision submittal.

§ 58.21 SLAMS network design.

The design criteria for SLAMS contained in appendix D of this part must be used in designing the SLAMS network. The State shall consult with the Regional Administrator during the network design process.

§ 58.22 SLAMS methodology.

Each SLAMS must meet the monitoring methodology requirements of appendix C to this part at the time the station is put into operation as a SLAMS.

§ 58.23 Monitoring network completion.

By January 1, 1983, all stations in the SLAMS ambient air quality monitoring network description must:

(a) Be in operation,

(b) Meet the requirements of appendixes A, D, and E, and

(c)Be located as described on the SAROAD site identification form required by § 58.20(e)(1).

§ 58.24 Interim network.

Prior to submission of the plan revision required by § 58.20, the State shall continue to operate any station which is in the existing air quality surveillance network described in the plan. After submission of such plan revision, the State shall continue to operate any station which will become part of the SLAMS network.

§ 58.25 System modification.

The State shall develop and implement a schedule to modify the ambient air quality monitoring network to eliminate any unnecessary stations or to correct any inadequacies indicated by the result of the annual review required by § 58.20(d). The State shall consult with the Regional Administrator during the development of the schedule to modify the monitoring program. The final schedule and modifications will be subject to the approval of the Regional Administrator. Nothing in this section will preclude the State, with the approval of the Regional Administrator, from making modifications to the SLAMS network for reasons other than those resulting from the annual review.

§ 58.26 Annual SLAMS summary report.

(a) The State shall submit to the Administrator (through the appropriate regional office) an annual summary report of all the ambient air quality

monitoring data from all monitoring stations designated State and local air monitoring stations (SLAMS). The annual report must be submitted by July 1 of each year for data collected from January 1 to December 31 of the previous year.

(b) The annual summary report required by paragraph (a) of this section must contain the information specified in appendix F to this part.

(c) The annual summary report must also include the location, date, pollution source, and duration of each incident of air pollution during which ambient levels of a pollutant reached or exceeded the level specified by § 51.16(a) of this chapter as a level which could cause significant harm to the health of persons.

(d) The State program director shall certify that the annual summary report is accurate to the best of his knowledge.

§ 58.27 Compliance date for air quality data reporting.

The annual air quality data reporting requirements of § 58.26 apply to data collected after December 31, 1980. Data collected before January 1, 1981, must be reported under the reporting procedures in effect before the effective date of subpart C of this part.

§ 58.28 Regional office SLAMS data acquisition.

The State shall submit all or a portion of the SLAMS data to the Regional Administrator upon this request.

Subpart D—National Air Monitoring Stations (NAMS)

§ 58.30 NAMS network establishment.

(a) By January 1, 1980, the State shall:

(1) Establish, through the operation of stations or through a schedule for locating and placing stations into operations, that portion of a national ambient air quality monitoring network which is in that State, and

(2) Submit to the Administrator (through the appropriate regional office) a description of that State's portion of the network.

(b) Hereinafter, the portion of the national network in any State will be referred to as the NAMS network.

(c) The stations in the NAMS network must be stations from the SLAMS network required by § 58.20.

(d) The requirements of appendix D to this part must be met when designing the NAMS network. The process of designing the NAMS network must be part of the process of designing the SLAMS network as explained in appendix D to this part.

§ 58.31 NAMS network description.

The NAMS network description required by § 58.30 must contain the following for all stations, existing or scheduled:

(a) The SAROAD site identification form (to be submitted through SAROAD procedures).

(b) Identity of the urban area represented.

(c) The sampling and analysis method.

(d) The sampling schedule.

(e) The monitoring objective and spacial scale of representativeness as defined in appendix D to this part.

(f) A schedule for:

(1) Locating and placing into operation each NAMS which is not located and operating at the time of network description submittal,

(2) Implementing quality assurance procedures of appendix A to this part for each NAMS for which such procedures are not implemented at the time of network description submittal, and

(3) Resiting each NAMS which does not meet the requirements of appendix E to this part at the time of network description submittal.

§ 58.32 NAMS approval.

The NAMS network description required by § 58.30 is subject to the approval of the Administrator. Such approval will be contingent upon completion of the network description required by § 51.31 and upon conformance to the NAMS design criteria contained in appendix D to this part.

§ 58.33 NAMS methodology.

Each NAMS must meet the monitoring methodology requirements of appendix C to this part applicable to NAMS at the time the station is put into operation as a NAMS.

§ 58.34 NAMS network completion.

By January 1, 1981, all of the stations in the NAMS network description must:

(a) Be in operation,

(b) Be sited in accordance with appendix E of this part,

(c) Be located as described on the SAROAD identification form required by § 58.31(a), and

(d) Meet the quality assurance requirements of appendix A to this part.

§ 58.35 NAMS data submittal.

(a) The requirements of this section apply only to those stations designated as NAMS by the network description required by § 58.30.

(b) The State shall report quarterly to the Administrator (through the appropriate regional office) all ambient air quality data and information specified by AEROS Users Manual (EPA 450/2-76-029, OAQPS No. 1.2-039) to be coded into the SAROAD air quality data forms. Such air quality data and information must be submitted on either paper forms, punched cards, or magnetic tape in the format of the SAROAD air quality data forms.

(c) The quarterly reporting periods are January 1-March 31, April 1-June 30, July 1-September 30, and October 1-December 31. The quarterly report must:

(1) Be submitted within 90 days of the end of each reporting period, and

(2) Contain all data and information gathered during the reporting period.

(d) Air quality data submitted in the quarterly report must have been validated according to the procedures described in AEROS Users Manual (EPA 450/2-76-029, OAQPS No. 1.2-039) so that such data is ready to be entered into the SAROAD data files.

(e) Nothing in this section shall preclude a State from following all of the reporting requirements applicable to SLAMS in § 58.26 for those SLAMS which are also designated as NAMS.

Subpart E—Air Quality Index Reporting

§ 58.40 Index reporting.

(a) The State shall report to the general public on a daily basis through prominent notice an air quality index in accordance with the requirements of appendix G to this part.

(b) Reporting must commence by January 1, 1981, for all urban areas with a population exceeding 500,000, and by January 1, 1983, for all urban areas with a population exceeding 200,000.

(c) The population of urban areas for purposes of PSI reporting are as defined in "1970 Census of Population; Supplementary Report: Population of Urbanized Areas Established Since the 1970 Census, for the United States; 1970," U.S. Bureau of Census, PC(S)-106, U.S. Government Printing Office, Washington, D.C., October 1976.

Subpart F—Federal Monitoring

§ 58.50 Federal monitoring.

The Administrator may locate and operate an ambient air monitoring station if the State fails to locate, or schedule to be located, during the initial network design process or as a result of the annual review required by § 58.20(d):

(a) A SLAMS at a site which is necessary in the judgment of the Regional Administrator to meet the objectives defined in appendix D of this part, or

(b) A NAMS at a site which is necessary in the judgment of the Administrator for meeting EPA national data needs.

§ 58.51 Monitoring other pollutants.

The Administrator may promulgate criteria similar to that referenced in

subpart B of this part for monitoring a pollutant for which a national ambient air quality standard does not exist. The circumstances under which such an action would be taken are whenever the Administrator determines that a nationwide, urban oriented, monitoring program is necessary to monitor such a pollutant.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

EPA proposes to amend part 60 of Title 40, Code of Federal Regulations, as follows:

Section 60.25, paragraph (e), is amended by changing the reference to a semiannual report required by § 51.7 to an annual report required by § 51.321. As amended, § 60.25 reads as follows:

§ 60.25 Emission inventories, source surveillance, reports.

* * * * *

(e) The State shall submit reports on progress in plan enforcement to the Administrator on an annual (calendar year) basis, commencing with the first full report period after approval of a plan or after promulgation of a plan by the Administrator. Information required under this paragraph must be included in the annual report required by § 51.321 of part 51 of this chapter.

* * * * *

APPENDIX A—QUALITY ASSURANCE REQUIREMENTS FOR STATE AND LOCAL AIR MONITORING STATIONS (SLAMS)

1. Activities to demonstrate within control conditions.
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1. ACTIVITIES TO DEMONSTRATE WITHIN CONTROL CONDITIONS

Each agency operating a State and local air monitoring stations (SLAMS) network must have a quality control program which includes quality control checks to demonstrate that measurements are made under acceptable conditions. Although not an actual requirement, use of quality control charts to record the results of quality control checks described in this section is strongly encouraged. This recommendation is made because the control limits specified are liberal and quality control charts provide a convenient and reliable means to determine when more restrictive limits can be reasonably imposed. The construction and use of quality control charts is discussed in detail in appendix H of reference 1.

1.1 Automated Methods.

1.1.1 Calibration requirements. Each analyzer must be calibrated during installation and recalibrated whenever any one of the following conditions occurs: (1) When control limit is exceeded for the span check described in section 1.1.2, (2) after repair of a malfunctioning analyzer, and (3) after replacement of major component(s) of an analyzer. Generate the calibration curve using zero and five upscale points equally spaced over the analyzer range. All gaseous calibration standards must be traceable to appropriate National Bureau of Standards standard reference materials (SRM) where they are available. One acceptable protocol to demonstrate traceability of calibration standards to SRM can be obtained by writing to: Quality Assurance Branch (MD-77), Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

1.1.2 Span check requirements. Periodic span checks are used to demonstrate that operational conditions are within control limits and to assess the precision of the data. A one-point span check must be carried out at least once per week on each analyzer at the following analyzer concentrations: (1) For SO_2, NO_2, and O_3 analyzers, between 0.08 and 0.10 ppm; and (2) for CO analyzers, between 8 and 10 ppm. In each case, determine the different between the known span concentration and the measured value predicted from the existing analyzer calibration curve. The acceptable limits for these differences are as follows: (1) for SO_2, NO_2, and O_3 analyzers and the limit is ±0.025 ppm; and (2) for CO analyzers the limit is ±2.0 ppm. Any time the control limit is exceeded, the analyzer must be removed from service, checks made to determine the cause and corrective action taken before return of the analyzer to service.

1.1.3 Episode monitoring requirements. Continuous monitors for SO_2, O_3, CO, and NO_2 used for monitoring during episodes as described in section 4.0 of appendix C of 40 CFR part 58, must be properly calibrated. Acceptable calibration can be demonstrated by performing a five point (plus zero) calibration, equally spaced over the analyzer range at the time of monitoring or by verifying a previous calibration with a span check at 50 to 80 percent of full scale. The acceptable difference between the span concentration and the measured value predicted from the existing calibration curve is ±7 percent. All gaseous calibration standards must be traceable to National Bureau of Standards standard reference materials (SRM).

A one point span check at 50 to 80 percent of full scale must be carried out at least once during the episode and at least once per week if the monitoring extends beyond 1 week. If the difference between the known span concentration and the measured value predicted from the existing calibration curve exceeds ±7 percent, a new five point (plus zero) calibration must be performed.

1.2 Manual sampling methods.

1.2.1 Total suspended particulate (TSP) reference method. (a) Sampling flow rate check. Initial flow rate readings must be observed for each sampler to determine whether corrective action is needed. The initial flow rate must be within ±15 percent of the established average initial flow rate as described in section 2.2.4, pages 10 and 11 of reference 2. If this limit is exceeded, recalibration or other corrective action is required.

(b) Exposed filter reweighing. A sample of randomly selected exposed filters is reweighed. Original and repeat weights must be within ±5.0 mg for the original weights of the entire lot of exposed filters to be acceptable. If any reweighed exposed filter differs more than 5.0 mg from its original weight, the entire lot of filters must be reweighed. See part 8.1.3 of section 2.2.8 of reference 2 for details.

(c) Recalculation of sample concentration. A sample of randomly selected calculated TSP values (in $\mu g/m^3$) is recalculated. If the original and repeat calculations do not agree, all calculations for the lot are checked and corrected as necessary. See part 8.1.4 of section 2.2.8 of reference 2 for details.

1.2.2 SO_2 reference method. (a) Temperature control. Temperature during sampling and during storage and transport following sampling must be maintained between 5° C and 25° C.

(b) Sampling flow rate check. Initial and final flow rate readings must be observed for each sampling system to determine whether corrective action is needed. If the change between the initial and final flow rate is more than 10 percent of the initial flow rate, corrective action is required. See section 2.1.5, pages 1 and 2, of reference 2 for details.

(c) Blank and standard solution analysis. A reagent blank and control standard (working sulfite-TCM solution and absorbing reagent) must be analyzed on the following schedule:

A reagent blank and a 1.0 μg SO_2/ml control standard must be analyzed before the first sample, after every subsequent 10th sample, and after the last sample. Each reagent blank absorbance must be within ±0.03 absorbance units of zero and each control standard must be 1±.07 μg SO_2/ml. If either limit is exceeded, recalibration or another corrective action must be completed and all sample reanalyzed. See section 2.1.5, pages 6-9 of reference 2 for details.

(d) Recalculation of sample concentration. A sample of randomly selected calculated SO_2 values (in $\mu g/m^3$) is recalculated. If the original and repeat calculations do not agree, all calculations for the lot must be checked and corrected as necessary. See part 8.1.3. of section 2.1.8 of reference 2 for details.

1.2.3 SO_2 Equivalent methods, EQS-0775-001 and EQS-0775-002 (manual sampling and automated analysis). Descriptions of these equivalent methods can be obtained by writing to: Department E, Environmental

Monitoring and Support Laboratory (MD-76), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

(a) Temperature control. See section 1.2.2 (a).

(b) Sampling flow rate check. See section 1.2.2 (b).

(c) Blank and standard solution analysis. The analytical instrument used in equivalent methods EQS-0775-001 and EQS-0775-002 must be calibrated each day samples are analyzed and a calibration curve prepared. A reagent blank and a 1.0 μg SO_2/ml control standard must be analyzed after every 10th sample. The reagent blank is used to observe baseline drift. Each control standard must be 1±.055 μg SO_2/ml. If the limit for the control standard is exceeded, recalibration or another corrective action must be completed and the last 10 samples reanalyzed. See equivalent methods, sections 7.2 and 8.2 for details on calibration and quality control sample requirements, respectively.

(d) Recalculation of sample concentration. See section 1.2.2 (d).

1.2.4 NO_2 Equivalent methods, EQN-1277-026, EQN-1277-027 and EQN-1277-028 (manual sampling and manual or automated analysis). Three methods have been designated as equivalent to the NO_2 reference method. The equivalent methods are EQN-1277-026 (sodium arsenite absorbing reagent and manual spectrophotometric analysis), EQN-1277-027 (sodium arsenite absorbing reagent and Technicon II automated analysis), and EQN-1277-028 (TGS-ANSA). Descriptions of these equivalent methods can be obtained by writing to Department E, at the address given in section 1.2.3.

(a) Sampling flow rate check. Requirements are the same as 1.2.2 (b).

(b) Blank and standard solution analysis. The analytical instrument used in equivalent method EQN-1277-026 must be calibrated each day samples are analyzed and a calibration curve prepared. A reagent blank and a 1.0 μg NO_2/ml control standard must be analyzed after every 10th sample. The reagent blank is used to observe baseline drift. Each control standard must be ±.10 μg NO_2/ml. If the limit for the control standard is exceeded, recalibration or another corrective action must be completed and the last 10 samples reanalyzed.

The analytical instrument used in equivalent method EQN-1277-027 must be calibrated each day samples are analyzed and a calibration curve prepared. A reagent blank and a 0.4 μg NO_2/ml control standard must be analyzed after every 10th sample. The reagent blank is used to observe baseline drift. Each control standard must be 0.4±.05 μg NO_2/ml. If the limit for the control standard is exceeded, recalibration or another corrective action must be completed and the last 10 samples reanalyzed.

The analytical instrument used in equivalent method EQN-1277-028 must be calibrated each day samples are analyzed and a calibration curve prepared. A reagent blank and a 1.0 μg NO_2/ml control standard must be analyzed after every 10th sample. The reagent blank is used to observe baseline drift. The reagent blank should be 0.01±0.02 absorbance units. The control standard must be 1±.10 μg NO_2/ml. If the limit for the control standard is exceeded, recalibration or another corrective action must be completed and the last 10 samples reanalyzed.

(c) recalculation of sample concentration. A sample of randomly selected calculated NO_2 values (in μg/m³) is recalculated. If the original and repeat calculations do not agree, all calculations for the lot must be checked and corrected as necessary. Part 8.1.3 of section 2.1.8 of reference 2 can be used for guidance.

2. ASSESSMENT OF AGENCY PRECISION AND ACCURACY

2.1 Automated methods.

2.1.1 Precision. Periodic span checks are used to assess data from automated methods for precision. A one-point span check must be carried out at least once each week on each automated analyzer used to measure SO_2, NO_2, O_3 and CO. The concentration of the span gas used is the generated concentration (X) called for in item (a) of section 4.1.1 and the analyzer response is the measured response (Y) called for in item (a) of section 4.1.1. All automated analyzers designated by EPA as reference or equivalent methods and operated for SLAMS purposes must have this weekly span check. Only span check data from these continuous analyzers may be used to calculate agency precision.

2.1.2 Accuracy. Periodic independent audits are used to assess data from automated methods for accuracy. Independence is achieved by using audit standards and equipment different from those routinely used during method calibration. It is preferred that the audits be made by an operator/analyst who is different from the one conducting the routine analysis. If, however, circumstances dictate that the routine operator/analyst also be the auditor, the individual conducting the audit must not be provided beforehand with the value of the standard used in auditing.

All designated reference and equivalent automated analyzers that measure SO_2, NO_2, O_3 and CO are audited in the same way, that is, each analyzer is periodically challenged with a known concentration of pollutant gas at five levels. The differences in concentrations between audit values and measured analyzer values are used to assess the accuracy of the monitoring data as described in section 4.1.2.

For automated analzyers, once per calendar quarter, audit 25 percent of the reference or equivalent analyzers so that each of these analyzers will be audited at least once per year. If an agency operates less than four reference or equivalent analyzers, randomly select analyzers for reauditing so that one analyzer will be audited each calendar quarter and each analyzer will be audited at least once per year. A five-point audit must be carried out on each analyzer audited at the following concentrations: (1) For SO_2, NO_2 and O_3 analyzers, 0.05±0.01 ppm, 0.10±0.01 ppm, 0.20±0.01 ppm, 0.30±0.01 ppm, and 0.45±0.01 ppm; and (2) for CO analyzers 5±1 ppm, 10±1 ppm, 20±1 ppm, 30±1 ppm, and 45±1 ppm.

For each pollutant monitored, it is necessary to develop a means to provide the audit pollutant gas at five levels. The audit pollutant gases can be prepared in a manner similar to the preparation of the usual calibration gases. It is required, however, that the concentrations of pollutant gases in the audit gases be determined independently and that the standards used to calibrate the analyzers being audited not be used in the analysis of the audit gases. All audit gas standards must be traceable to National Bureau of Standards, Standard Reference Materials (SRM) as described in section 1.1.1 for calibration standards.

2.2 Integrated sampling methods.

2.2.1 Precision. Collocated samplers are used to assess data from manual sampling methods for precision. For a given agency's monitoring network, two sampling sites must have collocated samplers. Sites with the highest geometric mean concentration from the previous calendar year must be selected. The two samplers must be located at the same elevation and should be approximately 3 meters apart to preclude airflow interference. High-volume samplers should have the same roof orientation. For each pair of collocated samplers, one sampler must be randomly designated beforehand as the official sampler for normal routine monitoring purposes and the other must be designated as the duplicate sampler. Once designated, the identity of each sampler must be maintained. Calibration, sampling and analysis must be the same for both collocated samplers. The collocated samplers must be used each day the agency's monitoring network is operated. The differences in concentration (μg/m³) between the official and duplicate samplers are used to calculate precision as described in section 4.2.1.

2.2.2 Accuracy. The assessment of accuracy of manual sampling methods is made by auditing a portion of the measurement process. The portion of the TSP method audited is the flow rate during sample collection. For the SO_2 and NO_2 methods, the portion audited is the analytical measurement.

(a) TSP method. Once per calendar quarter, audit the flow rate of 25 percent of the high-volume samplers such that each of these samplers will be audited at least once per year. If an agency operates less than four high-volume samplers, randomly select samplers for reauditing so that one sampler will be audited each calendar quarter and each sampler will be audited at least once per year.

The flow rate audit is conducted using a reference flow device described in part 8.1.2 of section 2.2.8 of reference 2. The reference flow device is an orifice having five different calibrated resistance plates that are mounted onto the faceplate of the high-volume sampler. It is required that the resistance plates be calibrated using flow standards different from those used to calibrate the flow of the high-volume samplers being audited. In conducting the audit, one of the resistance plates is selected and the audit flow rate is measured. This procedure is repeated, using different resistance plates, until the flow rate at five different levels is obtained. The differences in flow rates (m³/min) between the calibrated resistance plate values and the measured sampler values are used to calculate accuracy as described in Item (a) of section 4.2.2.

(b) SO_2 methods. At least two audit samples must be analyzed each day that samples are analyzed with at least six audit samples analyzed per calendar quarter. Each audit is conducted using sulfite-TCM solutions with one audit sample at approximately 0.20 μg SO_2/ml and the second audit sample at approximately 0.80 μg SO_2/ml. The audit solutions are prepared from a

working sulfite-TCM solution as described in section 6.2.9. of the SO_2 reference method (reference 3). These audit samples must be prepared independently from the standardized sulfite solution used in the routine analysis procedure. New sulfite-TCM audit samples must be prepared every 30 days and must be stored between 0 and 5°C. The differences in concentrations (μg SO_2/ml) between the audit values and the analyst's measured values are used to calculate accuracy as described in item (c) of section 4.2.2.

(c) NO_2 methods. The specific requirements for auditing the analytical portion of the equivalent NO_2 methods follow. A minimum of two audit samples must be analyzed each day that samples are analyzed with at least six audit samples analyzed per calendar quarter.

Each audit is conducted using aqueous sodium nitrite solutions with one audit sample at approximately 0.20 μg NO_2/ml and the second audit sample at approximately 0.89 μg NO_2/ml. The audit solutions are prepared from a working sodium nitrite solution as described in the equivalent method. These audit samples must be prepared independently from the standardized nitrite solution used in the routine analysis procedure. New aqueous sodium arsenite audit samples must be prepared every 3 months. The differences in concentrations (μg NO_2/ml) between the audit values and the analyst's measured values are used to calculate accuracy as described in Item (c) of section 4.2.2.

3. PARTICIPATION IN EPA'S NATIONAL QUALITY ASSURANCE PROGRAM

Verification of agency estimates of monitoring data quality comes from a program of onsite surveys (commonly called system audits) and through external audits to measure the performance of the agency monitoring system (commonly called performance audits). In addition, it is the purpose of performance audits and system audits to identify agencies which have a problem so that appropriate corrective action ay be taken. Agencies must participate in the following EPA performance audits and system audits.

3.1 Performance audits. The Environmental Monitoring and Support Laboratory (EMSL/RTP) of EPA located at Research Triangle Park, N.C., conduct periodic blind sample performance audits for various pollutants. The purposes of these audits are: (1) To provide verification of the accuracy estimates of monitoring data generated by Each agency and reported to EPA; and (2) to provide each particpant with a measure of his performance. For criteria pollutants, performance audits are currently conducted: (1) Semi-annually for the analytical portions of sulfur dioxide and nitrogen dioxide integrated sampling methods using reference solutions; (2) semi-annually for sampling and analysis of carbon monoxide continuous methods using reference gases; and (3) annually for the flow rate of high-volume samplers using a reference flow device.

Instructions for participating in the performance audits can be obtained from the appropriate EPA Regional Quality Control Coordinator, or from the Quality Assurance Branch, EMSL/RTP at the address given in section 1.1.1.

3.2. System audits. Annually, EPA will conduct a system audit of the ambient air monitoring program of all agencies operating a SLAMS network within its region. This system audit, as defined in reference 1, is a systematic onsite qualitative review of the adequacy of the facilities, equipment, training, recordkeeping, validation, reporting, sampling, analysis and quality control procedures of the air pollution monitoring program. The purposes of the system audits are: (1) To provide verification that the capability exists for submitting quality monitoring data, and (2) to identify agency problems that may affect the gathering and reporting of quality monitoring data to EPA.

During the system audit, the required agency quality control activities described in sections 1 and 2 must be reviewed. In addition, many other agency activities should be reviewed. As an aid in the selection and review of other agency activities that may affect the gathering and reporting of quality monitoring data, the following document should be used: Criteria and procedures for the evaluation of ambient air monitoring programs, laboratory and field. A copy of this document may be obtained by writing to: Quality Assurance Branch, EMSL/RTP at the address given in section 1.1.1.

4. CALCULATION REQUIREMENTS

This section describes the calculations required to estimate agency precision and accuracy for automated methods and manual sampling methods. The estimates of precision and accuracy obtained will be optimistic. For example, span drift alone is used to estimate the precision of monitoring data from automated methods, yet other sources of imprecision exist. Also, the accuracy of monitoring data from manual sampling methods is estimated from audits of only portions of the total measurement process, e.g., flow measurement for TSP and analytical measurements for SO_2 and NO_2.

4.1 Automated methods.

4.1.1 Precision. Estimates of an agency's precision of ambient air quality measurements from automated methods are calculated from the results of weekly span checks as described in section 1.1.2. Each agency shall at the end of each calendar quarter, calculate and report a combined precision probability interval for all reference or equivalent analyzers for each pollutant. Directions for calculations are given below and directions for reporting are given in section 5. Do not include results from nonreference or nonequivalent analyzers in the calculation of precision estimates reported to EPA. If monitoring data is invalidated because span drifts exceeded the limits specified in section 1.1.2, do not include these span drift results in the calculations of estimates of precision given below:

(a) Single instrument precision. Let X_i represent the known concentration of the span gas and Y_i represent the measured concentration from the weekly span check. Calculate the percentage difference (d_i) for each span check using equation 1.

$$d_i = \frac{Y_i - X_i}{X_i} \times 100 \qquad (1)$$

For each instrument, calculate the quarterly average (d_j), equation 2, and the standard deviation (S_j), equation 3.

$$\bar{d}_j = \sum_{i=1}^{n} d_i/n \qquad (2)$$

$$S_j = \left[\frac{\sum_{i=1}^{n} d_i^2 - \left(\sum_{i=1}^{n} d_i\right)^2/n}{n-1}\right]^{1/2} \qquad (3)$$

where n is the number of span checks of the instrument made during the calendar quarter. For example, n is 13 if span checks are made once during each of the 13 weeks in a quarter.

Calculate the 95 percent probability limits for precision using equations 4 and 5.

Upper 95 percent probability limit $= \bar{d}_j + 1.96\, S_j$ (4)

Lower 95 percent probability limit $= \bar{d}_j - 1.96\, S_j$ (5)

As an example, consider the following set of data from a CO analyzer:

Week	Measured concentration Y_i parts per million	Known concentration Y_i parts per million	d_i percent
1	9.1	8.9	+2
2	8.5	8.9	−4
3	8.5	8.9	−4
4	8.6	8.9	−3
5	9.0	8.9	+1
6	8.9	8.9	0
7	9.0	8.9	+1
8	9.0	8.9	+1
9	9.0	8.9	+1
10	9.0	8.9	+1
11	8.7	8.9	−2
12	9.2	8.9	+3
13	9.4	8.9	+6
			Σ = +3

Applying equations 2 and 3,

$$\bar{d}_j = \frac{+3}{13} = +0.2\%$$

$$S_j = \left[\frac{99-(3)^2/13}{12}\right]^{1/2} = 2.9\%$$

Applying equations 3 and 4,
Upper limit $= 0.2 + 1.96(2.9) = 5.9$ or $+6\%$
Lower limit $- 0.2 - 1.96(2.9) = -5.5$ or -6%

(b) Agency precision. Calculate the average of averages (D) and pooled standard deviation (S_a) using equations 6 and 7,

$$\bar{D} = \sum_{j=1}^{k} \bar{d}_j/k \qquad (6)$$

$$S_a = \left[\sum_{j=1}^{k} S_j^2/k\right]^{1/2} \qquad (7)$$

where k is the number of instruments within an agency for a single pollutant.

Equations 6 and 7 assume that the same number of span checks are made for each instrument. If this is not true, use equations 6a and 7a to obtain a weighted average and a weighted standard deviation.

$$\bar{D} = \frac{n_1\bar{d}_1 + n_2\bar{d}_2 + \dots + n_j\bar{d}_j + \dots + n_k\bar{d}_k}{n_1 + n_2 + \dots + n_j + \dots + n_k} \quad (6a)$$

$$S_a = \left[\frac{(n_1-1)S_1^2 + (n_2-1)S_2^2 + \dots + (n_j-1)S_j^2 + \dots + (n_k-1)S_k^2}{n_1 + n_2 + \dots + n_j + \dots n_k - k}\right]^{1/2} \quad (7a)$$

Calculate the 95-percent probability limits for agency precision using equations 8 and 9 and record these limits on form 1 (figure 5.1) under columns 31-36.

NOTE.—If only one analyzer is checked for a pollutant in a quarter, the results of equations 4 and 5 are reported as the agency precision values.

Upper 95 percent agency probability limit=$D+1.96\ S_a$ (8)
Lower 95 percent agency probability limit=$D-1.96\ S_a$ (9)

As an example, consider the following summaries of span drift data from five CO analyzers:

	Number of span checks	$\bar{d}_j$	S_j
Analyzer:			
1	13	+0.2	2.9
2	13	+.8	2.5
3	13	−.7	3.7
4	13	−2.0	5.1
5	13	−.1	1.6

Applying equations 6 and 7,

$\bar{D}=[0.2+0.8-0.7-2.0-0.1]/5=-1.8/5=-0.36$

$S_a^2=[(2.9)^2+(2.5)^2+(3.7)^2+(5.1)^2+(1.6)^2]/5=56.92/5=11.38$

$S_a=3.37$

Applying equations 8 and 9,

Upper limit=$-0.36+1.96\ (3.37)=6.25$ or 6 percent
Lower limit=$-0.36-1.96\ (3.37)=-6.97$ or −7 percent

On form 1, −07 would be reported in columns 31-33 and +06 in columns 34-36.

The following example illustrates the case of an unequal number of span checks (n_j) per instrument.

	n_j	$\bar{d}_j$	S_j
Analyzer:			
1	13	−1.7	5.4
2	10	+.8	2.5
3	9	−.7	3.7
4	13	−2.0	5.1
5	12	−.1	1.6
	Σ=47		

Applying equations 6a and 7a,

$\bar{D}=[13(-1.7)+10(0.8)+9(-0.7)+13(-2.0)+12(-0.1)]/57=-0.84$

$S_a^2=[(12)(5.4)^2+9(2.5)^2+8(3.7)^2+12(5.1)^2+11(1.6)^2]/(57-5)=855.97/52=16.46$

$S_a=4.06$

Applying equations 8 and 9,

Upper Limit=$-0.84+1.96(4.06)=7.12$ or 7 percent
Lower Limit=$-0.84+1.96(4.06)=-9.80$ or −9 percent

On Form 1, −09 would be reported in columns 31-33 and +07 in columns 34-36.

4.1.2 Accuracy. Estimates of an agency's accuracy of ambient air quality measurements from automated methods are calculated from the results of independent audits as described in section 2.1.2. Each agency shall, at the end of each calendar quarter, calculate and report a combined accuracy probability interval for all reference or equavalent analyzers for each pollutant. Directions for calculation are given below and directions for reporting are given in section 5. Do not include results from nonequivalent or nonreference analyzers in the calculation of accuracy estimates reported to EPA.

(a) Single instrument accuracy. Let X_i represent the known concentration of pollutant in the audit gas for the ith audit point and Y_i represent the corresponding measured value of the ith audit point. Calculate the percentage difference (d_i) for each audit point using equation 1. For each quarterly audit, calculate the average percentage difference ($\bar{d}_j$) and the standard deviation (S_j) using equations 2 and 3, respectively. Calculate the 95 percent probability limits for accuracy using equations 4 and 5.

(b) Agency accuracy. Using equation 6, calculate the average (D) of the average percent differences for all instruments audited. Using equation 3, compute the agency standard deviation (S_a) of all the individual percent differences for each audit point for all instruments. Note that the S_j of equation 3 becomes S_a because all of the individual percentage differences now include between-instrument variability as well as within-instrument variability.

As an example, consider the following data from the audits of two NO_2 analyzers.

	Y_i	X_i	Y_i-X_i	d_i
Analyzer:				
1	.053	.051	.002	3.9
	.107	.102	.005	4.9
	.212	.204	.008	3.9
	.321	.307	.014	4.6
	.480	.460	.020	4.3
				Σ=21.6
2	.049	.051	−.002	−3.9
	.097	.102	−.005	−4.9
	.194	.203	−.009	−4.4
	.291	.304	−.013	−4.3
	.437	.461	−.024	−5.2
				Σ=−22.7

Applying equation 2,

$\bar{d}_1=21.6/5=4.3$ percent

$\bar{d}_2=-22.7/5=-4.5$ percent

Applying equations 6 and 3,

$$D = [4.3 + (-4.5)]/2 = -.10\%$$

$$S_a = \left[\frac{3.9^2 + \dots + (-5.2)^2 - \frac{[3.9 + \dots + (-5.2)]^2}{10}}{9}\right]^{1/2}$$

$$= \left[\frac{193.19 - \frac{(-1.1)^2}{10}}{9}\right]^{1/2} = 4.7\%$$

Calculate the 95 percent probability limits for agency accuracy using equations 8 and 9.

Upper 95 percent probability limits=$-.10+1.96(4.7)=9.11$ or 9 percent
Lower 95 percent probability limits=$-.10-1.96(4.7)=-9.31$ or −9 percent

On Form 1, −09 would be reported in columns 42-44 and +09 in columns 45-47.

NOTE.—If only one instrument is audited during the quarter, the results from equations 4 and 5 are reported as the agency accuracy values.

4.2 Manual sampling methods.

4.2.1 Precision. Estimates of an agency's precision of ambient air quality measurements from manual sampling methods are calculated from the results obtained from collocation of two samplers as described in section 2.2.1. Each agency shall, at the end of each calendar quarter, calculate and report a combined precision probability interval for all reference or equivalent collocated samplers for each pollutant. Directions for calculation are given below and directions for reporting are given in section 5.

(a) Single instrument precision. From the paired measurements described in section 2.2.1, let Y_i represent the concentration of pollutant measured by the duplicate integrated sampler and X_i represent the calculation of pollutant measured by the designated official sampler during the ith sampling period. Calculate the percentage difference (d_i) using equation 1. Calculate the average percentage difference (d_j) and standard deviation (S_j) using equations 2 and 3, respectively.

Calculate the 95 percent probability limits for precision using equations 10 and 11.

Upper 95 percent probability limits=$d_j+1.96\ S_j/\sqrt{2}$ (10)
Lower 95 percent probability limits=$\bar{d}_j-1.96\ S_j/\sqrt{2}$ (11)

As an example, consider the following TSP data, in $\mu g/m^3$, obtained using collocated high-volume samplers.

Sampling period	Y_i	X_i	Y_i-X_i	d_i
1	83.0	81.9	1.10	1
2	119.9	113.6	6.30	6
3		137.8		
4	128.4	122.7	5.70	5
5	118.5	116.4	2.10	2
6	161.6	158.9	2.70	2
7	127.9	129.0	−1.10	−1
8	137.5	134.2	3.30	2
9	118.0	113.4	4.60	4
				Σ=21

Applying equations 2 and 3,

$d_j=21/8=2.6$ percent

$$S_j = \left[\frac{91-(21)^2/8}{7}\right]^{1/2} = 2.3\%$$

The resulting upper 95 percent probability limit, equation 10 is:

$\bar{d}_j + 1.96\ S_j/\sqrt{2} = 2.6 + 1.96(2.3)/\sqrt{2} = 2.6 + 3.2 = 5.8$ percent.

The resulting lower 95 percent probability limit, equation 11 is:

$\overline{d_j} - 1.96\ S_j/\sqrt{2} = 2.6 - 1.96(2.3)/\sqrt{2} = 2.6 - 3.2 = -0.6$ percent.

Under some circumstances agreement between the results of collocated samplers, expressed as 95 percent probability limits, may be poor. For this reason a separate count is made of the occurrence of pollutant levels below specified levels. Count the number of samples from the collocated sites wth results from the designated sampler that are below the following limits:

TSP—less than 20 $\mu g/m^3$
SO_2—less than 40 $\mu g/m^3$
NO_2—less than 30 $\mu g/m^3$

Report the counts on columns 29-32 of form 1.

(b) Agency precision. Although only two pairs of collocated samplers are required to estimate agency precision, additional collocated sampling is encouraged. Results from all sampling sites should be reported. Calculate the average percentage difference ($\overline{D}$) and pooled standard deviation (S_a) using equations 6 and 7, respectively.

Calculate the 95 percent probability limits for agency precision using equations 12 and 13.

Upper 95 percent probability limit$=\overline{D}+1.96\ S_a/\sqrt{2}$ (12)

Lower 95 percent probability limit$=\overline{D}-1.96\ S_a/\sqrt{2}$ (13)

As an example, assume the following information is available from two pairs of collocated TSP samplers.

$\overline{d_1}=2.6$ $\overline{d_2}=5.8$
$S_1=2.3$ $S_2=3.7$
$\overline{D}=(2.6+5.8)/2=4.22$

$$S_a = \left[\frac{(2.3)^2 + (3.7)^2}{2}\right]^{\frac{1}{2}} = 3.08$$

Applying equations 12 and 13,

Upper 95 percent probability limit$=4.22+1.96(3.08)/\sqrt{2}=8.49$ or 8 percent

Lower 95 percent probability limit$=4.22-1.96(3.08)/\sqrt{2}=-0.05$ or 0 percent

On form 1, 00 would be reported in columns 33-35 and +08 in columns 36-38.

4.2.2 Accuracy. (a) Single instrument accuracy (TSP). For each of the flow rate audits described in section 2.2.2(a), let X_i represent the known flow rates for each resistance plate and Y_i represent the measured flow rates. Calculate the percentage difference (d_i) for each flow rate using equation 1. For each audit, calculate the average percent difference ($\overline{d_j}$) and the standard deviation (S_j) using equations 2 and 3, respectively. Calculate the 95 percent probability limits for accuracy using equations 4 and 5.

(b) Agency accuracy (TSP). Calculate the average ($\overline{D}$) of the average percent differences for all high-volume instruments audited using equation 6. Compute the standard deviation (S_a) of all the individual percentage differences for each audit point for all of the instruments audited using equation 3. Note that S_j of equation 3 becomes S_a because all of the individual percentage differences now include between-instrument variability as well as within-instrument variability.

Calculate the 95 percent probability limits for agency accuracy using equations 8 and 9 and record these limits on form 1 under columns 44-49.

NOTE.—If only one instrument is audited during the quarter, the results from equations 4 and 5 are reported as the agency accuracy values.

(c) Single analysis day accuracy (SO_2 and NO_2). For each of the audits of the analysis for SO_2 or NO_2 described in section 2.2.2. (b) and (c), let X_i represent the known value of the audit sample and Y_i the measured value of SO_2 or NO_2.

Calculate the percentage difference (d_i) for each audit using equation 1. Calculate the average percent difference ($\overline{d_j}$) for each analysis day using equation 2.

(d) Agency accuracy (SO_2 and NO_2). Calculate the average ($\overline{D}$) of the average percent differences for all analysis days during a quarter using equation 6. Compute the standard deviation (S_a) of the individual percentage differences using equation 3. Note that S_j of equation 3 becomes S_a because all of the individual percentage differences now include between-instrument variability as well as within-instrument variability.

Calculate the 95 percent probability limits for agency accuracy using equations 8 and 9 and record these limits on form 1 under column 44-49.

5. REPORTING REQUIREMENTS

This section discusses the flow of quality assessment reports from the state and local agencies to EPA. Estimates of precision and accuracy must be submitted to EPA from each of the agencies for each of the criteria pollutants. These estimates of data quality, together with participation in EPA's national quality assurance program constitute an agency's data quality assessment program. The data assessment report (form 1, figure 5.1) must be submitted to the EPA regional office (RO) along with the monitoring data from SLAMS.

The data assessment report is designed to record conveniently each agency's summarized estimates of precision and accuracy. The form ties the data to the agency's SAROAD number (State and area digits), number of monitors and 95 percent probability limits for both precision and accuracy determination. If the estimates of data quality exceed the amount of space provided, fill the available space with 9's.

Estimates of data quality will not be reported simultaneously with standard SAROAD retrievals. Whenever the reported results disagree significantly with EMSL/RTP's audit, a notion will appear in the annual data assessment reports prepared by EMSL/RTP. In addition, individual results will be sent each agency following an audit for more timely utilization of the information.

5.1 Data reporting. The following information describes how to fill out form 1. Numbers refer to the numbers on the form.

NUMBER AND DESCRIPTION

1-2 *Agency:* These blocks identify the agency conducting the monitoring. The name of the agency should be written out below the codes.

3-4 *Year:* Last two digits of the calendar year.

5 *Quarter:* 1, 2, 3, or 4—referring to the calendar quarter the monitoring data and quality assessments were made.

6-11 *SAROAD No.:* The first six digits of the SAROAD State and area code. If more than one area is represented by the agency reporting the results (e.g., if the State does all of the reporting), fill in the blocks with 9's.

12-17 *Laboratory code ID:* These codes have been assigned to each laboratory participating in the EMSL/RTP audit program. If a code has not been assigned, call the regional quality control coordinator in your region.

CONTINUOUS ANALYZERS

18-23 *Pollutant identifiers:* Precoded.

24-26 *Number of analyzers:* Count only the number of analyzers that report monitoring data for each pollutant.

27-30 *Number of spans:* Count the total number of spans included in the calculations reported.

31-33 *Lower 95 percent limit, precision:* Block 31 is either "+" or "−". Blocks 32-33 contain the percentage (round off to a whole number) obtained from equation 9.

34-36 *Upper 95 percent limit, precision:* Block 34 is either "+" or "−". Blocks 35-36 contain the percentage obtained from equation 8.

NOTE.—If precision limits exceed two digits, e.g., 103 percent, report as *99.*

37-38 *Source of audit gas:* For accuracy determination, refer to code table, note 3, on the form.

39-41 *Number of audits:* Report the total number of multipoint audits performed on the analyzers reported in blocks 24-26.

42-44 *Lower 95 percent limit, accuracy:* Block 42 is either "+" or "−". Blocks 43-44 contain the percentages obtained from equation 9.

45-47 *Upper 95 percent limit, accuracy:* Block 45 is either "+" or "−". Blocks 46-47 contain the percentage obtained from equation 8.

NOTE.—If accuracy limits exceed two digits, e.g., 103 percent, report as *99.* Report as required for all pollutants (CO, NO_2, O_3, and SO_2) as determined by continuous analyzers. A blank line, E, is provided for future expansion to additional pollutants.

INTEGRATED SAMPLERS

18-23 *Pollutant identifiers:* Precoded.

24-26 *Number of samplers:* Count only the number of samplers for each pollutant that reports monitoring data as part of a routine monitoring program.

27-28 *Number of collocated sites:* Sites with collocated samplers. The minimum number is 2.

29-32 *Number of collocated samples below the limit:* Count the number of samples from the collocated sites with results from the designated sampler that are below the following limits:

TSP—less than 20 μg TSP/m^3
SO_2—less than 40 μg SO_2/m^3
NO_2—less than 30 μg NO_2/m^3

33-35 *Lower 95 percent limit, precision:* Block 33 is either "+" or "−". Blocks 34-35 contain the percentage obtained from equation 9.

36-38 *Upper 95 percent limit, precision:* Block 36 is either "+" or "−". Blocks 37-

38 contain the percentage obtained from equation 8.

NOTE.—If precision limits exceed two digits, e.g., 103 percent, report as *99*.

39-40 *Type of accuracy check:* Code from note 4 on the form.

41-43 *Number of audits:* Count the total number of audits performed on the entire network for the pollutant. A single audit may consist of several audit level checks, but count only once for each audit. For example, an audit conducted at a site for TSP flow at five flow plate settings, the number of count is 1, not 5. Similarly, for SO_2 and NO_2, six audit samples checked on three different analysis days, the number to report is 3, not 6.

44-46 *Lower 95 percent limit, accuracy:* Block 44 is either "+" or "−". Blocks 45-46 contain the percentage obtained from equation 9.

47-49 *Upper 95 percent limit, accuracy:* Block 47 is either "+" or "−". Blocks 48-49 contain the percentage obtained from equation 8.

NOTE.—If accuracy limits exceed two digits, e.g., 103 percent, report as *99*.

Report, as required, all pollutants (TSP, SO_2, and NO_2) as determined by manual sampling methods samplers. A blank line, D, is provided for future expansion to additional pollutants.

DATA ASSESSMENT REPORT

SEND COMPLETED FORM TO REGIONAL OFFICE WITH QUARTERLY SAROAD DATA

AGENCY[1] (1 2) YEAR (3 4) QUARTER (5)

SAROAD NUMBER STATE (6 7) AREA (8 9 10 11)

LAB CODE ID (12 13 14 15 16 17)

NAME:

AUTOMATED ANALYZERS		NO. OF ANALYZERS[2]	PRECISION: NO. OF SPAN	PRECISION: 95% LIMIT LOWER	PRECISION: 95% LIMIT UPPER	ACCURACY: SOURCE OF AUDIT GAS[3]	ACCURACY: NO OF AUDITS	ACCURACY: 95% LIMIT LOWER	ACCURACY: 95% LIMIT UPPER
A. CO	C 4 2 1 0 1 (18-23)	(24-26)	(27-30)	+/- (31-36)	+/-	(37-38)	(39-41)	+/- (42-47)	+
B. NO_2	C 4 2 6 0 2 (18-23)	(24-26)	(27-30)	+/- (31-36)	+/-	(37-38)	(39-41)	+/- (42-47)	+
C. O_3	C 4 4 2 0 1 (18-23)	(24-26)	(27-30)	+/- (31-36)	+/-	(37-38)	(39-41)	+/- (42-47)	+
D. SO_2	C 4 2 4 0 1 (18-23)	(24-26)	(27-30)	+/- (31-36)	+/-	(37-38)	(39-41)	+/- (42-47)	+
E. ___	C (18-23)	(24-26)	(27-30)	+/- (31-36)	+/-	(37-38)	(39-41)	+/- (42-47)	+

MANUAL METHODS		NO. OF SAMPLERS[2]	PRECISION: NO. OF COLLOCATED SITES	PRECISION: NO. OF COLLOCATED SAMPLES <LIMIT	PRECISION: 95% LIMIT LOWER	PRECISION: 95% LIMIT UPPER	ACCURACY: TYPE CHECK[4]	ACCURACY: NO. OF AUDITS	ACCURACY: 95% LIMIT LOWER	ACCURACY: 95% LIMIT UPPER
A. TSP	I 1 1 1 0 1 (18-23)	(24-26)	(27-28)	(29-32)	+/- (33-38)	+/-	(39-40)	(41-43)	+/- (44-49)	+
B. SO_2	I 4 2 4 0 1 (18-23)	(24-26)	(27-28)	(29-32)	+/- (33-38)	+/-	(39-40)	(41-43)	+/- (44-49)	+
C. NO_2	I 4 2 6 0 2 (18-23)	(24-26)	(27-28)	(29-32)	+/- (33-38)	+/-	(39-40)	(41-43)	+/- (44-49)	+
D. ___	I (18-23)	(24-26)	(27-28)	(29-32)	+/- (33-38)	+/-	(39-40)	(41-43)	+/- (44-49)	+

[1] CODE USING THE FOLLOWING
01 - 10 REGIONAL MONITORING PROGRAM
11 STATE AGENCY
12 COUNTY
13 CITY
14 DISTRICT
15 OTHER

[2] COUNT ONLY REFERENCE OR EQUIVALENT MONITORING SYSTEMS

[3] CODE USING THE FOLLOWING.
A. NBS SUPPLIED SRM
B. EMSL REFERENCE GAS
C OTHER (IDENTIFY VENDOR) CO _____
D OTHER (IDENTIFY VENDOR) NO_2 _____
E. OTHER (IDENTIFY VENDOR) O_3 _____
F. OTHER (IDENTIFY VENDOR) SO_2 _____

[4] CODE USING THE FOLLOWING
A. EMSL REFERENCE FLOW DEVICE
B. EMSL REFERENCE MATERIAL
C. OTHER (SPECIFY) TSP _____
D. OTHER (SPECIFY) SO_2 _____
E. OTHER (SPECIFY) NO_2 _____

FIGURE 5.1 FORM 1

6. REFERENCES

1. Quality Assurance Handbook for Air Pollution Measurement Systems—Volume I, Principles. EPA-600/9-76-500, March 1976. U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory (MD-77), Research Triangle Park, N.C. 27711.

2. Quality Assurance Handbook for Air Pollution Measurement Systems—Volume II, Ambient Air Specific Methods. EPA-600/4-77-027a, May 1977. U.S. Environmental Protection Agency, Environmental Monitoring and Support Laboratory (MD-77), Research Triangle Park, N.C. 27711.

3. 40 CFR Part 50, Appendix A, Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).

APPENDIX B—QUALITY ASSURANCE REQUIREMENTS FOR PREVENTION OF SIGNIFICANT DETERIORATION (PSD) AIR MONITORING

1. Introduction.
2. Organization quality control requirements.
2.1 Activities to demonstrate within control conditions for continuous methods.
2.1.1 Reference or equivalent method requirements.
2.1.2 Calibration requirements.
2.1.3 Span check requirements.
2.2 Activities to demonstrate within control conditions for integrated sampling methods.
2.2.1 Total suspended particulate (TSP) reference method (high-volume sampler).
2.3 General description of activities to assess monitoring data precision and accuracy.
2.4 Activities to assess monitoring data precision and accuracy for continuous methods.
2.4.1 Assessment of data for precision.
2.4.2 Assessment of data for accuracy.
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2.5.2 Assessment of data for accuracy.
3. Organization calculation and reporting requirements for precision and accuracy.
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3.2 Calculations for integrated sampling methods.
3.2.1 Single instrument precision for TSP.
3.2.2 Single instrument accuracy for TSP.
3.3 Organization reporting requirements.
3.3.1 Data assessment report for PSD air quality data.
4. References.

1. INTRODUCTION

The activities described here are the minimum quality assurance requirements for an organization operating a PSD network to produce monitoring data acceptable to the Environmental Protection Agency (EPA). Although not a requirement, use of quality control charts to record the results of quality control checks as described in section 2.1 and to aid in attaining in-control conditions is strongly encouraged. This recommendation is made because the control limits given for the activities of section 2.1 are liberal and the development of more restrictive control limits by each organization is encouraged. Quality control charts provide a convenient and reliable means to determine when more restrictive control limits can be reasonably imposed. The construction and use of quality control charts is discussed in detail in appendix H of reference 1.

Frequent use is made of the term "organization." For purposes here, "organization" is defined as a source owner/operator, a government agency, or their contractor which operates an ambient air pollution monitoring network for PSD purposes.

2. ORGANIZATION QUALITY CONTROL REQUIREMENTS

Each organization responsible for operating a PSD network must have a quality control program which includes the following two items: (1) Activities to demonstrate that measurements are made within acceptable control conditions; and (2) assessment of organization's monitoring data for precision and accuracy.

2.1 Activities to demonstrate within control conditions for continuous methods.

2.1.1 Reference or equivalent method requirements. All continuous analyzers must be EPA designated reference or equivalent methods. A list of reference and equivalent methods can be obtained by writing to: Department E, Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency (MD-76), Research Triangle Park, N.C. 27711.

2.1.2 Calibration requirements. Continuous analyzers must be calibrated during installation and recalibrated whenever any one of the following conditions occur: (a) Control limit is exceeded for the span check described in Section 2.1.3; (b) after repair of a malfunctioning analyzer; and (c) after replacement of major component(s) of an analyzer. A minimum of five calibration points equally spaced over the analyzer range, plus zero must be used to generate a calibration curve. All gaseous calibration standards must be traceable to National Bureau of Standards' gaseous Standard Reference Materials (SRM). One acceptable protocol to demonstrate traceability of calibration standards to SRM can be obtained by writing to: Quality Assurance Branch, Environmental Monitoring and Support Laboratory, U.S. Environmental Protection Agency (MD-77), Research Triangle Park, N.C. 27711.

2.1.3 Span check requirements. For continuous analyzers, a periodic span check is used as the activity to demonstrate within control conditions and is also used to assess the data for precision. A one-point span check must be carried out at least once per week on each analyzer. The one-point span check must be carried out at the following analyzer concentrations: (a) For SO_2, NO_2 and O_3 analyzers, between 0.03 and 0.10 ppm; and (b) for CO analyzers, between 8 and 10 ppm. In each case, determine the difference between the known span concentration and the measured concentration from the existing calibration curve. The acceptable limits for these differences are as follows: (a) for SO_2, NO_2 and O_3 analyzers the limit is ±0.025 ppm; and (b) for CO analyzers the limit is ±2.0 ppm.

The analyzer must be removed from ambient monitoring, checks made to determine the cause and corrective action taken before return of the analyzer to ambient monitoring any time the control limit is exceeded. After return of the analyzer to ambient monitoring, the recalibration of the analyzer with a minimum of five calibration points equally spaced over the analyzer range plus zero is required.

The weekly span check data also generates information to assess the precision of the monitoring data; see section 3.1.1 for procedures to be followed for calculating and reporting precision.

2.2 Activities to demonstrate within control conditions for integrated sampling methods.

2.2.1 Total suspended particulate (TSP) reference method (high-volume sampler). (a) Sampling flow rate check. Initial flow rate readings must be observed for each sampler and used to determine when corrective action is needed. The initial flow rate must be within ±15 percent of the established average initial flow rate. If this limit is exceeded, recalibration or other corrective action is required. See section 2.2.4 pages 10 and 11 of reference 2 for details.

(b) Exposed filter reweighing. A sample of randomly selected exposed filters (filters after sampling) is reweighed. Agreement between original and repeat weights must be ±5.0 mg or less in order to accept the original weights of the entire lot of exposed filters. If any reweighed exposed filter differs more than 5.0 mg from its original weight, the entire lot of filters must be reweighed. See part 8.1.3 of section 2.2.8 of reference 2 for details.

(c) Recalculation of sample concentration. A sample of randomly selected calculated TSP values (in $\mu g/m^3$) is recalculated. The original and repeat calculations must agree. If this criterion is not met, all calculations for the lot are checked and corrected as necessary. See part 8.1.4 of section 2.2.8 of reference 2 for details.

2.3 General description of activities to assess monitoring data precision and accuracy.

Descriptions of specific activities to assess monitoring data for precision and accuracy by individual instruments follow in sections 2.4 and 2.5. Calculation and reporting procedures for precision and accuracy are described in section 3.

Precision is calculated from periodic checks made by the routine operator/analyst during the normal operation of the method.

Accuracy is calculated from audits. Audits, as used here, mean independent assessments of the quality of the data obtained in an organization's monitoring program. Independence is achieved by using personnel, audit standards and equipment different from those routinely used during method calibration. As a minimum, the audit personnel must be different from the routine operator/analyst conducting the routine operation of the measurement method. It is preferred, but not required, that a different organization from the one operating the measurement method conduct the audit.

2.4 Activities to access monitoring data precision and accuracy for continuous methods.

2.4.1 Assessment of data for precision. Periodic span checks are used to assess continuous monitoring data for precision. A one-point span check must be carried out each week on continuous analyzers used to measure SO_2, NO_2, O_3 and CO. The concentration for this span check is described in section 2.1.3. The concentration for the span gas used is the generated concentration (X), and the analyzer response is the measured response (Y) in the calaculations shown in section 3.1.1. All continuous ana-

lyzers must have this span check performed at least weekly.

2.4.2 Assessment of data for accuracy. Periodic independent audits are used to assess continuous monitoring data for accuracy. Continuous analyzers that measure SO_2, NO_2, O_3 and CO are all audited in the same way. The audit described here applies equally to all designated continuous methods, reference and equivalent. The audit required is the periodic challenge of the continuous analyzers with known concentrations of pollutant gas at five levels. The results of the audit are used in assessing the accuracy of the monitoring data. The procedure for calculation of accuracy is described in section 3.1.2.

For each pollutant monitored, it is necessary to develop a means to provide the audit pollutant gas at five levels. The audit pollutant gases can be prepared in a manner similar to the preparation of the usual calibration gases. It is required, however, that the concentrations of pollutant gases in the audit gases be determined independently and that the standards used to calibrate the analyzers being audited not be used in the analysis of the audit gases. All audit gas standards must be traceable to National Bureau of Standards' gaseous Standard Reference Materials (SRM). One acceptable protocol to demonstrate traceability of audit gas standards to SRM is referenced in section 2.1.2.

The specific requirements for auditing continuous analyzers follow: once per sampling quarter, each reference or equivalent analyzer must be audited. A five-point audit must be carried out on each analyzer. The five-point audit must be carried out at the following analyzer concentrations: (a) for SO_2, NO_2, and O_3 analyzers, 0.05±0.01 ppm, 0.10±0.01 ppm, 0.20±0.01 ppm, 0.30±0.01 ppm, and 0.45±0.01 ppm; and (b) for CO analyzers, 5±1 ppm, 10±1 ppm, 20±1 ppm, 30±1 ppm, and 45±1 ppm. The differences in concentrations (ppm) between the audit values and the measured analyzer values are used to calculate accuracy as described in section 3.1.2.

2.5 Activities to assess monitoring data precision and accuracy for integrated sampling methods.

2.5.1 Assessment of data for precision. Collocated samplers are used to assess data from integrated sampling methods described in section 2.2. For a given organization's monitoring network, one sampling site must have collocated samplers. A site with the highest expected 24-hour pollutant concentration must be selected. The two samplers must be located at the same elevation and should be approximately 3 meters apart to preclude air flow interference. High-volume samplers should have the same roof orientation. For the pair of collocated samplers, one sampler must be randomly designated prior to the collection of samples as the official sampler for normal routine monitoring purposes and the other will be designated as the duplicate sampler. Once designated, the indentity of each sampler must be maintained. Sampling, calibration, operation and analysis must be the same for both collocated samplers. The collocated sampler must be operated as a minimum every third day when continuous sampling is used. When a less frequent sampling schedule is used, the collocated sampler must be operated at least once each week. The difference in concentration (μg/m³) between the official and duplicate samplers is used to calculate precision as described in section 3.2.1.

2.5.2 Assessment of data for accuracy. The assessment of accuracy for integrated sampling methods is made by auditing a portion of the measurement process.

(a) TSP method. The portion of the TSP method audited is the flow rate during sample collection. The specific requirements for auditing the flow rate of high-volume samplers follow: Once per sampling quarter, audit the flow rate of each high-volume sampler. The flow rate calibration audit is conducted using a reference flow device described in part 8.1.2. of section 2.2.8 of reference 2. The reference flow device is an orifice having five different calibrated resistance plates that are mounted onto the faceplate of the high-volume sampler. In conducting the audit, one of the resistance plates is selected and the audit flow rate is measured. This procedure is repeated, using different resistance plates, until the flow rate a five different levels is obtained. The differences in flow rates (m³/min) between the calibrated resistance plate values and the measured sampler values are used to calculate accuracy as described in section 3.2.2.

3. ORGANIZATION CALCULATION AND REPORTING REQUIREMENTS FOR PRECISION AND ACCURACY

Calculating and reporting estimates of precision and accuracy of ambient air quality data gathered by organizations operating PSD monitoring networks is described in this section. Precision and accuracy must be calculated each sampling quarter for each measurement instrument using information obtained in section 2. The computed precision and accuracy must be recorded on the Data Assessment report (table 3.3.1) and adjoined with the quarterly submission of monitoring data.

3.1 Calculations for continuous methods.

3.1.1 Single instrument precision. Estimates of precision for ambient air quality measurements from continuous methods are calculated from the results of weekly span checks as described in section

2.1.3. Each organization, at the end of each sampling quarter, calculates and reports a precision probability interval for each reference or equivalent analyzer. Directions for calculations are given below and directions for reporting are given in section 3.3. If monitoring data is invalidated because span drifts exceeded the limits specified in section 2.1.3, do not include these span drift results in the calculations of estimates of precision given below for single instrument precision.

Let X_i represent the known concentration of the span gas, and Y_i represent the measured concentration from the weekly span check. Calculate the percentage difference (d_i) for each span check using equation 1.

$$d_i = \frac{Y_i - X_i}{X_i} \times 100 \qquad (1)$$

For each instrument, calculate the quarterly average (d_j), equation 2, and the standard deviation (S_j), equation 3.

$$\bar{d}_j = \sum_{i=1}^{n} d_i/n \qquad (2)$$

$$S_j = \left[\frac{\sum_{i=1}^{n} d_i^2 - (\sum_{i=1}^{n} d_i)^2/n}{n-1}\right]^{1/2} \qquad (3)$$

where n is the number of span checks of the instrument made during the sampling quarter. For example, n is 13 if span checks are made once during each of the 13 weeks in a quarter.

Calculate the 95 percent probability limits for precision using equations 4 and 5.

Upper 95 percent probability limit = $d_j + 1.96\ S_j$ (4)

Lower 95 percent probability limit = $d_j - 1.96\ S_j$ (5)

As an example, consider the following set of data from a CO analyzer:

Week	Measured concentration Y_i parts per million	Known concentration X_i parts per million	Difference, d_i percent
1	9.1	8.9	+2
2	8.5	8.9	−4
3	8.5	8.9	−4
4	8.6	8.9	−3
5	9.0	8.9	+1
6	8.9	8.9	0
7	9.0	8.9	+1
8	9.0	8.9	+1
9	9.0	8.9	+1
10	9.0	8.9	+1
11	8.7	8.9	−2
12	9.2	8.9	+3
13	9.4	8.9	+10
			Σ=+3

Applying equations 2 and 3:

$\bar{d}_j = +3/13 = +0.2\%$ (2)

$$S_j = \left[\frac{99 - (3)^2/13}{12}\right]^{1/2} = 2.9\% \qquad (3)$$

Applying equations 4 and 5:

Upper limit=0.2+1.96(2.9)=5.9 or +6 percent (4)

Lower limit=0.2−1.96(2.9)=−5.5 or −6 percent (5)

On the Data Assessment Report (Table 3.3.1), −6 is reported for the lower 95 percent limit, and +6 is reported for the upper 95 percent limit for the CO analyzer precision.

3.1.2 Single instrument accuracy. Estimates of accuracy for ambient air quality measurements from continuous methods are calculated from the results of independent audits as described in section 2.4.2. Each organization, at the end of each sampling quarter, calculates and reports an accuracy probability interval for each reference or equivalent analyzer. Directions for calculation are given below and directions for reporting are given in section 3.3.

Let X_i represent the known concentration of pollutant in the audit gas for the ith audit point, and Y_i represent the corresponding measured value of the ith audit point. Calculate the percentage difference (d_i) for each audit point using equation 1. For each quarterly audit, calculate the average percentage difference (d_j) and the standard deviation (S_j) using equations 2 and 3, respectively. Calculate the 95 percent probability limits for accuracy using equations 4 and 5.

As an example, consider the following data from the audit of an NO_2 analyzer:

Audit point	Measured concentration Y_i parts per million	Known concentration X_i parts per million	Difference, d_i percent
1	.053	.051	3.9
2	.107	.102	4.9
3	.212	.204	3.9
4	.321	.307	4.6
5	.480	.460	4.3
			$\Sigma=+21.6$

Applying equations 2 and 3:

$\bar{d}_j=+21.6/5=4.3$ percent (2)

$$S_j=\left[\frac{94.08-(21.6)^2/5}{4}\right]^{\frac{1}{2}}=0.44\% \quad (3)$$

Applying equations 4 and 5:

Upper Limit=4.3+1.96(0.44)=5.2 or +5 percent (4)

Lower Limit=4.3+1.96(0.44)=3.4 or 3 percent (5)

On the data assessment report, +3 is reported for the lower 95 percent limit and +5 percent is reported for the upper 95 percent limit for the NO_2 analyzer accuracy.

3.2 Calculations for integrated sampling methods.

3.2.1 Single instrument precision for TSP. Estimates of precision for ambient air quality measurements from the TSP method are calculated from results obtained from the collocation of two samplers at one sampling site as described in section 2.5.1. Each organization, at the end of each sampling quarter, calculates and reports a precision probability interval using weekly collocation sampler results. The calculated precision at the one sampling site is indicative of the precision at all sampling sites for the TSP method. Directions for calculation are given below and directions for reporting are given in section 3.3.

From the paired measurements described in section 2.5.1, let Y_i represent the concentration of pollutant measured by the duplicate integrated sampler and X_i represent the calculation of pollutant measured by the designated official sampler during the ith sampling period. Calculate the percentage difference (d_i) using equation 1. Calculate the average percentage difference ($\bar{d}_j$) and standard deviation (S_j) using equations 2 and 3, respectively. Calculate the 95 percent probability limits for precision using equations 6 and 7.

Upper 95 percent probability limit=$\bar{d}_j+1.96\ S_j/\sqrt{2}$ (6)

Lower 95 percent probability limit=$\bar{d}_j+1.96\ S_j/\sqrt{2}$ (7)

As an example, consider the following TSP data obtained using collocated high-volume samplers.

Sampling week	Duplicate sampler, Y_i µg/m³	Official sampler, X_i µg/m³	Difference, d_i percent
1	53.0	51.9	2
2	69.9	66.6	5
3	.....	67.8	.....
4	58.4	55.7	5
5	48.5	46.4	5
6	61.6	58.9	5
7	57.9	59.0	−2
8	67.5	64.2	5
9	58.0	55.4	5
10	55.0	59.0	−4
11	60.0	58.1	3
12	55.8	53.1	5
13	51.4	52.8	−3
			$\Sigma=+31$

Applying equations 2 and 3:

$d_j=+31/12=2.6$ percent (2)

$$S_j=\left[\frac{217-(31)^2/12}{11}\right]^{\frac{1}{2}}=3.5\% \quad (3)$$

Applying equations 6 and 7:

Upper limit=$2.6+1.96(3.5)/\sqrt{2}=7.4$ of 7 percent (6)

Lower limit=$2.6-1.96(3.5/\sqrt{2}=-2.3$ or -2 percent (7)

On the data assessment report (table 3.3.1), −2 is reported for the lower 95 percent limit, and +7 is reported for the upper 95 percent limit for the TSP sampler precision.

3.2.2. Single instrument accuracy for TSP. Estimates of accuracy for ambient air quality measurements from the TSP method are calculated from the results of independent audits as described in section 2.5.2. Once each sampling quarter, the flow rate of each high-volume sampler is audited. Each organization, at the end of each sampling quarter, calculates and reports an accuracy probability interval for each TSP sampler. Directions for calculation are given below and directions for reporting are given in section 3.3.

Let X_i represent the known flow rate for each resistance plate, and Y_i represent the measured flow rate. Calculate the percentage difference (d_i) for each flow rate using equation 1. For each quarterly audit, calculate the average percent difference (d_j) and the standard deviation (S_j) using equations 2 and 3, respectively. Calculate the 95 percent probability limits for accuracy using equations 4 and 5.

As an example, consider the following data from the audit of a TSP sampler:

Resistance plate No.	Measured flow rate, Y_i m³/min (cfm)	Known flow rate, X_i m³/min (cfm)	Difference, d_i percent
13	1.53(53.9)	1.47(52.0)	4
10	1.39(49.1)	1.34(47.2)	4
7	1.21(42.8)	1.11(39.1)	9
18	1.73(61.0)	1.68(59.3)	3
5	0.99(34.9)	0.93(32.8)	6
			$\Sigma=+26$

Applying equations 2 and 3:

$d_j=+26/5=5.2$ percent (2)

$$S_j=\left[\frac{158-(26)^2/5}{4}\right]^{\frac{1}{2}}=2.4\% \quad (3)$$

Applying equations 4 and 5:

Upper limit=5.2+1.96(2.4)=9.9 or 10 percent (4)

Lower limit=5.2−1.96(2.4)=0.5 or 1 percent (5)

On the data assessment report (table 3.3.1), +1 is reported for the lower 95 percent limit and +10 is reported for the upper 95 percent limit for TSP sampler accuracy.

3.3 Organization reporting requirements. At the end of each sampling quarter, the organization must calculate precision and accuracy for each continuous analyzer and each TSP sampler, and record the calculated results on part I of the data assessment report (table 3.3.1). In addition, for each audit of a continuous analyzer (CO, NO_2, O_3 and SO_2), record the five audit concentrations and the difference between the measured concentration and the known (audit) concentration on part II of the data assessment report. The quarterly data assessment report must be submitted with the air monitoring data. All data used to calculate reported estimates of precision and accuracy including span check, collocated sampler and audit results must be made available to the permit granting authority upon request.

The results from the example calculations in section 3.1 and 3.2 have been recorded on table 3.3.1 to illustrate how to complete the data assessment report.

4. REFERENCES

1. Environmental Monitoring and Support Laboratory, "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I—Principles," U.S. Environmental Protection Agency (MD-77), Research Triangle Park, N.C. 27711, EPA-600/9-76-005 (January 1976).

2. Environmental Monitoring and Support laboratory, "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II—Ambient Air Specific Methods," U.S. Environmental Protection Agency (MD-77), Research Triangle Park, N.C. 27711. EPA-600/4-77-027a (May 1977).

Table 3.3.1 - Data Assessment Report for PSD Air Quality Data - Part I

Organization Name Acme Power Plant

Organization Address Route 54, Apex, N.C. 27502

Reporting Period: From 5/15/78 (month/day/year) to 8/15/78 (month/day/year)

Continuous Analyzers (CO, NO_2, O_3, SO_2) or Integrated Samplers (TSP)

Pollutant	Analyzer Identification Code	Precision			Accuracy		
		No. of Span Checks or Collocated Samples	95% Limit*		Audit Date	95% Limit*	
			Lower	Upper		Lower	Upper
CO	Site 2	13	-6	+6			
NO_2	Site 2				7/11/78	+3	+5
TSP	Site 2	12	-2	+7	6/13/78	+1	+10

*show + or - sign with limit value

Table 3.3.1 - Data Assessment Report for PSD Air Quality Data - Part II

Organization Name Acme Power Plant

Organization Address Route 54, Apex, N.C. 27502

Reporting Period: From 5/15/78 (month/day/year) to 8/15/78 (month/day/year)

Audit Results for Continuous Analyzers (CO, NO_2, O_3, SO_2)

Pollutant	Analyzer Identification Code	Concentration, ppm									
		Point 1		Point 2		Point 3		Point 4		Point 5	
		Known	Diff.*	Known	Diff.*	Known	Diff.*	Known	Diff.*	Known	Diff.*
NO_2	Site 2	.051	+.002	.102	.005	.204	+.008	.307	+.014	.460	+.020

*Calculate audit difference using the equation below. Show + or - sign when recording difference.

Diff. = measured conc.$_{ppm}$ - known conc.$_{ppm}$

APPENDIX C—AMBIENT AIR QUALITY MONITORING METHODOLOGY

1.0 PURPOSE

This appendix specifies the monitoring methods (manual methods or automated analyzers) which must be used in State ambient air quality monitoring stations.

2.0 STATE AND LOCAL AIR MONITORING STATIONS (SLAMS)

2.1 Except as otherwise provided in this appendix, a monitoring method used in a SLAMS must be a reference or equivalent method as defined in § 50.1 of this chapter.

2.2 Any analyzer for SO_2, CO, or O_3 purchased before February 18, 1976, may be used in a SLAMS until February 18, 1980. Any analyzer for NO_2 purchased before January 3, 1978, may be used in a SLAMS until January 3, 1980.

2.3 Any manual method or analyzer purchased prior to cancellation of its reference or equivalent method designation under § 53.11 or § 53.16 of this chapter may be used in a SLAMS for a reasonable period of time to be determined by the Administrator.

2.4 Use of nonconforming analyzers in certain geographical areas.

2.4.1 The State may use an analyzer that is not a reference or equivalent method in a SLAMS in a particular geographical area if the analyzer was purchased prior to February 18, 1975, and the Administrator determines:

2.4.1.1 That the analyzer (or the method of which the analyzer is representative) meets all the requirements of part 53 of this chapter that would apply if an application for a reference or equivalent method determination were submitted for the method of which the analyzer is representative except: (A) The test for interference equivalent specified in § 53.23(d) of this chapter, and (B) requirements of subpart C of part 53 of this chapter, if applicable, to the extent that failure to meet the subpart C requirements results from sensitivity to interferants; and

2.4.1.2 That interferants that cause or would cause the analyzer to fail the requirements of § 53.23(d) and subpart C of part 53 of this chapter do not occur in significant concentrations in the geographical area in which use of the analyzer is proposed. For purposes of this section (2.4), a "significant concentration" means one that would cause a measurement error equal to or greater than the lower detectable limit specification in table B-1 in subpart B of part 53 of this chapter.

2.4.2 Requests for approval under this section (2.4) must meet the submittal requirements of section 2.7. Except as provided in subsection 2.7.3, each such request must contain the information specified in subsection 2.7.2 in addition to the following:

2.4.2.1 The date on which the analyzer was purchased;

2.4.2.2 An identification and description of the geographical area in which use of the analyzer is proposed;

2.4.2.3 Such data or other information as may be necessary to demonstrate that the interferants referred to in subsection 2.4.1.2 do not occur in significant concentrations in the geographical area in which use of the analyzer is proposed; and

2.4.2.4 Test data for tests conducted with the analyzer in accordance with subpart C of part 53 of this chapter in the geographical area in which use of the analyzer is proposed, if subpart C would apply if an application for a reference or equivalent method determination were submitted for the method of which the analyzer is representative.

2.4.3 Any person who has obtained approval of a request under this section (2.4) shall:

2.4.3.1 Assure that the analyzer for which approval was obtained is used only in the geographical area identified in the request;

2.4.3.2 Report to the Administrator within 60 days any significant increase in concentrations of the interferants referred to in subsection 2.4.1.2 in the geographical area identified in the request and concurrently submit such new or additional information as may be necessary to supplement the demonstration required by subsection 2.4.2.3; and

2.4.3.3 On a semi-annual basis, submit reports containing such data or other information as may be necessary to demonstrate that the interferants referred to in subsection 2.4.1.2 continue to occur in insignificant concentrations in the geographical area identified in the request. Reports required by this subsection (2.4.3) shall be submitted to the address specified in subsection 2.7.1.

2.5 Use of methods with nonconforming ranges.

2.5.1 The State may use in a SLAMS an analyzer that is not a reference or equivalent method if:

2.5.1.1 The analyzer was purchased prior to February 18, 1975;

2.5.1.2 The administrator determines that the analyzer (or the method of which the analyzer is representative) meets all requirements of part 53 of this chapter that would apply if an application for a reference or equivalent method determination were submitted for the method of which the analyzer is representative except the range requirement specified in table B-1 in subpart B of part 53 of this chapter; and

2.5.1.3 The range of the analyzer does not extend to concentrations more than two times the upper range limit specified in such table B-1, or, if the analyzer has more than one selectable range, the analyzer will not be used while operated in any range extending to such concentrations.

NOTE.—If the use of the analyzer is approved under section 2.6, the limitations specified in this subsection (2.5.1.3) will not apply unless the approval under section 2.6 is later withdrawn.

2.5.2 Requests for approval under this section (2.5) must meet the submittal requirements of section 2.7. Except as provided in subsection 2.7.3, each such request must contain the information specified in subsection 2.7.2 in addition to the following:

2.5.2.1 The date on which the analyzer was purchased; and

2.5.2.2 A statement that the range of the analyzer does not extend to concentrations more than two times the upper range limit specified in table B-1 in subpart B of part 53 of this chapter, or, if the analyzer has more than one selectable range, that the analyzer will not be operated in any range extending to such concentrations.

NOTE.—If use of the analyzer is approved under section 2.6, the statements required by this subsection (2.5.2.2) will be considered inapplicable unless the approval under section 2.6 is later withdrawn.

2.5.3 Any person who has obtained approval of a request under this section (2.5) shall, if the analyzer has more than one selectable range, assure that the analyzer is not operated in any range extending to concentrations more than two times the upper range limit specified in such table B-1.

2.6 Use of methods with nonconforming ranges in certain geographical areas.

2.6.1 The State may use in a SLAMS an analyzer which is not a reference or equivalent method but which has a broader range (i.e., one extending to higher concentrations) than that permitted by section 2.5 regardless of the date on which the analyzer was purchased if:

2.6.1.1 The analyzer has more than one selectable range and one of the ranges is either the range specified in table B-1 in subpart B of part 53 of this chapter or a range approved for use under section 2.5 (which applies to analyzers purchased before February 18, 1975);

2.6.1.2 The Administrator determines that the analyzer (or the method of which the analyzer is representative) meets all the requirements of part 53 of this chapter that would apply if an application for a reference or equivalent method determination were submitted for the method of which the analyzer is representative, except that subsection 2.6.1.1 will apply in lieu of the range requirements specified in table B-1;

2.6.1.3 The pollutant intended to be measured with the analyzer occurs on some occasions in concentrations more than two times the upper range limit specified in table B-1 of subpart B in part 53 of this chapter in the geographical area in which use of the analyzer is proposed; and

2.6.1.4 The Administrator determines that the resolution of each proposed range that is broader than that permitted by section 2.5 is adequate for its intended use. For purposes of this section (2.6), "resolution" means the ability of the analyzer to detect small changes in concentration.

2.6.2 Requests for approval under this section (2.6) must meet the submittal requirements of section 2.7. Except as provided in subsection 2.7.3, each such request must contain the information specified in subsection 2.7.2 in addition to the following:

2.6.2.1 The range or ranges proposed to be used;

2.6.2.2 Test data, records, calculations, and test results as specified in subsection 2.7.2.2 for each range proposed to be used;

2.6.2.3 An identification and description of the geographical area in which use of the analyzer is proposed;

2.6.2.4 Data or other information demonstrating that the pollutant intended to be measured with the analyzer occurs in concentrations more than two times the upper range limit specified in table B-1 in subpart B of part 53 of this chapter in the geographical area in which use of the analyzer is proposed; and

2.6.2.5 Test data or other information demonstrating the resolution of each proposed range that is broader than that permitted by section 2.5.

2.6.3 Any person who has obtained approval of a request under this section (2.6) shall assure that the analyzer for which approval was obtained is used only in the geographical area identified in the request and only while operated in the range or ranges specified in the request.

2.7 Requests for approval; withdrawal of approval.

2.7.1 Requests for approval under sections 2.4, 2.5, or 2.6 must be submitted to:

Director, Environmental Monitoring and Support Laboratory, Department E (MD 75), United States Environmental Protection Agency, Environmental Research Center, Research Triangle Park, N.C. 27711.

2.7.2 Except as provided in subsection 2.7.3, each request must contain:

2.7.2.1 A statement identifying the analyzer (e.g., by serial number) and the method of which the analyzer is representative (e.g., by manufacturer and model number); and

2.7.2.2 Test data, records, calculations, and test results for the analyzer (or the method of which the analyzer is representative) as specified in subpart B, subpart C, or both (as applicable) of part 53 of this chapter.

2.7.3 A request may concern more than one analyzer or geographical area and may incorporate by reference any data or other information known to EPA from one or more of the following:

2.7.3.1 An application for a reference or equivalent method determination submitted to the Environmental Protection Agency (EPA) for the method of which the analyzer is representative, or testing conducted by the applicant or by EPA in connection with such an application;

2.7.3.2 Testing of the method of which the analyzer is representative at the initiative of the Administrator under § 53.7 of this chapter; or

2.7.3.3 A previous or concurrent request for approval submitted to EPA under this section (2.7).

2.7.4 To the extent that such incorporation by reference provides data or information required by this section (2.7) or by sections 2.4, 2.5, or 2.6, independent data or duplicative information need not be submitted.

2.7.5 After receiving a request under this section (2.7), the Administrator may request such additional testing or information or conduct such tests as may be necessary in his judgment for a decision on the request.

2.7.6 If the Administrator determines, on the basis of any information available to him, that any of the determinations or statements on which approval of a request under this section (2.7) was based are invalid or no longer valid, or that the requirements of section 2.4, 2.5, or 2.6, as applicable, have not been met, he may withdraw the approval after affording the person who obtained the approval an opportunity to submit information and arguments opposing such action.

2.8 Modifications of methods by users.

2.8.1 Except as otherwise provided in this section (2.8), no reference method, equivalent method, or alternative method may be used in a SLAMS if it has been modified in a manner that will, or might, significantly alter the performance characteristics of the method without prior approval by the Administrator. For purposes of this section (2.8), "alternative method" means an analyzer the use of which has been approved under sections 2.4, 2.5, or 2.6 or this appendix or some combination thereof.

2.8.2 Requests for approval under this section (2.8) must meet the submittal requirements of sections 2.7.1 and 2.7.2.1 of this appendix.

2.8.3 Each request submitted under this section (2.8) must include:

2.8.3.1 A description, in such detail as may be appropriate, of the desired modification;

2.8.3.2 A brief statement of the purpose(s) of the modification, including any reasons for considering it necessary or advantageous;

2.8.3.3 A brief statement of belief concerning the extent, to which the modification will or may affect the performance characteristics of the method; and

2.8.3.4 Such further information as may be necessary to explain and support the statements required by subsections 2.8.3.2 and 2.8.3.3.

2.8.4 Within 75 days after receiving a request for approval under this section (2.8) and such further information as he may request for purposes of his decision, the Administrator will approvel or disapprove the modification in question by letter to the person or agency requesting such approval.

2.8.5 A temporary modification that will or might alter the performance characteristics of a reference, equivalent, or alternative method may be made without prior approval under this section (2.8) if the method is not functioning or is malfunctioning, *Provided*, That parts necessary for repair in accordance with the applicable operation manual cannot be obtained within 45 days. Unless such temporary modification is later approved under subsection 2.8.4, the temporarily modified method shall be repaired in accordance with the applicable operation manual as quickly as practicable but in no event later than 4 months after the temporary modification was made, unless an extension of time is granted by the Administrator. Unless and until the temporary modification is approved, air quality data obtained with the method as temporarily modified must be clearly identified as such when submitted in accordance with § 58.28 or § 58.35 of this chapter and must be accompanied by a report containing the information specified in subsection 2.8.3. A request that the Administrator approve a temporary modification may be submitted in accordance with subsections 2.8.1 through 2.8.4. In such cases the request will be considered as if a request for prior approval had been made.

3.0 NATIONAL AIR MONITORING STATIONS (NAMS)

3.1 Methods used in those SLAMS which are also designated as NAMS to measure SO_2, CO, NO_2, or O_3, must be reference or equivalent methods which have the capability of providing continuous measurements.

4.0 AIR POLLUTION EPISODE MONITORING

4.1 An analyzer which has been designated a reference or equivalent method on one of its ranges for measuring either SO_2, O_3, NO_2, or CO may be used in a SLAMS to measure the appropriate pollutant while operating on a range which is not covered by the analyzer's designation if:

4.1.1 The nondesignated range does not exceed three times the upper range limit specified in table B-1 of part 53 of this chapter;

4.1.2 An air pollution episode, during which the nondesignated range is needed for accurate monitoring, exists or is imminent; and

4.1.3 The quality assurance requirements of section 1.1.3 of appendix A to this part are met.

4.2 A monitoring method used to measure particulate matter in a station designated as an air pollution episode station under § 58.20(c) of this chapter must be a method:

4.2.1 Which has the measurement range or ranges appropriate to accurately measure air pollution episode concentrations of particulate matter;

4.2.2 For which a quantitative relationship to the particulate matter reference method has been established at the use site; and

4.2.3 Which has an integration period appropriate for short term daily measurements.

APPENDIX D—NETWORK DESIGN FOR STATE AND LOCAL AIR MONITORING STATIONS (SLAMS) AND NATIONAL AIR MONITORING STATIONS (NAMS)

1. SLAMS monitoring objectives and spatial scales.
2. SLAMS site selection procedures.
2.1 Background information for establishing SLAMS.
2.2 Total suspended particulates (TSP) design criteria for SLAMS.
2.3 Sulfur dioxide (SO_2) design criteria for SLAMS.
2.4 Carbon monoxide (CO) design criteria for SLAMS.
2.5 Photochemical oxidants (O_3) design criteria for SLAMS.
2.6 Nitrogen dioxide (NO_2) design criteria for SLAMS.
3. Network design for national air monitoring stations (NAMS).
3.1 Total suspended particulates (TSP) design criteria for NAMS.
3.2 Sulfur dioxide (SO_2) design criteria for NAMS.
3.3 Carbon monoxide (CO) design criteria for NAMS.
3.4 Photochemical oxidants (O_3) design criteria for NAMS.
3.5 Nitrogen dioxide (NO_2) design criteria for NAMS.
4. References.

1. SLAMS MONITORING OBJECTIVES AND SPATIAL SCALES

The purpose of this document is to describe monitoring objectives and general criteria to be applied in establishing the State and local air monitoring stations (SLAMS) networks and for choosing general locations for new monitoring stations. It also describes criteria for determining the number and location of national air monitoring stations (NAMS). These criteria will also be used by EPA in evaluating the adequacy of SLAMS/NAMS networks.

The network of stations which comprise SLAMS should be designed to meet a minimum of four basic monitoring objectives. These basic monitoring objectives are: (1) To determine highest concentrations expected to occur in the area covered by the network; (2) to determine representative concentrations in areas of high population density; (3) to determine the impact on ambient pollution levels of significant sources or source categories; and (4) to determine general background concentration levels.

To a large extent, the existing State implementation plan (SIP) monitoring networks have been designed with these four objectives in mind. Thus, they can serve as the logical starting point for establishing the SLAMS network. This will, however, require a careful review of each existing SIP ambient network to determine the principal objectives of each station and the extent to which the location criteria presented herein are being met. It should be noted that this appendix contains no criteria for determin-

ing the total number of stations in SLAMS networks. The optimum size of a particular SLAMS network involves trade offs among data needs and available resources which EPA believes can best be resolved during the network design process.

This appendix focuses on the relationship between monitoring objectives and the geographical location of monitoring stations. Included are a rationale and set of general criteria for identifying candidate station locations in terms of physical characteristics which most closely match a specific monitoring objective. The criteria for more specifically locating the monitoring station including spacing from roadways and vertical and horizontal probe placement, are described in appendix E of this part.

To clarify the nature of the link between general monitoring objectives and the physical location of a particular monitoring station, the concept of spatial scale of representativeness of a monitoring station is defined. The goal in siting monitors is to correctly match the spatial scale represented by the sample of monitored air with the spatial scale most appropriate for the monitoring objective of the station.

Thus, spatial scale of representativeness is described in terms of the physical dimensions of the air parcel nearest to a monitoring station throughout which actual pollutant concentrations are reasonably similar. The scale of representativeness of most interest for the monitoring objectives defined above are as follows:

- *Microscale*—defines the concentrations in air volumes with dimensions ranging from meters up to about 100 meters.
- *Middle scale*—defines the concentration typical of areas up to several city blocks in size with dimensions ranging from about 100 meters to 0.5 kilometers.
- *Neighborhood scale*—defines concentrations within some extended area of the city that has relatively uniform land use with dimensions in the 0.5 to 4.0 kilometer range.
- *Urban scale*—defines the overall, citywide conditions with dimensions on the order of 4 to 50 kilometers. This scale would usually require more than one site for definition.
- *Regional scale*—defines usually a rural area of reasonably homogeneous geography and extends from tens to hundreds of kilometers.
- *National and global scales*—these measurement scales represent concentrations characterizing the nation and the globe as a whole.

This concept is also useful in classification of monitoring stations into categories which best describe the ambient conditions represented by a particular station. For example, a station selected to monitor the highest concentration expected to occur within a defined area can be further described in terms of its actual spatial scale of representativeness. For this objective, the most appropriate scale is the middle scale or neighborhood, depending somewhat on the particular pollutant being monitored and the particular use for the data.

The concept can be illustrated by extending this example to consider the pollutant CO. Generally, highest concentrations of CO occur near heavily traveled roadways in downtown areas. Concentrations which occur in this kind of physical environment typically peak nearest the roadway and decrease rapidly as the monitor is moved away from the roadway. Thus, a station monitoring CO near a busy street over a sidewalk would be classified as a middle scale station designed to measure the highest concentrations expected to occur in the affected urban area. Table 1 illustrates the relationship between the four basic monitoring objectives and the scales of representativeness that are generally most appropriate for that objective.

TABLE 1.—*Relationship among monitoring objectives and scale of representativeness*

Monitoring objective	Appropriate siting scales
Highest concentration	Middle, neighborhood (sometimes urban).
Population	Neighborhood.
Source impact	Middle, neighborhood.
General/background	Neighborhood, regional.

Subsequent sections of this appendix describe in greater detail the most appropriate scales of representativeness and general monitoring locations for each of the criteria pollutants.

2. SLAMS SITE SELECTION PROCEDURES

The preceding section of this appendix has stressed the importance of defining the objectives for monitoring a particular pollutant. Since monitoring data are collected to "represent" the conditions in a part or subregion of a geographical area, the guidance included a discussion of the scale of representativeness of a monitoring station. The use of this physical basis for locating stations allows for an objective approach to station siting.

In order to evaluate the SIP network and to determine the adequacy of a particular monitoring stations, it is necessary to examine each pollutant monitoring station individually by stating its monitoring objective and determining its spatial scale of representativeness. This will do more than insure compatibility among stations of the same type. It will also provide a physical basis for the interpretation and application of the data. This will help to prevent mismatches between what the data actually represent and what the data are interpreted to represent. It is important to note that SLAMS monitors are not necessarily sufficient for completely describing air quality. In many situations, diffusion models must be applied to complement ambient monitoring, particularly around point sources.

2.1 Background information for establishing SLAMS. Background information that must be considered in the process of selecting SLAMS from the existing network and in establishing new SLAMS includes emission inventories, climatological summaries, and local geographical characteristics. Such information is to be used as a basis for the judgmental decisions that are required during the station selection process. For new sites, the background information should be used to decide on the actual location depending on the monitoring objective and spatial scale while following the detailed procedures in References (*1*) through (*4*).

Emission inventories are generally the most important type of background information needed to design the SLAMS network. The emission data provide valuable information concerning the size and distribution of large point sources. Area source emissions are usually available for counties but should be subdivided into smaller areas or grids where possible, especially if diffusion modeling is to be used as a basis for determining where stations should be located. Sometimes this must be done rather crudely—for example, on the basis of population or housing units. In general, the grids should be smaller in areas of dense population than in less densely populated regions.

Emission inventory information for point sources should be generally available for any area of the country for annual and seasonal averaging times. Specific information characterizing the emissions from large point sources for the shorter averaging times (diurnal variations, load curves, etc.) can often be obtained from the source. Area source emission data by season, although not available from the EPA, can be generated by apportioning annual totals according to degree days.

Detailed area source data are also valuable in evaluating the adequacy of existing sites in terms of whether the site has been located in the desired spatial scale of representativeness. For example, it may be the desire of an agency to have an existing CO site measuring in the neighborhood scale. By examining the traffic data for the area and examining the physical location of the site, a determination can be made if the site is in fact measuring air quality on the desired scale.

The climatological summaries of greatest use are the frequency distributions of wind speed and direction. The wind rose is an easily interpreted graphical presentation of the directional frequencies. Other types of useful climatological data are also available, but generally are not as directly applicable to the site selection process as are the wind statistics.

In many cases, the meteorological data originating from the most appropriate (not necessarily the nearest) national weather service (NWS) airport station in the vicinity of the prospective siting area will adequately reflect conditions over the area of interest, at least for annual and seasonal averaging times. In developing data in complex meteorological and terrain situations, diffusion meteorologists should be consulted. NWS stations can usually provide most of the relevant weather information in support of monitor siting activities anywhere in the country. Such information includes joint frequency distributions of winds and atmospheric stability (stability-wind roses).

The geographical material is used to determine the distribution of natural features, such as forests, rivers, lakes, and manmade features. Useful sources of such information may include road and topographical maps, aerial photographs, and even satellite photographs. This information may include the terrain and land-use setting of the prospective monitor siting area, the proximity of larger water bodies, the distribution of pollutant sources in the area, the location of NWS airport stations from which weather data may be obtained, etc. Land use and topographical characteristics of specific areas of interest can be determined from U.S. Geological Survey (USGS) maps and land use maps. Detailed information on urban physiography (building/street dimensions, etc.) can be obtained by visual observations, aerial photography, and also surveys to supplement that available from those sources. Such information could be used in determining the location of local pollutant sources in and around the prospective areas.

2.2 Total suspended particulates (TSP) design criteria for SLAMS. The first step in designing the TSP SLAMS network is to collect the necessary background information as discussed previously. For TSP monitoring purposes, emphasis on background information would be placed on regional and traffic maps and aerial photographs showing topography, settlements, major industries, and highways. These maps and photographs would be used to identify areas of the type that are of concern to the particular monitoring objective. After potentially suitable monitoring areas for TSP have been identified on a map, a model(*5*) may be used to provide an estimate of TSP concentrations throughout the area of interest.

The second step is to evaluate existing TSP stations which are candidates for SLAMS designation. Stations meeting one or more of the four monitoring objectives (section 2) must be classified into one of three scales of representativeness—middle, neighborhod or regional—if the stations are to become SLAMS. In siting and classifying new TSP sites, the procedures described in reference(*1*) must be used.

The following describes in detail the characteristics of the three scales revelant to TSP SLAMS. These scales are most appropriate because of the dominant importance attached to the monitoring purposes that are related to the NAAQS. Most people are exposed to TSP, at least over 24-hour periods, on a neighborhood scale and to a lesser extent on a middle scale.

● *Middle scale*—Much of the measurement of short-term public exposure to particulates is on this scale. People moving through downtown areas, or living near major roadways, encounter particulates that would be adequately characterized by observations of this spatial scale. Thus, measurements of this type would be appropriate to the evaluation of the possible short-term public health effects of particulate pollution. This scale also includes the characteristic concentrations for other areas with dimensions of a few hundred meters such as the parking lot and feeder streets associated with indirect sources, that is complexes that do not produce pollutants themselves but which attract significant numbers of pollutant producers such as autos. Shopping centers, stadiums, and office buildings are examples of indirect sources. In the case of TSP, unpaved or seldom-swept parking lots associated with such attractions could be an important source in addition to the vehicular emissions themselves.

● *Neighborhood scale*—Measurements in this category would represent conditions throughout some reasonably homogeneous urban subregion with dimensions of a few kilometers and generally more regularly shaped than the middle scale. Homogeneity refers to the TSP concentration, as well as the land use and land surface characteristics. In some cases, a site carefully chosen to provide neighborhood scale data would represent not only the immediate neighborhood but also neighborhoods of the same type in other parts of the city. Stations of these kinds provide good information about trends and compliance with standards because they represent conditions in areas where people commonly live and work for periods comparable to those specified in the NAAQS. In the sense used here, this category includes industrial and commercial neighborhoods, as well as residential.

Neighborhood scale data could provide valuable information for developing, testing and revising models that describe the larger-scale concentration patterns, especially those models relying on spatially smoothed emission fields for inputs. The neighborhood scale measurements could also be used for neighborhood comparisons within or between cities. This is the most likely scale of measurement to meet the needs of planners.

● *Regional scale*—These measurements would characterize conditions over areas with dimensions of as much as hundreds of kilometers. As noted earlier, using representative conditons for an area implies some degree of homogeneity in that area. For this reason, regional scale measurements would be most applicable to sparsely populated areas with reasonably uniform ground cover, at least as it relates to surface dust entrainment. Data characteristics of this scale would provide information about larger-scale processes of particulate emissions, losses and transport.

2.3 Sulfur dioxide (SO_2) design criteria for SLAMS. The spatial scales for SO_2 SLAMS monitoring are the middle, neighborhod, and regional scales. Because of the nature of SO_2 distributions over urban areas, the middle scale is the most likely scale to be represented by a single measurement in an urban area, but only if the undue effects from local sources (minor or major point sources) can be eliminated. Neighborhood scales would be those most likly to be represented by single measurements in suburban areas where the concentration gradients are less steep. Regional scale measurements would be associated with rural areas.

● *Middle scale*—Some data uses associated with middle scale measurements for SO_2 include assessing the effects of control strategies to reduce urban concentrations (especially for the 3-hour and 24-hour averaging times) and monitoring air pollution episodes.

● *Neighborhood scale*—This scale applies in areas where the SO_2 concentration gradient is relatively flat—mainly suburban areas surrounding the urban center—or in large sections of small cities and towns. In general, these areas are quite homogeneous in terms of SO_2 emission rates and population density. Neighborhood scale measurements may be associated with baseline concentrations in areas of projected growth and in studies of population responses to exposure to SO_2 (or health effects). Also, concentration maxima associated with air pollution episodes may be reasonably uniformly distributed over areas of neighborhood scale, and measurements taken within such an area would represent neighborhood, as well as middle scale concentrations.

● *Regional scale*—These measurements would be applicable to large homogeneous areas, particularly those which are sparsely populated. Such measurements could provide information on background air quality and interregional pollutant transport.

After the spatial scale has been selected to meet the monitoring objectives for each station location, the procedures as found in reference (*2*) should be used to evaluate the adequacy of each existing SO_2 monitor and must be used to locate a new SLAMS monitor. The background material for these procedures should consist of emission inventories, meteorological data, wind roses, and maps for population and topographical characteristics of specific areas of interest. Isopleth maps of SO_2 air quality as generated by diffusion models (*5*) are useful for the general determination of a prospective area within which the station is eventually placed.

2.4 Carbon monoxide (CO) design criteria for SLAMS. Middle and neighborhood scale measurements are necessary station classifications for SLAMS since most people are exposed to CO concentrations in these scales. Carbon monoxide maxima occur primarily in areas near major roadways and intersections with high traffic density and poor atmospheric ventilation. As these maxima can be predicted by ambient air quality modeling, a large fixed network of CO monitors is not required. Long-term CO monitoring should be confined to a limited number of "peak" neighborhood and middle scale sites in large metropolitan areas to measure maximum pollution levels and determine the effectiveness of control strategies.

● *Middle scale*—This category covers dimensions from tens of meters to hundreds of meters. In certain cases discussed below, it may apply to regions that have a total length of kilometers. In many cases of interest, sources and land use may be reasonably homogeneous for long distances along a street, but very inhomogeneous normal to the street. This is the case with strip development and freeway corridors. Included in this category are measurements to characterize the CO concentrations along the urban features just enumerated. When a site is chosen to represent conditions in a freeway corridor or a block of street development, then the characteristic dimensions of this scale are tens of meters by hundreds of meters. If an attempt is made to characterize street conditions throughout the downtown area or along an extended stretch of freeway, the dimensions may be tens of meters by kilometer. Public officials who use air quality standards related to public health effects would use measurements of this scale for their assessment. People moving through city streets tend to be exposed to CO concentrations consistent with a scale like this. This is also a scale of measurement that would provide valuable information for air pollution alerts, for devising and evaluating "hot spot" control measures, and for comparing central business districts in different cities.

This important class would also include the characteristic concentrations for other areas, with dimensions of a few hundred meters, such as the parking lots and feeder streets associated with indirect sources—that is, complexes that are not themselves pollutant emitters, but which attract significant numbers of pollutant emitters, particularly autos. Shopping centers, stadia, and office buildings are examples of indirect sources.

● *Neighborhood scale*—Measurements in this category would represent conditions throughout some reasonably homogeneous urban subregions, with dimensions of a few kilometers and generally more regularly shaped than the middle scale. Homogeneity refers to CO concentration, but it probably also applies to land use. In some cases, a site carefully chosen to provide neighborhood scale data, might represent not only the immediate neighborhood, but also neighborhoods of the same type of other parts of the city. These kinds of stations would provide information relating to health effects because they would represent conditions in

areas where people live and work. Neighborhood scale data would provide valuable information for developing, testing, and revising concepts and models that describe the larger scale concentration patterns, especially those models relying on spatially smoothed emission fields for inputs. These types of measurements could also be used for interneighborhood comparisons within, or between cities.

After the spatial scale has been determined to meet the monitoring objectives for each location, the site selection procedures, as shown in reference (3) should be used to evaluate the adequacy of each existing CO monitor and must be used to locate a new monitor. The background material necessary for these procedures may include the average daily traffic on all streets in the area; wind roses for different hours of the day; and maps showing one-way streets, street widths, and building heights. If the station is to typify the area with the highest concentrations, the streets with the greatest daily traffic should be identified. If some streets are one-way, those streets that have the greatest traffic during the afternoon and evening hours should be selected as tentative sites, because the periods of high traffic volume are usually of greatest duration through the evening hours. However, the strength of the morning inversion has to be considered along with the traffic volume and pattern when seeking areas with the highest CO concentrations.

Monitors should not be placed in the vicinity of possible anomalous source areas. Examples of such areas include toll gates on turnpikes, metered freeway ramps, and drawbridge approaches. Traffic counters near the monitoring site will provide valuable data for interpreting the observed CO concentrations. Additional information on siting procedures may be found in reference (3).

2.5 Photochemical oxidant (O_3) design criteria for SLAMS. Photochemical oxidants are not directly emitted into the atmosphere but result from complex photochemical reactions involving organic compounds, oxides of nitrogen and solar radiation. Oxidants are defined as those atmospheric substances that will oxidize specified reagents such as potassium iodide. The most abundant oxidant is ozone (O_3). For this reason, the term oxidant and ozone are often used interchangeably.

The relationships between primary emissions (precursors) and secondary pollutants (O_3) tend to produce large separations spatially and temporally between the major sources and the areas of high oxidant pollution. This suggests that meteorological transport process and the relationships between sources and sinks need to be considered in the development of the network design criteria and placement of monitoring stations, especially in measuring peak concentration levels.

The spatial scales for SLAMS purposes based on the monitoring objectives are neighborhood, urban, and regional. The neighborhood scale monitors will be needed to measure the high oxidant concentrations associated with significant population exposure within the urban area. Under stagnation conditions, a station located in the neighborhood scale may also experience peak concentration levels in urban areas.

The urban scale stations would be used to measure peak concentrations downwind of precursor emissions. Since ozone requires appreciable formation time, the mixing of reactants and products occurs over large volumes of air, and this reduces the importance of monitoring small scale spatial variability.

Regional scale monitoring will be needed to assess the ozone that is transported into an urban area. This will be used to account for the ozone that cannot be reduced by control strategies in that urban area.

● *Neighborhood scale*—Measurements in this category represent conditions throughout some reasonably homogeneous urban subregion, with dimensions of a few kilometers. Homogeneity refers to pollutant concentrations. These kinds of monitoring stations will provide information relating to health effects because they will also represent conditions in areas where people live and work. Neighborhood scale data will provide valuable information for developing, testing, and revising concepts and models that describe urban/regional concentration patterns. They will be useful to the understanding and definition of processes that take periods of hours to occur and hence involve considerable mixing and transport.

● *Urban scale*—Measurement in this scale will be used to estimate concentrations over large portions of an urban area with dimensions of several kilometers to 50 or more kilometers. Such measurements will be used for determining trends, and designing areawide control strategies.

● *Regional scale*—This scale of measurement will be used to typify concentrations over very large portions of a metropolitan area and even larger areas with dimensions of as much as hundreds of kilometers. Such measurements will be useful for assessing transport into the urban area.

The site selection procedure continues after the spatial scale is selected based on the monitoring objectives. The appropriate siting procedures as found in reference (4), should be used to evaluate the adequacy of each existing O_3 monitor and must be used to locate a new O_3 SLAMS monitor. The first step in the siting procedure would be to collect the necessary background material, which may consist of maps, emissions inventories for nonmethane hydrocarbons and oxides of nitrogen (NO_x), climatological data, and existing air quality data for ozone, nonmethane hydrocarbons and NO_2/NO.

For locating an urban scale station to measure typical city concentrations, a reasonably homogeneous geographical area near the center of the region should be selected which is also removed from the influence of major NO_x sources. For an urban scale station to measure the high concentration areas, the emission inventories should be used to define the extent of the area of important nonmethane hydrocarbons and NO_x emissions. The most frequent wind speed and direction for periods of important photochemical activity should be determined. Then the prospective monitoring area should be selected in a direction from the city that is most frequently downwind during periods of photochemical activity. The distance to the upwind edge of the city should be about equal to the distance traveled by air moving for 5 to 7 hours at wind speeds prevailing during periods of photochemical activity. Prospective areas for locating O_3 monitors should always be outside the area of major NO_x.

In locating a neighborhood scale station, the same procedures used for the urban scale are followed except that the station should be located closer to the fringe of the Central Business District (CBD) or slightly further downwind of the CBD in an area of high density population.

For regional scale monitoring stations, the most frequent wind associated with important photochemical activity should be determined. The prospective monitoring area should be upwind for the most frequent direction and outside the area of city influence.

Where ozone levels have significant fluctuations throughout the year, consideration should be given to monitoring ozone only during the seasons when levels above the NAAQS occur as documented by previous data. Additional discussion on the procedures for siting ozone monitors may be found in reference (4).

2.6 Nitrogen dioxide (NO_2) design criteria for SLAMS. The typical spatial scales of representativeness associated with nitrogen dioxide monitoring based on monitoring objectives are middle, neighborhood, and urban. Since nitrogen dioxide is primarily formed in the atmosphere from the oxidation of NO, large volumes of air and mixing times usually reduce the importance of monitoring on small scale spatial variability especially for long averaging times. However, there may be some situations where NO_2 measurements would be made on the middle scale for both long- and short-term averages.

● *Middle scale*— Measurements on this scale would cover dimensions from about 100 meters to 0.5 kilometers. These measurements would characterize the public exposure to NO_2 in populated areas. Also monitors that are located closer to roadways than the minimum distances as specified in appendix E of this part, would be represented by measurements on this scale.

● *Neighborhood and urban scales*—The same considerations as discussed in § 2.5 for O_3 would also apply to NO_2.

After the spatial scale is selected based on the monitoring objectives, then the siting procedures as found in reference (4) should be used to evaluate the adequacy of each existing NO_2 monitor and/or to locate a new NO_2 monitor. The siting procedures begin with collecting the background material. This background information may include the characteristics of the area and its sources under study, climatological data to determine where concentration maxima are most likely to be found, and any existing monitoring data for NO_2.

For neighborhood or urban scales, the emphasis in locating sites will be in finding those areas where long-term averages are expected to be the highest. Nevertheless, it should be expected that the maximum NO_2 concentrations will occur in approximately the same locations as the maximum total oxides of nitrogen concentrations. The best course would be to locate the site somewhat further downwind beyond the expected point of maximum total oxides of nitrogen to allow more time for the formation of NO_2. The dilution of the emissions further downwind from the sources should be considered along with the need for reaction time for NO_2 formation in locating peak concentration sites. If dispersion is favorable, maximum concentrations may occur closer to the emission sources than the locations predicted from oxidation of NO to NO_2 alone. This will occur downwind of sources based on winter wind direction or in areas where there are high ozone concentrations

and high density NO_x emissions such as on the fringe of the central business district or further downwind. The distance and direction downwind would be based on ozone season wind patterns.

Once the major emissions areas and wind patterns are known, areas of potential maximum NO_2 levels can be determined. Nitrogen dioxide concentrations are likely to decline rather rapidly outside the urban area. Therefore, the best location for measuring NO_2 concentrations will be in neighborhoods near the edge of the city.

3. NETWORK DESIGN FOR NATIONAL AIR MONITORING STATIONS (NAMS)

The NAMS must consist of a subset of the SLAMS network with emphasis given to urban and multisource areas. Areas to be monitored must be selected based on urbanized population and pollutant concentration levels. Generally, a larger number of NAMS are needed in more polluted urban and multisource areas. The network design criteria discussed below reflect these concepts. However, it should be emphasized that deviations from the NAMS network design criteria may be necessary in a few cases. Thus, these design criteria are not a set of rigid rules but rather a guide for achieving a proper distribution of monitoring sites on a national scale.

The two primary objectives for NAMS are to measure highest concentrations for averaging times consistent with the NAAQS and population exposure. Accordingly, the NAMS fall into two categories: (a) Stations located in the area of the peak or maximum concentrations (generally neighborhood scale, except middle scale for CO and urban scale for O_3); and (b) stations which combine poor air quality with a high population density but not necessarily located in an area of the worst air quality (neighborhood scale). The highest or peak concentration stations referred to here means stations located in the area of expected maximum pollutant concentration. Such peak concentration stations are to be located so that impacts from individual point sources are minimized.

For each urban area where NAMS are required, both categories of monitoring stations must be established. In the case of TSP and SO_2 where only one NAMS is needed, then category (a) must be used. The analysis and interpretation of data from these stations should consider the distinction between these types of stations as appropriate.

The NAMS are designed to provide data for national policy analyses/trends and for reporting to the public on major metropolitan areas. It is not the intent to monitor in every area where the NAAQS are violated. On the other hand, the data from SLAMS should be used primarily for nonattainment decisions/analyses in specific geographical areas. Since the NAMS are a part of the SLAMS, the specific siting procdeures will not be repeated in this section.

3.1 Total suspended particulates (TSP) design criteria for NAMS. Table 2 indicates the approximate number of permanent monitors needed in urban areas to characterize national and regional TSP air quality trends and geographical patterns. The criteria require that the number of stations in areas where urban populations exceed 500,000 and concentrations violate the primary NAAQS range from 6 to 8 but in small urban areas, no more than two stations are required. A range of monitoring stations is specified in table 2 because sources of pollutants and local control effects can vary from one part of the country to another and therefore, some flexibility is allowed in selecting the actual number of stations in any one locale. The actual number of stations and their location must be determined by EPA Regional Offices and the State agency, subject to the approval of EPA Headquarters (OAWM). The EPA Headquarters approval is necessary to insure that individual stations conform to the NAMS selection criteria and the network as a whole is sufficient in terms of numbers and location for purposes of national analyses.

Table 2. TSP NATIONAL AIR MONITORING STATION CRITERIA (Approximate Number of Stations Per Area)[a]

Population category	High concentration [b]	Medium concentration [c]	Low concentration [d]
High Population > 500,000	6 - 8	4 - 6	0 - 2
Medium Population 100,000 - 500,000	4 - 6	2 - 4	0 - 2
Low Population 50,000 - 100,000	2 - 4	1 - 2	0

[a]Selection of urban areas and actual numbers of stations per area will be jointly determined by EPA and the State agency.

[b]High concentration - violating primary NAAQS by 20 percent or more.

[c]Medium concentration - violating secondary NAAQS.

[d]Low concentration - less than secondary NAAQS.

The estimated number of TSP monitors required in the NAMS network will range from approximately 500 to 1000. This range of stations is based on a statistical analysis of the data and computations of the probability of detecting certain rates of change over a specific number of years. An assumption was made that the variability was 20 percent, i.e., a 95 percent confidence interval around the annual mean would be 20 percent. This assumption may be regarded as a "ballpark figure." The sampling error from an every sixth-day schedule would be roughly 10 percent, so an overall vaiability of 20 percent may be regarded as a reasonable approximation.

For TSP, it is unlikely that the same rate of change would apply throughout the nation. Regional differences in the TSP problem make it essential that the networks also be useful for regional trend assessments. In most practical applications, trends will be assessed on the basis of 3-5 years of data to minimize the impact of meteorological influences. With 50 to 100 sites in each geographical region, there is a reasonably good chance of detecting 3-year trends of more than 2 percent per year.

Using a TSP trend network of 500-1000 sites there would be a reasonable chance of determining 5-year trends of more than 3 percent per year in the medium population cities with high TSP, but less than 50/50 chance of detecting 3-year trends of less than 5 percent per year in any city. Therefore, the overall range of 500-1000 NAMS TSP monitors seems to be acceptable for the purposes of national and regional trends. The actual number of monitors in any specific area would depend on local factors such as meteorology, topography, urban and regional air quality gradients, and the potential for significant air quality improvement or degradation. Generally, the greatest density of stations would occur in the northeastern States, where urban populations are large and where pollutant levels are high.

Generally, the worst air quality in an urban area should be used as the basis for

determining the required number of TSP NAMS (see table 2). This will usually exclude air quality levels caused predominantly by a single source, especially if the maxima occur in remote areas. However, if the source impacts in populated parts of an urban area, then it would not necessarily be excluded. Therefore, both category (a) sites (neighborhood scale) and category (b) sites (neighborhood scale) as discussed in section 3 would be needed.

3.2 Sulfur dioxide (SO_2) design criteria for NAMS. As with TSP monitoring, it is desirable to have a greater number of NAMS in the more polluted and densely populated urban and multisource areas. The data in table 3 show the approximate number of permanent monitors needed in urban areas to characterize the national and regional SO_2 air quality trends and geographical patterns. These criteria require that the number of monitoring stations in areas where urban populations exceed 500,000 and concentrations also exceed the primary NAAQS may range from 6 to 8 and that in areas where the SO_2 problem is minor, only one or two (or no) monitors are required. The actual number and location of the stations will be determined jointly by EPA and the State agency.

Table 3. SO_2 NATIONAL AIR MONITORING STATION CRITERIA (Approximate Number of Stations Per Area)[a]

Population category	High concentration[b]	Medium concentration[c]	Low concentration[d]
High Population > 500,000	6 - 8	4 - 6	0 - 2
Medium Population 100,000 - 500,000	4 - 6	2 - 4	0 - 2
Low Population 50,000 - 100,000	2 - 4	1 - 2	0

[a]Selection of urban areas and actual number of stations per area will be jointly determined by EPA and the State agency.

[b]High concentration - violating primary NAAQS.

[c]Medium concentration - violating 60 percent of secondary NAAQS.

[d]Low concentration - less than 60 percent of primary or secondary NAAQS.

The estimated number of SO_2 monitors which would be required in the NAMS network ranges from approximately 150 to 450. This range in the number of stations is less than for TSP. This is because there are more urban areas with low SO_2 levels than with low TSP levels. Also, the background air quality levels are higher for TSP than for SO_2, and thus air quality is more sensitive to SO_2 emission changes than for TSP. Therefore, fewer monitoring stations are needed on a national basis than for TSP. The actual number of monitors in any specific area depends on local factors such as meteorology, topography, urban and regional air quality gradients, and the potential for significant air quality improvements or degradation. The greatest density of stations should be where urban populations are large and where pollution levels are high. Fewer monitors are necessary in the western States since concentrations are seldom above the NAAQS in their urban areas. Exceptions to this are in areas where an expected shortage of clean fuels indicates that ambient air quality may be degraded by increased SO_2 emissions. In such cases, the minimum number of NAMS is required to provide EPA with a proper national perspective on significant changes in air quality.

Like TSP, the worst air quality in an urban area is to be used as the basis for determining the required number of SO_2 NAMS (see table 3). This will usually exclude air quality levels caused predominantly by single point source emissions, such as remote power plants or smelters, especially if the maxima occur in remote areas. If the source impacts in populated parts of an urban area, then it would not necessarily be excluded. Therefore, category (a) sites (neighborhood scale) and category (b) sites (neighborhood scale) as discussed in section 3 would be needed.

3.3 Carbon monoxide (CO) design criteria for NAMS. Information is needed on ambient CO levels in major urbanized areas where CO levels have been shown or inferred to be of significant concern. At the national level, EPA will not routinely require data from as many monitors as are required for TSP, and perhaps, SO_2, since CO trend stations are principally needed to assess the overall air quality progress resulting from the emission controls required by the Federal motor vehicle control program (FMVCP).

Although State and local air programs may require extensive monitoring to document and measure the local impacts of CO emissions and emission controls, an adequate national perspective is possible with as few as two monitors per major urban area. The two categories which would require CO NAMS are: (a) Peak concentration areas such as are found around major traffic arteries and near heavily traveled streets in downtown areas (middle scale); and (b) neighborhoods where concentration exposures are significant (neighborhood scale).

The peak concentration station (middle scale) is usually found near heavily traveled downtown streets (street canyons), but could be found along major arterials (corridors), either near intersections or at low elevations which are influenced by downslope drainage patterns under low inversion conditions. the peak concentration station should be located so that it is representative of several similar source configuations in the urban area, where the general population has access. Thus, it should reflect one of many potential peak situations which occur throughout the urban area. It is recognized that this does not measure air quality which represents large geographical areas. Thus, a second type of station on the neighborhood scale is necessary to provide data representative of the high concentration levels which exist over larger geographical areas.

The neighborhood station (neighborhood scale) should be located in areas with a stable, high population density, projected continuity of neighborhood character, and high traffic density. The stations should be located where no major zoning changes, new highways, or new shopping centers are being considered. the station should be where a significant CO pollution problem exists, but not be under the influence of any one line source. Rather, it should be more representative of the overall effect of the sources in a significant portion of the urban area.

Because CO is generally associated with heavy traffic and population clusters, urbanized area population greater than 500,000 is the principal criterion for identifying candidate urban areas for which pairs of NAMS for this pollutant will be required to meet the needs described above. In addition, areas where CO ambient levels are known to be a problem may also be required to maintain NAMS. Therefore, two monitors for CO trends will be located in any urbanized area with a population greater than 500,000. This is based on judgment that

monitors in urban areas with greater than 500,000 population would provide sufficient data for national analysis and national reporting to Congress and the public for major metropolitan areas. Also, it has generally been shown that major CO problems are found in areas of greater than 500,000 population.

3.4 Photochemical oxidants (O_3) design criteria for NAMS. The criteria for selecting NAMS ozone monitoring locations is any urbanized area having a population of more than 200,000. This population cutoff is used since the sources of hydrocarbons are both mobile and stationary and are more diverse. Also, because of local and national control strategies and the complex chemical process of ozone formation and transport, more sampling stations than for CO are needed on a national scale to better understand the ozone problem. This selection criterion is based entirely on population and will include those relatively highly populated areas where most of the oxidant precursors originate.

Each urban area will generally require only two national Ozone NAMS. One station would be representative of maximum ozone concentrations (category (a), urban scale) under the wind transport conditions as discussed in section 2.5. The exact location should balance local factors affecting transport and buildup of peak O_3 levels with the need to represent population exposure. The second station (category (b), neighborhood scale), should be representative of high density population areas on the fringes of the central business district along the predominant summer/fall daytime wind direction. This latter station should sense peak O_3 levels under light and variable or stagnant wind conditions. Two NAMS ozone stations will be sufficient in most urban areas since spatial gradients for ozone generally are not as sharp as for other criteria pollutants.

3.5 Nitrogen dioxide (NO_2) criteria for NAMS. Nitrogen dioxide monitors will be required in those areas of the country which have a population greater than 1,000,000. These areas will have two NO_2 NAMS. It is felt that monitors in these major metropolitan areas would provide sufficient data for a national analysis of the data, and also because NO_2 problems occur in areas of greater than 1,000,000 population.

Urban areas where the population exceeds one million, should have permanent trend stations because of the general association between population and high annual average NO_2 levels, and also to assure appropriate representation of populous areas. Over 50 percent of these areas now monitoring show annual averages exceeding 75 $\mu g/m^3$. Future growth and growing concern over peak NO_2 concentration effects will necessitate national assessments for these areas. At a later date, if a short-term standard should be set, additional areas may need to be added depending on the value of the short-term NAAQS.

Within urban areas requiring NAMS, two permanent monitors are sufficient. The first station (category (b), neighborhood scale), would be to measure the photochemical production of NO_2 and would best be located in that part of the urban area where the emission density of NO_x is the highest. The second station (category (b), urban scale), would be to measure the NO_2 produced from the reaction of NO with O_3, and should be downwind of the area of peak NO_x emission areas.

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APPENDIX E—PROBE SITING CRITERIA FOR AMBIENT AIR QUALITY MONITORING

1. Introduction.
2. Total suspended particulates (TSP).
2.1 Vertical placement.
2.2 Spacing from obstructions.
2.3 Spacing from roads.
2.4 Other considerations.
3. Sulfur dioxide (SO_2).
3.1 Horizontal and vertical probe placement.
3.2 Spacing from obstructions.
4. Carbon monoxide (CO).
4.1 Horizontal and vertical probe placement.
4.2 Spacing from obstructions.
4.1 Spacing from roads.
5. Photochemical oxidant.
5.1 Vertical and horizontal probe placement.
5.2 Spacing from obstructions.
5.3 Spacing from roads.
6. Nitrogen dioxide (NO_2).
6.1 Vertical and horizontal probe placement.
6.2 Spacing from obstructions.
6.3 Spacing from roads.
7. Discussion and summary.
8. References.

1. INTRODUCTION

This appendix contains probe siting criteria to be applied to ambient air quality monitors after the general monitor location has been selected based on the monitoring objectives and spatial scale of representativeness as discussed in appendix D. Adherence to these criteria is necessary to ensure the uniform collection of air quality data, which is essential for producing compatible and comparable data.

The probe siting criteria as discussed below must be followed to the maximum extent possible to ensure uniform collection of air quality data. It is recognized that there may be situations when the probe siting criteria cannot be followed. If the site does not meet the siting criteria, this must be thoroughly documented as to how it differs and why. This documentation should help to avoid later questions about the data.

The spatial scales of representativeness used in this appendix, i.e., middle, neighborhood, and urban, are defined and discussed in appendix D of this part. The pollutant specific probe siting criteria generally apply to all spatial scales. For CO and NO_2 sites, there are siting differences between the middle and neighborhood scales.

2. TOTAL SUSPENDED PARTICULATES (TSP)

2.1 Vertical placement. The most desirable height for a TSP monitor is near the breathing height. Practical considerations such as prevention of vandalism, security, accessibility, availability of electricity, etc., require that the sampler be elevated and require that a range of acceptable heights need to be specified. Therefore, the TSP monitor must be located 2 to 15 meters above ground level. The lower limit was based on a compromise between ease of servicing the sampler and the desire to avoid reentrainment from dusty surfaces. The upper limit represents a compromise between the desire to have measurements which are most representative of population exposures, and the consideration for the location of existing monitors.

2.2 Spacing from obstructions. If the sampler is located on a roof or other structure, then there must be a minimum of 2 meters separation from walls, parapets, penthouses, etc. No furnace or incineration flues should be nearby. This separation distance is dependent on the height of the flues, type of waste or fuel burned, and quality of the fuel. For example, if the emissions from the chimney are the result of natural gas combustion, no special precautions are necessary except for the avoidance of obstructions, i.e., at least 2 meters separation. On the other hand, if fuel oil, coal, or solid wastes are burned and the stack is sufficiently short so that the plume could reasonably be expected to impact on the sampler probe a significant part of the time, other buildings/locations in the area that are free from these types of sources should be considered for sampling. Trees provide surfaces for particulate deposition and also restrict airflow. Therefore, the sampler must be placed at least 20 meters from trees. The sampler must also be located away from obstacles such as buildings, so that the distance between obstacles and the sampler is at least twice the height that the obstacle protrudes above the sampler. There must also be unrestricted airflow in at least three of the four cardinal (N, E, S, W) wind directions, and at least one of the three must be the predominant direction for the season of greatest potential pollutant concentration.

2.3 Spacing from roads. A number of studies(*1-8*) support the conclusion that TSP concentrations decrease with increasing height of the monitor and distance from the road. Quite high concentrations have been reported at monitors located at a low elevation close to heavily traveled roads. Such monitors are not generally representative of 24-hour population exposure. This is because people do not generally locate in close proximity to streets for such periods

of time. Moreover, monitors located close to streets are within the concentrated plume of particulate matter emitted and generated by vehicle traffic. Except for special purpose monitoring studies where the monitoring objective is to determine the impact of a single source, ambient monitors should not be located so as to measure the plume of a single source. For TSP, it is appropriate that ambient monitors be located beyond the concentrated particulate plume generated by traffic, and not so close that the roadway totally dominates the measured ambient concentration.

Therefore, TSP ambient monitors must be located at a point where the plume generated by vehicular traffic is substantially diminished. This would apply to those cases where the traffic is greater than several thousand vehicles per day. Figure 1 shows the requirement for siting monitors so that they are placed beyond the most concentrated portion of the plume. It contains a zone (zone B) where the impact of the roadway plume is lessened. The division between zone A and zone B is a linear relationship between sample height and distance from roadways, which represents locations to avoid to minimize unreasonable roadway influences. This relationship is supported by an analysis of the data in the above referenced studies.(9)

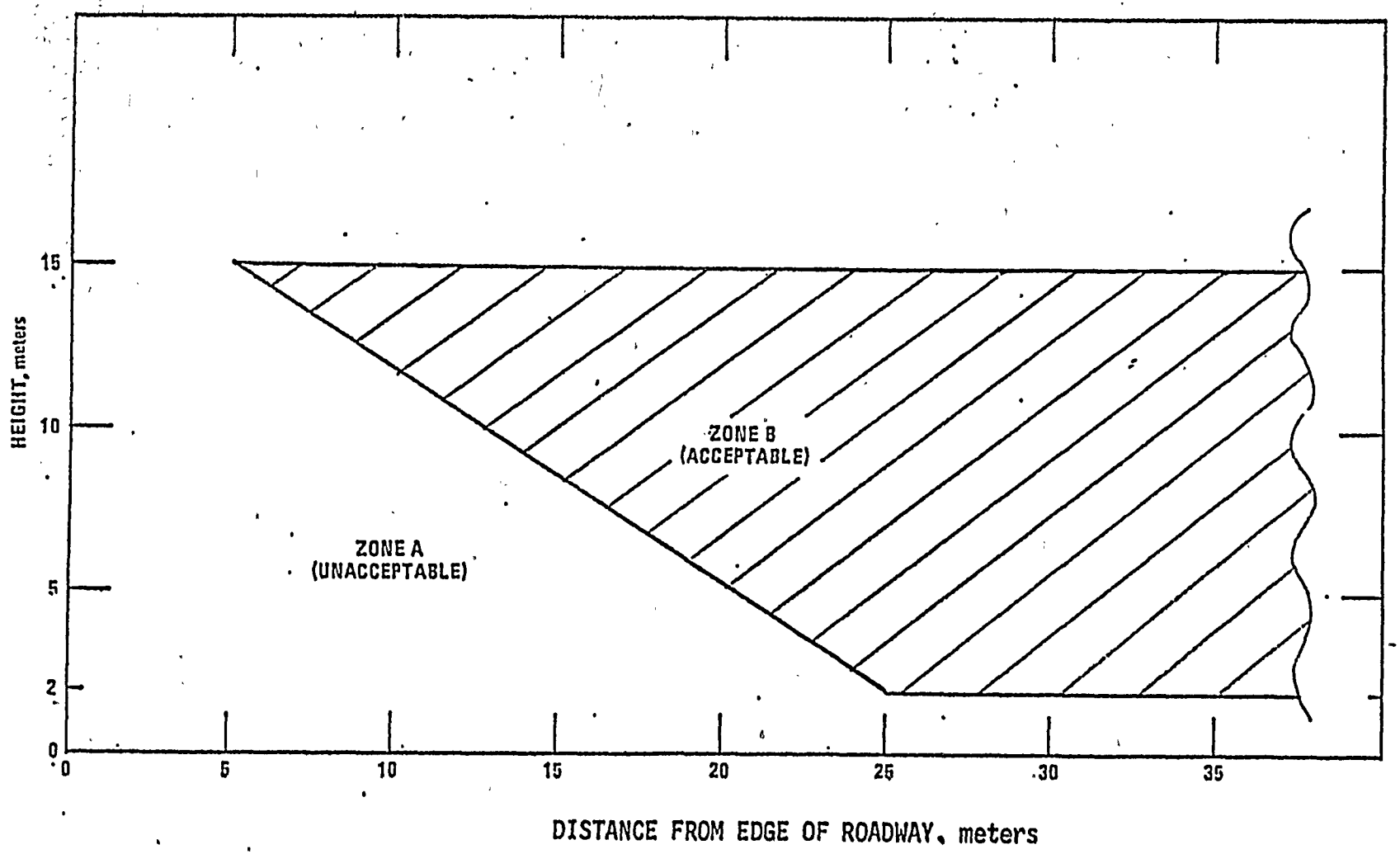

Figure 1. Acceptable zone for siting TSP monitors

In light of several street canyon studies cited above, it appears that the street canyon may confine the roadway plume and not be a suitable location for ambient monitors. However, since roads with lower traffic (several thousand vehicles per day) are generally not considered to be a major source of vehicular-related pollutants, this curve would not preclude the use of monitors in zone A for those situations. In addition, other factors such as meteorological anomalies, actual level of emissions from streets, potential exposure, and availability and physical constraints of sites may constitute sufficient justification for the location of, or continuation of, a site located in zone A.

2.4 Other considerations. The collection efficiency for large-diameter suspended particulates is dependent upon the orientation of the sampler with respect to wind direction.(*10*) The collection efficiency is higher if the wind direction is at 45° to the sampler's roof ridge than if the wind is parallel to the roof ridge. The orientation should be considered to maximize collection efficiency in cases where the annual wind roses show a predominance from one direction (islands, sea coasts, etc.). Further, the site should not be located in an unpaved area unless there is vegetative ground cover year round so that the impact of reentrained or fugitive dusts will be kept to a minimum. Additional information on TSP probe siting may be found in reference(*11*).

3. SULFUR DIOXIDE(SO_2)

3.1 Horizontal and vertical probe placement. As with TSP monitoring, the most desirable height for an SO_2 monitor is near the breathing height. Various factors enumerated before may require that the inlet probe be elevated. Therefore, the monitor must be located 3 to 15 meters above ground level.

If the inlet probe is located on a rooftop or an intermediate height on a building, the inlet probe must be located less than 80 percent of the mean height of the buildings in the vicinity but at least 3 meters above the ground level. Vertical uniform SO_2 distributions up to at least the mean building height over the area of interest in the city can be assumed except for near the windward edge of a city; see reference (*12*). The choosing of the 80 percent criteria provides a safety factor of 20 percent, which is intended to insure that the effects of any nonuniformity in vertical SO_2 levels are minimized. Thus, concentrations measured at or below this level should be similar to those existing concentrations near the breathing zone (5 to 6 feet above the ground). The inlet probe should be located on the windward side of the building relative to the prevailing winter wind direction. The inlet probe must also be located more than 1 meter vertically and horizontally away from any supporting structure and also away from dirty, dusty areas.

3.2 Spacing from obstructions. No furnace, incineration flues, or other minor sources of SO_2 should be nearby. The separation distance is dependent on the height of the flues, type of waste or fuel burned, and the quality of the fuel. Inlet probes must be at least 1 meter from walls, parapets, penthouses, etc., if the inlet probe is located on a roof or other structure.

The sampler must be placed more than 20 meters from trees and must also be located away from obstacles and buildings. the distance between the obstacles and the sampler must be at least twice the height that the obstacle protrudes above the sampler. Airflow must also be unrestricted in at least three of the four cardinal wind directions, and at least one of the three must be the dominant direction for the season of greatest potential pollutant concentration. Additional information on SO_2 probe siting criteria may be found in reference (*12*).

4. CARBON MONOXIDE (CO)

4.1 Horizontal and vertical probe placement. Because of the importance of measuring population exposure to CO concentrations, air should be sampled at average breathing heights. However, practical factors require that the air sampler be higher. The required height of the inlet probe for CO monitoring is therefore 3±½ meter, which is a compromise between representative breathing height and prevention of vandalism. The recommended 1 meter range of heights is also a compromise to some extent. For consistency and comparability, it would be desirable to have all inlets at exactly the same height, but practical considerations often prevent this. Some reasonable range must be specified and 1 meter provides adequate leeway to meet most requirements. The inlet probe must be located more than 1 meter in the vertical and horizontal direction from any supporting structure.

4.2 Spacing from obstructions. Airflow must also be unrestricted in at least three of the four cardinal wind directions (except for middle scale stations), and at least one of the three must be the dominant direction for the season of greatest potential pollutant concentration.

4.3 Spacing from roads. Street canyon/corridor (middle scale) sensor inlets must be located at least 10 meters from an intersection and preferably at a midblock location. Midblock locations are preferable to intersection locations because intersections represent a much smaller portion of downtown space than do the streets between them. Pedestrian exposure is probably also greater in street canyon/corridors than at intersections. Finally, the practical difficulty of positioning sampling inlets is less at midblock locations than at the intersection.

In determining the minimum separation between a neighborhood scale monitoring site and a specific line source, the presumption is made that measurements should not be unduly influenced by any one roadway. Using the equations in reference (*13*) and assuming that no one street should contribute greater than 2 ppm to the average, stability class is very unstable, and the source strength is 0.007 g/m-s (equivalent to 500 vehicles/hr.), the equations in reference (*13*) indicate that the minimum setback from any street must be 35 meters for a neighborhood site.

Street canyon and traffic corridor sites (middle scale) are chosen to provide a measure of the influence of the immediate source on the pollution exposure of the population. In order to provide some reasonable consistency and comparability in the air quality data from monitors, a minimum distance of 2 meters and a maximum distance of 10 meters from the roadway must be maintained for the sites. This should give consistency to the data, yet still allow flexibility in finding suitable locations for CO monitoring. Additional information on CO probe siting may be found in reference (*13*).

5. PHOTOCHEMICAL OXIDANT

5.1 Vertical and horizontal probe placement. The inlet probe for photochemical oxidant monitors should be as close as possible to the breathing zone. However, the complicating factors discussed previously require that the probe be elevated. The inlet height of the probe must be located 3 to 15 meters above ground level. The probe must also be located more than 1 meter vertically and horizontally away from any supporting structure.

5.2 Spacing from obstructions. The probe must be located away from obstacles and buildings, and the distance between the obstacles and the sampler probe must be at least twice the height that the obstacle protrudes above the sampler. The probe must also be located at least 20 meters from trees. Airflow must be unrestricted in at least three of the four cardinal wind directions, and at least one of the three must be in the predominate direction for the season of greatest potential pollutant concentration.

5.3 Spacing from roads. It is important in the probe siting process to minimize destructive interferences from sources of nitric oxide (NO) since NO readily reacts with ozone. Table 1 provides the required minimum separation distances between roadways and ozone monitoring sites. The minimum separation distance must also be maintained between an ozone monitor and any other similar volume of automotive traffic, such as parking lots. Additional information on photochemical oxidant probe siting criteria may be found in reference (*14*).

TABLE 1.—*Minimum separation distance between ozone monitors and roadways*

Roadway average daily traffic, vehicles per day	Minimum separation distance from roadways to monitor, meters
< 1,000	20
1,000 to 10,000	20 - 200[a]
> 10,000	> 200

[a]Distances should be interpolated based on traffic flow

6. NITROGEN DIOXIDE (NO_2)

6.1 Vertical and horizontal probe placement. The inlet height of the NO_2 probe must be located 3 to 15 meters above the ground. This is a compromise between measuring in the breathing zone and avoidance of vandalism, finding suitable sites, etc. For NO_2, the height does not appear to be a critical factor since the NO_2 should be fairly well mixed and somewhat uniform in the vertical direction. The distance of the inlet probe from the supporting structure must be greater than 1 meter vertically and horizontally.

6.2 Spacing from obstructions. Buildings, trees, and other obstacles may possibly scavenge NO_2. In order to avoid this kind of interference, the monitor must be located well

away from such obstacles so that the distance between obstacles and the sampler is at least twice the height that the obstacle protrudes above the sampler. For similar reasons, a probe inlet along a vertical wall is undesirable because air moving along that wall may be subject to possible removal mechanisms. The inlet probe must also be at least 20 meters from trees. There must be unrestricted airflow in at least three of the four cardinal wind directions, and at least one of the three must be the predominate direction for the season of greatest pollutant concentration.

6.3 Spacing from roads. It is important that the monitoring site be removed from oxides of nitrogen sources to avoid measurements being dominated by any one source and to allow time for conversion (reactions) of NO emissions to NO_2. Further, the effects of roadway sources must be minimized by using separation distances for neighborhood and urban scale stations found in table 2. The minimum separation distance must also be maintained between an NO_2 monitor and any other similar volume of automotive traffic such as parking lots. If the separation distances are less than those shown in table 2, the monitoring station would be classified as a middle scale station. Additional information on NO_2 probe siting criteria may be found in Reference (*14*).

TABLE 2.—*Minimum separation distance between NO_2 monitors and roadways (neighborhood and urban scales)*

Roadway average daily traffic, vehicles per day	Minimum separation distance from roadway to monitor, meters
< 1,000	20
1,000 to 10,000	20 - 200[a]
> 10,000	> 200

[a]Distances should be interpolated based on traffic flow

7. DISCUSSION AND SUMMARY

Table 3 presents a summary of the requirements for probe siting criteria with respect to distances and heights. It is apparent from table 3 that different elevation distances above the ground are shown for the various pollutants. The discussion in the text for each of the pollutants enumerated the factors why the monitor must be elevated. The differences in the specified range of heights are based on the vertical concentration gradients. For CO, the gradients in the vertical direction are very large, so a small range of heights has been specified. For SO_2, NO_2, TSP, and O_3 (except near roadways), the vertical gradients are smaller and thus a larger range of heights can be used. The upper limit of 15 meters was specified for consistency between pollutants and to allow the use of a single manifold for monitoring more than one pollutant at a site.

Table 3. SUMMARY OF PROBE SITING CRITERIA

Pollutant	Height above ground, meters	Distance from supporting structure, meters[a] Vertical	Horizontal	Other spacing criteria
TSP (All spatial scales)	2 - 15	--	>2	a. >20 meters from trees. b. Distance from sampler to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the sampler. c. Unrestricted airflow in 3 of 4 cardinal wind directions. d. No furnace or incineration flues should be nearby.[b] e. Spacing from roads varies with height of emissions test.
SO_2 (All spatial scales)	3 - 15	>1	>1	a. Probe on roof or intermediate height on a building must be <0.8 of the mean height of the buildings in the neighborhood. b. >20 meters from trees. c. Distance from sampler to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the sampler. d. Unrestricted airflow in 3 of 4 cardinal wind directions. e. No furnace or incineration flues should be nearby.[b]
CO (Middle scale)	3 ± 1/2	>1	>1	a. >10 meters from intersection and at midblock location. b. 2-10 meters from roadway.
CO (Neighborhood scale)	3 ± 1/2	>1	>1	a. >25 meters from roadway. b. Unrestricted air flow in 3 of 4 cardinal wind directions.
O_3 (All spatial scales)	3 - 15	>1	>1	a. >20 meters from trees. b. Distance from sampler to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the sampler. c. Unrestricted airflow in 3 of 4 cardinal wind directions. d. Spacing from roads varies with roadway traffic (see text).
NO_2 (All spatial scales)	3 - 15	>1	>1	a. >20 meters from trees. b. Distance from sampler to obstacle, such as buildings, must be at least twice the height the obstacle protrudes above the sampler. c. Unrestricted airflow in 3 of 4 cardinal wind directions. d. Spacing from roads varies with roadway traffic (see text).

[a]When probe is located on rooftop, this separation distance is in reference to walls, parapets, or penthouses located on the roof.

[b]Distance is dependent on height of furnace or incineration flue, type of waste or fuel burned, and quality of fuel (sulfur and ash content). This is to avoid undue influences from minor pollutant sources.

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APPENDIX F—SLAMS AIR QUALITY ANNUAL REPORT

1. GENERAL

This appendix describes information to be compiled annually and submitted to EPA for each ambient monitor in the SLAMS network in accordance with § 58.26. This information contains the minimum statistics needed by EPA to overview national air quality status. A uniform air quality format is necessary to convey meaningful information to a variety of interested parties including environmental groups, various Federal agencies, the Congress, and private citizens upon request. As indicated by § 58.26(d), the statistics included in the State report shall be certified by the State program director to be accurate to the best of his knowledge. A certified statement to this effect shall be included with the report.

2. REQUIRED INFORMATION

The required information is itemized below by pollutant.

2.1 Sulfur dioxide (SO_2).
County name.
SAROAD site code.
Sampling method.
Number hourly observations.[1]
Number daily observations.[2]
Sampling schedule.
Annual arithmetic mean ($\mu g/m^3$).
Highest and second highest 24-hour averages[3] ($\mu g/m^3$).
Highest and second highest 3-hour values[1,3] ($\mu g/m^3$).
Number of 24-hour average concentrations[4] in ranges:

Range:	No. of values
0 to 80 ($\mu g/m^3$)	
81 to 250	
251 to 365	
366 to 800	
801 to 1,600	
1,601 to 2,100	
2,101 to 2,620	
Greater than 2,620	

2.2 Particulates (TSP).
County name.
SAROAD site code.
Sampling method.
Number of observations.
Sampling schedule.
Annual geometric mean ($\mu g/m^3$).
Highest and second highest daily values ($\mu g/m^3$).
Number of daily concentrations in ranges:

Range:	No. of values
0 to 75 ($\mu g/m^3$)	
76 to 150	
151 to 260	
261 to 375	
376 to 625	
626 to 875	
876 to 1,000	
Greater than 1,000	

2.3 Carbon monoxide (CO).
County name.
SAROAD site code.
Sampling method.
Number of hourly observations.
Sampling schedule.
Highest and second highest 8-hour values[5] (mg/m^3).
Highest and second highest 1-hour values (mg/m^3).
Number of 8-hour average concentrations[5] in ranges:

Range:	No. of values
0 to 5.0 (mg/m^3)	
5.1 to 10.0	
10.1 to 17.0	
17.1 to 34.0	
34.1 to 46.0	
46.0 to 57.5	
Greater than 57.5	

2.4 Nitrogen dioxide (NO_2).
County name.
SAROAD site code.
Sampling method.
Number of hourly observations.[1]
Number of daily observations.[2]
Sampling schedule.
Annual arithmetic mean ($\mu g/m^3$).
Highest and second highest 24-hour averages[6] ($\mu g/m^3$).
Highest and second highest hourly averages[1] ($\mu g/m^3$).
Number of hourly average concentration in ranges:[1]

Range:[1]	No. of values
0 to 50 ($\mu g/m^3$)	
51 to 100	
101 to 300	
301 to 600	
601 to 1,130	
1,131 to 2,260	
2,261 to 3,000	
3,001 to 3,750	
Greater than 3,750	

[1]A range ending with the level of the short-term NO_2 air quality standard will be added whenever EPA promulgates such a standard.

2.5 Oxidants (O_3).
County name.
SAROAD site code.
Sampling method.
Number hourly observations.
Sampling schedule.
Five highest hourly averages ($\mu g/m^3$).
Number of hourly concentrations in ranges:

Range:	No. of values
0 to 80 ($\mu g/m^3$)	
81 to 160	
161 to 200[1]	
201[1] to 400	
401 to 800	
801 to 1,000	
1,001 to 1,200	
Greater than 1,200	

[1]This breakpoint is likely to be altered pending change in Federal alert level.

3. REFERENCES

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APPENDIX G—UNIFORM AIR QUALITY INDEX AND DAILY REPORTING

1. GENERAL

This appendix describes the uniform air quality index to be used by States in reporting the daily air quality index required by § 58.40.

2. DEFINITIONS

a. "Reporting agency" means the applicable State agency or, in metropolitan areas, a local air pollution control agency designated by the State to carry out the provisions of § 58.40.

b. "Reporting area" means the geographical area for which the daily index is repre-

[1]Continuous methods only.
[2]Manual or intermittent methods only.
[3]Based on nonoverlapping values computed according to procedures described in reference. (*1*).
[4]Based on midnight to midnight for continuous methods.
[5]Based on three nonoverlapping periods of midnight to 8 a.m., 8 a.m. to 4 p.m., 4 p.m. to midnight.
[6]Based on midnight to midnight period for continuous methods.

sentative for the reporting period. This area(s) may be the total urban area (or subpart thereof) or each of any number of distinct geographical subregions of the urban area deemed necessary by the reporting agency for adequate presentation of local air quality conditions.

c. "Reporting day" means the calendar day during which the daily report is given.

d. "Reporting period" means the time interval for which the daily report is representative. Normally, the reporting period is the 24-hour period immediately preceding the time of the report and should coincide to the extent practicable with the reporting day. In cases where the index will be forecasted the reporting period will include portions of the reporting day for which no monitoring data are available at the time of the report.

e. "Critical pollutant" means the pollutant or pollutant combination (TSP x SO_2) with the highest subindex during the reporting period.

f. "Subindex" means the calculated index value for a single pollutant as described in paragraph 7.

3. MONITORING DATA

The monitoring data used to prepare the daily index report must be based on data obtained from the SLAMS network (or portions thereof) required under 40 CFR 58.20. Air quality measurements need not be made on reporting days for which the agency does not ordinarily schedule monitoring to occur. For example, TSP measurements are to be included in index calculations on days for which data are required (minimum of one sample per 6 days), but may be excluded on other days. Particulate measurements from samplers other than the hi-volume sampler, may be included in index calculations provided such measurements can be quantitatively related to hi-volume measurements.

Data used to calculate the daily index (and respective subindices) should come from the most recent sampling period. the index should be based on data obtained during the 24-hour period for which the index is reported. No monitoring data are to be used for index calculations for which the end of the sampling period precedes the reporting day by more than 24 hours. To the extent practicable, agencies should forecast the index using whatever procedures are most accurate and reasonable through consideration of local meteorological and topographical conditions and the availability of data and forecasting expertise.

4. GEOGRAPHIC APPLICABILITY

Generally, the area contained within the geographic boundaries of the urban area is sufficient for purposes of calculating and reporting the index. The exception occurs in cases where a significant air quality problem exists (PSI greater than 100) in highly populated areas adjacent to, but outside of, the urban area. For example, ozone concentrations are often highest downwind and outside the urban area.

Agencies should report a separate air quality index for each distinct subregion of the urban area for which air quality differences are likely to be significant and where monitoring data are readily available. At a minimum, the subregion subject to the highest index values shall be included in the index computation. this subregion shall be selected by the reporting agency after past air quality has been reviewed to determine which monitoring stations typically record the highest pollutant concentrations.

5. DAILY INDEX REPORT

The daily index report must be based on the uniform air quality index described in paragraph 7 and contain the following information: (1) The reporting area(s); (2) the reporting period; (3) the critical pollutant; (4) the subindex corresponding to the critical pollutant; and (5) the descriptor word according to the following system:

Index Range	Descriptor Category
0 to 50	"Good"
51 to 100	"Moderate"
101 to 199	"Unhealthful"
200 to 299	"Very unhealthful"
300 and above	"Hazardous"

Reporting agencies should, at their discretion, report additional information such as the following: (1) Pollutants other than the critical pollutants and their individual subindices; (2) subindices and respective pollutant names for each of a number of distinct reporting areas within the urban area; and (3) actual pollutant concentration values.

6. PROMINENT PUBLIC NOTICE

The reporting agency shall make prominent public notice of the daily index report on at least 5 days per week. Prominent public notification consists of at a minimum: (1) Furnishing the daily report to one or more of the appropriate news media (radio, television, newspapers) and (2) making the daily index report publicly available at one or more places of public access. Index reports also may be disseminated by means of recorded telephone messages.

7. UNIFORM AIR QUALITY INDEX

The uniform index is based on the pollutants standards index (PSI) structure (see paragraph 10), which includes the five pollutants for which primary National Ambient Air Quality Standards (NAAQS) have been established. These pollutants are: Total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide (CO), photochemical oxidants (O_3) and nitrogen dioxide (NO_2). For each pollutant, a subindex is calculated from a segmented linear function that transforms ambient concentrations onto a scale extending from 0 through 500, with 100 corresponding to the primary NAAQS concentrations and 500 corresponding to the significant harm levels. The breakpoints between 100 and 500 are based on Federal episode criteria as defined in 40 CFR Part 51, Appendix L. In addition to the five health-related pollutants, a subindex is calculated for the product TSP x SO_2 because it has both Federal episode criteria and a significant harm level. The breakpoints used in defining each of the six pollutant subindices are listed in gravimetric units (Table 1) and volumetric units (Table 2). The individual computational scheme is defined below for calculating the pollutant subindex values.

7.1 Uniform index computation. Each subindex, I, is calculated by using a segmented linear function (figures 1-6) that relates pollutant concentration, X_i, to subindex value, I_i. A segmented linear function consists of straight-line segments joining discrete coordinates (i.e., breakpoints). For pollutant i and segment j, the coordinates of the *jth* breakpoint are represented by subindex value $I_{i,j}$ and concentration $X_{i,j}$ giving the ordered pair $(X_{i,j}, I_{i,j})$. If the observed concentration is X_i, the corresponding subindex value I_i is calculated using the following equation over the concentration range $X_{i,j} \leq X_i \leq X_{i,j+1}$:

$$I_i = \frac{I_{i,j+1} - I_{i,j}}{X_{i,j+1} - X_{i,j}} (X_i - X_{i,j}) + I_{i,j}$$

for $X_{i,j} \leq X_i \leq X_{i,j+1}$

where X_i=observed concentration for *ith* pollutant

$I_{i,j}$=PSI value for *ith* pollutant and *jth* breakpoint (Table 1 or 2)

$I_{i,j+1}$=PSI value for *ith* pollutant and (j+1)*th* breakpoint (Table 1 or 2)

$X_{i,j}$=concentration for *ith* pollutant and *jth* breakpoint (Table 1 or 2)

$X_{i,j+1}$=concentration for *ith* pollutant and (j+1)*th* breakpoint (Table 1 or 2)

Finally, the overall index is calculated as the maximum of n subindices:

$$PSI = \max (I_1, I_2, \ldots, I_i, \ldots, I_n)$$

where I_i = subindex for *ith* pollutant

n = number of pollutants (for pollutant combinations)

7.2 Example computation. Suppose a TSP 24-hour concentration of 283 $\mu g/m^3$ is observed. The TSP subindex is calculated using equation 1 as follows. In Table 1, the observed concentration of X_1=283 $\mu g/m^3$ lies between 260 and 375 $\mu g/m^3$, therefore this computation is carried out for the second segment (j=2). For this segment, $X_{1,2}$=260 and $X_{1,3}$=375, with corresponding subindex values of $I_{1,2}$=100 and $I_{1,3}$=200. The computation is as follows:

$$I_1 = \frac{I_{1,3} - I_{1,2}}{X_{1,3} - X_{1,2}} (283 - X_{1,2}) + I_1 =$$

$$\frac{200 - 100}{375 - 260} (283 - 260) + 100 = \frac{100}{115} \cdot 23 + 100 = 120$$

Therefore, the TSP subindex is I_1=120. If four other pollutant subindices calculated in a similar manner from observations on the same date were: I_2=0, I_3=0, I_4=20, and I_5=30. Then, the overall index is reported as the maximum of these values:

$$PSI = \max (120, 0, 0, 20, 30) = 120$$

A typical report might contain the following statement: "Today's air quality index is 120 which is regarded as unhealthful. The responsible pollutant is suspended particulate matter. This report represents conditions prevailing over most of the downtown urban area for the previous 24-hour period ending at noon today." If the index were forecast for the next day, the following additional language might also be used: "The current forecast is for improved air quality tomorrow with the index not expected to exceed 80."

8. EXCEPTIONS

In many urban areas, a given air pollutant may exhibit low concentrations repetitively. At the discretion of the reporting agency, pollutants for which PSI values are consistently below 50 for an extended period (for example, a season or year) may be excluded in calculations of the daily index.

Because the index is for the purpose of achieving national uniformity of daily air quality reports, the following variations are not permitted unless approved by the EPA Administrator:

a. Exclusion of pollutants described in paragraph 7 from index calculations except as permitted above.

b. Incorporation of pollutants and/or pollutant combinations into the index not described in paragraph 7.

c. Use of breakpoints other than those given in table 1 or 2.

d. Use of descriptor words other than those given in paragraph 5.

9. REPORTING AGENCY RECORDKEEPING

The reporting agency shall keep annual records of the frequency with which reported index values occur in each of the index descriptor categories. These records must also indicate the pollutant-monitors in the SLAMS network being used for purposes of calculating the index for each reporting area. Such records must be made available for inspection at the request of the Administrator.

10. BASIS FOR PSI

The development and evaluation of the PSI index structure have been documented extensively.(*2-12*) The index was created as a result of a joint EPA/CEQ study(*2*) which identified problems resulting from the diversity of indices used in the United States and Canada. This report proposed design principles that could be used to develop a nationally uniform index to meet the needs of State and local agencies. The design principles on which PSI is based, along with previous versions of the index, have been presented in various scientific reports,(*3,4*) articles in technical journals,(*4,5,11*) and at various scientific meetings and conferences.(*7-10*) Most recently, the history of the development of PSI, along with its scientific rationale, has been summarized in a book.(*6*) In September, 1976, PSI was published in the FEDERAL REGISTER(*13*) for use by State and local air pollution control agencies on a voluntary basis. Approximately 1 year later, it had been adopted by 9 State and 21 local air pollution control agencies.(*10*)

11. ADDITIONAL INFORMATION

A variety of computational techniques have been developed to assist the user in calculating PSI in an accurate, convenient and rapid manner.(*6*) The primary techniques available are graphs (linear and logarithmic), nomograms, tables, and computer approaches. An EPA report(*14*) describes each technique, lists its advantages and disadvantages, includes examples of the methods, and provides nomograms and tables in both gravimetric and volumetric units. The nomograms are considered to be the most efficient way for computing the index and should be of greatest assistance to State and local agencies. Computer approaches for calculating PSI also are available.(*15*) These approaches lend themselves to applications with programmable hand calculators, minicomputers, or large-scale digital computers. A general computer program, Index plot, used in an earlier evaluation of PSI,(*11*) is available from EPA and is fully documented.(*15*) This computer program is useful for analyzing air quality data by means of PSI over relatively long periods (a month, a season, or a year). It plots the time series of daily index values on the line printer, generates and plots a histogram and cumulative frequencies of PSI values, computes summary data by subindex and descriptor category, computes overall statistics for PSI, and inventories all missing values in the data set. Agencies can use this program to translate all historical data collected at any station into the coresponding PSI values, and, thus, retain for recordkeeping purposes a uniform retrospective record of air quality.(*11,15*) Requests for these reports should be addressed to the Environmental Protection Agency Library, MD-35, Research Triangle Park, N.C. 27711.

Additional information on descriptive language to report with the index is provided in an earlier report(*1*) and in the quality criteria documents published for each air pollutant.(*16-20*) Additional information on meteorological forecasting services from the National Weather Service also is available in the literature.(*21,22*)

Additional information on the health effects of each air pollutant used in PSI is available in a brochure entitled, "Measuring Air Quality: The New Pollutant Standards Index," Printing Management Office (PM-215), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

12. REFERENCES

1. "Guideline for Public Reporting of Daily Air Quality-Pollutant Standards Index (PSI)," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. OAQPS No. 1.2-044, August 1976.

2. Thom, Gary C., and Wayne R. Ott., *Air Pollution Indices: A Compendium and Assessment of Indices Used in the United States and Canada,* joint study supported by the Council on Environmental Quality and the U.S. Environmental Protection Agency, December 1975, and reprinted by Ann Arbor Science Publishers, Ann Arbor, Mich., 1976.

3. "A Recommended Air Pollution Index," report prepared by the Federal Interagency Task Force on Air Quality Indicators, Council on Environmental Quality, Environmental Protection Agency, and Department of Commerce, September 1976.

4. Thom, Gary C., and Wayne R. Ott., "A Proposed Uniform Air Pollution Index," *Atmos. Environ* 10:261 (1976).

5. Ott, Wayne R., and Gary C. Thom, "A Critical Review of Air Pollution Index Systems in the United States and Canada," *J. Air Pollution Control Association* 26:460 (1976).

6. Ott, Wayne R., *Environmental Indices,* Ann Arbor Science Publishers, Ann Arbor, Mich., in press, 1978.

7. Hunt, William F., William M. Cox, Wayne R. Ott, and Gary C. Thom. "A Common Air Quality Reporting Format: Precursor to an Air Quality Index," *Proceedings of the Fifth Annual Environmental Engineering and Science Conference, Louisville, Ky., March 3-4, 1975, pp. 101-121.*

8. Ott, Wayne R., and Gary C. Thom, "Air Pollution Indices in the United States and Canada—the Present Picture," presented at the 171st National Meeting of the American Chemical Society, New York, N.Y., April 7, 1976.

9. Thom, Gary C., Wayne R. Ott, William F. Hunt, and John B. Moran, "A Recommended Standard Air Pollution Index," presented at the 171st National Meeting of the American Chemical Society, Newark, N.J., April 7, 1976.

10. Hunt, William F., Raymond Smith, Wayne R. Ott, and Wilson B. Riggan, "The Pollutant Standards Index (PSI)—An Early Warning System for Air Pollution," presented at the 8th International Scientific Meeting of the International Epidemiological Association, Las Croabas, P.R., September 18-23, 1977.

11. Ott, Wayne R., and William F. Hunt, "A Quantitative Evaluation of the Daily Air Pollution Index Proposed by the U.S. Environmental Protection Agency," *J. Air Poll. Control Association* 26:1050 (1976).

12. Hunt, William F., and Wayne R. Ott, Pollutant Standards Index (PSI) Evaluation Study, Joint Office of Air and Waste Management and Research and Development Report, U.S. Environmental Protection Agency, April 1976.

13. FEDERAL REGISTER, Vol. 41, September 7, 1976, pp. 37669-37671.

14. Wallace, Lance A., and Wayne R. Ott, "Rapid Techniques for Calculating the Pollutant Standards Index (PSI)," U.S. Environmental Protection Agency, Report No. EPA-600/4-78,002, March 1978.

15. Ott, Wayne R., "A FORTRAN Program for Computing the Pollutant Standards Index (PSI)," U.S. Environmental Protection Agency, Report No. EPA-600/4-78-001, May 1978.

16. "Air Quality Criteria for Particulate Matter," USDHEW, PHS, CPEHS, NAPCA, Washington, D.C., January 1969, No. AP-49.

17. "Air Quality Criteria for Sulfur Oxides, USDHEW," PHS, CPEHS, NAPCA, Washington, D.C., January 1969, No. AP-50.

18. "Air Quality Criteria for Carbon Monoxide," USDHEW, PHS, CPEHS, Washington, D.C., March 1970, No. AP-42.

19. "Air Quality Criteria for Photochemical Oxidants," USDHEW, PHS, CPEHS, Washington, D.C., March 1970, No. AP-63.

20. "Air Quality Criteria for Nitrogen Dioxide," EPA, APCO, Washington, D.C., January 1971, No. AP-84.

21. *National Weather Service Operations Manual Air Pollution Weather Forecasts,* WSOM Issuance 75-13, Part C. Chapter 30, April 1975.

22. *National Weather Service Technical Procedures Bulletin* No. 122: "Air Stagnation Guidance for Facsimile and Tel vne (3rd Edition)," October 21, 1974. (supe previous TPB's Nos. 52, 58 and 69).

[FR Doc. 78-21481 Filed 8-4-78;8:

Table 1. BREAKPOINTS FOR PSI (ψ) IN METRIC UNITS[a]

Breakpoints	PSI value (ψ)	24-hr. TSP μg/m³	24-hr. SO_2 μg/m³	TSP x SO_2 (μg/m³)²	8-hr. CO mg/m³	1-hr. O_3 μg/m³	1-hr. NO_2 μg/m³
50% of primary short-term NAAQS	50	75[b]	80[b]	c	5	80	c
Primary short-term NAAQS	100	260	365	c	10	160	c
Alert level	200	375	800	65×10^3	17	400[d]	1130
Warning level	300	625	1600	261×10^3	34	800	2260
Emergency level	400	875	2100	393×10^3	46	1000	3000
Significant harm level	500	1000	2620	490×10^3	57.5	1200	3750

[a]At 25°C and 760 mm Hg.

[b]Annual primary NAAQS are substituted here and are interpreted on a 24-hour basis.

[c]No index value reported at concentration levels below those specified by the alert level criteria.

[d]For the PSI index 400 μg/m³ appears to be a more consistent breakpoint between the descriptor words "Unhealthful" and "very unhealthful" than the O_3 alert level of 200 μg/m³.

Table 2. BREAKPOINTS FOR PSI
(Parts per Million)

Breakpoints	PSI value (ψ)	24-hr. SO_2	TSP x SO_2 (μg/m³ x ppm)	8-hr. CO	1-hr. O_3	1-hr. NO_2
50% of primary NAAQS	50	0.03[a]	b	4.5	0.04	b
Primary NAAQS	100	0.14	b	9	0.08	b
Alert level	200	0.30	24.82	15	0.2[c]	0.6
Warning level	300	0.60	99.66	30	0.4	1.2
Emergency level	400	0.80	150.1	40	0.5	1.6
Significant harm level	500	1.00	187.1	50	0.6	2.0

[a]Annual primary NAAQS.

[b]No index value reported at concentration levels below those specified by the Alert Level Criteria.

[c]For the PSI index, 0.2 ppm appears to be a more consistent breakpoint between the descriptor words "unhealthful" and "very healthful" than the O_3 Alert Level of 0.1 ppm.

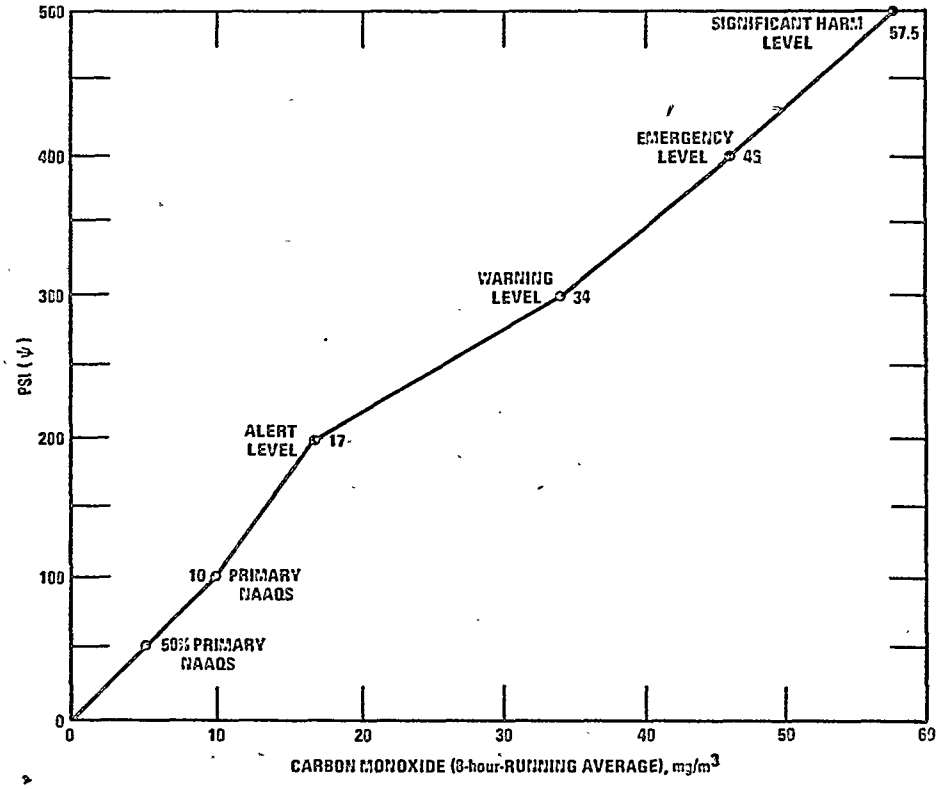

Figure 1. PSI function for carbon monoxide.

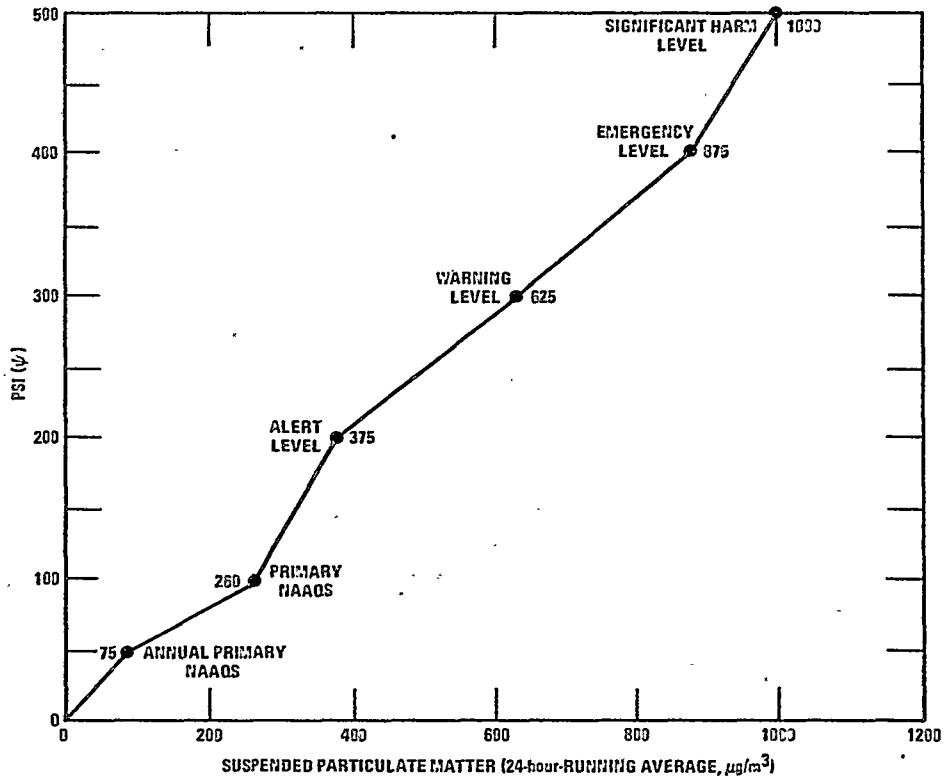

Figure 2. PSI function for suspended particulate matter.

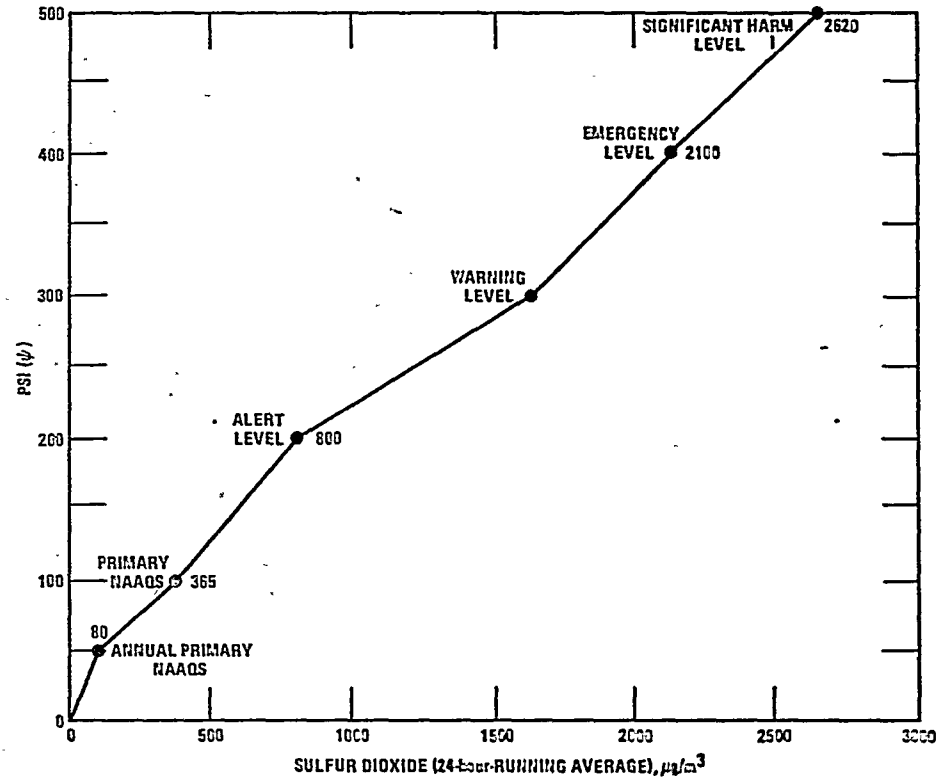

Figure 3. PSI function for sulfur dioxide.

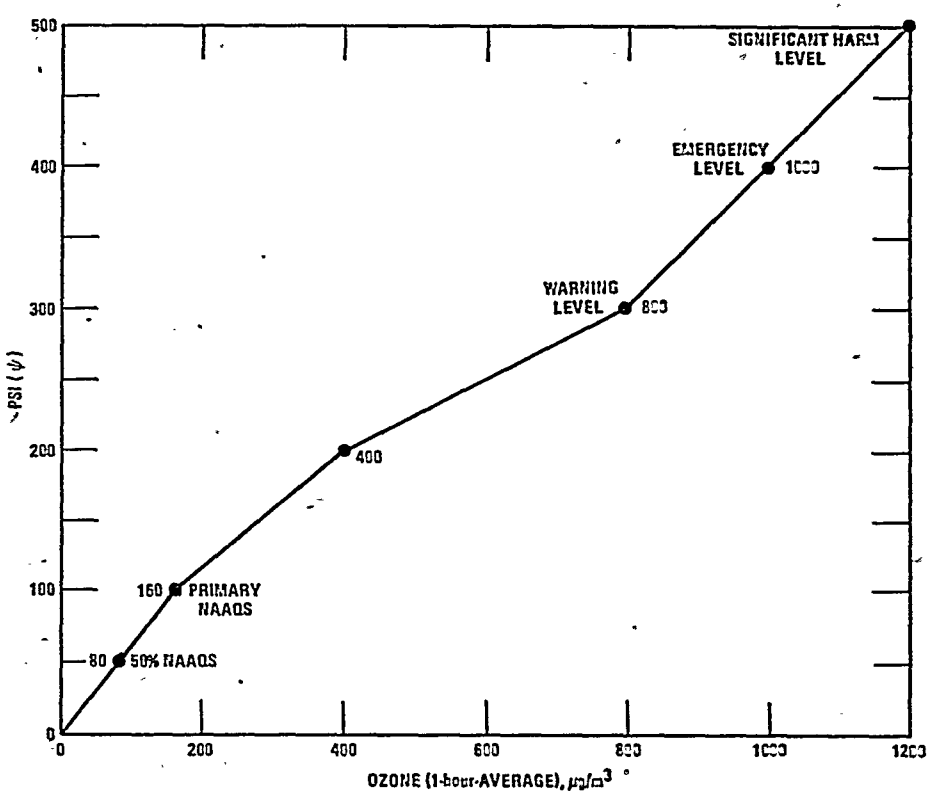

Figure 4. PSI function for photochemical oxidants.

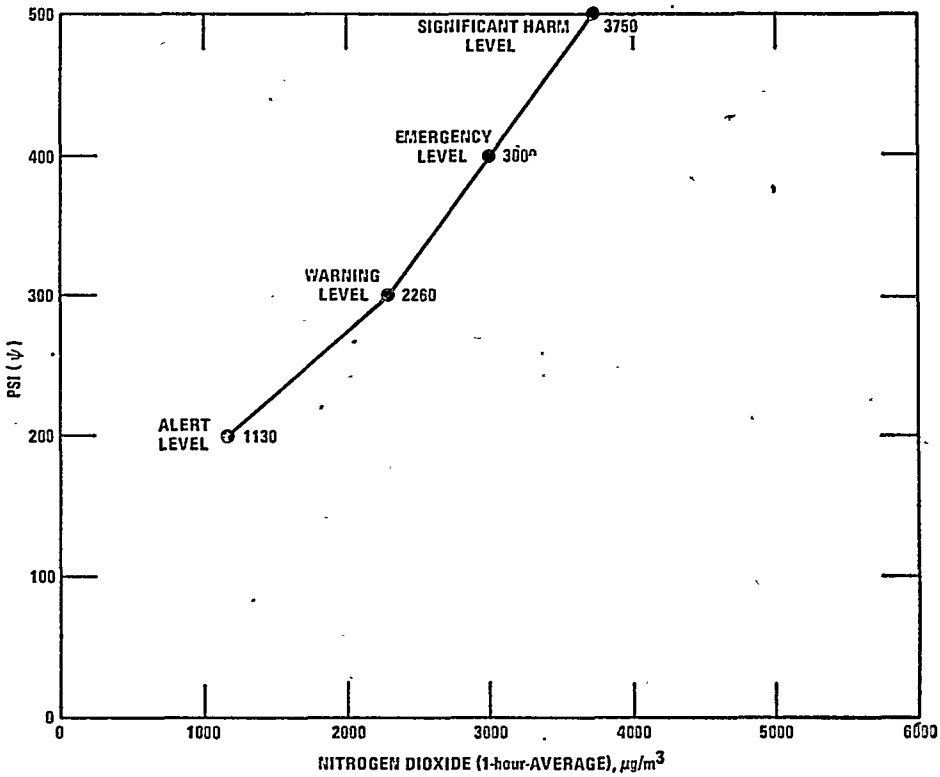

Figure 5. PSI function for nitrogen dioxide.

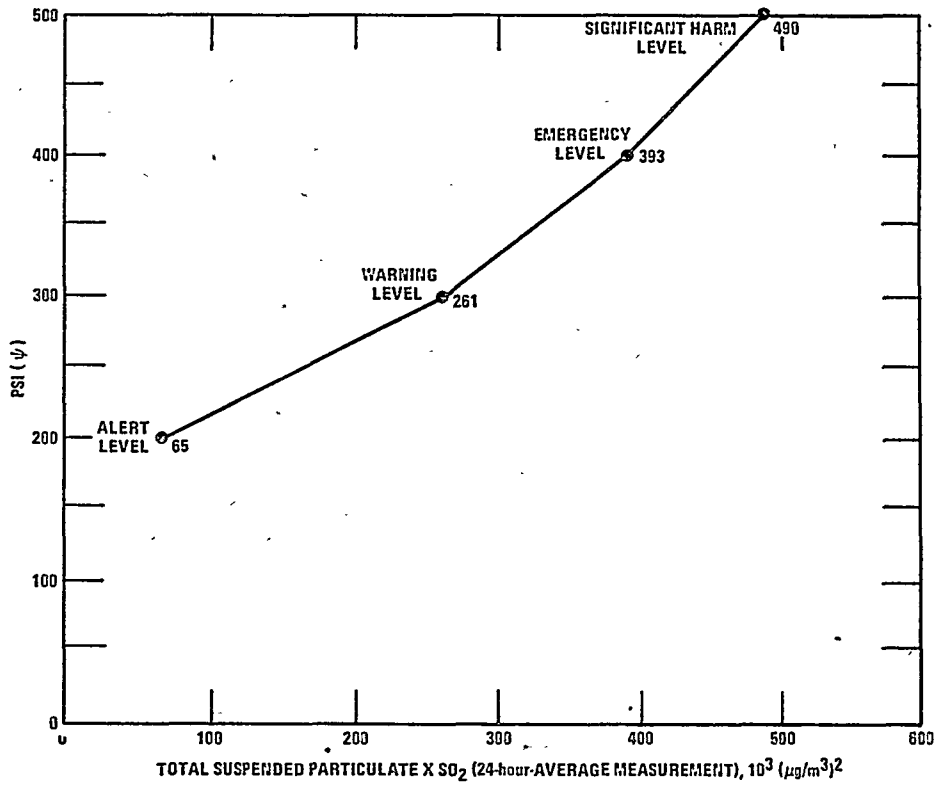

Figure 6. PSI function for product of total suspended particulate and sulfur dioxide.

FEDERAL REGISTER

MONDAY, AUGUST 7, 1978
PART III

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advanced Research Projects Agency

Organization of the Joint Chiefs of Staff

Uniformed Services University of the Health Services

■

PRIVACY ACT OF 1974

Systems of Records; Deletions and Amendments

[3810-70]

DEPARTMENT OF DEFENSE

OFFICE OF THE SECRETARY OF DEFENSE

PRIVACY ACT OF 1974

Notice of Systems of Records: Deletions and Amendments

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notification of deletions and amendments to systems of records.

SUMMARY: The Office of the Secretary of Defense proposes to delete 61 and amend 72 systems of records subject to the Privacy Act of 1974. The deleted systems and reasons for their deletions are specifically set forth below under "Deletions." The 72 amended systems being amended are set forth below under "Amendments."

DATES: These systems shall be deleted and amended as proposed without further notice in 30 calendar days from the date of this publication (September 6, 1978) unless comments are received on or before September 6, 1978, which would result in a contrary determination and require republication for further comments.

ADDRESS: Privacy Act Officer, Office of the Secretary of Defense, Room 5C-315, Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, telephone 202-695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems of records notices as prescribed by the Privacy Act have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50730) September 28, 1977.
FR Doc. 77-36255 (42 FR 64334) December 22, 1977.
FR Doc. 78-1465 (43 FR 2751) January 19, 1978.
FR Doc. 78-5170 (43 FR 8002) February 27, 1978.
FR Doc. 78-8197 (43 FR 13090) March 29, 1978.
FR Doc. 78-12640 (43 FR 19906) May 9, 1978.
FR Doc. 78-16943 (43 FR 26473) June 20, 1978.

The proposed amendments are not within the purview of the provisions of the Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975 and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act. This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

MAURICE W. ROCHE,
Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.

JULY 24, 1978.

DELETIONS

Notice is given that the following Office of the Secretary of Defense systems of records were all published in the September 28, 1977 issue of the FEDERAL REGISTER, except DCOMP P34. The citation for this document is in the December 22, 1977 issue of the FEDERAL REGISTER.

DCOMP BF01

System name: Travel Files (42 FR 50736)

Reason: This system has been redesignated as DWHS BF01, appearing with minor revisions in the amendments section of this document.

DCOMP CD01

System name: OSD General Correspondence Files (42 FR 50736)

Reason: This system has been redesignated as DWHS CD01, appearing with minor revisions in the amendments section of this document.

DCOMP CD02

System name: Cable Branch Personnel Administration Files (42 FR 50737)

Reason: This system has been redesignated as DWHS CD02, appearing with minor revisions in the amendments section of this document.

DCOMP P01

System name: Supergrade Correspondence, Reports, and Case Files (42 FR 50741)

Reason: This system has been redesignated as DWHS P01, appearing with minor revisions in the amendments section of this document.

DCOMP P02

System name: Job Opportunity Announcements (42 FR 50742)

Reason: This system has been redesignated as DWHS P02, appearing with minor revisions in the amendments section of this document.

DCOMP P03

System name: DoD Program for Stability of Civilian Employment (42 FR 50742)

Reason: This system has been redesignated as DWHS P03, appearing with minor revisions in the amendments section of this document.

DCOMP P04

System name: Reduction-In-Force Case Files (42 FR 50742)

Reason: This system has been redesignated as DWHS P04, appearing with minor revisions in the amendments section of this document.

DCOMP P05

System name: Roster of When Actually Employed Employees (42 FR 50743)

Reason: This system has been redesignated as DWHS P05, appearing with minor revisions in the amendments section of this document.

DCOMP P06

System name: DoD-Wide Civilian Career Program for Comptroller/Financial Management Personnel (42 FR 50743)

Reason: This system has been redesignated as DWHS P06, appearing with minor revisions in the amendments section of this document.

DCOMP P07

System name: Incentive Awards Records (42 FR 50743)

Reason: This system has been redesignated as DWHS P07, appearing with minor revisions in the amendments section of this document.

DCOMP P08

System name: Worker's Compensation-On-The-Job Injuries Report File (42 FR 50744)

Reason: This system has been redesignated as DWHS P08, appearing with minor revisions in the amendments section of this document.

DCOMP P09

System name: Computer Data Base (42 FR 50744)

Reason: This system has been redesignated as DWHS P09, appearing with minor revisions in the amendments section of this document.

DCOMP P10

System name: Training File (42 FR 50744)

Reason: This system has been redesignated as DWHS P10, appearing with minor revisions in the amendments section of this document.

DCOMP P12

System name: Executive Development Programs File (42 FR 50745)

Reason: This system has been redesignated as DWHS P12, appearing with minor revisions in the amendments section of this document.

DCOMP P13

System name: Management Intern File (42 FR 50745)

Reason: This system has been redesignated as DWHS P13, appearing with minor revisions in the amendments section of this document.

DCOMP P14

System name: Blood Donor Files (42 FR 50745)

Reason: This system has been redesignated as DWHS P14, appearing with minor revisions in the amendments section of this document.

DCOMP P15

System name: Department of Defense Distinguished Service Medal Files (42 FR 50746)

Reason: This system has been redesignated as DWHS P15, appearing with minor revisions in the amendments section of this document.

DCOMP P16

System name: Joint Service Commendation Medal Recommendations File (42 FR 50746)

Reason: This system has been redesignated as DWHS P16, appearing with minor revisions in the amendments section of this document.

DCOMP P17

System name: Assignment Folders (42 FR 50746)

Reason: This system has been redesignated as DWHS P17, appearing with minor revisions in the amendments section of this document.

DCOMP P18

System name: The Office of the Secretary of Defense Identification Badge Suspense Card System (42 FR 50746)

Reason: This system has been redesignated as DWHS P18, appearing with minor revisions in the amendments section of this document.

DCOMP P19

System name: General/Flag Officer Files (42 FR 50747)

Reason: This system has been redesignated as DWHS P19, appearing with minor revisions in the amendments section of this document.

DCOMP P20

System name: Report of Personnel Assigned Outside of Department of Defense (42 FR 50747)

Reason: This system has been redesignated as DWHS P20, appearing with minor revisions in the amendments section of this document.

DCOMP P21

System name: Duty Status Cards (42 FR 50747)

Reason: This system has been redesignated as DWHS P21, appearing with minor revisions in the amendments section of this document.

DCOMP P22

System name: General/Flag Officer Roster (42 FR 50748)

Reason: This system has been redesignated as DWHS P22, appearing with minor revisions in the amendments section of this document.

DCOMP P23

System name: Roster of Military Personnel (42 FR 50748)

Reason: This system has been redesignated as DWHS P23, appearing with minor revisions in the amendments section of this document.

DCOMP P24

System name: Navy Officer Personnel Service Records (42 FR 50748)

Reason: This system has been redesignated as DWHS P24, appearing with minor revisions in the amendments section of this document.

DCOMP P25

System name: Overseas Staffing Files (42 FR 50749)

Reason: This system has been redesignated as DWHS P25, appearing with minor revisions in the amendments section of this document.

DCOMP P26

System name: Protective Services File (42 FR 50749)

Reason: This system has been redesignated as DWHS P26, appearing with minor revisions in the amendments section of this document.

DCOMP P27

System name: Pentagon Building Pass Application File (42 FR 50749)

Reason: This system has been redesignated as DWHS P27, appearing with minor revisions in the amendments section of this document.

DCOMP P28

System name: The Office of the Secretary of Defense Clearance File (42 FR 50750)

Reason: This system has been redesignated as DWHS P28, appearing with minor revisions in the amendments section of this document.

DCOMP P29

System name: Employee Assistance Program Case Record Systems (42 FR 50750)

Reason: This system has been redesignated as DWHS P29, appearing with minor revisions in the amendments section of this document.

DCOMP P30

System name: Labor Management Relations Records Systems (42 FR 50750)

Reason: This system has been redesignated as DWHS P30, appearing with minor revisions in the amendments section of this document.

DCOMP P31

System name: Department of Defense Superior Service Medal (42 FR 50734)

Reason: This system has been redesignated as DWHS P31, appearing with minor revisions in the amendments section of this document.

DCOMP P32

System name: Standards of Conduct Inquiry File (42 FR 50734)

Reason: This system has been redesignated as DWHS P32, appearing with minor revisions in the amendments section of this document.

DCOMP P33

System name: Statements of Affiliations and Financial Interests File (42 FR 50735)

Reason: This system has been redesignated as DWHS P33, appearing with minor revisions in the amendments section of this document.

DCOMP P34

System name: Non-Career Personnel Job Files (42 FR 64334)

Reason: This system has been redesignated as DWHS P34, appearing with minor revisions in the amendments section of this document.

DCOMP SPM001

System name: Application for Pentagon Parking Permit (42 FR 50751)

Reason: This system has been redesignated as DWHS SPM001, appearing with minor revisions in the amendments section of this document.

DCOMP SPM002

System name: Pentagon Computeride (42 FR 50751)

Reason: This system has been redesignated as DWHS SPM002, appearing with minor revisions in the amendments section of this document.

DDR&E 02

System name: Office Director of Research and Development (ODDR&E) Personnel Administration Files (42 FR 50754)

Reason: This system has been redesignated as DUSDRE 02, appearing with minor revisions in the amendments section of this document.

DDR&E 03

System name: Office Director of Research and Development (ODDR&E), Inventor's File (42 FR 50755)

Reason: This system has been redesignated as DUSDRE 03, appearing with minor revisions in the amendments section of this document.

DDR&E 04

System name: Requests for Two-year Foreign Residence Waiver Files (42 FR 50755)

Reason: This system has been redesignated as DUSDRE 04, appearing with minor revisions in the amendments section of this document.

DH&E 04

System name: Variable Incentive Pay for Medical Officers Data Management System (42 FR 50757)

Reason: This system has been redesignated as DHA 04, appearing with minor revisions in the amendments section of this document.

DI&L 01

System name: I&L Administrative Files (42 FR 50758)

Reason: This system has been redesignated as DMRA&L 18.0, appearing with minor revisions in the amendments section of this document

DM&RA 01.0

System name: Overseas Education Correspondence Files (42 FR 50760)

Reason: This system has been redesignated as DMRA&L 01.0, appearing with minor revisions in the amendments section of this document.

DM&RA 02.0

System name: Teacher Application Files (42 FR 50761)

Reason: This system has been redesignated as DMRA&L 02.0, appearing with minor revisions in the amendments section of this document.

DM&RA 03.0

System name: Employer Support File (PLEDGE) (42 FR 50761)

Reason: This system has been redesignated as DMRA&L 03.0, appearing with minor revisions in the amendments section of this document.

DM&RA 06.0

System name: Department of Defense Priority Placement Program (STOPPER LIST) (42 FR 50762)

Reason: This system has been redesignated as DMRA&L 06.0, appearing with minor revisions in the amendments section of this document.

DM&RA 07.0

System name: Department of Defense Overseas Employment Program (42 FR 50763)

Reason: This system has been redesignated as DMRA&L 07.0, appearing with minor revisions in the amendments section of this document.

DM&RA 08.0

System name: Central Automated Inventory and Referral System (CAIRS) (42 FR 50763)

Reason: This system has been redesignated as DMRA&L 08.0, appearing with minor revisions in the amendments section of this document.

DM&RA 09.1

System name: DRRI Student File (42 FR 50764)

Reason: This system has been redesignated as DMRA&L 09.0, appearing with minor revisions in the amendments section of this document.

DM&RA 10.0

System name: Equal Opportunity Complaint File (42 FR 50764)

Reason: This system has been redesignated as DMRA&L 10.0, appearing with minor revisions in the amendments section of this document.

DM&RA 12.0

System name: Reserve Components Common Personnel Data System (RCCPDS) (42 FR 50765)

Reason: This system has been redesignated as DMRA&L 12.0, appearing with minor revisions in the amendments section of this document.

DM&RA 15.0

System name: Reports of Defense related employment (42 FR 50767)

Reason: This system has been redesignated as DMRA&L 15.0, appearing with minor revisions in the amendments section of this document.

DM&RA 16.0

System name: Retired Personnel Master File (42 FR 50768)

Reason: This system has been redesignated as DMRA&L 16.0, appearing with minor revisions in the amendments section of this document.

DM&RA 17.0

System name: DoD Overseas Dependent School Teachers Retroactive Pay Project (42 FR 50768)

Reason: This system has been redesignated as DMRA&L 17.0, appearing with minor revisions in the amendments section of this document.

DSMS-01

System name: DSMS Personnel Information Files (42 FR 50778)

Reason: This system has been redesignated as DSMC-01, appearing with minor revisions in the amendments section of this document.

DSMS-02

System name: DSMS Student Files (42 FR 50778)

Reason: This system has been redesignated as DSMC-02, appearing with minor revisions in the amendments section of this document.

DSMS-03

System name: DSMS Track Record System (42 FR 50779)

Reason: This system has been redesignated as DSMC-03, appearing with minor revisions in the amendments section of this document.

DSMS-04

System name: DSMS Academic Analysis System (42 FR 50779)

Reason: This system has been redesignated as DSMC-04, appearing with minor revisions in the amendments section of this document.

DSMS-05

System name: DSMS Biographical Record System (42 FR 50780)

Reason: This system has been redesignated as DSMC-05, appearing with minor revisions in the amendments section of this document.

DSMS-06

System name: DSMS Mailing List (42 FR 50780)

Reason: This system has been redesignated as DSMC-06, appearing with minor revisions in the amendments section of this document.

AMENDMENTS

Following the identification code of the OSD record systems and the specific changes made therein, the complete revised record systems, as amended, are published in their entirety. Citations are on the September 28, 1977 issue of the FEDERAL REGISTER for all of the OSD systems of records, except DWHS P34. The citation for this document is in the December 22, 1977 issue of the FEDERAL REGISTER.

DCOMP MS11

System name: List of Female Employees of OSD/OJCS (42 FR 50740)

Changes:

System location: Delete the semicolon and insert a period after the word "Center". After "Decentralized Segment," delete "OSD Dir. of Personnel," and insert: "Director of Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of records in the system: Delete "Date of Birth, Service Computation Date, Pay Plan".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete "Directorate of Personnel," and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense".

Retention and disposal: Delete the entire entry after the word "new," and insert: "Revised lists are provided, as required."

Contesting record procedures: In line one, insert the word "Agency's" between the words "The" and "rules". Also delete, "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DHA 04

System name: Uniform Incentive Pay for Medical Officers Data Management System (42 FR 50757)

Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete the word "Personnel," and insert: "Studies". Also delete the words "and Environment)," and insert: "Affairs)".

Safeguards: Delete the second word "by" in the first line.

System manager(s) and address: Delete the word "Personnel," and insert: "Studies". Also delete the words "and Environment)," and insert: "Affairs)".

Notification procedure: Delete "and Environment)," and insert: "Affairs)".

Record access procedures: Delete "and Environment)," and insert: "Affairs".

Contesting record procedures: Delete "may be obtained from the Assistant Secretary of Defense (Health and Environment), The Pentagon, Washington, D.C. 20301," and insert: "by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DLA01

System name: Security Clearance File (42 FR 50760)

Changes:

System location: Add between the "Assistant Secretary," the words "to the".

System manager(s) and address: Add between the "Assistant Secretary," the words "to the".

Record access procedures: Add between "Assistant Secretary," the words "to the".

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source procedures: Delete "Director, Personnel Security, Office DASD(Admin), OASD(C)," and insert: "Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense."

DLA02

System name: Biographic Data File (42 FR 50760)

Changes:

System location: Add between "Assistant Secretary," the words "to the".

System manager(s) and address: Add between "Assistant Secretary", the words "to the".

Record access procedures: Delete "OASD(LA)," and insert: "OATSD(LA)".

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DMRA&L 01.1

System name: Overseas Education Correspondence Files (42 FR 50760)

Changes:

System location: Delete the entire first paragraph, and insert: "Teacher Recruitment Section, Staffing Branch, Office of Dependents Schools, Office of Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Room 120, Hoffman Building, 2461 Eisenhower Avenue, Alexandria, Va. 22331."

System manager(s) and address: Delete "(M&RA)", and insert: "(MRA&L)".

Notification procedure: Delete the entire address beginning with the word "Chief", and ending with "202/694-2621," and insert: "Chief, Teacher Recruitment Section, DoD, Office of Dependents Schools, Room 120, Hoffman Building, 2461 Eisenhower Avenue, Alexandria, Va. 22331. Telephone: 202-325-0885."

Record access procedures: Delete "(M&RA)", and insert "(MRA&L)".

Contesting record procedures: Delete "may be obtained from the SYSTEM MANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DMRA&L 02.0

System name: Teacher Application Files (42 FR 50761)

Changes:

System location: Delete the entire first paragraph, and insert: "Teacher Recruitment Section, Staffing Branch, Personnel Division, DoD, Office of Dependents Schools, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Room 120, Hoffman Building, 2461 Eisenhower Avenue, Alexandria, Va. 22331."

Notification procedure: Delete the entire name and address beginning with the word "Chief," and ending with "202-694-2626," and insert: "Chief, Teacher Recruitment Section, DoD, Office of Dependents Schools, Room 120, Hoffman Building, 2461 Eisenhower Avenue, Alexandria, Va. 22331. Telephone: 202-325-0885."

Contesting record procedures: In line one, insert: "Agency's" between the words "and" and "rules". Delete "may be obtained from the Director, Office of Overseas Dependents Education, Office of the Secretary of Defense, Washington, D.C. 20301," and insert: "by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DMRA&L 03.0

System name: Employer Support File (PLEDGE) (42 FR 50761)

Changes:

System location: In the second paragraph, delete "Room 3A24, 400 Army-Navy Drive, Arlington, VA 22202," and insert: "Room 907, 1117 North 19th Street, Arlington, Va. 22209."

System manager(s) and address: Delete "Room 3A24, 400 Army-Navy Drive, Arlington, VA 22202," and insert: "Room 907, 1117 North 19th Street, Arlington, Va. 22209."

Notification procedure: Delete "Room 3A24, 400 Army-Navy Drive, Arlington, VA 22202, Telephone: Area Code 202/697-6902," and insert: "Room 907, 1117 North 19th Street, Arlington, Va. 22209. Telephone: 202-697-6902."

Record access procedures: Delete "Room 3A24, 400 Army-Navy Drive, Arlington, VA 22202," and insert: "Room 907, 1117 North 19th Street, Arlington, Va. 22209."

Contesting record procedures: Delete "may be obtained from the SYSTEM MANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DMRA&L 06.0

System name: Department of Defense Priority Placement Program (STOPPER LIST) (42 FR 50762)

Changes:

Contesting record procedures: Insert after the word "access," the words "to records". Delete "may be obtained from the SYSTEM MANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DMRA&L 07.0

System name: Department of Defense Overseas Employment Program (42 FR 50763)

Changes:

Contesting record procedures: Insert after the word "access", the words "to records". Delete "may be obtained from the SYSTEM MANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DMRA&L 08.0

System name: Central Automated Inventory and Referral System (CAIRS) (42 FR 50763)

Changes:

Notification procedure: Delete "Area Code 202/OX5-0313," and insert: "202-695-0813".

Contesting record procedures: Insert after the word "access", the words "to records". Delete "may be obtained from the SYSTEM MANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DMRA&L 09.0

System name: DRRI Student File (42 FR 50764)

Changes:

Correct the system name to read: "Defense Race Relations Institute (DRRI) Student File."

Notification procedure: Delete "Area Code 305/494-6976," and insert: "305-494-6976".

Contesting record procedures: Delete "may be obtained from the SYSTEM MANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DMRA&L 10.0

System name: Equal Opportunity Complaint File (42 FR 50764)

Changes:

Notification procedure: Delete "Area Code 202/695-0107," and insert: "202-695-0107".

Contesting record procedures: Delete "may be obtained from the SYSTEM MANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DMRA&L 12.0

System name: Reserve Components Common Personnel Data System (RCCPDS) (42 FR 50765)

Changes:

Authority for maintenance of the system: Insert a comma after "136," and insert: "and 275".

Notification procedure: Delete "Area Code: 202/697-0624," and insert: "Telephone: 202-697-0624".

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DMRA&L 15.0

System name: Reports of Defense related Employment (42 FR 50767)

Changes:

System location: Delete "(Manpower and Reserve Affairs)," and insert: "(Manpower, Reserve Affairs and Logistics)".

System manager(s) and address: Delete "(Manpower and Reserve Affairs)," and insert: "(Manpower, Reserve Affairs and Logistics)".

Notification procedure: Delete "(Manpower and Reserve Affairs)," and insert: "(Manpower, Reserve Affairs and Logistics)".

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DMRA&L 16.0

System name: Retired Personnel, Master File (42 FR 50768)

Changes:

Contesting record procedures: Insert: "contents" after the word "contesting". Delete "may be obtained from SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DMRA&L 17.0

System name: DoD Overseas Dependent School Teachers Retroactive Pay Project (42 FR 50768)

Changes:

System location: Delete the entire entry, and insert: "DoD Office of Dependents Schools, OSD, 2461 Eisenhower Avenue, Alexandria, Virginia 22331."

System manager(s) and address: Delete the entire entry, and insert: "Director, DoD Office of Dependents Schools, DASD (Program Management), OSD."

Notification procedure: In the second, third, and fourth lines, delete "Director, Office of Overseas Dependents Education, Attn: Back Pay Project, 1400 Wilson Boulevard, Room 138, Rosslyn, Va. 22209," and insert: "Director, DoD Office of Dependents Schools, ATTN: Back Pay Project, 2461 Eisenhower Avenue, Room 148, Alexandria, Va. 22331. Telephone: 202-325-0660."

Contesting record procedures: Insert the word "Agency's" between the word "The" and the word "rules". Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DMRA&L 18.0

System name: I&L Administrative Files (42 FR 50758)

Changes:

Delete the words "I&L" in the system name. Insert: "(MRA&L)" after the word "Files" in the system name.

System location: Delete "(Installations and Logistics) (OASD(I&L))," and insert: "(Manpower, Reserve Affairs and Logistics) (OASD (MRA&L))."

Categories of individuals covered by the system: Delete "OASD(I&L)", and insert: "OASD(MRA&L)".

Categories of records in the system: Insert the words "name of spouse," between the words "awards" and "home".

Retention and disposal: In the first and second sentences of this entry, delete "OASD(I&L)," and insert: "OASD(MRA&L)."

System manager(s) and address: Delete the entire entry, and insert: "The Administrative Officer, OASD(MRA&L), Pentagon, Washington, D. C. 20301."

Notification procedure: Delete "OASD(I&L) (AD), Room 3D769," and insert: "OASD(MRA&L) (AD), Room 3E787." Delete "Area Code 202/695-5592," and insert: "202-695-2202."

Record access procedures: In the first and second paragraphs, delete "OASD(I&L) (AD), Room 3D-769," and insert: "OASD(MRA&L) (AD), Room 3E787."

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DOCHA 01

System name: Health Benefits File (42 FR 50768)

Changes:

System location: Delete the entire entry, and insert: "Primary System-Directorate of Health Benefits (DHB), OCHAMPUS, DoD, Denver, Colorado 80240.

Decentralized Segment-Office of Appeals and Hearings, OCHAMPUS, DoD, Denver, Colorado 80240."

Categories of records covered by the system: Remove the period at the end of the paragraph, add a comma after the words "case workers," and insert: "and appeals and hearing case files consisting of transcripts and/or other documentation pertaining to reconsiderations or appeals of adverse determinations affecting an individual's benefits under CHAMPUS."

Authority for maintenance of the system: Delete the entire entry, and insert: "Title 44, United States Code, Sections 3101; Title 41, Code of Federal Regulations, Parts 101-1100 et seq.; and Chapter 55, Title 10, United States Code."

Safeguards; Delete the word "PAMC," and insert: "Fitzsimons Army Medical Center (FAMC)."

System manager(s) and address: Line one, delete the words "Staff Assistant," and insert: "Director of Health Benefits (DHB)." After the word "DoD," delete the words "Building 611, First Floor."

Notification procedure: Delete "Area Code 303/341-8609," and insert: "303-341-8609."

Record access procedures: Delete the words "Services (HBD)," and insert: "Benefits (DHB)."

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source categories: Delete the words "agents (FA)," and insert: "intermediaries (FI)."

DOCHA 03

System name: MA31T01 Health Benefits Preapproval Files (42 FR 50769)

Changes:

In the system name, delete "MA31TO1".

System location: Insert the word "Information," between the words "Management Services," and delete "Assistant Secretary of Defense (Health and Environment)," and insert: "DoD, Denver, Colorado 80240." After the words "Decentralized Segments," delete "Colorado Dental Service, 1600 Downing Street, Denver, Colorado 80218," and insert: "Office of Appeals and Hearings, OCHAMPUS, DoD, Denver, Colorado 80240; Blue Shield of California, P.O. Box 85035, San Diego, California 92138."

Categories of records in the system: Remove the period after the word "multi-providers," add "and appeals and hearing case files consisting of hearing transcripts and/or other documentation pertaining to reconsiderations and appeals of adverse determinations affecting an individual's benefits under CHAMPUS."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the first paragraph, line one, delete the word "Services," and insert: "Benefits (DHB)." In the second paragraph, insert the word "Information," between the words "Management," and "Services". In the third paragraph, line six, after the words "health care," insert: "to respond to inquiries from congressional offices made at the request of the individual covered by the System;".

System manager(s) and address: Insert the word "Information," between the words "Management," and "Services".

Notification procedure: Insert the word "Information," between the words "Management," and "Services". Delete "Area Code 303-341-8005," and insert: "303-341-8005."

Record access procedures: In the first and second paragraphs, insert the word "Information," between the words "Management," and "Services".

Contesting record procedures: Delete entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DOCHA 07

System name: Medical Claim History Files (42 FR 50771)

Changes:

System location: Insert the word "Information," between words "Management," and "Services." Delete "Assistant Secretary of Defense (Health and Environment)," and insert: "DoD, Denver, Colorado 80240." Under "Decentralized Segments," insert: "Office of Appeals and Hearings, (OCHAMPUS), DoD, Denver, Colorado 80240," before the

word "Fiscal." Delete the word "Administrators/Contractors," and insert: "Intermediaries/Contractors." Delete the following: "Blue Cross Association, 840 North Lake Shore Drive, Chicago, IL 60611; Blue Cross/Blue Shield of Alabama, 930 South, 20th Street, Birmingham, AL 35205; Blue Cross, Washington-Alaska, Inc., P.O. Box 327, Seattle, WA 98111; Arizona-Blue Shield Medical Service, P.O. Box 13466, Phoenix, AZ 85002; Associated Hospital Service of Arizona, P.O. Box 13466, Phoenix, AZ 85002; Arkansas Blue Cross/Blue Shield, Inc., P.O. Box 2181, Little Rock, AR 72203; Blue Cross of Southern California, 3540 Wilshire Boulevard, Los Angeles, CA 90010, Blue Cross of Northern California, 1950 Franklin Street, Oakland, CA 94659; Colorado Medical Service, Inc., 700 Broadway, Denver CO 80203; Colorado Hospital Service 700 Broadway, Denver, CO 80203; Colorado Dental Service, 1600 Drowning Street, Denver, CO 80218, Connecticut General Life Insurance Company, Hartford, CT 06115; Connecticut Blue Cross, Inc., P.O. Box 504, North Haven, CT 06473; Blue Cross/Blue Shield of Delaware, Inc., 201 West Fourteenth Street, Wilmington, DE 19899; Medical Service of the District of Columbia, 550 12th Street, SW., Washington, DC 20024; Group Hospitalization, Inc., 550 12th Street, SW., Washington, DC 20024, Blue Shield of Florida, Inc., P.O. Box 2170, Jacksonville, FL. 32203; Medical Association of Georgia, 938 Peachtree Street, NE, Atlanta, GA 30309; North Idaho District Medical Service Bureau, Inc., P.O. Box 1106, Lewiston, ID 83501; Idaho Hospital Service, Inc., P.O. Box 7408, Boise, ID 83707; The Indiana State Medical Association, 3935 North Meridian Street, Indianapolis, IN 46208; Blue Shield of Iowa, Liberty Building, Des Moines, IA 50309; Kansas Blue Shield, P.O. Box 239, Topeka, KS 66601; Kentucky Physicians Mutual, Inc., 3101 Bardstown Road, Louisville, KY 40205; Blue Cross Hospital Plan, Inc., 3101 Bardstown Road, Louisville, KY 40205; Continental Service Life & Health Insurance Company, P.O. Box 3397, Baton Rouge, LA 70821; Associated Hospital Service of Maine, 110 Free Street, Portland, Me 04101; Blue Cross of Maryland, P.O. Box 9836, Towson, MD 21204; Blue Cross/Blue Shield of Minnesota, 3535 Blue Cross Road, Minneapolis, MN 55165; Mississippi State Medical Association, 730 Riverside Drive, Jackson, MS 39216; Missouri Medical Service, 5775 Campus Parkway, Hazelwood, MO 63402; Montana Physicians Service, P.O. Box 1677, Helena, MT 59601; Blue Cross of Montana, P.O. Box 911, Great Falls, MT 59403; Blue Shield of Nebraska, P.O. Box 3248, Omaha, NB 68103; Nevada State Medical Association, 3660 Baker Lane, Reno, NV 89502; Associated Hospital Service of Arizona, P.O. 13466, Phoenix, AZ 85002; New Hampshire-Vermont Physicians Service, Two Pillsbury Street, Concord, NH 03301; New Mexico Blue Cross/Blue Shield, Inc., 12800 Indian School Road, NE., Albuquerque, NM 87112; Blue Cross/Blue Shield of Greater New York, Two Park Avenue, New York, NY 10016; Blue Cross of Northeastern New York, Inc., P.O. Box 8650, Albany, NY 12208; Blue Cross of Western New York, Inc., 298 Main Street, Buffalo, NY 14202; Chautaugua Regional Hospital Service Corporation, P.O. Box 1119, James Town, NY 14701; Blue Corss/Blue Shield of Greater New York, 622 Third Avenue, New York, NY 10017; Rochester Hospital Service Corporation, 41 Chestnut Street, Rochester, NY 14647; Blue Cross of Central New York, Inc., P.O. Box 271, Syracuse, NY 13201; Hospital Plan, Inc., 5 Hopper Street, Utica, NY 13501; Hospital Service Corporation of Jefferson County, 158 Stone Street, Watertown, NY 13601; Blue Shield of North Dakota, 301 Eighth Street South, Fargo, NB 58102; Blue Cross Hospital Plan, Inc., 201 Ninth Street, NW., Canton, OH 44702; Blue Cross of Southwest Ohio, 1351 William Howard Taft Road, Cincinnati, OH 45206; Blue Cross of Northeast Ohio, 2066 East Ninth Street, Cleveland, OH 44115; Blue Cross of Central Ohio, 174 East Long Street, Columbus, OH 43215; Blue Cross of Lima, Ohio, P.O. Box 1046, Lima, OH 45802; Blue Cross of Northwest Ohio, P.O. Box 943, Toledo, OH 43656; Blue Cross of Eastern Ohio, Inc., 2400 Market Street, Youngstown, OH 44507; Blue Cross/Blue Shield of Oklahoma, P.O. Box 1738, Tulsa, OK 74102; Oregon Physicians Service, P.O. Box 1071, Portland, OR 97207; Blue Cross of Oregon, P.O. Box 1271, Portland, OR 97207; Blue Cross of Lehigh Valley, 1221 Hamilton Street, Allentown, PA 18102; Capital Blue Cross, 100 Pine Street, Harrisburg, PA 17101; Blue Cross of Greater Philadelphia, 1333 Chestnut Street, Philadelphia, PA 19107; Blue Cross of Western Pennsylvania, One Smithfield Street, Pittsburgh, PA 15222; Blue Cross of Northeastern Pennsylvania, 15 South Franklin Street, Wilkes-Barre, PA 18701; South Dakota Medical Service, Inc., 711 North Lake Avenue, Sioux Falls, SD 57104; Memphis Hospital Service and Surgical Association, Inc., P.O. Box 93, Memphis, TN 38101; Blue Shield of Utah, P.O. Box 270, Salt Lake City, UT 84110; Blue Shield of Virginia, P.O. Box 27401, Richmond, VA 23279; Washington Physicians Service, 220 West Harrison Street, Seattle, WA 98119; Blue Cross Washington-Alaska, Inc., P.O. Box 327, Seattle, WA 98111; Medical Surgical Care, Inc., Union Trust Building, P.O. Box 1948, Parkersburg, WV 26101; Wyoming Medical Service, Inc., P.O. Box 2266, Cheyenne, WY 82001."

In the entry for "California Blue Shield," correct the P.O. Box number and address to read: "P.O. Box 85020, San Diego, CA 92138." Add: "California Blue Shield, P.O. Box 85035, San Diego, CA 92138 (Dental)." In the entry for "Blue Shield of Massachusetts, Inc.," correct the P.O. Box number to read: "2194." Add "Dikewood Industries, Inc., 1009 Bradbury Drive, SE., University Research Park, Albuquerque, New Mexico 87106." In the entry for "Medical Service Association of Pennsylvania," delete the words "Medical Service Association," and insert the words "Blue Shield". In the entry for "Blue Cross/Blue Shield of Rhode Island," delete "/Blue Shield"; also delete "P.O. Box 1293," and insert: "One Weybosset Hill,". In the entry for "Blue Cross of Southwestern Virginia," correct the P.O. Box number to read: "13828".

Categories of records in the system: Remove the period at the end of the paragraph, insert a comma, and add: "and appeals and hearing case files consisting of hearing transcripts and/or other documentation pertaining to reconsiderations or appeals of adverse determinations of benefits under CHAMPUS."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: After the words "deductible certificates," add "to respond to inquiries from congressional offices made at the request of the individual covered by the system".

System manager(s) and address: Insert the word "Information," between the words "Management," and "Services".

Notification procedure: Insert the word "Information," between the words "Management," and "Services". Delete Area Code 303/341-8005," and insert: "303-341-8005".

Record access procedures: In the first paragraph, line 4, insert the word "Information" between the words "Management" and "Services". In the second paragraph, line 2, delete the word "the" before the word "visits," and insert the word "personal." In line 3 of the second paragraph, insert the word "Information," between the words "Management" and "Services".

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source categories: Delete the entire entry, and insert: "CHAMPUS Medical Claims Forms, private physicians, hospitals, and other sources of care."

DPA DDLA02

System name: Biography File (42 FR 50773)

Changes:

Retention and disposal: Delete the entire entry, and insert: "Permanent. Retain one copy permanently, destroy remaining copies when superseded."

Notification procedure: Delete "Area Code (2) 695-3386," and insert: "202-695-3886".

Contesting record procedures: Delete "may be obtained from the Assistant Secretary of Defense (Public Affairs), The Pentagon, Washington, D.C. 20301," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DPA DFOLA 05

System name: Freedom of Information Program Case Files (42 FR 50774)

Changes:

System location: In the second paragraph after the words "Decentralized segments," delete "Director, Defense Research and Engineering," and insert: "Under Secretaries of Defense".

Retention and disposal: Delete the entire entry, and insert: "Annual departmental reports are permanent records. All other reports and files, other than appeal and control files, may be destroyed two to five years after reply, depending on document status. Appeal files are destroyed four years after final determination, or three years after final adjudica-

tion, whichever is later. FOIA control files are destroyed five years after date of last entry. Official file copies of records are disposed of in accordance with approved departmental disposition instructions or with the related FOIA request, whichever provides the later disposal date."

Notification procedure: Delete "Area Code (202) 697-1180," and insert: "202-697-1180".

Contesting record procedures: In line one, insert the word "Agency's," between the words "The" and "rules". Delete: "may be obtained from the Assistant Secretary of Defense (Public Affairs), The Pentagon, Washington, D.C. 20301," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DPA DIA.A07

System name: Personnel Files (42 FR 50775)

Changes:

Categoies of records in the system: Delete "and information concerning leave, sick leave".

Retention and disposal: Add after "(Public Affairs)", "and for three years thereafter and are then destroyed." Delete "then destroyed when individual is no longer so assigned."

Notification procedure: Delete "Area Code (202) 697-0792," and insert: "202-697-0792".

Contesting record procedures: Delete "may be obtained from the Assistant Secretary of Defense (Public Affairs), The Pentagon, Washington, D.C. 20301," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DPA DXA.D 10

System name: Privacy Act Request for Access Files (42 FR 50776)

Changes:

System location: In the second paragraph, delete: "Director of Defense Research and Engineering," and insert: "Under Secretaries of Defense".

Retention and disposal: Delete the entire entry, and insert: "Files are kept for five years after date of reply in denial cases which are not appealed or three years after final determination. Where access is granted, files are destroyed after two years."

Notification procedure: Delete "Area Code 202/697-1180," and insert: "202-697-1180".

Contesting record procedures: In line one, insert the word "Agency's," between the words "The" and "rules". Delete "may be obtained from the System Manager," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DSMC-01

System name: DSMS Personnel Information Files (42 FR 50778)

Changes:

In the system name, delete "DSMS," and insert: "Defense Systems Management College (DSMC)."

System location: Delete "Personnel," and "School," and insert: "College". In the second paragraph, delete "Computer Systems and Simulations," and insert: "Systems Management". Delete "School," and insert: "College".

Categories of individuals covered by the system: Delete "School," and insert: "College".

Authority for maintenance of the system: Delete "School," and insert: "College, 'January 5, 1977'".

System manager(s) and address: Delete "/Personnel," and "School," and insert: "College".

Record access procedures: Delete "School," and insert: "College,". Also delete "Programs," and insert: "Administration".

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DSMC-02

System name: DSMS Student Files (42 FR 50778)

Changes:

In the system name, delete "DSMS," and insert: "Defense Systems Management College (DSMC)."

System location: Delete the word "School," and insert: "College".

Categories of individuals covered by the system: Delete "School (DSMS)," and insert: "College (DSMC)".

Categories of records in the system: Delete "DSMS," and insert: "DSMC".

Authority for maintenance of the system: Delete "School," and insert: "College, 'January 5, 1977' ".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the second and fourth paragraphs, delete "School," and insert: "College".

System manager(s) and address: Delete "School," and insert: "College".

Notification procedure: Delete the entire entry, and insert: "Information can be obtained from the SYSMANAGER. Telephone: 703-664-3120."

Record access procedures: Delete "School," and insert: "College". Delete "Programs," and insert: "Administration".

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DSMC-03

System name: DSMS Track Record System (42 FR 50779)

Changes:

In the system name, delete "DSMS," and insert: "Defense Systems Management College (DSMC)".

System location: In the second paragraph, delete "Computer". Delete "and Simulation," and insert: "Management". Delete "School," and insert: "College".

Categories of individuals covered by the system: Delete "School (DSMS)," and insert: "College (DSMC)".

Categories of records in the system: In the seventh and ninth lines, delete "DSMS," and insert: "DSMC". Also delete "GPA," and insert: "Grade Point Average (GPA)."

Authority for maintenance of the system: Delete "School," and insert: "College, 'January 5, 1977' ".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the third, fourth and eighth lines of the first paragraph, delete "DSMS," and insert: "DSMC". In the second paragraph, line one, delete "School," and insert: "College". In the eighth line of this paragraph, delete "DSMS," and insert: "DSMC".

System manager(s) and address: Delete: "Programs," and insert: "Curriculum Development". Also delete "School," and insert: "College".

Record access procedures: Delete the word "School," and insert: "College". Also delete "Programs," and insert: "Administration". In the third paragraph, delete "Programs," and insert: "Administration". Delete "Department of Plans and Programs".

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source categories: Delete "DSMS," and insert: "DSMC".

DSMC-04

System name: DSMS Academic Analysis System (42 FR 50779)

Changes:

In the system name, delete "DSMS," and insert: "Defense Systems Management College (DSMC)".

System location: Delete "School (DSMS)," and insert: "College (DSMC)". In the second paragraph, delete "Computer". Also delete "and Simulation," and insert: "Management,"; delete "School," and insert: "College".

Categories of individuals covered by the system: Delete "DSMS," and insert: "DSMC".

Categories of records in the system: In lines five, six, and nine, delete "DSMS," and insert: "DSMC".

Authority for maintenance of the system: Delete "School," and insert: "College, 'January 5, 1977' ".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the first paragraph, lines three, six, and seven, delete "DSMS," and insert: "DSMC". In the second paragraph, lines one, three, five, six, seven and nine, delete "DSMS," and insert: "DSMC".

System manager(s) and address: Delete "School," and insert: "College".

Notification procedure: Delete "Area Code: 703/664-2017," and insert: "703-664-2017".

Record access procedures: Delete "School," and insert: "College". Also delete "Programs," and insert: "Administration". In the third paragraph, delete "Programs," and insert: "Administration". Delete "Department of Plans and Programs".

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source categories: Delete "DSMS," and insert: "DSMC".

DSMC-05

System name: Biographical Record System (42 FR 50780)

Changes:

System location: In the first paragraph, delete "Plans," and insert: "Research". Delete "Programs," and insert: "Publications"; also delete "School," and insert: "College". In the second paragraph, delete "Programs," and insert: "Curriculum Development"; also delete "School," and insert: "College". In the third paragraph, delete "Intermediate," and insert: "Program"; delete "Courses"; delete "School," and insert: "College". In the fourth paragraph, delete "Courses"; also delete "School," and insert: "College".

Categories of individuals covered by the system: In the second paragraph, delete "School," and insert: "College".

Authority for maintenance of the system: Delete "School," and insert: "College, 'January 5, 1977' ".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the second paragraph, delete "Programs," and insert: "Curriculum Development". In the third paragraph, delete "Intermediate," and insert: "Program". Also delete "Courses". In the fourth paragraph, delete "Courses".

System manager(s) and address: Delete the entire entry, and insert: "Director, Department of Research and Publications, Defense Systems Management College, Ft. Belvoir, Va. 22060."

Notification procedure: Delete "Area Code: 703/664-2017," and insert: "703-664-5783".

Record access procedures: Delete "School," and insert: "College". Also delete "Programs," and insert: "Administration".

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DSMC-06

System name: DSMS Mailing List (42 FR 50780)

Changes:

In the system name, delete "DSMS," and insert: "Defense Systems Management College (DSMC)."

System location: In the second paragraph, delete "Computer". Delete "and Simulation," and insert: "Management". Delete "School," and insert: "College".

Categories of individuals covered by the system: In lines two, three, and six, delete "DSMS," and insert: "DSMC".

Categories of records in the system: Delete "DSMS," and insert: "DSMC".

Authority for maintenance of the system: Delete "School," and insert: "College, 'January 5, 1977' ".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the second paragraph, lines one and three, delete "DSMS," and insert: "DSMC".

System manager(s) and address: Delete the entire entry, and insert: "Director, Department of Research and Publications, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060."

Notification procedure: Delete "Area Code: 703/664-2017," and insert: "703-664-5783".

Record access procedures: Delete "School," and insert: "College". Delete "Programs," and insert: "Administration". In the third paragraph, delete "Programs," and insert: "Administration". Also delete "Department of Plans and Programs" in the fourth paragraph.

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source categories: Delete "DSMS," and insert: "DSMC".

DUSDRE 02

System name: Office Director of Research and Development (ODDR&E), Personnel Administration Files (42 FR 50754)

Changes:

In the system name, delete "Office Director of Research and Development, ODDR&E," and insert: "OUSDRE Personnel Administration Files."

System location: Delete "Office of the Director of Defense Research and Development," and insert: "Office of the Under Secretary of Defense for Research and Engineering (OUSDRE)."

Categories of individuals covered by the system: Delete "ODDR&E," and insert: "OUSDRE".

Categories of records in the system: Delete "statements of financial interest (SD 1515)," and insert: "Confidential Statement of Affiliations and Financial Interest—Department of Defense Personnel (DD Form 1555)."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete "Director of Research and Development," and insert: "Under Secretary of Defense for Research and Engineering."

Retention and disposal: Delete "ODDR&E," and insert: "OUSDRE".

System manager(s) and address: Delete "DDR&E," and insert: "USDRE".

Notification procedure: Delete "DDR&E," and insert: "USDRE".

Contesting record procedures: Delete "may be obtained from the above listed SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source categories: Delete "OSD Personnel Office, Security Office," and insert: "Office of the Director for Personnel and Security, WHS."

DUSDRE 03

System name: Office Director of Research and Development (ODDR&E) Inventor's File (42 FR 50755)

Changes:

In the system name, delete "Office Director of Research and Development, (ODDR&E)," and insert: "Office of the Under Secretary of Defense for Research and Engineering (OUSDRE)."

System location: Delete "Office of the Director of Defense Research and Development," and insert: "Office of the Under Secretary of Defense for Research and Engineering (OUSDRE)."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the last sentence, delete "ODDR&E," and insert: "OUSDRE."

System manager(s) and address: Delete "Assistant".

Notification procedure: Delete "Assistant".

Contesting record procedures: Delete "may be obtained from the above listed SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DUSDRE 04

System name: Requests for Two-year-Foreign Residence Waiver Files (42 FR 50755)

Changes:

System location: In line two, delete the word "Assistant". Delete "of Director Defense," and insert: "of the Under Secretary of Defense for".

System manager(s) and address: Delete "Defense Research and Engineering," and insert: "Program Control and Administation, OUSDRE."

Record access categories: Delete "Director Defense Research and Engineering," and insert: "Under Secretary of Defense for Research and Engineering."

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS BF01

System name: Travel Files (42 FR 50736)

Changes:

System location: Delete "Office of the Deputy Assistant Secretary of

Defense (Administration)." Add after the words, "Travel Branch," the words "Washington Headquarters Services (WHS), Department of Defense. (DoD)."

Categories of records in the system: In the third line, after the word "Requests," insert: "(GTRS)".

Retention and disposal: In the second paragraph, after the word "Disposal," delete "IAW Administrative Instruction 15/5, paragraph 08-34," and insert: "in accordance with OSD Administrative Instruction No. 15."

System manager(s) and address: Delete "Office of the Deputy Assistant Secretary of Defense (Administration)," and insert: "Washington Headquarters Services, Department of Defense."

Notification procedure: Delete "Office of Deputy Assistant Secretary of Defense (Administration)," and insert: "Washington Headquarters Services, Department of Defense." Delete the entire second paragraph. This is a duplicate of the first paragraph.

Record access procedures: In the first and third paragraphs, delete "ODASD(A)," and insert: "Washington Headquarters Services, Department of Defense."

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS CD01

System name: OSD General Correspondence Files (42 FR 50736)

Changes:

System location: Delete "Branch," and insert: "Division". Delete: "Office of the Deputy Assistant Secretary of Defense (Administration), Office of the Assistant Secretary of Defense (Comptroller)," and insert: "Washington Headquarters Services (WHS), Department of Defense (DoD), Room 3A948, Pentagon, Washington, D.C. 20301."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Delete the entire entry, and insert: "Microfiche with hardcopy backup in file folders."

Safeguards: Delete the second paragraph.

Retention and disposal: Delete the entire entry, and insert: "Records are retained in active file until the end of the calendar year, held one additional year in inactive file and subsequently transferred to the National Records Center where records are destroyed or permanently preserved in accordance with records disposal authority as dictated by subject matter."

System manager(s) and address: Delete the entire entry, and insert: "Chief, Correspondence Control Division, Directorate for Correspondence and Directives, Washington Headquarters Services, Department of Defense, Room 3A948, Pentagon, Washington, D.C. 20301."

Notification procedure: Delete the entire entry, and insert: "Information may be obtained from:

Director for Correspondence and Directives,
Washington Headquarters Services,
Department of Defense,
Room 3B946, Pentagon,
Washington, D.C. 20301,
telephone: 202-697-8261"

Record access procedures: Delete the entire first paragraph, and insert: "Requests from individuals should be addressed to: "Director for Correspondence and Directives, Washington Headquarters Services, Department of Defense, Room 3B946, Pentagon, Washington, D.C. 20301."

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS CD02

System name: Cable Branch Personnel Administration Files (42 FR 50737)

Changes:

In the system name, delete the word "Branch," and insert: "Division".

System Location: Delete the entire entry, and insert: "Cable Division, Directorate for Correspondence and Directives, Washington Headquarters Services (WHS), Department of Defense (DoD), Room 3E925, Pentagon, Washington, D. C. 20301."

Categories of records: Delete "statements of financial interest (SD 2515)," and insert: "Confidential Statement of Affiliations and Financial Interest—Department of Defense Personnel (DD Form 1555)."

Safeguards: Put a period after the words "Building guards". Delete "locked desk, and," and capitalize the word "records".

System manager(s) and address: Delete "Office of the Deputy Assistant Secretary of Defense (Administration), Office of the Assistant Secretary of Defense (Comptroller)," and insert: "Washington Headquarters Services (WHS), Department of Defense, Pentagon, Washington, D.C. 20301."

Notification procedure: Delete the word "Branch," and insert: "Division". Delete "Office of the Deputy Assistant Secretary of Defense (Administration)," and insert: "Washington Headquarters Services, Department of Defense." In the second paragraph, delete the word "Branch," and insert: "Division". Delete "Office of the Deputy Assistant Secretary of Defense (Administration)," and insert: "Washington Headquarters Services, Department of Defense." In the fourth paragraph, delete the word "his," and insert: "his/hers".

Contesting record procedures: Delete the entire entry and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source categories: Delete "ODS Personnel Office, Security Office," and insert: "the Directorate for Personnel and Security, WHS".

DWHS P01

System name: Supergrade Correspondence Reports, and Case Files (42 FR 50741)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of records in the system: Add the words "and Security, WHS," after the word "Personnel".

Routine uses of records as maintained in the system, including categories of users and the purposes of such uses: Delete "DARPA, DSAA, OJCS, OIAF, and Office of Dependents Education, and the," and insert: "Armed Forces Information Service (AFIS), Court of Military Appeals (COMA), Defense Advanced Research Projects Agency (DARPA), Defense Security Assistance Agency (DSAA), Office of Dependents Education, Organization of the Joint Chiefs of Staff (OJCS), the President's Commission on Military Compensation, the Tri-Service Medical Information System (TRIMIS), Washington Headquarters Services (WHS), and the".

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, (WHS), Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347". At the end of the entry, add: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P02

System name: Job Opportunity Announcements (42 FR 50742)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of records in the system: Delete "copies of SF-171's plus any attachments submitted by applicant, copies of supervisory appraisals."

Routine uses of records as maintained in the system, including categories of users and the purposes of such uses: After the word "Personnel," insert: the words "and Security". Delete "DARPA, DSAA, OJCS, OIAF, and Office of Dependents Education," and insert: "Armed Forces Information Service (AFIS), Court of Military Appeals (COMA), Defense Advanced Research Projects Agency (DARPA),

Defense Security Assistance Agency (DSAA), Office of Dependents Education, Organization of the Joint Chiefs of Staff (OJCS), Tri-Service Medical Information System (TRIMIS), Washington Headquarters Services (WHS)."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347, and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "for Personnel, OSD, Room 3B347," and insert: "for Personnel and Security, WHS, Room 3B347". At the end of the entry, insert: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source categories: In the last line of this entry, remove the period after the word "Personnel," and insert: "and Security, WHS."

DWHS P03

System name: DoD Program for Stability of Civilian Employment (42 FR 50742)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of records in the system: Add after Standard Form 171, "with attachments, if any."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: At the end of the first sentence, delete the words "this office," and insert: "each employing CPO. System includes file of employees serviced by the System Manager, who are entitled to Priority Referral for repromotion and reemployment." Delete the entire last sentence of this paragraph and insert: "Armed Forces Information Service (AFIS), Defense Advanced Research Projects Agency (DARPA), Defense Security Assistance Agency (DSAA), the Office of Dependents Education, the Organization of the Joint Chiefs of Staff (OJCS), Tri-Service Medical Information System (TRIMIS), and Washington Headquarters Services (WHS), are part of routine uses."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD," and insert: "Directorate for Personnel and Security, WHS". At the end of the entry, add: "Telephone: 202-697-3305."

DWHS P04

System name: Reduction-In-Force Case Files (42 FR 50742)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of records in the system: Delete "Copies of Standard Form 171'sn."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete the last sentence of this paragraph, and insert: "Armed Forces Information Service (AFIS), Court of Military Appeals (COMA), Defense Advanced Research Projects Agency (DARPA), Defense Security Assistance Agency (DSAA), Office of Dependents Education, Organization of the Joint Chiefs of Staff (OJCS), Tri-Service Medical Information System (TRIMIS), and Washington Headquarters Services (WHS), are part of routine uses."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD," and insert: "Directorate for Personnel and Security, WHS". Add at the end of the entry, "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P05

System name: Roster of When Actually Employed Employees (42 FR 50743)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD," and insert: "Directorate for Personnel and Security, WHS". Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P06

System name: DoD-Wide Civilian Career Program for Comptroller/Financial Management Personnel (42 FR 50743)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Routine uses of records maintained in the system, including categories of users and purposes of such uses: After the words "Air Force," correct the remainder of the paragraph to read as follows: "Armed Forces Information Services (AFIS), Defense Advanced Research Projects Agency (DARPA), Defene Communications Agency (DCA), Defense Contract Audit Agency (DCAA), Defense Intelligence Agency (DIA), Defense Investigative Service (DIS), Defense Mapping Agency (DMA), Defense Nuclear Agency (DNA), Defense Security Assistance Agency (DSAA), Defense Supply Agency (DSA), Office of Dependents Education, Organization of the Joint Chiefs of Staff (OJCS), Tri-Service Medical Information System (TRIMIS), and Washington Headquarters Services (WHS) are part of routine uses."

System manager(s) and address: Delete "Directorate for Personnel, OSD, Room 3B-347." and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P07

System name: Incentive Awards Records (42 FR 50743)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Retention and disposal: Delete "Maintained in the Office of the Secretary of Defense, Directorate for Personnel at all times."

System manager(s) and address: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P08

System name: Worker's Compensation-On-The-Job Injuries Report File (42 FR 50744)

Changes:

System manager(s) and address: Delete "Director for Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." At the end of the entry add: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source categories: Add the following after "Joint Chiefs of Staff,": "and activities serviced by WHS."

DWHS P09

System name: Computer Data Base (42 FR 50744)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of individuals covered by the system: Delete "Office of the Assistant Secretary of Defense (Comptroller), Office of the Deputy Assistant Secretary of Defense (Administration), Directorate for Personnel," and insert: "Directorate for Personnel and Security, WHS."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In line one, after the word "Personnel," insert: "and Security".

System manager(s) and address: Delete the entire entry, and insert: "Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D.C. 20301."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source categories: Delete "Directorate for Personnel," and insert: "Directorate for Personnel and Security."

DWHS P10

System name: Training File (42 FR 50744)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of records in the system: Insert: "Optional Form 170, DD Form 1556," after "Optional Form 37,".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In line one, after the word "Personnel," insert: "and Security".

System manager(s) and address: Delete "Director for Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P12

System name: Executive Development Programs File (42 FR 50745)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Retention and disposal: Delete "Maintained in the Training and Career Development Branch at all times."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD," and insert: "Directorate for Personnel and Security, WHS". Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P13

System name: Management Intern File (42 FR 50745)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete "Personnel Directorate," and insert: "Personnel and Security Directorate".

Retention and disposal: Delete "Maintained in the Training and Career Development Branch at all times."

System manager(s) and address: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P14

System name: Blood Donor Files (42 FR 50745)

Changes:

System location: Delete the entire entry and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of individuals covered by the system: Delete the word "or", and insert a comma between the words "Defense" and "Organization". Remove the period after the words "Joint Chiefs of Staff," and add: "and activities serviced by WHS."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P15

System name: Department of Defense Distinguished Service Medal Files (42 FR 50746)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C."

Categories of records in the system: In the third and fourth lines, delete "Office of the Secretary of Defense." Insert the words "Social Security Number" after the word "grade."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P16

System name: Joint Service Commendation Medal Recommendations File (42 FR 50746)

System location: Delete the entire entry and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of records in the system: Delete the word "account," and in the third and fourth lines, delete "Office of the Secretary of Defense."

Retention and disposal: Delete "Alexandria, Virginia."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P17

System name: Assignment Folders (42 FR 50746)

System location: Delete the entire entry and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of individuals covered by the system: Delete the period after the word "Defense," and add "and activities serviced by WHS."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the third line, delete "Office of the Secretary of Defense". At the end of the paragraph, remove the period after the word "Defense" and add "and activities serviced by WHS."

Policies and practices for storing, retrieving, screening, retaining, and disposing of records in the system: In the third and sixth lines, remove the period after the word "Defense," and add "and activities serviced by WHS."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P18

System name: The Office of the Secretary of Defense Identification Badge Suspense Card System (42 FR 50746)

Changes:

System location: Delete the entire entry and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of individuals covered by the system: Delete the period after the word "Defense," and add "and activities serviced by WHS."

Categories of records in the system: Insert after the word "Defense," line four, "and activities serviced by WHS."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Remove the period after the word "Defense," at the end of the paragraph, and add "and activities serviced by WHS."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P19

System name: General/Flag Officer Files (42 FR 50747)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Retention and disposal: Insert the word "not" between the words "are" and "permanent". At the end of the entry, add the following: "Destroyed one year after departure date."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P20

System name: Report of Personnel Assigned Outside of Department of Defense (42 FR 50747)

Changes:

In the system name, after the word "Defense," add: "Supporting Non-DoD Activities".

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of records in the system: Delete "he is in", and insert: "assigned to"; delete the following: "his"; "in each case"; the words "or not" the first time used in the last sentence; the last word "not", and the period at the end of the sentence, then insert: "non-reimbursable".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete the word "the" between the words "what" and "Department".

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P21

System name: Duty Status Cards (42 FR 50747)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of individuals covered by the system: In line three, after the word "Defense," insert: "and activities serviced by WHS". Add a period after the word "departed," and delete "the Office of the Secretary of Defense".

Categories of records in the system: In line two, delete the word "account", between the words "security" and "activities serviced by WHS."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: After the word "departed," delete "from the Office of the Secretary of Defense". Insert: "and activities serviced by WHS," between the words "Defense," and the word "and".

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Delete "on duty with the Office of the Secretary of Defense." Insert the word "assigned," after the word "personnel." Remove the period at the end of the paragraph, and add "and activities serviced by WHS."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P21

System name: Duty Status Cards (42 FR 50747)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of individuals covered by the system: After the word "Defense," insert: "and activities serviced by WHS". Put a period after the word "departed," and delete "the Office of the Secretary of Defense."

Categories of records in the system: Delete the word "account". After the word "Defense", add "and activities serviced by WHS."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In lines three and four, delete "from the Office of the Secretary of Defense". After the word "Defense," insert: "and activities serviced by the WHS".

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Delete "on duty with the Office of the Secretary of Defense." In the fifth line, after the word "Defense", change the period to a comma, and add "and activities serviced by WHS."

System manager(s) and address: Delete "of Personnel, OSD, Room 3B-347," and insert: "for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "OSD, Room 3B-347," and insert: "and Security, WHS, Room 3B347". At the end of the entry, add: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P22

System name: General/Flag Officer Roster (42 FR 50748)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Retention and disposal: Delete "permanent," and insert: "maintained for approximately two years, then destroyed."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P23

System name: Roster of Military Personnel (42 FR 50748)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of individuals covered by the system: Add at the end of the entry, "and activities serviced by WHS."

Categories of records in the system: At the end of the second line after the word "and", "activities serviced by WHS, and". In the last sentence after the word "Defense," add "and activities serviced by WHS".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete "All of the". Add "and" between the words "Defense" and "Activities". Add "serviced by WHS/Defense Agencies," after the word "Activities". In the fourth line, after the word "Defense," add "and activities serviced by WHS". In the sixth line, delete "Office of the Secretary of Defense."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B347," and insert: "Director for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD," and insert: "Directorate for Personnel and Security, WHS". Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P24

System name: Navy Officer Personnel Service Records (42 FR 50748)

Change:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Service (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Categories of individuals covered by the system: Add after the word "Defense," "and activities serviced by WHS."

Categories of records in the system: Insert the word "Service", between the words "Personnel," and "records".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Add "and activities serviced by WHS", after the words "Secretary of Defense."

Retention and disposal: Delete "that" after the word "officers," and insert: "who". Insert "resign, or released from active duty," after the word "retire". Delete "while on duty with the Office of the Secretary of Defense". Delete "Manpower", and insert: "Personnel". Delete "Bainbridge, Maryland 21905," and insert: "New Orleans, LA 70416".

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD," and insert: "Directorate for Personnel and Security, WHS". Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P25

System name: Overseas Staffing Files (42 FR 50749)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Service (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, WHS, Room 3B347."

Notification procedure: Delete "Directorate for Personnel, OSD," and insert: "Directorate for Personnel and Security, WHS". Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P26

System name: Protective Service File (42 FR 50749)

Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Security Division, Room 3B278, Pentagon, Washington, D.C. 20301."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete "Office of the Secretary of Defense," and insert: "Directorate for Personnel and Security, WHS."

System manager(s) and address: Delete "Physical Security Branch". Delete "Office Deputy Assistant Secretary of Defense (Administration), Office Assistant Secretary of Defense (Comptroller), Office of the Secretary of Defense." In the second line, after the word "Personnel," insert: "and Security, Washington Headquarters Services, Department of Defense, Room 3B278, Pentagon, Washington, D.C. 20301."

DWHS P27

System name: Pentagon Building Pass Application File (42 FR 50749)
Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Security Division, Room 3B278, Pentagon, Washington, D.C. 20301."

Categories of records in the system: In line two, after the word "Defense," insert: "and activities serviced by WHS."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In line two, delete "Office of the Secretary of Defense," and insert: "Directorate for Personnel and Security, WHS".

Retention and disposal: Remove the period after the word "Defense", and insert: "and activities serviced by WHS."

System manager(s) and address: Delete "Physical Security Branch". Delete "Office Deputy Assistant Secretary of Defense (Administration), Office Assistant Secretary of Defense (Comptroller), Office of the Secretary of Defense," and insert: "Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B278, Pentagon, Washington, D.C. 20301."

Notification procedure: Delete "Office of the Deputy Assistant Secretary of Defense (Administration), Office of the Assistant Secretary of Defense (Comptroller), Office of the Secretary of Defense," and insert: "Directorate for Personnel and Security, Washington Headquarters Service (WHS), Department of Defense, Room 3B278, Pentagon, Washington, D.C. 20301. Telephone: 202-697-7396."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P28

System name: The Office of the Secretary of Defense Clearance File (42 FR 50750)
Change:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Security Division, Room 3B278, Pentagon, Washington, D.C. 20301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete "Office of the Secretary of Defense," and insert: "Directorate of Personnel and Security, WHS."

System manager(s) and address: Delete "Director of Personnel, OSD, Room 3B-347," and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

DWHS P29

System name: Employee Assistance Program Case Record Systems (42 FR 50750)
Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

System manager(s) and address: Delete "Director for Personnel, OSD," and insert: "Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense."

Notification procedure: Delete "Directorate for Personnel, OSD," and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P30

System name: Labor Management Relations Records Systems (42 FR 50750)
Changes:

System location: Delete the entire entry, and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

System manager(s) and address: Delete "Director for Personnel, OSD," and insert: "Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense."

Notification procedure: Delete "Directorate for Personnel, OSD," and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense." Add at the end of the entry: "Telephone: 202-697-3305."

Contesting record procedures: Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P31

System name: Department of Defense Superior Service Medal (42 FR 50734)
Changes:

In the system name, add the word "Files" at the end of the subject.

System location: Delete "Director for Personnel, Office of the Deputy Assistant Secretary of Defense (Administration), OSAD (Comptroller)," and insert: "Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense."

Categories of records in the system: Delete "Office of the Secretary of Defense (OSD)," which appears before the words "duty title," and delete "OSD," before the words "duty activity".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the second line, after the word "Defense," insert: "and activities serviced by WHS".

Retention and disposal: Add at the end of the entry: "Retained for approximately two years, then transferred to Federal Records Center."

System manager(s) and address: Delete "Director of Personnel, Office of the Deputy Assistant Secretary of Defense (Administration), OSAD (Comptroller)," and insert: "Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense."

Notification procedure: Delete "Directorate of Personnel, Office of the Assistant Secretary of Defense (Comptroller)," and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense." At the end of the entry, add: "Telephone: 202-697-3305."

Contesting record procedures: Insert the word "Agency's," between the words "The," and "rules". Delete "may be obtained from the System Manager," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source categories: Delete "the immediate Office of the Secretary of Defense," and insert: "Office of the Secretary of Defense/Organization of the Joint Chiefs of Staff (OSD/OJCS) are related activities."

DWHS P32

System name: Standards of Conduct Inquiry File (42 FR 50734)
Changes:

System location: Delete "Office of the Director of Personnel, Office of the Secretary of Defense," and insert: "Office of the Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347."

Categories of records in the system: Delete "Director of Personnel, Office of the Secretary of Defense," and insert: "Director for Personnel and Security, WHS."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In lines two, three, and six, delete "Director of Personnel," and insert "Director for Personnel and Security, WHS."

System manager(s) and address: Delete "Director of Personnel, OSD," and insert: "Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense."

Notification procedure: Delete "Director of Personnel," and insert: "Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense". After the zip code "20301," add: "Telephone: 202-697-3305."

Record access procedures: Delete the entire entry, and insert: "Requests from individuals should be addressed to the above SYSMANAGER."

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P33

System name: Statements of Affiliations and Financial Interest File (42 FR 50735)
Changes:

System location: Delete "Office of the Director of Personnel, Office of the Secretary of Defense," and insert: "Office of the Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense."

Categories of individuals covered by the system: Delete "statements of Affiliations and Financial Interests, DD Form 1555," and insert: "Confidential Statement of Affiliations and Financial Interests—Department of Defense Personnel (DD Form 1555)."

Categories of records in the system: Delete "Office of the Director of Personnel, Office of the Secretary of Defense," and insert: "Office of the Director for Personnel and Security, WHS."

System manager(s) and address: Delete "Director of Personnel, Office of the Secretary of Defense," and insert: "Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301."

Notification procedure: Delete "Director of Personnel," and insert: "Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense." After the zip code "20301," add: "Telephone: 202-697-3305."

Record access procedures: Delete the entire entry and substitute: "Requests from individuals should be addressed to the above SYSMANAGER."

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DWHS P34

System name: Non-Career Personnel Job Files (42 FR 64334)
Changes:

System location: Delete "Directorate for Personnel, Office of the Secretary of Defense," and insert: "Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In line five, delete "Director of Personnel, Office of the Secretary of Defense," and insert: "Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense."

System manager(s) and address: Delete "Director of Personnel, Office of the Secretary of Defense," and insert: "Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense."

Record access procedures: Delete "Director of Personnel," and insert: "Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense." At the end of the entry, delete "Area Code".

Record source categories: Delete "Director of Personnel, Office of the Secretary of Defense," and insert: "Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense."

DWHS SPM001

System name: Application for Pentagon Parking Permit (42 FR 50751)
Changes:

System location. Insert: "Washington Headquarters Services," between the words "Services," and the word "Office". At the end of the entry, add the zip code "20301".

Notification procedure: Insert: "Washington Headquarters Services," between the word "Services," and the word "Office". Delete "Area Code: 202/697-7241," and insert "202-697-7241".

Record access procedures: Insert: "Washington Headquarters Services," between the word "Services," and the word "Office".

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source categories: Insert the word "Form" between "DD" and "1199".

DWHS SPM002

System name: Pentagon Computeride (42 FR 50751)
Changes:

Categories of records in the system: Delete "Social Security Number".

Retrievability: Insert the word "and" after the word "name", put a period after the word "Grid", and delete "and Social Security number".

System manager(s) and address: Insert: "Washington Headquarters Services," between the words "Services," and the word "Office". At the end of the entry, add the zip code "20301".

Notification procedure: Insert: "Washington Headquarters Services," between the word "Services," and the word "Office". Delete "Area Code: 202/697-7241," and insert "202-697-7241".

Record access procedures: In the first paragraph, insert: "Washington Headquarters Services," between the word "Services," and the word "Office". In the second paragraph, put a period after the word "number", and delete "and Social Security number". In the third paragraph, insert the word "or" between the words "license," and "Pentagon". Put a period after the word "pass," and delete "or Social Security Card".

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

DCOMP MS11

System name: List of Female Employees of OSD/OJCS

System location: Primary System-Federal Women's Program Coordinator, Room 4B916, Pentagon Building; maintained in automated form - Army Data Center.

Decentralized Segment-Director of Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All civilian female employees of OSD/OJCS.

Categories of records in the system: File is extract of Civilian Personnel Data File and contains organization identification, employee name, Social Security Number, Series, Grade, Time Basis, Position Title.

Authority for maintenance of the system: Executive Order 11246/11375, 'Equal Employment Opportunity,' as amended by EO 11478, 'Equal Employment Opportunities in the Federal Government'.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defento mail information on Federal Women's Program to OSD/OJCS Women Employees. Federal Women's ProgramCoordinator to locate personnel to recommend to them training and employment opportunities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Automated list in Federal Women's Program Coordinator Office. Automated tape in Army Data Center.

Retrievability: Listed by organization.

Safeguards: List is kept under lock. Only available to Federal Women's Program Coordinator.

Retention and disposal: Record is new. Revised lists are provided, as required.

System manager(s) and address: OSD/OJCS Federal Women's Program Coordinator, Room 4B916, Pentagon Building, Washington, D.C. 20301

Notification procedure: Information may be obtained from OSD/OJCS Federal Women's Program Coordinator, Room 4B916, Pentagon Building, Washington, D. C. 20301.

Record access procedures: Written requests for information should contain the full name of the individual, organization assignment and Social Security Number. Visits are limited to Room 4B916, Pentagon Building, Washington, D. C. 20301. For personal visits the individual should provide DoD identification prior to access.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: The Central Personnel Data File prescribed by the Civil Service Commission.

Systems exempted from certain provisions of the act: None

DHA 04

System name: Variable Incentive Pay for Medical Officers-Data Management System

System location: Air Force Data Services Center, Headquarters, United States Air Force, The Pentagon, Washington, D.C. 20330.

Categories of individuals covered by the system: Military physicians on active duty during the reporting period

Categories of records in the system: Partial file containing various materials contained in each individuals master personnel record. This system contains SSAN, rank or grade, position held, and information concerning professional education, pay status, and other related information regarding the variable incentive pay programs.

Authority for maintenance of the system: Title 37, United State Code, Chapter 5, Section 313

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the Health Studies Task Force, Office of the Assistant Secretary of Defense (Health Affairs) to meet statutory requirements of Title 37, USC Chapter 5, Section 313.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes in Air Force Data Services Center Tape Library

Retrievability: By Social Security Number

Safeguards: Magnetic tapes are maintained by the Air Force Data Services Center with access only by authorized user number.

Retention and disposal: Magnetic tapes are maintained until expiration of Section 313, Chapter 5, Title 37, USC.

System manager(s) and address: Chairman, Health Studies Task Force, Office of the Assistant Secretary of Defense (Health Affairs), The Pentagon, Washington, D.C. 20301.

Notification procedure: Information may be obtained from:

Executive Assistant
Office of the Assistant Secretary of Defense (Health Affairs)
Room 3E172, The Pentagon
Washington, D.C. 20301
Telephone number: 202-697-2115

Record access procedures: Requests from individuals should be addressed to:

Office of the Assistant Secretary of Defense (Health Affairs)
The Pentagon
Washington, D.C. 20301

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Central personnel files of the Military Services.

Systems exempted from certain provisions of the act: None

DLA01

System name: Security Clearance File

System location: Primary System-Office of Research and Administration, Assistant to the Secretary of Defense (Legislative Affairs), Washington, DC 20301.

Categories of individuals covered by the system: Congressional Staff Personnel.

Categories of records in the system: Card file listing security clearances for congressional staff personnel.

Authority for maintenance of the system: Executive Order 11652.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: When classified material is submitted to Members or committees of Congress, the card file is screened to insure that the person receiving the material is properly cleared.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Vertical file cards.

Retrievability: Card files are listed alphabetically by last name and committee or Member to whom assigned.

Safeguards: Afforded appropriate protection at all times.

Retention and disposal: Kept on personnel only during the time employed by the Congress.

System manager(s) and address: Office of Research and Administration, Assistant to the Secretary of Defense (Legislative Affairs), Washington, DC 20301.

Notification procedure: Requests should be addressed to the SYSMANAGER.

Record access procedures: Procedures for gaining access should be directed to:

Office of Research and Administration, Assistant to the Secretary of Defense (Legislative Affairs).
Room 3D932.
Pentagon Building.
Washington, DC 20301.
Telephone: 202-697-9166.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Certificate of Clearance (SD Form 176) is received from Director for Personnel and Security, Washington, Headquarters Services, Department of Defense.

Systems exempted from certain provisions of the act: None

DLA02

System name: Biographic Data File.

System location: Primary System-Office of Research and Administration for the Assistant to the Secretary of Defense (Legislative Affairs), Washington, DC 20301.

Categories of individuals covered by the system: Members of Congress

Categories of records in the system: Biographic data files include date and place of birth, marital status, educational background, military service, voting district, and voting record pertaining to Defense issues.

Authority for maintenance of the system: Title 10, US Code, Section 133.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine use of public background information is helpful to DOD officials meeting Members of Congress on trips; in hearings; and in discussions of problem areas. Knowing the generalized background of the Member is conducive to intelligent discussion of mutual problems.

Purpose-To assist Legislative Liaison officers in presenting material to individual Congressmen, and to aid Defense witnesses in preparing for testimony before Congressional committees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically.

Safeguards: Stored in locked metal filing cabinet.

Retention and disposal: Biographic data on incumbent members is maintained for their entire term of office.

System manager(s) and address: Office of the Assistant to the Secretary of Defense (Legislative Affairs).

Notification procedure: Written requests for information should be addressed to the SYSMANAGER.

Personal visits are directed to Room 3D932, Pentagon, Washington, DC. Valid proof of identity is required.

Record access procedures: Procedures for gaining access by an individual may be obtained from the following:

Director, Research and Administration, OATSD(LA).
Room 3D932.
Pentagon Building.
Washington, DC 20301.
Telephone: 202-697-9166.

Contesting record procedures: The Agency's rules for access to records and for contesting and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Data is gathered from the Congressional Quarterly, Congressional Record, Congressional Director and other printed media pertaining to Members of Congress.

Systems exempted from certain provisions of the act: None

DMRA&L 01.0

System name: Overseas Education Correspondence Files

System location: Teacher Recruitment Section, Staffing Branch, Office of Dependents Schools, Office of Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Room 120, Hoffman Building, 2461 Eisenhower Avenue, Alexandria, Va. 22331.

Categories of individuals covered by the system: Any individual with whom or about whom the Teacher Recruitment Branch has correspondence.

Categories of records in the system: File contains all correspondence received from and responses to individuals writing the Teacher Recruitment Branch.

Authority for maintenance of the system: PL 86-91

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Teacher Recruitment Division - to maintain accurate record of correspondence with individuals making inquiry to Division; any individual records might be transferred to any component of the Department of Defense having a need to know in the performance of official business, disclosure to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by either the last name of the correspondent or the last name of the employee/applicant the correspondence concerns.

Safeguards: Building employs security guards, office locked during non-business hours.

Retention and disposal: Files are retained for three years.

System manager(s) and address: Director, Office of Overseas Dependents Education, Office of the Assistant Secretary of Defense (MRA&L), The Pentagon, Washington, D.C. 20301.

Notification procedure: Information may be obtained from:

Chief, Teacher Recruitment Section, DoD
Office of Dependents Schools
Room 120
Hoffman Building
2461 Eisenhower Avenue
Alexandria, VA 22331
Telephone: 202-325-0885

Record access procedures: Requests from individuals should be addressed to: Teacher Recruitment Division, Office of OverseasDependents Education, Office of the Assistant Secretary of Defense (MRA&L), The Pentagon, WashingtonD.C. 20301.

Written requests for information should contain full name and address of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or other identification card.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Correspondence initiated by the individual or by others on his or her behalf and replies.

Systems exempted from certain provisions of the act: None

DMRA&L 02.0

System name: Teacher Application Files

System location: Teacher Recruitment Section, Staffing Branch, Personnel Division, DoD, Office of Dependents Schools, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs & Logistics), Room 102, Hoffman Building, 2461 Eisenhower Avenue, Alexandria, VA 22331.

Categories of individuals covered by the system: Any citizen who applies for a position with the DoD Overseas Dependents Schools

Categories of records in the system: File contains all papers and forms relating to individual's application for employment to include SF 171, Personal Qualifications Statement; DD 1835, DoD Dependents Schools - Application Index; DD 1836, Supplemental Application for Employment with DoD Overseas Dependents Schools; DD 1456, Professional Evaluation Department of Defense Overseas Dependents Schools; DD 1453, Record of Personal Interview; official college transcripts; copy of teaching certificates; copy of birth certificates; and correspondence to or concerning applicant.

Authority for maintenance of the system: PL 86-91

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Teacher Recruitment Division - To determine qualifications, and make selection of candidates for positions with DoD Overseas Dependents Schools of selected applicants; to review types of experience, educational background, evaluation of previous employers, professional credentials interviewer's rating.

Department of the Army - Staff Agencies and Commands to complete processing of hired individuals, to obtain Civil Service Commission National Agency Check, medical examination, pass-

ports, arrange transportation and shipment/storage household goods, and to provide gaining Civilian Personnel Offices necessary documentation for placing individuals on rolls.

Department of the Air Force - Staff Agencies and Commands to complete processing of hired individuals, to obtain Civil Service Commission National Agency Check, medical examination, passports, arrange transportation and shipment/storage household goods, and to provide gaining Civilian Personnel Offices necessary documentation for placing individuals on rolls.

Department of the Navy - Staff Agencies and Commands to complete processing of hired individuals, to obtain Civil Service Commission National Agency Check, medical examination, passports, arrange transportation and shipment/storage household goods, and to provide gaining Civilian Personnel Offices necessary documentation for placing individuals on rolls.

Any individual records in a system of records might be transferred to any component of the Department of Defense having a need to know in the performance of official business.

Records may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name of applicant.

Cross file by index card by category (Teaching field) of applicant.

Cross file by index card by location of applicant.

Safeguards: Building employs security guards, office locked during non-business hours. Records are maintained in area accessible only to authorized personnel who are properly screened.

Retention and disposal: Records are retained for recruitment period (no more than one year).

For non-selected applicants, portions are returned to applicant for future use and portions are destroyed.

Records for selected applicants are forwarded to Department of the Army, Department of the Air Force, or Department of the Navy as appropriate processing.

System manager(s) and address: The Director, Office of Overseas Dependents Education, Office of the Secretary of Defense, Washington, D.C. 20301

Notification procedure: Information may be obtained from:

Chief, Teacher Recruitment Section, DoD,
Office of Dependents Schools
Room 120
Hoffman Building
2461 Eisenhower Avenue
Alexandria, VA 22331
Telephone: 202-325-0885

Record access procedures: Request from individuals should be addressed to: Teacher Recruitment Division, Office of Overseas Dependents Education, Office of the Secretary of Defense, Washington, D.C. 20301.

Written requests for information should contain the full name and address of the individual.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Former employers, educational institutions, and information supplied by the individual.

Systems exempted from certain provisions of the act: None

DMRA&L 03.0

System name: Employer Support File (PLEDGE)

System location: Primary Location: Air Force Data Services Center, Room 1D132, The Pentagon, Washington, D.C. 20330.

Hard copy roster located at: National Committee for Employer Support of the Guard and Reserve, Room 907, 1117 North 19th Street, Arlington, VA 22209.

Categories of individuals covered by the system: Self employed individuals, individuals heading companies bearing their names, the pledging officials representing various companies, or staff directors who have pledged to support the National Guard and Reserve components.

Categories of records in the system: Name, address, geographic location, size, and business of pledging company.

Authority for maintenance of the system: 10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of the file is to assist in informing the public and encouraging employers to support the Guard and Reserve.

National Committee for Employer Support of the Guard and Reserve; used to answer inquiries from employees or prospective employees of companies concerning whether a company has pledged to support the Guard and Reserve; used by members of the advisory council to assist Guard and Reserve members who are experiencing difficulties with companies that have pledged; used as a screening tool to prevent re-solicitation of support from employers who have already pledged; used to supply state level organizations' lists of companies in state which have pledged; used to prepare speech and presrelease material mentioning companies that have pledged.

Any individual records in the system may be transferred to any component of the Department of Defense having a need to know in the performance of official business.

Records may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, and civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Computer Tape

Retrievability: Retrieved by company name, geographic location, or type of business

Safeguards: Primary location is a TOP SECRET facility.

Hard copy output is accessible to authorized personnel only during working hours; room is locked after hours and building has security guards.

Retention and disposal: Records are permanent.

System manager(s) and address: Chairman, National Committee for Employer Support of the Guard and Reserve, Room 907, 1117 North 19th Street, Arlington, VA 22209.

Notification procedure: Information may be obtained from:

Chairman, National Committee for Employer Support of the Guard & Reserve
Room 907
1117 North 19th Street
Arlington, VA 22209
Telephone: 202-697-6902

Record access procedures: Requests for information should be addressed to: Chairman, National Committee for Employer Supportof the Guard and Reserve, Room 907, 1117 North 19th Street, Arlington, VA 22209.

Written requests should contain the name of the individual and/or employer, current mailing addressand telephone number.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 285b and OSD Administrative Instruction No. 81.

Record source categories: Information is supplied by employers who have pledged, from Dunn & Bradstreet, and from Census Data.

Systems exempted from certain provisions of the act: None

DMRA&L 06.0

System name: Department of Defense Priority Placement Program (STOPPER LIST)

System location: Primary Location: Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444

Decentralized locations: hard copy rosters/listing supplied every two weeks to all DoD Civilian Personnel Offices world-wide (approximately 500 locations) and to other personnel management activities.

Categories of individuals covered by the system: Displaced career and career-conditional employees adversely affected by reductions-in-force or transfer of function; overseas non-displaced career and career-conditional employees being returned to the U.S. All individuals in file must voluntarily initiate entry into the system.

Categories of records in the system: File contains summary of occupational experience, education, training, age, sex, height and weight,marital status.

Authority for maintenance of the system: 10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of the file is to assist displaced employees and overseas returnees in securing employment.

DoD Civilian Personnel Offices - used to assist activities in filling vacant positions and in assisting displaced employees and overseas returnees in obtaining employment.

DoD Activities: short resume of individual's background used in assessing qualifications for vacant positions.

Office of the Deputy Assistant Secretary of Defense, Civilian Personnel Policy - used for statistical analyses of civilian personnel employment trends and patterns and for establishing policy and for planning purposes; informing individuals in system of non-government job opportunities.

Other Federal Agencies: used in filling vacant positions.

Any individual records contained in the system might be transferred to any component of the Department of Defense having the need to know in the performance of official business.

Any record may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic computer tape

Retrievability: Normally retrievable by occupation and grade.

Safeguards: The primary location is identified as a secure area; access is through electrically controlled doors and cypher locks; tapes are stored in a vault when not in use.

Retention and disposal: Records of displaced employees are maintained in the system for one year.

Records of overseas returnees are entered six months prior to return and are maintained until individual is placed in job or leaves the government. Initial input for records is hard copy, which is destroyed after tape record is created.

System manager(s) and address: Director, Staffing Policies and Programs, Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), Room 3D281, The Pentagon, Washington, D.C. 20301.

Notification procedure: Information may be obtained from the Department of Defense Civilian Personnel Office where the individual registered to enter the system.

Record access procedures: Written requests from individuals should be directed to the Department of Defense Civilian Personnel Office where the individual registered to enter the system and should include name and current mailing address and telephone number.

For personal visits, the individual should be able to present to the personnel office some acceptable identification, such as a driver's license or other ID card.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: The individual must take action to place his record in the system; information entered into the record is provided by the individual in writing or through employment counseling; additional information is obtained from the individual's official personnel file (201 file).

Systems exempted from certain provisions of the act: None

DMRA&L 07.0

System name: Department of Defense Overseas Employment Program

System location: Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444.

Categories of individuals covered by the system: Career and career-conditional employees of the Federal Government and reinstatement eligible employees who desire overseas employment and voluntarily register.

Categories of records in the system: File contains summary of occupational experience, education, training, age, sex, height and weight,marital status.

Authority for maintenance of the system: 10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of the system is to provide an automated applicant supply system for use in filling overseas job vacancies.

Department of Defense activities - the system is utilized to fill overseas job vacancies.

Other Federal Agency - the system is utilized to fill overseas job vacancies.

Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) - used for statistical analyses for policy, planning, and guidance; for evaluation of the effectiveness of the program, and for monitoring of activity compliance with the program.

Any individual records contained in the system might be transferred to any component of the Department of Defense having the need to know in the performance of official business.

Any record may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic Computer Tape.

Retrievability: Retrieval by occupational skill and grade.

Safeguards: The location is identified as a secure area; access is through electrically controlled doors and cypher locks; tapes are stored in a vault when not in use.

Retention and disposal: Records remain in the system for one year or until the individual is placed in an overseas position; the individual is notified after eleven months that his registration is about to expire and is given the opportunity to re-register for another year.

System manager(s) and address: Director, Staffing Policies and Programs, Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), Room 3D281, The Pentagon, Washington, D.C. 20301.

Notification procedure: Information may be obtained from the Department of Defense Civilian Personnel Office where the individual registered to enter the system.

Record access procedures: Written requests from individuals should be directed to the Department of Defense Civilian Personnel Office where the individual registered to enter the system and should include name, current mailing address and telephone number.

For personal visits, the individual should be able to present to the personnel office some acceptable identification, such as driver's license or other ID card.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information in the file is obtained from the individual, either in writing or through interviews with personnel counselors, and from his official personnel file (201 file).

Systems exempted from certain provisions of the act: None

DMRA&L 08.0

System name: Central Automated Inventory and Referral System (CAIRS)

System location: Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444

Categories of individuals covered by the system: All Department of Defense General Schedule Civilian Employees GS-5 or higher and former employees terminated within a one-year period.

Categories of records in the system: Name, home and work addresses, SSAN, educational background, work experience, grade and salary, occupation, age, special qualifications, awards, military reserve status, supervisory appraisals.

Authority for maintenance of the system: 10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of the system is to provide a list of eligible candidates qualified to fill position vacancies at GS-13 and higher level and to provide information for program analyses and management.

All DoD Civilian Personnel Offices and the components serviced by these offices are required to submit job vacancies in designated

occupation series against CAIRS file for the generation of a listwith resumes of qualified candidates for consideration by selection panel and others.

Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) - used for statistical analyses of civilian work force, and management and evaluation of specific employment programs within the Department of Defense.

Any individual records contained in the system might be transferred to any component of the Department of Defense having the need to know in the performance of official business.

Any record may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic computer tape

Retrievability: Retrievable by occupation, SSAN, name, special skills, educational background, or training background.

Safeguards: The location is identified as a secure area; access is through electrically controlled doors and cypher locks; tapes are stored in a vault when not in use.

Retention and disposal: Records are updated once per year for all individuals in the system or as new employees are hired. No historic records are maintained.

System manager(s) and address: Director of Employment and Career Development, Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) Room 3D281, The Pentagon, Washington, D.C. 20301.

Notification procedure: Information may be obtained from:

Director of Employment and Career Development
Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy)
Room 3D281
The Pentagon
Washington, D.C. 20301
Telephone: 202-695-0813

Record access procedures: Written requests from individuals should be addressed to Director, Central Automated Inventory & Referral Center, Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444.

For personal visits, the individual should be able to provide some acceptable identification, such as driver's license or other ID card.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Data are obtained from the individual himself, from his official personnel folder (201 file), from his SF-171, and from supervisory appraisals.

Systems exempted from certain provisions of the act: None

DMRA&L 09.0

System name: Defense Race Relations Institute (DRRI) Student File

System location: Primary Location - Bldg. 986(MU811) Patrick AFB, FL 32925

Hard copy back-up file for students in active status, location is Tests and Measurement Division, Defense Race Relations Institute, Patrick AFB, Fla. 32925.

Hard copy back-up file for former students, the location is Research and Evaluation Division, Defense Race Relations Institute, Patrick AFB, Fla. 32925.

Categories of individuals covered by the system: All current or former students at the Defense Race Relations Institute.

Categories of records in the system: Life history summary, name, race, age, military organization, test and examination scores and forms, peer group and instructor ratings, advisor progress reports.

Authority for maintenance of the system: 10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of the file is to evaluate the progress of students enrolled at the Defense Race Relations Institute and to create a permanent record of academic accomplishment.

The Defense Race Relations Institute - used by advisors in counseling students; to verify attendance and grades to colleges and universities; to select instructors; to make decisions to release students from the program.

Used by students to evaluate their programs.

Any individual records in the system may be transferred to any component of the Department of Defense having the need to know in the performance of official business.

Records may be disclosed to law enforcement or investigatory authorities for investigations and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Primary file is magnetic computer tape.

Back-up files are paper records in file folders.

Retrievability: Files are sequenced alphabetically by last name by class.

Safeguards: Primary location is a controlled access area.

Back-up files - storage is in locked file cabinets. Only authorized personnel have access to files.

Retention and disposal: Permanent

System manager(s) and address: Director, Defense Race Relations Institute, Patrick AFB, Fla. 32925

Notification procedure: Information can be obtained from:

Director, Defense Race Relations Institute
Patrick AFB, Fla. 32925
Telephone: 305-494-6976

Record access procedures: Requests from individuals should be addressed to the Director, Defense Race Relations Institute, Patrick AFB, Fla. 32925

Written requests for information should contain the full name, current address and telephone number, and class of the individual.

For personal visits, the individual should be able to provide some acceptable identification, such as military ID card or driver's license.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information is provided by the individual, student peers, instructors, counselors, and examinations.

Systems exempted from certain provisions of the act: None

DMRA&L 10.0

System name: Equal Opportunity Complaint File

System location: Office of the Deputy Assistant Secretary of Defense (Equal Opportunity), Room 3E319, The Pentagon, Washington, D.C. 20301

Categories of individuals covered by the system: Any individual who has filed or had filed on his behalf a discrimination complaint.

Categories of records in the system: The letter or document initiating complaint, directions to services on investigating complaint, services' investigatory report, and copies of response to complainant.

Authority for maintenance of the system: 10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of the file is to cause action to be taken on discrimination complaints.

Office of the Deputy Assistant Secretary of Defense (Equal Opportunity) - used to answer queries concerning status or disposition of complaints, for assigning actions and reviewing actions on complaints, and for analyses of trends or patterns in discrimination complaints.

Records in the system may be transferred to any other Department of Defense component having the need to know in the performance of official business.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folder.

Retrievability: Filed by first letter of last name for service and year.

Safeguards: Kept in file drawer; building has security guards.

Retention and disposal: Files are retained for one year in active status, one year in inactive status, and then destroyed.

System manager(s) and address: Deputy Assistant Secretary of Defense (Equal Opportunity), Room 3E319, The Pentagon, Washington, D.C. 20301.

Notification procedure: Information may be obtained from:

Deputy for Plans and Policy

Office of the Deputy Assistant Secretary of Defense (Equal Opportunity)
Room 3E319
The Pentagon
Washington, D.C. 20301
Telephone: 202-695-0107

Record access procedures: Requests from individuals should be addressed to: Deputy for Plans and Policy, Office of the Deputy Assistant Secretary of Defense (Equal Opportunity), Room 3E319, The Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name of the individual, Service, current address, and telephone number.

For personal visits, the individual should be able to provide some acceptable identification such as a driver's license or other ID card.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and Administrative Instruction No. 81.

Record source categories: Information contained in the file is obtained from the individual or someone acting on his behalf, from the Services' investigation of the complaints.

Systems exempted from certain provisions of the act: None

DMRA&L 12.0

System name: Reserve Components Common Personnel Data System (RCCPDS)

System location: Air Force Data Service Center, Room 1D167, The Pentagon, Washington, D. C. 20330.

Back-up locations for processing: U.S. Army Management Systems Support Agency, Room BD972, The Pentagon, Washington, D. C. 20310.

W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93940.

National Military Command System Support Center, Room BE685, The Pentagon, Washington, D. C. 20331.

Categories of individuals covered by the system: Any individual currently a member of any Reserve or National Guard component, and retired reservists.

Categories of records in the system: File contains individual's Social Security Account Number, component, and other personnel information such as race, sex, rank, age, and length of service.

Authority for maintenance of the system: 10 U.S.C. 136.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of the file is to generate official statistics concerning Reserve Forces' strength, gains, losses and characteristics of the force.

Office of the Deputy Assistant Secretary of Defense (Reserve Affairs) - used to generate and disseminate official statistics. Individual records are used to provide aggregate statistical data.

Any individual record contained in the system may be transferred to any other Department of Defense Component having the need-to-know in the performance of official business.

Records may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Records of Federal civilian employees who are reservists may be disclosed to Federal agencies for use in emergency mobilization planning. Records may be disclosed to the Civil Service Commission concerning pay benefits, retirement deductions, and other information necessary for the Commission to carry out its Government-wide personnel management functions.

Records may be disclosed to the Director, Selective Service System upon official request.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic computer tape.

Retrievability: Records are retrievable by component, rank, age, sex, location, or other attributes, including Social Security Account Number.

Safeguards: The primary location is a TOP SECRET facility. The U.S. Army Management Systems Support Agency is a TOP SECRET facility. The National Military Command Systems Support Center is a TOP SECRET facility. Tapes located at the W.R. Church Computer Center, Monterey, CA. are stored in a locked cage in machine room, which is a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Retention and disposal: Inventory files are current; quarterly history files for the master and transaction files are maintained on a permanent basis.

System manager(s) and address: Deputy Assistant Secretary of Defense (Reserve Affairs), Room 3C980, The Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from:

Assistant Director, Reserve Personnel Program
Office of the Deputy Assistant Secretary of Defense (Reserve Affairs)
Room 3C980
The Pentagon
Washington, D. C. 20301.
Telephone: 202-697-0624.

Record access procedures: Requests from individuals should be addressed to: Assistant Director, Reserve Personnel Program, Office of the Deputy Assistant Secretary of Defense (Reserve Affairs), Room 3C980, The Pentagon, Washington, D. C. 20301.

Written requests for information should contain the full name, Social Security Account Number, component, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license, or military or other ID card.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Data records are obtained from the six Reserve components.

Systems exempted from certain provisions of the act: None

DMRA&L 15.0

System name: Reports of Defense Related Employment.

System location: Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Pentagon, Washington, D.C. 20301.

Categories of individuals covered by the system: Retired or former military officers in grades of major or lieutenant commander or above and former civilian officers and employees of the Department of Defense employed at or above the minimum salary of GS-13, who, during any of the first three years after termination of service or employment with the Department of Defense, are employed at fifteen thousand dollars or more per year by a Defense contractor who, during that year, was awarded contracts by the Department of Defense totaling ten million dollars. Also covered are current officers and employees of the Department of Defense employed at or above the minimum salary level of GS-13, who within the preceding three years were employed by such a Defense contractor.

Categories of records in the system: Copies of report DD Form 1787 completed by individuals covered by the system and forwarded to the Department of Defense describing their employment with the Department of Defense and with the Defense contractor and a listing showing the names of individuals who submitted completed DD Form 1787.

Authority for maintenance of the system: The system was established and is maintained as required by Public Law 91-121, section 410, approved November 19, 1969.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are available for public inspection in accordance with the specific terms of section 410(f) of Public Law 91-121. There is no limitation or restriction on use by the public of the information contained in the report.

Section 410 (d) of Public Law 91-121 requires the submission to the President of the Senate and Speaker of the House of Representatives by December 31 of each year of information in the reports submitted by individuals during the preceding Fiscal Year.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In metal file cabinet.

Retrievability: Alphabetical by name of individual.

Safeguards: Maintained in unlocked file cabinet when not in use.

Retention and disposal: No current criteria for disposition of reports.

System manager(s) and address: The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Pentagon, Washington, D.C. 20301.

Notification procedure: Any individual who desires to know whether a report DD Form 1787 submitted by him is on file may address a letter inquiry to the SYSMANAGER, Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), Pentagon, Washington, D.C. 20301. Inasmuch as the reports are available for public inspection no proof of identity is required.

Record access procedures: On request of any individual the reports on file are made available for inspection in the office of the SYSMANAGER, Room 3C980, Pentagon, Washington, D.C.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: The individual submitting the DD Form 1787.

Systems exempted from certain provisions of the act: None

DMRA&L 16.0

System name: Retired Personnel Master File

System location: Air Force Data Services Center, Room 1D167, Pentagon, Washington, D. C. 20330.

Categories of individuals covered by the system: All retired military personnel and survivor beneficiaries, and reservists drawing retainer pay.

Categories of records in the system: SSAN, birth date, retirement date, pay grade at retirement, amount of retired, survivor, or retainer pay, type of retirment, date of death (in cases of survivor beneficiary records), pension and benefits system elected, Service, years of active service.

Authority for maintenance of the system: 10 USC 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Actuary, Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), used for statistical purposes in estimating retired pay budgets, future retired populations, trends in retirement rates, costs or increases in retired pay; answer Congressional inquiries. U.S. Civil Service Commission to identify accurately retired military personnel who are Federal civilian employees; any individual record in the system may be transferred to any component of the Department of Defense having need to know in performance of official business.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape

Retrievability: Records can be retrieved by SSAN, Service, age, etc.

Safeguards: The Air Force Data Services Center is a TOP SECRET facility.

Retention and disposal: Records are retained for eight weeks. Aggregated records produced from the individual record file are retained indefinitely.

System manager(s) and address: Actuary, ODASD(MPP), Room 2C263, 202-697-1678, The Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from Actuary, ODASD(MPP), Room 2C263, The Pentagon, Washington, D. C. 20301. Telephone: 202-697-1678.

Record access procedures: Requests from individuals should be addressed to: Actuary, ODASD(MPP), Room 2C263, The Pentagon, Washington, D. C. 20301. Written requests for information should contain the full name, SSAN, and current address and telephone number of the requester. For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other ID card.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: The information is obtained from the Military Departments.

Systems exempted from certain provisions of the act: None

DMRA&L 17.0

System name: DOD Overseas Dependent School Teachers Retroactive Pay Project

System location: DoD Office of Dependents Schools, OSD, 2461 Eisenhower Avenue, Alexandria, VA 22331.

Categories of individuals covered by the system: All former DoD Overseas Dependents School teachers who were paid under Public Law 89-391, dated April 14, 1966.

Categories of records in the system: System is comprised of names, Social Security Numbers, and Dates of Birth of former DOD overseas teachers, and information extracted from their Official Personnel Records which will effect computation of their retroactive pay; and current addresses of former teachers.

Authority for maintenance of the system: Court Decision in the case called Virginia J. March et al., v. United States of America. (Civil Action 3437-70, U.S. District Court, District of Columbia, June 30, 1975), on intent of Public Law 89-391, dated April 14, 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Office of Overseas Dependents Education Back Pay Project workers to compute back pay as it applies to individual teacher; prepare necessary updating for individual's Official Personnel Record, life insurance entitlement where applicable; preparing reports to individual teachers, Treasury, Social Security, Civil Service Commission, Attorneys for the teachers, and General Accounting Office. Addresses will be used for mailing purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tapes, computer printouts.

Retrievability: Social Security Number and name.

Safeguards: All records are stored under strict control; maintained in spaces normally accessible only to authorized personnel, in cabinets in locked room.

Retention and disposal: Records will be maintained in this office until all requirements of the Judgment and will be destroyed when they are no longer useful.

System manager(s) and address: Director, DoD Office of Dependents Schools, DASD, (Program Management), OSD.

Notification procedure: Request by correspondence should be addressed Director, DoD Office of Dependents Schools, Attn: Back Pay Project, 2461 Eisenhower Avenue, Room 148, Alexandria, VA 22331. Telephone: 202-325-0660. Letter should contain the full name and signature of the requester.

Record access procedures: Requests from individuals should be addressed to: same address as stated in the Notification section above.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determination by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Official Personnel Records obtained from Federal Records Center and other agencies currently employing individuals concerned.

Systems exempted from certain provisions of the act: None

DMRA&L 18.0

System name: Administrative Files (MRA&L)

System location: Office of Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) (OASD(MRA&L)).

Categories of individuals covered by the system: All civilian and military personnel assigned or detailed to OASD(MRA&L).

Categories of records in the system: Files contain name, ceiling space number, position title, position number, GS rating or rank, SSN, date of birth, entered on duty date and projected loss date (for military personnel), education, primary experience area; planned retirement date (if known), recent awards, name of spouse, home address, office and home telephone numbers, records of travel order and payment vouchers

Authority for maintenance of the system: Various provisions of 10 USC.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To control and accomplish administrative personnel actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders

Visible file cards.
Loose leaf binders.
Telephone index containers.

Retrievability: Filed alphabetically by last name.

Filed by ceiling space number.

Safeguards: Building employs security guards. Records are maintained in offices that are staffed during all duty hours. Records accessible only to authorized OSD personnel

Retention and disposal: Records are retained only for the period of time employee is assigned to OASD(MRA&L). Records are destroyed upon employee's departure from OASD(MRA&L).

System manager(s) and address: The Administrative Officer, OASD(MRA&L), Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from:

OASD(MRA&L) (AD)
Room 3E787
Pentagon
Washington, D. C. 20301
Telephone: 202-695-5592.

Record access procedures: Requests from individuals should be addressed to: OASD(MRA&L)(AD), Room 3E787, Pentagon, Washington, D. C. 20301

Written requests for information should contain the full name of the individual, current address and telephone number. Visits are limited to MRA&L Admin Office, Room 3E787, Pentagon, Washington, D. C. 20301.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, and give some verbal information that could be verified with the records that pertain to him.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Notification of Personnel Actions, SF-50, from the Director for Personnel and Security, Washington Headquarters Services, Department of Defense, OSD SF-171's submitted by individual employees, Notification of Incoming Personnel (military personnel only), Civilian Personnel Staffing Summary supplied by Director for Personnel and Security, Washington Headquarters Services, Department of Defense, T.O. as approved.

Systems exempted from certain provisions of the act: None

DOCHA 01

System name: Health Benefits File

System location: Primary System-Directorate of Health Benefits (DHB), OCHAMPUS, DoD, Denver, Colorado 80240.

Decentralized Segment--Office of Appeals and Hearings, OCHAMPUS, DoD, Denver, Colorado 80240.

Categories of individuals covered by the system: All individuals who seek health care under the Program for the Handicapped as CHAMPUS beneficiaries and/or under the basic program extended hospitalization as CHAMPUS/CHAMPVA beneficiaries.

Categories of records in the system: Original correspondence with individuals, medical statements, congressional inquiries, medical treatment records, authorizations for care, case status sheets, memos for record, follow-up reports justifying extended care, correspondence with contractors and work-up sheets maintained by case workers, and appeals and hearings case files consisting of transcript and/or other documentation pertaining to reconsiderations or appeals of adverse determinations affecting an individual's benefits under CHAMPUS.

Authority for maintenance of the system: Title 44, United States Code, section 3101; Title 41, Code of Federal Regulations, Parts 101-1100 et. seq.; Chapter 55, Title 10, United States Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office of the Civilian Health and Medical Program of the Uniformed Service (OCHAMPUS) uses the information to determine the eligibility of an individual for health care under CHAMPUS/CHAMPVA; to authorized payment of health care claims by CHAMPUS beneficiaries to respond to inquiries from congressional offices made at the request of the individual covered by the system; for referral to the Department of Justice and/or foreign law enforcement agencies for possible criminal prosecution; and for referral to the Secretary of the Department of Health, Education and Welfare and/or the Administrator of the Veterans' Administration consistent with their statutory administrative responsibilities as concerns CHAMPUS/CHAMPVA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed numerically by case number, then alpha, character in seventh digit family participants.

Safeguards: Fitzsimons Army Medical Center (FAMC) provides security force. Records are maintained in areas accessible only to authorized personnel.

Retention and disposal: Psychiatric cases are permanent; medical cases are held four years after closure and equipment cases are held two years after closure.

System manager(s) and address: Director of Health Benefits (DHB), OCHAMPUS, DoD, Denver, Colorado 80240.

Notification procedure: Information may be obtained from:

OCHAMPUS, DoD
Building 611, First Floor
Denver, Colorado 80240
Telephone: 303-341-8609

Record access procedures: Requests from individuals should be addressed to: Directorate of Health Benefits (DHB), OCHAMPUS, DoD, Denver, Colorado 80240

Written requests for information should include the full name of the beneficiary, the full name of the sponsor, current address and telephone number. Written requests for information from medical records shall include the name and address of a physician who would be willing to receive the medical record and, at the physician's discretion, inform the individual covered by the system of the contents of that medical record.

For personal visits, the individual should provide some acceptable identification.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Records of fiscal intermediaries (FI), contractors, CHAMPUS advisors, all branches of the military service, Congressional inquiries, private physicians, consultants, inquiries made by individuals.

Systems exempted from certain provisions of the act: None

DOCHA 03

System name: Health Benefits Preapproval Files

System location: Primary System - Data Automation Division, Directorate of Management Information Services, Office for the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), DoD, Denver, Colorado 80240.

Decentralized Segments-Office of Appeals and Hearings, OCHAMPUS, DoD, Denver, Colorado 80240; Blue Shield of California, P. O. Box 85035, San Diego, California 92138.

Categories of individuals covered by the system: Eligible beneficiaries of the Civilian Health and Medical Program of the Uniformed Services who have been approved for medical care under the program for the handicapped and/or eligible beneficiaries of the Civilian Health and Medical Program-Veterans Administration (CHAMPVA) who have been approved for extended hospital care.

Categories of records in the system: File contains an assigned case number, sponsors name, social security account number, current address, military grade or rank and pay status, military branch of service and status; beneficiaries name, address, date of birth, sex, relationship to sponsor; the medical diagnosis code and the approved medical treatment code, the approval period of time, the number of units approved and the estimated unit of cost, providers of care codes and/or name and address of multi-providers, and appeals and hearing case files consisting of hearing transcripts and/or other documentation pertaining to reconsiderations and appeals of adverse determinations affecting on individual's benefits under CHAMPUS.

Authority for maintenance of the system: 44 USC 3101, 41 CFR 101-1100 et seq., Chapter 55, Title 10, USC.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: OCHAMPUS Directorate of Health Benefits (DHB)-For approval of medical care under the provisions of the Program for the Handicapped of CHAMPUS and/or approval for extended hospitalization; to control and review health care management plans for beneficiaries approved for medical care by providers of service.

OCHAMPUS Directorate of Management Information Services-For control and accomplishment of reviews of approvals; to coordinate subject matter clearances for congressional committees and auditors.

The Office of the Civilian Health and Medical Program of the Uniformed Service (OCHAMPUS) uses the information for approval of health care under the Program for the Handicapped; for approval of extended hospital care; to control and review health care management plans of providers of services for individuals approved for health care; to respond to inquiries from congressional offices made at the request of the individual covered by the system; for referral to the Secretary of the Department of Health, Education and Welfare and/or the Administrator of the Veterans Administration consistent with their statutory administrative responsibilities as concerns CHAMPUS/CHAMPVA; and for referral to the Department of Justice and/or foreign law enforcement agencies for possible criminal prosecution.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tape and disk.

Retrievability: Information is retrieved by assigned case number, sponsor's social security account number (SSAN), sponsor's or beneficiaries' name, classification of medical diagnosis or medical treatment codes or provider of service code or approval dates or geographical location.

Safeguards: Records are maintained in areas accessible to authorized personnel. Records are maintained on magnetic tape readable through the medium of OCHAMPUS prepared computer programs. Military policy security and manned 24 hours daily.

Retention and disposal: Records are permanent. They are maintained on magnetic tape as individual annual files.

System manager(s) and address: Director, Office for the Civilian Health and Medical Program of the Uniformed Services, ATTN: Director of Management Information Services, Denver, Colorado 80240.

Notification procedure: Information may be obtained from:

Director of Management Information Services
Office for the Civilian Health and Medical Program of the Uniformed Services
Denver, Colorado 80240
Telephone: 303-341-8005

Record access procedures: Requests from individual should be addressed to: Director, Office for the Civilian Health and Medical Program of the Uniformed Services, ATTN: Director of Management Information Services, Denver, Colorado 80240.

Written request for information should contain full name of individual, sponsor's social security account number and the visits are limited to Directorate of Management Information Services, OCHAMPUS, Denver, Colorado 80240.

For personal visits, the individual should be able to provide a Uniformed Services identification card and a driver's license or other positive identification.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Sponsors application, provider of medical care statement.

Systems exempted from certain provisions of the act: None

DOCHA 07

System name: Medical Claim History Files

System location: Primary System - Data Automation Division, Directorate of Management Information Services, Office for the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), DoD, Denver, Colorado 80240.

Decentralized Segments - Office of Appeals and Hearings, (OCHAMPUS), DoD, Denver, Colorado 80240; Fiscal Intermediaries/Contractors under contract to OCHAMPUS. Each company listed below maintains claim files on beneficiaries in their respective geographical areas.

Mutual of Omaha Insurance Company, 3301 Dodge Street, Omaha, NB 68131

California Blue Shield, P. O. Box 85020, San Diego, CA 92138

California Blue Shield, P. O. Box 85035, San Diego, CA 92138 (Dental)

Hawaii Medical Service Association, P. O. Box 860, Honolulu, HI 96808

Maryland Blue Shield, Inc., 700 East Joppa Road, Towson, MD 21204

Blue Shield of Massachusetts, Inc., P. O. Box 2194, Boston, MA 02106

Blue Shield of Michigan, 600 Lafayette East, Detroit, MI 48226

Blue Cross/Blue Shield of Mississippi, Inc., P. O. Box 1043, Jackson, MS 39205

Dikewood Industries, Inc., 1009 Bradbury Drive, S.E., University Research Park, Albuquerque, New Mexico 87106

Blue Cross/Blue Shield of North Carolina, P. O. Box 2291, Durham, NC 27702

Blue Shield of Pennsylvania, Blue Shield Building, Box 65, Camp Hill, PA 17011

Blue Cross of Rhode Island, One Weybosset Hill, Providence, RI, 02901

Blue Cross/Blue Shield of Tennessee, Blue Cross Building, 801 Pine Street, Chattanooga, TN 37402

Blue Cross of Southwestern Virginia, P. O. Box 13828, Roanoke, VA 24001

Wisconsin Physicians Service, P. O. Box 1787, Madison, WI 53701

Categories of individuals covered by the system: Eligible beneficiaries of the Civilian Health and Medical Program of the Uniformed Services (Dependents of Active Duty Members of the Uniformed Services, retired members of the Uniformed Services and dependents of retired or deceased members of the Uniformed Services) eligible beneficiaries of the Civilian Health and Medical Program of the Veterans Administration (spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability or surviving spouse or child of a veteran who has died as a result of a service-connected disability) who received benefits under the provisions of the program.

All individuals who seek health care under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) and the Civilian Health and Medical Program-Veterans Administration (CHAMPVA).

Categories of records in the system: File contains sponsor's Social Security Account Number/Service Number, branch of service, status (active duty, retired or deceased), beneficiary's last name, initials, age, sex, relationship to sponsor, type of costs and date of medical care provided, provider of care identification, and appeals and hearing case files consisting of hearing transcripts and/or other documentation pertaining to reconsiderations or appeals of adverse determinations of benefits under CHAMPUS.

Authority for maintenance of the system: Title 44, United States Code 3101; Title 41, Code of Federal Regulations, Parts 101-1100 et. seq.; Chapter 55, Title 10, United States Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Office of the Civilian Health and Medical Program of the Uniformed Services and CHAMPUS contractors use the information to control and process medical claims for payment; for control and approval of medical treatments and interface with providers of health care; to control and accomplish reviews of utilization; for review of claims related to possible third party liability cases and initiation of recovery actions; for referral to Peer Review Committees or similar professional review organizations to control and review providers of health care; for disclosure to third party contacts without the consent of the individual to whom the information pertains in situations where the party to be contacted has, or is expected to have, information necessary to establish the validity of evidence or to verify the accuracy of information presented by the individual concerning the individual's egibility to benefits under CHAMPUS/CHAMPVA, the amount of benefit payments, any review of suspected abuse or fraud, or any concern for program integrity or quality appraisal; for the issuance of deductible certificates, to respond to inquiries from congressional officies made at the request of the individual covered by the system; for referral to the Secretary of the Department of Health, Education and Welfare and/or the Administrator of the Veterans Administration consistent with their

statutory administrative responsibilities under CHAMPUS/CHAMPVA; for referral to the Department of Justice and/or foreign law enforcement agencies for investigation and possible criminal prosecution; and, for referral to the Department of Justice for representation of the Secretary of Defense in civil actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic tape and disc.

Retrievability: Information is retrieved by sponsor's Social Security Account Number (SSAN), beneficiaries last name, classification of medical diagnosis or procedure codes or geographical location of care provided and selected utilization limits.

Safeguards: Records are maintained in areas accessible to authorized personnel. Records are maintained on magnetic tape readable through the medium of OCHAMPUS prepared computer programs. Military Policy Security and manned 24 hours daily.

Retention and disposal: Records are permanent. They are maintained on magnetic tape as individual annual files.

System manager(s) and address: Director, Office for the Civilian Health and Medical Program of the Uniformed Services, ATTN: Director of Management Information Services, Denver, Colorado 80240.

Notification procedure: Information may be obtained from:

Director of Management Information Services
Office for the Civilian Health and Medical Program of the Uniformed Services
Denver, Colorado 80240
Telephone: 303-341-8005

Record access procedures: Requests from individual should be addressed to: Director, Office for the Civilian Health and Medical Program of the Uniformed Services, ATTN: Director of Management Information Services, Denver, Colorado 80240.

Written requests for information should contain full name of individual, sponsor's Social Security Account Number and personal visits are limited to Director of Management Information Services, OCHAMPUS, Denver, Colorado 80240. Written requests for information from medical records shall include the name and address of a physician who would be willing to receive the medical record and, at the physician's discretion, inform the individual covered by the system of the contents of that medical record.

For personal visits, the individual should be able to provide a Uniformed Services Identification Card and a driver's license or other positive identification.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: CHAMPUS Medical Claims Forms, private physicians, hospitals, and other sources of care.

Systems exempted from certain provisions of the act: None

DPA DDI.A 02

System name: Biography File

System location: Directorate for Defense Information, Office of Assistant Secretary of Defense (Public Affairs)

Categories of individuals covered by the system: Military and Civilian members of the Department of Defense

Categories of records in the system: Biographical information prepared and approved for public release

Authority for maintenance of the system: Title 10, United States Code, Section 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to public and news-media interest, and for record purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files in paper containers

Retrievability: By name

Safeguards: Accessible to authorized personnel

Retention and disposal: Permanent. Retain one copy permanently, destroy remaining copies when superseded.

System manager(s) and address: Assistant Secretary of Defense (Public Affairs), The Pentagon, Washington, D. C. 20301

Notification procedure: Information may be obtained from:

Director for Defense Information
Office of the Assistant Secretary of Defense (Public Affairs)
Room 2E765, The Pentagon
Washington, D. C. 20301
Telephone: 202-695-3886

Record access procedures: Requests should be addressed to:

Office of the Assistant Secretary of Defense (Public Affairs)
The Pentagon
Washington, D. C. 20301

Contesting record procedures: The Agency's rules for access to records, and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Military Services and Civil Service Offices

Systems exempted from certain provisions of the act: None

DPA DFOI.A 05

System name: Freedom of Information Program Case Files

System location: Primary system: Directorate for Freedom of Information and Security Review, Office of Assistant Secretary of Defense (Public Affairs)

Decentralized segments: Under Secretaries of Defense, Assistant Secretaries of Defense, Assistants to the Secretary of Defense, or equivalent, the Organization of the Joint Chiefs of Staff, and other activities assigned to Office Secretary of Defense for administrative support.

Categories of individuals covered by the system: Any citizen who makes a request for records under the Freedom of Information Program to the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff, or activity assigned to Office Secretary of Defense for administrative support.

Categories of records in the system: Name, firm, address of individual requester, identification of records requested, dates and summaries of action taken, and documents for establishing collectable fees and processing cost to the government.

Names, titles or positions of each person primarily responsible for an initial or final denial on appeal of a request for a record.

The results of any disciplinary proceeding, including an explanation of a decision not to discipline, that was initiated against an officer or employee because a court determined arbitrary of capricious action.

Authority for maintenance of the system: Title 5, United States Code, Section 552, The Freedom of Information Act, as amended by Public Law 93-502.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Primary system and decentralized segments are used by officials in the locations described above to administratively control requests to insure compliance with Public Law 93-502, and to research historical data on release of records so as to facilitate conformity in subsequent actions.

Primary system used for development of annual report data required by Public Law 93-502 and to compute processing costs to the government, and other management data such as, but not limited to number of requests, type or category of records requested, average processing time, average cost to requester, percentage of denials, and number of denials by exemption.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer magnetic disks, computer paper printout, index file cards, and paper records in file folders.

Retrievability: Filed by request number and retrieval by name, subject material (to include dates) and request number using conventional indices.

Safeguards: Paper records are maintained in security containers with access only to officials whose access is based on requirements of assigned duties. Computer access is by verification of Identification codes; one for search and another for maintenance.

Retention and disposal: Annual departmental reports are permanent records. All other reports and files, other than appeal and control files, may be destroyed two to five years after reply, depending on document status. Appeal files are destroyed four years after final determination, or three years after final adjudication, whichever is later. FOIA control files are destroyed five years after date of last entry. Official file copies of records are disposed of in accordance with approved departmental disposition instructions or

with related FOIA request, whichever provides the later disposal date.

System manager(s) and address: Assistant Secretary of Defense (Public Affairs), the Pentagon, Washington, D. C. 20301

Notification procedure: Information may be obtained from:

Director, Freedom of Information and Security Review,
Office, Assistant Secretary of Defense (Public Affairs)
Room 2C757, the Pentagon
Washington, D. C. 20301
Telephone: 202-697-1180

Record access procedures: Requests from individuals should be addressed to:

Director, Freedom of Information and Security Review
Office, Assistant Secretary of Defense (Public Affairs)
Room 2C757, the Pentagon
Washington, D. C. 20301

Requests should include full name, address and affidavit or identification which is required for release of record. Personal visits are restricted to Room 2C757. Individual should be able to present acceptable identification; that is, driver's license or comparable identity card.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Requests for records originating from citizens under the Freedom of Information Act and subsequent data provided by form and memorandum by officials who hold the requested records, act upon the request, or who are involved in legal action stemming from action taken.

Systems exempted from certain provisions of the act: None

DPA DXA.A 07

System name: Personnel Files

System location: Office of the Executive Assistant to the Assistant Secretary of Defense (Public Affairs) with partial files in the Offices of the Directors for Defense Information, Community Relations, and Freedom of Information and Security Review.

Categories of individuals covered by the system: Military and Civilian personnel assigned to the Office of the Assistant Secretary of Defense (Public Affairs)

Categories of records in the system: Partial file containing copies of material contained in each individual's master personnel record. This system contains name, address, telephone number, social security number, rank or grade, position held, temporary assignments, and other related papers pertaining to present assignment.

Authority for maintenance of the system: Title 10, United States Code, Section 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by The Assistant Secretary of Defense (Public Affairs) and his immediate assistants to assign personnel to duties, to maintain manning levels in timely fashion, and to provide information to each individual as required.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders

Retrievability: By name

Safeguards: Records are maintained in locked file cabinet with access only to officials who are involved in personnel actions.

Retention and disposal: Records are maintained while individual is assigned to Office, Assistant Secretary of Defense (Public Affairs), and for three years thereafter and are then destroyed.

System manager(s) and address: Assistant Secretary of Defense (Public Affairs), The Pentagon, Washington, D. C. 20301

Notification procedure: Information may be obtained from:

Executive Assistant
Office of Assistant Secretary of Defense (Public Affairs)
Room 2E813, The Pentagon
Washington, D. C. 20301
Telephone: 202-697-0792

Record access procedures: Requests from individuals should be addressed to:

Office of the Assistant Secretary of Defense (Public Affairs)
The Pentagon
Washington, D. C. 20301

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Central personnel files of the Military Services or the United States Civil Service

Systems exempted from certain provisions of the act: None

DPA DXA.D 10

System name: Privacy Act Request for Access Files

System location: Primary System-Directorate for Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs), Washington, D. C. 20301.

Decentralized Segments-Offices of the Under Secretaries of Defense, Assistant Secretaries of Defense, Assistants to the Secretary of Defense, or equivalent, the Organization of the Joint Chiefs of Staff, and other activities assigned to the Office of the Secretary of Defense for administrative support.

Categories of individuals covered by the system: Any citizen who makes a request for access to records under the Privacy Act to the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff, or activity assigned to the Office of the Secretary of Defense for administrative support. Requests from the public for amendment of records, other questions concerning the Privacy Act, and matters pertaining to Privacy Act Program management are acted upon by the Records Administrator, Office of the Secretary of Defense, Room 5C315, Pentagon, Washington, D. C. 20301.

Categories of records in the system: Name, firm, address, and other personal identifiers of the individual requester, identification of records requested, dates and summaries of action taken, and related documents associated with processing requests. In addition, names, titles or positions of each person primarily responsible for action on requests for records. Results of follow-on action, if any, to include request for review of refusal of the individual's request.

Authority for maintenance of the system: Title 5, U.S.C. 552a, the Privacy Act of 1974; Public Law 93-579.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Files are used by officials in the locations described above to control administratively requests to insure compliance with Public Law 93-579, and to research historical data for annual report statistics and other management information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index file cards and paper records in file folders.

Retrievability: Filed chronologically by request number and retrieved by name and/or request number using conventional indices and cross-references.

Safeguards: Records are maintained in security containers with access only to officials whose access is based on requirements of assigned duties.

Retention and disposal: Files are kept for five years after date of reply in denial cases which are not appealed. Appealed cases are kept 4 years after final determination or 3 years after final adjudication by the courts whichever is later. Where access is granted, files are destroyed after two years.

System manager(s) and address: Assistant Secretary of Defense (Public Affairs), Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from the Director, Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs), Room 2C757, Pentagon, Washington, D. C. 20301. Telephone: Area Code 202/697-1180.

Record access procedures: Requests from individuals should be addressed to the office stated above and should include full name, address, and notarized signature. For personal visits, individuals should be able to present acceptable identification; that is, driver's license or comparable identity card.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 285b and OSD Administrative Instruction No. 81.

Record source categories: Requests for access to records—under the Privacy Act—originating from citizens, and subsequent data provided by officials who hold the requested records, act upon the request, and who are involved in the review of denials of the requests.

Systems exempted from certain provisions of the act: None

DSMC-01

System name: Defense Systems Management College (DSMC) Personnel Information Files

System location: Administration Division, Defense Systems Management College (DSMC), Ft. Belvoir, Va. 22060.

Systems Management Department, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Categories of individuals covered by the system: Military and civilian personnel assigned or attached to the Defense Systems Management College.

Categories of records in the system: Data includes summary of occupational experience, education, training, security clearance, home address, home telephone number, dependent status, awards and decorations, promotion status, pay status.

Authority for maintenance of the system: 10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College,' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Supervisory officials to obtain information on which to base decisions.

Assigned Personnel Management Technicians for accomplishment of records maintenance and personnel services to individuals assigned and attached.

For publication of biographical data booklets, personnel rosters, telephone directories, and organizational charts by the Administrative Officer.

Information from records contained in the system may be provided to any component of the Department of Defense.

Disclosure to law enforcement or investigative authorities for investigations and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Primary files are paper records in file folders and punched cards.

Retrievability: Filed alphabetically by last name.

Safeguards: Building is locked during nonbusiness hours.

File storage is in locked file cabinets. Only authorized personnel have access to files.

Retention and disposal: Files are retained for one year after individual transfers, separates or retires; then are destroyed.

System manager(s) and address: Chief, Administration Division, Defense Systems Management College, Ft. Belvoir, Va. 22060.

Notification procedure: Information may be obtained from the SYSMANAGER. Telephone: 703-664-3118.

Record access procedures: Requests from individuals should be addressed to: Commandant, Defense Systems Management College, ATTN: Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060.

Written requests for information should contain the full name, current address of the individual.

For personal visits, the individual must provide acceptable identification, such as ID card or driver's license.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Data is obtained from the individual, from official personnel folders (201 Files), from Standard Form 171, and from supervisory officials.

Systems exempted from certain provisions of the act: None

DSMC-02

System name: Defense Systems Management College (DSMC) Student Files

System location: Office of the Registrar, Defense Systems Management College (DSMC), Building 202, Ft. Belvoir, Va. 22060.

Categories of individuals covered by the system: All current, former, and nominated students of the Defense Systems Management College (DSMC).

Categories of records in the system: Data includes name, dependent data, SSAN, career brief application form, security clearance, college transcripts, correspondence, DSMC grades, instructor and advisor evaluations, education reports, official orders, current address, and individual's photograph.

Authority for maintenance of the system: 10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College,' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of the file is to provide for the administration of and a record of academic performance of current, former and nominated students.

Used by College officials to verify attendance and grades; to select instructors; to make decisions to admit students to programs and to release students from programs; to serve as basis for studies to determine improved criteria for selecting students; to develop statistics relating to duty assignments and qualifications.

Preparation by the Registrar of locator directories of current and former students which are disseminated to students, former students and other appropriate individuals and agencies for purpose of administration.

Preparation by College officials of student biographical booklets, student rosters, and press releases of student graduations.

Information contained may be reported to any agency of the Department of Defense having an official requirement for the information.

Records may be disclosed to law enforcement or investigatory authorities for investigations and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Files are sequenced alphabetically by last name by class and course. Locator cards are filed alphabetically in two categories: active students (by course) and former students.

Safeguards: Records are maintained in locked cabinets, in an area accessible only to authorized personnel. Building is locked during non-business hours.

Only individuals designated as having a need for access to files by the System Manager are authorized access to information in the files.

Retention and disposal: Records are permanent.

System manager(s) and address: Registrar, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Notification procedure: Information can be obtained from SYSMANAGER. Telephone: 703-664-3120

Record access procedures: Requests from individuals should be addressed to: Commandant, Defense Systems Management College, ATTN: Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060.

Written requests for information should contain the full name, current address and telephone number, and course and class of individual.

For personal visits, the individual must provide acceptable identification, such as ID card or driver's license.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information is provided by the individual, supervisors, employers, instructors, advisors, examinations, and official military records.

Systems exempted from certain provisions of the act: None

DSMC-03

System name: Defense Systems Management College (DSMC) Track Record System

System location: Primary Location - Computer Sciences Corporation, Information Network Division, 650 North Sepulveda Boulevard, El Segundo, Ca. 90245.

Hard copy back-up files and punched card back-up files located in Systems Management Department, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Categories of individuals covered by the system: All current and former students of the Defense Systems Management College (DSMC).

Categories of records in the system: Files contain name, SSAN, marital status, sex, date of birth, nickname, professional society

membership, spouse's name, children's names, accompanied status, years of service, promotion history, job or assignment history, current years of service, current assignment code, military or civilian occupational code, DSMC assignment status, security clearance, current business telephone numbers, retirement status, educational history, class at DSMC, Grade Point Average (GPA), functional course grades, graduation status, individual survey responses, awards and recognition.

Authority for maintenance of the system: 10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College,' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purposes of the system are to assemble career information on current and former students of DSMC in order to provide data to enable DSMC to monitor utilization of former students; to enable DSMC to perform research to assist in refinement of student selection criteria; to provide a data base to research for the improvement of program management; to provide a system for generating student transcripts; and to provide a data base for the DSMC Mailing List System, student and graduate registers.

The Defense Systems Management College - Used in assessing incoming student experience and educational levels; to produce student registers; to monitor utilization of former students by DoD Components; to verify and consolidate measures of student performance, to produce student transcripts which may be required by former students in her/his later educational process; to perform research into the success of former students; to provide input into the DSMC Mailing List System in order to mail surveys, newsletters and other items of interest to former students including graduate registers; to perform research to improve program management.

Computer Sciences Corporation - mounts tapes and disc packs which contain files and operates the system; does not maintain the system.

Individual records in a system of records might be transferred to any component of the Department of Defense (except GPA, functional course grades and individual survey responses).

Individual records of civilian industry students or former students might be transferred to the corporation sponsoring the individual (except GPA, functional course grades and individual survey responses).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Primary file is magnetic disc.

Back-up files are magnetic computer tape and punched cards.

Hard copy back-up files are paper records in file folders.

Retrievability: Files are sequenced by Social Security Account Number.

Safeguards: Primary location is a controlled access area.

Operator personnel are screened and cleared in accordance with Government Services Administration contract procedures.

Access to magnetic disc and computer tapes requires computer phone number, user ID, password and project code which are only accessible to personnel authorized by the System Manager.

Back-up file storage is in a building which is locked during nonbusiness hours and is located on a military installation.

Only individuals designated as having a need for access to files by the Systems Manager are authorized access to information in the files.

Retention and disposal: Records are permanent.

System manager(s) and address: Director, Department of Plans and Curriculum Development, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Notification procedure: Information may be obtained from the SYSMANAGER. Telephone: 703-664-2017.

Record access procedures: Requests from individuals should be addressed to: Commandant, Defense Systems Management College, ATTN: Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060.

Written requests for information should contain the full name of the individual, SSAN, current address and telephone number.

For personal visits, the individual must contact the Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060, and provide acceptable identification, such as, military or other ID card, driver's license.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information is provided by the individual, employer, staff and faculty of DSMC, each DoD Component, and the U. S. Civil Service Commission (including their automated personnel systems).

Systems exempted from certain provisions of the act: None

DSMC-04

System name: Defense Systems Management Collge (DSMC) Academic Analysis System

System location: Primary Location-Office of the Commandant, Defense Systems Management College (DSMC), Ft. Belvoir, Va. 22060.

Back-up Data File-Dept of Systems Management, Defense Systems Management College, Ft. Belvoir, Va. 22060.

Categories of individuals covered by the system: All current and former Program Management Course (PMC) students and participants in DSMC Cooperative Graduate Programs.

Categories of records in the system: File contains individual's name, SSAN, sex, date of birth, service affiliation, affiliation status, years of service, promotion history, job or assignment history, current assignment code, military or civilian occupation code, educational history, class at DSMC, DSMC class standing, DSMC grade point average, DSMC functional course grades, graduation status, pre-and post-test scores, Miller Analogies Test scores, Graduate Record Exam scores, individual survey responses, and course enrollment data and course grades in DSMC Cooperative Graduate Programs.

Authority for maintenance of the system: 10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College,' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purposes of this system are: To provide a research data base for improvement of the PMC academic program and its integration with DSMC Cooperative Graduate Programs, to provide a research data base for evaluating the quality and performance of current and former PMC students as well as DSMC Cooperative Graduate Program participants, and to facilitate administration of DSMC Cooperative Graduate Programs.

DSMC officials designated by the Commandant-Used to determine areas for improvement of the PMC academic program and its integration with DSMC Cooperative Graduate Programs; used to evaluate the quality and performance of current and former PMC students as well as participants in DSMC Cooperative Graduate Programs; used to administer DSMC Cooperative Graduate Programs; used for monitoring participation in DSMC Cooperative Graduate Programs and for counseling PMC students regarding participation; used to furnish DSMC Cooperative Graduate Program enrollment data for PMC student academic evaluation reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Primary file is paper records in file folders.

Back-up data file is punched cards.

Retrievability: Filed by class alphabetically by last name of PMC student and participant in Cooperative Graduate Programs.

Safeguards: Primary file is in a locked cabinet.

Back-up data file is in a building which is locked during nonbusiness hours and is located on a military installation.

Only individuals designated as having a need for access to files by the System Manager are authorized access to information in the files.

Retention and disposal: Records are permanent.

System manager(s) and address: Commandant, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Notification procedure: Information may be obtained from the SYSMANAGER. Telephone: 703-664-2017.

Record access procedures: Requests from individuals should be addressed to: Commandant, Defense Systems Management College, ATTN: Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060.

Written requests for information should contain the full name of the individual, SSAN, current address and telephone number.

For personal visits, the individual must contact the Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060, and provide some acceptable identification, such as military or other identification card, driver's license.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administration Instruction No. 81.

Record source categories: Information is provided by the individual, staff and faculty of DSMC, each DOD Component and the U. S. Civil Service Commission (including their automated personnel systems), educational institutions and testing services.

Systems exempted from certain provisions of the act: None

DSMC-05

System name: Biographical Record System

System location: Program Manager Biographies-Department of Research and Publications, Defense Systems Management College.

Board of Visitor Biographies, Department of Plans and Curriculum Development, Defense Systems Management College.

Program Management Course Guest Lecturer Biographies-Department of Program Management, Defense Systems Management College.

Executive Course Guest Lecturer Biographies-Department of Executive Management, Defense Systems Management College.

Categories of individuals covered by the system: Key governmental officials.

Guest Lecturers at the Defense Systems Management College.

Present and past members of the Board of Visitors and Policy Guidance Council.

Categories of records in the system: Files contain official biographic data, such as: individual's position, title, current business affiliation, record of past experience and education, awards and honors, memberships, addresses, phone numbers, photographs, etc.

Authority for maintenance of the system: 10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College, ' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose is to provide information for selection and introduction of guest lecturers and to perform research.

Department of Plans and Curriculum Development-To develop statistical data on Department of Defense Program Management Offices; to present data to Policy Guidance Council to determine worthiness of nominees to serve on Board of Visitors.

Department of Program Management-To provide the credentials of guest lecturer to the students prior to the presentation.

Department of Executive Management-To present the credentials of guest lecturer to the students prior to the presentation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name, except program manager/deputy program manager files which are filed by organization titles.

Safeguards: Records are maintained in areas accessible only to authorized personnel.

Retention and disposal: Records are permanent.

System manager(s) and address: Director, Department of Research and Publications, Defense Systems Management College, Ft. Belvoir, Va. 22060.

Notification procedure: Information may be obtained from the SYSMANAGER. Telephone: 703-664-5783.

Record access procedures: Requests from individuals should be addressed to: Commandant, Defense Systems Management College, ATTN: Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060.

Written requests for information should contain full name of the individual, current position and affiliation.

Visits are limited to the departments at the school where the information is filed. For personal visits, the individual must provide acceptable identification.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Key official data from official Governmental files.

Board of Visitors nominee data from Policy Guidance Council members, present Board of Visitors members, DSMC Commandant and 'Who's Who.'

Guest Lecturer data from guest lecturers themselves, from their offices, or from Agency Public Affairs Offices.

Systems exempted from certain provisions of the act: None

DSMC-06

System name: Defense Systems Management College (DSMC) Mailing List

System location: Primary location-Computer Sciences Corporation, Information Network Division, 650 North Sepulveda Boulevard, El Segundo, Ca. 90245.

Hard copy back-up files and punched card back-up files located in Systems Management Department, Defense Systems Management College, Building 202, Fort Belvoir, Va. 22060.

Categories of individuals covered by the system: All former students of the Defense Systems Management College (DSMC); members of the DSMC Policy Guidance Council and Board of Visitors; program managers associated with defense systems acquisition programs; key acquisition managers throughout Department of Defense; former staff and faculty members of the DSMC and individuals desiring to be included in the system.

Categories of records in the system: File contains name, SSAN, Class at DSMC, job code, mailing address, rank or grade, position and professional title and affiliation.

Authority for maintenance of the system: 10 USC 136, and Department of Defense Directive 5160.55, 'Defense Systems Management College,' January 5, 1977.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purpose of the system is to provide a mailing list for distribution of newsletters, surveys, graduate registers and other information relating to acquisition management which is of interest to individuals included in the system.

DSMC - Used to disseminate newsletters, surveys, graduate registers and other information relating to acquisition management which is of interest to individuals on the DSMC mailing list; to prepare registers of former graduates; to prepare lists of Department of Defense Program Managers.

Computer Science Corporation - Mounts tapes and disc packs which contain files and operates the system; does not maintain the system.

Any individual records in a system of records might be transferred to any component of the Department of Defense or other Government agency.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Primary file is magnetic disc.

Back-up files are magnetic computer tape and punched cards.

Hard copy back-up files are paper records in file folders.

Retrievability: Files are retrievable by name, SSAN, class, job code and zip code.

Safeguards: Primary location is a controlled access area.

Operator personnel are screened and cleared in accordance with Government Services Administration contract procedures.

Access to magnetic disc and computer tapes requires computer phone number, user ID, password and project code which are only accessible to personnel authorized by the System Manager.

Back-up file storage is in a building which is locked during nonbusiness hours and is located on a military installation.

Only individuals designated as having a need for access to files by the Systems Manager are authorized access to information in the files.

Retention and disposal: Records are permanent.

System manager(s) and address: Director, Department of Research and Publications, Defense Systems Management College, Building 202, Ft. Belvoir, Va. 22060.

Notification procedure: Information may be obtained from the SYSMANAGER. Telephone: 703-664-5783.

Record access procedures: Requests from individuals should be addressed to: Commandant, Defense Systems Management College, ATTN: Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060.

Written requests for information should contain the full name of the individual, SSAN, current address and telephone number.

For personal visits, the individual must contact the Chief, Administration Division, Building 202, Ft. Belvoir, Va. 22060, and provide acceptable identification, such as, military or other ID card, driver's license.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information is provided by the individual, employer, staff and faculty of DSMC, each DoD Component and the U. S. Civil Service Commission (including their automated personnel systems).

Systems exempted from certain provisions of the act: None

DUSDRE 02

System name: OUSDRE Personnel Administration Files

System location: Office of the Under Secretary of Defense for Research and Engineering (OUSDRE), Office Secretary of Defense, Room 3E1006, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All employees assigned to or considered for positions in OUSDRE including civilian and military personnel and consultants.

Categories of records in the system: These files contain position descriptions; biographical resumes, qualification statements, (SD 171, SD 173, SD 398, SF 161, etc.); Confidential Statement of Affiliations and Financial Interests, Department of Defense Personnel (DD Form 1555); requests for personnel actions (SD 52, 103); notification of Personal Action (SD 50); appointments affidavits (SF 61, 61B); award recommendations; appraisals and efficiency reports; time and attendance records (SF 1135); travel orders and vouchers; and security clearance information.

Authority for maintenance of the system: 10 USC 133

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These files are used primarily for internal personnel and administrative management. Specific uses include: Determining eligibility for appointment to positions; reviewing financial interest and background of individual applying for appointments; comparing individuals resumes with job requirements. Used to keep accounting of time worked; travel performed; orders issued awards given to personnel and security clearance granted. The information contained in these personnel files is used by the office manager, supervisory personnel and the Under Secretary of Defense for Research and Engineering in the management of his organization.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name of the individual concerned.

Safeguards: Building guards and locked file containers. Records are maintained in areas accessible only to authorized personnel.

Retention and disposal: Records are temporary in nature and are destroyed after individuals leave employment of OUSDRE or are no longer under consideration for employment.

System manager(s) and address: Executive Assistant to USDRE, Office of the Secretary of Defense, Washington, D. C. 20301.

Notification procedure: Information may be obtained from:

Personnel Assistant
Office of the Executive Assistant to USDRE
Room 3E1006, Pentagon
Washington, D. C. 20301
Telpehone: 202-695-6556

Written requests for information should contain the full name of the individual, current address, telephone number, and any other information which would help in identifying the desired information.

For personal visits, the individual must be able to provide acceptable identification, that is, driver's license, employing office's identification card, and give verbal information that could be vertified with his 'case folder'.

Record access procedures: Request should be addressed to SYSMANAGER as shown above.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information is provided by the Directorate for Personnel and Security, Security Division, Washington Headquarters Services, Department of Defense, individuals concerned, travel vouchers, security forms, travel orders, individual's supervisors, and time and attendance clerks.

Systems exempted from certain provisions of the act: None

DUSDRE 03

System name: Office of the Under Secretary of Defense for Research and Engineering (OUSDRE), Inventor's File.

System location: Office of the Under Secretary of Defense for Research and Engineering (OUSDRE), Office Secretary of Defense, Room 3E1006, Pentagon, Washington, D.C. 20301

Categories of individuals covered by the system: All persons who have submitted inventions, ideas, and proposals for consideration by the Department of Defense.

Categories of records in the system: These files contain correspondence with individuals concerning their inventions, ideas, and proposals submitted to the Department of Defense; evaluations by government employees of those inventions, ideas, and proposals.

Authority for maintenance of the system: 10 USC 133

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information in this file is primarily collected to give consideration to the inventions, ideas, and proposals submitted by the public. These files are used to reply to correspondence and inquiries from the public and other government agencies. The information contained in these files is used by the staff of OUSDRE.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name.

Safeguards: Building guards and locked file containers. Records are maintained in areas accessible only to authorized personnel.

Retention and disposal: Retained in active files for a period of five years and then transferred to the Washington National Records Center, Suitland, Maryland, 20409.

System manager(s) and address: Director, Program Control and Administration, Office of the Secretary of Defense, Washington, D.C. 20301.

Notification procedure: Information may be obtained from:

Assistant Director, Program Control and Administration
Room 3E1030, Pentagon
Washington, D.C. 20301
Telephone: 202-697-4994

Written requests for information should contain the full name of the individual, current address and telephone number and any other information which would help in identifying the desired information.

For personal visits, the individual must be able to provide acceptable identification, that is, driver's license, employing office's identification card, and give verbal information that could be verified with his 'case folder'.

Record access procedures: Request should be addressed to SYSMANAGER as shown above.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information is provided by individuals who send their inventions, ideas, and proposals to the Department of Defense and government employees who evaluate the inventions, ideas, and proposals.

Systems exempted from certain provisions of the act: None

DUSDRE 04

System name: Requests for Two-year Foreign Residence Waiver Files

System location: Security Policy and Review Division-Office of the Director Program Control and Administration, Office of the Under Secretary of Defense for Research and Engineering, Office of the Secretary of Defense.

Categories of individuals covered by the system: Any foreigner a plying for a Waiver of Foreign Residency.

Categories of records in the system: Files contain requests for waiver of foreign residency.

Authority for maintenance of the system: Mutual Educational and Cultural Exchange Act of 1961 (75 Stat. 535).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Security Policy and Review Division-To evaluate requests for Waivers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper Records in file folders.

Retrievability: Filed alphabetically by last name of individual

Safeguards: Records are located in a facility guarded by Military and GSA Guards 24 hours a day seven days a week. Records are maintained in an area accessible only to authorized personnel.

Retention and disposal: Records are permanent. Retained in active file for ten years.

System manager(s) and address: Director, Program Control and Administration, OUSDRE, Office of the Secretary of Defense, Pentagon Building, Washington, D. C.

Notification procedure: Information may be obtained from:

Security Policy and Review Division
Room 3D1067
Pentagon Building
Washington, D. C. 20301
Telephone: 202-697-3459

Record access procedures: Requests from individuals should be addressed to: Under Secretary of Defense for Research and Engineering, Office of the Secretary of Defense, Pentagon Building, Washington, D. C. 20301

Written requests for information should contain full name of individual, current address and telephone number and approximate date of waiver request.

For personal visits individual should be able to provide appropriate identification

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Application and related correspondence from sponsor and individual requesting waiver.

Systems exempted from certain provisions of the act: None

DWHS BF01

System name: Travel Files

System location: Directorate for Budget and Finance, Travel Branch, Washington Headquarters Services (WHS), Department of Defense (DoD), Pentagon, Washington, D.C. 20301.

Categories of individuals covered by the system: Personnel assigned to the Office of the Secretary of Defense and the Organization of the Joint Chiefs of Staff who perform travel; includes military, civilian and WOC/WAE consultants.

Categories of records in the system: File contains copy of travel orders, paid travel claims, airline schedule and copy of Government Transportation Requests (GTRs) issued.

Authority for maintenance of the system: 10 USC 136(b)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Determination of the costs of trips performed by OSD and OJCS personnel.

Find out if travelers have filed their vouchers after completion of trips.

Determine indebtedness to the Government if per diem payments do not liquidate travel advances.

Individuals assigned to OSD/OJCS components authorized to research files to collect appropriate data to fulfill missions of component.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name of individual.

Safeguards: Building employs security guards. Records kept in unlocked file cabinets.

Retention and disposal: Records maintained by fiscal year, current and previous fiscal year on hand, subsequently retired to Washington National Records Center.

Disposal in accordance with OSD Administrative Instruction No. 15.

System manager(s) and address: Chief, Travel Branch, Directorate for Budget and Finance, Washington Headquarters Services, Department of Defense, Pentagon, Washington, D.C. 20301.

Notification procedure: Information may be obtained from:

Chief, Travel Branch
Director for Budget and Finance
Washington Headquarters Services
Department of Defense
Room 3B279, Pentagon
Washington, D.C. 20301
Telephone: 202-697-1269

Record access procedures: Requests from individuals should be addressed to: Chief, Travel Branch, Directorate for Budget and Finance, Washington Headquarters Services, Department of Defense, Room 3B279, Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name of individual with notarized signature, current address and telephone number, and include fiscal year of travel.

Visits are limited to Travel Branch, Directorate for Budget and Finance, Washington Headquarters Services, Department of Defense, Pentagon, Washington, D.C. 20301.

For personal visits the individuals should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, and give some verbal information that can be verified with his folder.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Travel orders, travel vouchers, airline schedules, copy of GTRs.

Systems exempted from certain provisions of the act: None

DWHS CD01

System name: OSD General Correspondence Files

System location: Correspondence Control Division, Directorate for Correspondence and Directives, Washington Headquarters Services (WHS), Department of Defense (DoD), Room 3A948, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Individuals who address a variety of subjects to the Office of the Secretary of Defense, and those who address Defense-related matters to the White House.

Categories of records in the system: Includes general correspondence addressed to and emanating from the Office of the Secretary and the Deputy Secretary of Defense, and correspondence addressed to White House officials and, because the subject matter, referred to DoD for reply.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference material for follow-up actions and responses to additional inquiries from the same persons.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfiche with hard-copy backup in file folders.

Retrievability: Filed by subject matter with alphabetical subsystem.

Safeguards: Building protected by security guards. Records are maintained in a secure area accessible only to authorized personnel.

Retention and disposal: Records are retained in active file until end of the calendar year, held one additional year in inactive file and subsequently transferred to the the National Records Center, where records are destroyed or permanently preserved in accordance with records disposal authority as dictated by subject matter.

System manager(s) and address: Chief, Correspondence and Control Division, Directorate for Correspondence and Directives, Washington Headquarters Services, Department of Defense, Room 3A948, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from:

Director for Correspondence and Directives, Washington Headquarters Services,
Department of Defense

Room 3B946
Pentagon
Washington, D.C. 20301
Telephone: 202-697-8261

Record access procedures: Requests from individuals should be addressed to: Director for Correspondence and Directives, Washington Headquarters Services, Department of Defense, Room 3B946, Pentagon Washington, D.C. 20301.

Written requests for information should contain the full name of the individual, current address and telephone number, a brief description of the subject matter, and the approximate date of the communication, if known.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or employing office's identification card.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Correspondence originating with the individual, DoD agencies, and other Federal agencies.

Systems exempted from certain provisions of the act: None

DWHS CD02

System name: Cable Division Personnel Administration Files

System location: Cable Division, Directorate for Correspondence and Directives, Washington Headquarters Services (WHS), Department of Defense (DoD), Room 3E925, Pentagon, Washington, D.C. 20301.

Categories of individuals covered by the system: All individuals employed or military assigned to the Cable Division.

Categories of records in the system: These files contain position descriptions; qualification statements, (SF 171, SF 172, OP 8, SD 295, SD 37, etc.); Confidential Statement of Affiliations and Financial Interests Department of Defense Personnel (DD Form 1555); requests for personnel actions (SD 52); notification of Personnel Action (SD 50); award recommendations; appraisals and efficiency reports, security clearance information DD Forms 398, DD Forms 1584, CS 8.

Authority for maintenance of the system: 10 USC 133

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These files are used primarily for internal personnel and administrative management. Specific uses include: Determining eligibility for assignment to positions; comparing individual's resumes with job requirements; used to keep abreast of performance, awards given to personnel and security clearances granted. The information contained in these personnel files is used by the office manager and supervisory personnel in the Cable Division.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name and Social Security Number of individual concerned.

Safeguards: Building guards. Records are maintained in a secure area accessible only to authorized personnel.

Retention and disposal: Records are retained in active file until military reassignment or individual leaves employment of the Cable Division; and in an inactive file until no longer under consideration for reemployment.

System manager(s) and address: Director for Correspondence and Directives, Washington Headquarters Services (WHS), Department of Defense, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from:

Chief, Cable Division
Directorate for Correspondence and Directives, Washington Headquarters Services, Department of Defense.
Room 3E925, Pentagon
Washington, D.C. 20301
Telephone: 202-697-8151

Written requests for information from individuals should be addressed to Directorate for Correspondence and Directives, Cable Division, Washington Headquarters Services, Department of Defense, Room 3E925, Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name of the individual, current address and telephone number and any other information which would help in identifying the desired information.

For personal visits, the individual must be able to provide acceptable identification; that is, driver's license, employing office's identification card, give verbal information that could be verified with his/her 'case folder'.

Record access procedures: Request should be addressed to SYSMANAGER as shown above.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information is provided by the Directorate for Personnel and Security, WHS, the individual concerned, and the individual's supervisors.

Systems exempted from certain provisions of the act: None

DWHS P01

System name: Supergrade Correspondence, Reports, and Case Files

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301

Categories of individuals covered by the system: Any candidate who is being recommended for an executive level position.

Categories of records in the system: File contains copy of individuals SF-171, position description, organizational chart, applicable CSC forms, SF-161 or 161A, correspondence between Directorate for Personnel and Security, WHS, and CSC, management officials and other selected documents.

Authority for maintenance of the system: 5-USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Directorate for Personnel-to maintain a case file of background information for each executive level request, both approved and disapproved. Armed Forces Information Service (AFIS), Court of Military Appeals (COMA), Defense Advanced Research Projects Agency (DARPA), Defense Security Assistance Agency (DSAA), Office of Dependents Education, Organization of the Joint Chiefs of Staff (OJCS), the President's Commission on Military Compensation, The TriService Medical Information System (TRIMIS), Washington Headquarters Services (WHS), and the Civil Service Commission for information necessary for the Commission to carry out its Government-wide personnel management functions is part of routine use.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders

Retrievability: Filed by organization, then alphabetically by name.

Safeguards: Building employs security guards. Records are maintained in file cabinets in areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal: Files maintained indefinitely.

System manager(s) and address: Director for Personnel and Security, (WHS), Room 3B347, Pentagon, Washington, D. C. 20301

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: SF-171 from individual, other material obtained from personnel office, records and statements from management officials.

Systems exempted from certain provisions of the act: None

DWHS P02

System name: Job Opportunity Announcements

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Any applicant for employment who applies for a specific vacancy.

Categories of records in the system: File contains copies of Job Opportunity Announcement, original certificate of eligibles, rating sheet for all applicants, rating schedule or definition of 'best qualified' and copies of non-selection and not certified letters.

Authority for maintenance of the system: 5 USC 3301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personnel and Security Directorate: To advertise vacant positions and to solicit applications for employment from qualified individuals for organizations serviced. Armed Forces Information Service (AFIS), Court of Military Appeals (COMA), Defense Advanced Research Projects Agency (DARPA), Defense Security Assistance Agency (DSAA), Office of Dependents Education, Organization of the Joint Ciefs of Staff (OJCS), TriService Medical Information System (TRIMIS), and Washington Headquarters Services (WHS), is part of routine use.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Applications retained until selection is made and file closed. Then destroyed. Completed file disposed of in two years or CSC inspection, whichever earlier.

Storage: Paper records in file folders

Retrievability: Filed by Job Opportunity Announcement number and title.

Safeguards: Building employs security guards. Records are maintained in file cabinet in areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal: Records are maintained for a two year period or Civil Service Commission inspection, whichever occurs earlier. Then they are destroyed.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Application and related forms from the individual applying for position, supervisory appraisals from current or previous employers, forms completed by persons whose names are given as reference, ratings and correspondence from Directorate for Personnel and Security, WHS,

Systems exempted from certain provisions of the act: None

DWHS P03

System name: DoD Program for Stability of Civilian Employment

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Employees of OSD who have been affected by Reduction-in-Force and who were eligible and elected to register in the program and employees and reinstatement eligibles who registered for overseas employment consideration.

Categories of records in the system: Standard Form 171, with attachments, if any, registration form, computer printed resume and related forms.

Authority for maintenance of the system: 5 USC 3501

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Civilian Personnel Offices throughout Defense Department to maintain a record of persons registered into program by each employing CPO. System includes file of employees serviced by the System Manager, who are entitled to Priority Referral for repromotion and reemployment. Central Referral Activity, Dayton, Ohio maintains automated system and refers eligible employees to other DoD activities as required by regulation. Armed Forces Information Services (AFIS), Defense Advanced Research Projects Agency (DARPA), Defense Security Assistance Agency (DSAA), the Office of Dependents Education, the Organization of the Joint Chiefs of Staff (OJCS), Tri-Service Medical Information System (TRIMIS), and Washington Headquarters Services (WHS), are part of routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Folders maintained in active file until employee is either placed or declines placement or eligibility expires, then moved to inactive file. Files maintained for two years from date dropped from the program.

Storage: Paper records in file folders.

Retrievability: Filed by name, alphabetically.

Safeguards: Building employs security guards. Records are maintained in file cabinets in the areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal: Files are maintained for a two year period from the date the person is dropped from the system, then they are destroyed.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Application and related forms from individual, registration forms completed by Personnel Operations Division, resume and related automated forms furnished by Central Referral Activity, Dayton, Ohio.

Systems exempted from certain provisions of the act: None

DWHS P04

System name: Reduction-In-Force Case Files

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Civilian employees serviced by OSD SYSMANAGER who have been reached for reduction-in-force actions.

Categories of records in the system: Copies of retention registers, letters from management officials, letters prepared by Personnel to individual regarding type of action required, correspondence from individual concerned and other miscellaneous correspondence concerning the specific action.

Authority for maintenance of the system: 5 USC 1302, 3502

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To maintain a case file on each reduction-in-force situation in serviced organizations for record purposes of SYSMANAGER. Background information for the Civil Service Commission in case of appeal. Review by OSD management officials in cases of questions of qualifications. Armed Forces Information Service (AFIS), Court of Military Appeals (COMA), Defense Advanced Research Projects Agency (DARPA), Defense Security Assistance Agency (DSAA), Office of Dependents Education, Organization of the Joint Chiefs of Staff (OJCS), Tri-Serivce Medical Information System (TRIMIS), and Washington Headquarters Services (WHS), are part of routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Filed alphabetically by last name. Destroy two years after case is closed.

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name. Destroy two years after case is closed.

Safeguards: Building employs security guards. Records are maintained in file cabinets in areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal: Destroy two years after case is closed.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Letters to individuals originated by Personnel, Retention Registers furnished by Personnel, correspondence from management officials, correspondence from individual concerned, correspondence from Civil Service Commission and correspondence from appeals examiner in case of an appeal.

Systems exempted from certain provisions of the act: None

DWHS P05

System name: Roster of When Actually Employed Employees

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Clerical civilian employees employed by the Office of the Secretary of Defense on a 'when actually employed' basis.

Categories of records in the system: Alphabetical list of employees and 3x5 card file also filed alphabetically. Request from management for services of When Actually Employed employee.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For use in Civilian Personnel Operations Division, to maintain record of WAE clerical employees, where they are assigned, working hours, contact address and telephone number, title and grade of their position and type of security clearance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Alphabetical list maintained in three-ring binder, updated as changes occur. 3x5 cards maintained in same manner. Requests from management retained until requirements completed.

Storage: Paper records in notebook and card file.

Retrievability: Information retrieved alphabetically, by last name.

Safeguards: Building employs security guards. Records are maintained in file cabinets in areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal: Information maintained on a current basis only.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information obtained from individuals Official Personnel Folder and individual concerned.

Systems exempted from certain provisions of the act: None

DWHS P06

System name: DoD-Wide Civilian Career Program for Comptroller/Financial Management Personnel

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All employees in organizations serviced by SYSMANAGER who are eligible for GS-14 and above vacancies in the following job classification series: 501, 504, 505, 510 and 560, and positions of Comptroller or Deputy Comptroller regardless of series.

Categories of records in the system: Standard Form 171's, supervisory appraisals and copy of Job Opportunity Announcement.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Applications are accepted for referral for current vacancies, located at the Office of the Secretary of Defense or other Department of Defense components, i.e., Department of Army, Department of Navy, Department of Air Force, Armed Forces Information Services (AFIS), Defense Advanced Research Projects Agency (DARPA), Defense Communications Agency (DCA), Defense Contract Audit Agency (DCAA), Defense Intelligence Agency (DIA), Defense Investigative Service (DIS), Defense Mapping Agency (DMA), Defense Nuclear Agency (DNA), Defense Security Assistance Agency (DSAA), Defense Supply Agency (DSA), Office of Dependents Education, Organization of the Joint Chiefs of Staff (OJCS), Tri-Service Medical Information System (TRIMIS), and Washington Headquarters Services (WHS), are part of routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Applications filed in folders by title and grade level of position. Supervisory career appraisals filed with application.

Storage: Paper records in file folders.

Retrievability: Information located by title and series of vacancy applied for.

Safeguards: Building employs security guards. Records are maintained in file cabinets in areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal: Applications retained until position filled. Applications of non-selected candidates returned to them. Application of selectee filed in official Personnel Folder or returned to candidate if up-to-date application on file.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Applications from individuals, supervisory appraisals from current and former supervisors, information for Job Opportunity Announcements from Department of Defense Agency with vacancy.

Systems exempted from certain provisions of the act: None

DWHS P07

System name: Incentive Awards Records

System location: Directorate for Personnel and Security, Washington Headquarters Serices (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Civilian Employees recommended for awards: Quality Salary Increases, Outstandings, Sustained Superior Work Performance Awards, Secretary of Defense Meritorious Civilian Service Award, Department of Defense Distinguished Civilian Service Award, Department of Defense Distinguished Public Service Award, Secretary of Defense Outstanding Public Service Award and various non-government awards.

Categories of records in the system: Master log maintained on above awards, copies of signed citations by the Secretary of Defense, nominations which contain name, grade and title, period of recommendation and assigned activity. Disclosure file maintained on all nominations for awards which require name, address, occupation, telephone number, and educational background, and are submitted to non-government agencies.

Authority for maintenance of the system: 5 USC 451

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Civilian Personnel-to determine eligibility for awards, statistical data regarding awards. Non-Government agencies which offer awards programs such as the William A. Jump Memorial Foundation, the Rockefeller Public Service Awards Program, and the Arthur S. Flemming Awards Commission. The Civil Service Commission for information necessary for the Commission to carry out its Government-wide personnel management functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: To provide assistance in writing justifications for awards and to process the awards in a reasonable amount of time.

Storage: Metal five drawer legal size file cabinet.

Retrievability: Filed by Fiscal Year with a master log.

Safeguards: Building patrolled by security guards. File is maintained in an area which is secured during non-working hours.

Retention and disposal: Records are permanent.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Recommendations received from the Immediate Office of the Secretary of Defense, Joint Chiefs of Staff, all Offices of the Secretary of Defense elements, Military Departments, Defense Agencies, private citizens.

Systems exempted from certain provisions of the act: None

DWHS P08

System name: Worker's Compensation-On-The-Job Injuries Report File

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301

Categories of individuals covered by the system: Civilian employees injured on the job.

Categories of records in the system: Case files containing required injury reports which include name, SSN, DOB, telephone number, type of injury, address, and assigned activity.

Authority for maintenance of the system: 5 USC 8101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Director for Personnel and Security, WHS, and Labor Department for purposes of determining eligibility for Worker's Compensation, statistical data regarding leave taken and to review cases being processed.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: To provide assistance in submitting appropriate forms for injuries.

Storage: Metal five drawer legal size file cabinet

Retrievability: Filed by name of employee with card index.

Safeguards: Building patrolled by security guards. File is maintained in an area which is secured during non-working hours.

Retention and disposal: Files are permanent.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Civilian employees of the Office of the Secretary of Defense and Organization of the Joint Chiefs of Staff, and activities serviced by WHS.

Systems exempted from certain provisions of the act: None

DWHS P09

System name: Computer Data Base

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All civilian employees serviced by Directorate for Personnel and Security, WHS.

Categories of records in the system: The following data is stored in addition to that required by Civil Service Commission: Position Number, Position Tenure, Organization Code, Building Code, Date of Last Within Grade Increase, Due Date for Within Grade Increase, Highest Grade Held, Date of Last Promotion, Expiration Date of Appointment (If applicable), Nine Month Appraisal Date (If applicable), Leave Category, Special Category, Type of Appointment, Date of Current Appointment, Marital Status, Legal Residence, Security Clearance and Health Benefits Status.

Authority for maintenance of the system: EO 9830 and 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personnel and Security Directorate-Data extracted as required by Civil Service Commission for Central Personnel Data File. Certain fields used as required for statistical data. Stored data printed on personnel change forms to report a change in status i.e., Standard Form 50, DA 2515. Extracts of data base used periodically to insure currency of files. Alphabetic locator to verify employment organizational staffing summary.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Used daily to update employee's records as changes occur.

Storage: IBM Computer 370

Retrievability: Files may be retrieved and sorted by any field in Data Base.

Safeguards: Building has security guards. User of Data Base must have a 'user code' in order to be admitted access to computer room.

Retention and disposal: Records are permanent and current as long as the employee is employed.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Processing documents initiated by the Directorate for Personnel and Security and employee's Standard Form 171.

Systems exempted from certain provisions of the act: None

DWHS P10

System name: Training File

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Employees applying for Training Programs.

Categories of records in the system: Standard Form 171, Optional Form 37, Optional Form 170, DD Form 1556, SD Forms 446 and 447, Training Record Card File, which contains name, social security number, date of birth, home address, annual salary, and office and home telephone number.

Authority for maintenance of the system: 5 USC 4101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Personnel and Security Directorate to determine eligibility for training assignments. The Civil Service Commission for information necessary for the Commission to carry out its Government wide personnel management functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: To ensure that complete records are maintained for program evaluation purposes.

Storage: Metal five drawer legal size file cabinet without lock.

Retrievability: Filed by training program name and employee name.

Safeguards: Building has security guards. File is maintained in an area which is secured during non-working hours..

Retention and disposal: Records are permanent. Maintained in the Training and Career Development Branch at all times.

System manager(s) and address: Director of Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Employees submit application forms.

Systems exempted from certain provisions of the act: None

DWHS P12

System name: Executive Development Programs File

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301

Categories of individuals covered by the system: Employees applying for executive development programs.

Categories of records in the system: Optional Form 69 individual development plans, SF171, SF-59, which contain name, social security number, date of birth, home address, annual salary, and office and home telephone number.

Authority for maintenance of the system: 5 USC 4101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personnel and Security Directorate-to determine eligibility for specialized development programs. The Civil Service Commission for information necessary for the Commission to carry out its Government-wide personnel management functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: To ensure that complete records are maintained for program evaluation purposes.

Storage: Metal five drawer legal size file cabinet without lock.

Retrievability: Filed by training program name and employee name.

Safeguards: Building has security guards. File is maintained in an area which is secured during non-working hours.

Retention and disposal: Records are permanent.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Employees submit application forms.

Systems exempted from certain provisions of the act: None

DWHS P13

System name: Management Intern File

System location: Directorate for Personnel and Security, Washington Headquarters Services, (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Management trainees on rotational assignments.

Categories of records in the system: Standard Form 171 and resumes which contain name, Social Security Number, date and place of birth, home address, annual salary, and office and home telephone number.

Authority for maintenance of the system: 5 USC 3301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personnel and Security Directorate: for purposes of determining appropriate rotational assignment of management interns.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: To ensure that complete records are maintained for trainee evaluation.

Storage: Metal five drawer legal size file cabinet without lock.

Retrievability: Filed by trainee's name.

Safeguards: Building has security guards. File is maintained in an area which is secured during nonworking hours.

Retention and disposal: Records are permanent.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information obtained from employment applications submitted by individual; supervisory evaluation from previous employers.

Systems exempted from certain provisions of the act: None

DWHS P14

System name: Blood Donor Files

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Any blood donor with the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff, and activities serviced by WHS.

Categories of records in the system: File cards contain name, rank (if military), duty phone, home phone, duty activity and room number, blood type and dates of donations.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Military Personnel Division-to determine eligibility for blood replacement. To provide source of contacts for emergency blood requirements. To determine eligibility for issuance of gallon donor certificates.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Weekly screening of cards to determine if individual is eligible to donate blood.

Storage: 3x5 Cardex File.

Retrievability: Filed alphabetically by last name of donor.

Safeguards: Building has security guards. File is maintained in an area accessible only to authorized personnel.

Retention and disposal: Records are permanent for the duration of the individual's participation as a blood donor.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Civilian Health Clinic-Pentagon and the individual blood donors.

Systems exempted from certain provisions of the act: None

DWHS P15

System name: Department of Defense Distinguished Service Medal Files

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Personnel recommended for the Department of Defense Distinguished Service Medal

Categories of records in the system: Master Log, copy of approved award signed by the Secretary of Defense, which contain name, grade, Social Security Number, duty title, duty activity and period of assignment.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Military Personnel Division-to insure that certificate, citation, and engraved medal are obtained for the individual receiving award.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: To insure that all records are maintained and to insure that all award elements are processed in a timely manner.

Storage: Metal five drawer legal size file cabinet with lock.

Retrievability: Filed by case number with a master log.

Safeguards: Building has security guards. File is maintained in an area which is secured during non-working hours.

Retention and disposal: Records are permanent. Maintained in the Military Personnel Division at all times.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Recommendations received from the immediate Office of the Secretary of Defense.

Systems exempted from certain provisions of the act: None

DWHS P16

System name: Joint Service Commendation Medal Recommendations File

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All military personnel recommended for the Joint Service Commendation Medal.

Categories of records in the system: Original recommendation, approval, copy of orders, and forwarding memorandum, which contains name, grade, Social Security Number, duty title, duty activity, home address, next duty assignment, and period of assignment.

Authority for maintenance of the system: 10 USC 1121

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Military Personnel Division-to insure that certificate, citation, orders, and medal are forwarded to individual receiving award. Insure that copy of orders are forwarded for individual service record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: To insure that all records pertaining to the Joint Service Commendation Medal are up-to-date and to insure that all award elements are processed in a timely manner.

Storage: Metal five drawer legal size file cabinet with lock.

Retrievability: Filed by case number with a master log.

Safeguards: Building has security guards. File is maintained in an area which is secured during nonworking hours.

Retention and disposal: Records are permanent. Maintained for two years then transferred to the Federal Record Center.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security (WHS), Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction NO. 81.

Record source categories: Recommendations received from various OSD/OJCS related activities.

Systems exempted from certain provisions of the act: None

DWHS P17

System name: Assignment Folders

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All military personnel currently on duty with the Office of the Secretary of Defense, and activities serviced by WHS.

Categories of records in the system: File folders on each individual which contains all pertinent information on his nomination, selection, and duty tour within the Office of the Secretary of Defense.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Military Personnel Division-to have a basic source folder of military personnel assigned which includes name, grade, social security number, service, previous duty station, schooling, duty title, duty activity, and other pertinent data relating to the individuals career and assignment with the Office of the Secretary of Defense, and activities serviced by WHS.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: To have a source document pertaining to personnel assigned to the Office of the Secretary of Defense. and activities serviced by WHS. To insure that a folder is initiated on all individuals upon acceptance for assignment to the Office of the Secretary of Defense, and activities serviced by WHS.

Storage: Metal five drawer file cabinet with lock.

Retrievability: Filed alphabetically by last name.

Safeguards: Building has security guards. Files are maintained in an area that is secured during non-working hours.

Retention and disposal: Records are retained for approximately six months after individual's departure then they are destroyed.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information is provided from nomination folder and actions initiated by the Office of the Secretary of Defense.

Systems exempted from certain provisions of the act: None

DWHS P18

System name: The Office of the Secretary of Defense Identification Badge Suspense Card System

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All Army/Navy/Air Force/Marine Corps personnel assigned to the Office of the Secretary of Defense, and activities serviced by WHS.

Categories of records in the system: All personnel who are eligible for the Office of the Secretary of Defense Identification Badge after being assigned on permanent duty with the Office of the Secretary of Defense, and activities serviced by WHS, for a period of one year. Data includes names, social security account number, The Office of the Secretary of Defense activity, grade, service, and dates.

Authority for maintenance of the system: 10 USC 1125

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Military Personnel Division-to establish who is eligible for the Office of the Secretary of Defense Identification Badge after being assigned to an authorized space in the Office of the Secretary of Defense, and activities serviced by WHS.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Issuance of the Office of the Secretary of Defense Identification Badges at end of each month for eligible personnel.

Storage: 3x5 Cardex File

Retrievability: Filed alphabetically by last name of recipient.

Safeguards: Building has security guards. Office locked during non-working hours.

Retention and disposal: Records are permanent. Maintained in the Military Personnel Division at all times.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 2026973305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Written or verbal inquiries.

Systems exempted from certain provisions of the act: None

DWHS P19

System name: General/Flag Officer Files

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All General/Flag Officers assigned to the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff and Defense Agencies.

Categories of records in the system: Separate file on each General/Flag officer position in the Office of the Secretary of Defense and the Organization of the Joint Chiefs of Staff and Defense Agencies. Each file contains information on the position (SD Form 37, Position Description) and information on the General or Flag officer filling the position, to include all correspondence nominating him for the position and a summary of his military record, including prior assignments, awards, etc.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide a centralized file to incorporate all staffing and personnel correspondence dealing with General/Flag officer positions and incumbents in the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff and Defense Agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Maintain files and update as correspondence relating to the General/Flag officer position as it comes in.

Storage: Metal five drawer file cabinet with lock.

Retrievability: Filed by organization and position.

Safeguards: Building has security guards. File is maintained in an area that is secured during non-working hours.

Retention and disposal: Records are not permanent. Maintained in the Military Personnel Division at all times. Destroyed one year after departure date.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347,Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301 Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency s rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: All documents relating to General/Flag officers and/or their positions.

Systems exempted from certain provisions of the act: None

DWHS P20

System name: Report of Personnel Assigned Outside of Department of Defense

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All Department of Defense personnel working in any organization outside the realm of the Department of Defense.

Categories of records in the system: Reflects personnel and assignment data in each Department of Defense personnel working outside the Department of Defense. This data includes name of individual, rank, social security number, service (GS rating if civilian), organization assigned to, and title of job. Also, included is the date of assignment and projected loss date of the individual concerned. The report also reflects in each case whether the position is reimbursable or non-reimbursable.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Serves as a central Department of Defense record of what Department of Defense personnel are working outside the Department of Defense and for what organization.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: This report is updated quarterly, based on information obtained from the military departments.

Storage: Metal five drawer file cabinet with lock.

Retrievability: Filed by month and year of report.

Safeguards: Building has security guards. File is maintained in an area that is secured during non-working hours.

Retention and disposal: Records are permanent. Maintained in the Military Personnel Division at all times.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Quarterly reports received from the military departments.

Systems exempted from certain provisions of the act: None

DWHS P21

System name: Duty Status Cards

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All military personnel currently on duty with the Office of the Secretary of Defense and activities serviced by WHS, and all military personnel who have departed.

Categories of records in the system: 5x8 cards which include name, grade, social security number, service, duty title, duty activity, and other related information pertaining to the individual's duty assignment with the Office of the Secretary of Defense, and activities serviced by WHS.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Military Personnel Division-Duty tour suspense, personnel requisition suspense, locator index of personnel who have departed and record of individual's duty status within the Office of the Secretary of Defense, and activities serviced by WHS and other related information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: To have a basic source document for military personnel. To insure that a status card is initiated on all military personnel (permanent and temporary) upon arrival to the Office of the Secretary of Defense, and activities serviced by WHS.

Storage: Metal file cabinet.

Retrievability: Filed alphabetically by last name.

Safeguards: Building has security guards. File is maintained in an area that is secured during non-working hours.

Retention and disposal: Records are permanent. Maintained in Military Personnel Division permanently.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information provided by the nomination folder and from the individual being assigned.

Systems exempted from certain provisions of the act: None

DWHS P22

System name: General/Flag Officer Roster

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All General and Flag Officers assigned to the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff and the Defense Agencies.

Categories of records in the system: Contains data on each General/Flag officer possition in the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff and the Defense Agencies. Position information included Organization and Title of Position, Authorized Grade and Service and Rotation sequence among the services. Information on the individual inlcudes: Name, rank, assigned grade and service, Social Security Number, date assigned, projected loss date and date of rank.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To provide centralized base for recording all General/Flag officer staffing changes in the Office of the Secretary of Defense, Organization of the Joint Chiefs of Staff and Defense Agencies with regard to: Requisitioning of personnel, notification of arrival and departure of personnel and changes in pertinent personnel data. To provide pertinent data for use in the Department of Defense wide General/Flag officer reduction program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Computer printout updated quarterly.

Storage: Printouts filed in secured metal cabinets.

Retrievability: Filed by month and year of issue.

Safeguards: Building has security guards. File is maintained in an area that is secured during nonworking hours.

Retention and disposal: Records are maintained for approximately two years, then destroyed.

System manager(s) and address: Director of Personnel and Security, (WHS), Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: All personnel and assignment actions relating to General and Flag officer positions and personnel.

Systems exempted from certain provisions of the act: None

DWHS P23

System name: Roster of Military Personnel

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All military personnel assigned to the Office of the Secretary of Defense, and activities serviced by WHS.

Categories of records in the system: Computer printout reflects data in each position in the Office of the Secretary of Defense and activities serviced by WHS, and the individual filling it. Position information includes organization and title of position, authorized grade, authorized service and the military class code of the position. Information on the individual includes name, rank, social security number, date of rank, service, date assigned to the Office of the Secretary of Defense and activities serviced by WHS, and their projected loss date.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Military Personnel Division/Office of the Secretary of Defense, and activities serviced by WHS/Defense Agencies/and the Military Departments-to provide a base for recording all military personnel changes in the Office of the Secretary of Defense and activities serviced by WHS with regard to: requisitioning personnel, notification of their arrival, all changes in rank, date of rank, dates of arrival and departure. For use by the service desks in the Military Personnel Division to facilitate personnel records checks and various military personnel staffing actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Computer printout updated monthly-copies sent to Military Departments and all activities within the Office of the Secretary of Defense for information and manning purposes.

Storage: Metal five drawer file cabinet with lock.

Retrievability: Filed by month and year of issue.

Safeguards: Building has security guards. File is maintained in an area that is secured during non-working hours.

Retention and disposal: Records are permanent. Maintained in the Military Personnel Division at all times.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel, OSD, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: All personnel and assignment related actions initiated in/out of the Office of the Secretary of Defense.

Systems exempted from certain provisions of the act: None

DWHS P24

System name: Navy Officer Personnel Service Records.

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Navy Officer Personnel currently assigned to the Office of the Secretary of Defense, for duty and activities serviced by WHS.

Categories of records in the system: Personnel service records reflecting the career history of individual.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Military Personnel Division-Provides a basic source of information on career history and other pertinent data relating to the individuals previous duty stations, schooling and assignment with the Office of the Secretary of Defense, and activities serviced by WHS, Defense and Navy Investigative Service-for personal security eligibility.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: To insure that all information pertaining to the individuals military career is kept current.

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name.

Safeguards: Building employs security guards. Records maintained in locked cabinet in an area that is secured during non-working hours.

Retention and disposal: Records are retained only while officer is assigned to duty with the Office of the Secretary of Defense. Upon completion of duty, the records accompany officer to next duty station. Records of officers who retire, resign or released from active duty, are forwarded to the Naval Reserve Personnel Center, New Orleans, LA 70146.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Forms and correspondence prepared and provided by the individual and SYSMANAGER.

Systems exempted from certain provisions of the act: None

DWHS P25

System name: Overseas Staffing Files

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Personnel assigned to positions overseas.

Categories of records in the system: Standard Form 171's, SF-1190's, travel orders, letters to Army Finance Office concerning pay, overseas quarters allowances, post differentials, etc., Standard Form 52, messages concerning the individual's return rights, home leave, etc., to and from overseas area.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Files are used to place individuals in overseas positions located in Defense Advance Research Projects Agency (DARPA), and North Atlantic Treaty Organization (NATO), Office of the Secretary of Defense.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Applications and documents filed in folders by name and title of position.

Storage: Paper records in file folders.

Retrievability: Filed by employee name.

Safeguards: Building employs security guards. Records are maintained in file cabinets in areas accessible only to authorized personnel who are properly screened and trained.

Retention and disposal: Retained until individual returns to the United States, then destroyed.

System manager(s) and address: Director for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Notification procedure: Information may be obtained from: Directorate for Personnel and Security, WHS, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: The individual, overseas staff office, other Federal Agency offices.

Systems exempted from certain provisions of the act: None

DWHS P26

System name: Protective Services File

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Security Division, Room 3B278, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Any individual who initiates contact with the Secretary or Deputy Secretary of Defense in person, by United States mail, or telephonically who may possibly pose a threat to the personal safety of the Secretary or Deputy Secretary of Defense or other United States Government Officials.

Categories of records in the system: File cards containing only data provided by the individual, which normally includes individual's name, address, type of communication, and a brief description of the message the individual intended to relay to the official or officials noted.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Physical Security Branch, Security Division, Directorate for Personnel and Security, WHS-to maintain a listing of those individuals who may pose a threat to the personal safety of the Secretary or Deputy Secretary of Defense or other United States Government officials. Routine exchange of data is made with the United States Secret Service.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Filed by name and by residence of the sender, caller or visitor.

Storage: Vertical File Cards.

Retrievability: By name and by residence of the sender, caller or visitor.

Safeguards: Secure room.

Retention and disposal: Indefinite.

System manager(s) and address: Chief, Security Division, Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B278, Pentagon, Washington, D. C. 20301.

Notification procedure: See Exemption

Record access procedures: See Exemption

Contesting record procedures: See Exemption

Record source categories: See Exemption

Systems exempted from certain provisions of the act: Parts of this system may be exempt under 5 USC 522a (j) or (k) as applicable. For additional information contact the SYSMANAGER.

DWHS P27

System name: Pentagon Building Pass Application File

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Security Division, Room 3B278, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Any Office of the Secretary of Defense military or civilian employee, any Defense contractor associated with the Office of the Secretary of Defense or other persons who have reason to enter the Pentagon for official Office of the Secretary of Defense business and who therefore require an entry pass.

Categories of records in the system: File cards containing name, sponsoring office with the Office of the Secretary of Defense and activities serviced by WHS, height, weight, date and place of birth. In addition, the entry pass identification number and expiration date are noted.

Authority for maintenance of the system: 5 USC 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Physical Security Branch, Security Division, Directorate for Personnel and Security, WHS-to maintain a listing of personnel who are authorized a Pentagon building pass by the Office of the Secretary of Defense.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Filed by the individual's name or entry pass number.

Storage: 3x5 file cards.

Retrievability: By the individual's name or entry pass number.

Safeguards: Secure room.

Retention and disposal: File cards are destroyed after termination of the individual's affiliation with the Office of the Secretary of Defense and activities serviced by WHS.

System manager(s) and address: Chief, Security Division, Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B278, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from: Physical Security Branch, Security Division, Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B278, Pentagon, Washington, D. C. 20301. Telephone: 202-697-7396.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: All data maintained in the system is received voluntarily from individual Pentagon Building pass applicants.

Systems exempted from certain provisions of the act: None

DWHS P28

System name: The Office of the Secretary of Defense Clearance File

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Security Division, Room 3B278, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Military and civilian employees of the Office of the Secretary of Defense, its components and support organizations including the United States Court of Military Appeals and the United States Mission to NATO; experts and consultants serving with or without compensation; staff members of congressional committees requiring access to classified information or material, employee of other agencies detailed to the Office of the Secretary of Defense, very important people selected to attend orientation conferences, USO and Red Cross applicants for overseas posts.

Categories of records in the system: Background investigations, national agency checks, security clearance actions, security violations, and supporting documents, briefings and debriefings.

Authority for maintenance of the system: EO 10450

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Security Division, Directorate for Personnel and Security, WHS-to grant and maintain security clearances or access. Other Government agencies: To make available investigative material to authorized representatives of other security offices for extension of clearance to other Government agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Active clearance files maintained alphabetically by last name of subject. Inactive clearance files serially numbered and indexed alphabetically.

Storage: Files maintained in file folders.

Retrievability: Active clearance files maintained alphabetically by last name of subject. Inactive clearance files serially numbered and indexed alphabetically.

Safeguards: Files are maintained in vaulted alarmed areas accessible only to authorized personnel that are properly screened, cleared and trained.

Retention and disposal: Records are permanent. Retained in active files until separation or end of requirement for security clearance. Held in waiting file for 10 years.

System manager(s) and address: Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: See Exemption

Record access procedures: See Exemption

Contesting record procedures: See Exemption

Record source categories: See Exemption

Systems exempted from certain provisions of the act: Parts of this system may be exempt under 5 USC 522a (j) or (k), as applicable. For additional information, contact the SYSMANAGER.

DWHS P29

System name: Employee Assistance Program Case Record Systems

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All civilian employees who are referred by management for, or voluntarily request, counseling assistance.

Categories of records in the system: Systems are comprised of case records on employees which are maintained by counselors and consist of information on condition, current status, and progress of employees who have alcohol, drug, emotional, or other job performance problems.

Authority for maintenance of the system: Drug Abuse Office and Treatment Act of 1972, as amended by Public Law 93-282 (21 U.S.C. 1175); Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended by Public Law 93-282 (42 U.S.C. 4582); Subchapter A of Chapter I, Title 42, Code of Federal Regulations; Chapter 43 of Title 5, U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the counselor in the execution of his/her counseling function as it applies to the individual employee. With specific, written authority of the employee, selected information may be provided to and used by other counselors or medical personnel, research personnel, employers, representatives such as legal counsel, and to the other agencies or individuals when disclosure is to the employee's benefit, such as for processing retirement applications.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Case records are stored in paper file folders.

Retrievability: By employee name or by locally assigned identifying number.

Safeguards: all records are stored under strict control. They are maintained in spaces normally accessible only to authorized persons, normally in locked cabinets.

Retention and disposal: Records are purged of identifying information within five years after termination of counseling or destroyed when they are no longer useful.

System manager(s) and address: Director for Personnel and Security, Washington Headquarters Services (WSH), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Counselors, other officials, individuals or practitioners, and other agencies both in and outside of Government.

Systems exempted from certain provisions of the act: None

DWHS P30

System name: Labor Management Relations Records Systems

System location: Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Civilian employees who are involved in a grievance which has been referred to an arbitrator for resolution; civilian employees involved in the filing of an Unfair Labor Practice complaint which has been referred to the Assistant Secretary of Labor-Management Relations; union officials, union stewards; and representatives.

Categories of records in the system: Records comprise: Manual files, maintained in paper folders, manually filed by type of case and case number (not individual). Folder contains all information pertaining to a specific arbitration case or specific Unfair Labor Practice with whom OSD has dealings: field activities maintain manual roster of local union officials and union stewards.

Authority for maintenance of the system: Executive Order 11491, as amended 'Labor-Management Relations in the Federal Service.'

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Officials and employees of the Department of Defense (to include Army, Navy, Air Force, and other DoD agencies) in the performance of their official duties related to the Labor-Management Relations Program, e.g., Administration implementation of arbitration awards; interpretation of the Executive Order through third party case decisions; National consultation and other dealings with the recognized unions. Representatives of the U.S. Civil Service Commission on matters relating to the inspection, survey, audit, or evaluation of Civilian Personnel Management Programs. The Comptroller General or any of his authorized representatives, in the course of the performance of duties of the General Accounting Office relating to the Labor

Management Relations Program. Officials and employees of other components of the Department of Defense in the performance of their official duties related to the administration of the Labor Management Relations Program. A duly appointed hearing examiner or arbitrator for the purpose of conducting a hearing in connection with an employee's grievance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual records are stored in paper folders.

Retrievability: Manual records are retrieved by case subject, case number, and/or individual employee names.

Safeguards: All manual files are accessible only to authorized personnel having a need to know.

Retention and disposal: Case files are permanently maintained. Union official rosters are normally destroyed after a new roster has been established.

System manager(s) and address: Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, The Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, The Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Request for access to records may be obtained from the SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Arbitrator's office; Office of the Assistant Secretary of Labor for Labor-Management Relations; union headquarters officers.

Systems exempted from certain provisions of the act: None.

DWHS P31

System name: Department of Defense Superior Service Medal

System location: Directorate for Personnel and Security, Washington Headquarters Services, Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Personnel recommended for the Department of Defense Superior Service Medal.

Categories of records in the system: Master log, copy of approved award signed by the Secretary of Defense, which contains name, grade, duty title, duty activity, and period of assignment.

Authority for maintenance of the system: Executive Order 11904

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Authorized personnel of the Office of the Secretary of Defense and activities serviced by WHS, for purposes of insuring that certificate, citation, and engraved medal are obtained for the individual receiving the award.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Metal five-drawer legal size file cabinet with lock.

Retrievability: Filed by case number with master log.

Safeguards: Building has security guards. File is maintained in an area which is secured during non-working hours.

Retention and disposal: Records are permanent. Retained for approximately two years, then transferred to Federal Records Center.

System manager(s) and address: Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from the Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305.

Record access procedures: Requests from individuals should be addressed to the above System Manager.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Recommendations received from Office of the Secretary of Defense/Organization of the Joint Chiefs of Staff (OSD/OJCS) and related activities.

Systems exempted from certain provisions of the act: None

DWHS P32

System name: Standards of Conduct Inquiry File

System location: Primary System-Office of the Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Individuals who have been alleged to have violated the Department of Defense Standards of Conduct or the conflict of interest statutes.

Categories of records in the system: Files in the Office of the Director for Personnel and Security, WHS, which are used in the performance of the functions of the office. The files contain information about individuals in regard to allegations of violations of the Department of Defense Standards of Conduct or the conflicts of interest statutes.

Authority for maintenance of the system: Title 10, U.S. Code, Section 137/EO 11222

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine use of the files is by the professional personnel in the Office of the Director for Personnel and Security, WHS, and Office of the General Counsel, Office of the Secretary of Defense, Department of Justice and DoD Components. Purpose of the files is to provide information for professional personnel in the Office of the Director for Personnel and Security, WHS, and Office of General Counsel to resolve various standards of conduct problems.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name.

Safeguards: Stored in metal filing cabinets with locking devices and metal combination safes depending on classification.

Retention and disposal: Files are retained as long as there is official interest in the case; then destroyed or retired to the Federal Records Center, Suitland, Maryland.

System manager(s) and address: Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301.

Notification procedure: Written request for information should be addressed to the System Manager, Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305. Valid proof of identity is required.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information contained in files is obtained from various sources including correspondence, press releases, investigations performed by the Department of Defense and other agencies and congressional committees, and other systems of records in the Department of Defense.

Systems exempted from certain provisions of the act: This system of records is exempt under the authority of (k)(2) and (5) of Title 5, U.S.C. Section 552a from subsections (c)(3) and (d) of that statute which would require the disclosure of: (a) investigatory material compiled for law enforcement purposes. However, if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or otherwise be eligible, as a result of the maintenance of such material, the material shall be provided to that individual, except to the extent that its disclosure would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, or; (b) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or Federal contracts, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or the specific information which would reveal the identity of a source.

DWHS P33

System name: Statements of Affiliations and Financial Interests File

System location: Primary System-Office of the Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense Room 3B347, Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: Individuals who have been required to file Confidential Statement of Affiliations and Financial Interests-Department of Defense Personnel (DD Form 1555).

Categories of records in the system: Files in the Office of the Director for Personnel and Security, WHS which are used in the performance of the functions of the office. The files contain information about individuals in regard to their financial interests and affiliations which may impact on their official duties.

Authority for maintenance of the system: Title 10, U.S. Code, Section 137/EO 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine use of the files is by the professional personnel in the Office of the Director for Personnel and Security, WHS, and Office of the General Counsel, Office of the Secretary of Defense, Department of Justice and DoD Components. Purpose of the files is to provide information for professional personnel in the Office of the Director for Personnel and Security, WHS, and Office of the General Counsel to avoid and resolve conflict of interest problems.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name.

Safeguards: Stored in metal filing cabinets with locking devices and metal combination safes depending on classification.

Retention and disposal: Files are retained as long as there is official interest in the case; then destroyed or retired to the Federal Records Center, Suitland, Maryland.

System manager(s) and address: Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washingon, D. C. 20301.

Notification procedure: Written request for information should be addressed to the System Manager, Director of Personnel and Security, Washington Headquarters Servicess (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D. C. 20301. Telephone: 202-697-3305. Valid proof of identity is required.

Record access procedures: Requests from individuals should be addressed to the above SYSMANAGER.

Contesting record procedures: The Agency's rules for access to records and for contesting contents appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information contained in files is obtained directly from the individual on DD Form 1555, 'Confidential Statement of Affiliations and Financial Interests - Department of Defense Personnel.'

Systems exempted from certain provisions of the act: None

DWHS P34

System name: Non-Career Personnel Job Files

System location: Primary location-Directorate for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301.

Categories of individuals covered by the system: Information is collected concerning individuals employed by the Office of the Secretary of Defense who occupy non-career positions. Such information includes biographical information about these individuals. The following excepted positions are in included: Non-Career Assignments (NEA's) and Schedule C appointments. Reports are made for all authorized positions whether encumbered or vacant, new positions created or eliminated, vacancies filled, and new vacancies.

Categories of records in the system: System contains the person's first and last name, date of appointment, date of initial appointment, date vacated, race, ethnic background, sex, year of birth, domicile, career status, mailing address, residence and business phones, whether the individual is a veteran or handicapped, and certain background information.

Authority for maintenance of the system: Executive Order 11478, 'Equal Employment Opportunity in Federal Government,' and a Presidential Memorandum dated July 27, 1977, 'Non-Career Personnel Job File'.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are used to provide the Presidential Personnel Office with timely reports on the progress of hiring for non-career positions. Reports which include information on all current positions and incumbents are submitted to the Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, for submission to the Presidential Personnel Office. A consolidated monthly report from the Office of the Secretary of Defense and the Military Departments is forwarded by the 10th of the following month to the Presidential Personnel Office. Monthly reports include all changes since the previous report. Information in the Non-Career Personnel Job File is collected and maintained by the Office of the Secretary of Defense and transmitted solely to the Presidential Personnel Office.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and computer tapes.

Retrievability: Filed by organization, then by grade in descending order.

Safeguards: Records are maintained in locked file cabinets in areas acessible only to authorized personnel who are properly screened and trained.

Retention and disposal: Data is updated every month with personnel changes. Records are maintained permanently.

System manager(s) and address: Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301.

Notification procedure: Written request for information should be addressed to the System Manager. Valid proof of identity is required (e.g., building pass with photograph or temporary building pass and driver's license, or Social Security Number).

Record access procedures: Procedures for gaining access by an individual to his records may be obtained from the Office of the Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, Room 3B347, Pentagon, Washington, D.C. 20301. Telephone: 202-697-3305.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Personnel files are compiled in the Office of the Director for Personnel and Security, Washington Headquarters Services (WHS), Department of Defense, with information that has been obtained from applicants and incumbents of non-career positions by DD Form 2087.

Systems exempted from certain provisions of the act: None

DWHS SPM001

System name: Application for Pentagon Parking Permit

System location: Space Management and Services Directorate, Washington Headquarters Services, Office of the Secretary of Defense.

Categories of individuals covered by the system: Parking applications received from employees of the Office of the Secretary of Defense and those oforganizations serviced by OSD.

Categories of records in the system: File includes DD Form 1199, Application for Pentagon Parking Permit; DD Form 1200, Pentagon Parking Permit Replacement/Re-Use of Space Request; DD Form 1971, Parking Control Card; OSA Form 605, Certificate and Agreement on Lost or Stolen Permit.

Authority for maintenance of the system: Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To assign Pentagon parking to eligible personnel

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Card records in card file.

Retrievability: Filed alphabetically by last name.

Safeguards: Under direct control of OSD Parking Control Officer. Office locked and guarded.

Retention and disposal: Records are kept on active applicants and destroyed when they depart Office of the Secretary of Defense and satellite organizations.

System manager(s) and address: Director, Space Management and Services, Washington Headquarters Services, Office of the Secretary of Defense, the Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from:

Director, Space Management and Services, Washington
Headquarters Services, Office of the Secretary of Defense
Room 3C345
Pentagon
Washington, D. C. 20301
Telephone: 202-697-7241

Record access procedures: Requests from individuals should be addressed to: Director, Space Management and Services, Washington Headquarters Services, Office of the Secretary of Defense, Room 3C345, the Pentagon, Washington, D. C. 20301.

Written requests for information should contain the full name of the individual and the name of the employing component.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license or Pentagon building pass.

Contesting record procedures: The Agency's rules for acess to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Application for Pentagon Parking Permit, DD Form 1199 and related forms.

Systems exempted from certain provisions of the act: None

DWHS SPM002

System name: Pentagon Computeride

System location: Primary System - Air Force Data Services Center

Decentralized Segments - Parking Control Office, Office of the Secretary of Defense; Pentagon Central Parking Office, Departmemt of the Army; Parking Control Office, Department of Air Force; Parking Control Office, Department of Navy.

Categories of individuals covered by the system: All personnel who participate in Pentagon Building car pools.

Categories of records in the system: Name of individual, DoD Component Code, home address, working hours, Pentagon office room number, office phone number, map coordinate of home address.

Authority for maintenance of the system: Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Parking Control Offices - To assign and administer allocated car pool parking spaces at the Pentagon.

Air Force Data Services Center - To provide printout to each indiviudal in the system which lists other participants who live near him who are potential car pool prospects and to provide complete printout of all participants to parking control offices and General Services Administration.

Indiviudals - To contact other participants on either his individual printout or the parking control office complete printout to determine their interest in carpooling.

General Services Administration - To use car pool data in area wide system when and if implemented.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer magnetic tapes and computer paper printouts.

Retrievability: Information is accessed and retrieved by name and home address map grid.

Safeguards: All participants have access to the data.

Retention and disposal: Data is retained only on active participants.

System manager(s) and address: Director, Space Management and Services, Washington Headquarters Services, Office of the Secretary of Defense, the Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from:

Director, Space Management and Services, Washington
Headquarters Services, Office of the Secretary of Defense
Room 3C345
Pentagon
Washington, D. C. 20301
Telephone: 202-697-7241

Record access procedures: Requests from individuals should be addressed to: Director, Space Management and Services, Washington Headquarters Services, Office Secretary of Defense, Room 3C345, the Pentagon, Washington D. C. 20301.

Written requests for information should contain the full name of the individual, current address and telephone number.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license or Pentagon building pass.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: DoD Computeride Application Form DD 1950

Systems exempted from certain provisions of the act: None

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[3810-70]

Defense Advanced Research Projects Agency

PRIVACY ACT OF 1974

Notice of Systems of Records: Deletions and Amendments

AGENCY: Defense Advanced Research Projects Agency, DoD.

ACTION: Notification of deletions and amendments to systems of records.

SUMMARY: The Defense Advanced Research Projects Agency proposes to delete three and amend three systems or records subject to the Privacy Act of 1974. The deleted systems and reasons for the deletions are specifically set forth under the "Deletions" heading below. The three systems being amended are set forth below in their entirety.

DATES: These systems shall be deleted and amended as proposed without further notice in 30 calendar days from the date of this publication (September 6, 1978), unless comments are received on or before September 6, 1978, which would result in a contrary determination and require republication for further comments.

ADDRESS: Privacy Act Officer, Defense Advanced Research Projects Agency, 1400 Wilson Boulevard, Arlington, Va. 22209.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, telephone 202-695-0970.

SUPPLEMENTARY INFORMATION: The Defense Advanced Research Projects Agency systems of records notices as prescribed by the Privacy Act have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50781) September 28, 1977.
FR Doc. 78-19423 (43 FR 30330) July 14, 1978.

The proposed amendments are not within the purview of the provisions of the Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975 and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act. This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975. Under the

"Amendments" heading, following the brief identification of the record systems and the specific changes made therein, the revised record systems, as amended, are published in their entirety.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JULY 24, 1978.

DELETIONS

E ARPA 001

System name: Travel File (42 FR 50782) September 28, 1977

Reason: This system has been redesignated as E DARPA 001, appearing with minor revisions in the amendments section of this document.

E ARPA 002

System name: Biographical Sketch (42 FR 40782) September 28, 1977

Reason: This system has been redesignated as E DARPA 002, appearing with minor revisions in the amendments section of this document.

E ARPA 004

System name: ARPA Personnel (42 FR 50783) September 28, 1977

Reason: This system has been redesignated as E DARPA 004, appearing with minor revisions in the amendments section of this document.

AMENDMENTS

Following the identification code of the OSD record systems and the specific changes made therein, the complete revised record systems, as amended, are published in their entirety. Citations are on the September 28, 1977 issue of the FEDERAL REGISTER.

E DARPA 001

System name: Travel File (42 FR 50782)

Changes:

System location: Delete "ARPA," and insert: "Defense Advanced Research Projects Agency (DARPA), 1400 Wilson Boulevard, Arlington, Va. 22209."

Categories of individuals covered by the system; Delete "ARPA," wherever it appears in this entry, and insert: "DARPA".

Authority for maintenance of the system: Delete "ARPA," and insert: "DARPA".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In line three, delete "ARPA," and insert: "DARPA".

System manager(s) and address: Delete "ARPA," and insert, "DARPA".

Notification procedure: After the word "Services," add "DARPA". Delete the words "Area Code".

Record access procedures; Delete "ARPA," and insert: "DARPA".

Contesting record procedures; Delete "determination may be obtained from the SYSMANGER," and insert: "determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

Record source categories: Delete "ARPA," and insert: "DARPA".

E DARPA 002

System name: Biographical Sketch (42 FR 50782)

Changes:

System location: Delete "ARPA," and insert: "Defense Advanced Research Projects Agency (DARPA), 1400 Arlington Boulevard, Arlington, Va. 22209."

Categories of individuals covered by the system: Delete "ARPA," and insert: "DARPA".

Categories of records in the system: In line three, delete "ARPA," and insert: "DARPA".

Authority for maintenance of the system: Delete "ARPA," and insert: "DARPA".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete "ARPA," and insert: "DARPA".

Retention and disposal: Delete "ARPA," and insert: "DARPA".

System manager(s) and address: Delete "ARPA," and insert: "Defense Advanced Research Projects Agency (DARPA)".

Notification procedure: Delete "ARPA," and insert: "DARPA".

Record access procedures: In paragraphs one, two, and three, delete "ARPA," and insert: "DARPA".

Contesting record procedures: Delete "ARPA's," and insert: "The Agency's". Also delete "may be obtained from the Administrative Officer, ARPA," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

E DARPA 004

System name: ARPA Personnel (42 FR 50783)

Changes:

In the system name, delete "ARPA," and insert: "DARPA".

Categories of individuals covered by the system: Delete "ARPA," and insert: "DARPA".

Categories of records in the system: Delete "ARPA," wherever it appears in this entry, and insert: "DARPA".

Authority for maintenance of the system: Delete "ARPA," and insert: "DARPA".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete "ARPA," and insert: "DARPA".

Retention and disposal: Delete "ARPA," and insert: "DARPA".

System manager(s) and address: Delete "ARPA," and insert: "DARPA".

Notification procedure: Add "DARPA" after the word "Officer." Delete the words "Area Code".

Record access procedures: In the first, second, and third paragraphs, delete "ARPA," and insert: "DARPA".

Contesting record procedures: Delete "ARPA's" and insert: "The Agency's". Also delete "may be obtained from the Administrative Officer, ARPA," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

E DARPA 001

System name: Travel File

System location: Administrative Services, Defense Advanced Research Projects Agency (DARPA), 1400 Wilson Boulevard, Arlington, Va. 22209.

Categories of individuals covered by the system: All DARPA employees military and civilian who make one or more TDY trips for DARPA. Selected government employees who visit DARPA on official business at DARPA's expense and certain nongovernment personnel traveling on Invitational Travel Orders for DARPA.

Categories of records in the system: Traveler's name, order number, order date, office, days authorized, travel date, estimated cost, remarks, origin, date travel voucher submitted to Finance, date returned from Finance, total cost, destination, estimated miles (rental car), actual miles (rental car), car cost, Government Transportation Request (GTR), GTR date, and airlines ticket costs.

Authority for maintenance of the system: 5 USC 301; Department of Defense Directive No. 5105.41, March 23, 1972, establishing DARPA as a separate agency of the Department of Defense under the direction, authority, and control of the Secretary of Defense.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Primarily for internal management administrative, and budgetary needs. Director and Deputy Director, DARPA Staff Assistants, all Project Officers, and Personnel & Administrative Officers. Provides daily, weekly and monthly status reports to top management and all Project Directors concerning status of travel funds, locations of travel, frequency of travel, per diem costs, transportation costs, number of days in travel, and various other matters regarding travel of personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer paper print outs, paper records and correspondence in file folders, also, magnetic disc.

Retrievability: Accessed by last name, by office, or by any of the data fields listed in Record Category.

Safeguards: Paper copies are maintained in areas accessible only to authorized personnel. Building employs security guards. File access is available to authorized personnel who have been assigned system pass words.

Retention and disposal: Paper files will be destroyed by burning or pulping after audit or 3 years whichever occurs first. There are no plans to retire or destroy ADP files.

System manager(s) and address: Director, Administrative Services, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

Notification procedure: Information may be obtained from

Director, Administrative Services, DARPA
Room 605, Architect Bldg
1400 Wilson Blvd
Arlington, Va. 22209
Telephone: 202-694-3998

Record access procedures: Requests from individuals should be addressed to: Director, Administrative Services, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

Written requests for information should contain the full name of the individual, the period for which the information is required and specific categories of information required.

For personal visits, the individual should be able to provide DoD Identification Card.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: DARPA Special Orders (TDY, Invitational, PCS, etc.,) Travel Vouchers as submitted by travellers and as returned by the local finance offices.

Systems exempted from certain provisions of the act: None

E DARPA 002

System name: Biographical Sketch

System location: Administrative Office, Defense Advanced Research Projects Agency, (DARPA), 1400 Arlington Boulevard, Arlington, Va. 22209.

Categories of individuals covered by the system: All DARPA current employees, military and civilian.

Categories of records in the system: Biographical sketch contains name, place of birth, Date of Birth (DoB), home address, home phone; Service Computation Date (SCD), DARPA reporting date, DARPA project office, room number, office phone, position title and grade; experience; education, degree/year and field; membership in professional societies/committees; awards or special achievements; professional or technical papers published, including dates; future training desired; spouse's name; names and ages of children; hobbies; remarks. Additional data for military personnel includes temporary rank/ grade, permanent rank/grade; professional training received within past three years, current thoughts regarding future service assignments.

Authority for maintenance of the system: 5 USC 301; Department of Defense Directive No. 5105.41, March 23, 1972, establishing DARPA as a separate agency of the DoD under the direction, authority and control of the Secretary of Defense.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To update management with a concise sketch of DARPA employees, when needed for award ceremonies or interviews.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Biographical sketches are in employee's file folder.

Retrievability: Accessed by last name

Safeguards: Combination locked file cabinets. Material is maintained in areas accessible only to authorized personnel. Building employs security guards.

Retention and disposal: Records are maintained while employee is with DARPA; records are destroyed by burning 2 years after employee has left DARPA.

System manager(s) and address: Administrative Officer, Defense Advanced Research Projects Agency (DARPA), 1400 Wilson Boulevard, Arlington, Va. 22209.

Notification procedure: Information may be obtained from:

Administrative Officer, DARPA
Room 827
1400 Wilson Boulevard
Arlington, Va. 22209
Telephone: 202-694-3236

Record access procedures: Requests from individuals should be addressed to: Administrative Office, DARPA 1400 Wilson Boulevard, Arlington, Va. 22209.

Written requests for information should contain the full name of the individual, his project office, and period employed in DARPA.

For personal visits, the individual first needs to identify himself as a DARPA employee.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information is provided by individuals concerned.

Systems exempted from certain provisions of the act: None

E DARPA 004

System name: ARPA Personnel

System location: Defense Advanced Research Projects Agency, 1400 Wilson Blvd., Arlington, VA 22209

Categories of individuals covered by the system: Current and former ARPA employees, civilian and military, consultants and part-time employees.

Categories of records in the system: File contains individuals Bio Data: Name, Prename, DOB, Age, Education; Classification Data: Job Series, Job Title, Pos Des Nr., Salary; Grade Data: Grade Type, Grade, Step, ARPA Promotion, Last WGI, Next WGI; Civ Ser Data: SCD, Yrs. Govt; ARPA Data: Project, Civilian-Military-Professional-Support, Proj. No., EOD ARPA, Left ARPA, Yrs. ARPA; Mil. Data: Rank, Service, Reassgn Due, Slot Rank, ARPA Award, Date of Rank, Pos Des; Review Data: Clearance, Current office assignment data, Eligibility for Retirement; Remarks; Mailing Data: Title, Name, Spouse Name, Street, City, State, Zip, Home Phone; Office Data: Name, Office Phone, Room, Div.

Authority for maintenance of the system: 5 USC 301; Department of Defense Directive No. 5105.41, dated March 23, 1972, establishing ARPA as a separate Agency of the Department of Defense under the direction, authority, and control of the Secretary of Defense.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Mainly for internal managerial and administrative needs. Director and Deputy Director, ARPA, Administrative Officer, Staff Assistant, Administrative Office, and Systems analysts have access to complete file. Information in different combinations is used for monthly manpower counts, staffing balance for civilian vs. military, professional vs. clerical; grade and salary count. Individual organizational configuration only is available to appropriate Office Director for their managerial needs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disk, computer paper print outs, paper records and correspondence in file folders.

Retrievability: Data is retrievable by last name as well as by any of the data fields listed in RECORD CATEGORY

Safeguards: Access to total file limited by password; building employs security guards. Files are maintained in combination locked files and in areas accessible only to authorized personnel that are properly screened and trained.

Retention and disposal: Files are permanent. There are no plans to retire or destroy ADP files. Paper files are destroyed by burning 2 years after employee has left ARPA.

System manager(s) and address: Administrative Officer, ARPA, 1400 Wilson Blvd., Arlington, VA 22209

Notification procedure: Information may be obtained from:

Administrative Officer
Room 827
Architect Bldg.
1400 Wilson Blvd.
Arlington, VA 22209
Telephone: 202-694-3236

Record access procedures: Requests from individuals should be addressed to: Administrative Officer, ARPA, 1400 Wilson Blvd., Arlington, VA 22209

Written requests for information should contain the full name of the individual, the ARPA office assigned to currently or previously, and the period of employment with ARPA.

For personal visits, the individual should be able to provide some acceptable identification, such as ARPA pass, DoD pass, or verbal information that could be verified in his file.

Contesting record procedures: ARPA's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Administrative Officer, ARPA.

Record source categories: Information is gathered from SF 171, SF 50, DD 2515, Optional Form 8, OSD Military staffing plan and roster, military award forms.

Systems exempted from certain provisions of the act: None

[FR Doc. 78-21659 Filed 8-4-78; 8:45 am]

[3810-70]

Organization of the Joint Chiefs of Staff

PRIVACY ACT OF 1974

Notice of Systems of Records: Deletion and Amendments

AGENCY: Joint Chiefs of Staff, DoD.

ACTION: Notification of deletion and amendments to systems of records.

SUMMARY: The Joint Chiefs of Staff propose to delete one and amend four systems of records subject to the Privacy Act of 1974. The deleted system and reason for the deletion is specifically set forth under the "Deletion" heading below. The four systems being amended are set forth below in their entirety, under "Amendments".

DATES: These systems shall be deleted and amended as proposed without further notice in 30 calendar days from the date of this publication (September 6, 1978) unless comments are received on or before September 6, 1978, which would result in a contrary determination and require republication for further comments.

ADDRESS: Privacy Act Officer, Organization of the Joint Chiefs of Staff, The Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, telephone 202-695-0970.

SUPPLEMENTARY INFORMATION: The systems of records notices as prescribed by the Privacy Act have been published in the FEDERAL REGISTER, FR Doc. 77-28255 (42 FR 51079) on September 28, 1977.

The proposed amendments are not within the purview of the provisions of the Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975 and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act. This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975. Under the "Amendments" heading, following the brief identification of the record systems and the specific changes made therein, the revised record systems, as amended, are published in their entirety.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JULY 24, 1978.

DELETION

JOJCS003SMB 531201

System name: Directorate Administrative Services Message Information System (DASMIS) (42 FR 51080) September 28, 1977

Reason: This system has been redesignated as JOJCS003SMB, appearing with minor revisions in the amendments section of this document.

AMENDMENTS

JOJCS001MILPERS

System name: OJCS Medals and Awards Files and Reports System; Microfilmed Historical Awards (42 FR 51080) September 28, 1977

Changes:

Authority for maintenance of the system: Delete the entire entry, and insert: "Title 10, United States Code, Chapter 5, Sections 141-143."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete the last sentence, and insert: "The system constitutes a ready file of documents from which information is retrieved to properly maintain the Awards Program."

System manager(s) and address: Remove the period after the word "Staff," and insert: "OJCS, The Pentagon, Washington, D.C. 20301."

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are maintained in 32 CFR 286b and OSD Administrative Instruction No. 81."

JOJCS002MILPERS

System name: Military Personnel Files (42 FR 51080) September 28, 1977

Changes:

Authority for maintenance of the system: Delete the entire entry, and insert: "Title 10, United States Code, Chapter 5, Sections 141-143."

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

JOJCS003SMB

System name: Directorate Administrative Services Message Information System (DASMIS) (42 FR 51080) September 28, 1977

Changes:

The number "631201" has been deleted after "JOJCS003SMB". In the system name, delete "Message", and insert "Management".

Authority for maintenance of the system: Delete the entire entry, and insert: "Title 10, United States Code, Chapter 5, Sections 141-143."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the second paragraph, line one, delete "Support" and insert: "Services".

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

JOJCS004SECDIV

System name: Personnel Security File, Security Division, DAS (42 FR 51081) September 28, 1977

Changes:

Authority for maintenance of the system: Delete the entire entry, and insert: "Title 10, United States Code, Chapter 5, Sections 141-143."

Contesting record procedures: Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

JOJCS001MILPERS

System name: OJCS Medals and Awards Files and Reports System; Microfilmed Historical Awards

System location: Military Personnel Branch, Personnel Division, Organization of the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All military officer/enlisted personnel, regular and reserve, who are serviced by the Organization of the Joint Chiefs of Staff.

Categories of records in the system: File contains, but not limited to, recommendations and substantiating documents for awarding of the medals and awards; orders authorizing awards, certificates of eligibility, memorandums for the record, vote sheets, status sheets, board memberships lists, criteria and analysis, agency historical file, reports, reclama actions, recommendations for foreign awards, special category and exception to policy, bulletins, miscellaneous correspondence, Decorations and Awards Board memorandums, memorandums and records and microfilmed historical awards.

Authority for maintenance of the system: Title 10, United States Code, Chapter 5, Sections 141-143.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Secretary of the

Decorations and Awards Board is the principal user. The system constitutes a ready file of documents from which information is retrieved to properly maintain the Awards Program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folder.

Retrievability: Filed alphabetically by last name of individual.

Safeguards: Building employs security guards. Access to space is limited to personnel office personnel during nonworking hours via locked door. During working hours the space is occupied by personnel office personnel at all times.

Retention and disposal: Files are permanent. They are microfilmed and retained for historical purposes.

System manager(s) and address: Director, Joint Staff, OJCS, The Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from:

Secretary, Decorations and Awards Board
Organization of the Joint Chiefs of Staff
The Pentagon
Washington, D. C. 20301
Telephone: 202-695-4759

Record access procedures: Requests from individuals should be addressed to: Secretary, Decorations and Awards Board, Organization of the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

Written requests for information should contain the full name of the individual, current address and telephone number.

For personal visits, the individual should be able to provide some acceptable identification, that is, at least, his identification card.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Source of information is obtained from agencies which are serviced by the Organization of the Joint Chiefs of Staff.

Systems exempted from certain provisions of the act: None

JOJCS002MILPERS

System name: Military Personnel Files

System location: Military Personnel Branch, Personnel Division, Directorate of Administrative Services, Organization for the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All military personnel assigned to, attached to or on temporary duty with the Organization of the Joint Chiefs of Staff.

Categories of records in the system: Files contain personal information which has been extracted from the individual's official Military Personnel File. Files contain information pertaining to, but not limited to, name, grade, service number, service job title, expected date of arrival for duty with the Organization of the Joint Chiefs of Staff, expected date of departure from the Organization of the Joint Chiefs of Staff

Authority for maintenance of the system: Title 10, United States Code, Chapter 5, Sections 141-143.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Military Personnel Branch, Directorate of Administrative Services, Organization of the Joint Chiefs of Staff-To perform administrative functions required on individuals prior to their assignment to, during their assignment to, and after their assignment to the Organization of the Joint Chiefs of Staff. Uses include, but are not limited to, knowing when an individual will arrive, what agency they will be assigned to, who they will replace and when an individual will depart.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders; paper card files; ringed binders.

Retrievability: Filed alphabetically by last name of individual, filed by agency; filed by requisition number.

Safeguards: Building employs security guards. Records are stored in file cabinets. The room(s) are locked when unattended.

Retention and disposal: Files are retained in active file until individual departs the Organization of the Joint Chiefs of Staff. Upon departure, the individual's file is placed in the inactive file. The file is retained for approximately one year.

System manager(s) and address: Chief, Military Personnel Branch, Personnel Division, Directorate of Administrative Services, Organization of the Joint Chiefs of Staff.

Notification procedure: Information may be obtained from:

Chief, Military Personnel Branch
Personnel Division
Directorate of Administrative Services
Organization of the Joint Chiefs of Staff
The Pentagon
Washington, D. C. 20301
Telephone: 202-697-3540

Record access procedures: Request from individuals should be addressed to: Chief, Military Personnel Branch, Organization of the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

Written request for information should contain the full name of the individual, current address, and telephone number.

For personal visits, the individual should be able to provide some acceptable identification card.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Source of information is the individual and the individual's Official Military Personnel File.

Systems exempted from certain provisions of the act: None

JOJCS003SMB

System name: Directorate Administrative Services Management Information System (DASMIS)

System location: Staff Management Branch, Directorate of Administrative Services, Organization of Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All individuals assigned to the OJCS; all persons with access into the OJCS restricted areas; personnel with SIOP clearances.

Categories of records in the system: File contains individual's security clearances, personal and office address, date of rank, date of birth, assignment and rotation dates, service, rank, grade, Social Security Account Number.

Authority for maintenance of the system: Title 10, United States Code, Chapter 5, Sections 141-143.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Personnel Division-Perform all administrative functions as appropriate with respect to personnel assigned to the OJCS: monitor and process requests for manpower and organizational management services, perform organizational and manpower reviews for the OJCS.

Services Division-Develop and prepare financial planning data for the OJCS and carry out associated programming and fiscal functions, assign space and provide equipment, supplies and service support as may be required for the OJCS.

Security Division-Devise and implement personnel and physical security policies and provide for the security of the area occupied by the OJCS.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Disc, magnetic tape backup.

Retrievability: Record ID made up of billet number, record type and Social Security Account Number.

Safeguards: Building employs security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened and cleared, also access to data requires the proper user-ID and pass-word.

Retention and disposal: Personnel records are permanent. All records are maintained in an active file.

Security-OJCS records are permanent. Non-OJCS records are deleted upon termination/expiration of badges or passes.

System manager(s) and address: Staff Management Branch, Directorate of Administrative Services, Organization of the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

National Military Command System Support Center, Defense Communications Agency, The Pentagon, Washington, D. C. 20301.

Notification procedure: Information may be obtained from:

Staff Management Branch, Directorate of Administrative Services, OJCS
Room 1A724, The Pentagon
Washington, D. C. 20301
Telephone: 202-695-0475

Record access procedures: Requests from individuals should be addressed to: Staff Management Branch, Directorate of Administrative Services, OJCS, The Pentagon, Washington D. C. 20301.

Written requests for information should contain the full name, rank and service and agency while assigned to the OJCS, plus Social Security Account Number.

For personal visits, the individual should be able to provide some acceptable identification, that is: driver's license, employing office identification card, and give some verbal information that could be verified with his 'case' folder.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information is obtained from various OJCS, DoD, and Standard Forms from the respective Services; from distributed documents routed to all personnel effected.

Systems exempted from certain provisions of the act: None

JOJCS094SECDIV

System name: Personnel Security File, Security Division, DAS

System location: Personnel Security Branch, Security Division, Directorate of Administrative Services, Organization of the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

Categories of individuals covered by the system: All personnel assigned to or employed by the OJCS who have been granted a security clearance; all individuals who are civilian applicants or military nominees for duty with OJCS; all persons who have been authorized a pass for access to the restricted areas of the OJCS.

Categories of records in the system: File contains individual's record of security clearances granted; security briefing and debriefing certificates; personal history statements; record card file of request for pass or badge; and other related security processing papers.

Authority for maintenance of the system: Title 10, United States Code, Chapter 5, Sections 141-143.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Security Division, DAS-To perform all administrative functions necessary to determine eligibility of personnel for security clearances, provide processing of all security clearances; processing and producing all passes and badges for personnel requiring access to OJCS restricted areas; devise and implement security policies and provide for the security of the OJCS areas.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders; paper card files.

Retrievability: Filed alphabetically by individual's last name.

Safeguards: Building employs security guards. Records are maintained in an alarmed vault accessible only to authorized Security Division personnel who are properly screened, cleared and trained.

Retention and disposal: Records are retained in active file until individual departs the OJCS at which time entire file is destroyed; card files are deleted upon termination/expiration of pass or badge.

System manager(s) and address: Director of Administrative Services, Organization of the Joint Chiefs of Staff.

Notification procedure: Information may be obtained from:

Security Division, Directorate of Administrative Services, OJCS
Room 2E949, The Pentagon
Washington, D. C. 20301
Telephone: 202-695-0866

Record access procedures: Requests from individuals should be addressed to: Chief, Security Division, Directorate of Administrative Services, OJCS, Pentagon, Washington, D. C. 20301.

Written requests for information should contain the full name, rank, Service, Social Security Account Number of the individual, current address, telephone number and agency to which assigned in OJCS or if non-OJCS, identify current employer. Visits are limited to the Security Division, Directorate of Administrative Services, Organization of the Joint Chiefs of Staff, The Pentagon, Washington, D. C. 20301.

For personal visits, the requesting individual must provide acceptable proof of identity, such as full name, date and place of birth and some additional verbal information that can be verified by his 'case' record, such as parents' names, recent addresses, etc.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Personal History Statements and related security forms from the individual being considered for security clearances or passes; clearance verification correspondence; correspondence originating from the Defense Investigative and other Federal agencies.

Systems exempted from certain provisions of the act: None

[FR Doc. 78-21660 Filed 8-4-78; 8:45 am]

[3810-70]

Uniformed Services University of the Health Sciences

PRIVACY ACT OF 1974

Notice of Systems of Records Amendments

AGENCY: Uniformed Services University of the Health Sciences, DoD.

ACTION: Notification of amendments to systems of records.

SUMMARY: The Uniformed Services University of the Health Sciences proposes to amend four systems of records subject to the Privacy Act of 1974. The four systems being amended are set forth below in their entirety.

DATES: These systems shall be amended as proposed without further notice in 30 calendar days from the date of this publication (September 6, 1978) unless comments are received on or before September 6, 1978, which would result in a contrary determination and require republication for further comments.

ADDRESS: Privacy Act Officer, Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, Md. 20014.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, telephone 202-695-0970.

SUPPLEMENTARY INFORMATION: The Uniformed Services University of the Health Sciences systems of records notices as prescribed by the Privacy Act have been published in the FEDERAL REGISTER, FR Doc. 77-28255 (42 FR 51437) on September 28, 1977. The proposed amendments are not within the purview of the provisions of the Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 28, 1975 and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act. This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

MAURICE W. ROCHE,
Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.

JULY 13, 1978.

AMENDMENT

Following the identification code of the Uniformed Services University of the Health Sciences record systems and the specific changes made therein, the complete revised record systems, as amended are published in their entirety. FEDERAL REGISTER citations are to the September 28, 1977 issue of the FEDERAL REGISTER.

WUSU01

System name: USUHS Personnel Files (42 FR 51438)
Changes:

Correct the system name to read: "Uniformed Services University of the Health Sciences (USUHS) Personnel Files."

System location: Delete "6917 Arlington Road," and insert: "4301 Jones Bridge Road." At the end of the entry, add "20301."

System manager(s) and address: Delete "6917 Arlington Road," and insert: "4301 Jones Bridge Road." Add at the end of the entry: "Telephone 202-295-2158."

Contesting record procedures; Delete "may be obtained from the USUHS Administrative Office, 6917 Arlington Road, Bethesda, Maryland 20014," and insert: "by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

WUSU02

System name: USUHS Payroll System (42 FR 51438)
Changes:

Correct the system name to read: "Uniformed Services University of the Health Sciences (USUHS) Payroll System."

System location: Delete "6917 Arlington Road," and insert: "4301 Jones Bridge Road."

System manager(s) and address: Delete "Mrs. Vera T. Bumback." Also delete "6917 Arlington Road," and insert: "4301 Jones Bridge Road." Add at the end of the entry: "Telephone 202-295-2185."

Contesting record procedures; Delete "may be obtained from the SYSMANAGER," and insert: "are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

WUSU03

System name: USUHS Student Record System (42 FR 51439)
Changes:

Correct the system name to read: "Uniformed Services University of the Health Sciences (USUHS) Student Record System."

System location: Delete "6917 Arlington Road," and insert: "4301 Jones Bridge Road."

System manager(s) and address: Delete "6917 Arlington Road," and insert: "4301 Jones Bridge Road."

Notification procedure: Delete "6917 Arlington Road," and insert: "4301 Jones Bridge Road". At the end of the entry, add: "Telephone: 202-295-2118."

Record access procedures: Delete "6917 Arlington Road," and insert: "4301 Jones Bridge Road."

Contesting record procedures; Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

WUSU04

System name: USUHS Applicant Record system (42 FR 51439)
Changes:

Correct the system name to read: "Uniformed Services University of the Health Sciences (USUHS) Applicant Record system."

System location: Delete "6917 Arlington Road," and insert: "4301 Jones Bridge Road."

System manager(s) and address: Delete "6917 Arlington Road," and insert: "4301 Jones Bridge Road."

Notification procedure: Delete "6917 Arlington Road," and insert: "4301 Jones Bridge Road." At the end of the entry, add "Telephone: 202-295-2125."

Contesting record procedures; Delete the entire entry, and insert: "The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81."

WUSU01

System name: Uniformed Services University of the Health Sciences (USUHS) Personnel Files

System location: A central personnel record file will be maintained at the USUHS personnel office, 4301 Jones Bridge Road, Bethesda, Maryland 20014. A supplemental file consisting of summary data on each employee will be stored in the computer at Bolling AFB, Washington, D.C. 20301.

Categories of individuals covered by the system: Records will be maintained on all personnel assigned to USUHS - full-time and part-time.

Categories of records in the system: The type of information which will be maintained on employees is as follows: Identity and demographic information (e.g., SSAN, name, sex, address, birth date, minority status, etc.), Academic and experience background data consisting of: (1) Schools attended; (2) Degrees earned; (3) Work experience, awards, etc.; (4) Letters of reference, performance evaluationsv etc.

Authority for maintenance of the system: Title 10, United States Code, Section 136.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The System will be used for documenting the work experience of USUHS personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Material stored in file folders

Retrievability: The system will be indexed by name and SSAN. Records will be available to: The individual concerned. Employees of USUHS on a need to know basis. Other agencies of the Government to satisfy requests for routine reports.

Safeguards: The file will be maintained in securable file cabinets

Retention and disposal: Indefinite files that are retained while the individual is employed and then retired.

System manager(s) and address: The personnel officer of the University will be the custodian of this file (business address: 4301 Jones Bridge Road, Bethesda, Maryland 20014). Telephone: 202-295-2158.

Notification procedure: Inquiries regarding the personnel files should be directed to the SYSMANAGER.

Record access procedures: Information on the procedures for gaining access to and contesting records will be furnished each employee by the Personnel Office upon entry into duty with USUHS.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned and contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information contained in the file is furnished by the employee, supervisors and references supplied by the employee.

Systems exempted from certain provisions of the act: None

WUSU02

System name: Uniformed Services University of the Health Sciences (USUHS) Payroll System

System location: Central files are maintained at Bolling Air Force Base Accounting and Finance Office, Civilian Pay Branch. Satellite file maintained at USUHS Administrative Offices at 4301 Jones Bridge Road, Bethesda, Maryland 20014

Categories of individuals covered by the system: All civilian personnel paid by the USUHS.

Categories of records in the system: Information contained in the system includes: Name, SSAN, Pay Grade, Number of Withholding exemptions, Gross and Net Pay, Other Pay Information.

Authority for maintenance of the system: Title 10, United States Code, Section 136

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system will produce data for budget purposes and as backup information for audits.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information will be stored as computer print-out.

Retrievability: The system will be indexed by name.

Safeguards: The information will be available for personnel in the Personnel/Manpower Division of the USUHS or other personnel who have a demonstrated need to know, e.g., auditors, Congress, etc. The material will be stored in metal file containers.

Retention and disposal: The records will be maintained for one year and then destroyed by burning.

System manager(s) and address: The responsible official in the USUHS for the Civilian Pay System is Chief, Personnel/Manpower 4301 Jones Bridge Road, Bethesda, Maryland 20014. Telephone: 202-295-2185.

Notification procedure: Any inquiries should be directed to the Personnel/Manpower Division at the above address.

Record access procedures: Information may be accessed in person at the above address. Requests for change to the information must be made in writing at the above address.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 2864 and OSD Administrative Instruction No. 81.

Record source categories: Computerized pay records from Bolling Air Force Base Accounting and Finance Office.

Systems exempted from certain provisions of the act: None

WUSU03

System name: Uniformed Services University of the Health Sciences (USUHS) Student Record System.

System location: The file will be maintained in the Registrar's Office, USUHS, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

Categories of individuals covered by the system: Records will be maintained on all students who matriculate to the University.

Categories of records in the system: Grade reports and instructor evaluations of performance/achievement; transcripts summarizing by course title, grade, and credit hours; records of disciplinary action; records of awards, honors, or distinctions earned by students; and data carried forward from the Applicant File System.

Authority for maintenance of the system: Public Law 92-426, Ch 104, Section 2114.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The System will be used for documenting the academic achievement of students.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: The system will be indexed by name and SSAN.

Safeguards: Records will be maintained in metal file cabinets in a securable area.

Retention and disposal: Records will be maintained permanently.

System manager(s) and address: The Registrar of the University, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

Notification procedure: Information may be obtained from:

USUHS
Registrar's Office
4301 Jones Bridge Road
Bethesda, Maryland 20014
Telephone: 202-295-2118

Record access procedures: Requests to review individual student's records may be made by telephone or visit to the Registrar's Office, USUHS, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

Written requests should include name, SSAN, and dates attended

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing intitial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: Information is furnished by instructor personnel.

Systems exempted from certain provisions of the act: None

WUSU04

System name: Uniformed Services University of the Health Sciences (USUHS) Applicant Record System.

System location: A central applicant record file will be maintained at the USUHS Admission Office, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

A supplemental file consisting of summary data on each applicant, to be derived from data collected in the central file, will be stored on magnetic tape and maintained at the Pentagon Computer Center, Washington, D. C.

Categories of individuals covered by the system: Records will be maintained on all individuals applying for admission.

Categories of records in the system: Identity and demographic information (e.g., SSAN, name, sex, minority status, address, birth date, citizenship, etc.); Academic and aptitudinal background data consisting of: (1) Schools attended, (2) Degrees earned, (3) GPA for college and graduate work, (4) Course hours completed in college and graduate school, (5) Medical College Admission Test scores and percentiles; information regarding work experience, socioeconomic background, hobbies, extracurricular involvements in college, community/ service activities, honors and awards achieved, and professional and/or societal contributions; Letters of reference; personal statements (autobiographical in nature); service preference statement; interview evaluations; test results and personality inventory scores on instruments used to assess noncognitive potential and aptitude; official college transcripts and health data. Unsolicited information provided by applicants will also normally be retained when such information pertains to the matters described above.

Authority for maintenance of the system: Public Law 92-426, Ch 104, Section 2114

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system will be used for selecting students to USUHS, and conducting studies of the selection process.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and magnetic tape.

Retrievability: The central file will be indexed by name. The computer file will be sequenced by SSAN, with data retrievable by any single or combination of variables stored, e.g., sex, minority status, ranking by academic performance, ranking by test achievement, state of residence, college attended, etc.

Safeguards: All material will be maintained in metal rotary files in a securable office; the satellite file on disks, securably stored at the Pentagon Computer Center.

Retention and disposal: Records of applicants who matriculate to the school will be converted to student records and maintained permanently. Records of applicants who do not matriculate will be retained for five years and then destroyed by burning. Portions of the record may be retained on magnetic tape for longer periods.

System manager(s) and address: The USUHS officer who will be responsible for the Applicant Record System is the Assistant Dean for Academic Support (business address: 4301 Jones Bridge Road, Bethesda, Maryland 20014).

Notification procedure: Inquiries regarding the system should be directed to the Assistant Dean for Academic Support, 4301 Jones Bridge Road, Bethesda, Maryland 20014. Telephone: 202-295-2125.

Record access procedures: Request for access for an individual's file should be made by either writing or calling the Assistant Dean for Academic Support.

For written requests the information should contain the full name of the individual, current address and telephone number.

Contesting record procedures: The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative Instruction No. 81.

Record source categories: The bulk of the information in the system will be furnished by the applicants. It will be either prepared by them personally, or submitted by other individuals/agencies in their behalf at their (the applicants') specific request. The remaining elements of the systems, the data not furnished by the applicants, will consist of evaluative records prepared and developed by admissions personnel based on interviews, school administered tests, and analyses of applicant records.

Systems exempted from certain provisions of the act: None

[FR Doc. 78-21661 Filed 8-4-78; 8:45 am]

federal register

MONDAY, AUGUST 7, 1978
PART IV

CONSUMER PRODUCT SAFETY COMMISSION

SUBSTANTIAL PRODUCT HAZARD REPORTS

Interpretation, Policy and Procedure

[6355-01]

Title 16—Commercial Practice

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1115—SUBSTANTIAL PRODUCT HAZARD REPORTS

PART 1116—POLICY AND PROCEDURES REGARDING SUBSTANTIAL PRODUCT HAZARDS

Interpretation, Policy, and Procedure for Substantial Product Hazards

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of interpretation, policy, and procedure.

SUMMARY: In this document the Consumer Product Safety Commission sets forth its interpretation of the reporting requirement in section 15(b) of the Consumer Product Safety Act. Section 15(b) requires every manufacturer, distributor, and retailer of a consumer product who obtains information which reasonably supports the conclusion that the product either fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard immediately to inform the Commission, unless the manufacturer, distributor, or retailer has actual knowledge that the Commission is adequately informed of such failure to conform or of such defect. The Commission has also outlined its policy and procedure regarding remedial action and sanctions relating to the treatment of substantial product hazards and reports under section 15.

This regulation replaces and consolidates the Commission's existing policies and procedures for substantial product hazards. The purpose of this rule is to assist those subject to section 15(b) by clearly setting forth the Commission's interpretation, policy, and procedure regarding that section and by informing them of possible remedies and sanctions.

EFFECTIVE DATE: August 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Eric L. Stone, Product Defect Correction Division, Compliance and Enforcement, Consumer Product Safety Commission, 5401 Westbard Avenue, Washington, D.C. 20207, telephone 301-492-6608.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On September 16, 1977, the Consumer Product Safety Commission (Commission) published proposed requirements, policies, and procedures for substantial product hazards in the FEDERAL REGISTER (42 FR 46720) to clarify the reporting requirements and remedial process under section 15 of the Consumer Product Safety Act, as amended (CPSA) (15 U.S.C. 2064). The Commission invited the public to submit written comments by October 31, 1977. On November 1, 1977, the Commission extended the comment period until November 30, 1977 (42 FR 57133).

At the urging of several commenters, the Commission scheduled a public hearing in Washington, D.C., on April 26, 1978 (43 FR 13393, March 30, 1978), to allow further comment on provisions of the proposal which were perceived by commenters to be unclear or controversial. A second public hearing was held in Seattle, Wash., on May 5, 1978 (43 FR 17972, April 27, 1978). In addition to these public hearings, the Commission invited additional written comments on the six issues specified in the FEDERAL REGISTER notices announcing the hearings.

The Commission received over 180 oral and written comments from businesses, trade associations, consumer groups, and others. Based on these comments the Commission has reorganized the rule and made several revisions in the rule as issued. Following is a discussion of the major comments received and the Commission's responses to them.

DISCUSSION OF COMMENTS

A. NEED FOR REVISION OF 16 CFR PARTS 1115 AND 1116

1. The Commission has received strong support for the proposed rule from consumer groups, consumers, and some members of the business community.

Many commenters agreed that the Commission should inform the public of its interpretation of the law it administers and clarify the obligations which the law imposes. Some business commenters, however, questioned the need to revise the current regulations under section 15 of the CPSA, at 16 CFR Parts 1115 and 1116 (1977), and suggested that the Commission withdraw its proposed revision. Several of these commenters felt this rule would impose a new and heavy burden on the business community and, therefore, the Commission should more clearly demonstrate the need for the revision. Many of these commenters suggested that the Commission use civil penalty actions as the primary means of defining the reporting requirements of section 15(b) of the CPSA.

The Commission continues to believe that this rule interpreting section 15(b) is necessary and desirable in order to clarify subject firms' reporting obligations under section 15(b) of the CPSA and to inform members of the public of the possible remedies and sanctions available. The reporting obligations of section 15(b) have been imposed by Congress. The Commission's duty is to interpret and enforce, not to justify, the law Congress enacted. This can best be done through regulations and statements of policy. The Commission does not believe that it should interpret the law primarily through civil penalty actions brought to assess penalties for failure to comply with the reporting requirements of section 15(b) of the CPSA. Most subject firms want to comply with the law and will do so if their obligations are made clear; this regulation offers guidance to these firms. Moreover, litigation is time consuming, is expensive, and informs the business community and other members of the public only after the law has been violated. This does not serve the public interest, which is best served by prompt reporting and elimination of potentially hazardous products. The Commission concludes, therefore, that issuance of this regulation is fairer, more efficient, and more effective than defining section 15 through civil penalty cases.

2. Several commenters suggested that the Commission can and should obtain sufficient information on potential substantial hazards through the NEISS hospital injury reporting system and other Commission sources and, therefore, that there is no need to issue a rule interpreting section 15 so as to encourage more widespread reporting.

The Commission does not agree. The Commission uses its other sources of information about product-related incidents (such as the NEISS system, search of death certificates, review of newspaper clippings, and consumer calls to the "Hotline") in an attempt to identify substantial product hazards. These sources, however, are not substitutes for reporting by manufacturers, importers, distributors, and retailers.

As several commenters pointed out, in section 15(b) of the CPSA, Congress has required that a report be made when a manufacturer, distributor, or retailer obtains information which reasonably supports the conclusion that a product is noncomplying or contains a defect which could create a substantial product hazard; thus, a report must be made before a detailed hazard analysis is completed. As these commenters note, the intention of Congress was to encourage widespread reporting of potential hazards. Such

reports could, according to one consumer commenter, unearth not only substantial product hazards but also risks of injury that the Commission might seek to prevent through educational campaigns, safety labeling, product standards, product bans, or other appropriate action.

The Commission has, in fact, found reporting to be invaluable since manufacturers, distributors, and retailers often receive safety-related information long before the Commission does and before injuries have occurred. Therefore, the Commission believes it is important to issue this rule that clearly encourages subject firms to comply with the law and to report both noncomplying products and defects in products which could create substantial product hazards.

3. A few commenters suggested that the effectiveness of remedial action taken by subject firms in order to comply with section 15 and the impact of such action on industry and the Commission should be analyzed to determine whether or not this rule and section 15 itself provide reasonably fair, effective, and efficient methods of reducing injuries to consumers.

Congress has provided equitable, effective, and reasonable methods for reducing substantial risks of injury to the public. After a firm has had an opportunity for a hearing and after the Commission has made the appropriate determinations, sections 15(c) and 15(d) of the CPSA set out these congressionally established methods of remedying substantial risks of injury. They are: Compulsory public and individual notice about the substantial product hazard, and the repair of, replacement of, or refund for a product which has been determined to present a substantial product hazard. The Commission continually evaluates the effectiveness of remedial action pursuant to section 15 in individual cases and seeks ways to improve its effectiveness. The Commission believes that vigorous reporting as encouraged by this rule and mandated by Congress will help reduce injuries by identifying a greater number of potentially hazardous products. The Commission will continue to study the effectiveness of this approach, the desirability of increasing or decreasing the use of section 15, and its other regulatory options.

B. APPLICATION OF REPORTING REQUIREMENTS TO THE TRANSFERRED ACTS, § 1115.2(D) AND PROPOSED § 1115.10(C), FINAL § 1115.10(A)

1. Several trade associations and manufacturers of products subject to the transferred acts (that is, the Federal Hazardous Substances Act (FHSA), the Poison Prevention Packaging Act (PPPA), and the Flammable Fabrics Act (FFA)) and the Refrigerator Safety Act (RSA) questioned the validity of § 1115.2(d) and proposed § 1115.10(c), now § 1115.10(a), which state that manufacturers, distributors, and retailers of consumer products subject to regulation by the Commission under the transferred acts must report to the Commission under section 15(b) of the CPSA if they obtain information which reasonably supports the conclusion that their product contains a defect which could create a substantial product hazard. One manufacturer questioned whether the Commission had complied with section 30(d) of the CPSA since it had not made a "public interest" finding after affording the public an opportunity for notice and comment.

When the Commission first issued rules under section 15(b) on February 19, 1974 (39 FR 6061), there was a finding under section 30(d) of the CPSA as it existed then that the Commission cannot eliminate or reduce, to a sufficient extent, in a timely manner, risks of injury associated with consumer products regulatable under the transferred acts, unless the Commission is notified under section 15(b). That finding is summarized in § 1115.1(b) of the existing section 15(b) regulations, and it applies to all consumer products. In the September 16, 1977, proposal, the Commision reaffirmed this finding. It also explained that under section 30(d) of the CPSA, as amended, the Commission must find, by rule, that it is in the public interest to regulate under the CPSA consumer products subject to the transferred acts only if risks of injury associated with them can be adequately regulated under those acts. Thus, there is no need to make a public interest finding. The Commission's position on this issue is also contained in §§ 1115.2(d) and 1115.10(a) of this final regulation.

The Commission reaffirms its section 30(d) finding that manufacturers, distributors, and retailers of products subject to the transferred acts are required to report pursuant to section 15(b) of the CPSA.

2. One commenter suggested that the Commission should state clearly its intention to regulate products subject to the FFA, FHSA, or PPPA only under those acts. The Commission has already found that risks of injury to the public from consumer products subject to regulation under the FFA, the FHSA, and the PPPA cannot be eliminated or reduced to a sufficient extent in a timely fashion under those acts. As to substantive regulations, the Commission is unwilling to make such a restrictive statement of policy because the Commission believes it is important to look at each product subject to its jurisdiction on a case-by-case basis to determine the most appropriate manner of insuring the public health and safety.

Thus the Commission could determine, in accordance with section 30(d) of the CPSA, that the risk of injury associated with a product subject to the FFA, FHSA, or PPPA should be addressed under the CPSA. The Commission will make such determinations on a case-by-case basis when it is necessary to do so in order to protect the public.

C. JURISDICTIONAL ISSUES

1. A trade association questioned whether the Commission has jurisdiction over rental activity and whether it has authority to require reports as to such activity under section 15(b). The commenter suggested that the Commission has jurisdiction only when a renter sells a product that person also rents, or sells expendables with the product (e.g., floor wax accompanying a floor waxing machine). The Commission believes this view is erroneous.

A consumer product is defined by section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1), to include products "for sale to * * * or for the personal use, consumption, or enjoyment of a consumer in or around a permanent household or residence, a school, in recreation, or otherwise." The CPSA specifically includes products rented or leased to consumers in its definition of consumer products (H. Rept. 92-1153, 92d Cong., 2d sess. 27 (1972)). In *Consumer Product Safety Commission* v. *Chance Manufacturing Company, Inc.*, 441 F. Supp. 228 (D.D.C. 1977), a Federal district court ruled that amusement rides that are owned and operated for commercial purposes are consumer products because they are used by consumers even though such use does not entail a transfer of title or of possession of the entire amusement ride. Similarly, a product that is rented out and may be used by a consumer in or around a household or residence, a school, in recreation or otherwise, is a consumer product.

The person who rents out the consumer product is a retailer or distributor under the CPSA. Congress stated that those in the chain of distribution "to whom a consumer product is delivered or sold for purposes of sale to or distribution by such person to a consumer" are retailers, section 3(a)(6) of the CPSA, 15 U.S.C. 2052(a)(6). Congress defined distributors as persons "to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product," section 3(a)(5) of the CPSA, 15 U.S.C. 2052(a)(5). As retailers or distributors, those who rent out consumer products

are subject to the reporting obligations outlined in section 15(b) of the CPSA.

2. Another trade association asked whether doctors and hospitals are retailers within the meaning of section 3(a)(6) of the CPSA and thus whether they are subject to the reporting requirements of section 15(b). The Commission believes they are, to the extent they distribute or sell consumer products to consumers. Depending on the context doctors and hospitals may also be distributors within the meaning of section 3(a)(5) of the CPSA.

3. Several commenters asked how to handle reporting for consumer products which are subject to reporting obligations under more than one Federal statute (for example, a defect in a toxic substance in a consumer product is reportable to the Commission and, depending upon its use, may also be reportable to the Environmental Protection Agency and the Department of Housing and Urban Development).

Whenever the Commission receives a report about a product that is also subject to a reporting requirement of another agency, it attempts to communicate with the other agency to establish how to address the situation and the potential safety hazard presented. The other agencies do the same. The Commission believes this procedure is adequate and provides sufficient guidance to the subject firms involved, once they have reported. However, if it appears necessary, the Commission will attempt to establish interagency procedures regarding reporting obligations where jurisdiction is overlapping or unclear, will notify the public if interagency procedures are established, and will amend this regulation accordingly. Meanwhile, the section 15(b) reporting requirements apply to consumer products, even if the reporting requirements of another agency also apply.

D. SUBSTANTIVE OR INTERPRETIVE RULE

1. The written comments in response to the September publication of proposed Part 1115 indicated that the proposed rule was confusing as to its intended effect. The stated purpose of the rule is to "interpret" section 15 of the CPSA and to set forth the Commission's policy and procedure in enforcing this interpretation. Yet, as the commenters pointed out, the rule also stated that remedial actions would be taken and sanctions sought for violations "of this Part." These commenters said that such comments indicated that the rule was substantive in effect.

The confusion in the proposed rule has been eliminated. The Commission considered the difference between promulgating the rule as substantive or interpretive, sought public comment on the issue at the public hearings in April and May of 1978, and has decided to promulgate the rule as interpretive.

A substantive rule has the force and effect of law. Thus, a violation of a substantive rule issued under the CPSA is equivalent to a violation of the CPSA. In contrast, an interpretive rule offers guidance as to what a law means, but does not itself have the force and effect of law. A violation of an interpretive rule is not necessarily a violation of law; the failure to comply with an interpretive rule *is* a violation of the law under which it is issued only if the rule reasonably interprets that law. In issuing these rules under section 15 of the CPSA, the Commission believes it has reasonably interpreted the provisions and obligations of that section. However, a firm charged with violating section 15 through acts which are contrary to these rules will always have an opportunity to urge the reasonableness of its actions under the circumstances, thereby defeating the accusation.

The Commission agrees with the consumer commenters who stated that the Commission could address the issues of its authority and the desirability of issuing a substantive regulation at a later date. They indicated that an interpretive regulation will serve a dual purpose: It will put subject firms fairly on notice of the Commission's view of the law, and it will give the Commission an opportunity to assess the reasonableness and effectiveness of this rule. The Commission agrees and is, therefore, issuing this rule as an interpretation of section 15.

2. Several commenters were unsure as to when civil and/or criminal penalties might be or could be assessed for failure to comply with section 15(b) of the CPSA.

Section 20 of the CPSA allows the Commission to obtain civil penalties against any person who knowingly fails to furnish information required by section 15(b) or who knowingly fails to comply with an order issued under section 15(c) or (d). Section 21 of the CPSA allows the Commission to obtain criminal penalties against any person who knowingly and willfully violates section 15 (b), (c), or (d) after having recieved notice of noncompliance from the Commission. The Commission's interpretation of section 15, embodied in this rule, will guide it in determining which actions to pursue and sanctions to seek as well as which persons to name as defendants. This interpretive rule should also guide subject firms and their officers in discharging their responsibilities under section 15.

E. DEFECT, PROPOSED § 1115.3(b)(3), FINAL § 1115.4

In is proposal of this part, the Commission provided the following definition of the term defect:

> A "defect" within the meaning of section 15 of the CPSA is any aspect of a product which creates an unnecessary risk of injury. Such aspects include, but are not limited to the following: Performance, composition, contents, design, construction, finish, packaging, warnings, and instructions. A product presents an unnecessary risk if the aspect which creates the risk is not necessary for the product to perform its functional purpose. A risk is also unnecessary if the benefits (including recreational and aesthetic benefits) to be gained from use of the product do not justify the risk of injury. A product defect within the meaning of section 15 includes both unintended manufacturing errors and/or imperfections and intended product aspects.

This definition provoked a multitude of comments from industry and from consumers and occasioned considerable discussion within the Commission. The Commission has considered this and several other definitions of defect in developing this interpretive rule. What it wishes to do is put members of the public, especially subject firms, fairly on notice that a product may contain a defect even if it is designed, manufactured, and marketed exactly as intended. Therefore, after considering the written and oral comments which addressed the proposed definition of defect, the Commisssion has withdrawn that definition. The Commission has chosen to discuss its interpretation of defect and to offer guidance to subject firms in that discussion, which is found in § 1115.4 of the final regulation.

The Commission has followed the recommendations of several commenters that there be no specific definition of defect, that the Commission provide guidance, and that the Commission offer examples of products which contain defects as the Commission interprets that word. The final § 1115.4 does these things. Thus, as set forth in § 1115.4, if a metalized kite is capable of conducting electricity from air to ground and can come within reach of the ground when entangled in powerlines, it is defective even if it is made more beautiful because of the thin coating of metal and even if it handles better in the air because of the slight added weight of the metal. The kite is designed, manufactured, and marketed exactly as intended; it presents an unjustified risk of injury; and it contains a defect within the meaning of section 15(b).

On the other hand, an ordinary kitchen knife is also capable of seriously injuring someone. It too is designed, manufactured, and marketed exactly as intended. Yet the Commission does not consider the knife to

contain a defect within the meaning of section 15(b) of the CPSA because the sharp edge which is capable of causing injury is necessary if the knife is to function properly and the risk of injury created by the sharp edge is outweighed by the usefulness of the knife which, in turn, is made possible by the sharp edge which presents the risk of injury. The final rule then discusses defect so as to include the metalized kite but not include the knife.

1. The proposed regulation defined defect in terms of "unnecessary risk." Several business and consumer commenters felt that the term unnecessary had no accepted judicial meaning. Many suggested that the term "unreasonable risk" be substituted since it has common legal acceptance and is understood by many to present an objective legal test.

The Commission considered incorporating the term unreasonable risk but on balance rejected the commenters suggestion. Within this agency the term unreasonable risk has taken on a special meaning in the agency's proceedings under sections 7 and 8 of the CPSA to promulgate CPSA standards and bans. The Commission does not want to give the impression that the extensive cost/benefit analysis in which it engages before promulgating a standard or ban should be undertaken by subject firms before reporting under section 15(b) of the CPSA. Thus though the Commission rejects the term unreasonable risk in this rule, it does agree with the commenters that products which present unreasonable risks, as that term is commonly accepted and/or judicially determined, would be defective within the meaning of section 15(b) of the CPSA.

2. Several business commenters objected to the kinds of "aspects" of consumer products which the Commission felt could be defective. Some questioned whether such aspects should include design characteristics, instructions, and warnings. As some consumer commenters pointed out, however, such aspects have been found to constitute product defects in product liability suits. Thus those aspects of products which are accepted by the courts as presenting unreasonable risks, as well as those discussed specifically in § 1115.4, would be defective within the meaning of section 15 of the CPSA. Of course, neither the regulation nor judicial determinations constitute the definitive statement as to which aspects of consumer products may be found to be defective. Such a determination is made on a case-by-case basis.

3. Many commenters objected to the benefit/risk balancing implicit in the sentence: "A risk is also unnecessary if the benefits (including recreational and esthetic benefits) to be gained from use of the product do not justify the risk of injury."

Although this sentence has been deleted from final § 1115.4, the Commission believes that some kind of balancing is implicit in the concept of defect. It cautions subject firms, however, not to engage in lengthy analysis before reporting. The balancing test involved in this definition is intended to eliminate only the most obvious cases: The knife, for example. The Commission emphasizes that the benefit/risk analysis will rarely come up and advises firms to report if in doubt.

4. Some commenters suggested the Commission not adopt a definition of defect but instead rely upon the statutory language and allow a definition to evolve on a case-by-case basis. Federal and State cases dealing with the term defect could be used, they suggest, in Commission determinations.

This idea has merit because the Commission interprets the term defect as used in section 15(b) to include the broadest meaning found in Federal and State statutes and judicial pronouncements. However, the Commission is also sensitive to its obligation to provide guidance to subject firms so that they might understand the statutory requirements. Therefore, the Commission has included final § 1115.4, not as a definition of defect, but as a discussion of the Commission's interpretation of the statutory term.

5. Commenters expressed concern over the effect of a broad, encompassing definition of defect on product liability lawsuits, apparently believing that courts would adopt the Commission's definition in cases where it might not be applicable and thus increase the liability of subject firms. The Commission considered this at great length. Although the Commission does not believe that its definition of defect would be used inappropriately in product liability cases, this additional language was incorporated into § 1115.4:

> Defect, as discussed in this section and as used by the Commission and staff, pertains only to interpreting and enforcing the Consumer Product Safety Act. The criteria and discussion in this section are not intended to apply to any other areas of the law.

This language clearly establishes the intention of the Commission that nothing in the discussion should be interpreted as applying outside the Consumer Product Safety Act.

6. The Commission discusses its interpretation of defect in § 1115.4 to assist subject firms in determining whether a defect exists. However, subject firms are reminded that, given the Commission's broad and inclusive interpretation of defect, they should report if in doubt as to whether a defect exists which could create a substantial product hazard. The staff or, ultimately, the Commission will make the determination as to the existence of a defect and a substantial product hazard. To insure the fullest public protection, subject firms should report; § 1115.4 is to encourage such reporting.

F. EVALUATING A SUBSTANTIAL RISK OF INJURY, PROPOSED § 1115.11(D), FINAL § 1115.12(F)

1. Many of the commenters noted that proposed § 1115.11(d), "Defects which create substantial product hazards," did not clearly differentiate between a defect and the substantial risk of injury it could create. In addition, proposed part 1115 did not address the issue of how the Commission will determine that a failure to comply with a CPSA standard or ban presents a substantial risk of injury and, therefore, substantial product hazard.

The Commission clarifies this point and gives additional guidance to subject firms in § 1115.12(f) of this part. Subject firms are cautioned not to await a determination that a substantial product hazard exists before reporting. However, they are informed in an expanded section of how the Commission and its staff will attempt to determine the substantiality of a hazard. Some of the factors the Commission and its staff consider are set forth in the regulation.

G. ADEQUATELY INFORMED, PROPOSED § 1115.3(b)(1), FINAL § 1115.3(a)

Several commenters including a number of retailers and trade associations stated that the proposed definition of "adequately informed" was excessively burdensome. The term was defined to mean that the Commission staff "has received all the information required under § 1115.12 (Full Report)." Some of the distributors and retailers stated that the Commission was requiring them to supply information not reasonably available and information which was more readily accessible to a manufacturer. Some manufacturers stated that they should not have to submit a full report until the staff had made a preliminary determination of hazard.

Final § 1115.3(a) has been amended to indicate that the Commission staff will be "adequately informed" when supplied with information which is "reasonably available." In addition the revised definition permits the staff to inform a subject firm that the staff is "adequately informed." Thus, sometimes a manufacturer or other subject firm may have to submit a full report in order for the staff to make a hazard determination. At other times less than a full report will "adequately inform" the staff.

H. SUBJECT FIRM, PROPOSED § 1115.3(b)(5), FINAL § 1115.3(f)

In the interest of clarity, one trade association and one manufacturer requested that the Commission delete the term "private labeler" in the proposed definition of subject firm since private labelers are either manufacturers, importers, distributors, and/or retailers and as such are already included in the definition and subject to the reporting obligations under section 15(b).

The Commission agrees and has deleted the term.

I. INVESTIGATION, PROPOSED §§ 1115.3(b)(6) AND 1115.22(c)

The Commission has deleted the definition of "investigation" and the subsection dealing with sanctions for failure to permit inspections because separate regulations dealing with inspection procedures under the CPSA will be proposed.

J. REPORTING BY MANUFACTURERS, DISTRIBUTORS, AND RETAILERS, PROPOSED § 1115.10, FINAL §§ 1115.10, 1115.12, AND 1115.13

1. Many commenters found the reporting requirement outlined in subsections (a) and (b) of proposed § 1115.10 to be vague. They were troubled by the admonition in proposed § 1115.10(b) that subject firms "should not await complete or accurate risk estimates before reporting under section 15(b) of CPSA * * *."

The Commission believes that Congress purposely required reports when a manufacturer, distributor, or retailer obtains information which *reasonably supports the conclusion* that a product does not comply with a consumer product safety rule or contains a defect which *could create* a substantial product hazard, in order to encourage broad reporting. Congress intended that the Commission receive reports when a subject firm had sufficient reason to believe that a consumer product was noncomplying. Also, Congress intended that subject firms report defects which they had sufficient reason to believe *could create* a substantial product hazard. Congress did not expect subject firms to make a complete hazard analysis; it left that job to the Commission.

The Commission is proposed § 1115.10, and now in §§ 1115.10, 1115.12, and 1115.13, as issued, encourages subject firms to make reports quickly, and to do so before they make final and complete hazard determinations. It is the Commission's role, established by statute, to determine whether the noncompliance or defect does in fact present a substantial product hazard within the meaning of section 15 of the CPSA.

Though the structure and wording of the regulation have been changed to clarify who must report, when the report must be made, and what should be reported, the Commission's intent to encourage prompt and broad reporting remains unchanged.

2. Many commenters objected to the 5-day time period for imputation to a subject firm of information received by its employee. This imputation was found in proposed § 1115.10(d). Though commenters recognized that the Commission was encouraging firms to set up an internal procedure for processing and evaluating product safety information and many approved of this goal, they questioned whether the Commission had legal authority to take this action. In particular commenters questioned whether the proposed section was supported by the CPSA and whether the Commission had sufficient evidence to support the reasonableness of the 5-day limit.

The concept of imputation of knowledge is firmly established in the Consumer Product Safety Act and in common-law agency principles. Section 20(c) of the CPSA, 15 U.S.C. 2069(c), incorporates the concept of inputing knowledge when it defines "knowingly," as used in section 20(a) of the CPSA, in part as "the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations." Moreover, common-law agency principles impute to the principal the knowledge of the agent where that agent has actual or apparent authority to act on behalf of the principal. Section 1115.11 does no more and, therefore, is legally sound.

The Commission believes that the 5-day time period in the proposed regulation, adopted as a guideline in § 1115.14(b) of the final rule, is adequate in most cases. Though several commenters stated that 5 days will not be enough time for large diversified firms with many unsophisticated employees, others recognized that the 5-day provision is a guideline in the context of an interpretive rule and that the reasonableness and due diligence of a subject firm, given the circumstances of a particular case, will be determinative, not the language of the rule. The Commission agrees that, as an interpretive rule, § 1115.14(b) simply establishes what the Commission believes to be a reasonable time for transmitting information. As a result, it is unnecessary to enlarge or otherwise change the time period; and the Commission has not done so.

Several commenters expressed concern that a disgruntled employee might seek to harm a subject firm by withholding hazard-related information, thus exposing the firm and its officers to civil and/or criminal penalties. The Commission believes that the amended regulation, together with the statutory language, operate to make this a remote possibility.

Civil penalties can be assessed only where a person "knowingly" violates section 19 of the CPSA. "Knowingly" is defined by section 20(c) of the CPSA, 15 U.S.C. 2069(c), as "the having of actual knowledge, or the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations." If a subject firm faced with a civil penalty action for failure to report could show that an employee intentionally refused to pass relevant information to the subject firm and if the Commission based its case upon the subject firm's having actual knowledge of that same information from that particular employee, the Commission could not rely upon the first portion of section 20(c), that is, the having of actual knowledge. The Commission would then have to prove that the information otherwise available to the subject firm irrespective of the withheld information, was sufficient to put a reasonable person in the position of the subject firm on notice of the information. The net result of the failure of the employee to pass the information on would be to increase the burden on the Commission and to provide the subject firm with a possible defense in a civil penalty action.

Criminal penalties can be assessed only where a person "knowingly and willfully violates section 19 (of the CPSA) after having received notice of noncompliance from the Commission (,)" section 21(a) of the CPSA, 15 U.S.C. 2070(a). Thus, the fact that a disgruntled employee did not pass on information could not alone form the basis of a criminal prosecution because there must be both an initial violation of section 19(a)(4) of the CPSA (i.e., a failure to furnish information required by section 15(b)), and a violation (or failure) after receipt of specific notice of the previous failure to furnish the information. It is this continuing failure to report which is the basis for the criminal action, and such a failure would weigh heavily against a subject firm, notwithstanding that the initial failure to report was due entirely to the disgruntled employee.

The Commission would consider the failure of the employee to pass on hazard-related information as a mitigating circumstance in an appropriate case (although, as stated above, the continuing violation after receipt of a notice of noncompliance would weigh heavily against a subject firm). In ad-

dition, the regulation has been amended to reflect that the reportable information must reach an employee capable of understanding its significance; thus, if the disgruntled employee were a cashier or stocker, there would be less likelihood that the Commission would deem that person capable of appreciating the significance of the information than if the person were the product safety officer of the subject firm or some other presumptively responsible corporate official.

Several commenters suggested that the language of proposed 1115.10(d) be changed so that the imputation would only apply when the safety-related information was received by a "responsible employee" or one who was "capable of appreciating the significance of the information." In § 1115.14(b) of this part, the Commission adopts the suggestion, thus conforming the regulation to similar reporting regulations of other agencies.

3. Some commenters expressed concern that proposed 1115.10(e) would require all retailers and distributors to make full reports to the Commission because they would be unaware as to whether the Commission was adequately informed. The Commission believes that the burden on retailers and distributors is alleviated by the new definition of "adequately informed" and by the modified reporting obligation set forth in §§ 1115.13(b) and 1115.13(d). A retailer or distributor with knowledge of a reportable noncompliance or defect should contact the Commission staff if it is unaware that the staff has already been contacted by another firm (see 1115.13(b)). However, once the retailer or distributor reports to the Commission's Product Defect Correction Division and supplies the information detailed in § 1115.13(c) insofar as it is known to the reporting firm, the reporting obligation has been satisfied unless the Commission staff requests further information. See §§ 1115.13(b) and 1115.13(d) of the regulation. This modified reporting is not available to a retailer or distributor who is also an importer or manufacturer of the consumer product about which the report is made; this person is regarded as a manufacturer and must fulfill the requirements set forth in § 1115.13(d).

K. PRESUMPTIVELY REPORTABLE INFORMATION, PROPOSED § 1115.11(a)

Many commenters criticized the presumption contained in proposed 1115.11(a) that a subject firm obtains information which reasonably supports the conclusion that a product either fails to comply with a consumer product safety rule or contains a defect which could create a substantial product hazard when it receives information involving that product in a death or grievous bodily injury unless it has clear evidence that the injury was not caused by the noncompliance or defect. Many felt that the presumption went beyond the plain meaning of the reporting requirement since it equated "involvement" of the product in a death or grievous bodily injury with a noncompliance or a defect that could create a substantial risk of injury. The commenters stated that the element of causality was missing and that the "clear evidence" requirement shifted to the subject firm the burden to show the nonexistence of a noncompliance or a defect. Thus, they argued, reports would be required even if the information did not reasonably suggest a defect or noncompliance. The commenters pointed out that this was exacerbated by the short time frame (i.e., 10 days) allowed for investigation pror to determining whether to report.

The Commission has considered these comments and has eliminated the presumption in proposed 1115.11(a). Rather, the Commission has expressed its position that information indicating that a noncompliance or a defect in a consumer product has caused, may have caused or contributed to the causing, or could cause or contribute to the causing of a death or grievous bodily injury must be reported or investigated and the information found not to be reportable. See § 1115.12(c) of this rule. If the subject firm is able to establish through a reasonably diligent investigation that its product was not causally related to a death or grievous bodily injury or the potential for a death or grievous bodily injury, no report is necessary.

However, the Commission notes that a subject firm has an obligation to exercise reasonable diligence to determine whether it has obtained information which reasonably supports the conclusion that a reportable noncompliance or defect exists. If a subject firm cannot determine within a reasonable period of time (that is, 10 days; 1115.14(d)) that the product does not contain a reportable noncompliance or defect, the Commission expects the firm to make a section 15(b) report. In recognition that subject firms may have to report unconfirmed information, § 1115.12(a) permits reports to be made with disclaimers.

L. INFORMATION WHICH SHOULD BE STUDIED AND EVALUATED, PROPOSED § 1115.11(b), FINAL §§ 1115.12(d) AND 1115.12(e)

1. Many commenters objected to proposed 1115.11(b) because it imposed an unreasonable obligation to investigate information which could indicate the existence of a reportable defect or noncompliance. The commenters observed that this provision created a particularly heavy burden in light of the limited time within which such information was to be studied and evaluated; that this section placed an unrealistic burden on subject firms, whether they decided to investigate or to report; and that the Commission would be unable to handle the paperwork that would be created by the ensuing "defensive" reports.

The Commission disagrees with these comments and therefore has not changed the substance of proposed § 1115.11(b). However, the form of the proposed section has been changed somewhat for clarity, and it is now §§ 1115.12(d) and 1115.12(e).

The Commission believes that the obligation to study and evaluate the information which a firm obtains is clear from the statute. A reasonably diligent firm would not merely collect data on potential safety problems and file them away; it would seek to determine whether or not a reportable defect or noncompliance exists. Sections 1115.12(d) and 1115.12(e) simply illustrate by way of guidance the types of information the Commission believes a reasonable and prudent subject firm should consider when deciding whether to report. The Commission will evaluate the conduct of the subject firm in light of these guidelines, together with the reasonableness of the subject firm's behavior under the circumstances, when it considers whether a violation of section 19(a)(4) of the CPSA has occurred and, if so, what remedy to seek.

2. Many commenters complained that the investigation scheme for deaths and grievous bodily injury and for information which should be studied and evaluated encouraged broader reporting, which, in turn, would have an adverse effect on the product liability stance of subject firms. The commenters indicated that a report under section 15(b) could be construed as an admission of the existence of a defect which could be used against the reporting subject firm in private product liability suits.

At the outset, the Commission concurs with the commenters that this regulation is more comprehensive than the regulations in effect since 1974 and, in that sense, "broader." In this regulation the Commission sets out clearly and simply what the Commission sees as the congressionally mandated reporting obligations of subject firms, the role of subject firms in making determinations as to the existence of reportable noncomplying products or defects, and the role of the Commission and its staff in making determinations as to the existence of substantial product hazards. The Commission disagrees, however, with those who state that this regulation exceeds the bounds of the CPSA.

The Commission believes that this regulation correctly interprets the statute and is well within its authority.

It is the Commission's position that the broader reporting which this regulation will generate, the addition of language to § 1115.12(a) explicitly stating that a report may contain an express disclaimer, together with the addition of § 1115.15(a) stating that the Commission does not routinely make reports available to the public (that is, the reports will not be available in the Commission's public reading room and the contents of reports will not be disclosed absent a formal request) until the staff has made its preliminary hazard determination, greatly dilute the potentially adverse impact of a report feared by the commenters. The Commission believes that the subject firms are adequately protected and declines to change the regulation.

M. CONTENT AND FORM OF REPORTS, PROPOSED § 1115.12, FINAL § 1115.13

1. Many commenters felt that the language in proposed § 1115.12(c) requiring that a report be made "immediately" and defining immediately as "in no event later than twenty-four (24) hours" was unclear and in conflict with the time periods allowed for transmission of information within a firm and for investigations. The Commission has clarified this requirement in § 1115.14 of this final rule. Here, all time computations are grouped in one section. Firms are more clearly informed that the obligation to report "immediately" may arise at the conclusion of a reasonably expeditious investigation conducted in order to evaluate the reportability of information.

2. Several commenters expressed the view that the information required by proposed § 1115.12 exceeds the statutory authority and requirements of section 15(b). The Commission believes that this provision, which repeated virtually unchanged the provision in operation during the past four years and which is included here as § 1115.13, is a proper interpretation of the reporting requirement in section 15(b). Without such basic information as identification of the product, injury data, information on the nature of the defect or noncompliance, information on distribution, and data on the use characteristics of the product, a report under section 15 would be useless in assisting the Commission to protect the public, which is its primary function. A report under section 15(b) was intended by Congress to give the Commission a clear picture of the nature of the potential hazard. The information requested by the Commission is necessary to ascertain whether a substantial product hazard exists and whether further action to protect the public should be undertaken.

In addition the Commission needs to know whether and what remedial actions are being or will be taken by a subject firm in order to determine what remedial action it will seek. Therefore, the Commission believes that it is correct and necessary to include in section 15(b) reports the information outlined in final § 1115.13(d) (10), (11), and (12).

3. Several commenters expressed concern that retailers or distributors would not be able to supply much of the information required by proposed § 1115.12(d) for a full report. The Commission has attempted to address this issue by providing an abbreviated reporting mechanism for distributors and retailers. This provision is discussed above and is set forth in § 1115.13(b) of the final rule.

Other commenters suggested that a full report should not be required even of manufacturers and importers until a preliminary determination of hazard is made. Since the Commission staff may need the information contained in the full report to make its preliminary hazard determination, the Commission will not as a matter of policy dispense with a manufacturer's or importer's obligation to submit a full report prior to a hazard determination. The Commission may, however, under the provisions of § 1115.13(d), terminate a firm's obligation to make a full report if the staff preliminarily determines, based on the information it has, that there is no substantial product hazard.

4. Several commenters questioned the requirement that the Chief Executive Officer or his designee sign documents submitted as reports to the Commission pursuant to section 15(b) of the CPSA. Many felt this placed an unreasonable burden on the Chief Executive Officer's time or that this practice would cause delays in large firms.

The Chief Executive Officer of a subject firm may designate someone else as the person responsible for signing reports submitted to the Commission by sending a Delegation of Authority to the Product Defect Correction Division either prior to or simultaneous with a section 15(b) report (see § 1115.13(a) of the final regulation). Thus, it is not necessary for the Chief Executive Officer to be personally involved in each report. In addition, the delegation of authority is frequently made to the product safety officer of a subject firm whose job usually includes a liaison function with government agencies in the area of product safety. This individual is the logical choice as designee because this person has information sources valuable to both the Commission and the subject firm in addressing any potential hazard. In the Commission's nearly 4 years of experience working with the delegation system, the system has been a valuable tool in establishing contact with the employees of subject firms who can move quickly to identify and correct hazards. The Commission has considered the comments and finds no reason to change the delegation system at this time.

5. Several commenters objected that proposed § 1115.12(d)(6), now § 1115.13(d)(6), which requires that a subject firm submit information on the manner in which information indicating the existence of a defect or nonconformity was obtained by the firm, places an additional paperwork burden on the reporting firm and diverts effort away from whatever investigative or corrective action the firm is undertaking. The Commission disagrees. This information should in most cases be available to the subject firm at the time it makes its report; to the extent it is not reasonably available, it may be supplied later under the language of § 1115.13(d). In addition, by supplying the information at the outset, a subject firm may convince the Commission that there is no reason to investigate whether the subject firm made an immediate (i.e., timely) report to the Commission.

6. Several commenters objected to including in a full report such information as technical drawings, test results, customer names, and other information they consider to be confidential commercial information and trade secrets. Information that a firm believes is trade secret or confidential commerical or financial information may be designated as such in the full report. See § 1115.15(b) of the regulation. The provisions of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)), the Commission's FOIA regulation (16 CFR 1015), the Government in the Sunshine Act (5 U.S.C. 552b), the Commission's Open Meetings regulation (16 CFR 1012); and section 6(a) of the CPSA (15 U.S.C. 2055(a)) govern disclosure of such information.

7. One commenter indicated that the Commission does not need the names of consumers since it has no right to contact them. This objection is incorrect both as a practical and a legal matter.

The Commission believes that the names of ultimate consumers, where known, are necessary in order to assess the hazard and to monitor the effectiveness of any corrective action. The subject firm which wishes to offer a corrective action plan to or to enter into a consent order agreement with the Commission cannot object to Commission monitoring of the firm's corrective action. Moreover, the Commission could, if necessary, compel disclo-

sure of the names of distributors, retailers, and purchasers (including consumers) during proceedings under section 15 or section 12 or by compulsory process under section 27(b) of the CPSA.

It should be noted that the information about distributors, retailers, and purchasers (including consumers) must be reported only upon request; there is no obligation that subject firms automatically supply this information to the Commission. In addition, this information, like all other information requested under § 1115.13(d), need only be provided if it is reasonably available. There is no requirement that manufacturers or importers comb the records of their distributors or retailers to discover names; of course, if the distributors or retailers are part of the same corporation or belong to the same parent company, there might exist an obligation to search their records. In addition, distributors or retailers may themselves be required to furnish customer lists to the Commission. To be acceptable, however, every corrective action plan must include an acknowledgment that the subject firm will furnish information, including customer lists in individual cases, in order that the Commission may monitor the corrective action. Finally, a request for confidential treatment could be made to insure that the information would be treated in accordance with applicable statutory and regulatory provisions. For these reasons; the Commission believes that it has the right to request the names of customers, distributors, and retailers under § 1115.13.

8. Other commenters questioned the Commission's need to know how many products a firm has in inventory, the retail price of the product, and its identifying marks, at least where serial numbers and other identification are available. This information is requested as part of both the initial report and the full report to the Commission (see § 1115.13 (c) and (d)).

The Commission believes that the number of products in inventory is an important part of the composite picture of the whereabouts of the product in the distribution chain. In order to assess the hazard and monitor compliance with remedial action, the Commission needs to know where the products can be found. Retail price is also important since it may be a factor in assessing the risk and in determining whether one form of remedial action is more equitable and effective than another.

The Commission believes that the public should be able to identify products which are potentially hazardous. To achieve this goal, the Commission provides as much information as possible. Because model and serial numbers and date codes may be insufficient to achieve this, any identifying marks and their location on the product are useful and will be made known to the public.

9. One commenter suggested that it may be appropriate for a subject firm engaged in corrective action to submit to the Commission drafts of letters, press releases, or warnings rather than "copies" as required in proposed § 1115.12(d)(11). The Commission concurs and has incorporated this language into § 1115.13(d)(11) of the final regulation. In many situations a draft would be preferable and may be submitted. This would permit the staff to comment upon the efficacy and overall acceptability of the proposed letters, press releases, warning labels, and/or any other written materials before the subject firm has issued them. Allowing the staff to comment in advance would, in most cases, prevent a later Commission rejection of a proposed corrective action plan or consent order agreement for insufficient notice.

10. Some commenters had the impression that the proposed rule required a firm to report by telephone and did not permit reporting by letter or telegram. This impression is incorrect, and the Commission has clarified this in § 1115.13(c) of the final rule. An initial report may be made by any means (including letter); but if it is *not* in writing, it should be confirmed in writing within 48 hours of the initial report.

11. One commenter indicated that since a corrective action plan is not always necessary when a section 15(b) report is made, proposed §§ 1115.12(d)(10)–(13) may be inapplicable. The commenter suggested the Commission indicate in § 1115.12(d) that information in a full report need be submitted only where available and applicable. This change has been incorporated in the final regulation in § 1115.13(d). In addition, the staff may inform the firm that its reporting obligation has been fulfilled.

12. One commenter suggested that only retailers should be required to supply information regarding the number of products in consumers' hands. Although a retailer has an obligation to report and should supply this information to the extent it is known to the retailer (see § 1115.13 (b)), a manufacturer or distributor who reports should supply this information to the extent it is available. (See discussion in paragraph M.8 above.)

N. CONFIDENTIALITY, PROPOSED § 1115.13, FINAL § 1115.15

Several commenters indicated that they believed that all information reported to the Commission pursuant to section 15(b) should be kept confidential. They stated that this would encourage more widespread reporting since firms would not then be afraid that their reports, some of which will necessarily be based on incomplete or inaccurately assessed information, would be made public. If this information were kept confidential, many argued, a subject firm's reputation and products liability position would be protected. The Commission does not routinely make reports available to the public until the staff has made a preliminary hazard determination. Thus copies of reports will not be available to the public in the Commission's public reading room, and information contained in reports will not ordinarily be disclosed to the public absent a formal request. (See § 1115.15(a).) For the reasons stated below the Commission cannot accede to the request for blanket confidentiality.

Some of the commenters argued that, under section 6(b) of the CPSA, 15 U.S.C. 2055(b), the Commission could not release information obtained through a section 15(b) report, even in response to an FOIA request, unless the Commission followed the notice provisions of section 6(b). The Commission believes that this view is incorrect and that release of information in response to an FOIA request is not an "affirmative" release subject to the notice provisions of section 6(b). Moreover, even if the Commission were to interpret section 6(b) as applying to FOIA requests, as well as "affirmative" releases of information, the Commission may release information in fewer than 30 days and/or without notice to the manufacturer or private labeler where the Commission finds out that the public health and safety require a lesser period of notice and/or where notice is not practicable under the circumstances.

Many commenters suggested that information in a section 15(b) report, including the fact of the report itself, could be protected from disclosure under exemptions 4 and 7 to the FOIA, 5 U.S.C. 552(b) (4) and (7). Exemption 4 protects trade secrets and commercial or financial information which is privileged or confidential and exemption 7 protects investigatory records compiled for law enforcement purposes.

The Commission does not believe that exemption 7 is available as a basis for withholding information because production of the information contained in a section 15(b) report would not, in the opinion of the Commission, interfere with enforcement proceedings, deprive a person of a right to a fair trial or impartial adjudication, constitute an unwarranted invasion of personal privacy, disclose the identity

of a confidential source, disclose investigative techniques and procedures, or endanger law enforcement personnel. See 5 U.S.C. 552(b)(7). In addition, section 15(b) of the CPSA contains a mandatory reporting obligation; and the Commission interprets case law under the FOIA as denying exemption 7 coverage to statutorily mandated reports such as these.

Exemption 4 applies to trade secrets and commercial or financial information that is privileged or confidential. To sustain an exemption for confidential commercial information, there must be a showing that disclosure of the information will cause substantial competitive harm. To the extent that a reporting firm believes that its identity should not be disclosed, or that the fact that it has submitted a report under section 15(b) is confidential commercial information, it should, at the time it reports, submit a request or indicate that it will be submitting a request to exempt its information from disclosure in accordance with the Commission's Freedom of Information Act regulations (16 CFR part 1015). At the time the request for exemption is made, the firm should describe in detail the reasons it believes it will suffer substantial competitive harm.

As a matter of policy the Commission will not routinely make available to the public either the fact of a report or the substance of a report until the staff has made its preliminary hazard determination. However, once that determination has been made, whether or not the staff preliminarily determines that a substantial product hazard exists, the Commission will not honor requests for exempt status for the identity of the reporting firm, the identity of the consumer product, and the nature of the reported alleged defect or noncompliance. As a matter of policy the Commission believes that the public interest in knowing the dispositions of reports and the reasons for each disposition outweighs the potential harm to the reporting firms. The Commission further believes that proper characterization of the staff's preliminary hazard determination will prevent or minimize any potential harm. Any public disclosure of a report will include the staff's preliminary hazard determination. As to all other information for which exempt status is requested, under § 1115.15(b) of the final regulation, the Commission will analyze requests for confidential treatment of 15(b) reports in accordance with its normal FOIA procedures (see 16 CFR 1015) and will determine on a case-by-case basis whether all or part of the information submitted by a firm is subject to release under FOIA.

O. VOLUNTARY REMEDIAL ACTION, § 1115.20

1. One commenter suggested the Commission should never accept corrective action plans but should always seek consent order agreements and issue orders. The Commission disagrees. The Commission has found during the past 4 years that corrective action plans are, for the most part, efficient and effective methods of dealing with potential hazards. By offering and accepting a corrective action plan, the subject firm and the Commission save considerable time and effort that would otherwise be devoted to negotiating the more complex details of and completing the paperwork necessary for a consent order agreement. As a result, the hazard is remedied faster, and the consumer is protected earlier. In addition, the Commission has found that most companies fulfill their obligations under the corrective action plans. For those few subject firms which do not satisfy their corrective action plan obligations, the Commission has two options under the final regulation: a consent order agreement (see § 1115.20(b)) or commencement of adjudicative proceedings (see § 1115.21).

The Commission believes that the current system provides it with more flexibility in dealing with the many different kinds of hazard situations which arise under section 15 of the CPSA. The Commission believes that corrective action plans provide a fast and economical solution to potentially serious hazard situations and, in most cases, that the positive aspects of this procedure far outweigh the need to obtain legally enforceable consent order agreements. Thus the Commission declines to incorporate this commenter's suggestion.

2. One commenter suggested that corrective action plans be exempted from monitoring and investigation. The commenter was particularly concerned about eliminating the paperwork burden on the firm involved in remedial action pursuant to a corrective action plan.

The Commission believes that close monitoring is necessary in order to establish and insure the effectiveness of the corrective action plan as a remedial option. A recent GAO report ("The Consumer Product Safety Commission Has No Assurance That Product Defects Are Being Reported And Corrected," HRD-78-48, Feb. 14, 1978) suggested that the Commission take steps to increase the effectiveness of its monitoring effort. As noted above, there is even some sentiment for eliminating corrective action plans completely and insisting upon consent order agreements.

While the Commission believes elimination of corrective action plans would be a mistake, it recognizes that close Commission scrutiny of implementation of the plans both motivates compliance and increases the Commission's knowledge of the effectiveness of various kinds of remedial action and of notice to the public. The Commission believes that subject firms offering a corrective action plan should be willing to cooperate with the Commission by allowing it to monitor the corrective action in return for the Commission's acceptance of the plan.

Finally, the primary purpose of a corrective action plan is to protect the public from a substantial risk of injury presented by a consumer product and to do so as quickly as possible. It is for this reason that the Commission encourages submission of corrective action plans by subject firms. Monitoring a corrective action plan is the mechanism by which the Commission determines whether this public protection purpose is being or has been achieved. If monitoring reveals that this purpose is not being or has not been achieved by a corrective action plan, whatever the reason, the Commission is then able to consider its alternatives and to move rapidly to do what it considers necessary and appropriate to protect the public.

For these reasons, the Commission has not incorporated the requested change in the final regulation.

3. Several commenters requested explicit language assuring that entering into a consent order agreement, like entering into a corrective action plan, would not be read as an admission of the existence of a hazard. The Commission intended that this would be an available provision and, therefore, stated in proposed § 1115.20(b)(1)(xii) that a consent order agreement shall contain the elements of a corrective action plan set forth in § 1115.20(a)(1). (A typographical error in the FEDERAL REGISTER resulted in this section being referred to as § 1115.41(c).) Therefore, a consent order agreement, like a corrective action plan, may include a disclaimer of the reportable information and the hazard. See §§ 1115.20 (b)(1)(xii) and 1115.20 (a)(1)(xiii) of the final regulation. However, the notice to the public must inform of the hazard, disclaimer notwithstanding.

4. A few commenters suggested that the Commission's open meetings policy should be modified to allow subject firms to meet with the Commission or the staff in order to negotiate corrective action plans or consent order agreements in private. Though the Commission believes that where possible its business should be conducted in the public view, it recognizes that in certain circumstances closed meetings may be necessary in order to allow candid and uninhibited ex-

changes during negotiations. The Commission's open meeting regulation allows for such rare exchanges at 16 CFR 1012.5(b)(1)(B)(ii), which provides that there can be one closed meeting regarding a section 15(b) report, although all subsequent meetings are open to the public. The Commission's experience with this limited exception to the open meetings policy has been generally good. Although the question of possible expansion of the exception is now being studied, the Commission declines to broaden the exception at this time.

5. One commenter suggested that § 1115.20(a)(1)(i) state that voluntary corrective action plans shall contain a description of the "alleged" hazard rather than "the" hazard. The Commission has added the word "alleged" to the final version of § 1115.20(a)(1)(i).

In addition, the same commenter noted that proposed § 1115.20(a) limited the applicability of corrective action plans to defects. The commenter suggested the Commission should also seek corrective action plans to remedy noncompliance with consumer product safety rules. The Commission agrees and has amended § 1115.20(a) accordingly.

6. Another commenter suggested that in reserving its right to publicize a corrective action plan under proposed § 1115.20(a)(1)(x), the Commission should make clear that it will do so subject to section 6(a)(2) of the CPSA. The Commission believes that it will be able to reach agreement with a subject firm about the information which may be released and publicized as part of a corrective action plan, regardless of what claim for confidentiality may originally have been made. Final § 1115.20(a)(1)(xi) has been amended to state this more clearly. In the absence of agreement the Commission will adhere to the provisions of section 6 of the CPSA, the FOIA, regulations promulgated thereunder, and any other applicable Federal statute. Of course, the Commission reserves its right not to accept any offered corrective action plan which fails, in the opinion of the Commission, to inform and protect the public.

7. Commenters expressed a similar concern about information submitted pursuant to proposed §§ 1115.20 (a)(1)(vi) and 1115.20 (b)(1)(xii), now §§ 1115.20 (a)(1)(vi) and 1115.20 (b)(1)(xiii) of the final regulation, and questioned whether confidential commercial or trade secret information submitted under those sections would be released during the publication of a corrective action plan or consent order agreement. Unless an agreement is reached allowing the publication of the relevant confidential commercial or trade secret information, the Commission will release such information only in accordance with section 6 of the CPSA, the FOIA, regulations promulgated thereunder, and any othe applicable Federal statute. Of course the Commission reserves its right to reject any offered corrective action plan or consent order agreement which, in its opinion, fails to inform and protect the public.

8. One commenter suggested that rather than listing the factors the staff will consider in recommending to the Commission whether to accept a corrective action plan, the regulation should merely state that the staff will consider "appropriate factors." Other commenters expressed specific concern with the effect past performance in corrective action plans might have on Commission acceptance of a later corrective action plan. These commenters suggested that only prior irresponsible behavior which leads to the conclusion that a firm cannot be trusted should lead to the resolution of a potential hazard problem by consent order agreement.

The Commission believes that § 1115.20(a)(2), as written, provides guidance to subject firms and the public that would not be given under the suggested broader language. In addition, § 1115.20(a)(2) provides the staff with sufficient leeway to evaluate the past performance of a subject firm and to make its recommendation based, in part, on that past performance. The Commission believes that the "track record" of a subject firm is a reasonable, reliable, and valuable tool in assessing the likelihood that the public will be protected under a corrective action plan. Therefore, the Commission has retained the provision as written in this final rule.

9. One consumer group suggested that corrective action plans and consent order agreements include language indicating that the Commission will seek broader corrective action if it becomes aware of new facts or if the corrective action does not sufficiently protect the public. The Commission agrees and has included this language in § 1115.20(a) as applied to corrective action plans. Procedures for modification of a consent order agreement, after the Commission order has issued, are found in the Commission's rules of practice for adjudicative proceedings because a Commission order based on a consent order agreement is treated the same as any other Commission order. Therefore the additional language has not been added § 1115.20(b).

10. One commenter felt that § 1115.20(a)(3) should be changed to permit a subject firm to alter its plan in order to make it acceptable to the Commission rather than have the Commission issue a complaint if it finds the proffered plan to be unacceptable. The Commission feels that § 1115.20(a)(3)(iii) permits such action and has not amended the provisions of this section.

11. The Commission also received comments stating that a provision in consent order agreements preserving the Commission's right to seek sanctions for violations of the reporting obligation contained in section 15(b) of the CPSA and its right to take other appropriate legal action would make it difficult to obtain such agreements. In the Commission's experience with consent order agreements, inclusion of this reservation has not unduly hampered the obtaining of agreements and has been beneficial in making explicit the exact terms of the agreements. In addition, since the statement accurately reflects Commission policy, it should be retained to avoid any misunderstanding or unfairness. For these reasons the Commission has retained § 1115.20(b)(1)(v) in this final regulation.

12. Other commenters were concerned that proposed § 1115.20 (b)(1)(x), which acknowledges that private civil actions may be brought to enforce a consent order agreement, is undesirable. These commenters questioned whether a consent order agreement should have the same effect as a Commission order under sections 15 (c) and (d).

By its terms, a consent order agreement, once finally accepted by the Commission as detailed in § 1115.20(b)(5), is a final order issued pursuant to section 15 of the CPSA (see § 1115.20(b)(1)(iv) of final regulation). As such, the order is enforceable by the private right of action provided by section 24 of the CPSA (15 U.S.C. 2073). Section 1115.20(b)(1)(x) merely emphasizes this statutorily-granted right. Accordingly, the Commission has not modified this section.

13. Another commenter questioned whether the waiver of rights provision in proposed § 1115.20(b)(1)(ii) is too broad. Such a provision guarantees that the subject firm fully understands the legal ramifications and the extent of its waiver of its legal right to an administrative or judicial hearing and/or review. In addition it protects the Commission and the public against a subject firm's abandoning an agreed-to corrective action program and demanding an adjudication on the issue of hazard. It is a basic ingredient of the consent order agreement. The Commission will not accept a proposed consent order agreement without this waiver, does not consider this language to be too broad, and has not amended § 1115.20(b)(1)(ii) of this regulation.

14. One commenter suggested that the 15 days allowed for public comment on a provisionally accepted con-

sent order agreement after its publication in the FEDERAL REGISTER (see § 1115.20(b)(4)) should be applied to corrective action plans as well. Another commenter suggested that the comment periods for corrective action plans and consent order agreements should be extended when to do so would be in the public interest. Other commenters suggested improving the notice given to the public about the plan or agreement and encouraging further public comment after it has been accepted or rejected by the Commission.

The Commission has reconsidered these proposed procedures in the light of these comments and its own experience. The purpose of the section on public participation in corrective action plans is to give interested persons an opportunity to comment on a proposed plan before the Commission has voted to accept or reject. Experience suggests that routine corrective action plans involving prompt action by a subject firm to warn the public and to reduce the hazard generally would be the only plans that the public would have a chance to participate in—and these are not ones likely to interest the public. In these routine cases, the corrective action is often well underway even before the Commission has an opportunity to assess it.

The corrective action plans which would be of most interest to the public would be those wherein a firm refused to warn or recall until the Commission had accepted the plan. In such a case the need for fast action generally would preclude advance public notice by publication in the FEDERAL REGISTER and even in the Public Calendar. Additionally, many of these proposed corrective action plans involve consideration by the Commission of possible enforcement actions. The staff memoranda explaining the enforcement options and the meetings at which they were discussed would in many cases be restricted and closed.

Accordingly, the Commission has revised § 1115.20(a)(4) dealing with corrective action plans to include the phrases "when time permits" and "where practicable." To avoid delay, the Commission will not give public notice in the FEDERAL REGISTER but will give advance notice in the Public Calendar and make proposed corrective action plans available to the public insofar as practicable.

With regard to consent order agreements, at this time the Commission does not perceive the need to provide and extended comment period, although it believes that, where warranted, such an extension could be made under the inherent power of the Commission to conduct its business. In addition the Commission upon receiving an executed agreement may "take such other action as it may deem appropriate" (see § 1115.20(b)(3)). Thus the Commission believes the rule provides the Commission with sufficient flexibility to protect the public.

P. PROHIBITED ACTS AND SANCTIONS, § 1115.22

1. Many commenters pointed out that if these regulations are issued as interpretive, "violations" of the regulation would not be prohibited acts unless they were also violations of the statute. They suggested deleting the words "and this Part," and "and/or of this Part" from §§ 1115.22 (b) and (c), respectively. As noted earlier, the Commission has done so.

2. Several commenters stated that subjecting corporate officers to the civil and criminal sanctions of sections 20 and 21 of the CPSA, 15 U.S.C. 2069 and 2070, for violations of section 19 of the CPSA, 15 U.S.C. 2068, is unreasonable due to the size and complexity of some businesses and the number and complexity of the applicable Federal, State, and local statutes and regulations. The Commission believes that the CPSA and relevant case law both support holding officials of subject firms liable for the firm's actions. Where and when the Commission believes that there is a "knowing" or "knowing and willful" violation of the Consumer Product Safety Act (as those terms are used in sections 20 and 21 of the CPSA), appropriate sanctions will be sought against the responsible officers.

The Commission emphasizes, however, that criminal penalties under section 21 of the CPSA may be levied only against a person who "knowingly and willfully violates section 19 of this act ["Prohibited Acts"] after having received notice of noncompliance from the Commission."

Q. OTHER COMMENTS

A number of comments involved questions and issues not directly within the scope of this proposed regulation. A number, for example, had suggestions for staff procedures. The Commission soon will be issuing directives to the staff in connection with this regulation and will consider these suggestions then.

Other commenters were concerned about private issues like indemnification. One wished to know if the Commission could be held liable if its recall order was eventually overturned by a court. Some questioned the constitutionality of section 15 and of the Commission's inspection authority. The Commission believes that these are matters best left to the courts or discussed in other contexts.

FINDING AND PROMULGATION

Since this is a procedural and interpretive rule, the provisions of 5 U.S.C. 553(d) requiring publication of a rule 30 days before its effective date do not apply; and this rule is effective immediately upon publication in the FEDERAL REGISTER (August 7, 1978). However, even if the provisions of 5 U.S.C. 553(d) were found to apply in this instance, the Commission concludes that the need for a new regulation setting forth its interpretation, policy, and procedure with respect to section 15 of the CPSA is of sufficient urgency and of such benefit to the public that its promulgation should take effect upon publication. Therefore, in accordance with the provisions of 5 U.S.C. 553(d), the Commission, for good cause, finds that the rule issued below should become effective August 7, 1978.

Accordingly, pursuant to the provisions of the Consumer Product Safety Act (secs. 12, 15, 16, 17(a), 19, 20, 21, 22, 24, 27, and 30), 86 Stat. 1218, 1221-1227, 1231, as amended, 90 Stat. 508-510; 15 U.S.C. 2061, 2064, 2065, 2066(a), 2068-2071, 2073, 2076, 2079, the Commission amends Title 16, Chapter II, Subchapter B as follows: 1. by deleting the current provisions under Parts 1115 and 1116 and 2. by adding a new Part 1115.

Subpart A—General Interpretation

Sec.
1115.1 Purpose.
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Subpart B—Remedial Actions and Sanction.

1115.20 Voluntary remedial actions.
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1115.22 Prohibited acts and sanctions.

AUTHORITY: Secs. 12, 15, 16, 17(a), 19, 20, 21, 22, 24, 27, 30 of Pub. L. 92-573, as amended by Pub. L. 94-284; 86 Stat. 1218, 1221-1227, 1231, as amended, 90 Stat. 508-510 (15 U.S.C. 2061, 2064, 2065, 2066(a), 2068, 2069, 2070, 2071, 2073, 2076, 2079), unless otherwise noted.

Subpart A—General Interpretation

§ 1115.1 Purpose.

The purpose of this part 1115 is to set forth the Consumer Product Safety Commission's (Commission's) interpretation of the reporting requirements imposed on manufacturers

(including importers), distributors, and retailers by section 15(b) of the Consumer Product Safety Act, as amended (CPSA) (15 U.S.C. 2064(b)) and to indicate the actions and sanctions which the Commission may require or impose to protect the public from substantial product hazards, as that term is defined in section 15(a) of the CPSA.

§ 1115.2 Scope and finding.

(a) Section 15(a) of the CPSA (15 U.S.C. 2064(a)) defines "substantial product hazard" as either (1) a failure to comply with an applicable consumer product safety rule, which failure creates a substantial risk of injury to the public, or (2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.

(b) Section 15(b) of the CPSA requires every manufacturer (including an importer), distributor, or retailer of a consumer product distributed in commerce who obtains information which reasonably supports the conclusion that the product either fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard immediately to inform the Commission, unless the manufacturer (including an importer), distributor, or retailer has actual knowledge that the Commission has been adequately informed. This provision indicates that a broad spectrum of safety-related information should be reported under section 15(b) of the CPSA.

(c) Sections 15(c) and 15(d) of the CPSA (15 U.S.C. 2064 (c) and (d)) empower the Commission to order a manufacturer (including an importer), distributor, or retailer of a consumer product distributed in commerce that presents a substantial product hazard to give various forms of notice to the public of the defect or the failure to comply and/or to order the subject firm to elect either to repair, to replace, or to refund the purchase price of such product. However, information which should be reported under section 15(b) of the CPSA does not automatically indicate the presence of a substantial product hazard since what must be reported are failures to comply with consumer product safety rules and defects that could create a substantial product hazard. (See § 1115.12.)

(d) The provisions of this part 1115 deal with all consumer products (including imports) subject to regulation under the Consumer Product Safety Act, as amended (15 U.S.C. 2051-2081) (CPSA), and the Refrigerator Safety Act (15 U.S.C. 1211-1214) (RSA). In addition, the Commission has found that risks of injury to the public from consumer products subject to regulation under the Flammable Fabrics Act (15 U.S.C. 1191-1204) (FFA), the Federal Hazardous Substances Act (15 U.S.C. 1261-1274) (FHSA), and the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471-1476) (PPPA) cannot be eliminated or reduced to a sufficient extent in a timely fashion under those acts. Therefore, pursuant to section 30(d) of the CPSA (15 U.S.C. 2079(d)), manufacturers (including importers), distributors, and retailers of consumer products which are subject to regulation under provisions of the FFA, FHSA, and PPPA must comply with the reporting requirements of section 15(b).

§ 1115.3 Definitions.

In addition to the definitions given in section 3 of the CPSA (15 U.S.C. 2052), the following definitions apply:

(a) "Adequately informed" under section 15(b) of the CPSA means that the Commission staff has received the information requested under §§ 1115.12 and/or 1115.13 of this part insofar as it is reasonably available and applicable or that the staff has informed the subject firm that the staff is adequately informed.

(b) "Commission meeting" means the joint deliberations of at least a majority of the Commission where such deliberations determine or result in the conduct or disposition of official Commission business. This term is synonymous with "Commission meeting" as defined in the Commission's regulation issued under the Government in the Sunshine Act, 16 CFR 1012.

(c) "Noncompliance" means the failure of a consumer product to comply with an applicable consumer product safety rule issued under the CPSA.

(d) A "person" means a corporation, company, association, firm, partnership, society, joint stock company, or individual.

(e) "Staff" means the staff of the Consumer Product Safety Commission unless otherwise stated.

(f) "Subject firm" means any manufacturer (including an importer), distributor, or retailer of a consumer product.

§ 1115.4 Defect.

Section 15(b)(2) of the CPSA requires every manufacturer (including an importer), distributor, and retailer of a consumer product who obtains information which reasonably supports the conclusion that the product contains a defect which could create a substantial product hazard to inform the Commission of such defect. Thus, whether the information available reasonably suggests a defect is the first determination which a subject firm must make in deciding whether it has obtained information which must be reported to the Commission. In determining whether it has obtained information which reasonably supports the conclusion that its consumer product contains a defect, a subject firm may be guided by the criteria the Commission and staff use in determining whether a defect exists. At a minimum, defect includes the dictionary or commonly accepted meaning of the word. Thus, a defect is a fault, flaw, or irregularity that causes weakness, failure, or inadequacy in form or function. A defect, for example, may be the result of a manufacturing or production error; that is, the consumer product as manufactured is not in the form intended by, or fails to perform in accordance with, its design. In addition, the design of and the materials used in a consumer product may also result in a defect. Thus, a product may contain a defect even if the product is manufactured exactly in accordance with its design and specifications, if the design presents a risk of injury to the public. A design defect may also be present if the risk of injury occurs as a result of the operation or use of the product or the failure of the product to operate as intended. A defect can also occur in a product's contents, construction, finish, packaging, warnings, and/or instructions. With respect to instructions, a consumer product may contain a defect if the instructions for assembly or use could allow the product, otherwise safely designed and manufactured, to present a risk of injury. To assist subject firms in understanding the concept of defect as used in the CPSA, the following examples are offered:

(a) An electric appliance presents a shock hazard because, through a manufacturing error, its casing can be electrically charged by full-line voltage. This product contains a defect as a result of manufacturing or production error.

(b) Shoes labeled and marketed for long-distance running are so designed that they might cause or contribute to the causing of muscle or tendon injury if used for long-distance running. The shoes are defective due to the labeling and marketing.

(c) A kite made of electrically conductive material presents a risk of electrocution if it is long enough to become entangled in power lines and be within reach from the ground. The electrically conductive material contributes both to the beauty of the kite and the hazard it presents. The kite contains a design defect.

(d) A power tool is not accompanied by adequate instructions and safety warnings. Reasonably foreseeable consumer use or misuse, based in part on

the lack of adequate instructions and safety warnings, could result in injury. Although there are no reports of injury, the product contains a defect because of the inadequate warnings and instructions.

(e) An exhaust fan for home garages is advertised as activating when carbon monoxide fumes reach a dangerous level but does not exhaust when fumes have reached the dangerous level. Although the cause of the failure to exhaust is not known, the exhaust fan is defective because users rely on the fan to remove the fumes and the fan does not do so.

However, not all products which present a risk of injury are defective. For example, a knife has a sharp blade and is capable of seriously injuring someone. This very sharpness, however, is necessary if the knife is to function adequately. The knife does not contain a defect insofar as the sharpness of its blade is concerned, despite its potential for causing injury, because the risk of injury is outweighed by the usefulness of the product which is made possible by the same aspect which presents the risk of injury. In determining whether the risk of injury associated with a product is the type of risk which will render the product defective, the Commission and staff will consider, as appropriate: The utility of the product involved; the nature of the risk of injury which the product presents; the necessity for the product; the population exposed to the product and its risk of injury; the Commission's own experience and expertise; the case law interpreting Federal and State public health and safety statutes; the case law in the area of products liability; and other factors relevant to the determination. If the information available to a subject firm does not reasonably support the conclusion that a defect exists, the subject firm need not report. However, if the information does reasonably support the conclusion that a defect exists, the subject firm must then consider whether that defect could create a substantial product hazard. (See § 1115.12(f) for factors to be assessed in determining whether a substantial product hazard could exist.) If the subject firm determines that the defect could create a substantial product hazard, the subject firm must report to the Commission. Most defects could present a substantial product hazard if the public is exposed to significant numbers of defective products or if the possible injury is serious or is likely to occur. Since the extent of public exposure and/or the likelihood or seriousness of injury are ordinarily not known at the time a defect first manifests itself, subject firms are urged to report if in doubt as to whether a defect could present a substantial product hazard. On a case-by-case basis the Commission and the staff will determine whether a defect within the meaning of section 15 of the CPSA does, in fact, exist and whether that defect presents a substantial product hazard. Since a consumer product may be defective even if it is designed, manufactured, and marketed exactly as intended by a subject firm, subject firms should report if in doubt as to whether a defect exists. Defect, as discussed in this section and as used by the Commission and staff, pertains only to interpreting and enforcing the Consumer Product Safety Act. The criteria and discussion in this section are not intended to apply to any other area of the law.

§§ 1115.5–1115.9 [Reserved]

§ 1115.10 Persons who must report and where to report.

(a) Every manufacturer (including importer), distributor, or retailer of a consumer product that has been distributed in commerce who obtains information that such consumer product contains a defect which could create a substantial risk of injury to the public shall immediately notify the Product Defect Correction Division, Consumer Product Safety Commission, Washington, D.C. 20207 (telephone: 301-492-6608), or such other persons as may be designated. Manufacturers (including importers), distributors, and retailers of consumer products subject to regulation by the Commission under provisions of the FFA, FHSA, PPPA, as well as consumer products subject to regulation under the CPSA and RSA, must comply with this requirement.

(b) Every manufacturer (including importer), distributor, or retailer of a consumer product that has been distributed in commerce who obtains information that such consumer product fails to comply with an applicable consumer product safety standard or ban issued under the CPSA shall immediately notify the Commission's Product Defect Correction Division or such other persons as may be designated. A subject firm need not report a failure to comply with a standard or regulation issued under the provisions of the RSA, FFA, FHSA, or PPPA unless it can be reasonably concluded that the failure to comply results in a defect which could create a substantial product hazard. (See § 1115.10(a).)

(c) A distributor or retailer of a consumer product (who is neither a manufacturer nor an importer of that product) is subject to the reporting requirements of section 15(b) of the CPSA but may satisfy them by following the procedure detailed in § 1115.13(b).

(d) A manufacturer (including an importer), distributor, or retailer need not inform the Commission under section 15(b) of the CPSA if that person has actual knowledge that the Commission has been adequately informed of the defect or failure to comply. (See section 15(b) of the CPSA.)

§ 1115.11 Imputed knowledge.

(a) In evaluating whether or when a subject firm should have reported, the Commission will deem a subject firm to have obtained reportable information when the information has been received by an official or employee who may reasonably be expected to be capable of appreciating the significance of the information. (See § 1115.14(b).)

(b) In evaluating whether or when a subject firm should have reported, the Commission will deem a subject firm to know what a reasonable person acting in the circumstances in which the firm finds itself would know. Thus, the subject firm shall be deemed to know what it would have known if it had exercised due care to ascertain the truth of complaints or other representations. This includes the knowledge a firm would have if it conducted a reasonably expeditious investigation in order to evaluate the reportability of a death or grievous bodily injury or other information. (See § 1115.14.)

§ 1115.12 Information which should be reported; evaluating substantial product hazard.

(a) *General.* Subject firms should not delay reporting in order to determine to a certainty the existence of a noncompliance or a defect and the substantiality of a possible hazard. The obligation to report arises upon receipt of information from which one could reasonably conclude the existence of a noncompliance or of a defect which could create a substantial product hazard. Thus an obligation to report may arise when a subject firm receives the first information regarding a potential hazard or noncompliance. (See § 1115.14(c).) A subject firm in its report to the Commission need not admit or may specifically deny that the information it submits reasonably supports the conclusion that its consumer product is noncomplying or contains a defect which could create a substantial product hazard within the meaning of section 15(b) of the CPSA. After receiving the report, the staff will preliminarily determine whether the noncompliance or defect presents a substantial product hazard. This determination can be based on information supplied by a subject firm or from any other source. If the matter is adjudicated, the Commission will ultimately make the decision as to

substantial product hazard or will seek to have a court make the decision as to imminent product hazard.

(b) *Failure to comply.* Information indicating that a consumer product fails to comply with an applicable consumer product safety standard or ban issued under the CPSA must be reported.

(c) *Death or grievous bodily injury.* Information indicating that a noncompliance or a defect in a consumer product has caused, may have caused, or contributed to the causing, or could cause or contribute to the causing of a death or grievous bodily injury (e.g., mutilation, amputation/dismemberment, disfigurement, loss of important bodily functions, debilitating internal disorders, severe burns, severe electrical shocks, and injuries likely to require extended hospitalization) must be reported, unless the subject firm has investigated and determined that the information is not reportable.

(d) *Other information indicating a defect or noncompliance.* Even if there are no reports of a potential for or an actual death or grievous bodily injury, other information may indicate a reportable defect or noncompliance. In evaluating whether or when a subject firm should have reported, the Commission will deem a subject firm to know what a reasonable and prudent manufacturer (including an importer), distributor, or retailer would know. (See § 1115.11.)

(e) *Information which should be studied and evaluated.* The following are examples of information which a subject firm should study and evaluate in order to determine whether it is obligated to report under section 15(b) of the CPSA:

(1) Information about engineering, quality control, or production data suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

(2) Information about safety-related production or design change(s) suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

(3) Product liability suit(s) suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

(4) Information from an independent testing laboratory suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

(5) Complaint(s) from a consumer or consumer group indicating the existence of a noncompliance or of a defect which could create a substantial product hazard.

(6) Information received from the Commission or another governmental agency indicating the existence of a noncompliance or of a defect which could create a substantial product hazard.

(7) Information received from other firms, including requests to return a product or for replacement or credit, indicating the existence of a noncompliance or of a defect which could create a substantial product hazard. This includes both requests made by distributors and retailers to the manufacturer and requests from the manufacturer that products be returned.

(f) *Evaluating substantial risk of injury.* Information which should be or has been reported under section 15(b) of the CPSA does not automatically indicate the presence of a substantial product hazard. On a case-by-case basis the Commission and the staff will determine whether a defect or noncompliance exists and whether it results in a substantial risk of injury to the public. In deciding whether to report, subject firms may be guided by the following criteria the staff and the Commission use in determining whether a substantial product hazard exists:

(1) *Hazard created by defect.* Section 15(a)(2) of the CPSA lists factors to be considered in determining whether a defect creates a substantial risk of injury. These factors are set forth in the disjunctive. Therefore, the existence of any one of the factors could create a substantial product hazard. The Commission and the staff will consider some or all of the following factors, as appropriate, in determining the substantiality of a hazard created by a product defect:

(i) *Pattern of defect.* The Commission and the staff will consider whether the defect arises from the design, composition, contents, construction, finish, packaging, warnings, or instructions of the product or from some other cause and will consider the conditions under which the defect manifests itself.

(ii) *Number of defective products distributed in commerce.* Even one defective product can present a substantial risk of injury and provide a basis for a substantial product hazard determination under section 15 of the CPSA if the injury which might occur is serious and/or if the injury is likely to occur. However, a few defective products with no potential for causing serious injury and little likelihood of injuring even in a minor way will not ordinarily provide a proper basis for a substantial product hazard determination.

(iii) *Severity of the risk.* A risk is severe if the injury which might occur is serious and/or if the injury is likely to occur. In considering the likelihood of any injury the Commission and the staff will consider the number of injuries reported to have occurred, the intended or reasonably foreseeable use or misuse of the product, and the population group exposed to the product (e.g., children, elderly, handicapped).

(iv) *Other considerations.* The Commission and the staff will consider all other relevant factors.

(2) *Hazard presented by noncompliance.* Section 15(a)(1) of the CPSA states that a substantial product hazard exists when a failure to comply with an applicable consumer product safety rule creates a substantial risk of injury to the public. Therefore, the Commission and staff will consider whether the noncompliance is likely to result in injury when determining whether the noncompliance creates a substantial product hazard. As appropriate, the Commission and staff may consider some or all of the factors set forth in § 1115.12(f)(1) in reaching the substantial product hazard determination.

§ 1115.13 Content and form of reports; delegations of authority.

(a) *Written reports.* The chief executive officer of the subject firm should sign any written reports to the Commission under section 15(b) of the CPSA unless this responsibility has been delegated by filing a written delegation of authority with the Commission's Product Defect Correction Division. Delegations of authority filed with the Commission under section 1115.9 of the previous regulations interpreting section 15 of the CPSA will remain in effect until revoked by the chief executive officer of the subject firm. The delegation may be in the following form:

DELEGATION OF AUTHORITY

(Name of company) _____.

I _____ hereby certify that I am Chief Executive Officer of the above-named company and that as such I am authorized to sign documents and to certify on behalf of said company the accuracy and completeness of information in such documents.

Pursuant to the power vested in me, I hereby delegate all or, to the extent indicated below, a portion of that authority to the person listed below.

This delegation is effective until revoked in writing. Authority delegated to:

(Name) _____

(Address) _____

(Title) _____

Extent of authority: _____

_____

_____

Signed:

(Name) _____

(Address) _____

(Title) _____

(b) *Distributors and retailers.* A distributor or retailer of a possibly defective or noncomplying consumer product (who is neither a manufacturer nor an importer of that product) satisfies the initial reporting requirements either by telephoning or writing the

Product Defect Correction Division, Consumer Product Safety Commission, Washington, D.C. 20207; by sending a letter describing the defective or noncomplying product to the manufacturer (or importer) of the product and sending a copy of the letter to the Commission's Product Defect Correction Division; or by forwarding to the Commission's Product Defect Correction Division reportable information received from another firm. A distributor or retailer who receives reportable information from a manufacturer (or importer) shall report to the Commission unless the manufacturer (or importer) informs the distributor or retailer that a report has been made to the Commission. A report under this subsection should contain the information detailed in § 1115.13(c) insofar as it is known to the distributor or retailer. Unless further information is requested by the staff, this action will constitute a sufficient report insofar as the distributor or retailer is concerned.

(c) *Initial report.* Immediately after a subject firm has obtained information which reasonably supports the conclusion that a product fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial risk of injury to the public, the subject firm should provide the Product Defect Correction Division, Consumer Product Safety Commission, Washington, D.C. 20207 (telephone: 301-492-6608), with an initial report containing the information listed below. This initial report may be made by any means; but if it is not in writing, it should be confirmed in writing within 48 hours of the initial report. (See § 1115.14 for time computations.) The initial report should contain, insofar as is reasonably available and/or applicable:

(1) An identification and description of the product.

(2) The name and address of the manufacturer (or importer) or, if the manufacturer or importer is not known, the names and addresses of all known distributors and retailers of the product.

(3) The nature and extent of the possible defect or the failure to comply with an applicable consumer product safety rule.

(4) The nature and extent of the injury or risk of injury associated with the product.

(5) The name and address of the person informing the Commission.

(6) To the extent such information is then reasonably available, the data specified in § 1115.13(d).

(d) *Full report.* Subject firms which file initial reports are required to file full reports in accordance with this subsection. Retailers and distributors may satisfy their reporting obligations in accordance with 1115.13(b). At any time after an initial report, the staff may modify the requirements detailed in this section with respect to any subject firm. If the staff preliminarily determines that there is no substantial product hazard, it may inform the firm that its reporting obligation has been fulfilled. However, a subject firm would be required to report if it later became aware of new information indicating a reportable defect or noncompliance, whether the new information related to the same or another consumer product. Unless modified by staff action, the following information, to the extent that it is reasonably available and/or applicable, constitutes a "full report," must be submitted to the staff, and must be supplemented or corrected as new or different information becomes known:

(1) The name, address, and title of the person submitting the "full report" to the Commission.

(2) The name and address of the manufacturer (or importer) of the product and the addresses of the manufacturing plants for that product.

(3) An identification and description of the product(s). Give retail prices, model numbers, serial numbers, and date codes. Describe any identifying marks and their location on the product. Provide a picture or a sample of the product.

(4) A description of the nature of the defect or failure to comply with an applicable consumer product safety rule. If technical drawings, test results, schematics, diagrams, blueprints, or other graphic depictions are available, attach copies.

(5) The nature of the injury or the possible injury associated with the product defect or failure to comply with an applicable consumer product safety rule.

(6) The manner in which and the date when the information about the defect or noncompliance (e.g., complaints, reported injuries, quality control testing) was obtained. If any complaints related to the safety of the product or any allegations or reports of injuries associated with the product have been received, copies of such complaints or reports (or a summary thereof) shall be attached. Give a chronological account of facts or events leading to the report under section 15(b) of the CPSA, beginning with receipt of the first information which ultimately led to the report. Also included may be an analysis of these facts or events.

(7) The total number of products and units involved.

(8) The dates when products and units were manufactured, imported, distributed, and sold at retail.

(9) The number of products and units in each of the following: in the possession of the manufacturer or importer, in the possession of private labelers, in the possession of distributors, in the possession of retailers, and in the possession of consumers.

(10) An explanation of any changes (e.g., designs, adjustments, additional parts, quality control, testing) that have been or will be effected to correct the defect or failure to comply and of the steps that have been or will be taken to prevent similar occurrences in the future together with the timetable for implementing such changes and steps.

(11) Information that has been or will be given to purchasers, including consumers, about the defect or noncompliance with a description of how this information has been or will be communicated. This shall include copies or drafts of any letters, press releases, warning labels, or other written information that has been or will be given to purchasers, including consumers.

(12) The details of and schedule for any contemplated refund, replacement, or repair actions, including plans for disposing of returned products (e.g., repair, destroy, return to foreign manufacturer).

(13) A detailed explanation and description of the marketing and distribution of the product from the manufacturer (including importer) to the consumer (e.g., use of sales representatives, independent contractors, and/or jobbers; installation of the product, if any, and by whom).

(14) Upon request, the names and addresses of all distributors, retailers, and purchasers, including consumers.

(15) Such further information necessary or appropriate to the functions of the Commission as is requested by the staff.

§ 1115.14 Time computations.

(a) *General.* Weekends and holidays are excluded from the computation of the time periods in this part.

(b) *Imputing knowledge.* In evaluating whether or when a firm should have reported, the Commission shall impute to the subject firm knowledge of product safety related information received by an official or employee of a subject firm capable of appreciating the significance of the information. Under ordinary circumstances, 5 days should be the maximum reasonable time for information to reach the Chief Executive Officer or the official or employee responsible for complying with the reporting requirements of section 15(b) of the CPSA. The Commission will impute knowledge possessed by the Chief Executive Officer or by the official or employee responsible for complying with the reporting requirements of section 15(b) of the

CPSA simultaneously to the subject firm.

(c) *Time when obligation to report arises.* The obligation to report under section 15(b) of CPSA may arise upon receipt by a subject firm of the first information regarding a noncompliance or a potential hazard presented by a product defect. Information giving rise to a reporting obligation may include, but is not limited to, complaints, injury reports, quality control and engineering data. A subject firm should not await complete or accurate risk estimates before reporting under section 15(b) of CPSA. However, if information is not clearly reportable, a subject firm may spend a reasonable time for investigation and evaluation. (See § 1115.14(d).)

(d) *Time for investigation and evaluation.* A subject firm may conduct a reasonably expeditious investigation in order to evaluate the reportability of a death or grievous bodily injury or other information. This investigation and evaluation should not exceed 10 days unless a firm can demonstrate that a longer period is reasonable. The Commission will deem that, at the end of 10 days, a subject firm has received and considered all information which would have been available to it had a reasonable, expeditious, and diligent investigation been undertaken.

(e) *Time to report.* Immediately, that is, within 24 hours, after a subject firm has obtained information which reasonably supports the conclusion that its consumer product fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial risk of injury to the public, the firm should report. (See § 1115.13.) If a firm elects to conduct an investigation in order to evaluate the existence of reportable information, the 24-hour period begins when the subject firm has information which reasonably supports the conclusion that its consumer product fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard. Thus, a firm could report to the Commission before the conclusion of a reasonably expeditious investigation and evaluation if the reportable information becomes known during the course of the investigation. In lieu of conducting an investigation, the firm may report the information immediately.

§ 1115.15 Confidentiality and disclosure of data.

(a) *General.* The Commission does not routinely make reports available to the public until the staff has made a preliminary hazard determination. Copies of reports will not be available to the public in the Commission's public reading room, and information contained in reports will not ordinarily be disclosed to the public in the absence of a formal request.

(b) *Freedom of Information Act.* Any person who submits information to the Commission who believes that any portion of the information is entitled to exemption from public disclosure under the provisions of the Freedom of Information Act, as amended (15 U.S.C. 552(b)), of the CPSA, as amended, or of another Federal statute must accompany the submission with a written request that the information be considered exempt from disclosure or indicate that a written request will be submitted within 10 working days of the submission. The request shall (1) identify the portions of the information for which exemption is claimed, which may include the identity of the reporting firm and the fact that it is making a report, and (2) state the facts and reasons which support the claimed exemption. After the staff has made its preliminary hazard determination, and regardless of whether or not the staff preliminarily determines that a product presents a substantial product hazard, the Commission will no longer honor requests for exempt status for the identity of the reporting firm, the identity of the consumer product, and the nature of the reported alleged defect or noncompliance. This information, together with the staff's preliminary hazard determination, will be made available to the public in the Commission's public reading room. Information for which exempt status is claimed (such as alleged trade secrets, confidential commercial or financial information, or information the disclosure of which would constitute an unwarranted invasion of personal privacy) shall not be released to the public except in accordance with the applicable statute or the Commission's Freedom of Information Act regulations (16 CFR 1015).

(c) *Section 6(b) of the CPSA.* The Commission believes that the first two sentences in section 6(b)(1) of the CPSA (15 U.S.C. 2055(b)(1)) apply to affirmative dissemination of information by the Commission (such as press releases or fact sheets distributed to the public) from which the public may ascertain readily the identity of the product's manufacturer and/or private labeler. Manufacturers and private labelers will ordinarily be given 30 days' notice before the Commission makes such affirmative disseminations. However, this 30-day notice will not apply if the Commission finds that a lesser notice period is required in the interest of public health and safety.

§§ 1115.16–1115.19 [Reserved]

Subpart B—Remedial Actions and Sanctions

§ 1115.20 Voluntary remedial actions.

As appropriate, the Commission will attempt to protect the public from substantial product hazards by seeking one or more of the following voluntary remedies:

(a) *Corrective action plans.* A corrective action plan is a document, signed by a subject firm, which sets forth the remedial action which the firm will voluntarily undertake to protect the public, but which has no legally binding effect. The Commission reserves the right to seek broader corrective action if it becomes aware of new facts or if the corrective action plan does not sufficiently protect the public.

(1) Corrective action plans shall include, as appropriate:

(i) A statement of the nature of the alleged hazard associated with the product, including the nature of the alleged defect or noncompliance and type(s) of injury or potential injury presented.

(ii) A detailed statement of the means to be employed to notify the public of the alleged product hazard (e.g., letter, press release, advertising), including an identification of the classes of persons who will receive such notice and a copy or copies of the notice or notices to be used.

(iii) A specification of model number and/or other appropriate descriptions of the product.

(iv) Any necessary instructions regarding use or handling of the product pending correction.

(v) An explanation of the specific cause of the alleged substantial product hazard, if known.

(vi) A statement of the corrective action which will be or has been taken to eliminate the alleged substantial product hazard. The firm should indicate whether it is repairing or replacing the product or refunding its purchase price. If products are to be returned to a subject firm, the corrective action plan should indicate their disposition (e.g., reworked, destroyed, returned to foreign manufacturer). Samples of replacement products and relevant drawings and test data for repairs or replacements should be available.

(vii) A statement of the steps that will be, or have been, taken to reasonably prevent recurrence of the alleged substantial product hazard in the future.

(viii) A statement of the action which will be undertaken to correct product units in the distribution chain, including a timetable and specific information about the number and location of such units.

(ix) The signatures of representatives of the subject firm.

(x) An acknowledgment by the subject firm that the Commission may monitor the corrective action and that the firm will furnish necessary information, including customer lists.

(xi) An agreement that the Commission may publicize the terms of the plan to the extent necessary to inform the public of the nature and extent of the alleged substantial product hazard and of the actions being undertaken to correct the alleged hazard presented.

(xii) Additional points of agreement, as appropriate.

(xiii) If desired by the subject firm, the following statement or its equivalent: "The submission of this corrective action plan does not constitute an admission by (the subject firm) that either reportable information or a substantial product hazard exists."

(xiv) An acknowledgment that the corrective action plan becomes effective only upon its final acceptance by the Commission.

(2) In determining whether to recommend to the Commission acceptance of a corrective action plan, the staff shall consider favorably both the promptness of the subject firm's reporting and any remedial actions taken by the subject firm in the interest of public safety. The staff also shall consider, insofar as possible, prior involvement by the subject firm in corrective action plans and Commission orders if such involvement bears on the likelihood that the firm will comply fully with the terms of the corrective action plan.

(3) Upon receipt of a corrective action plan and staff recommendation, the Commission may: (i) approve the plan; (ii) reject the plan and issue a complaint (in which case an administrative and/or judicial proceeding will be commenced); or (iii) take any other action necessary to insure that the plan is adequate.

(4) When time permits and where practicable in the interest of protecting the public, a summary of the plan shall be published in the Commission's Public Calendar. Those portions of the plan that are not restricted will be made available to the public in the Commission's public reading room as much in advance of the Commission meeting as practicable. Any interested person wishing to comment on the plan must file a Notice of Intent to Comment at least forty-eight (48) hours prior to the commencement of the Commission meeting during which the plan will be discussed. If no notices of intent are received, the Commission may take final action on the plan. If such notice is received within the time limits detailed above, the plan will, if practicable, be docketed for the following week's agenda. All comments must be in writing, and final written comments must be submitted at least forty-eight (48) hours before that session.

(b) *Consent Order Agreements Under Section 15 of CPSA.* The consent order agreement (agreement) is a document executed by a subject firm (Consenting Party) and a Commission staff representative which incorporates both a proposed complaint setting forth the staff's charges and a proposed order by which such charges are resolved.

(1) Consent order agreements shall include, as appropriate:

(i) An admission of all jurisdictional facts by the Consenting Party.

(ii) A waiver of any rights to an administrative or judicial hearing and of any other procedural steps, including any rights to seek judicial review or otherwise challenge or contest the validity of the Commission's Order.

(iii) A statement that the agreement is in settlement of the staff's charges.

(iv) A statement that the Commission's Order is issued under section 15 of the CPSA (15 U.S.C. 2064) and that a violation is a prohibited act within the meaning of section 19(a)(5) of the CPSA (15 U.S.C. 2068(a)(5)) and may subject a violator to civil and/or criminal penalties under sections 20 and 21 of the CPSA (15 U.S.C. 2069 and 2070).

(v) An acknowledgment that the Commission reserves its right to seek sanctions for any violations of the reporting obligations of section 15(b) of CPSA (15 U.S.C. 2064(b)) and its right to take other appropriate legal action.

(vi) An acknowledgment that the agreement becomes effective only upon its final acceptance by the Commission and its service upon the Consenting Party.

(vii) An acknowledgment that the Commission may disclose terms of the consent order agreement to the public.

(viii) A listing of the acts or practices from which the Consenting Party will refrain.

(ix) A statement that the Consenting Party shall perform certain acts and practices pursuant to the agreement.

(x) An acknowledgment that any interested person may bring an action pursuant to section 24 of the CPSA (15 U.S.C. 2073) in any U.S. district court for the district in which the Consenting Party is found or transacts business to enforce the order and to obtain appropriate injunctive relief.

(xi) A description of the alleged substantial product hazard.

(xii) If desired by the Consenting Party, the following statement or its equivalent: "The signing of this consent order agreement does not constitute an admission by (the Consenting Party) that either reportable information or a substantial product hazard exists."

(xiii) The elements of a corrective action plan as set forth in § 1115.20(a).

(2) At any time in the course of an investigation, the staff may propose to a subject firm which is being investigated that some or all of the allegations be resolved by a consent order agreement. Additionally, such a proposal may be made to the staff by a subject firm.

(3) Upon receiving an executed agreement, the Commission may: (i) provisionally accept it; (ii) reject it and issue a complaint (in which case an administrative and/or judicial proceeding will be commenced); or (iii) take such other action as it may deem appropriate.

(4) If the consent order agreement is provisionally accepted, the Commission shall place the agreement on the public record and shall announce provisional acceptance of the agreement in the Commission's public calendar and in the FEDERAL REGISTER. Any interested person may request the Commission not to accept the agreement by filing a written request in the Office of the Secretary. Such written request must be received in the Office of the Secretary no later than the close of business of the fifteenth (15th) calendar day following the date of announcement in the FEDERAL REGISTER.

(5) If the Commission does not receive any requests not to accept the agreement within the time period specified above, the consent order agreement shall be deemed finally accepted by the Commission on the twentieth (20th) calendar day after the date of announcement in the FEDERAL REGISTER, unless the Commission determines otherwise. However, if the Commission does receive a request not to accept the consent order agreement, then it will consider such request and vote on the acceptability of such agreement or the desirability of further action. After the consent order agreement is finally accepted, the Commission may then issue its complaint and order in such form as the circumstances may require. The order is a final order in disposition of the proceeding and is effective immediately upon its service upon the Consenting Party pursuant to the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR 1025). The Consenting Party shall thereafter be bound by and take immediate action in accordance with such final order.

(6) If the Commission does not accept the consent order agreement on a final basis, it shall so notify the Consenting Party. Such notification constitutes withdrawal of the Commission's provisional acceptance unless the Commission orders otherwise. The Commission then may: (i) Issue a complaint, in which case an administrative

and/or judicial proceeding will be commenced; (ii) order further investigation; or (iii) take such other action as it may deem appropriate.

§ 1115.21 Compulsory remedial actions.

As appropriate, the Commission will attempt to protect the public from hazards presented by consumer products by seeking one or more of the following:

(a) *Adjudicated Commission Order.* An adjudicated Commission Order under section 15 (c) or (d) of the CPSA may be issued after parties and interested persons have had an opportunity for a hearing in accordance with section 554 of title 5, United States Code, and with section 15(f) of the CPSA. This hearing is governed by the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR 1025).

(b) *Injunctive relief.* The Commission may apply to a U.S. district court in accordance with the provisions of section 15(g) of the CPSA for a preliminary injunction to restrain the distribution in commerce of a product it has reason to believe presents a substantial product hazard. The Commission may seek enforcement of its orders issued under sections 15 (c) and (d) of the CPSA in accordance with provisions of sections 22 and 27(b)(7) of the CPSA (15 U.S.C. 2071 and 2076(b)(7)).

(c) *Judicial determination of imminent hazard.* The Commission may file a complaint in a U.S. district court in accordance with the provisions of section 12 of the CPSA (15 U.S.C. 2061).

(d) *Orders of the Secretary of the Treasury.* The Commission staff may inform the Secretary of the Treasury that a consumer product offered for importation into the customs territory of the United States fails to comply with an applicable consumer product safety rule and/or has a product defect which constitutes a substantial product hazard. The Commission may request the Secretary of the Treasury under section 17 of the CPSA (15 U.S.C. 2066) to refuse admission to any such consumer product.

§ 1115.22 Prohibited acts and sanctions.

(a) *Statements generally.* Whoever knowingly and willfully falsifies, or conceals a material fact in a report under the CPSA and rules thereunder, is subject to criminal penalties under 18 U.S.C. 1001.

(b) *Timeliness and adequacy of reporting.* A failure to inform the Commission immediately and adequately, as required by section 15(b) of the CPSA, is a prohibited act within section 19(a)(4) of the CPSA (15 U.S.C. 2068(a)(4)).

(c) *Failure to make reports.* The failure or refusal to make reports or provide information as required under the CPSA is a prohibited act within the meaning of section 19(a)(3) of the CPSA (15 U.S.C. 2068(a)(3)).

(d) *Noncomplying products.* The manufacture for sale, offering for sale, distribution in commerce, and/or importation into the United States of a consumer product which is not in conformity with an applicable consumer product safety rule under CPSA is a prohibited act within the meaning of sections 19 (a)(1) and (a)(2) of the CPSA (15 U.S.C. 2068 (a)(1) and (a)(2)).

(e) *Orders issued under section 15 (c) and/or (d).* The failure to comply with an order issued under section 15 (c) and/or (d) of the CPSA is a prohibited act within the meaning of section 19(a)(5) of the CPSA (15 U.S.C. 2068(a)(5)).

(f) *Consequences of engaging in prohibited acts.* A knowing violation of section 19(a) of the CPSA subjects the violator to a civil penalty in accordance with section 20 of the CPSA (15 U.S.C. 2069). "Knowing," as defined in section 20(c) of the CPSA (15 U.S.C. 2069(c)), means the having of actual knowledge or the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations. A knowing and willful violation of section 19(a), after the violator has received notice of noncompliance, subjects the violator to criminal penalties in accordance with section 21 of the CPSA (15 U.S.C. 2070).

Dated: July 31, 1978.

SHELDON D. BUTTS,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-21811 Filed 8-4-78; 8:45]

Federal Register

MONDAY, AUGUST 7, 1978
PART V

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

■

USE AND DISPOSITION OF PROPERTY ACQUIRED BY STATES FOR MODIFIED OR TERMINATED HIGHWAY PROJECTS

[4910-2]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 480]

FHWA Docket No. 78-19; Notice No. 78-1]

MODIFIED OR TERMINATED HIGHWAY PROJECTS

Use and Disposition of Property Acquired by States

AGENCY: Federal Highway Administration, Department of Transportation.

ACTION: Notice of proposed rule making.

SUMMARY: The Federal Highway Administration (FHWA) proposes this regulation to prescribe the disposition and use of property acquired by states with the participation of Federal-aid highway funds in connection with highway projects which are subsequently modified or terminated.

On August 24, 1977, the Office of Management and Budget (OBM) promulgated revised Circular A-102, establishing uniform administrative requirements for grants-in-aid to State and local governments. Attachment N to this circular provides uniform standards governing the use and disposition of propoerty acquired in whole or in part with Federal funds. These propsed rules implement the standards of OMB Circular A-102, Attachment N, as they apply to the Federal-aid highway program.

COMMENT CLOSING DATE: October 6, 1978.

ADDRESS FOR COMMENTS: Comments submitted should refer to FHWA Docket No. 78-19 and be sent (preferably in triplicate) to Federal Highway Administration, Room 4205 (HCC-10), 400 Seventh Street SW., Washington, D.C. 20590. All comments submitted will be available for public inspection both before and after the closing date at the above address. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday-Friday.

FOR FURTHER INFORMATION CONTACT:

Lawrence A. Staron, Chief, Interstate Reports Branch, Office of Engineering, FHWA, 202-426-0404.

Frank Calhoun, Attorney, Office of the Chief Counsel, FHWA, 202-426-0762.

or

Robert C. Ashby, Attorney, Office of the General Counsel, Office of the Secretary of Transportation (OTS), 202-426-4710.

The address of these individuals is 400 Seventh Street SW., Washington, D.C. 20590. Normal business hours are 7:45 a.m. to 4:15 p.m. in FHWA and 9 a.m. to 5:30 p.m. in OST, Monday through Friday. All times given are eastern time.

SUPPLEMENTARY INFORMATION: Title 23 does not provide for the disposition of property acquired by States with the participation of Federal-aid highway funds. Often, when a State modifies or terminates a highway project, the State will have already used Federal highway funds to purchase right-of-way and other property. The question of the future use and disposition of the property then arises. In the past, FHWA followed an administrative policy requiring the repayment of the Federal share of the cost of certain kinds of property. The repayment demands generally were made upon the modification or termination of a project or before the property was put to a new use.

On June 27, 1978, the Secretary of Transportation announced a change in this policy. The new policy seeks to limit the occasions on which States will have to make repayment to the Federal Government for the reuse of property no longer needed for highway purposes. There are several reasons why this policy change is desirable. In a number of cases, States in the 1950's and 1960's planned extensive freeway systems in major urban areas. Land was acquired for these planned highways, and buildings were torn down or fell into disrepair. In many cases, the highway project was later abandoned. The vacant land, often in or near the central city, may be very important to the revitalization of the urban centers. Such urban revitalization is a cornerstone of the Presiden's urban policy. Department of Transportation policy should encourage, rather than discourage, the use of land formerly intended for a terminated highway project for purposes consistent with urban revitalization. Requiring repayment of highway funds to the Federal Government as a prerequisite to a new use for the land discourages such use. A policy which does not requre repayment when an appropriate new use is found for the land encourages and facilitates important new urban projects.

Policy direction applicable to the entire Federal Government supports this new approach. OMB Circular A-102, Attachment N (Aug. 24, 1977), provides that when a recipient of Federal funds no longer can use property acquired with the participation of Federal funds for its original purpose, it can use the property in connection with another Federal program or a State or local program consistent with the programs of the grantor agency. For example, a State might use land once intended for a freeway as a site for a HUD-sponsored housing project or a state-funded park. The State would not have to make any repayment to the Federal Government if it found such a reuse. Any such new use must be approved by the grantor agency. Only if the State chooses not to use the property for an approved new use and sells the property or keeps it for another purpose would the State be required to repay the Federal share of the original cost of the property.

Congress has provided similar direction. A 1975 FHWA Notice of Proposed rulemaking (40 FR 53252; Nov. 17, 1975) required the repayment of the Federal share of funds expended on Interstate segments automatically upon the termination of a project, without regard to the future use or disposition of property acquired for the segment. Congress, believing that this policy would unfairly penalize States who used the Interstate transfer statutes and therefore deter the use of these laws, blocked implementation of the proposed rules by enacting section 110(b) of the Federal-Aid Highway Act of 1976. This section provides that:

> * * * The State shall not be required to refund to the Highway Trust Fund any sums previously paid to the State for the withdrawn route or portion of the Interstate System as long as said sums were applied to a transportation project permissible under this title.

This section prohibited "payback" requirements in Interstate transfer situations as long as said sums were applied, when originally expended, to a transportation project. Fairness, OMB Circular A-102 and the President's urban policy require the Department to avoid the requirement of payback in other situations as well.

The regulations in this part apply the standards of OMB Circular A-102, Attachment N, to the circumstances of the Federal-aid highway program. Certain parts of the OMB circular are not applicable to the highway program; these portions have been omitted or modified.

EXPLANATION OF PROPOSED REGULATIONS

480.101 Purpose. The regulations are intended to prescribe the use and disposition of property acquired by States with the participation of Federal-aid highway funds when, because of the modification or termination of a highway project, the property is no longer needed for purposes of the hgihway project.

480.103 Applicability. The regulations apply to the disposition and use of property acquired in connection with and no longer need for highway

projects on any Federal-aid system—Interstate, primary, secondary or urban. The OMB circular does not distinguish among types of Federal programs to which its standards apply, and the Department's application of the circular's standard therefore treats projects on all Federal-aid systems consistently. The regulations apply to all uses and dispositions of such property after the effective date of this part, but do not apply to property connected with projects which prior to the effective date have been closed by payment of a final voucher. This limitation is intended to prevent the reopening of previously closed projects and the consequent administrative and fiscal uncertainty that would result. The regulations do not affect the obligations of States with respect to funds they have "borrowed" from the revolving fund for the advance acquisition of right-of-way under 23 U.S.C. 108(c).

Subsection (b) is a *de minimis* exception to the coverage of the part, designed to relieve states from the administrative and fiscal requirements of the regulations with respect to small, unimportant parcels of land.

Section 480.105 Definitions. This section defines "intangible items of cost," "real property," and "tangible personal property." The terms are defined in their commonly-understood meanings, and are consistent with the definitions in the OMB circular. Other terms defined by the OMB circular have been omitted as not germane to the highway program.

Section 480.107 Use of Real Property for Other Programs. Real property acquired for highway right-of-way is the most important kind of property affected by the Secretary of Transportation's new policy and this part. Section 480.107 provides for the reuse of such property for other purposes. Subsection (a) provides that when property is no longer needed for a highway project, the property may be used for a project under another Federal grant program. The project may be one funded by DOT (e.g., a mass transit facility) or one funded by another Federal agency (e.g., a HUD housing project). Alternatively, the property may be used in connection with a State or local program, the purpose of which is consistent with the purpose of programs funded by the Department of Transportation. The standard for consistency with DOT programs is intentionally broad. State and local transportation projects (except projects for toll roads), recreation and conservation programs (such as parks), programs for the restoration and revitalization of urban areas, and other programs consistent with the public interest are to be deemed consistent with Department of Transportation programs.

As the OMB Circular requires, subsections (b) and (c) call for the Administrator to review and approve or disapprove proposed reuses of real property. The State must give the Administrator a finding that the property is no longer needed for a highway purpose and explain why it is not. Because the basis for this finding and explanation will have been laid at the time of the modification or termination of the highway project, this portion of the requirements of the subsection should create little additional paperwork for States. The State must certify that the proposed reuse is consistent with State law and also describe the proposed substitute use for the property, including enough specificity and detail to permit the Administrator to make an informed decision on the proposal. In order to prevent undue delays in State action proposing reuses for property, such proposals must be made within 10 years of the modification or termination of a highway project which rendered the property superfluous for highway purposes. In order that the new policy not work a hardship on States, they may have at least 2 years from the effective date of the regulations to make application, however.

Subsection (c) directs the Administrator to approve or disapprove the proposed reuse of the property. This approval relieves the State from any obligation to repay the Federal Government: *Provided,* That the State actually implements the approved reuse within 6 years. Where extenuating circumstances exist, the Admininstrator can extend this time limit.

Subsection (d) imposes three constraints on the Administrator's approval of proposed substitute projects. The Department of Transportation does not intend to intervene deeply in the state and local planning process; however, the Department could not responsibly approve a project which would violate Federal law (e.g. the Clean Air Act, Title VI of the Civil Rights Act of 1964). In addition, some States have laws which prescribe the disposition of land acquired but no longer needed for highway purposes (e.g. requiring the land to be offered for resale to the original owner). Only if the State has observed such laws should the Administrator approve a reuse of property. Finally, it is inappropriate that States should use land acquired substantially with Federal aid, or its value, as part of the matching share for another Federal program. This would result in Federal money being used indirectly to match other Federal money, which would be inconsistent with the principle of Federal-State matching programs.

480.109 Other Dispositions of Real Property. When an approved reuse for property cannot be found, a State fails to make a timely proposal for reuse, or the State fails to implement an approved reuse in a timely fashion, the Administrator shall direct the State to make one of two dispositions of the property. While this section properly vests discretion in the Administrator to make this choice, it is contemplated that the Administrator will give substantial weight to the wishes of the State seeking to dispose of the property.

The first option is for the State to keep the property for whatever purpose it likes, in which case it will credit to Federal funds an amount determined by applying the Federal percentage of participation in the original acquisition cost to the current fair market value of the property. The second option is for the State to sell the property, again crediting Federal funds, in an amount calculated in this case by applying the Federal percentage of participation in the original cost of acquisition to the sale proceeds. The State can deduct sale and maintenance expenses from the proceeds. The State must employ sound sales procedures which promote competition and result in the highest possible return. The Administrator may promulgate guidelines governing sale under this provision.

With respect to property acquired for Interstate projects which have been withdrawn under the Interstate transfer statutes, 23 U.S.C. 103(e)(2) and 103(e)(4), the question of whether this section conflicts with section 110(b) of the Federal-Aid Highway Act of 1976 arises. Section 110(b) provides that States "shall not be required to refund to the Highway Trust Fund" highway funds previously paid to the State for the Interstate project withdrawn under the Interstate transfer statutes.

It has been concluded that a conflict with the statute does not exist. The primary aim of Congress in section 110(b) was to block the implementation of the 1975 proposed FHWA rules which automatically required "payback" whenever a State used the Interstate transfer statutes. Congress justifiably believed that such a requirement acted as a penalty for the use of the statutes, thereby deterring States from taking advantage of them. Therefore, Congress strongly wished to prevent the *requirement* of payback as a condition for the use of the Interstate transfer laws.

The proposed rules do not impose the kind of *requirement* of payback which Congress sought to prohibit. States have numerous options for the use of property which do not call for the payment of compensation to the

Federal Government. They can use the property for any of the wide variety of Federal, State or local programs permitted under this part. Only if they do not exercise one of these options in a timely manner do the States incur any repayment obligation.

Under these rules, while the State may in effect choose an option involving repayment, States are not *required* to repay the Federal Government just because they used the Interstate transfer statutes. Therefore, States are not penalized or deterred, and the congressional purpose for the Interstate transfer provisions is enhanced.

The Federal Highway Administration and the Office of the Secretary also considered an exception to the repayment provisions of the OMB Circular incorporated in this part. The exception, designed to apply to cases of withdrawals of Interstate projects under 23 U.S.C. 103(e)(4), would have permitted States to avoid repayment of the proceeds of sales of real and tangible personal property if they agreed in writing to use the proceeds for substitute transportation projects approved by the FHWA or the Urban Mass Transportation Administration, as appropriate.

It was decided not to include this provision in the proposed rules for a number of reasons. There did not appear to be any practical way in which the Department of Transportation could trace the funds realized from the sale of former highway property, making it difficult to monitor State compliance with agreements to use the funds for substitute transportation projects. It also appeared difficult to implement the exception consistent with the Department of Transportation policy against permitting States indirectly to use Federal funds to match other Federal funds provided for transportation projects under 23 U.S.C. 103(e)(4).

Comments are invited on the questions of whether an exception of this kind should be included in the regulations, how the exception should be framed, and how the problems in the operation of such an exception can be solved.

Section 480.111 Disposition and use of tangible personal property. The scheme for the disposition and use of tangible personal property parallels the provisions concerning real property to a considerabe extent. When they not longer need such property for highway purposes, the States may use it for purposes of other DOT programs or activities sponsored by other Federal agencies.

If no Federal program-related uses can be found, the State may keep or sell property with a project cost under $1,000 without repaying the Federal Government. If it keeps or sells personal property with a project cost of $1,000 or more, however, it must make a credit to Federal funds in an amount computed by applying the Federal percentage of participation in the original acquisition cost to the current fair market value of the property.

Section 480.113 Use of credits to Federal funds. This section provides that credits made to Federal funds by the States under this part shall be credited to the appropriate Federal-aid apportionment of the State (that is, if the credit is made with respect to property acquired for an urban system highway, the credit is made to the State's urban system apportionment). The credit shall be made to the apportionment as if it constituted "funds released" by the modification of a project agreement under 23 U.S.C. 118(b).

Section 480.115 Relocation assistance. When a project is modified or terminated, FHWA's obligations with regard to relocation assistance for persons or businesses displaced by the project come to an end. In order that persons or businesses displaced—either as the result of the original acquisition of the property or its reuse pursuant to this part—are not denied the relocation assistance that they would have received had the highway project been completed, the State must agree to assume the FHWA's relocation obligations. These obligations may be met either by the State directly or by a Federal agency participating in the substitute project. It should be emphasized that if the substitute project displaces persons and businesses that the highway project would not have displaced, the State's relocation obligations extend to these additional persons and businesses.

Section 480.117 Property management. Until the Administrator approves a substitute use for real property, the State reuses tangible personal property for another Federal program, or the State sells or otherwise disposes of any property, the FHWA's normal property management standards shall apply to the property, even though the project has been modified or terminated.

Section 480.119 Intangible items of cost. States need not credit Federal funds for any intangible items of cost upon which the State expended Federal-aid highway funds in connection with a modified or terminated project. Basically, these regulations do not concern themselves with intangible items.

Issued at Washington, D.C., July 31, 1978.

KARL S. BOWERS,
Acting Federal Highway Administrator.

PART 480—USE AND DISPOSITION OF PROPERTY ACQUIRED BY STATES FOR MODIFIED OR TERMINATED HIGHWAY PROJECTS

Sec.
480.101 Purpose.
480.103 Applicability.
480.105 Definitions.
480.107 Use of real property for other programs.
480.109 Other dispositions of real property.
480.111 Disposition and use of tangible personal property.
480.113 Use of credits to Federal funds.
480.115 Relocation assistance.
480.117 Property management.
480.119 Intangible items of cost.

AUTHORITY: Pub. L. 94-280, 90 Stat. 438 (23 U.S.C. 103(e)(4)); Pub. L. 85-767, 72 Stat. 915 (23 U.S.C. 315); Office of Management and Budget Circular A-102, Attachment N (August 24, 1977).

§ 480.101 Purpose.

The purpose of the regulations in this part is to prescribe standards for the use and disposition of property acquired by States with the participation of Federal-aid highway funds when the highway project for which the property was acquired is modified or terminated, such that the property is no longer needed for the purposes of the highway project.

§ 480.103 Applicability.

(a) The regulations in this part are applicable to the use and disposition of property acquired with the participation of Federal-aid highway funds for any project on any Federal-aid system which has not been closed by the payment of a final voucher as of the effective date of this part when, because of the modification or termination of the project, the property is no longer needed for purposes of the highway project. These regulations apply to any use or disposition made of such property after the effective date of this part, regardless of the date on which the property was acquired or the date on which the project for which it was acquired was modified or terminated. *Provided,* That nothing in this part shall be construed to affect or conflict with the obligations of States with respect to advance acquisition of right-of-way pursuant to 23 U.S.C. 108(c).

(b) This part does not apply to the reuse of real property which, according to standards developed by the Administrator, is insignificant in size or value. With respect to property in this category, States shall have no obligation to make any credit to Federal funds or to obtain the Administrator's approval for reuse.

§ 480.105 Definitions.

The following definitions apply for purposes of this part:

"Intangible items of cost" means items having no physical existence or recoverable value, such as preliminary engineering or overhead;

"Real property" means land, and interest therein, including improvements, structures and appurtenances thereto, but excluding movable equipment and machinery; and

"Tangible Personal Property" means any property, other than real property, having a physical existence, such as construction items, materials and equipment.

§ 480.107 Use of real property for other programs.

(a) When real property is no longer needed for the highway project for which it was acquired, because of the modification or termination of the project, the State may, with the approval of the Administrator, use the property for:

(1) A project under another Federal grant program, or

(2) A project under any State or local program the purposes of which are consistent with a program or programs authorized for support by the Department of Transportation. State and local transportation projects (except projects for toll roads), projects for public recreation or conservation purposes, programs for the restoration and revitalization of urban areas, and other programs consistent with the public interest shall be deemed consistent with Department of Transportation programs for the purposes of this subsection.

(b) In order to use real property for another program as provided in paragraph (a) of this section, the State must within 10 years of the modification or termination of the highway project, or 2 years from the effective date of this part, whichever is later, submit for the Administrator's approval the following information:

(1) A finding that the property is no longer needed for purposes of the highway project for which it was acquired;

(2) An explanation of the grounds for the finding;

(3) A description of the program for which the State proposes to use the property and, in the case of a State or local program, a justification of the program in terms of consistency with DOT programs; and

(4) A finding that the proposed use of the property is consistent with State law.

(c) Based on this submission, the Administrator shall approve or disapprove the proposed use of the property. In the event that the Administrator approves the proposal, and the property is used as provided in the approved proposal within 6 years of the approval, unless otherwise extended by the Administrator, the State shall have no obligation to make a credit to Federal funds for the Federal Government's share of the cost of the original acquisition of the property.

(d) The Administrator shall not approve any proposed reuse of real property which—

(1) Is inconsistent with any Federal statute;

(2) Involves property concerning which State law regarding the disposition of highway right-of-way no longer needed for highway purposes has not been observed; or

(3) Proposes to use the property, or its value, to form part of the State or local matching share with respect to any Federal program.

§ 480.109 Other dispositions of real property.

(a) When real property is no longer needed for purposes of the highway project for which it was acquired, and an approved reuse of the property under § 480.107 cannot be found, the State shall apply to the Administrator for disposition instructions. The Administrator shall instruct the State to dispose of the property in one of the following ways:

(1) Retain title to the property, after a credit to Federal funds in an amount computed by applying the Federal percentage of participation in the cost of the original acquisition to the current fair market value of the property.

(2) Sell the property, after a credit to Federal funds in an amount computed by applying the Federal percentage of participation in the original cost of acquisition to the sale proceeds (after deducting actual and reasonable selling and fix-up expenses, if any, from the sale proceeds). The State shall employ proper sales procedures which provide for competition to the maximum extent practicable and result in the highest possible return. The Administrator may require sales under this provision to be conducted according to guidelines provided by the Administrator.

§ 480.111 Disposition and use of tangible personal property.

(a) When a State no longer need tangible personal property acquired in connection with a modified or terminated Federal-aid highway project, it shall use the property in connection with its other federally sponsored activities in the following order of priority:

(1) Activities sponsored by the Department of Transportation; and

(2) Activities sponsored by other Federal agencies.

(b) When the State no longer needs or cannot use the property as provided in paragraph (a) of this section, the property may be disposed of or used according to following standards:

(1) The State may use for any purpose or sell property with a project cost of less than $1,000 without making a credit to Federal funds.

(2) The State may use for any purpose or sell property with a project cost of $1,000 or more, after a credit to Federal funds in an amount computed by applying the Federal percentage of participation in the cost of its original acquisition to the sale proceeds. When a State sells property, it shall do so in a manner which maximizes competition and the return from the sale. The State shall be permitted to deduct and retain from the Federal share $100 or 10 percent of the proceeds, whichever is larger, for selling and handling expenses.

§ 480.113 Use of credits to Federal funds.

Credits made to Federal funds pursuant to §§ 480.109 and 480.111 shall be credited to the State's Federal-aid apportionment to which the original acquisition of the property was attributable, in the manner set forth in 23 U.S.C. 118(b).

§ 480.115 Relocation assistance.

With respect to resident-occupants, tenants and businesses whose property has been acquired in connection with a highway project, the obligations of the Federal Highway Administration under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601 et seq.) shall cease as of the date of project modification or termination. The State shall assure the Administrator that it or the Federal agency granting funds to a substitute project will assume these obligations after this date with respect to any such persons or businesses displaced as a result of the original acquisition or the reuse of the former highway property.

§ 480.117 Property management.

Rules or standards of property management normally applicable to property obtained with the participation of Federal-aid highway funds shall continue to apply to the management of property acquired by States in connection with a highway project after the modification or termination of the project. These rules or standards shall cease to apply to the property as of the date of the approval by the Administrator of a substitute use for real property, upon the reuse of tangible personal property for another Federal program, or on the date the State sells or otherwise disposes of the property.

§ 480.119 Intangible items of cost.

States are not required to make a credit to Federal funds with respect to any intangible items of cost upon which the State expended Federal-aid highway funds in connection with a project which was modified or terminated.

[FR Doc. 78-21831 Filed 8-4-78; 8:45 am]

Federal Register

MONDAY, AUGUST 7, 1978
PART VI

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

EXPORTS OF APPENDIX II SPECIES

Bobcat, Lynx, River Otter, and American Ginseng—Proposed Export Findings for the 1978–1979 Season

[4310-55]

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

[50 CFR Part 810]

EXPORTS OF APPENDIX II SPECIES

Bobcat, Lynx, River Otter, and American Ginseng—Proposed Export Findings for the 1978-1979 Season; Revised Proposals and Extension of Comment Period

AGENCY: Endangered Species Scientific Authority.

ACTION: Proposed rulemaking.

SUMMARY: On July 7, 1978, the Endangered Species Scientific Authority (ESSA) proposed findings on a State-by-State basis as to whether export of bobcat, lynx, and river otter pelts harvested in 1978-1979 and American ginseng roots harvested in 1978 will not be detrimental to the survival of the species (43 FR 29469 et seq.). The ESSA has received subsequently several State reports in support of a no detriment finding. Because we desire maximum public input, we are revising our July 7 proposals in light of these reports, and we are extending until August 23 the comment period for both the original proposals and these revisions. The nature, circumstances, and anticipated consequences of these proposed findings are described in detail in the proposed findings of July 7.

DATES: Comments are due on or before August 23, 1978.

ADDRESS: Comments should be addressed to the Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets NW., Washington, D.C. 20240. Forthcoming comments and comments already received will be available for public inspection at 1612 K Street NW., Washington, D.C., 11th Floor, 7:45 a.m. to 4:15 p.m., Mondays through Fridays except Federal holidays.

FOR FURTHER INFORMATION CONCERNING BIOLOGICAL FINDINGS CONTACT:

Dr. William Y. Brown, Executive Secretary, Endangered Species Scientific Authority, 18th and C Streets NW., Washington, D.C. 20240, 202-343-5687.

FOR INFORMATION CONCERNING EXPORT PERMITS CONTACT:

Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-634-1496.

SUPPLEMENTARY INFORMATION: The ESSA revises its proposed export findings of July 7, consistent with the following modifications in the tables published as part of that proposal. The State of Vermont was inadvertently left out of the original table for bobcat; the other proposed findings are based on new information received. The information and proposed findings provided below for different States and species are hereby substituted for the information and proposed findings for those same States and species currently contained in pages 29480 to 29490 of the July 7 proposal, Volume 43 of the FEDERAL REGISTER:

BOBCAT

State	Classification	Past Quota '77-78	Reported Harvest '77-'78 Number	How Reported	Recent Changes In Management	Findings & Conditions for '78-79 Season	Comments
Nebraska	R	400	94 112 200	ET ET & Research ET (ADJ)	'78-'79-Mandatory report and tagging to be recommended to Commission.	A	Population estimate, based on habitat survey: 1,745. Reproductive research, 1977-78. Harvest possibly reduced by uncertain market and bad weather.
Nevada	R	2,225	1,795 2,225 2,818	TS (63.5%) ET TS (ADJ)	'73-"sight-bait" prohibited. '78-'79-Mandatory report and tagging to be recommended to Commission.	A	Catch per unit effort improved by 46.8% from 1976-77 to 1977-78. Preliminary age data from 363 teeth. New adult population estimate: 9,358. Annual recruitment estimate: 7,930. Lagomorph populations increasing.
Oklahoma	F	0	2,459±30	DR	'77-'78-Reclassified as furbearer, season reduced from year-round to 2 months, license required to take. '78-'79-Proposals to reduce season to 1 month in many counties, to require tagging and special bobcat license.	A	Furbearer study started, '77; revision of furbearer program in progress. Data to be collected from harvested animals.
Vermont	R	200	82	TR, HR	'76-Season set and report required. '77-Season shortened. '78-Tagging required.	IDR	

BOBCAT

State	Classification	Past Quota '77-78	Reported Harvest '77-'78 Number	How Reported	Recent Changes In Management	Findings & Conditions for '78-79 Season	Comments
Washington	G,F	6,000	2,700 1,491	TR,HS ET	'72-Trapping season reduced from all year to 3 months. Exposed bait prohibited in E. Washington. '77-'78-Season reduced substantially, especially E. Washington. '78-'79-Further season reduction proposed, tagging mandatory for "export" from State.	A	Age structure and reproductive data being processed; preliminary analysis suggests young population. Research planned on pelt disposition.
Navajo Nation	G,F	500	7 77	ET ET,ADC,TR	No commercial trapping authorized prior to 1975, currently occurs under permit with required reporting and set season. '78-Plan field censuses.	A	Commercial trapping considere a minor activity on Reservation. Bobcat pelts relativel unimportant for religious purposes, and little used on Reservation.

OTTER

State	Classification	Past Quota '77-78	Reported Harvest '77-'78 Number	How Reported	Recent Changes In Management	Findings & Conditions for '78-79 Season	Comments
Washington	E	770	760 538	TR ET	Local closures adjusted regularly. '78-Tagging mandatory prior to "export" from State. '78-'79-Season for Olympic Peninsula extended 2 weeks.	A	Eastern Washington closed, population growing. Increasing population on Olympic Peninsula.
aryland	R	—	—	Decreasing23/ Locally Common24/ Stable	Collector's Reports — CC	A	The State has initiated a program to better establish the species' status and to monito: and manage its harvest. Not included in State endangered species list.

Publication of these proposed findings has been approved unanimously by the Members of the Endangered Species Scientific Authority.

Dated: August 2, 1978.

WILLIAM Y. BROWN,
Executive Secretary, Endangered Species Scientific Authority.

[FR Doc. 78-21860 Filed 8-4-78; 8:45 am]

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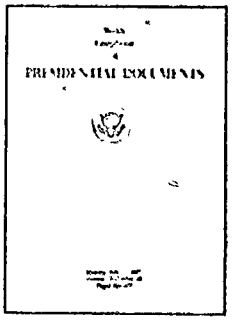

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