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63478  Incorporation by Reference  OFR approves certain materials in Titles 7 through 16 and corrects certain materials in Title 46. (Part II of this issue).

63327  Grant Programs—Health  VA proposes requirements for scholarship awards under Health Professional Scholarship Program.

63393  Grant Programs—Refugee Resettlement  HHS/SSA announces proposed funding of project grants for services in high-impact areas.

63223  Grant Programs—Space Exploration  NASA issues rule on grants and cooperative agreements with educational institutions and other nonprofit organizations.

63259  Grant Programs—Juvenile Delinquency  Justice/JJPO issues rules for formula grants program.

63326  Income Tax  Treasury/IRS proposes rules on issuance of tax-exempt bonds for acquisition of qualified mass commuting vehicles.

63256  Treasury/IRS issues temporary rules on leases for qualified mass commuting vehicles and new reporting requirements for all safe harbor leases.

63268  Pensions  PBGC amends rules for determining expected retirement age for certain plan participants.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

63273 Medicare HHS/HCFA amends rules on determination of reasonable charges for services.

63385 HHS/HCFA requests comments on study of methods for improving coverage of registered dieticians' services and respiratory therapy services provided by home health agencies.

63385 HHS/HCFA requests comments on study of methods for improving foot care services coverage.

63389 HHS/HCFA announces monthly actuarial and premium rates for aged and disabled enrollees in the Supplementary Medical Insurance Program, and announces monthly hospital insurance premium for uninsured aged. (2 documents)

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63252 SEC publishes bulletin on application of existing financial accounting standards to certain business combinations.

63447 Treasury Notes—Series K-1985 Treasury announces interest rate of 14 1/2 percent per annum.

63364 Imports Commerce/ITA issues preliminary determination of sales at less than fair value for high power microwave amplifiers and components from Japan.

63361 Forests USDA/FS requests comments on goals for the 1985 Resources Planning Act Program.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Chs. I and XXVIII

Food Safety and Inspection Service

9 CFR Ch. III

Transfer and Redesignation of
Department of Agriculture Regulations

AGENCY: Agricultural Marketing Service and Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: On June 17, 1981, the Secretary of Agriculture announced a reorganization of the Department of Agriculture. As part of this reorganization, certain functions which pertain to grading, standardization and voluntary inspection of fruit, vegetable, meat, poultry, eggs, egg products, and dairy products formerly administered by the Food Safety and Quality Service, were transferred to and are now administered by the Agricultural Marketing Service. The Food Safety and Quality Service was renamed the Food Safety and Inspection Service. This final rule amends Titles 7 and 9 of the Code of Federal Regulations by transferring and redesignating the pertinent regulations to reflect the changes in program administration made by the reorganization.

The Code of Federal Regulations is amended as follows:

PART 2850—RULES OF PRACTICE GOVERNING WITHDRAWAL OF INSPECTION AND GRADING SERVICES [REMOVED]

1. Part 2850 is removed.
2. Parts 2842, 2843, 2851, 2852, 2853, 2855, 2859, 2859, 2870, and 2880 of Chapter XXVIII are transferred to Chapter I and redesignated as follows:

CHAPTER I—AGRICULTURAL MARKETING SERVICE

Subchapter A—Commodity Standards and Standard Container Regulations

Old Part Ch. XXVIII and New Part, Ch. I

2842—42 Standards for Condition of Food Containers

2843—43 Standards for Sampling Plans

Subchapter C—Regulations and Standards Under the Agricultural Marketing Act of 1946

Old and New

2851—51 Fresh Fruits, Vegetables, and Other Products (Inspection, Certification, and Standards)

2852—52 Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products

2853—54 Meats, Prepared Meats, and Meat Products (Grading Certification, and Standards)

2855—55 Voluntary Inspection of Egg Products and Grading

2859—56 Grades of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs

2858—58 Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products

2859—59 Inspection of Eggs and Egg Products (Egg Products Inspection Act of 1970)

2870—70 Voluntary Grading of Poultry Products and Rabbit Products and U.S. Classes, Standards, and Grades

Subchapter D—Export and Domestic Consumption Programs

Old and New

2880—80 Fresh Irish Potatoes

3. Wherever the name "Food Safety and Quality Service" or "FSQS" appears within the new Parts 42 through 60 change it to read "Agricultural Marketing Service" or "AMS", respectively.

4. In Title 7 of the Code of Federal Regulations, Subchapter F and its Parts 2890-2899 are removed and redesignated as a new Subchapter D, Parts 390-399, of
Chapter III, Title 9, of the Code of Federal Regulations.

Part 2890 of Title 7 is redesignated as Part 389 of Title 9.

5. Chapter XXVIII of Title 7 is vacated.

Furthermore, Title 9 of the Code of Federal Regulations is amended as follows:

1. In the first sentence of the new §301.2 (9 CFR 390.2), the words "Chapter XXVIII, Title 7 and " are removed.

2. Wherever the name "Food Safety and Quality Service" on "FSQS" appears within 9 CFR Chapter III, Parts 301-335, 350, 351, 355, 362, 381, and 390 (formerly Title 7, Part 2890), change it to read "Food Safety and Inspection Service" or "FSIS", respectively.

This final rule is issued pursuant to 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

It has been determined that publication of this rule as a proposal for public comment is unnecessary since this final rule merely redesignates existing regulations.


C. W. McMillan, Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 81-37220 Filed 12-30-81; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Reg. 534]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 1-3, 1982.

EFFECTIVE DATE: January 1, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202-447-5975.

SUPPLEMENTARY INFORMATION: Findings. This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981-82. The marketing policy was recommended by the committee following discussion at a public meeting on October 6, 1981. The committee met again publicly on December 29, 1981 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is easier. It is further found that it is impractical and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

1. Section 907.834 is added as follows:

§907.834 Navel orange regulation 534.

The quantities of navel oranges grown in Arizona and California which may be handled during the period January 1-3, 1982, through January 7, 1982, are established as follows:

(1) District 1: 650,000 cartons;
(2) District 2: 493,000 cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

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

Dated: December 30, 1981.

D. S. Kuryloski, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81-37271 Filed 12-30-81; 3:59 pm]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Reg. 340]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 3-9, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 3, 1982.


SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981-82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on December 29, 1981 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.
It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 558), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

In accordance with this Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule have been submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Section 910.640 is added as follows:

§ 910.640 Lemon regulation 340.

The quantity of lemons grown in California and Arizona which may be handled during the period January 3, 1982, through January 9, 1982, is established at 280,000 cartons.

DATED: December 30, 1981.

D. S. Kurylowski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

BILLING CODE 3410-02-M

7 CFR Part 1106

[Milk Order No. 106]

Milk in the Oklahoma Metropolitan Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends certain provisions concerning the shipping requirements for supply plants and the limits on the amount of milk from individual producers that may be diverted directly to nonpool plants and still be priced under the order. For the month of December 1981, the suspension reduces the amount of milk that a supply plant must ship to pool distributing plants in order to qualify as a pool plant.

Also, the amount of milk that may be moved directly from farms to nonpool plants for manufacturing is increased. The suspension was requested by a cooperative association because of increased milk production and decreased fluid milk sales due to school closings during the Christmas holidays. The suspension is needed to assure the efficient disposition of reserve milk supplies that are now available and to assure that dairy farmers who have regularly supplied the fluid milk needs of the market will continue to have their milk pooled and priced under the order.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

It also has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the Federal Register. However, this would not permit the issuance of the suspension on the timely basis that is necessary to make the suspension effective for the month of December 1981. The initial request for the action was received on December 17, 1981.

It has been determined that this action would not have a significant economic impact on a substantial number of small entities. This action lessons the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Oklahoma Metropolitan marketing area.

After consideration of all relevant information it is hereby found and determined that for the month of December 1981 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1106.7(b), that part of the provisions that reads "in an amount not less than 50 percent of milk received at the supply plant from dairy farmers who would be eligible as producers under § 1103.12 if such plant qualifies pursuant to this paragraph and milk of such dairy farmers diverted from such plant by the plant operator".

2. In § 1106.13(e)(1), that part of the provisions that reads "subject to the conditions of paragraph (e)(3) of this section, a total quantity of milk not in excess of total" and "received at all pool plants during the month" and "in excess of such quantity shall not be eligible under this section and the diverting cooperative shall specify the dairy farmers whose diverted milk is not so eligible. If the cooperative association fails to designate such person, status under this section shall be forfeited with respect to all milk diverted by such cooperative association".

3. In § 1106.13(e)(2), that part of the provisions that reads "subject to the conditions of paragraph (e)(3) of this section," and "in a total quantity not in excess of the milk of producers not members of such cooperative association received at such pool plant(s) during the month. Milk diverted in excess of such quantity shall not be eligible under this section and the diverting handler shall specify the dairy farmers whose diverted milk is not so eligible. If a handler fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such handler".

4. In § 1106.13, paragraph (e)(3).

Statement of Consideration

This action reduces the amount of milk that supply plants must ship to pool distributing plants to allow pool plant status under the order. Under the suspension, a supply plant needs to make but one shipment to a pool distributing plant to qualify as a pool plant.

The action also increases the amount of milk that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. Without the suspension, diversions would be limited to producers who deliver not less than 15 percent of their producer milk to pool plants. In addition, diversions to nonpool plants by proprietary handlers and cooperatives could not exceed the quantity of milk received at pool plants. This action was requested by a cooperative association that represents producers supplying the market. The cooperative indicated that the suspension is needed primarily because...
of a decline in Class I sales to schools as the result of school closings for the Christmas holidays. In addition to reduced fluid milk sales, increased production by producers is contributing to the cooperative's problems in marketing the available supplies of milk. In the absence of any suspension action, the cooperative indicates that it would be necessary to make costly and inefficient movements of milk solely for the purpose of pooling the milk of dairy farmers who have regularly supplied the fluid milk needs of the market.

The suspension is supported by a second cooperative association, by the operator of a pool supply plant and by the operator of a pool distributing plant on the basis that the action would facilitate the orderly and efficient disposition of milk supplies that are in excess of the anticipated fluid milk requirements of distributing plants. In addition, other interested parties were notified by the proponent cooperative that it intended to request this suspension action. None of these parties expressed any opposition to the requested suspension.

In view of the circumstances, the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies that are in excess of fluid milk requirements. Without the suspension, some milk not needed for bottling use would be shipped to distributing plants from supply plants and then be shipped to manufacturing plants for surplus disposal. Also, the milk of certain dairy farmers that is in excess of fluid milk needs would be shipped to pool plants for reshipment to manufacturing plants rather than being shipped directly from the farm to manufacturing plants. Both of these actions would represent costly and inefficient movements of milk.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the action will assist handlers in disposing of reserve milk supplies that are now available and will allow dairy farmers who have regularly supplied the fluid milk needs of the market to maintain producer status under the order; and

(b) This suspension eases restrictions and does not require of persons affected substantial or extensive preparation prior to the effective date.

Therefore, good cause exists for making this order effective December 31, 1981.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the month of December 1981. (Secs. 1-19; 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: December 31, 1981.

Signed at Washington, D.C., on December 24, 1981.

C. W. McMillan, Assistant Secretary, Marketing and Inspection Services.

Animal and Plant Health Inspection Service

9 CFR Part 52

Dourine in Horses and Asses

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document removes Part 52 from the regulations in Title 9, Code of Federal Regulations, governing appraisal of and compensation for animals destroyed because of dourine. This action removes regulations no longer deemed necessary because the regulations in 9 CFR Part 52 can be used to appraise animals and compensate the owners for destruction of the animals in order to prevent the spread of and to aid in the eradication of dourine.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. W. W. Buish, USDA, APHIS, VS, Federal Building, Room 746, Hyattsville, MD 20782, 301-436-6073.

SUPPLEMENTARY INFORMATION: This action has been reviewed in conformance with Executive Order 12291 and has been classified as not a "major rule." The Department has determined that this rule will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and should have no adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action removes the regulations which provide a means by which owners of animals infected with dourine can receive compensation from the Department on account of the destruction of said animals. The United States has been free of dourine since 1948, and import requirements have proven adequate to prevent the introduction of the disease into the United States. Additionally, if an animal becomes infected with dourine, appraisal of and compensation to the owner for the discharge of all claims the owner may have against the Department on account of the destruction of the animals, can be made pursuant to 9 CFR Part 52.

On Tuesday, July 28, 1981, there was published in the Federal Register (40 FR 38524-38525), a proposed amendment to remove Part 52 from Title 9, Code of Federal Regulations. A 60-day comment period was provided for receipt of comments which expired on September 28, 1981. No comments were received.

The alternative to this final rule would be to not remove Part 52 from Title 9, Code of Federal Regulations. However, test procedures have proven adequate to prevent the entry of dourine and the United States has been free of dourine for 34 years. Additionally, Part 53, 9 CFR, can be used in appropriate circumstances to provide for appraisal of and compensation to the owners of animals infected with dourine that are destroyed pursuant to the regulations.

The factual situation which was set forth in the document of July 29, 1981, still provides a basis for the amendment, and therefore, the Department is amending the regulation as proposed.

PART 52—[RESERVED]

Accordingly, Title 9, Code of Federal Regulations, is amended by removing Part 52, and Part 52 is reserved.

(Secs. 3, 23 Stat. 32, as amended; sec. 2, 32 Stat. 792, as amended; sec. 11, 58 Stat. 724, as amended; 21 U.S.C. 111, 114, 114a); 37 FR 28464, 28477; 38 FR 10141)

Done at Washington, D.C., this 28th day of December 1981.

J. K. Atwell, Deputy Administrator, Veterinary Services.

[FR Doc. 81-37363 Filed 12-30-81; 8:45 am]

BILLING CODE 3410-24-M

9 CFR Part 94

[Docket No. 81-089]

Change in Disease Status of Great Britain (England, Scotland, Wales, and Isle of Man) Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.
ACTION: Interim rule.

SUMMARY: This document adds Great Britain (England, Scotland, Wales, and Isle of Man) to the list of countries declared to be free of rinderpest and foot-and-mouth disease. Data furnished to the Department establishes that foot-and-mouth disease has been eradicated from Great Britain (England, Scotland, Wales, and Isle of Man). This action is necessary to permit importation of cattle, sheep, or other ruminants, or swine, or fresh, chilled, or frozen meats of such animals into the United States from Great Britain (England, Scotland, Wales, and Isle of Man). Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency action effective less than 30 days after publication of this document in the Federal Register.

DATES: Effective date: December 21, 1981. Comments on or before March 1, 1982.

ADDRESS: Written comments should be submitted to the Deputy Administrator, Veterinary Services, APHIS, Room 670, Federal Building, 6005 Belcrest Road, Hyattsville, MD 20792.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Import/Export Animals and Products Staff, Room 821, 6005 Belcrest Road, Hyattsville, MD 20792, 301-438-8530.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This emergency action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a “major rule.” The Department has determined that this rule will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and should have no adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The emergency nature of this action makes it impracticable to follow the procedures of Executive Order 12291 with respect to this action.

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, USDA, APHIS, VS, has determined that an emergency situation exists which warrants publication of this interim rule without opportunity for a public comment at this time. These amendments relieve restrictions on the importation of cattle, sheep, or other ruminants, or swine, or fresh, chilled, or frozen meats of such animals into the United States from Great Britain (England, Scotland, Wales, and Isle of Man) because it has been found to be free of foot-and-mouth disease. Therefore, these amendments should be made effective immediately, on an interim basis, in order to relieve restrictions presently imposed but no longer necessary to prevent the introduction and dissemination of the contagion of foot-and-mouth disease into the United States.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency action effective less than 30 days after publication of this document in the Federal Register. Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the Federal Register as soon as possible.

Certification Under the Regulatory Flexibility Act

Dr. Harry G. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action will lift restrictions that were imposed on March 23, 1981, on the importation of cattle, sheep, or other ruminants, or swine, or fresh, chilled, or frozen meats and other products of such animals into the United States from Great Britain (England, Scotland, Wales, and Isle of Man). In recent years approximately 50-100 cattle, sheep, other ruminants and swine have been imported from Great Britain into the United States annually. Further, in recent years there has been no fresh, chilled, or frozen meat of such animals and a negligible quantity of other animal products imported into the United States from Great Britain. Therefore, it does not appear that this action will have a significant economic impact on a substantial number of small entities.

Background

On March 21, 1981, the Isle of Wight (part of Great Britain), was determined to be infected with foot-and-mouth disease. This was based upon laboratory confirmation of the presence of the disease. Foot-and-mouth disease is a dangerous and destructive communicable disease of ruminants and swine. The morbidity rate within a herd approaches 100 percent. Consequently, it was necessary to remove Great Britain from the list of countries determined to be free of rinderpest and foot-and-mouth disease.

On Wednesday, April 1, 1981, there was published in the Federal Register (46 FR 18877) amendments to 9 CFR Part 94 which, among other things, removed Great Britain (England, Scotland, Wales, and Isle of Man) from the list of countries which are declared to be free of rinderpest and foot-and-mouth disease.

Veterinary Services has reviewed all the pertinent information and documents submitted by the authorities of Great Britain (England, Scotland, Wales, and Isle of Man) in support of its position that the country is free of foot-and-mouth disease, and has concluded that Great Britain (England, Scotland, Wales, and Isle of Man) qualifies for listing as a country declared to be free of rinderpest and foot-and-mouth disease in § 94.1(a)(2) of the regulations. However, Great Britain (England, Scotland, Wales, and Isle of Man) may be commingled with the meat and other animal products produced from an infected country, resulting in an undue risk of introducing rinderpest or foot-and-mouth disease into the United States. Thus, even though this document designates Great Britain (England, Scotland, Wales, and the Isle of Man) as free of rinderpest and foot-and-mouth disease, the meat and other animal products produced in Great Britain (England, Scotland, Wales, and Isle of Man) may be commingled with the meat and other animal products produced from an infected country.

Two other alternatives to these amendments were considered:

1. Not to amend the list of countries declared to be free of rinderpest and foot-and-mouth disease. This alternative was not adopted because the pertinent information and documents reviewed by Veterinary Services indicates that Great Britain qualifies for listing as a country declared to be free of rinderpest and foot-and-mouth disease. In light of the qualification of Great Britain as a
country free of rinderpest and foot-and-mouth disease, the failure to place Great Britain on the list of countries declared to be free of rinderpest and foot-and-mouth disease would result in unnecessary and unjustified restrictions upon the entry into the United States of cattle, sheep, or other ruminants, or swine, or fresh, chilled or frozen meat of such animals from Great Britain.

2. Not to amend the list of countries declared to be free of rinderpest and foot-and-mouth disease until one year after receiving information that Great Britain qualified for listing as a country declared to be free of rinderpest and foot-and-mouth disease.

The outbreak of foot-and-mouth disease which resulted in the removal of Great Britain from the list of countries free from rinderpest and foot-and-mouth disease occurred on March 19, 1981, and the evidence indicates the disease has been eradicated. Further, the outbreak of foot-and-mouth disease occurred on the Isle of Wight, a small isolated island, which is part of Great Britain. These two factors, the evidence that the disease was eradicated quickly and the isolated nature of the area of Great Britain in which the outbreak occurred, constitutes the factual basis for the Department's rejection of this second alternative.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOUL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMONENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND REGISTERED IMPORTATIONS

Accordingly, Part 94, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 94.1 [Amended]

1. In § 94.1 paragraph [a][2] is amended by inserting “Great Britain (England, Scotland, Wales, and Isle of Man)” between “Finland” and “Greenland.”

§ 94.11 [Amended]

2. In § 94.11 paragraph [a] is amended by inserting “Great Britain (England, Scotland, Wales, and Isle of Man)” between “Finland” and “Japan.”

The Commission has adopted the proposed amendment with a minor editorial revision to accommodate the incorporation by reference of the ASME Boiler and Pressure Vessel Code, as stated in § 50.55a(b)(2). The reason given for recommending the revision was that § 50.55a(b)(2)(i) was being interpreted as prohibiting the use of addenda that were published and incorporated subsequent to the Summer 1978 Addenda to the 1977 Edition of the code.

As a result of the comment the title and the body of § 50.55a(b)(2)(i) were editorially revised to clarify them.

Some of the changes effected in the addenda which are incorporated through the adoption of the amendments are:

1. Section XI requires that a system hydrostatic test be performed after all in-service repairs and replacements to Class 1 systems and components.

2. Section III requires that there be some method of remotely monitoring the position of pressure relief devices.

3. Both sections III and XI allow the practical exam, required for Nondestructive Examination (NDE) qualification, to be given by the American Society for Nondestructive Testing (ASNT) rather than the employer.

4. Section III requires that licensees meet the requirements of the national standard, ANSI/ASME N263.3-1979 “Qualification and Duties of Personnel Engaged in ASME Boiler and Pressure Vessel Code, Section III, Divisions 1 and 2, Certifying Activities.”

Interested persons were invited to submit written comments for consideration in connection with the proposed amendment by September 10, 1981. One editorial comment was received and the paragraphs addressing the effective edition and addenda of the ASME Code were added to the preamble in response to the comment. The Commission has adopted the proposed amendment with a minor editorial revision to accommodate the incorporation by reference of the ASME Code.

Paperwork Reduction Act Statement

The recordkeeping requirements contained in this Regulation have been approved by the Office of Management and Budget; OMB approval No. 3150-0011.
Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of “small entities” set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their service areas, this rule does not fall within the purview of the Act.

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 Title 10, Chapter 1, Code of Federal Regulations, Part 50 are published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 reads as follows:


2. In § 50.55a, paragraph (b)(1) is revised, the introductory text of paragraph (b)(2) is revised, and paragraph (b)(2)(i) is revised to read as follows:

§ 50.55a Codes and standards.

(b) * * *

(1) As used in this section, references to section III of the ASME Boiler and Pressure Vessel Code refer to section III, Division 1, and include editions through the 1990 Edition and addenda through the Winter 1990 Addenda.

(2) As used in this section, references to section XI of the ASME Boiler and Pressure Vessel Code refer to section XI, Division 1 and include editions through the 1990 Edition and addenda through the Winter 1990 Addenda, subject to the following limitations and modifications:

(i) "Limitations on specific editions and addenda." When applying the 1974 Edition, only the addenda through the Summer 1975 Addenda may be used. When applying the 1977 Edition, all of the addenda through the Summer 1978 Addenda must also be used. Addenda and editions subsequent to the Summer 1978 Addenda are incorporated by reference in paragraph (b)(2) of this section are not affected by these limitations.

Dated at Bethesda, MD this 8th day of December 1981.

For the Nuclear Regulatory Commission.

William J. Dirks, Executive Director for Operations.

[FR Doc. 81-37207 Filed 12-30-81; 8:30 am]

BILLING CODE 7590–01–MF

DEPARTMENT OF ENERGY

10 CFR Chs. II and III

OMB Control Numbers; Reporting or Recordkeeping Requirements

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This document amends Department of Energy regulations to include OMB control numbers at the places in the regulations where current reporting or recordkeeping requirements are described. It also removes obsolete references to previous OMB or GAO approvals of information collection requirements.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

A. Paperwork Reduction Act.

The Paperwork Reduction Act (44 U.S.C. 3501 et seq.) requires that all agencies obtain approval of the Director of the Office of Management and Budget (OMB) prior to making an information collection request or imposing a recordkeeping requirement. Section 3501(c)(3)(A) requires the Director to ensure that all information collection requests and recordkeeping requirements display a control number. Section 3501(f) declares that an agency shall not engage in a collection of information without obtaining from the Director a control number to be displayed on the information request. Approval numbers which have been obtained are listed below.

B. Text of the Amendments.

For the reasons set forth in the preamble, the following regulations in Title 10 of the Code of Federal Regulations are hereby amended as follows. After the text of each regulation cited in the first column of the table, add parenthetically the corresponding OMB number listed in the second column.
major Federal actions significantly affecting the quality of the human environment. The issuance of this rule by the Department of Energy clearly will not have a significant environmental effect since it merely removes regulations that were superseded by 10 CFR Part 1004. Thus, the preparation of an Environmental Impact Statement is not required.

Pursuant to section 501(c) of the Department of Energy Organization Act (DOE Act), I have determined that no substantial issue of fact or law exists and that this action will not have a substantial impact on the Nation’s economy or large numbers of individuals or businesses because it will merely remove from the Code of Federal Regulations those provisions that have already been made unnecessary by the promulgation of 10 CFR Part 1004. Accordingly, the Department of Energy is not bound by the prior notice and hearing requirements of section 501(b), (c), and (d) of the DOE Act, and may promulgate this rule in accordance with the rulemaking procedure outlined in 5 U.S.C. 553.

Subsection (b) of 5 U.S.C. 553 requires that a notice of proposed rulemaking be published in the Federal Register, except when the agency for good cause finds that notice and public procedures thereon are impracticable, unnecessary, or contrary to the public interest. I have determined that the notice and comment procedures of section 553 are unnecessary, since the purpose and effect of this rule is merely to remove regulations that were superseded by 10 CFR Part 1004.

This action has been reviewed in accordance with Executive Order No. 12291, 46 FR 13193, February 19, 1981, and it has been determined that it does not constitute a major rule within the meaning of the Executive Order.

Because no notice of proposed rulemaking is required for this rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., pertaining to regulatory flexibility analyses, do not apply to this rule.


William S. Heffelfinger, Assistant Secretary, Management and Administration.
Application. Eligible alternate nut part numbers and an alternate corrosion inhibitor were not mentioned. Some unnecessary use of Alodine was required. Procedure for reinstallation of used preload indicating washers was not fully explained. The revised version relaxes and clarifies the original version in the above and other minor respects.

Since the unsafe condition described herein may still exist on other Beech model airplanes described herein, the AD is being published in the Federal Register as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

Since the FAA has determined that there is an immediate need for this regulation to correct an unsafe condition and assure safe operation of the affected airplanes, the regulation is within the exemption provisions of section 8[a][1] of Executive Order 12291. In addition, notice and public procedure under 5 U.S.C. 553[b] were considered impractical and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after the publication in the Federal Register.

Adoption of the Amendment

Accordingly, 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 Airworthiness Directive:

Beech: Applies to the following model airplanes regardless of the category or categories of airworthiness certification:

<table>
<thead>
<tr>
<th>Models</th>
<th>Serial No. (S/N)</th>
</tr>
</thead>
<tbody>
<tr>
<td>65, A65 &amp; A65-8220</td>
<td>LC-181 through LC-335.</td>
</tr>
<tr>
<td>65-90, 65-A90, 890 &amp; C300</td>
<td>LD-38 through LD-64.</td>
</tr>
<tr>
<td>E80</td>
<td>LJ-1 through LJ-339.</td>
</tr>
<tr>
<td>69, 99A, 890</td>
<td>UW-1 through UW-284.</td>
</tr>
<tr>
<td>100 &amp; A100</td>
<td>B-1 through B-248.</td>
</tr>
<tr>
<td>B100</td>
<td>BE-1 through BE-102, and BE-104.</td>
</tr>
</tbody>
</table>

Military

| L23F                  | LF-7 through LF-78. |
| 65-A80-1              | LM-1 through LM-144. |
| 65-A80-3              | LT-1, -2. |
| 65-A80-4              | LL-1 through LL-18. |
| NU-8F                 | LG-1. |

1. Except that airplanes which have installed BEECHCRAFT Kit No. 82-4071-1, S, BEECHCRAFT Kit No. 82-4023-1, or Avianetics Supplemental Type Certificate SA417BCE or SA4195BCE are not affected by this AD.

2. Except that Model L23F airplanes which do not have a plug indicating washer assembly (i.e., one with radial holes in a center ring) are not affected by this AD.

Compliance: Required as indicated, unless already accomplished.

In order to assure integrity of bolts and nuts at the lower forward attachments of outer wing panels to the wing center section, accomplish the following:

(A) Prior to next flight, accomplish all of the following:

1. Remove all bolts, washers, and nuts from each lower forward wing attachment and thoroughly clean removed part. Throughout all action required by this AD:

a. Use procedures in the applicable Beech Maintenance Manual except where other procedures are specified by this AD.

b. Unless different instructions from Beech Aircraft Corporation are given, reassembly and following, reposition wing, as necessary, to remove or reinstall bolt by hand without using any tool.

c. Keep parts of each preload indicating washer assembly together so that parts of one assembly cannot be intermingled with parts of another assembly.

d. Clean each removed part with naphtha or methyl ethyl ketone (MEK) using a bristle brush, and repeat this cleaning as necessary prior to each subsequently specified action until lubricant is applied.

e. Accomplish all of the specified actions on both (i.e., left and right) sides of the airplane.

2. Visually inspect each bolt and nut for reddish rust. Do not classify copper residue over cadmium plating as rust. For a bolt, rust is acceptable only on the end (including not more than one thread) farthest from the head and within the counterbored recess between wrench sallers of the bolt head. For compliance with Paragraph [A]8 and [C] below, classify a bolt as rusted if rust is found elsewhere. Classify a nut as rusted if rust is found anywhere.

3. Visually inspect each bolt and nut for a pit or crack in steel (not cadmium or copper plating) material. Use 10X or stronger magnifying glass. For each bolt, pay particular attention to the fillet and shank, including threads. For each nut, pay particular attention to the chamfer (that faces the bolt head when installed) and perceptible threads adjacent to this chamfer. (Refer to Paragraphs [A][8] and [C] below.)

4. Bake each bolt and nut continuously for 23 hours at 350 degrees to 400 degrees Fahrenheit and cool in still air.

5. After accomplishment of Paragraph (A), above, use a magnetic particle method of Advisory Circular AC43.13-1A to inspect each bolt and nut for a crack, paying particular attention to locations specified in Paragraph (A)3, above. For each bolt, use a fluorescent particle method with 5250 to 6750 ampere-turns in a coil to produce longitudinal magnetization in each bolt. (6,000 ampere-turns means 2,000 amperes in a 3-turn coil or 1,000 amperes in a 6-turn coil, etc.) For each nut, use any magnetic particle method with 500 to 700 amperes through a central conductor of at least 0.6-inch diameter through two nuts to produce circular magnetization. Demagnetize each bolt and nut after the above inspection.
6. Replace each rusted, pitted, and/or cracked nut and bolt with a new Part Number (P/N) as follows: 
   a. If a new preload indicating (PLI) washer assembly is to be used in accordance with Paragraph (A), below, nut P/N is 72789-1414, 72789M-1414, FN22-1414, or FN22MM-1414. *(“M” in P/N designates a moly grade)*. All eligible nuts have a locking feature which necessitates use of a wrench for full engagement with bolt.)
   b. If a used PLI washer assembly is reinstalled in accordance with Paragraph (A), below, nut P/N is 72789-1414 or FN22-1414.
   c. Bolt is P/N LWB22-14-XX or VEP 220121-14-XX where XX is 31 for airplanes with S/N LD-34, LD-46, LD-119, and LJ-1 through LJ-67, and XX is 32 for all other airplanes affected by this AD.

Replace preload indicating washer with new P/N 61475-44-43.5 assembly (not any other P/N) if this assembly is available.

Obtain new parts only from Beech Service Centers or Beech Aircraft Corporation.

(Neither baking nor field inspection of new parts is necessary.) Do not replate any part.

7. Clean the bore and recessed washer seat area of the outboard and inboard wing fittings with naptha or methyl ethyl ketone (MEK). Visually inspect these areas for corrosion, burrs, gouges and coating. If any defect is found, contact Beech Aircraft Service Department, 7909 East Central, Wichita, Kansas 78203; Telephone (316) 681-7201, 7278, or 7352, for rework disposition. Also, if any defect is found, treat the bore and recessed washer seat areas of the inboard and outboard wing fittings with Alodine 1200, 12035, or 1201. Allow the -alodine coating to dry for 5 minutes. Wash the coating with water and blow dry with air without wiping. Paint treated washer seat areas with zinc chromate primer (obtain locally) and allow primer to dry.

8. Coat the inspected areas of the wing fittings, all of each bolt, all of each nut, and all of each preload indicating washer assembly with either clean MIL-C-16173, Grade 2 corrosion preventive compound or clean General Electric G222, Versilube Silicone Lubricant.

9. Install removed or new parts using standard procedures except as follows:
   a. Preload indicating (PLI) washer assembly may be reused with P/N 72789-1414 and/or P/N FN22-1414 nuts only.
   b. Ascertain that a radius of the adjacent washer is next to the fillet under the bolt head and next to the outer edge of the recess in each wing fitting. Position wing as necessary to allow bolt to slide into fitting without use of any tool.
   c. Tighten the joint by rotating the nut (do not turn the bolt) procedure if new PLI washer assembly is installed. If used PLI washer assembly is reinstalled, make necessary correction for any torque wrench adapter and apply 3250 to 3400 inch-pounds torque, but install new PLI washer assembly. If center ring of preload assembly turns after 3400 inch-pounds torque is applied. Do not allow wrench to bear against fitting.
   d. Coat entire portion of bolt that projects beyond nut, using a material that is specified in Paragraph (A), above.
   e. Make aircraft maintenance record entry showing work accomplished, especially procedure used for tightening nut, and whether new or used PLI washer was installed.
   f. Between 90 and 110 hours time-in-service after accomplishment of action specified by Paragraph (A) of this AD, check nut tightness, using the same procedure that was used for accomplishment of Paragraph (A)c, above.
   g. Within 3 days after replacing a part in accordance with Paragraph (A), above, or noting a defect when complying with this AD, submit a written report to the Federal Aviation Administration via an FAA M or D Report (FAA Form 6320-3) or a letter to the office specified in Paragraph (E), below, and send the replaced part(s) to Beech Aircraft Corporation. If submitted report, please advise date of last previous bolt removal.

10. A special flight permit in accordance with Federal Aviation Regulation 21.917飞行 to the nearest base is permitted in order to accomplish Paragraph (A) of this AD. The nearest FAA Flight Standards District Office may be contacted to obtain a telegraphic special flight permit.

11. Any equivalent method of compliance with this AD must be approved by the Chief, Aircraft Certification Program, Federal Aviation Administration, Room 230, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67208; Telephone (316) 299-7000, 7001, or 7002.

This amendment becomes effective on January 4, 1982, to all persons except those to whom it has already been made effective by an airmail letter from the FAA dated October 31, 1981.

(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)); sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89)

Note—The FAA has determined that this regulation is an emergency regulation under the President’s memorandum of January 29, 1981, and an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures specified in this AD with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (49 FR 11054; February 25, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if prepared and when filed, may be obtained by contacting the Office of the Regional Counsel, FAA, Room 1500, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-5460.

This amendment of the Administrator under the Federal Aviation Act of 1958, as amended, as such, is subject to review by the courts of appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Missouri, on December 17, 1981.

John E. Shaw, Acting Director, Central Region.

[Docket No. 81-NW-98; AD; Amdt. 39-4289]

Airworthiness Directives: Canadair Model CL-600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires a one-time inspection of the fittings on the left and right push/pull wing flight spoiler cables on Canadair CL-600 (Challenger) airplanes, S/N 1002 to 1050 inclusive. This inspection is necessary to ensure that these cables are properly adjusted. Improper adjustment may result in disengagement of a spoiler from its control system, which, in turn, could result in a partial loss of lateral control of the aircraft.

DATES: Effective date: January 6, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6097, Station A, Montreal, Canada, PQ H3C3G9, or may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.


SUPPLEMENTARY INFORMATION: The Canadian MOT (Ministry of Transport) has issued an airworthiness directive which requires a one-time inspection to ensure that wing spoiler cables are properly adjusted on Canadair CL-600 (Challenger) airplanes, S/N 1002 to 1050 inclusive.

Ground inspection reports revealed that the left and right push/pull wing flight spoiler cables may be improperly adjusted on certain airplanes. If improperly adjusted, a spoiler may become disengaged from its control system, resulting in asymmetrical deployment and, therefore, a partial loss of lateral control. If more than six threads are visible on the end fittings,
This amendment becomes effective January 4, 1982.

(§ 39.13) [19 U.S.C. 3113(a)] (a) Federal Airworthiness Directive (91 U.S.C. 3112(a), 1421, and 1423). The airworthiness directive: The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (41 FR 11034, February 20, 1976). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT." This rule is a final order of the Administrator. Under Section 100(a) of the Federal Aviation Act, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on December 17, 1981.

Robert O. Brown,
Acting Director, Northwest Mountain Region.

[FR Doc. 81-5281 Filed 12-30-81; 0:45 am] BILLING CODE 4910-13-M

14 CFR Part 39

Airworthiness Docket No. 81-ASW-63; Amdt. 39-3026

Swearingen Model SA-26T and SA-26AT Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes airworthiness directives (AD) 72-75 and adopts a new AD for Swearingen Model SA-26T and SA-26AT-airplanes. At the lower forward wing station 99 attach joint, this AD requires inspection of the fittings and bolt for deterioration and cracks, replacement of any damaged fittings, and replacement of any damaged or improperly identified bolts. This AD is needed to correct an unsafe condition that could result in the loss of a wing and subsequent loss of the airplane.

DATE: Effective December 30, 1981.

Compliance required as prescribed in the body of the AD.

AIRPLANES AND AIRCRAFT: The applicable service information may be obtained from the Director of Product Support, Fairchild Swearingen Corporation, P.O. Box 32450, San Antonio, Texas 78234.

These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, or at the Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William A. Simmons, Airframe Branch, Aircraft Certification Division, ASW-120, Federal Aviation Administration, P.O. Box 1683, Fort Worth, Texas 76101, telephone number (817) 624-4911, extension 516.

SUPPLEMENTARY INFORMATION: There has been a failure at a wing attach joint similar to the wing attach joint used on the Swearingen SA-26 series airplanes. Also there have been several reports of cracked fittings and installation of incorrect part number bolts at the lower forward wing station 99 attach joint on the Swearingen airplanes. The FAA has determined that this is an unsafe condition that is likely to exist or develop on other airplanes with the same attach joint design and could result in the loss of a wing. This amendment supersedes Amendment 39-1412 (37 FR 6163) AD 72-7-5 and adopts a new airworthiness directive for Swearingen Model SA-26T and SA-26AT airplanes. At the lower forward wing station 99 attach joint, the AD requires inspection of the fittings and bolt for deterioration and cracks, replacement of any damaged fittings with new parts of the same part numbers, and replacement of any damaged or improperly identified bolt with a new MS20014-29 part number bolt.

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

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:

Canadair Applies to Model CL-600 airplanes with serial number 3002 to 3020 inclusive. To prevent asymmetric spoiler deployment, accomplish the followin within ten days after the effective date of this AD, unless already accomplished:

1. Visually inspect and adjust, if necessary, the left and right control cables (parts numbers 600-91305-5 and 600-91305-7) for compliance with the revised rigging procedure specified in Canadair Alert Service Bulletin A600-0024, Revision 1, dated November 6, 1981, or in a manner approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

2. Airplanes may be flown in accordance with FAR 21.197 to a maintenance base for accomplishment of the inspection required by this AD.

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)(4). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the addresses listed above. These documents may also be examined at FAA Northwest Mountain Region, 5070 East Marginal Way South; Seattle, Washington 98103.
Compliance required within the next 25 hours' time in service after the effective date of this AD, and thereafter at intervals of 200 hours' time in service since last compliance (Airworthiness Docket No. 81-ASW-63).

To prevent a failure at the lower forward wing station 99 attach joint, accomplish the following:

1. Remove the lower forward wing station 99 attach joint cover plate and wing attach bolt.

2. Inspect the lower forward wing station 99 attach bolt for identifying part number, deterioration and cracks and replace damaged parts with new parts of the same part numbers.

3. Inspect the lower forward wing station 99 attach bolt for identifying part number, deterioration and cracks and replace any damaged bolt or bolt not identified as P/N MS20014-29 bolt with a new P/N MS20014-29 bolt.

Accomplish paragraphs 1., 2., and 3. in accordance with Airworthiness Service Bulletin SB 57-40-015 issued December 4, 1981, or an equivalent means approved by the Chief, Aircraft Certification Division, FAA Southwest Region.

A special flight permit may be issued in accordance with FAR 21.187 to allow flight of the aircraft to a location where this AD can be accomplished.

This AD supersedes Amendment 39-1412, AD 72-7-5.

This amendment becomes effective December 30, 1981.

(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)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on December 15, 1981.

C. R. Melugin, Jr.,
Director, Southwest Region.

[FR Doc. 81-6835 Filed 12-30-81; 8:45 am]
BILLING CODE 4910-13-M

-14 CFR Part 71

[Airspace Docket No. 81-1-EA-34]

Alteration of Control Zone and Transition Area: Hagerstown, Md.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Hagerstown, Maryland, Control Zone and Transition Area by changing the description to delete "Hagerstown Regional Airport" and insert "Washington County Regional Airport". This results from a change of name of the airport by the Board of County Commissioners.

EFFECTIVE DATE: December 31, 1981.


SUPPLEMENTARY INFORMATION: The rule is clerical in nature and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary, and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F and G of Part 71, Federal Aviation Regulations (14 CFR Part 71) are amended, effective December 31, 1981, as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the text of the description of the Hagerstown, Maryland, Control Zone by deleting, "Hagerstown Regional Airport" and by substituting, "Washington County Regional Airport" therefor.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations by altering the text of the description of the Hagerstown, Maryland, 700-foot floor transition area by deleting, "Hagerstown Regional Airport" and by substituting, "Washington County Regional Airport" therefor.

(Sec. 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), and 1354(c); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. If, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); (3) does not warrant preparation of regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Jamaica, New York on December 1, 1981.

Timothy L. Hartnett,
Acting Director, Eastern Region.

[FR Doc. 81-50080 Filed 12-30-81; 8:45 am]
BILLING CODE 4910-13-M

-14 CFR Part 71

[Airspace Docket No. 81-1-EA-55]

Alteration of Transition Area: Ocean City, Maryland

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Ocean City, Maryland, Transition Area by changing the description of the area by deleting the reference to the Snow Hill, Maryland, VORTAC and the airspace based thereon and substituting the Salisbury, Maryland, VORTAC and airspace thereon. This results on the implementation of a new instrument procedure.

EFFECTIVE DATE: 0901 GMT December 24, 1981.


SUPPLEMENTARY INFORMATION: The rule deletes an extension to the area to the southwest and substitutes an extension to the west. The overall result is a decrease in the amount of controlled airspace. The new extension is approximately 1 mile by 2 miles, not a substantial amount in the context of the reduction and the amount of controlled airspace remaining. Thus it is minor in nature and does not impose any additional burden on any person. In view of the foregoing, notice and public
procedure hereon are unnecessary, and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective December 24, 1981, by adopting the rule as follows:

1. Amend § 1.181 of Part 71, Federal Aviation Regulations by altering the description of the Ocean City, Maryland 700-foot floor transition area by deleting, “within 2.5 miles each side of the Snow Hill, Md., VORTAC 047° radial, extending from the 5-mile radius area to 18.5 miles northeast of the VORTAC” and by substituting, “within 2-miles each side of the Salisbury, Md., 098° radial extending from the 5-mile radius area to 14 miles east of the VORTAC” therefor.

(Sec. 307(a), and 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1349(a) and 1354(a)]; Sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.69.)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore—(1) is not a “major rule” under Executive Order 12291; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Jamaica, New York on December 1, 1981.

Timothy L. Hartnett,
Acting Director, Eastern Region.


Telephone (212) 993-3591.

SUPPLEMENTARY INFORMATION: This rule is minor in nature since the added airspace is only two 1-mile by 4-miles extensions, and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary, and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended, effective January 21, 1982, by adopting the rule as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description of the Jamestown, New York, Control Zone by deleting, “; within 2 miles each side of the Jamestown, N.Y., VOR 071° and 251° radials extending from the 5-mile radius zone to the VOR and within 2 miles each side of a 053° bearing from the Jamestown, N.Y., RBN (42°11′02″N., 79°11′15″W.) extending from the 5-mile radius zone to 7 miles northeast of the RBN.”

2. Amend § 71.281 of Part 71, Federal Aviation Regulations, by altering the description of the Jamestown, New York, 700-foot floor transition area by deleting, “within 2 miles each side of the Jamestown VOR 071° and 251° radials, extending from the 7-mile radius area to 8 miles northeast of the VOR; and within 2 miles each side of a 053° bearing from the Jamestown, N.Y., RBN (42°11′02″N., 79°11′15″W.) extending from the 7-mile radius area to 8 miles northeast of the RBN; within 2 miles each side of the Jamestown, N.Y., ILS localizer northeast course extending from the 7-mile radius area to 8 miles northeast of the ILS OM.” and substitute, “within 2.5 miles each side of the Runway 31 extended runway centerline extending from the 7-mile radius area to 8 miles northwest of the runway; and within 2.5 miles each side of the Runway 13 extended runway centerline extending from the 7-mile radius area to 9 miles southeast of the runway.”

[Sec. 307(a), and 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1349(a) and 1354(a)]; Sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.69.)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “major rule” under Executive Order 12291; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Jamaica, New York on December 9, 1981.

Timothy L. Hartnett,
Acting Director, Eastern Region.

[FR Doc. 81-3807 Filed 12-30-81; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-EA-31]

Alteration of Control Zone and Transition Areas: Newburgh, New York and Wurtsboro, New York

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Newburgh, New York, Control Zone, and Transition Area and the Wurtsboro, New York, Transition Area, by deleting in the descriptions reference to the Stewart VOR and airspace based thereon. This results from a cancellation of the instrument procedures based on the VOR.

EFFECTIVE DATE: December 31, 1981.


SUPPLEMENTARY INFORMATION: The rule is relaxatory in nature since it releases controlled airspace and does not impose
any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary, and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F and G of Part 71 of the Federal Aviation Regulations (49 CFR Part 71) are amended, effective upon December 31, 1981, as follows:

1. Amend §71.171 of Part 71, Federal Aviation Regulations, by altering the description of the Newburgh, New York, Control Zone by deleting “090” bearing from the airport; within 3 miles each side of the Stewart VOR (41°30’30” N., 74°05’51” W.) 325° radial, extending from the VOR to 15 miles northwest of the VOR and 4.5 miles each side of the Stewart VOR 088° radial, extending from the VOR to 11.5 miles east of the VOR, excluding the portion that coincides with the Poughkeepsie, New York, Control Zone, and substitute therefor, “066” bearing from the airport.”

2. Amend §71.181 of Part 71, Federal Aviation Regulations, by altering the description of the Newburgh, New York, 700-foot floor Transition Area by deleting, “within 3.5 miles each side of the Stewart VOR (41°30’30” N., 74°05’51” W.) 325° radial, extending from the Stewart VOR to 10.5 miles northwest of the Stewart VOR; within 5 miles each side of the Stewart VOR 088° radial, extending from the Stewart VOR to 13 miles east of the Stewart VOR;”

3. Amend §71.181 of Part 71, Federal Aviation Regulations, by altering the description of the Wurtsboro, New York, 700-foot floor Transition Area by deleting, “within 4.5 miles north and 0.5 miles south of the Stewart VOR (41°30’30” N., 74°05’51” W.) 288° radial extending from 2.5 miles west to 19.5 miles west of the Stewart VOR;”.  

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “major rule” under Executive Order 12291 (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.  

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, §71.181 of Subpart G of Part 71 of the Federal Aviation Regulations (49 CFR Part 71) as republished (46 FR 490) is amended, effective 0001 GMT, March 18, 1982, as follows:

14 CFR Part 71

[Airspace Docket No. 81-ASW-45]

Designation of Transition Area: Freeport, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will designate a transition area at Freeport, TX. The intended effect of the amendment is to provide adequate controlled airspace for helicopters executing a new instrument approach procedure to the Petroleum Helicopters, Inc. (PHI), landing area, Freeport, TX. This amendment is necessary to provide controlled airspace for helicopters executing an instrument approach procedure to a point in space east of the PHI landing area.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: James L. Owens, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: On October 26, 1981, a notice of proposed rulemaking was published in the Federal Register (46 FR 52234) stating that the Federal Aviation Administration proposed to designate the Freeport, TX, 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.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, §71.181 of Subpart G of Part 71 of the Federal Aviation Regulations (49 CFR Part 71) as republished (46 FR 490) is amended, effective 0001 GMT, March 18, 1982, as follows:

14 CFR Part 71

[Airspace Docket No. 81-ASW-45]


AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the subject Control Zones by changing the hours of effectiveness to less than 24 hours of operation. It also permits changing future hours of effectiveness by reference to the Notices to Airmen. This all results from a temporary reduction in staffing.

EFFECTIVE DATE: December 31, 1981.


SUPPLEMENTARY INFORMATION: The rule is relaxatory in nature in that it reduces the time of effective controlled airspace, and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary, and the rule
may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective upon December 31, 1981, as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description by deleting, "This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time thereafter will be published continuously in the Airport/Facility Directory." therefor.

2. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description by deleting, "This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time thereafter will be published continuously in the Airport/Facility Directory." therefor.

3. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description by deleting, "This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time thereafter will be published continuously in the Airport/Facility Directory." therefor.

4. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description by deleting, "This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time thereafter will be published continuously in the Airport/Facility Directory." therefor.

5. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description by deleting, "This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time thereafter will be published continuously in the Airport/Facility Directory." therefor.

6. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description by deleting, "This control zone is effective from 0630 to 2230 hours, local time, daily," and by substituting, "This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published continuously in the Airport/Facility Directory." therefor.

7. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description by deleting, "This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published continuously in the Airport/Facility Directory." therefor.

8. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description by deleting, "This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published continuously in the Airport/Facility Directory." therefor.

9. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description by deleting, "This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published continuously in the Airport/Facility Directory." therefor.

10. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description by deleting, "This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published continuously in the Airport/Facility Directory." therefor.

11. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description by deleting, "This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published continuously in the Airport/Facility Directory." therefor.

12. Amend § 71.171 of Part 71, Federal Aviation Regulations, by altering the description by deleting, "This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be published continuously in the Airport/Facility Directory." therefor.

(Secs. 207(g), 213(c), Federal Aviation Act of 1958 [49 U.S.C. 1348(g) and 1346(c)]; sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1656(c)]; and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 23, 1979); (3) does not warrant preparation of regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Jamaica, N.Y., on December 8, 1981.

Timothy L. Hartnett,
Acting Director, Eastern Region.

[FR Doc. 81-6324 Filed 12-30-81; 8:35 am]
BILLING CODE 4110-19-M

14 CFR Part 71

[Airspace Docket No. 81-8A-47]

Alteration of Transition Area:

Reedsville, Pa.

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Reedsville, Pennsylvania, Transition Area by changing the description to "Veterans Memorial Airpark Airport." This results from a recent order to change the name of the airport.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION: The rule is clerical in nature and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary, and the rule may be made effective in less than 30 days.

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
14 CFR Part 71
[Airspace Docket No. 81-EA-57]

Revocation of Transition Area: Hopewell, Va.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule revokes the Hopewell, Virginia, Transition Area. This results from cancellation of the instrument approach procedure for Hopewell Airport.

EFFECTIVE DATE: 0001 GMT, December 24, 1981.


SUPPLEMENTARY INFORMATION: This rule is regulatory in nature and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary, and the rule may be made effective in less than 30 days.

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 December 24, 1981, by adopting the rule as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, by altering the description of the Reedslee, Pennsylvania, 700-foot floor transition area by deleting, "of Mifflin County Airport," and substituting, "Veterans Memorial Airpark Airport" therefor. (Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a "significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Jamaica, N.Y., on December 1, 1981.

Timothy L. Hartnett,
Acting Director, Eastern Region.

BILLING CODE 4910-13-M

14 CFR Part 71

46 FR 56035 Filed 12-20-81; 8:45 am]

14 CFR Part 204

[Regulation ER-1271; Amend. 59]

Civil Aeronautics Board

ACTION: Final rule.

SUMMARY: The note at the end of this Part 204 concerning the clearance of the requirement for the filing of data to support various air carrier fitness determinations is revised to indicate approval of the reporting requirements by the Office of Management and Budget (OMB). This action is required because the responsibility for approval of the CAB's reporting requirements was transferred from the General Accounting Office to OMB by the Paperwork Reduction Act of 1980.

Effective: December 24, 1981.

FOR FURTHER INFORMATION CONTACT:
Clifford M. Rand, Chief, Data Requirements Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.

CIVIL AERONAUTICS BOARD

14 CFR Part 204

[Regulation ER-1273; Amend. 3]

Data To Support Fitness Determinations; Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The note at the end of this Part 204 concerning clearance of the requirement for the filing of data to support various air carrier fitness determinations is revised to indicate approval of the reporting requirements by the Office of Management and Budget (OMB). This action is required because the responsibility for approval of the CAB's reporting requirements was transferred from the General Accounting Office to OMB by the Paperwork Reduction Act of 1980.

Effective: December 24, 1981.

FOR FURTHER INFORMATION CONTACT:
Clifford M. Rand, Chief, Data Requirements Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.
Part 221—TARIFFS

Accordingly, the Civil Aeronautics Board amends Part 221 of its Economic Regulations (14 CFR Part 221) by revising the note at the end of Part 221 to read:

Note.—The filing requirements contained in this part have been approved by the Office of Management and Budget under number 3024-0038.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204, the Federal Aviation Act of 1958, as amended, 72 Stat. 743 [49 U.S.C. 1324])

By the Civil Aeronautics Board.

Phyllis T. Kaylor, Secretary.

[FR Doc. 81-37231 Filed 12-20-81; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 223

[Regulation ER-1257; Amdt. 12]

Free and Reduced-Rate Transportation; Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The note at the end of this Part 223 concerning the clearance of the reporting requirements associated with the furnishing of free and reduced-rate transportation by air carriers is revised to indicate approval of the reporting requirements by the Office of Management and Budget (OMB). This action is required because the responsibility for approval of the CAB's reporting requirements was transferred from the General Accounting Office to OMB by the Paperwork Reduction Act of 1980.


FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.

PART 223—FREE AND REDUCED-RATE TRANSPORTATION

Accordingly, the Civil Aeronautics Board amends Part 223 of its Economic Regulations (14 CFR Part 223) by revising the note at the end of Part 223 to read:

Note.—The reporting requirements contained in §§ 223.2(c), 223.6, 223.7 and the application requirement contained in § 223.8 have been approved by the Office of Management and Budget under number 3024-0002.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204, the Federal Aviation Act of 1958, as amended, 72 Stat. 743 [49 U.S.C. 1324])

By the Civil Aeronautics Board.

Phyllis T. Kaylor, Secretary.

[FR Doc. 81-37233 Filed 12-30-81; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 241

[Regulation ER-1259; Amdt. 43]

Uniform System of Accounts and Reports for Certified Air Carriers; Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The note at the end of this Part 241 concerning the clearance of the requirement for the submission of service segment data is revised to indicate approval of the reporting requirements by the Office of Management and Budget (OMB). This action is required because the responsibility for approval of the CAB's reporting requirements was transferred from the General Accounting Office to OMB by the Paperwork Reduction Act of 1980.


FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFIED AIR CARRIERS

Accordingly, the Civil Aeronautics Board amends Part 241 of its Economic Regulations (14 CFR Part 241) by revising the note at the end of Part 241 to read:

Note.—The reporting requirement contained in § 241.19-3 has been approved by the Office of Management and Budget under number 3024-0014.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204, the Federal Aviation Act of 1958, as amended, 72 Stat. 743 [49 U.S.C. 1324])

By the Civil Aeronautics Board.

Phyllis T. Kaylor, Secretary.

[FR Doc. 81-37233 Filed 12-30-81; 8:45 am]
BILLING CODE 6320-01-M
14 CFR Part 248

[Regulation ER-1268; Amdt. 3]

Summary of Audit and Reconciliation Reports; Approval by the Office of Management and Budget

Agency: Civil Aeronautics Board.

Action: Final rule.

Summary: The note at the end of this part 248 concerning the clearance of the reporting requirements of air carriers holding an all-cargo air service certificate is revised to indicate approval of the reporting requirements by the Office of Management and Budget. This action is required because the responsibility for approval of the CAB's reporting requirements was transferred from the General Accounting Office to OMB by the Paperwork Reduction Act of 1980.


For Further Information Contact: Clifford M. Rand, Chief, Data Requirements Division, Office of Comptroller, Civil Aeronautics Board, 1225 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.

Part 248—Submission of Audit and Reconciliation Reports

Accordingly, the Civil Aeronautics Board amends part 248 of its Economic Regulations (14 CFR Part 248) by revising the note at the end of part 248 to read:

Note.—The reporting requirements contained in this part have been approved by the Office of Management and Budget under number 3024-0022.

This amendment is issued by the undersigned pursuant to delegation of authority from the Secretary to the Secretary in 14 CFR 385.24(b).

(Sec. 204 Federal Aviation Act of 1958, as amended, 72 Stat. 749 (49 U.S.C. 1324))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-37282 Filed 12-30-81; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 291

[Regulation ER-1270; Amdt. 8]

Domestic Cargo Transportation; Approval by the Office of Management and Budget

Agency: Civil Aeronautics Board.

Action: Final rule.

Summary: The CAB amends its procedural rules to remove an obsolete scheme for preparing cost estimates in certain route cases.


For Further Information Contact: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

Supplementary Information: The Board is amending its procedural rules (14 CFR Part 302) to eliminate Subpart K, Standardized Method for Costing Proposed Changes in the Authorized Operations of Local Service Carriers. This costing methodology has largely fallen into disuse. The local service carriers no longer exist as a separate classification of air carriers. The cost of operating a given route segment has not been at issue in domestic route proceedings for several years, and will be legally irrelevant after December 31, 1981, when the Board loses the authority to name terminal and intermediate points in certificates for interstate and overseas passenger air transportation. And while costs can still be relevant in international route proceedings, the Subpart K method has not been used there for several years either.

Since this action is procedural in nature and merely removes an obsolete provision, the Board finds that notice and public procedure are unnecessary and that the amendment may become effective less than 30 days after publication in the Federal Register.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 302, Rules of Practice in Board Proceedings, as follows:

Part 302—Rules of Practice in Board Proceedings

1. The authority for Part 302 is:


2. The Table of Contents is amended by removing Subpart K.

§§ 302.1101–302.1109 (Subpart K) [Reserved]


By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-37282 Filed 12-30-81; 8:45 am]
BILLING CODE 6320-01-M
14 CFR Part 321
[Regulation PR-237; Amdt. 2]
Unused Authority Procedures; Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The note at the end of this Part 321 concerning the clearance of reporting requirements associated with procedures governing unused route authority is revised to indicate approval of the reporting requirements by the Office of Management and Budget (OMB). This action is required because the responsibility for approval of the CAB's reporting requirements was transferred from the General Accounting Office to OMB by the Paperwork Reduction Act of 1980.


FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.

PART 324—PROCEDURES FOR COMPENSATING AIR CARRIERS FOR LOSSES

Accordingly, the Civil Aeronautics Board amends Part 324 of its Procedural Regulations (14 CFR Part 324) by revising the note at the end of Part 324 to read:

Note.—The reporting requirements contained in §§ 325.4 and 325.9 have been approved by the Office of Management and Budget. This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

[Sec. 204, Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324)]
By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

14 CFR Part 325
[Regulation PR-236; Amdt. 3]

Essential Air Service Procedures; Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The note at the end of this Part 325 concerning the clearance of reporting requirements associated with procedures for designating eligible points and determining essential air transportation levels for eligible points is revised to indicate approval of the reporting requirements by the Office of Management and Budget (OMB). This action is required because the responsibility for approval of the CAB's reporting requirements was transferred from the General Accounting Office to OMB by the Paperwork Reduction Act of 1980.


FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.

PART 324—PROCEDURES FOR COMPENSATING AIR CARRIERS FOR LOSSES

Accordingly, the Civil Aeronautics Board amends Part 324 of its Procedural Regulations (14 CFR Part 324) by revising the note at the end of Part 324 to read:

Note.—The reporting requirements contained in §§ 324.4 and 324.9 have been approved by the Office of Management and Budget under number 3024-0034.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

[Sec. 204, Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324)]
By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-37173 Filed 12-30-81; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 325
[Regulation PR-236; Amdt. 3]

Essential Air Service Procedures; Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The note at the end of this Part 325 concerning the clearance of reporting requirements associated with procedures for designating eligible points and determining essential air transportation levels for eligible points is revised to indicate approval of the reporting requirements by the Office of Management and Budget (OMB). This action is required because the responsibility for approval of the CAB's reporting requirements was transferred from the General Accounting Office to
PART 325—ESSENTIAL AIR SERVICE PROCEDURES

Accordingly, the Civil Aeronautics Board amends Part 325 of its Procedural Regulations (14 CFR Part 325) by revising the note at the end of Part 325 to read:

Note.—The recording requirements contained in sections 325.4, 325.7 and 325.20 have been approved by the Office of Management and Budget under number 3024-0037.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

By the Civil Aeronautics Board,

Phyllis T. Kaylor,
Secretary.

FR Doc. 81-37339 Filed 12-30-81; 8:45 am
BILLING CODE 4210-13-M

14 CFR Part 375

[Regulation SPR-181; Amdt. 45] 1

Navigation of Foreign Civil Aircraft Within the United States; Notice of Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The note at the end of this Part 375 concerning the clearance of reporting requirements associated with the navigation of foreign civil aircraft in the United States is revised to indicate approval of the reporting requirements by the Office of Management and Budget (OMB). This action is required because the responsibility for approval of the OMB’s reporting requirements was transferred from the General Accounting Office to OMB by the Paperwork Reduction Act of 1980.


FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Comptroller, Civil Aeronautics Board.


PART 375—NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN THE UNITED STATES

Accordingly, the Civil Aeronautics Board amends Part 375 of its Special Regulations (14 CFR Part 375) as follows:

(1) By revising the first note at the end of the part;
(2) By revising the second note to read:

Note.—The recording requirements contained in §§ 375.43(b) and 375.43(c) and the reporting requirements contained in §§ 375.44(b), 375.45 and 375.70 have been approved by the Office of Management and Budget under number 3024-0037.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

[Sec. 320, Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324)]

By the Civil Aeronautics Board,

Phyllis T. Kaylor,
Secretary.

FR Doc. 81-37340 Filed 12-30-81; 8:45 am
BILLING CODE 4210-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Regulation SPR-181; Amdt. 45] 1

Special Airport Traffic Areas and Air Traffic Rules for Abbotsford, BC, and Sault Ste. Marie, ON, Canada

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects Amendment 45 to Part 93 of the Federal Aviation Regulations published on December 10, 1981 (46 FR 60420). The section numbers assigned to the new Subpart Q created by the Amendment had previously been assigned to Subpart P. The effect of this correction is to renumber those sections. Additionally, this action corrects a minor discrepancy in the description of the Abbotsford, BC, Special Airport Traffic Area.

EFFECTIVE DATE: December 21, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Davis, Air Traffic Rules Branch (AAT-220), Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW.

FR Doc. 81-37414 Filed 12-30-81; 8:45 am
BILLING CODE 4910-13-M
SUMMARY: This document contains the 1981 revision and Change 1 of the NASA Grant and Cooperative Agreement Regulation (14 CFR Part 1260). This document implements the Federal Grant and Cooperative Agreement Act of 1977 and it provides educational institutions and other nonprofit organizations information of mutual interest designed to further a close cooperative working relationship with NASA in achieving national goals.

EFFECTIVE DATE: December 31, 1981.


SUPPLEMENTARY INFORMATION: This document implements the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224 (41 U.S.C. 501 et seq.) and establishes uniform policies and procedures relating to the negotiation, award, and administration of research grants and cooperative agreements with educational institutions and other nonprofit organizations.

a. Section 1260.203 provides guidance on the appropriate choice of award instruments consistent with the Act and Office of Management and Budget (OMB) implementation of that Act.

b. Section 1260.301 provides guidance in determining the allowability of costs chargeable to research supported by NASA under grants and cooperative agreements.

c. Section 1260.304 reflects a revision in cost sharing policy for educational institutions.

Stuart J. Evans,
Director of Procurement.

Accordingly, 14 CFR Part 1260 is revised to read as follows:

PART 1260—GRANTS AND COOPERATIVE AGREEMENTS

Subpart 1—General

Sec.
1260.100 Purpose.
1260.102 Arrangement of part.
1260.103 Contents.

Sec.
1260.104 Amendment.
1260.105 Dissemination and effective date of the part and amendments.
1260.110 Applicability.
1260.117 Definitions.

Subpart 2—Basic Policies

1260.200 Authority.
1260.201 Policy.
1260.202 Proposals.
1260.203 Criteria for selection of award instrument.
1260.204 Processing the instruments.
1260.205 Civil Rights Act of 1964—Nondiscrimination in certain Federally funded programs.
1260.206 Filing, binding, and duplicating.
1260.207 Procurement of helium.
1260.208 Clean Air and Federal Water Pollution Control Acts.

Subpart 3—Award of Grants and Cooperative Agreements

1260.300 General.
1260.301 Instruments.
1260.302 Format.
1260.303 Allowable costs.
1260.304 Cost sharing.
1260.305 Long-term stability.
1260.306 Numbering of instruments.
1260.307 Retention of documents for on-site audit.

Subpart 4—Research Grant and Cooperative Agreement Provisions

1260.401 Technical reports and publications.
1260.402 Extensions.
1260.403 Revocation.
1260.404 Travel.
1260.405 Allowable Costs.
1260.406 Accounting records.
1260.407 Payment.
1260.408 Equipment and other property.
1260.409 Patent rights (small business firm or nonprofit organization).
1260.410 Rights in data.
1260.411 Security.
1260.412 Civil rights.
1260.413 Safety.
1260.414 Subcontracts.
1260.415 Changes in principal investigator or technical objectives.
1260.416 Communications.
1260.417 Financial management system.
1260.418 Procurement standards.
1260.419 Additional provision for cooperative agreements.
1260.420 Special conditions.

Subpart 5—Administration of Research Grants and Cooperative Agreements

1260.500 General.
1260.502 Instrument.
1260.503 Instrument period.
1260.504 Adherence to original budget estimates.
1260.505 Use, disposition and vesting of title to research equipment.
1260.506 Revocation.
1260.507 Transfer of grants or cooperative agreements to other institutions.
1260.508 Accounting procedures.
1260.509 Property management standards.
1260.510 Submitting requests for Government-furnished equipment.
§ 1260.103 Contents.

This part 1260 is published to achieve maximum uniformity throughout NASA and will be amended from time to time. Personnel involved with grants and cooperative agreements are encouraged to submit suggestions for improving the procedures set forth in this part. Such suggestions should be submitted to the Office of Procurement, NASA Headquarters (Code HP-1).

§ 1260.104 Amendment.

(a) Changes. This part will be amended by issuance of printed loose-leaf “Changes” containing revised or additional pages, sections, or subparts. Each revised or new page of a change will bear, at the top, the date of the change and the change number. Changes to this part will be published in the Federal Register.

(b) NASA Grant and Cooperative Agreement Handbook Instruction. The Handbook may be amended by means of a NASA Grant and Cooperative Agreement Handbook Instruction when (1) it is necessary to provide rapid dissemination of new or revised grant and cooperative agreement policies or procedures pending their incorporation into the next published change to the Handbook; or (2) the policy or procedure is expected to be effective for 1 year or less. The NASA Grant and Cooperative Agreement Handbook Instructions will be numbered consecutively.

§ 1260.105 Dissemination and effective date of the part and amendments.

(a) The NASA grant and cooperative agreement handbook, Changes and Instructions will be distributed directly to NASA installations. The number of copies of the Handbook, Changes, and Instructions will be distributed on the basis of the requirements furnished by each Headquarters Staff Office, Headquarters Program Office, and NASA Installations to the Office of Procurement, NASA Headquarters, Procurement Policy Division (Code HP-1).

(b) Directors of Installations and the Procurement Policy Division at Headquarters will ensure that copies of the NASA Grant and Cooperative Agreement Handbook are distributed to all interested activities and individuals within their installation.

(c) Copies of the NASA Grant and Cooperative Agreement Handbook, Changes and Instructions may be purchased by private concerns, universities, and individuals from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

(d) Compliance with an amendment to the NASA Grant and Cooperative Agreement Handbook shall be optional effective with the date of issuance thereof and shall be mandatory effective 60 days thereafter, except as may be otherwise prescribed in a Change or Instruction.

§ 1260.106 Deviations.

(a) Applicability. A deviation shall be considered to be any of the following:

(1) When a prescribed grant or cooperative agreement clause is set forth verbatim in this part, use of a clause covering the same subject matter which varies from, or has the effect of altering, the prescribed clause, or changing its application;

(2) When a grant or cooperative agreement clause is set forth in this part but not for use verbatim, use of a clause covering the same subject matter which is inconsistent with the intent, principle, and substance of the part clause or related coverage of the subject matter;

(3) Omission of any mandatory grant or cooperative agreement clause;

(4) When a NASA or other form is prescribed by this part, use of any other form for the same purpose;

(5) Alteration of a NASA or other form prescribed in this part except as authorized herein;

(6) When limitations are imposed by this part upon the use of a grant or cooperative agreement clause, form, procedure, or any other grant or cooperative agreement action, the imposition of lesser or greater limitations;

(7) When a policy, procedure, method, or practice of conducting grant actions is prescribed in this part, any policy, procedure, method, or practice inconsistent therewith.

(b) Approval of deviations. Deviations from this part 1260 will be authorized only when essential to effect necessary grant or cooperative agreement actions or where special circumstances make such deviations clearly in the best interests of the Government. Such deviations will be approved only by the Director of Procurement or a duly authorized representative.

§ 1260.107 Definitions.

As used throughout this Part 1260, the words and terms defined in this section shall have the meanings set forth below, unless the context in which they are used clearly requires a different meaning, or a different definition is prescribed for a particular subpart or section thereof. In particular, the term "grant" applies to "grant" and "cooperative agreement" unless otherwise indicated.

(a) Administrator. The Administrator or Deputy Administrator of NASA.

(b) Director of Procurement. The Director of Procurement, Office of Procurement, NASA Headquarters (Code HH).

(c) Basic research. Systematic, intensive study directed toward greater knowledge or understanding of the subject studied.

(d) Educational institution. Any institution which (1) has a faculty, (2) offers courses of instruction and (3) is authorized to award a degree upon completion of a specific course of study.

(e) Equipment. As used in this part, "equipment" is another term for nonexpendable personal property.

(i) Government furnished equipment. Equipment in the possession of or acquired directly by the Government and subsequently delivered or otherwise made available to a grantee.

(ii) Acquired equipment. Equipment purchased or furnished by a recipient, for performance of research under its grant or cooperative agreement.

(f) Grants officer. A contracting officer who has been delegated authority to award and administer grants and cooperative agreements.
(g) Grant specialist. Any employee of NASA who is assigned the responsibility of negotiating with potential grantees the terms and conditions of specific grants and cooperative agreements, and the administration of such grants or cooperative agreements.

(b) NASA. The National Aeronautics and Space Administration.

(j) Subcontract. A written agreement between a grantee and a third party for the furnishing of services or supplies necessary to carry out the research under a grant or cooperative agreement.

(k) Technical officer. The official of the cognizant NASA program office who is responsible for monitoring the technical aspects of the work under a grant or cooperative agreement.

Subpart 2—Basic Policies

§ 1260.200 Authority.

Under the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224 (41 U.S.C. 501 et. seq.), NASA is authorized to award grants and cooperative agreements. Pub. L. 95–224 includes (as Section 7(b)) the substance of the repealed “Grants Act” (42 U.S.C. 1891, 1892) pertaining to the vesting of title to equipment purchased with Federal funds in a nonprofit organization. It expands this authority to other tangible personal property and applies to cooperative agreements and contracts as well as grants.

§ 1260.201 Policy.

(a) NASA policy is to use the grant instrument to sponsor required basic research at nonprofit institutions or organizations when it is desired (1) to accomplish a public purpose of support or stimulation in the area of basic research; (2) when no substantial NASA involvement in the technical performance is anticipated, (3) to provide latitude to investigators that will encourage maximum creativity, and (4) to have the minimum administration consistent with the public interest.

(b) NASA policy is to use the cooperative agreement for the same purpose as grants, except that substantial Federal involvement in significant aspects of the effort are necessary for its accomplishment.

(c) In addition, it is NASA policy to provide appropriate continuity of support in research sponsored under grants.

§ 1260.202 Proposals.

(a) General. An activity leading to a grant or cooperative agreement must be supported by a valid proposal from the prospective recipient organization. Proposals are not categorized as "grant proposal" or "contract proposal." In many cases the proposals received will be unsolicited. However, instrument selection under the Federal Grant and Cooperative Agreement Act, Pub. L. 95–224, is independent of proposal type; therefore, some grants and cooperative agreements will be based on solicitations. This Subpart 2 provides information for the grant officer in processing actions based on either type of proposal.

(b) Unsolicited proposals—(1)

References. 41 CFR Ch. 18, 4.9 contains basic agency guidance on unsolicited proposals applicable to all classes of performers. NASA Management Instruction 6330.1, "Unsolicited Proposals From Universities," provides additional guidance for educational institutions only. Proposal submission information for educational institutions is covered in "The NASA-University Program: A Guide to Policies and Procedures," which should be provided to academic researchers in response to requests.

(2) Policy. It is NASA policy to foster and encourage the submission of unsolicited proposals and, in particular, to provide an instrument to determine if conversion to a formal submission to NASA is desired. The institution may at that time submit any desired revisions or other material necessary. The procurement initiator should be notified of any substantive changes.

(3) Use of data. Some proposals may have a notice on the cover intended to maintain trade secret rights. The notice set forth in 41 CFR, Ch. 18, 1.304–2 is:

Data on pages — of this proposal constitute a trade secret. It is furnished to the Government in confidence with the understanding that it will not, without permission of the offeror, be used or disclosed other than for evaluation purposes: Provided, however, that if a procurement action is awarded on this proposal, the Government may obtain in the contract additional rights to use and disclose this data.

If the grants officer receives an unsolicited proposal containing a notice and the terms are more restrictive than those provided in the notice above, the grants officer shall inquire whether the offeror is willing to accept the conditions of the notice set forth in 41 CFR, Ch. 18, 1.304–2. Should the offeror not agree, local counsel should be consulted concerning the legal effect of the more restrictive conditions imposed by the offeror. (See 41 CFR, Ch. 18, 4.913.) This situation should rarely occur in actions with universities.

(8) prohibitions. NASA shall not permit all or any part of an unsolicited proposal to be used as the basis, or portion of, a solicitation, or in negotiation with other organizations submitting the proposal, or a person authorized to contractually obligate the organization. (See 41 CFR, Ch. 18, 4.903.) Incomplete or sketchy "informal" or "preliminary" proposals or technical correspondence, as defined by 41 CFR, Ch. 18, 4.904 and 4.908(d), do not qualify as unsolicited proposals.

(5) If any such invalid proposals are received for procurement action, the grants officer should give the institution an opportunity to provide the missing information. (See 41 CFR, Ch. 18, 4.902.) In the event excessive delay or possible cancellation of the procurement is contemplated, the procurement request initiator should be notified.

(6) Proposals from other agencies. NASA will not accept for formal evaluation unsolicited proposals initially submitted to another agency or the Jet Propulsion Laboratory, Pasadena, CA without the express consent of the offeror. (See 41 CFR Ch. 18, 4.912(a).) In the event such a proposal is received as the basis for a procurement action and the required consent is lacking, the grants officer should contact the institution to determine if conversion to a formal submission to NASA is desired. The institution may at that time submit any desired revisions or other material necessary. The procurement initiator should be notified of any substantive changes.

(7) Use of data. Some proposals may have a notice on the cover intended to maintain trade secret rights. The notice set forth in 41 CFR, Ch. 18, 1.304–2 is:

Data on pages — of this proposal constitute a trade secret. It is furnished to the Government in confidence with the understanding that it will not, without permission of the offeror, be used or disclosed other than for evaluation purposes: Provided, however, that if a procurement action is awarded on this proposal, the Government may obtain in the contract additional rights to use and disclose this data.
unless the offeror is notified of and agrees to the intended use. However, nothing herein precludes the Government from using any data, concept or idea which it could have used had the unsolicited proposal not been submitted. (See 41 CFR, Ch. 18, 4.911.)

(9) Foreign proposals. Proposals from foreign sources are additionally subject to the provisions of NASA Procurement Directive 1362.1, "Initiation and Development of International Participation and Cooperation in Aeronautical and Space Program." Field installations will forward purchase requests for foreign proposals to the Headquarters Contracts and Grants Division, Code HW-2, through the International Affairs Division, Code LI, for procurement action. (See 41 CFR, Ch. 18, 4.914.)

(10) Justification for acceptance. (i) A negotiated, noncompetitive grant or cooperative agreement is permissible and will be used when an unsolicited proposal has received a favorable technical evaluation, except as noted in paragraph (b)(4) of this section. The technical office sponsoring the procurement shall support its recommendation with a "Justification for Acceptance of Unsolicited Proposal." The "Justification" shall be based on a comprehensive evaluation of the proposal. The "Justification" shall include the facts and circumstances that operate to preclude competition and that support the recommended noncompetitive action. Consideration shall include the following evaluation factors (see 41 CFR, Ch. 18, 4.910(b));

(A) Unique, innovative, or meritinous methods, approaches, or ideas which have originated with or have been assembled together by the offeror that are contained in the proposed effort or activity;

(B) Overall scientific, technical, or socio-economic merits of the proposed effort or activity;

(C) Potential contribution which the proposed effort is expected to make to the agency's specific mission, if pursued at this time;

(D) Capabilities, related experience, facilities, or techniques, or unique combinations thereof which the offeror possesses and offers, and which are considered to be integral factors for achieving the scientific, technical, or socio-economic objective(s) of the proposal.

(II) Qualifications and experience of the proposed principal investigator, team leader, or key personnel who are considered to be critical in achieving the objectives of the proposal (see 41 CFR, Ch. 18, 4.909(d)).

(ii) In reviewing the "Justification" the grants officer shall bear in mind that paragraph (b)(10)(i) is generally descriptive of research as performed by academic institutions and of research typically suitable for support by a grant or cooperative agreement. Since research proposals of this type are intellectual products, it is inappropriate and unrealistic to attempt to establish that no one else can perform similar research. It is only necessary to establish that the proposal is the only one available for the type of effort contemplated or has better promise than related or overlapping ones available for evaluation at the same time.

(iii) In isolated instances, a favorable comprehensive evaluation of a university unsolicited proposal is not, in itself, sufficient justification for negotiating on a noncompetitive basis with the offeror. When a document qualifies as an unsolicited proposal but the substance (A) is available to the Government without restriction from another source or (B) closely resembles that of a pending competitive solicitation, or (C) is otherwise not sufficiently unique to justify acceptance, the unsolicited proposal shall not be acceptable. When procurement is intended and competition is feasible, the proposal shall be returned to the offeror together with the reasons for the return. The procurement request initiator shall be notified before such action is taken. (See 41 CFR, Ch. 18, 4.910(c).)

(iv) When it is determined that the subject matter of an unsolicited proposal is acceptable for award on a noncompetitive basis, the unsolicited proposal will serve as the basis for negotiation. (See 41 CFR Ch. 18, 4.910(c).) A Request for Proposal (RFP) or a Request for Quotation (RFQ) will not be used to obtain any additional information or revisions. In this connection, note that the manner and extent of the evaluation of the scientific/technical and the price/cost portions of unsolicited proposals is the responsibility of officers having substantive responsibilities for these areas. (See 41 CFR Ch. 18, 4.909(e).)

(v) Proposals for renewal of on-going projects are generally simpler as less detailed information or justification is required. However, they should cover the basic information required for procurement action, with particular emphasis on changes since the original award was made. (See 41 CFR Ch. 18, 4.909(d).)

(vi) Proposals for renewal of on-going projects are generally simpler as less detailed information or justification is required. However, they should cover the basic information required for procurement action, with particular emphasis on changes since the original award was made. (See 41 CFR Ch. 18, 4.909(d).) Simplified procedures should be used when renewal is anticipated to expedite renewals, particularly when continuing or step funded awards are involved.

(vii) Justifications will normally be prepared by the procurement request initiator on an individual proposal basis. However, where a number of similar proposals are peer reviewed in a group or as the result of a Space Science Announcement, Applications Announcement or similar announcement, a simplified procedure may be used. This is particularly applicable where the evaluation is conducted by Headquarters and the proposals subsequently transferred to a field center for all further processing and award.

(viii) Accordingly, in instances where unsolicited proposals are received as a result of an open notice issued in accordance with 41 CFR, Ch. 18, 4.908(b)(1), the following justification format, to be executed by the technical office which issued the open notice, may be used to satisfy the requirements of 41 CFR, Ch. 18, 4.910(b).

(Form) Justification for Acceptance of Unsolicited Proposal

I recommend that NASA negotiate only with (Organization and location) for a technical study/investigation entitled: (proposal title), which is related to the (Name of) discipline field of the (Name of) Program. This recommendation is made on the basis of a favorable comprehensive evaluation in accordance with applicable provisions of NASA Procurement Regulation (NPR) 4.900, and is submitted in accordance with applicable provisions of NPR 4.910. This recommendation is made for the following reason(s); (insert one or more, but not necessarily all)

(i) The proposed effort contains unique, innovative (or meritinous) methods (approaches or ideas) which have originated with (and/or been assembled together by) the offeror;

(ii) A significant degree of scientific/technical merit inheres in the proposed effort;

(iii) The proposed effort is expected to make a noticeable, positive contribution to the (Name of) Program. If supported at this time;

(iv) The proposed effort has value to the (Name of) Program, not previously recognized by NASA;

(v) The qualifications, capabilities and experience of the proposed principal investigator (team leader and/or key personnel) are considered to be critical in achieving the objectives of the proposal;

(vi) The offeror possesses and offers capabilities, related experience and facilities (or techniques, or unique combinations thereof) which are considered to be integral factors for achieving the objectives of the proposal. It further appears that the substance of the proposal is not readily available to the Government without restriction from another source, does not closely resemble that of a pending competitive solicitation, and is sufficiently unique to justify acceptance. Based upon a comprehensive evaluation and the foregoing reason(s), I accept this proposal submitted by the anticipated principal investigator (Full...
(c) Solicited proposals. As a result of the instrument selection criteria specified by Pub. L. 95-224, and NASA's implementation in § 1260.203, the award of a grant or cooperative agreement based on a solicited proposal may be appropriate.

(d) Grants and cooperative agreements based on solicited proposals are most likely to result from proposals submitted in response to "Announcements of Opportunity." This type of solicitation is governed by the terms of NASA Handbook 8030.6, "Guidelines for Acquisition of Investigation."

§ 1260.203 Criteria for selection of award instrument.

(a) General. (1) This § 1260.203 provides guidance on the appropriate choice of award instruments consistent with the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224 and Office of Management and Budget (OMB) implementation of that Act. This § 1260.203 applies to all program and individual transactions where the choice of award instruments is within the administrative discretion of NASA and is not otherwise prescribed or limited by law. A variety of award instruments is available as the means for defining the terms and conditions, and the nature of the relationship between NASA and eligible recipients. The award instruments are intended to be different in purpose, application, content and nature. When properly employed, they create different relationships between the parties. Because of these differences, the decision to use a particular instrument to implement a particular purpose must be made deliberately.

(2) Procurement contracts. A procurement contract shall be used as the legal instrument to reflect a relationship between the Federal Government and a recipient whenever (i) the principal purpose of the procurement contract is to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than by acquisition, purchase, lease, or barter of property or services for the direct benefit or use of the Federal Government; and no substantial involvement is anticipated between NASA acting for the Federal Government and the recipient during performance of the contemplated activity.

(4) Cooperative agreements. A cooperative agreement shall be used as the legal instrument to reflect a relationship between the Federal Government and a recipient whenever the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition by purchase, lease, or barter, of property, or services for the direct benefit or use of the Federal Government; and no substantial involvement is anticipated between NASA acting for the Federal Government and the recipient during performance of the contemplated activity.

(b) Factors to consider in the selection of award instrument. The cognizant technical officer shall recommend to the contracting officer of the funding installation the selection of the research support instrument (grant, cooperative agreement or contract), regardless of the type of proposal involved, taking into account statutory requirements, NASA policies for dealing with universities, the nature of the proposed research, the manner in which it will be performed, and the nature and extent of interaction between NASA and the performer. Research grants and cooperative agreements with nonprofit institutions of higher education or at nonprofit organizations whose primary purpose is the conduct of scientific research may be made only to support basic scientific research. Any exceptions must have the prior approval of the Director of Procurement. As a matter of policy NASA does not generally award grants for donor assistance purposes, but only to meet program objectives; hence, consideration of any potential benefit accruing to the recipient is extraneous to determination of the support instrument. Since prime responsibility for the pursuit of most basic studies is with the university researcher, it is anticipated that the use of cooperative agreements will be limited to those situations where the project would not be possible without extensive NASA-university collaboration. Thus, cooperative agreements would be appropriate, for instance, where a university investigator works for a substantial amount of time at a NASA center (or a NASA investigator works at the university), or when the NASA-university scientific collaboration is such that a jointly authored report is appropriate. Under no circumstances are cooperative agreements to be used solely to obtain the stricter control requirements typical of a contract. Subject to the statutory requirements set forth in § 1260.203(a) of this part, the characteristics generally inherent in grants, cooperative agreements and contracts are as follows:

(1) Characteristics of a grant instrument:

(i) The principal purpose is to accomplish a NASA objective through stimulating or supporting the acquisition of knowledge or understanding of the subject or phenomena under study;

(ii) The research problem and its outcome cannot be defined precisely and specific points in time for achievement of significant results cannot be realistically specified;

(iii) NASA desires, or the nature of the proposed investigation is such, that the grantee will bear prime responsibility for the conduct of the research, and exercises judgment and original thought in attaining the scientific goals within broad parameters of the research areas proposed and the related resources provided;

(iv) The research problem is such that long term support (i.e., in excess of 1 year) is required for the study to mature to maximum scientific effectiveness (however, this does not preclude shorter-term grants in special cases);

(v) Meaningful technical reports (as distinguished from the Semimannual Status Reports) can be prepared only as new findings are made, rather than on a predetermined time schedule;

(vi) Simplicity and economy in execution and administration are mutually desirable; and

(2) Characteristics inherent in a cooperative agreement include the characteristics of a grant plus the following:

(i) Substantial NASA involvement in and contribution to the technical aspects of the effort are necessary for its accomplishment;

(ii) The project, conducted as proposed, would not be possible without extensive NASA-university technical collaboration; and

(iii) The nature of the collaboration can be clearly defined and specified in advance.
(3) Characteristics inherent in a contract are as follows:
(i) The principal purpose is the purchase for the direct use or benefit of NASA's well-defined, specific effort clearly required for the advancement of a programmed NASA mission or project;
(ii) The work to be conducted is directed closely toward the solution of a specific problem;
(iii) A specific service, piece of hardware, or improved performance of a specific device is the end product;
(iv) NASA considers it necessary, and it is reasonable in consideration of the nature of the project, to exercise control over the objectives, direction, specifications, costs or methods of the research, and schedule control is desirable and feasible;
(v) The work to be conducted is classified (however, access to security classified information may be given grantees where a demonstrated need exists);
(vi) The end result is clearly defined and/or parameters and specifications are prepared in advance of the work;
(vii) A significant portion of the total effort will be performed by an organization other than the one submitting the proposal, and such portion will involve the development, fabrication or acquisition of instruments or hardware.
(d) Other instruments authorized by statute shall be used only after it has been determined, with the advice of general counsel, that the action cannot be accomplished under a grant, cooperative agreement, or contract, as described in this section. Use of purchase orders (NASA Form 1379) for research is subject to the limitations of 41 CFR, Ch. 18, 3.603(a) and 3.608–2(b)(1).

§ 1260.204 Processing the instruments.
(a) If a grant or cooperative agreement is selected as the research support instrument, negotiation will be by the funding installation, except for grants to foreign institutions subject to NASA Procurement Directive 1382.1.
(b) Grants officers at field installations will furnish to the University Affairs Office copies of the technical evaluation and procurement request, identified by the proposal control number assigned by the University Affairs Office, at the time the negotiation is started. This requirement does not apply to (1) proposals for which a proposal control number is not assigned by the University Affairs Office, or (2) when a proposal evaluation (NASA Form 894 or an equivalent memorandum) and a copy of the procurement request have been forwarded to the University Affairs Office prior to the time the procurement package is received by the grants officer.
(c) Grants officers at field installations and the Headquarters Contracts and Grants Division will furnish to the University Affairs Office completed NASA Forms 1356, "C.A.S.E. Report on College and University Projects," after all awards, regardless of any exceptions in paragraphs (a) and (b) of this section (see § 1260.602).

§ 1260.205 Civil Rights Act of 1964—Nondiscrimination in certain federally funded programs.
(a) Section 602 of the Civil Rights Act of 1964 (Pub. L. 88–352; 42 U.S.C. 2000e–1), provides that no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance, and requires that each Government agency which is empowered to extend such financial assistance shall issue rules or regulations effectuating Title VI (Sections 601–603) of the Act with respect to such programs or activities administered by the agency. NASA's Civil Rights regulation was published as 14 CFR Part 1250 and incorporated into NASA's directives system as NASA Management Instruction 2090.1, "Civil Rights Act—Nondiscrimination in Federally-Assisted Programs of NASA." Section 602 of the Act applies nondiscrimination requirements to certain types of awards not covered by Executive Order 12146, as amended, which pertains primarily to contracts.
(b) For Civil Rights purposes, NASA has determined that research grants and cooperative agreements made under the authority of Pub. L. 95–224, are within the purview of Title VI of the Act, rather than within the purview of Executive Order 12146 and its predecessors.
(c) Section 504 of the Rehabilitation Act of 1973, as amended, provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
(d) Further implementation, setting forth procedures and guidance, and assigning responsibility to NASA officials, is contained in NASA Management Instruction 2090.1.
(e) No grant shall be made unless and until an Assurance of Compliance With the National Aeronautics and Space Administration Regulation Under Title VI of the Civil Rights Act of 1964, NASA Form 1208 (Exhibit A of this part), has been obtained in accordance with the requirements of NASA Management Instruction 2090.1, or until proceedings pursuant to § 1250.107(e) of the NASA Civil Rights regulation have been conducted and terminated in favor of the prospective grantee. NASA shall not be obligated to provide support in such a case during the pendency of any administrative proceedings under the NASA Civil Rights regulation.

§ 1260.206 Printing, binding, and duplicating.
Printing, binding and duplicating required by NASA shall be obtained in accordance with (a) the Government Printing and Binding Regulations published by the Joint Committee on Printing, Congress of the United States, and (b) NASA Management Instruction 1490.2, "Responsibilities, Procedures, and Standards for NASA Printing, Duplicating, and Binding." Technical proposals should be carefully reviewed to assure that unauthorized printing, binding, or volume duplicating constituting printing are not included in grants. When a proposal may involve printing, binding, or duplicating, close coordination will be effected with the Installation Central Printing Management Office in the review process to ensure compliance with these regulations.

§ 1260.207 Procurement of helium.
(a) NASA is required under the provisions of Pub. L. 86–777 (60 U.S.C. 167a et seq.) to obtain its major requirements for helium from the Secretary of the Interior.
(b) When it is known that the performance of a grant or cooperative agreement will necessitate the purchase of helium by the grantee, the following clause shall be included in the grant:

Procurement of Helium (January 1981)

(a) The Grantee shall obtain its requirements for helium under this grant from the Department of the Interior (Bureau of Mines) or from a commercial supplier
interest of the United States requires that the exemption be made.

(d) Requests for exemptions or renewals thereof shall be made to the Director of Procurement (Code HP-4), NASA Headquarters. Requests for individual exemptions shall list the recipient and the amount of the proposed grant, subgrant or subcontract and the title and name of the principal investigator (where applicable). All requests, whether for individual or class exemptions, shall provide a complete justification as required in paragraph (c) of this section.


(a) Pursuant to regulations issued by authority of E.O. 11728 as amended, the Environmental Protection Agency (EPA) and published in 40 CFR Part 15, no grant or subgrant or subcontract thereunder in excess of $100,000 shall be awarded, renewed, or extended, except as provided in paragraph (c) of this section, if any facility to be utilized thereunder or in the performance thereof is listed on the EPA "List of Violating Facilities," published pursuant to 40 CFR Part 15.0, the Clean Air Act, as amended, (42 U.S.C. 1857 et seq., as amended by Pub. L. 91.604), and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub. L. 92-800). This list will be distributed periodically by EPA to all Federal agencies and published in the Federal Register.

(b) Special condition. § 1260.420(b)[7], shall be used with each grant or grant extension in excess of $100,000.

(c) When the Administrator determines that the paramount interest of the United States so requires, the Administrator may exempt for a period not to exceed 1 year any individual grant, or any subgrant or subcontract thereunder, from the requirements of this § 1260.209 and, by rule or regulation following consultation with the Administrator of the EPA, any class of grants or subgrants or subcontracts thereunder. The Administrator shall promptly notify the Administrator of the EPA of any of the exemptions authorized by the foregoing, and the justification therefor, which shall fully describe the purpose of the grant, subgrant, or subcontract and indicate the manner in which the paramount
This provision accommodates situations of extraordinary circumstances, and only use of this authority is restricted to procurement or assistance instruments, circumvent the criteria for use of procurement contracts appropriate.”

§ 1260.302 Format.

(a) Regulations governing procurement contracts generally are not appropriate for application to grants and cooperative agreements. However, in general, Office of Management and Budget (OMB) Circular A-21, “Cost Principles for Educational Institutions,” OMB Circular A-122, “Cost Principles for Nonprofit Organizations,” OMB Circular A-110, “Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations,” and 41 CFR, Ch. 18, are the basic guidance documents in determining the allowability of costs chargeable to research supported by NASA under grants and cooperative agreements.

(b) NASA normally allows full recovery of indirect expenses but in no case shall an overhead rate used for determining grant or cooperative agreement amounts exceed, in equivalence, the most recent overhead rate at the recipient institution for comparable research contracts of the Government.

(c) Grant amounts determined at the time of the award shall not be reduced other than in case of revocation or in the event grant funds are not committed by the grantee prior to completion of the research involved.

(d) It is the responsibility of the recipient to manage the granted funds in such a manner that they cover the full period of the grant or cooperative agreement. NASA is not obligated to reimburse over-expenditures. However, this stricture does not preclude acceptance of a proposal requesting supplemental funding to extend the research.

§ 1260.303 Allowable costs.

(a) Regulations governing procurement contracts generally are not appropriate for application to grants and cooperative agreements. However, in general, Office of Management and Budget (OMB) Circular A-21, “Cost Principles for Educational Institutions,” OMB Circular A-122, “Cost Principles for Nonprofit Organizations,” OMB Circular A-110, “Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations,” and 41 CFR, Ch. 18, are the basic guidance documents in determining the allowability of costs chargeable to research supported by NASA under grants and cooperative agreements.

(b) NASA normally allows full recovery of indirect expenses but in no case shall an overhead rate used for determining grant or cooperative agreement amounts exceed, in equivalence, the most recent overhead rate at the recipient institution for comparable research contracts of the Government.

(c) Grant amounts determined at the time of the award shall not be reduced other than in case of revocation or in the event grant funds are not committed by the grantee prior to completion of the research involved.

(d) It is the responsibility of the recipient to manage the granted funds in such a manner that they cover the full period of the grant or cooperative agreement. NASA is not obligated to reimburse over-expenditures. However, this stricture does not preclude acceptance of a proposal requesting supplemental funding to extend the research.

§ 1260.304 Cost sharing.

(a)(1) General. In implementing the statutory requirement appearing in various NASA Appropriations Acts, for cost sharing of research resulting from unsolicited proposals, NASA has, in the past, generally required that educational institutions share in the cost of such research. This requirement was derived from the understanding that there was generally extant a “mutuality of interest” (as that phrase appears in the statutes) in such relationships whereby bringing into play the cost-sharing requirement.

(b) Subsequent to Congressional concern on overly strict application of the cost sharing requirement, a NASA reevaluation resulted in a determination that the activities of educational institutions under NASA research grants, cooperative agreements and contracts do not generally produce benefits that can be measured as having significance apart from the benefit intrinsic in the conducting of research for NASA. Therefore, in such instances, these agreements should not be subject to the cost-sharing requirement.

(c) No individual documentation or justification is required to establish agreements with educational and nonprofit institutions not subject to a cost-sharing requirement. Documentation, however, is necessary in those instances where cost sharing is appropriate.

(d) If in an individual case, cost-sharing is determined to be applicable pursuant to the NASA policy set forth in 41 CFR, Ch. 18, 1.362, the procedures in 41 CFR, Ch. 18, § 1.362 shall be followed and the specific condition clause for cost sharing set forth in paragraph (b) of this section shall be used.

(e) Clause. In grants and cooperative agreements to which cost sharing is applicable, the following clause shall be used.

Cost Sharing (January 1981)

The Grantee agrees to share in the cost of the research by charging to the Government not more than __________ percent of the costs of performance determined to be allowable in accordance with paragraphs 403 of the NASA Grant and Cooperative Agreement Handbook. The remaining percent, or more, of the allowable costs of performance so determined will constitute the Government’s share and will not be charged to the Government under this grant or under any other grant or contract (including allocation to other grants or contracts as part of an independent research and development program). The Grantee will maintain records of all grant costs claimed by the Grantee as constituting part of its share and such records shall be subject to audit by the Government.
§ 1260.305 Long term stability.
(a) General. Research performed for NASA by universities tends to be long term. Encouraging stability permits confidence in advance planning for the most effective use of resources. Two methods for achieving long term stability, i.e., continuing awards and step funding, are set forth in §§ 1260.305-2 and 1260.305-3.
(b) Continuing awards—(1) Definition. A continuing award is a grant or cooperative agreement for which NASA obligates funds to support an effort for a 1-year period, and states an intention to support approximate levels of effort for an additional period of time provided funds are available and the results achieved warrant further support within the context of agency programs.
(2) Duration and funding. Continuing awards will normally be approved by the relevant Headquarters program office or center for periods not in excess of 3 years. Legal, along with concomitant fiscal obligations, however, will be entered into for periods of 1 year. The award instrument will contain the following special condition which provides an estimate of an approximate level of funding for each of the following years:

This is a continuing award. Contingent on the availability of funds, scientific progress of the project, and continued relevance to NASA programs, NASA anticipates continuing support at approximately the following levels:

Second year—Third year—

It is the responsibility of the awardee to request such continued support by submitting a brief proposal, according to NASA procedures for unsolicited proposals.

The phrase "Third year" will be omitted if inapplicable. The above special condition is not to be used in multiple-year, including step-funded, awards.

(3) Proposal. The original proposal and its scientific evaluation is applicable to the entire period. Thus, neither an extensive new proposal nor new reviews is required for subsequent funding in the approved period, unless a special need for new reviews is indicated by monitoring of the project and its reports, by major changes in the project or in its support, by the introduction of work outside the scope of the approved proposal, or by the need for substantial additional funding than that initially anticipated.

(4) Requests for continued support. Five copies of a brief renewal proposal are required, as described in the special conditions of the award instrument for additional funding. Investigators shall be encouraged to contact the NASA technical officer for the project prior to proposal preparation to determine the amount of information required. An additional extended period may be proposed, upon the expiration of the approved period. A complete, new proposal, subject to full review, must be submitted for this purpose. If otherwise acceptable, NASA, at its option, may fund the proposal through a further continuing award or by a standard year-to-year agreement, if long-term effort is no longer anticipated.

(5) Levels of continued support. Normally, each year of a continuing award will be funded at the approximate level indicated in the original award instrument, subject to satisfactory scientific progress, availability of funds, and continued relevance to NASA programs. This is not, however, a binding commitment as changing NASA program constraints and developments within the project itself may dictate adjustments in the originally anticipated level.

(6) Programmatic procedures. Procurement request initiators who desire to use the continuing award technique should include in their procurement justification packages a brief statement requesting the use of the continuing award, including the expected levels for future periods.

(7) Other conditions. Except as noted in this part, all regulations, terms and guidelines applicable to regular grants and cooperative agreements apply to continuing awards.

(c) Step funding.

(1) Description of step funding. A step funded research project is one for which funds are obligated over a 3-year period. In addition to full support for the first year's effort, funds are also obligated for a second year's operation at approximately two-thirds of the first year level, and for third year's effort at approximately one-third of the first year level. The typical funding schedule anticipates a continuation of the initially established levels in subsequent years, but this is not always the case—planned increases or decreases in level may be projected in advance. In any event, the full amount required to establish the desired steps must be obligated. (See Step Funding Illustration—Exhibit E.)

(2) Procedures. The documentation will clearly indicate that the step funding is appropriate and provide a suggested step schedule accommodating both the previously obligated and the new funding. Annual levels should be rounded to the nearest $1,000, where feasible. Annual continuation proposals should project the contemplated effort for 3 years in advance. Wherever possible, renewal or notification to the grantee that further support will not be forthcoming will be issued before the authorized level drops to the next lower step. Normally, step funded grants should not be allowed to expire if the total period of performance is less than 5 years. Except in cases of revocation, funds should not be de-obligated from the steps. Do not make "No Cost-time Extensions" to step-funded awards, except when they are in the last year and no additional obligations are planned. Annual funding dates may be changed, if necessary, by appropriately rescheduling the steps. The award instrument shall contain the special condition for step funding (see § 1260.420(b)(5)).

§ 1260.306 Numbering of Instruments.

(a) Grants. (1) The identification numbering system for cooperative grants shall conform to 41 CFR, Ch. 18, 20.203-3, except that an NAG prefix shall be used in lieu of the NAS prefix.

(2) The prefix designation shall include the Center Identification Number; e.g., NAGW would be the Headquarters prefix designation and NAG would be the Goddard prefix designation. Grants shall be sequentially numbered beginning with "1."

(3) This numbering system applies to all new research grants awarded beginning in Fiscal Year 1980. Existing grants identified with prefixes NGT and NGF will not be changed. Sequential numbers are controlled by the NASA University Affairs Office.

(b) Cooperative agreements. The numbering system for cooperative agreements shall be the same as for paragraphs (a) and (c) of § 1260.306-1, except that NCC (for centers) and NCCW (for Headquarters) prefixes shall be used in lieu of the NAG and NAGW prefixes.

§ 1260.307 Distribution of grants, cooperative agreements, and grant supplements.

(a) Distribution of grants, cooperative agreements and grant supplements shall be made by the initiating office in accordance with its requirements, except that in all cases:

(b) At least one copy shall be furnished to paying offices in order to support the payment file and shall be retained for audit purposes in accordance with § 1260.306.

(c) One copy, plus a copy of the grantee's proposal, will be furnished to the Scientific and Technical Information Office, Code NST-10, NASA Headquarters.

§ 1260.308 Retention of documents for on-site audit.

NASA's grants, cooperative agreements and grant supplements
designated in §1260.307 are subject to on-site audit by the General Accounting Office. The original or a signed copy of each document, with supporting data, shall be retained by the installation to be available to the General Accounting Office for audit purposes. Records shall be retained for 3 years after completion.

Subpart 4—Research Grant and Cooperative Agreement Provisions

§1260.400 General.

The provisions set forth in this subpart shall be inserted in and made a part of all NASA grants and cooperative agreements subject to this part. Whenever the words "grant" or "grantee" appear in these provisions, they shall be deemed to include, as appropriate, the words "cooperative agreement" and "recipient of cooperative agreement" respectively.

§1260.401 Technical Reports and Publications.

Technical Reports and Publications (January 1981)

(a) All measurement values employed in technical reports prepared under this Grant shall be expressed in the International System of Units (SI). Expression in both SI units and customary units is acceptable where the use of SI units alone would obviously impair communications or reduce the usefulness of the report to the primary recipients. When both systems of units are used, SI units are to be stated first and customary units afterwards in parentheses. In each such case, the report shall state which system of units was used for the principal measurements and calculations.

(b) Publication to accomplish widest practicable and appropriate dissemination of research results is encouraged at any time during the course of the investigation. Examples of appropriate media for such dissemination are the learned journals, the proceedings of professional groups, conference presentations, and NASA scientific and technical publications. NASA Grantees may submit the results of their work for publication by whichever media they feel most appropriate. Publications and reports prepared under a Grant shall contain a statement which acknowledges NASA's support and identifies the grant by number. Submissions for NASA scientific and technical publications shall be accompanied by manuscripts provided initially in draft. Upon agency review and approval, a reproducible copy shall be submitted in the style and format specified by NASA.

(c) Copies of preprints or manuscripts of each publication shall be provided to NASA for information at the time of submission for publication. Prior approval for publication is not required unless security classification is involved or the Grant contains special conditions pertinent to publication of results. Should the preprint or manuscript contain a description of a "subject invention," such invention is to be disclosed to NASA as required by the "Patent Rights [Small Business Firm or Nonprofit Organization]" clause set forth as Exhibit G of the NASA Grant and Cooperative Agreement Handbook.

(d) Brief, informal Semiannual Status Reports, which shall include consistent statements of the research accomplished during the report period, including full bibliographic references to, or abstracts of, publications, shall be submitted. This is a minimum reporting requirement and Grantees are urged to submit interim reports, to publish in the open literature, or to present conference papers whenever the research has reached a point where it is logical to summarize the results, a research phase has been completed, or significant new finding has been made.

(e) A final technical report will be submitted upon termination of support under a specific Grant, whether or not support is continued under another Grant. The final report may be a comprehensive report of all research findings, suitable for printing as a permanent contribution to knowledge, or it may be a brief summary of the entire project. In either case, cumulative bibliographic references to, or abstracts of, all publications issued during the course of the research shall be included.

(f) Status and final technical reports shall have a title page that acknowledges the title of the Grant, the type of report, the name of the Principal Investigator, the period covered by the report, the name and address of the Grantee's institution, and the Grant number.

(g) Five copies of all preprints, reprints, manuscripts, status and interim reports, and the final technical report shall be submitted to NASA. Three of these copies shall be sent to the NASA Technical Office designated on the cover page of the Grant. The remaining two copies, one of which shall be of a quality suitable for microreproduction, shall be sent to:

   NASA Scientific & Technical Information Facility, P.O. Box 3757, Baltimore/ Washington International Airport, Maryland 21220

§1260.402 Extensions.

Extensions (January 1981)

(a) It is NASA policy to provide maximum possible continuity in funding grant-supported research, and Grants may be extended for additional periods of time. Any extension requiring additional funding must be supported by an unsolicited proposal submitted at least 6 months in advance of the expiration date of the Grant. The period of performance shown in the Grant documents is appropriate, but extension for more than 30 days must be requested by application to the Grants Officer and approved in writing.

(b) When a Grant is a continuing award or step funded, NASA will, if circumstances permit, make available additional funding to extend the period. The additional funding is based on unsolicited proposals received prior to the completion of each year of full support. NASA shall be the sole judge of whether circumstances will permit this increase. This statement of policy should not be taken as a commitment by NASA.

§1260.403 Revocation.

Revocation (January 1981)

It is a condition of each Grant that it may be revoked in whole or in part by NASA after consultation with the Grantee. In the event of revocation, the Grantee shall refund to NASA any unexpended funds that it has received under the Grant, except such portion thereof as may be required by the Grantee to meet commitments which had in the judgment of NASA become firm prior to the effective date of revocation and are otherwise appropriate.

§1260.404 Travel.

Travel (March 1981)

(a) Domestic travel is an appropriate charge to research Grants and NASA authorization for specific trips is not required. Expenditures for domestic travel shall not exceed $500 or 15% of the amount allotted for such travel in the approved proposal budget, whichever is greater, without the prior authorization of the NASA Grants Officer.

(b) Foreign Travel (all travel outside the 50 United States, the District of Columbia, Puerto Rico, Possessions of the United States and the areas in the Republic of Panama made available to the United States and Canada) must be clearly essential to the research effort and must, to be charged to a Grant, have the prior approval of the NASA Grants Officer regardless of its inclusion in the approved proposal budget. NMI 0720.6, "Foreign Travel Costs Charged to Grants, Contracts, and Other Agreements with Colleges and Universities," sets forth policy and responsibilities governing NASA approval of foreign travel by university personnel when the costs of such travel are chargeable to NASA Grants, Contracts or Cooperative Agreements. In addition, approval of international travel including Canada is dependent upon adherence to the guidelines in Section 5 of the International Air Transportation Act of 1974, which requires use of certificated air carriers if such service is available.

§1260.405 Allowable costs.

(a) General Guidance.

General Guidance (January 1981)


(b) Consultant services.

Consultant Services (January 1981)

Payments to individuals for consultant services under a NASA Grant or Cooperative Agreement shall not exceed the daily equivalent of the maximum rate paid to a...
§ 1260.406 Accounting records.

Accounting Records (January 1981)
(a) The Grantee shall maintain books and accounting records, in accordance with the principles set forth in the documents listed in paragraph 405 of the NASA Grant and Cooperative Agreement Handbook in a manner sufficient to reflect properly all direct and indirect costs incurred or anticipated as a result of commitments made during the period of the grant. Microfilm records are acceptable.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to this Grant shall be retained for a period of 3 years, except that:
(1) If any litigation, claim or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved, and
(2) Records for nonexpendable property acquired with Grant funds shall be retained for 3 years after final disposition.

(c) The retention period starts from the date of the submission of the final Federal Cash Transactions Report (SF 272).

(d) The Administrator of NASA and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records of the Grantee and to subrecipients to make audits, examinations, excerpts and transcripts.

(e) All of the foregoing provisions shall apply to any subrecipient performing substantive work under this Grant.

§ 1260.407 Payment.

Payment (January 1981)
Advance payments by the Letter-of-Credit or Direct Treasury Check method will be made in accordance with procedures set forth in Exhibit F of the NASA Grant and Cooperative Agreement Handbook.

§ 1260.408 Equipment and other property.

Equipment and Other Property (March 1981)
(a) NASA research grants permit acquisition of technical property required for the conduct of research. Acquisition of property costing in excess of $1,000 and not included in the approved proposal budget requires the prior approval of the NASA Grants Officer unless the item is merely a different model of an item shown in the approved proposal budget.

(b) NASA Grant funds shall not be used to purchase items such as furniture, furnishings, office equipment or other items of a nontechnical nature; exceptions to this require approval of the NASA Grants Officer and must be fully justified as essential to the research under the Grant. Under no circumstances shall Grant funds be used to acquire land or any interest therein, to acquire or construct facilities to provide passenger carrying vehicles.

(c) Title to equipment purchased with Grant funds shall vest in the Grantee unless otherwise provided. The Government reserves the right to require transfer to itself title to items purchased at a cost of $1,000 or more. Such reservation is subject to the conditions of paragraph 505 of the NASA Grant and Cooperative Agreement Handbook.

(d) Title to Government-furnished property (including equipment, title to which has been transferred to the Government pursuant to paragraph (c) of this section prior to completion of the work) will remain with the Government.

(e) Title to expendable property shall vest in the recipient upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the Grant or other agreement, and the property is not needed for any other Federally sponsored project or program, the recipient shall retain the property for use on non-Federally sponsored activities, or sell it, but must in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in accordance with subparagraph 8c, Attachment N to OMB Circular A-110.

§ 1260.409 Patent rights (small business firm or nonprofit organization).

Patent Rights (Small Business Firm or Nonprofit Organization) (July 1981)
(a) The disposition of rights to inventions made in the performance of work under this Grant will be made in accordance with the Pub. L. 96-517 (94 Stat. 3009, 35 U.S.C. 200 et seq.) and NASA's implementing regulations as set forth in the NASA Procurement Regulation. Part 9, Subpart 1, paragraphs 9.108 and 9.109 (41 CFR Ch. 18). The provision (clause) required by NASA PR 9.108-5, entitled "Patent Rights (Small Business Firm or Nonprofit Organization") is set forth as Exhibit G of the NASA Grant and Cooperative Agreement Handbook, and is hereby made applicable to this Grant. The Grantee shall include an appropriate patent rights proviso and an agreement with paragraph (g) of Exhibit G in all subcontracts.

(b) All disclosures of Subject Inventions, election of rights utilization reports, and other reports required by the aforementioned "Patent Rights (Small Business Firm or Nonprofit Organization)" clause shall be submitted to the Grants Officer.

§ 1260.410 Rights in data.

Rights in Data (January 1981)
The Grantee grants to the Government, for Governmental purposes, the right to publish, translate, reproduce, deliver, use and dispose of, and to authorize others to do so, all data, including reports, drawings, blueprints, and technical information resulting from the performance of work under this Grant.

§ 1260.411 Security.

Security (January 1981)

(a) The Grantee shall act responsibly in matters of safety and shall take all reasonable safety measures in performing under this Grant. The Grantee shall comply with all applicable Federal, State, and local laws relating to safety. The Grantee shall maintain a record of, and will notify the NASA Grants Officer of any accident involving death, disabling injury or substantial loss of property. The Grantee will advise NASA of hazards that come to its attention as a result of the work under the Grant through routine status reports furnished in compliance with the Grant.

(b) Where the work under this Grant involves flight hardware, the hazardous aspects, if any, of such hardware will be identified, in writing, by the Grantee. Compliance with the provisions of this clause by subcontractors shall be the responsibility of the Grantee.

§ 1260.412 Civil rights.

Civil Rights (January 1981)


§ 1260.413 Safety.

Safety (January 1981)

(a) The Grantee shall act responsibly in matters of safety and shall take all reasonable safety measures in performing under this Grant. The Grantee shall comply with all applicable Federal, State, and local laws relating to safety. The Grantee shall maintain a record of, and will notify the NASA Grants Officer of any accident involving death, disabling injury or substantial loss of property. The Grantee will advise NASA of hazards that come to its attention as a result of the work under the Grant through routine status reports furnished in compliance with the Grant.

(b) Where the work under this Grant involves flight hardware, the hazardous aspects, if any, of such hardware will be identified, in writing, by the Grantee. Compliance with the provisions of this clause by subcontractors shall be the responsibility of the Grantee.

§ 1260.414 Subcontracts.

Subcontracts (January 1981)

Approval of subcontracts for the purchase of property or equipment under this Grant shall be obtained in accordance with the provision herein entitled "Equipment and Other Property:" All other subcontracts not provided for in the approved proposal budget require the prior consent of the Grants Officer.

§ 1260.415 Changes in principal investigator or technical objectives.

Changes in Principal Investigator or Technical Objectives (January 1981)

(a) The Grantee shall be permitted to change the methods and procedures.
employed in performing the research without the need to make special reports on proposed actions or obtain NASA approval. Significant changes in methods or procedures shall be reported to NASA in status reports and final technical reports. However, in the event the methodology or experiment is proposed as a specific stated objective of the research work, this shall be reflected in the Grant title.

(b) The stated objectives of the research effort shall not be changed, except with the approval of the NASA Grants Officer.

(c) The phenomena under study, i.e., the broad category of research, shall not be changed except with the prior approval of the NASA Grants Officer.

(d) The Grantee shall obtain the approval of the NASA Grants Officer to change the principal investigator, or to continue the research work during a continuous period in excess of 3 months without the participation of an approved principal investigator.

(e) The Grantee shall consult with the NASA Grants Officer if the Principal Investigator becomes aware that he or she will devote substantially less effort to the work than anticipated in the approved proposal. If NASA determines that the reduction of effort would be so substantial as to impair the successful prosecution of the research, it may request a change of Principal Investigator or other appropriate modification of the Grant, or may revoke the Grant as provided herein.

(f) In projects which involve co-principal investigators or otherwise include more than one key person who may be considered essential to the conduct of the proposed research project, the foregoing provisions similarly apply to each key person. In such event, the Grant instrument shall identify the individual[s] to whom the provisions apply.

(g) In accordance with the Small Business Act Amendments, Pub. L. 95-507, small and disadvantaged firms shall be utilized as subcontractors to Grantees to the maximum extent.

§ 1260.416 Communications.

Communications (January 1983)

The Principal Investigator may expect to be contacted by the NASA Technical Officer named on the cover page of the Grant in connection with the research aspects of the work under the Grant. Inquiries regarding the research aspects of the Grant should be directed to the NASA Technical Officer. However, written or oral communications of an administrative nature, such as approval of foreign travel, property matters, extension of the term of the Grant, etc., shall be channeled through the Grantee's business office to the Grants Officer.

§ 1260.417 Financial management system.

Financial Management System (January 1983)

The Grantee's financial management system shall meet the standards set forth in paragraph 811 of the NASA Grant and Cooperative Agreement Handbook.

§ 1260.418 Procurement standards.

Procurement Standards (January 1983)

The Grantee's procurement practices shall meet the standards set forth in paragraph 812 of the NASA Grant and Cooperative Agreement Handbook.

§ 1260.419 Additional provision for cooperative agreements.

With respect to cooperative agreements under Pub. L. 95-224, it has been determined that the NASA guidelines and regulations applicable to grants will apply to cooperative agreements. The Cooperative Agreements, NASA Form 1562 (see Exhibit C), shall contain a special provision stating the nature of the recipient/NASA interaction in accordance with Pub. L. 95-224. That special provision is as follows:

Cooperative Agreement Special Provision (January 1983)

(a) This award is a Cooperative Agreement as it is anticipated that there will be substantial NASA involvement during performance of the effort. That is, the recipient can expect NASA collaboration or participation in the management of the project.

(b) NASA and the recipient mutually agree to the following statement of anticipated cooperative interactions which may occur during the performance of this effort. (Briefly state the nature of the cooperative interactions).

§ 1260.420 Special conditions.

(a) In addition to the general provisions set forth in this Chapter, NASA grants and cooperative agreements are subject to various conditions which either are not applicable to all awards or are temporary in nature. Such conditions are not printed in NASA Form 1463A, "NASA Provisions for Research Grants and Cooperative Agreements" (Exhibit D), but are contained in a form, "Special Conditions," which is reproduced locally at individual NASA installations. In using the "Special Conditions" form, the grants officer indicates by check mark the specific clauses which are applicable to individual grants and fills in the blank sections of incomplete clauses as appropriate.

(b) All "Special Conditions" forms shall contain the following heading and number clauses:

Special Conditions

Grant No. ....

The specific conditions checked below are applicable to this Award:


Installation

Address

City, State, Zip Code

Attachment(s) 

(2) Cash Payments. An initial cash payment will be made in the amount of $.... Subsequent payments will be made in accordance with Exhibit F of the NASA Grant and Cooperative Agreement Handbook and the Grantee's requirements as reported on Standard Form 272.

(b) The Grantee's procurement practices shall meet the standards set forth in paragraph 812 of the NASA Grant and Cooperative Agreement Handbook.

(3) Financing by Letter of Credit. This grant does not provide for initial cash payment. Funds will be obtained by the Letter of Credit method of obtaining cash. No part of such funds shall be paid in advance to any secondary recipient without the express written approval of the Grants Officer. Cash drawdowns shall be initiated by the Grantee only when actually needed for the disbursements of the Grantee or of approved secondary recipients. Standard Form 272, "Federal Cash Transactions Report," covering cash disbursements and balances of the Grantee and any approved secondary recipients, shall be submitted by the Grantee in a timely manner as provided in the clause "Payment" of the NASA Provisions for Research Grants. The Grantee's financial management system shall provide for effective control over and accountability for all Federal funds. Continued financing by the Letter of Credit method is conditional upon all of the foregoing, and failure to comply with any of these requirements may cause the unobligated portion of the Letter of Credit to be revoked by NASA or the Department of the Treasury.

(4) Stipulated Salary Support. Pursuant to NPR Part 5, Subpart 3, salaries of professional staff and other professionals engaged in the work are stipulated as provided in the approved proposal budget. The Grantee agrees that stipulated amounts for any individual hereunder will not per se result in increasing his or her official salary from the Grantee institution.

(5) Stop Funding. This is a stop funded Grant. If the total amount allowed by the Schedule on the face of the Grant is not expended during the applicable period, the residual funds may be expended during the succeeding period. This carryover shall be brought to the attention of the Grants Officer when the Grantee submits its budget for the subsequent period.

(6) Procurement of Hollow. (Insert the clause in Paragraph 207)

(7) Clean Air and Federal Water Pollution Control Acts. The Grantee agrees to notify the Grants Officer promptly of the receipt, whether prior or subsequent to the Grantee's acceptance of this grant, of any communication from the Director, Office of Federal Activities, Environmental Protection Agency (EPA), indicating that a facility to be utilized under or in the performance of this Grant or any subgrant or subcontract thereunder is under consideration to be listed on the EPA "List of Violating Facilities", published pursuant to 40 CFR 15.20. By acceptance of this Grant, the Grantee: (i) Stipulates that any facility to be utilized thereunder is not listed on the EPA "List of Violating Facilities" as of the date of acceptance; (ii) agrees to comply with all requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. 1857 seq. as amended by Pub. L. 91-509) and Section 303 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 seq. as amended by Pub. L. 92-500) relating to inspection, monitoring, entry, reports and information, and all other requirements specified in the aforementioned Sections, as well as all regulations and guidelines issued
thereunder after award of and applicable to the grant and (ii) agrees to include the criteria and requirements of this clause in every subgrant or subcontract hereunder in excess of $100,000, and to take such action as the Grants Officer may direct to enforce such criteria and requirements.

(b) Continuing Award. Insert the clause shown in paragraph 305.2(2) of the NASA Grant and Cooperative Agreement Handbook:

(c) All clauses inserted in "Special Conditions" forms shall be written out in full. Clauses shall not be incorporated by reference.

(d) Special conditions clauses which are not included in, or which differ in language from, the clauses in §1260.420 shall be considered as deviations and processed in accordance with §1260.106.

Subpart 5—Administration of Research Grants and Cooperative Agreements

§1260.501 General.

(a) NASA assumes that, once a grant or cooperative agreement is made, the principal investigator, operating within the policies and established criteria of the grantee institution, is in the best position to determine the means by which the research may be conducted most effectively. The term "grantee" refers to recipients of both grants and cooperative agreements. NASA wishes to avoid any action that might diminish the responsibility of the grantee and the investigator for making sound scientific and administrative judgments. Grantees and investigators are encouraged to seek the advice and opinions of NASA on problems that may arise. Unless otherwise stated, the giving of such advice should not imply that the responsibility for final decisions has shifted to NASA. The primary concern of NASA is that granted funds be used in a manner that will make a maximum contribution to the scientific area under investigation. It is expected that grantees and investigators will also direct their efforts to this end.

(b) The grantee shall be permitted to change the methods and procedures employed in performing the research without the need to make special reports on proposed actions or obtain NASA approval. Significant changes in methods or procedures shall be reported to NASA in status reports and final technical reports. In the event the methodology or experiment is proposed as a specific stated objective of the research work, this shall be reflected in the grant title.

(c) The stated objectives of the research effort shall not be changed except with the approval of the NASA grants officer.

(d) The phenomenon or phenomena under study, i.e., the broad category of research, shall not be changed except with the prior approval of the NASA grants officer.

(e) The grantee shall obtain the approval of the NASA grants officer to change the principal investigator, or to continue the research work during a continuous period in excess of 3 months without the participation of an approved principal investigator.

(f) The grantee shall consult with the NASA grants officer if the principal investigator plans to, or becomes aware that he/she will, devote substantially less effort to the work than anticipated in the approved proposal. If NASA determines that the reduction of effort would be so substantial as to impair the successful prosecution of the research, it may request a change of principal investigator or other appropriate modification of the grant, or may revoke the grant as provided in §1260.505.

(g) In projects which involve co-principal investigators or otherwise include more than one key person who may be considered essential to the conduct of the proposed research project, the provisions of paragraphs (c) and (f) of this section similarly apply to each such key person. In such event, the grant instrument shall identify the individual(s) to whom the provisions apply.

(h) It is NASA policy to make optimum use of the administration functions available from the Department of Defense (DOD) and other Government agencies. Property administration and plant clearance for grants and cooperative agreements will be delegated to the cognizant administering activity.

§1260.502 Instrument.

A NASA grant or cooperative agreement is evidenced by an instrument signed by the NASA Administrator, or duly authorized representative and contains the provisions set forth in Subpart 1260.4 of this part.

§1260.503 Instrument period.

(a) Normally, NASA grants and cooperative agreements are made for periods up to 3 years. As stated in the instrument, the period is approximate; the beginning and ending dates are not specified with precision. The instrument period begins approximately on the date thereof and extends for approximately the length of time specified. However, when progress of research under the grant or cooperative agreement is delayed and circumstances make it necessary to request an extension of the period without additional funds, the policy of NASA is to permit extensions in time, upon written request.

(b) When it appears that the research contemplated will be completed within 30 days after the anticipated ending date, a request for extension of the instrument period will be unnecessary. If it appears, however, that the additional time required for completion of the research will exceed 30 days, a request for extension must be made by the grantee. Any extension requiring additional funding must be supported by an unsolicited proposal and submitted at least 4 months in advance of the expiration date of the grant or cooperative agreement.

§1260.504 Adherence to original budget estimate.

(a) NASA believes that the principal investigator, operating within the established policies of the grantee, is the individual best qualified to determine the manner in which the grant or cooperative agreement funds may be used most effectively to accomplish the proposed research. Although NASA assumes no responsibility for overspent budgets, the investigator and the grantee institution are free to spend grant or cooperative agreements funds for the proposed research without strict adherence to individual allocations within total budgets, except as provided in §§1260.404 and 1260.408. Under no circumstances, however, may grant or cooperative agreements funds be used to acquire land or any interest therein, to acquire or construct facilities or to procure passenger carrying vehicles. Purchase of furniture, furnishings, office equipment or other items of a nontechnical nature require the prior approval of the NASA grants officer as provided in §1260.408.

(b) Controls and limitations on expenditures for specific items under NASA grants or cooperative agreements shall be in accordance with the provisions of §1260.403.

(c) If any of the actions requiring approval in accordance with §1260.405 have received specific NASA approval during the proposal and award process, a further approval shall not be required. Whenever practical, the approvals shall be given at the time of the project award or extension to avoid any delays during the course of the project.

(d) Approval requirements relating to expenditures under grants and cooperative agreements, in addition to those provided for in §1260.405 shall not be imposed except in accordance with the deviation procedure of §1260.105 or as specifically required by statute.
§ 1260.505 Use, disposition and vesting of title to research equipment.

(a) *Background.* (1) Support of research in educational institutions provides substantial long-term and indirect benefits as well as the immediate research results. In addition to the obvious academic advantages of such support, individual and institutional capabilities to perform relevant research are enhanced, and the number of scientists and graduates with research interests in areas of concern to the nation generally, and to NASA in particular, is increased. Adequate modern research equipment in universities serves to maximize these direct and supplemental benefits.

(2) NASA funds research in academic areas in which the university has, and expects to maintain, a capacity for research and education. The research equipment that it acquires, therefore, an especially high potential for continuing effective use at the acquiring institution. The legitimate interests of both NASA and the university, as well as the long-term national interest, require that any decision by the agency to take title for the purpose of transferring grantee equipment to another location reflect careful consideration of all relevant factors. This should include comparison of the expected beneficial use at the present location which that expected at the new location, possible deleterious effects of removal, and the administrative and relocation costs involved.

(b) *Policy.* The following policies will be reflected, as appropriate, in the negotiation and the documentation of NASA research grants, cooperative agreements, supplements thereto and in related correspondence:

(1) Title to equipment purchased with grant and cooperative agreement funds vests in the grantee institution, and the equipment does not automatically follow the principal investigator when he or she leaves the institution. Title to Government-furnished equipment remains with the Government. When Government-furnished equipment is declared excess and reported to NASA, the grants officer will report the equipment to the installation property disposal officer for further NASA use. If NASA has no further need for the property, it shall be declared excess and reported to the General Services Administration. Appropriate disposition instructions will be issued to the recipient after completion of the Federal agency review.

(2) NASA may require transfer to it of title to individual items or coherent systems (paragraph (b)(8) of this section) of major grantee acquired equipment purchased at a cost of more than $1,000 subject to the following conditions:

(i) The equipment shall be appropriately identified to the recipient in writing.

(ii) NASA shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If NASA fails to issue disposition instructions within the 120 calendar day period, the grantee shall apply the standards of subparagraphs 6b and 6c, Attachment N to OMB Circular A-110 as appropriate.

(iii) When NASA exercises its right to take title, the equipment shall be subject to the provisions for Federally-owned nonexpendable property discussed in § 1260.408.

(iv) When a decision is made to revoke or discontinue support of a grant or cooperative agreement, the grants officer shall notify the grantee in writing of the requirement under the instrument for submission of a final inventory report of Government-furnished equipment.

(3) When the cognizant NASA technical officer or program manager desires that NASA take title to a major item of grantee purchased equipment, the technical officer shall request the grants officer to obtain information regarding the grantee’s desire to retain the equipment, the use to which it would be put in the absence of further NASA support of the grant or cooperative agreement, and any substantial deleterious effects of removal of the equipment.

(3) The grants officer shall obtain the information and provide copies to the technical officer and the University Affairs Office for their coordinated review and recommendation regarding acquisition of title. The technical officer shall inform the grants officer of the recommendation by means of a memorandum concurred in by the University Affairs Office.

(4) When NASA acquires title to major items of grantee purchased equipment, the grants officer shall notify both the cognizant NASA installation financial management officer and supply and equipment management officer so that proper entries can be made in financial and property accounting records.
NASA's decision to award the grant or permit preparation of the required fiscal year. Grantees will maintain records for each section of the action taken on the new proposal, every effort will be made to expedite the decision. Regardless of the action taken on the new proposal, final reports on the original grant or cooperative agreement, describing the scientific progress and expenditure to date, will be required if that instrument is revoked.

§ 1260.507 Transfer of grants or cooperative agreements to other institutions.

Awards cannot be transferred from one institution to another. However, when the principal investigator changes his or her organizational affiliation and desires support for the research at a new location, he or she must submit a new proposal via the appropriate officials of the new institution. Although such a proposal will be reviewed in the normal manner, every effort will be made to expedite a decision. Regardless of the action taken on the new proposal, final reports on the original grant or cooperative agreement, describing the scientific progress and expenditure to date, will be required if that instrument is revoked.

§ 1260.508 Accounting procedures.

While no particular classification of accounts is required, it is expected that grantees will maintain records for each grant or cooperative agreement, in accordance with the principles enunciated in § 1260.405, which will permit preparation of the required fiscal report and make possible the determination that grant or cooperative agreement funds were used for the general purpose for which the award was made.

§ 1260.509 Property management standards.

(a) Definitions. The following definitions apply for the purpose of this section.

(1) Real property. Real property means land, including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

(2) Personal property. Personal property means property of any kind except real property. It may be tangible, having physical existence; or intangible, having no physical existence, such as patents, inventions and copyrights.

(3) Nonexpendable personal property. Nonexpendable personal property means tangible personal property having a useful life of more than 2 years and an acquisition cost of $500 or more per unit. A recipient may use its own definition of nonexpendable personal property provided the definition would at least include all tangible personal property as defined in paragraph (a)(2) of this section.

(4) Expendable personal property. Expendable personal property refers to all tangible personal property other than nonexpendable personal property.

(5) Excess personal property. Excess personal property means any personal property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the Head thereof.

(6) Acquisition cost of purchased nonexpendable personal property. Acquisition cost of an item of purchased nonexpendable personal property means the net invoice unit price of the property including the cost of modifications, attachments, accessories or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

(7) Exempt property. Exempt property means that tangible personal property acquired in whole or in part with Federal funds, and title to which is vested in the recipient without further obligation to the Federal Government except as provided in § 1260.505(b)(2).

(b) Property management standards for nonexpendable personal property. The recipient's property management standards for nonexpendable personal property shall include the following procedural requirements:

(1) Property records shall be maintained accurately and shall include:

(i) A description of the property.

(ii) Manufacturer's serial number, model number, national stock number, or other identification number.

(iv) Whether title vests in the recipient or the Federal Government.

(v) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(vi) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(vii) Location, use and condition of the property and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal sponsoring agency for its share.

(2) Property owned by the Federal Government must be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the recipient shall promptly notify the grants officer.

(5) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the recipient is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.!
(c) Exempt property. Title to nonexpendable personal property acquired with project funds, shall be vested in the recipient upon acquisition unless it is determined that to do so is not in furtherance of the objectives of the Federal sponsoring agency. When title is vested in the recipient, the recipient shall have no other obligation or accountability to the Federal Government for its use or disposition except as provided in § 1260.505(b)(2).

§ 1260.510 Screening of requests for Government-furnished equipment.

(a) Pursuant to NASA Management Instruction 4000.2, "NASA Equipment Utilization," an agencywide Equipment Visibility System (EVS) has been established to identify and effect optimum use and reuse of Government-owned equipment items of high value and reuse potential. The EVS and this section apply only to grantee requests for Government-furnished equipment. Requests for grantee acquired equipment are neither required nor encouraged to be screened through the EVS.

(b) When a grantee requests Government-furnished equipment of $1,000 or more, the grantee officer shall screen the item through the installation's EVS coordinator. Screening requests shall list the manufacturer, model number, description, national stock number, power requirements, estimated cost, and any other information deemed necessary by the EVS coordinator to properly identify the item. Urgent requests may be screened by telephone.

(c) When suitable equipment is located through the foregoing procedures, the holding installation will place a "freeze" on the item for 10 working days pending shipping instructions. Extension of the freeze period must be requested through the EVS coordinator if shipping instructions cannot be furnished within the required period. (See paragraph 5.307, NASA Equipment Management Manual, NASA Handbook 4200.1.)

§ 1260.511 Standards for grantee's financial management systems.

As prescribed by Office of Management and Budget (OMB) Circular A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organization," the grantee's financial management system shall provide for:

(a) Accurate, current and complete disclosure of the financial results of the project.

(b) Records that identify adequately the source and application of funds for the grant or cooperative agreement.

These records shall contain information pertaining to the award, authorizations, obligations, unobligated balances, assets, outlays, and income.

(c) Effective control over and accountability for all funds, property and other assets. The grantee shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

(d) Comparison of actual outlays with obligated amounts for the grant or cooperative agreement.

(1) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by the grantee. When advances are made by a letter-of-credit method, the grantee shall make drawdowns as close as possible to the time of making disbursements. See Exhibit F of this Handbook.

(2) Procedures for determining the reasonableness, allowability and allocability of costs in accordance with the provisions of § 1260.405 and the terms of the grant or cooperative agreement.

(3) Accounting records that are supported by source documentation.

(4) Examinations in the form of audits or internal audits. Such audits shall be made by qualified individuals who are sufficiently independent of those authorizing the expenditure of NASA funds to produce unbiased opinions, conclusions or judgments. They shall meet the independence criteria along the lines of Chapter 3, Part 3 of the U.S. General Accounting Office publication, "Standards for Audit of Government Organizations, Programs, Activities and Functions." These examinations are intended to ascertain the effectiveness of the financial management systems and internal procedures that have been established to meet the terms and conditions of the agreements. It is not intended that each agreement awarded to the grantee be examined. Generally, examinations should be conducted on an organization-wide basis to test the fiscal integrity of financial transactions, as well as compliance with the terms and conditions of the NASA grants and other agreements. Such tests would include an appropriate sampling of NASA agreements. Examinations will be conducted with reasonable frequency, on a continuing basis or at scheduled intervals, usually annually, but not less frequently than every 2 years. The frequency of these examinations shall depend upon the nature, size and the complexity of the activity. These examinations do not relieve the cognizant Federal audit agency of its audit responsibilities, but may affect the frequency and scope of such audits.

(j) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

§ 1260.512 Procurement standards.

As prescribed by Office of Management and Budget Circular A-110, the grantee's procurement practices shall be subject to the following standards:

(a) The grantee shall maintain a code of standards of conduct that shall govern the performance of its employees, officers or agents engaged in the awarding and administration of contracts using NASA funds. No employee, officer or agent shall participate in the selection, award or administration of a contract in which NASA funds are used, where, to his or her knowledge, there exists a financial interest on the part of (1) that person, (2) that person's immediate family or partners, or (3) any organization in which that person or an immediate family member or partner has a financial interest or with whom he or she is negotiating or has any arrangement concerning prospective employment. The grantee's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. Such standards shall provide for disciplinary actions to be applied for violation of such standards by the recipients' officers, employees or agents.

(b) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The grantee should be alert to organizational conflicts of interest or noncompetitive practices among contractors that develop or draft specifications, requirements, statements of work, invitations for bids or requests for proposals should be excluded from competing for such procurements except when the grantor agency gives approval to a grantee's request to waive this requirement for a particular procurement. Awards shall be made to the bidder/offeree whose bid/offere is responsive to the solicitation and is most advantageous to the grantee, price and other factors considered.

Solicitations shall clearly set forth all requirements that the bidder/offeree must fulfill in order for the bid/offere to be evaluated by the grantee. Any and all
bids/offers may be rejected when it is in the grantee's interest to do so.

(c) The grantee shall establish procurement procedures that provide for, at a minimum, the following procedural requirements:

(1) Proposed procurement actions shall follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(2) Solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" descriptions may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by bidders/offerors shall be clearly specified.

(3) Positive efforts shall be made by the grantee to utilize small and disadvantaged business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts utilizing NASA funds.

(4) The types of procuring instruments used, e.g., fixed-price contracts, cost reimbursable contracts, purchase orders, incentive contracts, shall be determined by the grantee but must be appropriate for the particular procurement and for promoting the best interest of the program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(5) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources and accessibility to other necessary resources.

(6) Some form of price or cost analysis should be made in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability, and allowability.

(7) Procurement records and files for purchases in excess of $10,000 shall include the following:

(i) Basis for contractor selection;
(ii) Justification for lack of competition when competitive bids or offers are not obtained; and
(iii) Basis for award, cost or price.

(8) A system for contract administration shall be maintained to ensure contractor conformance with terms, conditions and specifications of the contract, and to ensure adequate and timely follow-up of all purchases.

(d) The grantee shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. These provisions shall also be applied to subcontracts.

(1) Contracts in excess of $10,000 shall contain contractual provisions or conditions that will allow for administrative, contractual or legal remedies in instances in which contractors violate or breach contract terms, and provide for such remedial actions as may be appropriate.

(2) All contracts in excess of $10,000 shall contain suitable provisions for termination by the grantee including the manner by which termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) All contracts awarded by grantees and their contractors or subgrantees having a value of more than $10,000 shall contain a provision requiring compliance with Executive Order 11246 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR Part 60).

(4) All negotiated contracts [except those of $10,000 or less] awarded by grantees shall include a provision to the effect that the grantee, NASA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to the specific project, for the purpose of making audits, examinations, excerpts and transcriptions.

§ 1260.513 Suspension and termination procedures.

(a) Policy. When a university grant or cooperative agreement is terminated at other than its planned end date, the result can be a significant disruption in the university educational activities. NASA has established excellent relationships with hundreds of universities, including a credibility for responsibly understanding and handling the problems experienced by educational institutions. This has resulted in the retention of highly qualified investigators on NASA work and participation of the most able graduate students. To maintain that credibility, suspension and termination of grants or cooperative agreements prior to the planned completion date must be reserved for those few exceptional situations which cannot be handled any other way.

(b) Suspension. When a grantee has failed to comply with the terms of a grant or cooperative agreement, NASA may, on reasonable notice to the grantee, temporarily suspend the grant or cooperative agreement, withhold further payments, and prohibit the grantee from incurring additional obligations of funds, pending corrective action by the grantee or a decision by NASA to terminate in accordance with paragraph (c) or (d) of this section.

NASA will allow all necessary and proper costs that the grantee could not reasonably avoid during the period of suspension provided that they meet the provisions of the cost principles set forth in § 1260.405.

(c) Termination for cause. NASA reserves the right to terminate any grant or cooperative agreements in whole or in part at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the conditions of the instrument. NASA shall promptly notify the grantee in writing of the determination, the reasons for the termination, and the effective date. Payments made to the grantee or recoveries by NASA under grants or cooperative agreements terminated for cause shall be in accordance with the legal rights and liabilities of the parties.

(d) Termination for convenience. NASA or the grantee may terminate grants or cooperative agreements in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. NASA shall allow full credit to the
grantee for NASA's share of the noncancellable obligations, properly incurred by the grantee prior to termination.

(g) University grants and cooperative agreements. Before suspending or terminating any grant or cooperative agreement with a university as set forth in paragraphs (b) through (d) of this section, the matter shall be coordinated within NASA as prescribed in NMI 8340.1, "Actions Leading to Decisions to Terminate University Grants and Contracts for the Convenience of the Government."

§ 1260.514 Closeout procedures.

The closeout of a grant or cooperative agreement is the process by which NASA determines that all applicable administrative actions and all required work under the instrument has been completed by the grantee and NASA. Closeout procedures include the following:

(a) Upon request, NASA shall make prompt payments to the grantee for allowable reimbursable costs under the grant or cooperative agreement being closed out.

(b) The grantee shall immediately refund any balance of unobligated (unencumbered) cash that NASA has advanced or paid.

(c) NASA shall obtain from the grantee within 60 calendar days after the date of completion of the grant or cooperative agreement, all financial, performance, and other reports required as the condition of the instrument. NASA may authorize additional time for this purpose when requested by the grantee.

(d) The grantee shall account for any property acquired with Federal funds, or received from the Government in accordance with the provisions of § 1260.408.

(e) In the event a final audit has not been performed prior to the closeout of the grant or cooperative agreement, NASA shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 1260.515 Novation and change of name agreements.

All novation agreements and change of name agreements of the grantee, prior to execution, shall be reviewed by general counsel for legal sufficiency. 41 CFR Ch. 16, 26.408 shall be followed for general guidance. Where possible, novation is preferable to termination followed by a new award or any other procedure which causes unnecessary paperwork or disrupts ongoing research efforts.

Subpart 6—Reports

§ 1260.600 General.

This subpart prescribes reports designed to provide records and statistics through a single, uniform reporting program as a basis for required recurring and special reports to the President, the Congress, the Department of Labor, the Office of Emergency Preparedness, the General Accounting Office, the Small Business Administration, and other Federal agencies. The preparation and utilization of NASA Form 507 has been made an integral part of the agencywide system for the recording and reporting of financial and contractual status (FACS). Complete instructions covering the operation of this system are contained in the NASA Financial Management Manual.

§ 1260.602 Committee on academic science and engineering (CASE) reports.

NASA Form 1356, "Committee on Academic Science and Engineering (C.A.S.E.) Report on College and University Projects" is either submitted with funded procurement requests pursuant to NASA Management Instruction 5301.12, "Policy and Procedures Concerning Procurement," or in the case of certain non-funded actions, initiated by the procuring office. All NASA Forms 1356 will be completed, checked and promptly forwarded to the University Affairs Office, NASA Headquarters (Code LU-16), in accordance with the instructions on the form.

§ 1260.603 Federal cash transactions report (SF 272).

Federal Cash Transactions Reports (SF 272) will be submitted quarterly as a condition of receiving advance payments, in accordance with Exhibit F of this part.

§ 1260.604 Annual inventory listing of Government-owned property.

As provided in § 1260.408(b), an annual inventory listing of Government-owned property will be submitted by July 31 of each year, including the information specified in § 1260.509 and beginning and ending dollar value totals for the reporting period.

§ 1260.605 Status and final reports.

(a) Five copies of a brief, informal, Semiannual Status Report including a concise statement of the research accomplished during the report period shall be submitted.

(b) Upon completion of the research, the grantee shall submit five copies of a final technical report which summarizes the results of the entire project. Citation of publications resulting from the research, or abstracts thereof, may serve as all or part of this final report. Research results not intended for publication in technical journals must be in the format prescribed for NASA Technical Notes. In addition, the grantee will report to NASA whether or not any inventions required to be reported under the grant or cooperative agreement have been made in the performance of work thereunder.

(c) A properly certified final fiscal report is required for each grant and cooperative agreement. Report forms for this purpose are forwarded to the business office of the grantee institution, together with the copy of the instrument; additional forms may be requested. Two copies of the final fiscal report should be forwarded to NASA after work under the grant or cooperative agreement has been completed.

Note—This appendix will appear in the CFR.

Appendix—Listing Exhibits and Attachments

Exhibit A—Assurance of Compliance—Civil Rights Act (NASA Form 1290).

Exhibit B—Research Grant Award (NASA Form 1493).

Exhibit C—Cooperative Agreement (NASA Form 1500).


Exhibit E—Step Funding Illustration.

Exhibit F—Instructions to Recipient Organizations for Acquiring Advance Payments.

Exhibit G—Patent Rights (Small Business Firm or Nonprofit Organization).

Attachment 1—Authorized Signature Card for Payment Voucher on Letter of Credit (Standard Form 1194).

Attachment 2—Letter of Credit (Standard Form 1193).

Attachment 3—Payment Voucher on Letter of Credit (Sample) (TFS 6401).


The preceding list of forms and instructions may be obtained from the Procurement Officer of the following NASA Offices:

Ames Research Center, National Aeronautics and Space Administration, Moffett Field, CA 94035
Coddington Space Flight Center, National Aeronautics and Space Administration, Greenbelt, MD 20771
John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, FL 32899
Langley Research Center, National Aeronautics and Space Administration, Hampton, VA 23665
Lewis Research Center, National Aeronautics and Space Administration, Cleveland, OH 44135
Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, TX 77058
George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Huntsville, AL 35812
National Space Technology Laboratories, National Aeronautics and Space Administration, NSTL Station, MS 38629
Headquarters Contracts and Grants Division, National Aeronautics and Space Administration, Washington, DC 20546

Note—This exhibit will appear in the CFR.

Exhibit G—Patent Rights

(Small Business Firm or Nonprofit Organization) (July 1981)

(a) Definitions.

(1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(2) "Subject Invention" means any invention of the Grantee conceived or first actually reduced to practice in the performance of work under this grant.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

(4) "Small Business Firm" means a small business concern as defined in Section 2 of Exhibit G—Patent Rights.

(b) Allocation of Principal Rights. The Grantee may retain the entire right, title, and interest throughout the world to each Subject Invention subject to the provisions of this clause. With respect to any Subject Invention in which the Grantee retains title, the Federal Government shall have a non-exclusive, non-transferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any Subject Invention throughout the world for which the Grantee has elected to retain title.

(c) Invention Disclosure, Election of Title and Filing of Patent Applications by Grantee

(1) After a Subject Invention has been disclosed in writing by the inventor(s) to Grantee personnel responsible for the administration of patent matters, the Grantee will:

(i) Disclose such invention to the Grants Officer within six months;

(ii) Elect whether or not to retain title to any such invention by notifying the Grants Officer within twelve months of disclosure to the Grantee, but in any event, at least three months (unless shortened by the Grants Officer) before (A) a public use or on sale of the invention occurs, (B) a manuscript describing the invention is submitted for publication without assurances of confidentiality, or (C) the invention is otherwise made available to the public;

(iii) File its initial patent application on an elected invention within two years after election and

(iv) File patent applications in additional countries within either, ten months of the corresponding initial patent application, or six months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign patent applications when such filing was prohibited for security reasons.

(2) Request for extension of the time for disclosure to the Grants Officer, election and filing, where reasonable, will normally be granted.

(3) The disclosure to the Grants Officer shall be in the form of a written report and shall identity the grant under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological or electrical characteristics of the invention. The report shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and accepted at the time of disclosure.

(d) Termination of Grants.

(1) The Grantee will notify NASA, upon written request title to any Subject Invention:

(i) If the Grantee fails to disclose or elect the Subject Invention within the times specified in (c) above, or elects not to retain title;

(ii) In those countries in which the Grantee fails to file patent applications within the times specified in (c) above: Provided, however, that if any Subject Invention has filed a patent application in a country after the times specified in (c) above but prior to its receipt of the written request of NASA, the Grantee shall continue to retain title in that country; or

(iii) In any country in which the Grantee decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in a reexamination or opposition proceeding on, a patent on a Subject Invention.

(e) Minimum Rights to Grantee. The Grantee will retain a nonexclusive, royalty-free license throughout the world to use the Subject Invention to which the Government obtains title except if the Grantee fails to disclose the Subject Invention within the times specified in (c) above. This license extends to, and is revocable and transferable as, specified in 35 U.S.C. 632(b) of the NASA Procurement Regulation.

(f) Grantee Action to Protect Government's Interest.

(i) The Grantee agrees to execute or to have executed and promptly deliver to NASA all instruments necessary to—

(ii) Establish or confirm the rights the Government has throughout the world in those Subject Inventions for which the Grantee retains title, and

(iii) Convey title to NASA when requested under (d) above and to enable the Government to obtain patent protection throughout the world on that Subject Invention.

(g) The Grantee agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Government, any invention made under this grant in order that the Grantee can comply with the disclosure provisions of (c) above and to execute all papers necessary to file patent applications on Subject Inventions and to establish the Government's rights in the Subject Inventions. The disclosure format should require as a minimum, the information requested by subparagraph (c)(3) above. The Grantee shall instruct such employees through the employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to United States or foreign statutory bars.

(h) The Grantee will notify NASA of any decision not to continue prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent on a country, not later than thirty days before the expiration of the response period required by the patent office.

(i) The Grantee agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a Subject Invention, the following statement, "This Invention was made with Government support under (identify the grant) awarded by NASA. The Government has certain rights in this Invention."

(j) The Grantee shall furnish the Grants Officer

(i) Interim reports every twelve months from the date of this grant, listing all Subject Inventions required to be disclosed during that period;

(ii) A final report prior to closeout of this grant listing all Subject Inventions;

(iii) Notification of all subcontracts for experimental, developmental, research.
design or engineering work; identification of the patent rights clause therein, and a copy of the subcontract that contains it.

(iv) Upon request, the filing date, serial number, and title; a copy of the patent application; and patent number and issue date for any Subject Invention in any country in which the Grantee is engaged for patents.

(g) Subcontracts. (1) The Grantee shall include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, research, design or engineering work with other than a small business firm or nonprofit organization. The subcontractor will retain all rights provided for the Grantee in this clause, and the Grantee will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's Subject Inventions.

(2) The Grantee will include in all subcontracts, regardless of tier, for experimental, developmental, research, design or engineering work with a small business firm or nonprofit organization the patent rights clause required by 9.107-4(b) of the NASA Franchise Regulation.

(h) Reporting on Utilization of Subject Inventions. The Grantee agrees to submit on request periodic reports no more frequently than annually on the utilization of a Subject Invention or on efforts at obtaining such utilization that are being made by the Grantee or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Grantee, and such other data and information as NASA may reasonably specify. The Grantee also agrees to provide additional reports as may be requested by NASA in connection with any march-in proceeding or informal investigation undertaken by NASA in accordance with 9.108-12 of the NASA Procurement Regulation. To the extent data or information supplied under this section is considered by the Grantee, its licensees or assignees to be privileged and confidential and is so marked, 'privileged and confidential and is so marked,' Regulation. To the extent data or information as received by the Grantee, assignee, or exclusive licensee refuses such a request, NASA has the right to grant such a license to any other organization having a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with the Grantee or assignee, or licenses.

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Grantee, assignee, or exclusive licensee refuses such a request, NASA has the right to grant such a license to any other organization having a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with the Grantee or assignee, or licenses.

(4) Such action is necessary because the agreement required by section (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any Subject Invention in the United States is in breach of such agreement.

(i) Special Provisions for Grants with Nonprofit Organizations. If the Grantee is a nonprofit organization, it agrees that:

(1) Rights to a Subject Invention in the United States may not be assigned without the approval of NASA except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with the Grantee or assignee, or licenses.

(2) The Grantee may not grant exclusive licenses under United States patents or patent applications in Subject Inventions to persons other than small business firms for a period in excess of the earlier of (i) five years from first commercial sale or use of the invention, or (ii) eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, NASA approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale or use to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention.

(3) The Grantee will share any royalties collected on a Subject Invention with the Inventor(s); and

(4) The balance of any royalties or income earned by the Grantee with respect to Subject Inventions, after payment of expenses (including payments to Inventors) incident to the administration of Subject Inventions, will be utilized for the support of scientific research or education.

[FR Doc. 81-37190 Filed 12-20-81; 01:45 am]
BILLING CODE 7810-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 322

[Reg. PR-232]

Automatic Market Entry Procedures; Revocation

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB revokes its rule governing the procedures to be followed by airlines seeking new routes under the Automatic Market Entry Program. This action is taken because the statutory authority for this program has expired.


FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20426; 202-673-5442.

SUPPLEMENTARY INFORMATION: Section 401(d)(7) of the Federal Aviation Act of 1958, which was added by section 12 of the Airline Deregulation Act of 1978, established the Automatic Market Entry (AME) program. Under this program, air carriers were able to apply for and receive new route per year without having to undergo a proceeding to determine whether the additional service was consistent with the public convenience and necessity, as they would under other provisions of the Act.

Part 322 of the Board's rules (14 CFR Part 322) set forth the procedures that air carriers were to follow in applying for new routes under this program. By this notice, we are revoking this rule.

The statutory authority (section 401(d)(7)) for the AME program has expired by its own terms. Furthermore, after December 31, 1981, air carriers will not need Board permission to commence service on additional routes. Section 1601(a)(1)(C). They will be able to begin new service on their own initiative without having to follow the procedures of the AME or any other Board program.

Since Part 322 is procedural in nature and the statutory authority for it has expired, the Board finds that it may be revoked without notice and public procedure and that this action may take effect in less than 30 days.
Part 322—Automatic Market Entry Procedures [Reserved]

Accordingly, 14 CFR Part 322, Automatic Market Entry Procedures, is removed and reserved.

(Secs. 204 and 401, Pub. L. 85-726, as amended; 72 Stat. 743; 92 Stat. 1719; [49 U.S.C. 1324, 1371])

By the Civil Aeronautics Board,

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-37281 Filed 12-20-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 970

Civil Procedures; Interim Regulations

Correction

In FR Doc. 81-34431 appearing on page 61643 in the issue for Friday, December 18, 1981, make the following correction:

On page 61652, middle column, the heading for Part 970 now reading "Part 970—Deep Seabed Mining Regulations Affecting Pre-Enactment Explorers" should have read "Part 970—Deep Seabed Mining Regulations for Exploration Licenses".

BILLING CODE 1505-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1000

Commission Organization and Functions

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission is publishing revisions to its statement of organization and functions to reflect organizational changes made since December 31, 1980. These include a reduction in the number of regional offices; elimination of the Directorate for Field Operations, the Directorate for Communications, and the Office of Media Relations; renaming the Directorate for Hazard Identification and Analysis; creation of a Directorate for Economics and an Office of Public Affairs; and relocation of certain organizational units from Washington, D.C. to Bethesda, Maryland.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: The Commission is revising its statement of organization and functions, 16 CFR Part 1000, to include organizational changes since the part was last substantively revised on December 31, 1980, 45 FR 86415. The organizational changes are summarized below:

1. Certain functions of the Commission’s Directorate for Hazard Identification and Analysis were transferred to a newly created Directorate for Economics, and the Directorate for Hazard Identification and Analysis was renamed the Directorate for Epidemiology.

2. The Commission’s field organization was reduced from 10 Regional Offices and 3 District Offices to 5 Regional Offices. Some of the Regional Offices have moved to new addresses.

3. The Directorate for Field Operations was abolished, and certain of its functions transferred to the Office of the Executive Director.

4. The Directorate for Communications was abolished and certain of its functions were transferred to a newly created Office of Public Affairs, a newly created Office of Outreach Coordination, and the Office of Administration. Its hotline and correspondence functions were transferred to the Office of the Chairman.

5. The Office of Media Relations was abolished and its functions were transferred to the newly created Office of Public Affairs which reports to the Chairman.

6. The Office of General Counsel and the Office of the Secretary, except for the public reading room, were relocated from the Commission’s headquarters at 1111 18th Street, N.W., Washington, D.C. to its offices at 5401 Westbard Avenue, Bethesda, Maryland.

Since this amendment deals only with internal agency organization, it is being made effective immediately and comments are not being solicited.

For the foregoing reasons, Part 1000 of Chapter II of Title 16 of the Code of Federal Regulations is amended as shown.

PART 1000—COMMISSION ORGANIZATION AND FUNCTIONS

1. The authority citation for Part 1000 reads as follows:
Authority: 5 U.S.C. 552(a).

2. Sections 1000.4, 1000.12, 1000.17 and 1000.21 are revised to read as follows:
§1000.4 Commission addresses.
(a) The principal offices of the Commission are in Washington, D.C. All written communications with the Commission should be addressed to the Consumer Product Safety Commission, Washington, D.C. 20207, unless otherwise specifically directed.
(b) The main headquarters of the Commission are at 1111 18th Street, N.W., Washington, D.C. At this location are the offices of the Chairman and Commissioners, Office of Congressional Relations, Office of Public Affairs, a hearing room, and a public reading room maintained by the Office of the Secretary.
(c) The Office of the General Counsel, Office of the Secretary, Office of Internal Audit, Office of Equal Employment Opportunity and Minority Enterprise, the Executive Director and the operating units under his or her authority, are located at 5401 Westbard Avenue, Bethesda, Maryland.
(d) The Commission has 5 Regional Offices which are located at the following addresses and which serve the states indicated:
(1) Southeastern Regional Office, 800 Peachtree St. N.E., Suite 210, Atlanta, Georgia 30308; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.
(2) Midwestern Regional Office, 230 South Dearborn St., Room 2945, Chicago, Illinois 60604; Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota, Ohio, South Dakota, and Wisconsin.
(3) Northwestern Regional Office, 1100 Commerce St., Room 1 C10, Dallas, Texas 75242; Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas.
(4) Northeastern Regional Office, 6 World Trade Center, Vesey Street 6th Floor, New York, New York 10048; Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, and Virgin Islands.

§1000.12 Organization structure.
The Consumer Product Safety Commission is composed of the principal units listed in this section.
The following units report directly to the Chairman of the Commission:

1. Office of the General Counsel;
2. Office of Congressional Relations;
3. Office of Administrative Law Judge;
4. Office of Public Affairs;
5. Office of the Secretary;
6. Office of Internal Audit;
7. Office of Equal Employment Opportunity and Minority Enterprise;
8. Office of the Executive Director.

The following units report directly to the Executive Director of the Commission:

1. Office of Program Management;
2. Office of Budget, Program Planning and Evaluation;
3. Office of Outreach Coordination;
4. Directorate for Administration;
5. Directorate for Health Sciences;
6. Directorate for Engineering Sciences;
7. Directorate for Internal Audit;
8. Office of Outreach Coordination;
9. Office of the Secretary;
10. Office of the General Counsel;
11. Five Regional Offices.

§ 1000.24 Directorate for Economic Analysis.

The Office of Outreach Coordination is responsible for implementing and monitoring, through CPSC's five regional offices, comprehensive public information, education, and other activities designed to promote consumer product safety and explain CPSC actions and policies on regional, state, and local levels. The Office coordinates the activities of the CPSC Regional Offices, Directories, and the Office of Program Management in implementing comprehensive public outreach programs. It also assists the Office of Public Affairs by implementing outreach activities involving national business, consumer, and professional associations in local or regional meetings.

§ 1000.25 Directorate for Epidemiology.

The Associate Executive Director for Epidemiology manages the Directorate for Epidemiology, which is responsible for injury data analysis to identify hazards or hazard patterns. The Directorate collects data on consumer product-related hazards and potential hazards, determines the frequency, severity, and distribution of the various types of injuries, and investigates their causes. It assesses the effects of product safety standards and programs on consumer injuries, conducts epidemiological studies and research in the fields of consumer-related injuries, and provides data describing the human factors aspects of injury. It maintains an injury data clearinghouse and manages the National Electronic Injury Surveillance System (NEISS). The Directorate also provides analysis and advice to assure that technical standards requirements are compatible with human anthropometric, perception, and other performance tolerances. It assists in reviewing hazard patterns and epidemiological analysis to clarify possible injury patterns attributed to human factors and advises on all other Commission activities requiring human factors input. It provides appropriate analytical representation to the Office of Program Management.

§ 1000.28 and 1000.30 [Removed]
3. Sections 1000.28 and 1000.30 are removed.
4. Sections 1000.25, 1000.26, 1000.27, and 1000.29 are redesignated as §§ 1000.27; 1000.28, 1000.29, and 1000.30, respectively.
5. Section 1000.24 is revised to read as follows:

§ 1000.24 Office of Outreach Coordination.

The Office of Outreach Coordination is responsible for implementing and monitoring, through CPSC's five regional offices, comprehensive public information, education, and other activities designed to promote consumer product safety and explain CPSC actions and policies on regional, state, and local levels. The Office coordinates the activities of the CPSC Regional Offices, Directories, and the Office of Program Management in implementing comprehensive public outreach programs. It also assists the Office of Public Affairs by implementing outreach activities involving national business, consumer, and professional associations in local or regional meetings.

§ 1000.25 Directorate for Economic Analysis.

The Associate Executive Director for Economic Analysis manages the Directorate for Economic Analysis which provides the Commission with advice and information on economic and environmental matters and on the economic, social, and environmental effects of Commission actions. It analyzes the potential effects of CPSC actions on consumers and on industries, including effects on competitive structure and commercial practices. The Directorate acquires, compiles, and maintains economic data on movements and trends in the general economy and on the production, distribution, and sales of consumer products and their components to assist in the analysis of CPSC priorities, policies, actions, and rules. It plans and carries out economic surveys of consumers and industries. It studies the costs of accidents and injuries. It evaluates the economic, societal, and environmental impact of product safety rules and standards. It performs such regulatory analyses and such studies of costs and benefits of CPSC actions as are required by the Consumer Product Safety Act, The National Environmental Policy Act, the Regulatory Flexibility Act and other Acts, and by policies established by the Consumer Product Safety Commission.

Dated: December 28, 1981.

Sadie E. Dunn, Secretary, Consumer Product Safety Commission.

[F.R. Doc. 81-37405 Filed 12-30-81; 8:15 a.m.] BILLING CODE 6355-01-M

FEDERAL TRADE COMMISSION
16 CFR Part 13
[Docket 8879]
Grolier Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions
AGENCY: Federal Trade Commission.
ACTION: Modifying order.
SUMMARY: This order reopens the proceeding and modifies the Commission's order issued on March 13, 1978 (43 FR 18552; 91 F.T.C. 315), by changing the disclosure requirements contained in Paragraphs II (A), (B), (D), and (E), so as to give respondent a choice of several approved methods of
making required disclosures in advising those who reply to respondent's solicitations that they may be contacted directly by a salesperson; and allows sales personnel to present a business card containing prescribed information; when making a sales visit.


FOR FURTHER INFORMATION CONTACT: FTC/PS, David C. Eix or Robert D. Friedman, Washington, D.C. 20580. (202) 724-1037.


The Order Modifying Cease and Desist Order as is follows:

Before the Federal Trade Commission
In the matter of Grolier Incorporated, a corporation, et al. Docket No. 8879.

Order Modifying Cease and Desist Order

On August 13, 1981, the Commission issued an order denying respondent's motion to disqualify the Administrative Law Judge who rendered the Initial Decision in this proceeding. In its order, the Commission also invited the parties in this matter to file before the Commission their views as to whether the original Final Order of the Commission, 91 FTC 315 (1978), should be modified to conform to the modified order in Encyclopaedia Britannica, 96 FTC 778 (1980).

On September 30, 1981, respondent filed a response to the Commission's order. In this submission, respondent first proposed modifying the Grolier order to incorporate modifications made in Britannica on October 28, 1980. Second, respondent asked for guarantees that any future modifications in Britannica were granted to respondents here. Third, respondent moved that the instant proceeding be stayed until the Commission takes action on a pending motion for further modifications in the Britannica order. Finally, respondent also seeks a stay on the ground that a trade regulation rulemaking, rather than an adjudication, is the appropriate manner to conduct further proceedings involving Grolier.

Complaint counsel, on October 14, 1981, filed its answer to respondent's submission, pursuant to the August 13 order. Complaint counsel do not oppose modification of the Grolier order to conform with modifications already made in Britannica. But, they oppose any assurances of future modifications on the ground that in the event of such modifications, the Commission's rules afford Grolier an appropriate procedural vehicle, Rule 2.51(b), by which Grolier may petition for further modifications in its order. An assessment of whether further modifications should be made in either of the orders in question depends on facts and circumstances particular to the acts and practices of each company. Complaint counsel also oppose granting any stay in order to facilitate a conversion of this adjudication to a rulemaking proceeding.

The Commission agrees with the parties that the modifications in the Britannica order granted on October 28, 1980, should now be granted to Grolier. However, the Commission believes that the issue of further modifications in Britannica cannot now be resolved with respect to this respondent because the request for further modifications that Britannica made (and which we will allow Grolier to make) depends upon experience in complying with the first modification. See paragraphs 2 and 3, infra. Britannica has had this experience, but Grolier has not. Moreover, Grolier has available to it a right to petition the Commission for reopening the Grolier matter should any further modifications in Britannica justify similar treatment of Grolier. Therefore, a stay of this matter pending further events in Britannica would be inappropriate.

Nor does the Commission believe a stay is justified pending resolution of this matter by an industrywide rulemaking proceeding. Respondents rely on Ford Motor Co. v. FTC, 654 F.2d 698 (9th Cir. 1981) for the proposition that rulemaking is preferable to adjudication where the Commission is attempting to change existing law or to establish rules of widespread application. In this matter the Commission did not engage in any novel interpretation of existing law as the court of appeals believed occurred in Ford Motor Co., but rather the Commission declared practices to be unlawful that were established as violations of Section 5 of the FTC Act over a decade ago, see, e.g., P. F. Collier & Son Corp. v. F.T.C., 427 F.2d 261 (6th Cir.), cert. denied, 400 U.S. 920 (1970). It is true that issues of relief involving affirmative disclosures distinguish Grolier from earlier cases, but the crafting of relief is particular to the facts and circumstances of each case. In this instance, affirmative disclosures were ordered because of the Commission's experience that mere cease and desist order provisions were inadequate to remedy the abuses found to be in violation of Section 5, practices that had persisted over time, despite earlier prohibitive relief. Grolier, Inc. v. F.T.C. 315, 437 n.98. In this regard, the Seventh Circuit held, in a related case, that rulemaking was not required to replace adjudication where relief differed because "[a] prior insufficient order does not necessitate the insufficiency of all later orders." Encyclopaedia Britannica, Inc. v. FTC, 605 F.2d 964, 974 (7th Cir. 1979), cert. denied, 445 U.S. 934 (1980).

* Grolier's argument that it would be at a competitive disadvantage if the Commission does not now assure Grolier it will receive all future modifications granted in Britannica is disingenuous. As matters now stand, Britannica is bound by our order while Grolier is not. Grolier has offered no evidence that it is voluntarily complying with our order and until it does comply it probably has a competitive advantage.
Therefore, it is ordered, that Paragraphs II(A), (B), (D), and (E) of the Order issued in this docket on March 13, 1978, shall be modified as follows:

1. Paragraph II(A) shall read:
   A. Disseminating or causing to be disseminated any advertisement of promotional material which solicits participation in any contest, drawing or sweepstakes, or solicits any response to any offer of merchandise, service or information, unless any such solicitation clearly and conspicuously discloses that a person who replies as requested may be contacted directly by a salesperson for the purpose of selling respondent's products, using one of the following disclosures:

   1. IMPORTANT: This card will let you know of my interest and enable your [location designation, if appropriate] sales representative to
      (contact me at home) (information)
      (call or visit me) with (details)
      (contact me in person) (facts)
   on how I may (purchase) [applicable product].
      (buy)

   2. IMPORTANT: Returning this card allows me to have your [location designation, if appropriate] sales representative
      (contact me at home) (information)
      (call or visit me) with (details)
      (contact me in person) (facts)
   on how I may (purchase) [applicable product].
      (buy)

   3. IMPORTANT: Returning this card will enable your [location designation, if appropriate] sales representative to
      (contact me at home) (information)
      (call or visit me) with (details)
      (contact me in person) (facts)
   on how I may (purchase) [applicable product].
      (buy)
Upon prior approval in writing of the Assistant Director of the Division of Compliance of the Bureau of Consumer Protection, or his designee, respondent may use any other disclosure that clearly and conspicuously discloses that a person who replies as requested may be contacted directly by a salesperson for the purpose of selling respondent's products. A request for approval shall be in writing and shall be deemed granted if not disapproved within 30 days after receipt by the Assistant Director of the Division of Compliance of the Bureau of Consumer Protection.

2. Paragraph II(D) shall read:

B. Providing any return card, coupon or other device which is used to respond to any advertisement or promotional material covered by Paragraph II(A) above, unless one of the disclosures set forth in such Paragraph, or a disclosure approved by the Assistant Director of the Division of Compliance or his designee as satisfying the requirements of Paragraph II(A), clearly and conspicuously appears in immediate proximity to the space provided for a signature or other identification of the responding party. During the one (1) year period from the date this Order becomes final, respondent may submit a request to reopen these proceedings pursuant to Section 2.51 of the Commission's Rules of Practice. Such petition shall contain information demonstrating that any proposed modifications of Paragraphs II(A) and II(B) will clearly and conspicuously disclose to potential purchasers of respondent's products that a person who replies as requested may be contacted directly by a salesperson for the purpose of selling respondent's products. The foregoing sentence shall not be construed as a limitation on respondent's submission of additional information regarding the request to reopen, including information relating to the financial impact of Paragraph II(D), as modified above, is effective in communicating to potential purchasers, prior to the entry into their homes or places of business by any of respondent's sales representatives, that the purpose of the sales representative's call is to solicit the sale of respondent's products. The foregoing sentence shall not be construed as a limitation on respondent's submission of additional information regarding the request to reopen, including information on the financial impact of Paragraph II(D) on respondent. Should a request be submitted, the Commission shall determine whether to reopen these proceedings within one hundred twenty (120) days of receipt of such request. Respondent may continue to use the business card, as described by this provision, during the time that a request to reopen these proceedings pursuant to this Paragraph is pending, and, if such proceedings are reopened, until the Commission determination of the matter has become final. The procedure to reopen the proceedings as set forth herein is in addition to, and not in lieu of, any other procedure (or time period with respect to such procedure) permitted by law or the Commission's Rules of Practice.

3. Paragraph II(D) shall be amended by adding the following proviso at the end thereof:

Provided, however, That for one (1) year from the date this Order becomes final, respondent may, in lieu of the card required by this Paragraph of the Order, substitute a business card of at least 2 inches by 3 1/2 inches containing only the following information:

1. The name of the corporation.
2. The name of the salesperson.
3. The term "sales representative".
4. An address and telephone number at which the corporation or salesperson may be contacted.
5. The product or the corporation logo or identifying mark.

During this one (1) year period, respondent shall comply in all other respects with the requirements of Paragraph II(D) above. Prior to the expiration of the aforesaid time period, respondent may submit a request to reopen these proceedings pursuant to Section 2.51 of the Commission's rules of practice. Such petition shall contain information demonstrating that the business card, as described by this provision, is effective in communicating to potential purchasers, prior to the entry into their homes or places of business by any of respondent's sales representatives, that the purpose of the sales representative's call is to solicit the sale of respondent's products. The foregoing sentence shall not be construed as a limitation on respondent's submission of additional information regarding the request to reopen, including information on the financial impact of Paragraph II(D) on respondent. Should a request be submitted, the Commission shall determine whether to reopen these proceedings within one hundred twenty (120) days of receipt of such request. Respondent may continue to use the business card, as described by this provision, during the time that a request to reopen these proceedings pursuant to this Paragraph is pending, and, if such proceedings are reopened, until the Commission determination of the matter has become final. The procedure to reopen the proceedings as set forth herein is in addition to, and not in lieu of, any other procedure (or time period with respect to such procedure) permitted by law or the Commission's Rules of Practice.
CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1018
Revisions to Advisory Committee Management Regulations

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is amending its advisory committee management regulations to delete references to three advisory committees which were abolished by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). The Commission is also correcting certain citations and making other minor corrections.

DATE: These amendments are effective December 31, 1981.


SUPPLEMENTARY INFORMATION: Prior to August 13, 1981, the Commission had four statutory advisory committees as described in §§ 1018.12 and 1018.15 of the Commission's advisory committee management regulations. The Product Safety Advisory Council provided the Commission with diverse viewpoints on major policy issues, proposed rulemaking, and approaches to special problems and issues. The National Advisory Committee for the Flammable Fabrics Act provided the Commission with advice, opinions, and recommendations on its proposed regulations or other programs to reduce the frequency and severity of burn injuries involving flammable fabrics. The Technical Advisory Committee on Poison Prevention Packaging provided the Commission with advice and recommendations on the establishment of packaging standards to protect children from serious personal injury or illness resulting from handling, using, or ingesting household substances and reviewed and evaluated petitions requesting exemptions from poison prevention packaging regulations. The Toxicological Advisory Board provides the Commission with scientific and technical advice on precautionary labeling for hazardous substances.

Section 1205 of Pub. L. 97-35, enacted August 13, 1981, repealed the statutory authority for three of these committees: the Product Safety Advisory Council, the National Advisory Committee for the Flammable Fabrics Act, and the Technical Advisory Committee on Poison Prevention Packaging. Sections 1018.12 and 1018.15 are accordingly being revised to remove references to the terminated committees. In addition, the material in these sections relating to the Commission's remaining committee, the Toxicological Advisory Board, is being revised by correction of a section number in the U.S. Code citation of the Federal Hazardous Substances Act and by addition of the corresponding Statutes at Large citation. Section 1018.12 is being additionally revised to indicate that the Toxicological Advisory Board is the remaining statutory committee subject to the Federal Advisory Committee Act. While section 1205 of Pub. L. 97-35 also provides for new chronic hazard advisory panels, these panels are exempt from the Federal Advisory Committee Act, and thus are not provided for in these regulations. The Commission is preparing regulations for these panels, and will publish them as a separate part of Title 16.

A new paragraph is being added to § 1018.4, Applicability, to make explicit the fact that Part 1018 does not apply to committees specifically exempted by statute from the Federal Advisory Committee Act. As mentioned above, the chronic hazard advisory panels are specifically exempted from the Federal Advisory Committee Act by statute.

Also, several references to the OMB Committee Management Secretariat are being revised to reflect the transfer of the Committee Management Secretariat from OMB to the General Services Administration as effected by Reorganization Plan No. 1 of 1977, 51 Stat. 1693.

Since these amendments relate to matters of internal agency policy and management, and merely reflect changes effected by acts of Congress or the President, they are being made effective immediately and comments are not being solicited, in accordance with the provisions of 5 U.S.C. 553(a)(2).
§ 1018.11 [Amended]

§ 1018.43 [Amended]

§ 1018.62 [Amended]

6. In addition to the amendments set forth above, 16 CFR Part 1632 is amended by removing the word "OMB" and inserting, in its place, the word "GSA" in the following places:

16 CFR 1018.11(a); 16 CFR 1018.43; 16 CFR 1018.62 (c) and (d).

Dated: December 24, 1981.
Sadyle E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 81-37752 Filed 12-30-81; 8:45 am]
BILLING CODE 4355-01-M

16 CFR Parts 1201, 1402, 1505, 1615, 1616, and 1632

Technical Amendments to Standards and Regulations To Correct Incorporations by Reference

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission has issued several standards and regulations which contain citations to existing procedures, test methods, or standards, and provide that the cited materials will be used to determine compliance with the Commission's requirements. This procedure is called "incorporation by reference," and can be done only with the approval of the Director of the Federal Register. Some of the Commission's standards and regulations contain incorporations by reference which do not meet all applicable requirements established by the Office of the Federal Register, and published at 1 CFR Part 51. The Commission is issuing technical amendments to those standards and regulations so that they will meet all requirements for incorporation by reference. These technical amendments do not change any substantive provision of any of the standards or regulations which are the subject of this notice.

DATE: These technical amendments shall be effective December 31, 1981.


SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission (Commission) issues standards and regulations under several statutes, including the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051 et seq.), the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1201 et seq.), and the Flammable Fabrics Act (FFA, 15 U.S.C. 1191, et seq.). The Commission has in force several standards and regulations under these statutes which contain citations to one or more existing procedures, test methods, or standards, and provide that provisions of the cited materials will be followed for purposes of determining compliance with the Commission's standard or regulation. This procedure is called "incorporation by reference," a technique employed to make the cited materials a part of the standard or regulation without the necessity of publishing the text of the cited materials, which in some cases can be voluminous. When done in accordance with the Administrative Procedure Act (APA, 5 U.S.C. 553(a)), the regulations issued by the Director of the Federal Register (1 CFR Part 51), incorporation by reference gives the cited materials the force and effect of law.

Some of the incorporations by reference appearing in the Commission's standards and regulations which were issued before 1979 do not comply with requirements for incorporation by reference set forth in 1 CFR Part 51, or with the format established by the Office of the Federal Register for incorporation by reference. For example, some do not contain an explicit statement that the cited material is incorporated by reference. Others do not state that the incorporation by reference has been approved by the Director of the Federal Register. Some other standards and regulations incorporated by reference is available for inspection at the Office of the Federal Register.

For this reason, the Commission is making technical amendments to portions of the following standards and regulations so that they will meet all applicable requirements for incorporation by reference:

3. Requirements for Electrically Operated Toys or Other Electrically Operated Articles Intended for Use by Children, 16 CFR Part 1505, §§ 1505.5(c)(6); 1505.5(b)(2), 1505.5(c)(3), 1505.5(b)(3), 1505.6(g)(6).

Generally, the Administrative Procedure Act (APA, 5 U.S.C. 553) requires that agencies must give notice of proposed rulemaking and provide opportunities for comment. However, 5 U.S.C. 553(b)(B) provides that notice of proposed rulemaking and public participation are not required when the agency makes a finding for good cause that such notice and opportunity for comment are "impracticable, unnecessary, or contrary to the public interest.

The Commission finds for good cause that notice of proposed rulemaking and opportunity for comment are not necessary for issuance of the amendments published below because they do not affect any substantive requirement or provision of the standards and regulations in question. The only purpose of the amendments is to make the text of certain sections of those standards and regulations conform to the format for incorporation by reference now required by the Office of the Federal Register. In this instance, providing notice of proposed rulemaking and opportunity for submission of comments would be a meaningless gesture. Similarly, the APA requires at 5 U.S.C. 553 that a "substantive rule" must be published at least 30 days before its effective date, unless the agency finds otherwise, for good cause and publishes that finding with the final rule.

As stated above, the amendments published below do not alter or affect any substantive provision of the standards and regulations which they modify; they change only the language used to incorporate various materials by reference into those standards and regulations. For this reason, the requirement of 5 U.S.C. 553 for publication of a final substantive rule, at least 30 days before its effective date is not applicable, and the amendments published below shall become effective immediately.

Accordingly, pursuant to section 9(h) and 55(e) and (b) of the Consumer Product Safety Act, 15 U.S.C. 2055(b), 2072(a) and (b), and section 10(a) of the Federal Hazardous Substances Act, 15 U.S.C. 1269(a), and sections 4 and 5 of
the Flammable Fabrics Act, 15 U.S.C. 1193 and 1194, the Commission amends Title 18, Chapter II, Parts 1201, 1402, 1805, 1815, 1816, and 1832 of the Code of Federal Regulations, as follows:

PART 1201—SAFETY STANDARD FOR ARCHITECTURAL GLAZING MATERIALS

1. In § 1201.4, paragraphs (b)(3)(ii), (d)(2)(iii), and (e)(1)(iii) are revised to read as follows:

§ 1201.4 Test procedures.

(b) Test equipment.

(i) Simulated weathering test. The equipment shall be a xenon arc (water-cooled) Weather-Ometer employing a lamp rated at 6500 watts and automatic light monitoring and control systems. Borosilicate inner and outer filters shall be used. An appropriate water spray cycle shall be used. Operating procedures shall be in accordance with ASTM C 26–70, "Standard Recommended Practice for Operating Light—and Water-Exposure Apparatus (Xenon-Arc Type) for Exposure of Nonmetallic Materials," April 13, 1970, as augmented for plastics by ASTM D 2585–70, "Standard Recommended Practice for Operating Xenon-Arc Type (Water-Cooled) Light- and Water-Exposure Apparatus for Exposure of Plastics," Procedure B, June 12, 1970, which are incorporated by reference.

Copies of both documents are available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103. They are also available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist in the edition which has been approved by the Director of the Federal Register and which has been filed with the Office of the Federal Register.

(e) Interpretation of results—(1) Impact test.

(iii) The specimen has:

(A) A modulus of elasticity less than 750,000 psi (5,170 megapascal) when measured by ASTM D 790–71, "Standard Method of Test for Flexural Properties of Plastics," October 29, 1971, which is incorporated by reference, and

(B) A Rockwell hardness (M or R scale) less than 140 when measured by ASTM D 785–65 (Reapproved 1979), "Standard Method of Test for Rockwell Hardness of Plastics and Electrical Insulating Materials," August 31, 1965, which is incorporated by reference.

Copies of both documents are available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103. They are also available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist in the edition which has been approved by the Director of the Federal Register and which has been filed with the Office of the Federal Register.

2. In § 1201.7, paragraph (b)(1) is revised to read as follows:

§ 1201.7 Effective date.

(b) Architectural glazing materials manufactured before July 6, 1977 may be incorporated into architectural products listed in § 1201.1(a) through July 5, 1978 if:

(1) The architectural glazing material conforms to ANSI Standard Z97.1–1972 or 1975, "Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings," 1972 or 1975, which is incorporated by reference, and

PART 1402—CB BASE STATION ANTENNAS, TV ANTENNAS, AND SUPPORTING STRUCTURES

3. In § 1402.4, paragraph (a)(1)(ii)(E) is revised to read as follows:

§ 1402.4 Requirements to provide performance and technical data by labeling and instructions.

(a) Notice to purchasers.

(ii) Antennas.

(E) The colors in figure 1 shall conform to ANSI Standard Z53.1–1971, "Safety Color Code for Department of Transportation." This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist in the edition which has been approved by the Director of the Federal Register and which has been filed with the Office of the Federal Register.

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Copies of ANSI Standard Z53.1–1971 or 1975 are available from the American National Standards Institute, 1430 Broadway, New York, New York 10018. These materials are also available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist in the edition which has been approved by the Director of the Federal Register and which has been filed with the Office of the Federal Register.

* * * * *

2. In § 1201.7, paragraph (b)(1) is revised to read as follows:

§ 1201.7 Effective date.

(b) Architectural glazing materials manufactured before July 6, 1977 may be incorporated into architectural products listed in § 1201.1(a) through July 5, 1978 if:

(1) The architectural glazing material conforms to ANSI Standard Z97.1–1972 or 1975, "Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings," 1972 or 1975, which is incorporated by reference, and

* * * * *
PART 1505—REQUIREMENTS FOR ELECTRICALLY OPERATED TOYS OR OTHER ELECTRICALLY OPERATED ARTICLES INTENDED FOR USE BY CHILDREN

4. In § 1505.5, paragraphs (e)(5) and (h)(2) are revised as reads follows:

§ 1505.5 Electrical design and construction.

(e) Power supply connections (cords and plugs).

(5) A flexible electrical power cord provided on a toy shall be type SP-2 [as defined in the “National Electrical Code,” Chapter 4, article 400, pages 184-194 (1971)] or equivalent rubber-insulated cord. For heavier types of thermoplastic-insulated cord, clamps may be without auxiliary insulation unless the clamp may damage the cord insulation.

5. In § 1505.6, paragraphs (e)(3)(n) and (g)(3)(i) are revised to read as follows:

§ 1505.6 Performance.

(e) Electrical.

(3) Leakage current and repeated di-electrical withstand tests.

(iv) With the connections intended for the source of supply connected thereto and then connected to the grounded side of a power supply circuit having a voltage equal to 110 percent of the rated voltage of the toy, the leakage current through a noninductive 1,500-ohm resistor connected between the grounded side of the supply circuit and each dead metal part (accessible and inaccessible) shall, when stable, be measured in accordance with the test provisions established in ANSI Standard C 101.1-1971, “American National Standard for Leakage Current for Appliances,” approved November 17, 1970, which is incorporated by reference. Copies of this document are available from American National Standards Institute, 1430 Broadway, New York, New York 10018. This document is also available for inspection at the Office of the Federal Register, Room 4801, 1100 L Street NW., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register.

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES THROUGH 6X (FF 3-71)

6. In § 1615.4, paragraph (g)(4)(i) is revised to read as follows:

§ 1615.4 Test procedure.

(g) Testing.

(4) Laundering.

(i) The procedures described under paragraphs (b) through (g) of this section shall be carried out on finished items (as produced or after one washing and drying) and after they have been washed and dried 50 times according to AATCC Test Method 124-1969.

document are available from the American Association of Textile Chemists and Colorists, P.O. Box 12215, Research Triangle Park, North Carolina 27709. This document is also available for inspection at the Office of the Federal Register, Room 4010, 1100 L Street NW., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist in the edition which has been approved by the Director of the Federal Register and which has been filed with the Office of the Federal Register. Items which do not withstand 50 launderings shall be tested at the end of their useful service life.

PART 1616—STANDARDS FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14 (FF 5-74)

7. In § 1616.5, paragraph (c)(4)(i) is revised to read as follows:

§ 1616.5 Test procedure.

*(c) Testing.*

(4) Laundering.—(i) The procedures described under § 1616.4 Sampling and acceptance procedures, § 1616.5(b) Conditioning and mounting of specimens, and (c) Testing, shall be carried out on finished items (as produced or after one washing and drying) and after they have been washed and dried 50 times according to the laundering procedures in AATCC Test Method 124-69, "Appearance of Durable Press Fabrics After Repeated Home Laundering," Technical Manual of the American Association of Textile Chemists and Colorists, vol. 46, 1970, which is incorporated by reference. Copies of this document are available from the American Association of Textile Chemists and Colorists, Post Office Box 12215, Research Triangle Park, North Carolina 27709. This document is also available for inspection at the Office of the Federal Register, Room 4010, 1100 L Street NW., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist in the edition which has been approved by the Director of the Federal Register and which has been filed with the Office of the Federal Register. Items which do not withstand 50 launderings may be tested at the end of their useful service life.

PART 1632—STANDARD FOR THE FLAMMABILITY OF MATTRESSES (AND MATTRESS PADS) (FF 4-72)

6. In § 1632.5, paragraph (b)(1) is revised to read as follows:

§ 1632.5 Mattress pads.

*(b) Laundering. (1) Mattress pads which have had a chemical fire retardant treatment or contain any chemically fire retardant treatment components, shall be tested in accordance with § 1632.4 Test procedure in the condition in which they are intended to be sold, and after they have been washed and dried 10 times in accordance with washing procedure 6.2 (III), with a water temperature of 60° ±2.8°C (140° ±5°F), and drying procedure 6.3.2(b), prescribed in AATC Test Method 12469, "Appearance of Durable Press Fabrics After Repeated Home Laundering," Technical Manual of the American Association of Textile Chemists and Colorists, vol. 46, 1970, which is incorporated by reference. Copies of this document are available from the American Association of Textile Chemists and Colorists, Post Office Box 12215, Research Triangle Park, North Carolina 27709. This document is also available for inspection at the Office of the Federal Register, Room 4010, 1100 L Street NW., Washington, D.C. 20408. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist in the edition which has been approved by the Director of the Federal Register and which has been filed with the Office of the Federal Register. Maximum load shall be 3.45 kg (7 lb) and may consist of any combination of test items and dummy pieces. Alternatively, a different number of times under another washing and drying procedure may be specified and used, if that procedure has previously been found to be equivalent by the Consumer Product Safety Commission.


Dated: December 24, 1981.

Sadie E. Dunn, Secretary, Consumer Product Safety Commission.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB-42]

Staff Accounting Bulletin No. 42; Business Combinations

AGENCY: Securities and Exchange Commission.

ACTION: Publication of staff accounting bulletin.

SUMMARY: The interpretations in this Staff Accounting Bulletin express the staff's views concerning the application of existing financial accounting standards to business combinations accounted for by the purchase method involving financial institutions, including the allocation of purchase price to tangible and intangible assets acquired and amortization periods for intangible assets.

EFFECTIVE DATE: December 23, 1981.


SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission’s official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

December 23, 1981.

George A. Fitzsimmons, Secretary.

Staff Accounting Bulletin No. 42

The staff hereby adds new topic, 2-A-3, setting forth the staff's views on questions pertaining to the application of existing accounting standards to business combinations accounted for by the purchase method involving financial institutions.

Topic 2: Business Combinations

A. Purchase Method

* * *

3. Acquisitions Involving Financial Institutions

Facts

When financial institutions are acquired in periods of high interest rates, the use of the purchase method of accounting may result in significant
effects on the reported results of operations of the combined companies. In such periods, a substantial discount is applied to the historical cost of any low-yielding mortgage loans and investments to determine their fair value at the acquisition date. The amount paid by the acquiring entity can be significantly higher than the amounts allocated to the identifiable assets acquired. Therefore, the amount of the purchase price in excess of the fair value of the tangible and identifiable intangible assets acquired which is allocated to purchased goodwill is often very significant. The discount on the loans and investments is accreted to income using the interest method to report a market yield on the acquired assets over a relatively short period based on the estimated life of the loan and investments. Goodwill has been amortized over as many as 40 years on a straight-line basis. The accretion of the discount to income over a short period, which is partially offset by the amortization on a straight-line method over longer periods of the purchase price amounts allocated to goodwill, often results in substantial positive effects on the reported results of operations in the first few years subsequent to the acquisition. The effect on the reported results of operations of such business combinations varies depending on the amount of discount applied to the loan and investment portfolios to record them at their fair values, the purchase price allocated to tangible and identifiable intangible assets and to goodwill, and the related accretion and amortization periods and methods selected. In certain filings with the Commission involving banks and savings and loan institutions where this effect has been significant, the staff has questioned whether the financial statements and pro forma results of operations properly reflected the economics of the purchase transaction.

**Question 1**
Are there any unique considerations in the allocation of purchase price to acquired tangible and intangible assets in the acquisition of financial institutions?

**Interpretive Response**
The staff believes that adequate guidance is provided by Accounting Principles Board ("APB") Opinion No. 16, "Accounting for Business Combinations," APB Opinion No. 17, "Accounting for Intangible Assets," and by Financial Accounting Standards Board ("FASB") Interpretation No. 9, "Applying APB Opinions No. 16 and 17 When a Savings and Loan Association or a Similar Institution Is Acquired in a Business Combination Accounted for by the Purchase Method." These accounting standards generally require that all tangible and identifiable intangible assets acquired be recorded on the basis of their fair values at the acquisition date. The cost of identifiable intangible assets purchased [goodwill] is measured by the total cost of the purchase less the sum of the amounts assigned to the fair value of identifiable tangible and intangible assets and less the fair value of deposits and other liabilities assumed. In practice, however, some of the principles in these standards may be difficult to apply to acquisitions of financial institutions.

Determination of the fair value of loans and other investments acquired in a business combination involving financial institutions may not be difficult since these values are computed based on a comparison of the historical interest yields of the acquired portfolios and market yields for comparable loans and investments. However, the staff's experience has been that the applicable accounting standards have not always been properly considered. Many factors may need to be evaluated in the selection of an interest rate which properly reflects a comparable market yield. The discount applied to loans and investments to attain a market yield should be accreted using the interest method. The accrual period for the loan discount should be the remaining contractual term to maturity of the portfolio adjusted for anticipated prepayments. Recent trends which indicate slower turnovers of mortgage residential properties should be considered when determining expected prepayments. The impact of any estimated future tax effects of differences between the tax bases and the amounts otherwise assignable to any assets acquired must be considered in estimating their fair value (paragraph 89 of APB Opinion No. 16).

Determination of the values of identifiable intangible assets purchased is often considered impracticable because they are not easily quantified. As a result, the methods of applying this aspect of the standards have varied considerably in financial statements included in registrant filings. A discussion of purchased identifiable intangible assets is contained in paragraph 8 of FASB Interpretation No. 9:

The purchase price paid for a savings and loan association may include an amount for one or more factors, such as the following:
(a) Capacity of existing savings accounts and loan accounts to generate future income.
(b) Capacity of existing savings accounts and loan accounts to generate additional business or new business, and
(c) Nature of territory served.

Application of the guidance provided in FASB Interpretation No. 9 could result in values assigned to various identifiable intangible assets in commercial bank or savings and loan association acquisitions, including:
- Mortgage escrow deposits.
- Branch networks.
- Mortgage servicing rights.
- Customer base.
- Deposit relationships.
- Name in the marketplace.
- Earning capacity.

The values inherent in some of these identifiable intangibles overlap. Determination of the specific intangibles purchased, as well as the fair values thereof, has to be made based on the individual facts and circumstances. The staff recognizes that this process is often difficult and that little practical guidance exists to facilitate such valuations. However, when the purchase price is not properly allocated to all intangibles, there may be a significant effect on the reported results of operations of the consolidated entity because the amount assigned to goodwill, which has usually been amortized over long periods, could be overstated. Although the practice of allocating costs to values associated with the earnings potential of acquired deposits has gained increased acceptance, the staff believes that the allocation of purchase price to all identifiable intangible assets acquired has often not received adequate consideration in business combinations involving financial institutions.

**Question 2**
What is the appropriate measure of the fair value of deposit liabilities assumed in the purchase of financial institutions?

**Interpretive Response**
The staff believes that the standards set forth in paragraph 7 of FASB Interpretation No. 9 for valuing the deposits of a savings and loan association are appropriate for other financial institutions. The fair value of such liabilities is the present value of the amounts to be paid using prevailing interest rates for similar deposits at the
acquisition date. For example, the values assigned to passbook savings accounts paying interest at the maximum allowable rate would be the historical cost of the savings deposits to the acquired association plus any accrued interest. Noninterest bearing demand deposits of an acquired commercial bank would be recorded at their carrying amount. Acquired time deposits with interest rates less than the prevailing interest rate for similar time deposits would be recorded at a discount to their carrying value on an individual or on some aggregate basis and the discount would be amortized to report the prevailing interest rate on the acquired deposits. Any discount on deposits should be amortized using the interest method.

Consideration should be given to adjusting the fair value of deposits for the estimated future tax effects of differences because of current tax rates and amounts otherwise assignable to the deposits, as specified in paragraph 89 of APB Opinion No. 18.

As discussed in Question 1 above, any purchased identifiable intangible assets associated with the deposits of an acquired institution should be recorded at their estimated fair values at acquisition.

**Question 3**

What are the appropriate amortization periods and methods for intangible assets acquired in the acquisition of financial institutions?

**Interpretive Response**

APB Opinion No. 17 and FASB Interpretation No. 9 provide guidance on this matter. The amortization period should be determined separately for each identifiable intangible asset acquired and for goodwill. The amortization period for identifiable intangibles may be readily determinable. However, determination of the appropriate amortization period for goodwill is more difficult and should be carefully evaluated.

The lives of identifiable intangible assets are often closely related to other assets acquired or liabilities assumed. For example, an intangible asset whose fair value is the present value of expected earnings from mortgage escrow deposits should be amortized over the estimated life of the related mortgage investments; an amortization method should be used which reflects the decreasing escrow levels resulting from expected payoffs of the mortgage loans. An intangible asset whose fair value is the present value of expected, net interest margins to be earned from other purchased deposits normally should be amortized on an accelerated basis over a period which reflects the pattern of the expected runoff of the related deposits.

When identifiable intangible assets have been purchased in the acquisition of a financial institution, but their fair values are not determinable, these costs should be assigned to goodwill. Paragraph 30 of APB Opinion No. 17 requires that goodwill be amortized on a straight-line basis unless it is demonstrated that an accelerated method is more appropriate. Paragraph 9 of FASB Interpretation No. 9 indicates that an accelerated method of amortization would be appropriate and may be used for goodwill when the amount assigned to goodwill includes costs for identifiable intangibles whose fair values are not determinable and the benefits expected to be received from these intangibles differ from the expected life of the factors which are the basis for those intangibles. The staff believes that such circumstances, demonstrate that an accelerated method of amortization for goodwill is more appropriate than a straight-line method and should be used.

Paragraph 27 of APB Opinion 17 provides factors which should be considered in estimating the useful lives of identifiable assets. There are many relevant matters which should be evaluated when applying these guidelines to determine the appropriate amortization period for goodwill.

Regulated depository institutions, for example, are experiencing erosions of their traditional markets because of inroads made by unregulated financial segments. Competitive pressures, the potential effects of deregulatory initiatives, and rapid technology changes in the industry create an uncertain environment which must be considered when determining the period in which goodwill benefits will exist. This uncertainty may be greater for savings and loan associations and savings banks since high interest rates have adversely affected their financial positions due to the funding costs of their fixed-rate loan portfolios.

The staff believes that the automatic selection of a 40-year amortization period for goodwill purchased in a financial institution acquisition is not appropriate. The uncertainty which results from the economic, competitive, and organizational changes facing these institutions suggests that it is usually not realistic to conclude that purchased goodwill benefits have indefinite lives. In some of the financial institution filings which the staff has reviewed, the staff concluded, based on the facts and circumstances, that short amortization periods were appropriate with respect to the business combinations reflected in the filings. The allocation to goodwill of significant amounts of the purchase price, where appeared to be the result of a failure to properly identify and quantify all intangible assets purchased, was often a factor which influenced these decisions. The staff recognizes that under certain circumstances, goodwill benefits may exist beyond a short-term period. For example, in a recent discussion with a savings and loan registrant, the staff agreed that an entrance into major new market areas resulting from an acquisition provided a basis for concluding that the purchased goodwill benefits could exist beyond a short-term period. In reaching this decision, the staff was influenced by the fact that the expected financial results appeared to adequately reflect the economic realities of the transaction.
shares are not actively traded. The Commission noted that it had published an advance notice of proposed rulemaking regarding the classification of small issuers for purposes of reducing their reporting and other obligations under the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78a et seq.], which might have a direct impact on smaller life insurance companies whose shares are not actively traded. On October 20, 1981, the Commission published for public comment a proposed system of classification of smaller issuers that would, in effect, provide an exemption from the registration and reporting requirements of the Exchange Act for certain smaller issuers. The Commission is reviewing the public comments submitted thereto and anticipates final action on the proposal in the second quarter of calendar year 1982. In order that smaller life insurance companies who may be exempt under a classification system, if adopted, not be required to file Form 10-Q reports for a short interim period, and to provide sufficient lead time for any smaller life insurance companies who may not continue to be exempt under a classification system, the Commission is deferring the effective date of the Form 10-Q reporting requirements until 1983 for life insurance companies whose securities are not actively traded. The Commission does not anticipate that any further deferral will be necessary. For the reasons stated above and pursuant to the Administrative Procedure Act (5 U.S.C. 551 et seq.), the Commission finds for good cause that notice and public procedure on the rule amendments are impracticable, unnecessary and contrary to the public interest and that there is good cause for making these amendments effective immediately.


Text of Amendments
The Commission hereby amends paragraphs (c)(1) of §§ 240.13a-13 and 15d-13 of 17 CFR Part 240 to defer the effective date specified therein as given below.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934
Section 240.13a-13 is amended by revising (c)(1) as follows:
§ 240.13a-13 Quarterly reports on Form 10-Q (§ 249.308a of this chapter).
(c) * * * *
(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 20, 1983, if they do not meet the test specified in item 12, paragraph (a)(1)(i), of § 229.20; or
* * * *
Section 240.15d-13 is amended by revising (c)(1) as follows:
§ 240.15d-13 Quarterly reports on Form 10-Q (§ 249.308a of this chapter).
(c) * * * *
(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 20, 1983, if they do not meet the test specified in item 12, paragraph (a)(1)(i), of § 229.20; or
* * * *
Authority: These amendments are adopted pursuant to authority in Sections 12, 13(d) and 23(a) (15 U.S.C. 78l, 78m, 78o(d) and 78w(e)) of the Securities Exchange Act of 1934.
By the Commission.
December 22, 1981.
Shirley E. Holls,
Assistant Secretary.
[FR Doc. 81-3720 Filed 12-30-81; 8:45 am]
BILLING CODE 6010-01-M

17 CFR Part 260
[Release Nos. 33-6372; 39-683]
Adoption of Final Rules Under the Trust Indenture Act of 1939

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of final rules.

SUMMARY: The Commission is adopting, after an interim period, final rules under Sections 304(a)(6) and 304(a)(9) of the Trust Indenture Act of 1939 to establish ceiling limitations on the amount of debt securities that can be totally or partially exempt from the Act at $2,000,000 and $5,000,000 respectively. The rules were adopted on an interim basis in October 1980 in response to legislative amendments of the Trust Indenture Act of 1939.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Mark Beatty or Paul A. Belvin (202/272-2644). Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549

SUPPLEMENTARY INFORMATION: On October 23, 1980, the Commission announced the adoption of interim rules effective until December 31, 1981, under Sections 304(a)(8) and 304(a)(9) of the Trust Indenture Act of 1939 (the "Trust Indenture Act") (15 U.S.C. 77d(d) et seq.) to establish ceiling limitations at $2,000,000 and $5,000,000 respectively. Sections 304(a)(8) and 304(a)(9) are the small offering exemptions under the Trust Indenture Act. The interim rules were adopted in response to certain legislative amendments the substance of which was submitted to Congress by the Commission. The Commission solicited public comments on whether, and in what form, the interim rules should be adopted as final rules. No comment letters were received.

The Commission has determined to adopt the interim rules as final without modification for the reasons stated in the release adopting the rules on an interim basis.

Text of Rules
Part 260 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adopting without change as final §§ 260.4a-1 and 260.4a-2 which were added on an interim basis at 45 FR 71778, Oct. 30, 1980:

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939
§ 260.4a-1 Exempted securities under section 304(a)(6).

The provisions of the Trust Indenture Act of 1939 shall not apply to any security which has been or is to be issued otherwise than under an indenture, but this exemption shall not be applied within a period of twelve consecutive months to more than

$2,000,000 aggregate principal amount of any securities of the same issuer.

§ 260.4a-2 Exempted securities under section 304(a)(9).

The provisions of the Trust Indenture Act of 1939 shall not apply to any security which has been or is to be issued under an indenture which limits the aggregate principal amount of securities at any time outstanding thereunder to $5,000,000 or less, but this exemption shall not be applied within a period of thirty-six consecutive months to more than $5,000,000 aggregate principal amount of securities of the same issuer.

Authority: The Commission hereby adopts Rules 4a-1 and 4a-2 pursuant to Sections 304(a)(8) and 304(a)(9) of the Trust Indenture Act of 1939. (Sec. 302, Pub. L. 88-477; secs. 304(a)(8), 304(a)(9), 83 Stat. 1153; 15 U.S.C. 77dd(a)(8), 77dd(c)(9)).

By the Commission.

Dated: December 23, 1981.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 81-37768 Filed 12-30-81; 8:45 am]
BILLING CODE 6610-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R81-945]

Schedule A—Fair Market Rents for New Construction and Substantial Rehabilitation—All Market Areas

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule; Notice of correct effective date.

SUMMARY: On November 25, 1981, 46 FR 57938 HUD adopted an interim rule amending the section 8 fair market rents applicable to new construction and substantial rehabilitation for all market areas with an effective date that is dependent on whether a waiver were granted on the deferred effective date requirement of Section 704(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)). In view of the urgency of this rule the Secretary sought waiver of the deferred-effective date requirement in accordance with Section 704(4) of the Act. The Effective Date section of the rule recited that the rule would become effective on December 28, 1981 if the waiver were granted. A waiver has been agreed to by the Chairman and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House of Representatives Committee on Banking, Finance and Urban Affairs.

DATE: Accordingly, the correct effective date for the interim rule is December 28, 1981.

FOR FURTHER INFORMATION CONTACT: Richard Lasner, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410. Telephone No. (202) 775-6207. (This is not a toll-free number.)

(Secs. 7(d) and 7(e)(4), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d) and (e)(4)).

Issued at Washington, D.C., December 29, 1981.

Richard Lasner,
Assistant General Counsel for Regulations.

[FR Doc. 81-37760 Filed 12-30-81; 2:19 pm]
BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5c.

{T.D. 7800}:

Income Tax; Special Rules for Leases Concerning Qualified Mass Commuting Vehicles and New Reporting Requirements for All Safe Harbor Leases

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the special rules for leases concerning qualified mass commuting vehicles under the Economic Recovery Tax Act of 1981. The regulations provide guidance to persons executing lease agreements concerning qualified mass commuting vehicles under section 168(f)(8) of the Internal Revenue Code of 1954. These regulations also contain a new reporting requirement applicable to all leases qualifying under section 168(f)(8).

DATE: The regulations apply with respect to safe harbor leases executed and certain mass commuting vehicles placed in service after December 31, 1980.


SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Temporary Income Tax Regulations under the Economic Recovery Tax Act of 1981 (26 CFR Part 5c) promulgated by Treasury Decision 7791 regarding special rules for leases under section 168(f)(8) of the Internal Revenue Code of 1954, which were published in the Federal Register for October 23, 1981 (46 FR 51607). This amendment expands upon those temporary regulations providing rules relating to certain mass commuting vehicles treated as qualified leased property and to a new filing requirement applicable to all safe harbor leases. This amendment will remain in effect until superseded by later final regulations with respect to section 168 concerning the accelerated cost recovery system.

Explanation

This amendment clarifies the special rules for leases with respect to certain mass commuting vehicles under section 168(f)(8)(D)(ii). It establishes certain requirements that must be met by the lessor (usually a State or local governmental unit which operates the local mass transit system) and the lessor in order that the lessee may, for Federal income tax purposes, lease mass commuting vehicles, such as buses and rapid rail cars, and take cost recovery deductions with respect to them.

The lessee is allowed no investment tax credit with respect to mass commuting vehicles. There is no requirement that such vehicles be leased under section 168(f)(8) within 3 months after being placed in service. In general, those portions of vehicles whose financing is allocable to grants from Federal agencies such as the Urban Mass Transportation Administration may not be leased under section 168(f)(8).

A notice of proposed rulemaking proposing a definition of "qualified mass commuting vehicles" under section 168(f)(8) is published in the Proposed Rules section of this Issue of the Federal Register.

This amendment also contains a new reporting requirement applicable to all leases qualifying under section 168(f)(8) and executed after December 31, 1981. Basically, the new rule provides that the lessor and lessee are required to file jointly an information return setting
forth certain specified information concerning the leasing transaction within a 30-day period after the lease is executed or the election under section 168(f)(8) is made. A copy of this information return is also required to be attached to the Federal income tax return of the lessor and lessee. For leases executed before January 1, 1982, only the lessor is required to file the information return postmarked by January 31, 1982. Unless the lessor's failure to file is shown to be due to reasonable cause, or unless the lessee files the return postmarked by January 31, 1982, the lessor's failure to timely file is a disqualifying event which may result in a recapture of the tax benefits to the lessor.

Inapplicability of Executive Order 12291

These regulations are not major regulatory actions for purposes of Executive Order 12291 because the aggregate effect of these regulations flows principally from the statutory provisions upon which these regulations are based.

Drafting Information

The principal author of these regulations is John A. Tellers of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

Adoption of Amendments to the Regulations

Accordingly, the following amendments to 26 CFR Part 5c are adopted:

PART 5c—TEMPORARY INCOME TAX REGULATIONS UNDER THE ENERGY TAX ACT OF 1981

Paragraph 1. New §§ 5c.103-2 and 5c.103-3 are added. The new sections read as follows:

§ 5c.103-2 Leases and Industrial Development Bonds.

For purposes of section 103(b)(2), the determination of whether an obligation constitutes an industrial development bond shall be made without regard to the characterization of the transaction as a lease under section 168(f)(8).

§ 5c.103-3 Leases and Arbitrage.

In the case of a sale and leaseback transaction qualifying under section 168(f)(8), where the lessee's rental payments are substantially equal in timing and amount to the principal and interest payments on the lessor's note, the arbitrage provisions of section 103 (c) and §§ 1.103-15, 1.103-14, and 1.103-15 shall apply to any obligations of the lessor (or party related to the lessor) without regard to the section 168(f)(3) lease transaction.

Par. 2. Section 5c.168(f)(8)-2 is amended by revising paragraph (a)(3) to read as follows:

§ 5c.168(f)(8)-2 Election to characterize transaction as a section 168(f)(8) lease.

(a) Election. * * *

(3) Information return concerning the election. (i) Except as provided in subdivision (ii), for each lease agreement, the lessee and lessee must jointly file Form 6793, Safe Harbor Lease Information Return, concerning their election under section 168(f)(8). The information return must be signed by both the lessor and lessee and filed not later than the 30th day after the agreement is executed with the Commissioner of Internal Revenue, 1111 Constitution Avenue, N.W., Washington, D.C., 20224 (Attn: Form 6793). Unless the failure to file timely is shown to be due to reasonable cause, the failure to file the information return timely shall void the section 168(f)(8) election as of the date of the execution of the lease agreement. The information return shall include the following items:

(A) The name, address, and taxpayer identifying number of the lessor and the lessee (and the common parent company if a consolidated return is filed);

(B) The service center with which the income tax returns of the lessor and lessee are filed;

(C) A description of each property with respect to which the election is made;

(D) The date on which the lessee places the property in service (determined as defined in § 5c.168(f)(8)-6(b)(2)(i)), the date on which the lease begins, and the term of the lease;

(E) The recovery property class of the leased property under section 168(e)(2) (for example, 5 years) and the ADR midpoint life of the leased property;

(F) The terms of the payments between the parties to the lease transaction;

(G) Whether the ACRS deductions and the investment credit are allocable to the same taxpayer;

(H) The aggregate amount paid to outside parties to arrange or carry out the transaction, such as, for example, legal and investment banking fees;

(I) For the lessor only: The unadjusted basis of the property as defined in section 168(d)(1);

(J) For the lessor only: If the lessor is a partnership or a grantor trust, the name, address, and taxpayer identifying number of the partners or beneficiaries, and the Service Center with which the income tax return of each partner or beneficiary is filed; and

(K) Such other information as may be required by the return or its instructions.

(i) The aggregate amount paid to outside parties which is described in paragraph (a)(3)(i)(H) of this section need not be disclosed unless it is reasonable to estimate that either the lessor or the lessee will lease property under section 168(f)(8) for the calendar year which has an aggregate adjusted basis to such person of more than $1,000,000. If either the lessor or the lessee reasonably expects to lease property with an aggregate basis of more than $1,000,000, then both parties must disclose their transaction costs.

(ii) In the case of an agreement executed before January 1, 1982, only the lessor is required to file the information return described in paragraph (a)(3)(i) of this section and the return must be postmarked not later than January 31, 1982. Unless the failure to file timely is shown to be due to reasonable cause, or unless the lessee files the information return postmarked by January 31, 1982, the lessor's failure to file the information return timely shall be a disqualifying event as of February 1, 1982, which shall cause an agreement to cease to be treated as a lease under section 168(f)(8). For the Federal income tax consequences of a disqualifying event, see § 5c.168(f)(8)-6.

(iii) A copy of the information return described in paragraph (a)(3)(i) and (ii) shall be filed by each party with its timely filed Federal income tax return for its taxable year during which the lease term begins. However, for taxable years ending in 1981 with respect to lease agreements executed during calendar year 1981, such statement shall be filed by the later of (A) the due date (taking extensions into account) of the party's 1981 Federal income tax return, or (B) where the filing of an amended return is required, with the amended return within 3 months following the execution of the lease agreement. For the requirement to file an amended return within 3 months and the consequences of the failure to so file, see § 5c.168(f)(8)-6(b)(2)(ii). A taxpayer that is required to file the information return with its Federal income tax return before an information return form is available shall file, in lieu of the required information return, a statement which contains the information set forth in subparagraphs (A) through (J) of,
paragraph (a)(3)(i). The failure by the lessor to file the information return (or, if applicable, the statement referred to in the preceding sentence) with its timely filed Federal income tax return shall be a disqualifying event which shall cause an agreement to cease to be treated as a lease under section 168(f)(6). For the Federal income tax consequences of a disqualifying event, see §5c.168(f)(6).–8.

Par. 3. Section 5c.168(f)(6)–8 is amended by revising paragraphs (a)[2][ii] and (b)[3] to read as follows:

§5c.168(f)(6)–5 Qualified leased property.

(a) Basic rules. * * *

(ii) For purposes of this paragraph (a) and paragraph (b)[3][ii] of this section, transactional costs with respect to a sale and leaseback arrangement that are not currently deductible shall be allocated to the lease agreement (and not included in the lessor's adjusted basis with respect to the property) and amortized over the term of the lease. These costs include legal and investment banking fees and printing costs. * * *

(b) Special rules. * * *

(3) Qualified mass commuting vehicle.

(i) A qualified mass commuting vehicle as defined in section 103[b][9] will constitute qualified leased property for purposes of section 168(f)(6)D(iii) and this section provided all of the following requirements are met:

(A) At least part (i.e., 5 percent) of the financing for the purchase of such vehicle must be derived from proceeds of obligations the interest on which is excludable from income under section 103[a][1] (whether or not such obligations are described in section 103[b][4][i]);

(B) The vehicle must be recovery property (i.e., it must have been first placed in service by the lessee after December 31, 1980); and

(C) the vehicle must not have been previously leased under a section 168(f)(6) lease by the lessee.

A qualified mass commuting vehicle that is qualified leased property may be leased under section 168(f)(6) at any time after December 31, 1980. The requirement of paragraph (b)[3][i][A] of this section may be satisfied where the vehicles leased under a section 168(f)(6) lease are refinanced with proceeds of an obligation the interest on which is excludable from income under section 103(a)[1].

(ii) Where the leased property is purchased, directly or indirectly, by the lessor from the lessee (or a party related to the lessee), the property will not qualify under this subsection unless the lessor's adjusted basis in the property does not exceed 75 percent of the adjusted basis of the lessee (or related party) at the time of the execution of the lease. The adjusted basis of property to a lessee (or related party) shall be determined under part II of subchapter O of chapter 1 of the Code for purposes of determining gain, except that the adjustment described in section 1216 and §1.1016–4 need not be made for property acquired during calendar year 1981 and leased no later than March 1, 1982.

(iii) In a transaction characterized as a lease under section 168(f)(6), the lessor's adjusted basis may not include that portion, if any, of the cost of the vehicle to the lessee (or related party) that is financed, directly or indirectly, with an Urban Mass Transportation Administration (UMTA) grant (excluding a grant under the interstate transfer provision of the Federal-Aid Highway Act (FAHA)), a FAHA grant, or any other Federal grant. Where a vehicle is included as part of an UMTA-funded project, 60 percent of the vehicle's cost will be deemed to be financed with an UMTA grant and 20 percent will be deemed to be financed from non-Federal sources without regard to whether the UMTA funds or the non-Federal funds are traceable to any particular vehicle included within the project. For purposes of this subparagraph and paragraph (b)[3][ii][A] of this section, amounts originating from non-Federal sources which are paid or incurred with respect to a leased property by a State or political subdivision of the State (or political subdivision created by the joint authorization of two or more States) shall be taken into account in computing the lessee's adjusted basis in the leased property as if the lessee had paid or incurred such amounts.

(iv) If a vehicle is purchased pending approval of an UMTA grant, the lessor's unadjusted basis in the vehicle may equal the lessee's unadjusted basis unreduced by any subsequently approved UMTA grant; however, if an UMTA grant is later approved and the vehicle is included as part of an UMTA-funded project, except as provided hereinafter in this subparagraph, the lease shall terminate with respect to an undivided 80 percent interest in the vehicle. For the Federal income tax consequences of the termination of a lease, see §5c.168(f)(6)–8. If such a subsequently approved UMTA grant is used to purchase additional qualified mass commuting vehicles, the portion of each vehicle deemed to be allocable to non-UMTA financing (i.e., 20 percent) may be leased under section 168(f)(6). If a vehicle is purchased pending approval of an UMTA grant and leased under section 168(f)(6), the lease will not be deemed to have terminated with respect to 80 percent of the vehicle when the UMTA grant is later approved if the total interest leased before the grant is approved did not exceed 20 percent of the lessee's adjusted basis in the vehicle (unadjusted basis prior to March 1, 1982) unreduced by any subsequently approved UMTA grant. For purposes of this subparagraph and paragraph (b)[3][ii][A] of this section, the allocation principles applicable to UMTA grants shall apply in the case of FAHA grants except that 85 percent and 15 percent shall be substituted for 80 percent and 20 percent, respectively. Similar allocation rules shall also apply to other Federal grants used to finance the acquisition of qualified mass commuting vehicles.

(v)(A) Notwithstanding the provisions of §5c.168(f)(6)–2[a][3][iii], the lessee in a transaction to which this paragraph (b)[3] applies is not required to file an information return or a statement concerning its election under section 168(f)(6).

(B) Notwithstanding the provisions of §5c.168(f)(6)–2[a][5], if the transfer of a qualified mass commuting vehicle is not otherwise a disqualifying event, the transferee is not required to file the statement mentioned therein.

(C) The fact that a qualified mass commuting vehicle is not section 39 property because it is used by an exempt entity will not disqualify the lease under §5c.168(f)(6)–8[b][4]; however, a disqualifying event will occur, and the agreement will cease to be characterized as a lease under section 168(f)(6), with respect to a vehicle which (1) ceases to be a qualified mass commuting vehicle or (2) would cease to be section 39 property if used by a taxable entity as, for example, a vehicle used predominantly outside the United States. For the Federal income tax consequences of a disqualifying event, see §5c.168(f)(6)–8.

(vi) The lessor of a qualified vehicle will not be allowed an investment tax credit with respect to it under section 38.

(vii) The application of this paragraph (b)[3][i][A] may be illustrated by the following examples:

Example (1). On July 1, 1981, a unit of city X, X Transit Authority (XTA), purchases 100 buses after receiving an UMTA grant for 80 percent of their purchase price. Fifteen percent of the purchase price is financed with a combination of State and local...
governmental grants and 5 percent is financed with proceeds from an issue of tax-exempt obligations described in section 103(b)(4)(I). Because UMTA financed an 80 percent interest in the 20 buses, XTA may lease under section 168(f)(8) only a 20 percent interest in each bus. If XTA were to lease 100 percent of 20 buses, only 20 percent of such buses would be deemed to be leased under a safe harbor lease.

Example (2). The facts are the same as in example (1) except that UMTA has not yet approved XTA's application in 1981. Pending the UMTA approval, XTA purchases and places in service 20 buses in July 1981. The 20 buses are financed with tax-exempt obligations described in section 103(b)(4)(I). On December 15, 1981, XTA sells a 100 percent interest in these 20 buses to Corporation M and leases them back under a lease in which the parties elect to have the provisions of section 168(f)(6) apply. M is a calendar-year taxpayer and claims an ACRS deduction with respect to the buses on their return for taxable year 1981. On July 1, 1982, UMTA approves XTA's grant application, and XTA purchases and places in service an additional 80 buses. Because 80 percent of the original 20 buses are deemed to have been financed by UMTA beginning on July 1, 1982, the safe harbor lease terminates with respect to any undivided interest of the 20 buses. If XTA were to be considered the owner of the buses without regard to section 168(f)(8), the termination will result in a deemed sale of an undivided 80 percent interest in the 20 buses by M to XTA. The amount realized by M on the sale will include a proportionate part of the outstanding amount of M's debt plus the sum of any other consideration received by M. M will realize gain or loss, depending upon its basis, with applicable section 1245 recapture. However, XTA may lease the 20 percent interest in the 80 new buses it purchased in 1982 which is deemed to have been financed with non-Federal funds.

Example (3). The facts are the same as in example (2) except that on December 15, 1981, XTA sells and leases back only a 20 percent interest in the 20 buses acquired in July 1981. When the UMTA grant is later approved, the lease will not terminate with respect to any part of the 20 buses. In addition, XTA may lease the 20 percent interest in the 80 new buses purchased in 1982 and deemed to have been financed with non-Federal funds.

Example (4). On August 1, 1982, UMTA approves a grant for a major 5-year capital expenditures program to improve city Y's rapid rail transit system. None of the funds relating to this UMTA-funded project, provided either by UMTA or by city Y, will be used to purchase qualified mass commuting vehicles. Instead, a number of rapid rail cars and buses will be purchased entirely with funds provided with a combination of grants by the State and city governments and of proceeds from an issue of tax-exempt obligations described in section 103(a). Because none of the rapid rail cars and buses are included as part of the UMTA-funded project, no part of them is deemed to be financed by UMTA. If at least 5 percent of the cost of the qualified mass commuting vehicles is provided by tax-exempt obligations under section 103(a), the vehicles will be qualified leased property in their entirety.

Example (5). City Z has a mass transit agency (ZTA) which purchases on July 1, 1982, 10 buses for which it pays $1,000,000, 95 percent of which is derived from grants from city Z and 5 percent from tax exempt obligations described in section 103(a). The buses have a useful life within the meaning of § 1.167(a)-1(b) of 10 years and their salvage value is zero. On July 1, 1983, ZTA sells these buses to corporation P and leases them back in a transaction which the parties elect to have treated as a lease under section 168(f)(8)(I). Assume that the sale and leaseback transaction is closed on December 31, 1982, unless the lessee files such return with its income tax return as required by § 5c.168(f)(8)-2(a)(3)(ii). P's adjusted basis in the vehicles may not exceed ZTA's basis, or $900,000.

Example (6). The facts are the same as in example (5) except that the sale and leaseback transaction closed on December 31, 1982. P's adjusted basis in the vehicles may not exceed ZTA's basis, or $900,000.

Example (7). The facts are the same as in example (5) except that ZTA sells the buses on June 1, 1981, and enters into the sale and leaseback transaction with corporation P on December 31, 1981. Under § 5c.168(f)(8)(I)-6(b)(2)(i), the lease agreement is made to ZTA's basis in the buses for depreciation sustained. Therefore, P's basis in the buses may equal ZTA's cost of $1,000,000.

Example (8). On July 1, 1981, a unit of city W, W Transit Authority (WTA), purchases 100 buses with local grants derived entirely from a city W sales tax. The buses do not constitute qualified leased property under § 5c.168(f)(8)-8(b) because no part of the financing for their purchase was derived from the proceeds of tax exempt obligations. The facts are the same as in example (9) except that on November 1, 1981, WTA borrows 5 percent of the cost of the buses and pledges them as security. The interest on WTA's obligation is excludable from income under section 108(f)(1). On December 31, 1981, WTA sells to T Corp. all 100 buses and leases them back. Under § 5c.168(f)(8)-6(b)(9)(ii), each bus is deemed to be financed with the proceeds of tax exempt obligations. Therefore, if the vehicles otherwise meet the definition of qualified leased property, all the vehicles will be qualified leased property under this section. 

Par. 4. Section 5c.168(f)(8)-8(b) is amended by revising subparagraph (2) and by adding new subparagraphs (13) and (14). The revised and added provisions read as follows:

8(b) Events which cause an agreement to cease to be characterized as a lease.

(2) The failure by the lessor to file a copy of the information return (or applicable statement) with its income tax return as required in § 5c.168(f)(8)-2(a)(3)(ii) by January 31, 1982, unless the lessee files such return by January 31, 1982.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 555 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(13) The property is lease under the provisions of section 168(f)(9)(D)(iii) and § 5c.168(f)(9)(A)(8) and ceases to be a qualified mass commuting vehicle.

(14) The failure by the lessor to file the required information return described in § 5c.168(f)(8)-2(a)(3)(ii) by January 31, 1982, unless the lessee files such return by January 31, 1982.

* * *

DEPARTMENT OF JUSTICE
Office of Juvenile Justice and Delinquency Prevention
28 CFR Part 31
Implementation of Formula Grants Program for Juvenile Justice
AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.
ACTION: Notice of final regulations.
SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing final regulations for the implementation of the formula grant program authorized by Part B, Subpart I, of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended. Formula grants are authorized to States which in turn make subgrants for use by State and local public and private agencies in carrying out juvenile justice and delinquency, improvement programs.

DATE: These regulations are effective December 31, 1981.


SUPPLEMENTARY INFORMATION: Draft regulations were originally published in the Federal Register on June 1, 1981 for public comment. Substantive changes were recommended and the draft regulations were again published for public comment on September 3, 1981. Written comments from some 60 national, regional, and local organizations were received. All comments have been considered by the OJJDP in this publication. These regulations, with the exception of § 31.303(i)(3), Valid Court Order, are final.

Discussion of Comments
Several respondents commented favorably upon the streamlining of the formula grant application requirements, an effort to simplify program administration. The following is a summary of substantive comments and the response of the OJJDP:

1. Comment: The serious and violent juvenile offender emphasis of § 31.303(e) indicates that States should allocate a minimum of 30% of their formula grant funds to programs designed for these populations. Is this allocation mandatory?

Response: No. This provision in the regulations was designed to encourage States to address the problem of serious and violent crimes committed by juveniles. This is a major concern to the Congress, as reflected in the 1980 Amendments to the JJDP Act, and to the American public. The wording of this section attempts to focus State attention on a careful consideration of the need to allocate additional resources to this area of programming.

2. Comment: The serious and violent juvenile offender emphasis of § 31.303(e) should be redrafted to clarify that serious crime includes property crime. States have varying problems with juvenile violence and property crime, and should be free to emphasize which to emphasize in programming.

Response: Agreed. A modification has been made in § 31.303(e) which serves to clarify this point.

3. Comment: The emphasis on serious and violent crime is inconsistent with the 66% pass through to local government requirement of Section 223(a)(5) of the Act because programs for this segment of the juvenile offender population are generally organized at the State level.

Response: OJJDP will consider a waiver request from States where rehabilitation or other services for juveniles who commit serious and violent crimes are organized at the State level and to the extent justified by an increased State emphasis on this priority problem.

4. Comment: Specific reference to additional program areas, i.e., Project New Pride or Restitution, should be added to the serious and violent juvenile crime emphasis of the regulations.

Response: In drafting this section, OJJDP simply used the language of the legislation. Additional language specifying program options would be superfluous because States are free to select those program options which they determine have the best likelihood of success.

5. Comment: The jail removal requirement, Section 223(a)(14) of the JJDP Act, specifies two separate and distinct "exceptional circumstances" which are not reflected in the draft regulations.

Response: The regulations reflect the intent of the law. As Congressman Ike Andrews, Chairman of the Subcommittee on Human Resources, stated in a letter to OJJDP on February 17, 1981, "You are completely correct that the exception language is intended to establish a single exception applying only to low population density areas. Only in such areas would the temporary detention in adult facilities of juveniles accused of serious crimes against persons be permitted should no acceptable alternative be available."

6. Comment: Will States be permitted, for the purpose of monitoring the Section 223(a)(14) jail removal requirement, a "grace period" in which a juvenile temporarily detained in an adult jail or lockup need not be reported as a monitoring violation? This would be similar to the 48-hour "grace period" currently permitted with respect to the Section 223(a)(12)(A) deinstitutionalization mandate.

Response: It is Congress' finding that juvenile offenders and nonoffenders should not be placed in an adult jail or lockup for any period of time. However, for the purpose of monitoring and reporting compliance with the jail removal requirement, the House Committee on Education and Labor stated, in its Committee Report on the 1980 Amendments, that it would be permissible for OJJDP to permit States to exclude, for monitoring purposes, those juveniles alleged to have committed an act which would be a crime if committed by an adult (criminal-type offenders) and who are held in an adult jail or lockup for up to six hours. This six-hour period would be limited to the temporary holding in an adult jail or lockup by police for the purpose of identification, processing, and transfer to juvenile court officials or to juvenile shelter or detention facilities. Any such holding of a juvenile criminal-type offender should be limited to the absolute minimum time necessary to complete this action, not to exceed six hours, but in any case overnight. Even where such a temporary holding is permitted, the Section 223(a)(13) separation requirement would operate to prohibit the accused juvenile criminal-type offender from being in sight or sound contact with an adult offender during this brief holding period. Under no circumstances does the allowance of a six hour "grace period" applicable to juvenile criminal-type offenders permit a juvenile status offender or nonoffender be detained, even temporarily, in an adult jail or lockup under Section 223(a)(14). In monitoring for compliance with Section 223(a)(14), the regulations require States to report the number of juvenile criminal-type offenders held in adult jails and lockups in excess of six hours (see § 31.303(i)(5)(iv)(C) and (H)).

7. Comment: The 48-hour limit on holding juveniles in adult jails or lockups under the Section 223(e)(14) "removal exception" is not sufficient to cover periods when court is not in session, such as weekends.

Response: Because this exception permits temporary incarceration in jails and lockups of juveniles accused of a serious crime against persons, a maximum 48-hour period is considered by OJJDP to be the outside limit and is intended to take into account weekends and other circumstances that would preclude the immediate transfer to an appropriate juvenile facility.

8. Comment: The guideline governing the "removal exception" to Section 223(a)(14), as promulgated in the draft regulations, § 31.303(i)(4), allows each
State to set specific criteria for determining "areas characterized by low population density" and to determine that "no placement is available." These criteria should be established by OJJDP so that the criteria and standards are uniform for all States and can be reviewed by the public through the review and comment process of the Federal Register.

Response: The narrow "removal exception" of the law was designed to reflect "the special needs of areas characterized by low population density." OJJDP, in its rulemaking role, reviewed a number of possible criteria that could be imposed on States in defining the exception. However, we concluded that it was not feasible to establish uniform criteria applicable to all States that would be both fair and reasonable. OJJDP believes that the individual States are in a better position to determine the unique circumstances that warrant, subject to OJJDP's review and approval, the specific criteria to be applied in the States to implement the "removal exception" to the Section 223(a)(14) jail removal provision.

9. Comment: The regulations should define the term "not served by a local or regional juvenile detention facility" as used in the Section 223(a)(14) "removal exception.

Response: Agreed. A general definition of the term has now been added to regulations at § 31.303(i)(4)(iv). The definition provides that a county is not served by a local or regional juvenile detention facility when "there is no public or private juvenile detention facility operated within the county or there is no public or private juvenile facility which is in operation to provide secure detention for accused juvenile offenders from that county."

10 Comment: The 1990 Amendments to the JJDP Act allow an alternative State agency, other than the State Criminal Justice Council, to be designated by the Governor as the responsible agency to supervise the administration of the State's formula grant program. Any such designation is subject to approval by the OJJDP Administrator. One commentator recommended that operating agencies be specifically excluded from consideration as an acceptable alternative State agency.

Response: OJJDP is aware of the potential problems with having an operating agency serving as the administering agency for the formula grant program. The Fiscal Year 1982 Application Kit addresses this issue, requiring that in any instance where the Governor requests approval for the designation of an operating agency as the alternative State agency, it must be clearly demonstrated that the agency's supervisory board will have full policymaking authority and will be independent of the administrative structure of the operating agency.

11. Comment: The definition of "secure" as used in the terms "secure detention facility" and "secure correctional facility" has been substantially changed by removing the use of "staff security measures" in addition to other architectural means for restricting the movements and activities of residents. This change is not warranted.

Response: The change noted in the draft regulations (§ 31.304(b)) reflects the revised definitions of "secure detention facility" and "secure correctional facility" in Section 103(12) and (13) of the Act, as amended.

12. Comment: One third of the required 68% pass through of funds to local government. § 31.301(b), should be required to be allocated to private nonprofit agencies.

Response: Such a requirement is beyond the authority of OJJDP as there is no statutory basis to support such a rule.

13. Comment: Because recent research has shown that there exists differential handling of minority youth in the juvenile justice system, it is recommended that a percentage of funds be set aside to further research this phenomenon and to generate specific proposals that may reduce the flow of minorities into the system.

Response: While OJJDP is aware of these research findings, the formula grant program is not the appropriate place for OJJDP to address funding for this purpose. Within the past six months, the National Institute for Juvenile Justice and Delinquency Prevention, the research arm of OJJDP, has awarded three research grants which address different aspects of this issue. It is expected that this research will provide the kinds of basic information needed to reduce the differential penetration of minority youth into the system.

Valid Court Order

There was substantial comment on and criticism of the revised valid court order guideline (§ 31.305(f)(g)). Fifteen of the commentators voiced the opinion that the revised provision failure to correctly reflect the Congressional intent underlying the valid court order amendment to Section 223(a)(12)(A) of the Juvenile Justice Act. These commentators generally favored retention of the initial implementing guideline published for comment in the Federal Register on June 1, 1981 (46 FR 29438, § 31.703(h)(3), at 29443).

Specifically, they called for reinstatement of the following features of that guideline:

1. "No secure detention under any circumstance of a juvenile status offender or nonoffender alleged to have violated a valid court order;"

2. Reinstatement the requirement that the judge presiding over the violation hearing, in entering a dispositional order directing or authorizing placement in a secure facility, certify on the record (rather than determine) that all the elements of a valid court order have been met; and

3. Reinstatement the requirement that the judge in (2) above also certify on the record (rather than make no certification or determination) that there is no rational alternative to incarceration of the juvenile.

In addition, a variety of suggestions were offered by commentators seeking to increase or clarify the protections afforded to juvenile status offenders and nonoffenders who may be subject to incarceration as a result of a court order violation. These suggestions are as follows:

1. For a court order to be deemed valid the juvenile status offender or nonoffender should have had the right to counsel at the initial adjudication or other court proceeding in which the court order regulating future conduct was entered;

2. For a court order to be deemed valid, the juvenile status offender or nonoffender should have received the full range of due process rights listed in § 31.303(i)(3)(v)(A)-(H) at the initial adjudication or other court proceeding in which the court order regulating future conduct was entered;

3. The warning to the juvenile of the consequences of violating the court order (§ 31.303(i)(3)(vi)) should be provided to the juvenile and to his attorney and/or to his parents or guardian;

4. The warning referenced in (3) above should be in writing and (rather than "or") be reflected in the court record and proceedings;

5. The term "court of competent jurisdiction" (§ 31.303(i)(3)(iv)) should be defined so that a juvenile would only be subject to valid court order violation proceedings before the same judge in the same court in which the order was entered;

6. The "24-hour grace period" referenced in § 31.303(i)(3)(iv) should clearly specify that this means 24 hours exclusive of nonjudicial days (i.e.,
holidays and weekends) consistent with OJJDP monitoring policy;
(7) The guideline should require that any judicial determination of probable cause, used as a basis for detaining a juvenile pending a violation hearing, must be held within the 24-hour grace period;
(8) There should be no provision for a probable cause hearing. Rather, the guideline should require that the violation hearing be held within the 24-hour grace period or the juvenile released to an appropriate nonsecure placement pending the violation hearing;
(9) A juvenile held in a secure detention facility, after a probable cause hearing pending a violation hearing, should be held for the minimum time necessary to schedule and hold a violation hearing, but in no event longer than:
(a) 3 calendar days; or
(b) 72 hours; or
(c) 72 hours exclusive of nonjudicial days; or
(d) 5 calendar days; or
(e) 10 calendar days or the number of days that an alleged delinquent offender may be held under State law in secure detention prior to an adjudicatory hearing, whichever is less;
(10) Where a judicial determination is made that there is probable cause to believe that a status offender or nonoffender violated a valid court order, placement in a secure detention facility pending a violation hearing should require, at a minimum, a judicial finding that:
(a) There is a probability that the juvenile will not appear for further proceedings; or
(b) The juvenile poses a danger to self or to community safety;
(11) The authority to hold a juvenile status offender or nonoffender in a "secure detention facility" or a "secure correctional facility" should specify that such facilities include only those which are exclusively for juveniles;
(12) The full due process rights enumerated in § 31.303(i)(3)(v) should include a standard of proof beyond a reasonable doubt; and
(13) OJJDP should establish maximum numbers of juvenile status offenders and nonoffenders who can be held for valid court order violations and establish a maximum length of secure incarceration for juveniles who violate valid court orders.
A lesser number of respondents believed that the guideline, rather than failing to provide adequate due process protection to juveniles, failed to provide sufficient judicial flexibility, offering the following suggestions to increase judicial discretion:
(1) The determination of probable cause to believe a juvenile status offender or nonoffender violated a valid court order should be made by a judge or any duly authorized officer of the court acting on behalf of the judge; and
(2) OJJDP should defer to State law in determining the maximum length of time a status offender or nonoffender alleged to have violated a valid court order may be held in secure detention pending a violation hearing.
As can be seen, there is a wide divergence of views on valid court order amendment implementation. This stems in part from a legislative history that is inconclusive on certain points, differences in various State laws, policies and practices, and the complex legal issues that underlie the treatment of juvenile status offenders and nonoffenders who violate valid court orders. It is OJJDP's conclusion that publication of a final regulation governing implementation of the valid court order amendment at this time, given the expressed concerns and information available, would not further the proper implementation of the amendment.
Consequently, OJJDP believes that further exploration and consideration of the issues raised above (and other relevant valid court order considerations) are desirable before a final rule is promulgated. Therefore, OJJDP plans to schedule at least two hearings to receive oral testimony and to give interested parties the opportunity to submit further written input on valid court order implementation. A notice will be placed in the Federal Register regarding the date and time for such hearings and providing for the receipt of written submissions. OJJDP anticipates that this notice will be published within 30 days. The notice will explain the rationale of the various positions and options presented in response to the Federal Register drafts. OJJDP's primary objective is to fully implement the congressional intent, considering the input and experience of practitioners, and to provide for a workable regulation that does not create unrealistic policies, and does not, by implication, undermine State procedural law.
OJJDP will reserve § 31.303(i)(3) of the final regulations. Pending the publication of a final regulation, States should continue to follow applicable State law and Constitutional principles of due process in their implementation and monitoring of the valid court order amendment. OJJDP urges States not to consider modification of existing State law or policy regarding the secure incarceration of juvenile status and nonoffenders who violate the lawful orders of the court until a final regulation is published.
This announcement does not constitute a "major" rule as defined by Executive Order 12291 because it does not result in: (a) An effect on the economy of $100 million or more; (b) a major increase in any costs of prices; or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.
Finally, because this regulation will not have significant economic impact on a substantial number of small entities, no analyses of the impact of these rules on such entities is required by the Regulatory Flexibility Act, U.S.C. 601, et seq.; 28 CFR part 3 is accordingly revised to read as follows:

PART 31—FORMULA GRANTS

Subpart A—General Provisions
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31.2 Statutory authority.
31.3 Submission date.

Subpart B—Eligible Applicants
31.100 Eligibility.
31.102 Membership.

Subpart C—General
31.200 General.
31.201 Audit.
31.202 Civil rights.
31.203 Open meetings and public access to records.

Subpart D—Juvenile Justice Act Requirements
31.300 General.
31.301 Funding.
31.302 Applicant State Agency.
31.303 Substantive requirements.
31.304 Definitions.

Subpart E—General Conditions and Assurances
31.400 Compliance with statute.
31.401 Compliance with other Federal laws, orders, circulars.
31.403 Non-discrimination.

Authority: Juvenile Justice and Delinquency Prevention Act of 1974, as amended, (42 U.S.C. 5601 et seq.)

Subpart A—General Provisions
§ 31.1 General.
This Part defines eligibility and sets forth requirements for application for and administration of formula grants to State governments authorized by Part B, Subpart I, of the Juvenile Justice and Delinquency Prevention Act.
§ 31.2 Statutory authority.
The statute establishing the Office of Juvenile Justice and Delinquency Prevention and giving authority to make grants for juvenile justice and delinquency prevention improvement programs is the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. § 5001 et seq.).

§ 31.3 Submission date.
Juvenile Justice Plans for Fiscal Year 1982 shall be submitted to the OJJDP within 60 days after States are notified of fiscal year 1982 Formula Grant allocations.

Subpart B—Eligible Applicants
§ 31.100 Eligibility.
All States as defined by Section 103(7) of the JJDP Act.

§ 31.101 Establishment of State Criminal Justice Council.
Each state which chooses to apply for a formula grant shall establish or designate by law a State Criminal Justice Council unless an alternative State agency is designated by the Chief Executive and approved by the OJJDP Administrator pursuant to Section 261(c) of the JJDP Act. States must assure they have available for review a copy of the State law establishing the Council, and a current list of Council membership.

§ 31.102 Membership of Council.
Pursuant to Section 1301(f) of the Justice System Improvement Act (JSIA) of 1979, States participating in the formula grant program of the Juvenile Justice and Delinquency Prevention Act, in addition to statutory membership requirements, must include on the State Criminal Justice Council the chairperson and at least two additional citizen members of that Act. For purposes of this requirement a citizen member is defined as any person who is not a full-time government employee or elected official. Any executive committee of the Council must include the same proportion of juvenile justice advisory group members as are included in the total Council membership.

Subpart C—General Requirements
§ 31.200 General.
This subpart sets forth general requirements applicable to formula grant recipients under the JJDP Act of 1974, as amended. Applicants must assure compliance or submit necessary information on these requirements.

§ 31.201 Audit.
The State must assure that it adheres to the audit requirements enumerated in the "Financial and Administrative Guide for Grants" OJARS Guideline Manual 7100.1B, October 20, 1980. Chapter 8 of the Manual contains a comprehensive statement of audit policies and requirements relative to grantees and subgrantees.

§ 31.202 Civil rights.
(a) To carry out the State's Federal civil rights responsibilities the plan must:
(1) Designate a civil rights contact person who has lead responsibility in insuring that all applicable civil rights requirements, assurances, and conditions are met and who shall act as liaison in all civil rights matters with OJJDP and the OJARS' Office of Civil Rights Compliance (OCRC).
(2) Contain the Council's Equal Employment Opportunity Program (EEOP), if required to maintain one under 28 CFR 42.301, et seq., where the application is for $500,000 or more.
(3) Cooperate with OCRC during compliance reviews of recipients located within the State; and
(4) Cooperate with OCRC during investigation.
(5) Comply, and that its subgrantees and contractors will comply with the requirement that, in the event that a Federal or State court or administration agency makes a finding of discrimination on the basis of race, color, religion, national origin, or sex (after a due process hearing) against a State or a subgrantee or contractor, the affected recipient or contractor will forward a copy of the finding to OCRC.

§ 31.203 Open meetings and public access to records.
The State must assure that it will comply with the requirements of Section 402(c)(2) of the Justice System Improvement Act.

Subpart D—Juvenile Justice Act Requirements
§ 31.300 General.
This subpart sets forth specific JJDP Act requirements for application and receipt of formula grants.

§ 31.301 Funding.
(a) Allocation to States. Each State receives a base allotment of $325,000 except for the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands where the base amount is $56,250. Funds are allocated among the States on the basis of relative population under 18 years of age.
(b) Funds for Local Use. At least two-thirds of the formula grant allocation to the State must be used for programs by local government, or local private agencies unless the State applies for and is granted a waiver by the Office of Juvenile Justice and Delinquency Prevention.

(c) Match. Formula grants under the JJDP Act shall be 100% of approved costs, with the exception of planning and administration funds; which require a 100% cash match (dollars for dollar), and construction projects funded under Section 227(a)(2) which require a 50% cash match.

(d) Funds for Administration. Not more than 7.5% of the total annual formula grant award may be utilized to develop the annual juvenile justice plan and pay for administrative expenses, including project monitoring evaluation. These funds are to be matched on a dollar for dollar basis. The State shall make available needed funds for planning and administration to units of local government or combinations on an equitable basis. Each annual application must identify uses of such funds.

§ 31.302 Applicant State Agency.
(a) Pursuant to Section 223(a)(2) and Section 261(c) of the JJDP Act, the State assures that a State Criminal Justice Council or other State agency approved under Section 261(c) has been designated as the sole agency for supervising the preparation and administration of the plan and has the authority to implement the plan.
(b) The Chief Executive shall establish a Juvenile Advisory Group pursuant to Section 223(a)(3) of the JJDP Act. The State shall provide a list of all current advisory group members, indicating their respective dates of appointment and how each member meets the membership requirements specified in this Section of the Act.
(2) Those States which, based upon the most recently submitted monitoring report, have been found to be in full compliance with Section 223(a)(12)(A), may, in lieu of addressing paragraphs (i)(1), (2), and (3) of this section, provide an assurance that adequate plans and resources are available to maintain full compliance.

(5) Submit the report required under Section 223(a)(12)(B) of the Act as part of the annual monitoring report required by Section 223(a)(15) of the Act.

(3) Assure that adjudicated offenders are not reclassified administratively and transferred to an adult criminal correctional authority to avoid the intent of segregating adults and juveniles in correctional facilities. This does not prohibit or restrict waiver of juveniles to criminal court for prosecution, according to State law. It does, however, preclude a State from administratively transferring a juvenile offender to an adult correctional authority or a transfer within a mixed juvenile and adult facility for placement with adult criminals either before or after a juvenile reaches the statutory age of majority. It also precludes a State from transferring adult offenders to a juvenile correctional authority for placement.

(2) Implementation. The requirement of this provision is to be planned and implemented immediately by each State in light of identified constraints on immediate implementation. Immediate compliance is required where no constraints exist. Where constraints exist, the designated date of compliance in the latest approved plan is the compliance deadline. Those States not in compliance must show annual progress toward achieving compliance until compliance is reached.

(3) For those States that have achieved "substantial compliance" as specified in Section 223(a)(14) of the Act, indicate the unequivocal commitment to achieving full compliance. Attach documentation.

(4) Those States which, based upon the most recently submitted monitoring report, have been found to be in full compliance with Section 223(a)(12)(A), may, in lieu of addressing paragraphs (i)(1), (2), and (3) of this section, provide an assurance that adequate plans and resources are available to maintain full compliance.

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(4) Those States which, based upon the most recently submitted monitoring report, have been found to be in full compliance with Section 223(a)(12)(A), may, in lieu of addressing paragraphs (i)(1), (2), and (3) of this section, provide an assurance that adequate plans and resources are available to maintain full compliance.
(i) Indicate how it will annually identify and survey all secure detention or correctional facilities, jails, lock-ups, and other facilities usable for the detention and confinement of juveniles.

(ii) Provide a plan for an annual on-site inspection of all such facilities identified in paragraph (i) of this section. Such plan shall include a procedure for reporting and investigating compliance complaints in accordance with Section 223(a)(12)(A), (13), and (14).

(iii) Include a description of the barriers which the State faces in developing a monitoring system to establish and report the level of compliance with Sections 223(a)(12), (13), and (14).

(2) For the purpose of monitoring for compliance with Section 223(a)(12)(A) of the Act a secure detention or correctional facility is:

(i) Any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or non-offenders; or

(ii) Any secure public or private facility, which is also used for the lawful custody of convicted adult criminal offenders.

(3) Valid Court Order [Reserved].

(4) Removal Exception (Section 223(a)(14)). The following conditions must be met in order for an accused juvenile criminal-type offender to be temporarily detained (for up to 48 hours) in an adult jail or lock-up:

(i) The geographic area which has jurisdiction over the juvenile has been certified as having a low population density, based upon specific criteria developed by the State and approved by OJJDP. The criteria developed must take into account total county population per square mile. The State must provide rationale for the criteria proposed.

(ii) The juvenile must be accused of a serious crime against persons to include: Criminal homicide, forcible rape, mayhem, kidnapping, aggravated assault, robbery, and extortion accompanied by threats of violence.

(iii) A determination must be made that there is no existing acceptable alternative placement available for the juvenile pursuant to criteria developed by the State and approved by OJJDP.

(iv) The county is not served by a local or regional juvenile detention facility. Generally, this phrase means that there is no public or private juvenile detention facility operated within the county or there is no public or private juvenile facility which is in operation to provide secure detention for accused juvenile offenders from that county.

(E) Reporting Requirement. The State shall report annually to the Administrator of OJJDP on the results of monitoring for Sections 223(a)(12), (13), and (14) of the JJDPA. Three copies of the report shall be submitted to the Administrator of OJJDP no later than December 31 of each year.

(F) The total number of facilities used for secure detention and confinement of both juvenile offenders and adult criminal offenders which did not provide adequate separation.

(G) The total number of juvenile offenders and non-offenders NOT adequately separated in facilities used for the secure detention and confinement of both juveniles and adults.

(H) To demonstrate the progress toward and extent of compliance with Section 223(a)(14) of the JJDPA the report must at least include the following information for the baseline and current reporting periods:

(A) Dates of baseline and current reporting period.

(B) Total number of public and private juvenile detention and correctional facilities AND the number inspected on-site.

(C) Total number of accused status offenders and non-offenders held in any secure detention or correctional facility as defined in §31.303(i)(2) excluding those held pursuant to a valid court order.

(D) Total number of adjudicated status offenders and non-offenders held in any secure detention or correctional facility as defined in §31.303(i)(2), excluding those held pursuant to a judicial determination that the juvenile violated a valid court order.

(E) Total number of status offenders held in any secure detention or correctional facilities pursuant to a judicial determination that the juvenile violated a valid court order.

(F) Total number of status offenders held in any secure detention or correctional facilities pursuant to a judicial determination that the juvenile violated a valid court order.

(G) Total number of juvenile-criminal-type offenders held in adult jails in excess of six hours.

(H) Total number of juvenile-criminal-type offenders held in adult lock-ups in excess of six hours.

(I) Total number of accused and adjudicated status offenders and non-offenders held in any adult jail or lock-up as defined in Section 31.304.

(J) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above, including a list of such counties.

(K) Total number of juvenile-criminal-type offenders held in adult jails in excess of six hours.

(L) Total number of juvenile-criminal-type offenders held in adult lock-ups in excess of six hours.

(M) Total number of juvenile-criminal-type offenders held in any secure detention or correctional facility and which were apprehended for a serious crime against persons held over 48 hours in an adult jail and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.

(N) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.

(O) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.

(P) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.

(Q) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.

(R) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.

(S) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.

(T) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.

(U) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.

(V) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.

(W) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.

(X) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.

(Y) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.

(Z) Total number of juveniles accused of a serious crime against persons held less than 48 hours in adult jails and lock-ups in areas meeting the “removal exception” as noted in subparagraph 4 above.
addition, the State must make an unequivocal commitment, through appropriate executive and legislative action, to achieving full compliance within two additional years. Full compliance is achieved when a State has removed 100% of such juveniles from secure detention and correctional facilities or can demonstrate full compliance with de minimis exceptions pursuant to the policy criteria contained in the Federal Register of January 9, 1981 (46 FR 2566-2569).

(ii) Compliance with Section 223(a)(13) has been achieved when a State can demonstrate that:

(A) The last submitted monitoring report, covering a full 12 months of data, demonstrates that no juveniles were incarcerated in circumstances that were in violation of Section 223(a)(13); or

(B) The State law, regulation, court rule, or other established executive or judicial policy clearly prohibits the incarceration of all juvenile offenders in circumstances that would be in violation of Section 223(a)(13);

(2) All instances of noncompliance reported in the last submitted monitoring report were in violation of, or departures from, the State law, rule, or policy referred to in paragraph (i)(6)(ii)(B)(1) of this section;

(3) The instances of noncompliance do not indicate a pattern or practice but rather constitute isolated instances; and

(4) Existing mechanisms for the enforcement of the State law, rule, or policy referred to in paragraph (i)(6)(ii)(B)(1) of this section are such that the instances of noncompliance are unlikely to recur in the future.

(iii) Substantial compliance with Section 223(a)(14) requires the achievement of a 75% reduction in the number of juveniles held in adult jails and lock-ups by December 8, 1985 and that the State has made an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance within two additional years.

(2) Monitoring Report Exceptions.

States which have determined by the OJJDP Administrator to have achieved full compliance with Section 223(a)(12)(A) and compliance with Section 223(a)(13) of the Juvenile Justice Act and which wish to be exempted from the annual monitoring report requirements must submit a written request to the OJJDP Administrator which demonstrates that:

(A) The State provides for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to enable an annual determination of State compliance with

Sections 223(a)(12)(A), (13), and (14) of the JDP Act;

(B) The enforcement of the statute is substantially or administratively prescribed, specifically providing that:

(i) Authority for enforcement of the statute is assigned;

(ii) Timeframes for monitoring compliance with the statute are specified; and

(C) Adequate sanctions and penalties that will result in enforcement of the statute and procedures for remediating violations are set forth.

(i) Juvenile Crime Analysis. Pursuant to Section 223(a)(6)(A) and (B) the State shall conduct an analysis of juvenile crime problems and juvenile justice and delinquency prevention needs.

(1) Analysis. The analysis must be provided in the multi-year application. A suggested format for the analysis is provided in the Formula Grant Application Kit.

(2) Product. The product of the analysis is a series of written problem statements set forth in the application that define and describe the priority problems.

(3) Programs. Applications are to include descriptions of programs to be supported with Juvenile Justice Act formula grant funds. A suggested format for these programs is included in the application kit.

(4) Performance Indicators. A list of performance indicators must be developed and set forth for each program. These indicators show what data will be collected at the program level to measure whether objectives and performance goals have been achieved and should relate to the measures used in the problem statement and statement of program objectives.

(k) Concentration of State Effort. Pursuant to Section 223(a)(6)(C) the State shall assure that it has on file a plan for the concentration of State efforts as they relate to the coordination of all State juvenile delinquency programs with respect to overall policy and development of objectives and priorities for all State juvenile delinquency programs and activities.

(ii) Annual Performance Report. Pursuant to Section 223(a) and 223(a)(21) the State Plan shall provide for submission of an annual performance report. The State shall report on its progress in the implementation of the approved programs, described in the three-year plan. The performance indicators will serve as the objective criteria for a meaningful assessment of progress toward achievement of measurable goals.

(m) Equitable Distribution of Juvenile Justice Funds and Assistance to Disadvantaged Youth. The State shall assure that it complies with Sections 223(a)(7) and (10) of the JDP Act.

(n) Advanced Techniques. The State shall assure that it complies with Section 223(a)(10) of the JDP Act.

(o) Analytical and Training Capacity. The State shall assure that it complies with Sections 223(a)(11) and (12) of the JDP Act.

(p) Equitable Arrangements for Employees Affected by Assistance Under the Act. Pursuant to Section 223(a)(16) the State shall assure that fair and equitable arrangements are made to protect the interests of employees affected by assistance under the Act.

(q) Non-Supplantation. The State shall assure that it complies with Section 223(a)(8)(A) of the JDP Act.

(r) Technical Assistance. States shall include, within their plan, a description of technical assistance needs. Specific direction regarding the development and inclusion of all Technical Assistance needs and priorities will be provided in the "Application Kit for Formula Grants under the JJDPA."

(s) Other Terms and Conditions. Pursuant to Section 223(c)(22) of the JDP Act, States shall agree to other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of programs assisted under the formula grant.

§ 31.304 Definitions.

(a) Private agency. A private non-profit agency, organization or institution is:

(1) Any corporation, foundation, trust, association, cooperative, or accredited institution of higher education not under public supervision or control;

(2) Any other agency, organization or institution which operates primarily for scientific, educational, service, charitable, or similar public purposes, but which is not under public supervision or control, and not part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held by IRS to be tax-exempt under the provisions of Section 501(c)(3) of the 1954 Internal Revenue Code.

(b) Secure As used to define a detention or correctional facility this term includes residential facilities which have fixtures designated to physically restrict the movements and activities of persons in custody such as locked rooms.
and buildings, fences, or other physical structures.

c) Facility. A place, an institution; a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public and private agencies.

d) Juvenile who is accused of having committed an offense. A juvenile with respect to whom a petition has been filed in the juvenile court or other action has occurred alleging that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender, and no final adjudication has been made by the juvenile court.

e) Juvenile who has been adjudicated as having committed an offense. A juvenile with respect to whom the juvenile court has determined that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender.

(f) Juvenile offender. An individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by State law, i.e., a criminal-type offender or a status offender.

g) Criminal-type offender. A juvenile offender who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(h) Status offender. A juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(i) Non-offender. A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.

(j) Lawful custody. The exercise of care, supervision, and control over a juvenile offender or non-offender pursuant to the provisions of the law or of a judicial order or decree.

(k) Other individual accused of having committed a criminal offense. An individual, adult or juvenile, who has been charged with committing a criminal offense in a court exercising criminal jurisdiction.

(l) Other individual convicted of a criminal offense. An individual, adult or juvenile, who has been convicted of a criminal offense in a court exercising criminal jurisdiction.

(m) Adult jail. A locked facility, administered by State, county, or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.

(n) Adult Lockup. Similar to an adult jail except that an adult lock-up is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

Subpart E—General Conditions and Assurances

§ 31.400 Compliance with statute.


§ 31.401 Compliance with other Federal laws, orders, circulars.

The applicant State must further assure and certify that the State and its grantees and contractors will adhere to regulations of the Department and other applicable Federal laws, orders and circulars. These general Federal laws and regulations are described in greater detail in the "Fiscal Year 1982 Application Kit for Formula Grants under the JJDP Act."

§ 31.402 Application on file.

Any Federal funds awarded pursuant to an application must be distributed and expended pursuant to and in accordance with the programs contained in the applicant State's current approved application and any advance funds will not be awarded for any program not specifically approved and clearly set forth in the current comprehensive application. Any departures therefrom, other than to the extent permitted by current program and fiscal regulations and guidelines, must be submitted for advance approval by the Administration or of OJJDP.

§ 31.403 Non-discrimination.

The State assures that it will comply, and that grantees and contractors will comply, with all applicable Federal nondiscrimination requirements, including:

(a) Section 615(c)1 of the Justice System Improvement Act of 1979, as made applicable by Section 262(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended;

(b) Title VI of the Civil Rights Act of 1964;

(c) Section 504 of the Rehabilitation Act of 1973, as amended;

d) Title IX of the Education Amendments of 1972;

(e) The Age Discrimination Act of 1975; and

(f) The Department of Justice Nondiscrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G.

Charles A. Lauer,
Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 91–9250 Filed 12–30–91; 8:45 am]
BILLING CODE 4410–18–44

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Parts 1602, 1607, 1620 and 1627

Display of OMB Control Numbers For Recordkeeping Requirements


ACTION: Technical amendments.

SUMMARY: This document amends the Equal Employment Opportunity Commission’s regulations to include Office of Management and Budget control numbers at the places in the regulations where current information collection requirements are described. It also removes obsolete references to previous Government Accounting Office or Office of Management and Budget approvals of information collection requirements.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in the regulatory sections listed below have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and assigned the control numbers contained in the listing.
Text of the Amendments

Following the text of each paragraph of Title 29 cited in the first column of the table, add parenthetically the corresponding Office of Management and Budget number listed in the second column:

<table>
<thead>
<tr>
<th>CFR citation</th>
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Signed at Washington, D.C., this 28th day of December 1981.

For the Commission.

J. Clay Smith, Jr.,

[FR Doc. 81-37269 Filed 12-30-81; 8:45 am]
BILLING CODE 7708-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2610, 2615, 2616, 2617, 2622, 2643, 2671, and 2673

List of Existing Recordkeeping Requirements

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Technical amendments.

SUMMARY: This notice lists recordkeeping requirements which have been established by the Pension Benefit Guaranty Corporation. This notice is being published to inform the public of agency compliance with Section 552 of the Paperwork Reduction Act of 1980.

EFFECTIVE DATE: December 31, 1981.


SUPPLEMENTARY INFORMATION: On November 23, 1981, the Administrator for Information and Regulatory Affairs of the Office of Management and Budget (OMB) issued a memorandum requesting agencies to develop and publish in the Federal Register, lists of existing agency recordkeeping requirements, showing the regulatory citation and the current control number assigned by OMB.

The recordkeeping and reporting requirements of the Pension Benefit Guaranty Corporation, under their respective OMB control numbers, are listed below.

Following the text of each of the following cited sections in Title 29 CFR, add parenthetically the OMB Control numbers listed for that section.

1. Report title: Annual Premium Filing. Citation: 29 CFR 2610.3 (formerly 29 CFR 2002.8) OMB Control Number: 1212-0009

2. Report title: Notice of Intent to Terminate. Citation: 29 CFR 2616.3 (formerly 29 CFR 2604.3) OMB Control Number: 1212-0012

3. Report title: Reporting and Notification Requirements for Reportable Events. Citation: 29 CFR 2615.3 (formerly 29 CFR 2617.3) OMB Control Number: 1212-0013

4. Report title: Submission of net worth information. Citation: 29 CFR 2622.3 (formerly 29 CFR 2613.3) OMB Control Number: 1212-0017


6. Report title: Election of single employer status. Citation: 29 CFR 2671.3 OMB Control Number: 1212-0019

7. Report title: Notice of termination for multiemployer plans. Citation: 29 CFR 2673.2 OMB Control Number: 1212-0020

8. Report title: Variances for sale of assets. Citation: 29 CFR 2643.2, 46 FR 46129 OMB Control Number: 1212-0021

Henry Rose,
Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 81-37267 Filed 12-30-81; 8:45 am]
BILLING CODE 7708-01-M

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional Table

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim rule; amendment.

SUMMARY: This publication sets forth an amendment to Appendix D of Part 2619, Valuation of Plan Benefits in Non-Multiemployer Plans. The amendment adds a new table, Table 1-82, to Appendix D for plans which terminate in 1982. This table is to be used to determine an expected retirement age for certain plan participants in terminating pension plans covered under Title IV of the Employee Retirement Income Security Act of 1974. The expected retirement age is needed to calculate the value of an early retirement benefit and thus the total value of benefits under the plan.

EFFECTIVE DATE: January 1, 1982.


SUPPLEMENTARY INFORMATION: On January 28, 1981, an interim rule on expected retirement age was published in the Federal Register at 46 FR 6504 as Subpart D of Part 2619, Valuation of Plan Benefits in Non-Multiemployer Plans. Subpart D of Part 2010 provided methods of determining an expected retirement age to be used in conjunction with the rules contained in Subparts B and C of that Part to determine the value of an early retirement benefit. Part 2010 was redesignated Part 2619 in a notice published June 24, 1981.

Appendix D was published concurrently with Subpart D at 46 FR 6514. Appendix D contains two sets of tables to be used to determine an expected retirement age. The first set of tables, Selection of Retirement Rate Category (I-79, I-80 and I-81), are used to determine whether a participant has a low, medium or high probability of retiring early. The second set of tables, Expected Retirement Ages for Individuals in the Low, Medium and High Categories (II-A, II-B and II-C), are used to determine the expected retirement age.

The first set of tables are based on the year the participant reaches normal retirement age and the participant’s monthly retirement benefit. Under the second set of tables, the expected retirement age is based on the earliest age a participant could retire and the normal retirement age under the plan. Once a plan administrator has determined the category of a participant using the first set of tables, he or she uses the second set of tables published in Appendix D to determine an expected retirement age. This age is used to calculate the value of the early retirement benefit and thus, the total amount of employer liability owed to PBGC.

The Selection of Retirement Rate Category Table is revised annually and normally will only remain in effect for a calendar year. The Appendix sets forth one table for each year, which applies to plans terminating in that year. The addition of in Table I-82 is necessary to update the correlation between the amount of a participant’s benefit and the
probability that he or she will elect early retirement.

The PBGC has determined that notice and public comment on the addition of Table I-82 to Appendix D to Part 2619 are impracticable and contrary to the public interest. This determination is based on the need to issue the table promptly, so the table will reflect, as accurately as possible, the relationship between a participant's benefit and his or her probability of retiring early. The PBGC has found that the public interest is best served by issuing this table without an opportunity for notice and comment so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after January 1, 1982, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291 of February 17, 1981 (46 FR 13193) because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, innovation or competition.

PART 2619—VALUATION OF PLAN BENEFITS IN NON-MULTIEMPLOYER PLANS

In consideration of the foregoing, Part 2619 of Chapter XXVI of Title 29, Code of Federal Regulations is hereby promulgated as an interim rule as follows:

1. The authority citation for Part 2619 reads as follows:


2. Appendix D to Part 2619 is amended by the addition of Table I-82.

Appendix D—Tables Used To Determine Expected Retirement Age

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### Table I-82.—SELECTION OF RETIREMENT RATE CATEGORY

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<th>Participant receives N/A</th>
<th>Low if monthly benefit at NRA is less than</th>
<th>Medium if monthly benefit at NRA is</th>
<th>High if monthly benefit at NRA is greater than</th>
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**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 165**

**CGD2 81-01**

**Safety Zone; Upper Mississippi River, Mile 633.7 to 636.7**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment to the Coast Guard's Safety Zone Regulations removes the Safety Zone on the Upper Mississippi River between Mile 633.7 to Mile 636.7, including the Marquette-Joliet Highway 18 Bridge at Mile 634.7 near Prairie Du Chien, Wisconsin. The effect of this action is to eliminate all special operating requirements for certain vessels transiting the applicable waters of the Upper Mississippi River imposed by the Safety Zone, as amended.

**EFFECTIVE DATE:** The amendment became effective at 6:00 (CST) on November 27, 1981.

**FURTHER INFORMATION CONTACT:** Commander L. Z. Katcharian, Project Officer, c/o Marine Safety Office, P.O. Box 3428, St. Paul, MN, telephone (612) 725-7452.

**SUPPLEMENTARY INFORMATION:** The Safety Zone was established between Mile 633.7 and Mile 636.7 Upper Mississippi River, by the Captain of the Port, Minneapolis/St. Paul, MN, under the authority of the Ports and Waterway Safety Act, as amended, on March 23, 1981 (published at 46 FR 60555, May 11, 1981). This initial action was taken due to the discovery of potential defects requiring repair efforts to the Marquette-Joliet Highway 18 bridge at Mile 634.7 near Prairie Du Chien, Wisconsin. In order to reduce the possibility of vessel or cargo damage or damage to life, property, or the marine environment, the Safety Zone was established imposing various navigational restrictions on certain vessels transiting the zone. As repairs have progressed the navigational restrictions have been modified in light of the changing conditions. Amendments were published at 46 FR 41494, August 17, 1981, and at 46 FR 48925, October 5, 1981. Due to the removal of obstructions from the channel which had been temporarily necessary to effect the repairs, the Captain of the Port, Minneapolis/St. Paul, MN, has determined that the restrictions are no longer necessary and has exercised his authority to terminate the Safety Zone.

This amendment is issued without publication of a notice of proposed rulemaking and is effective in less than 30 days from the date of publication. To continue the restrictions during a proposed rulemaking period when the conditions requiring the restrictions no longer exist would be an unnecessary burden on the affected maritime interests without any appreciable benefit to the public at large. This rulemaking has been reviewed under the provisions of Executive Order 12291 and has been determined not to be major. This amendment has been determined to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 of 5-77-80). As economic
evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1165), it is also certified that the rules will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principle persons involved in drafting this amendment are Commander Charles G. Hill, USCG, and Lieutenant Commander Richard A. Knee, USCG, Project Attorney, c/o Commander, Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri 63103.

Comments

No written comments were received following the original creation of or amendments to the Safety Zone. Although this amendment gives notice of the termination of the Safety Zone, public comment is nevertheless desirable as part of the ongoing review of the conditions at this bridge. Accordingly, persons wishing to comment may do so by submitting written comments to Commander (m), Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri 63103. Comments may be mailed or hand delivered. Commenters should include their names and addresses, identify the docket number, and give reasons for the comment. Based upon comments received and experience gained in evaluating the navigational needs of approaching and transiting the bridge span, the Safety Zone may be approaching and transiting the bridge

Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri 63103.

Comments may be mailed or hand delivered. Commenters should include their names and addresses, identify the docket number, and give reasons for the comment. Based upon comments received and experience gained in evaluating the navigational needs of approaching and transiting the bridge span, the Safety Zone may be

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[46 FR 1991-9]

Interim Enforcement Policy for Sulfur Dioxide Emission Limitations in Indiana

AGENCY: Environmental Protection Agency.

ACTION: Policy concerning the enforcement for sulfur dioxide emissions limitations.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) is announcing a policy concerning enforcement of sulfur dioxide emission limitations contained in the State Implementation Plan for Indiana.

The promulgated sulfur dioxide implementation plan is APC-33, as approved by U.S. EPA on May 14, 1973 (38 FR 12268) and August 24, 1976 (41 FR 35876). These regulations require subject sources to achieve specific emission limitations and demonstrate compliance using test methods specified in 40 CFR Part 60. U.S. EPA has initiated a review of its policies and procedures for regulating sulfur dioxide emissions from coal-fired plants and has addressed the question of sulfur variability in that context. As part of this review, U.S. EPA has announced its intention to propose policy and regulatory changes which would permit states to analyze the air quality impact of variable sulfur emissions in their attainment demonstrations. Since changes to the rules and policies are required for the new evaluation technique, a final determination on its acceptability can only be made after public comments on the policies are reviewed and final decisions are published.

In the interim, while the sulfur variability issue is under review, the Agency will focus its enforcement resources on those plants which present the greatest environmental threat. While the State of Indiana is reevaluating the emission limitations in a manner consistent with U.S. EPA's proposed policy, U.S. EPA will give enforcement priority to those plants in Indiana which fail to meet the conditions which are listed below.

1. The facility is meeting the currently applicable, promulgated SO2 emission limit applied as a 30-day rolling, weighted average.

2. The facility obtains information on SO2 emissions as follows and makes this information available to the State and U.S. EPA upon request:
   a. Coal-fired facilities with greater than 1500 million BTU per hour of heat input capacity must conduct daily fuel sampling analysis for each boiler or install continuous SO2 monitoring equipment.
   b. Coal-fired facilities with greater than 100 million BTU per hour of heat input but less than 1000 million BTU per hour of heat input capacity perform monthly composite coal samples for each boiler.
   c. Coal-fired facilities with less than 100 million BTU per hour of heat input capacity but greater than 10 million BTU will give enforcement priority to those plants in Indiana which fail to meet the conditions which are listed below.

FOR FURTHER INFORMATION CONTACT: Louise C. Gross at (312) 886-8644.

SUPPLEMENTARY INFORMATION: The United States Environmental Protection Agency (U.S. EPA) is announcing a policy concerning enforcement of sulfur dioxide emission limitations contained in the State Implementation Plan for Indiana.

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   a. Coal-fired facilities with greater than 1500 million BTU per hour of heat input capacity must conduct daily fuel sampling analysis for each boiler or install continuous SO2 monitoring equipment.
   b. Coal-fired facilities with greater than 100 million BTU per hour of heat input but less than 1000 million BTU per hour of heat input capacity perform monthly composite coal samples for each boiler.
   c. Coal-fired facilities with less than 100 million BTU per hour of heat input capacity but greater than 10 million BTU
per hour of heat input capacity, must obtain a monthly average coal analysis based on coal supplier analyses for all shipments received during the calendar month.

d. Coal-fired facilities with less than 10 million BTU per hour of heat input may obtain a monthly average coal analysis based on coal supplier analyses for all shipments received during the calendar month or utilize other appropriate procedures approved by the Indiana Air Pollution Control Division.

3. The facility must maintain records on the coal consumption for each boiler (daily for sources with a heat input capacity of 1000 million BTU or more, monthly for others). The facility must calculate its emission rates on an ash-burned basis, in pounds of SO\textsubscript{2} per million BTU of heat input. These records should be retained for a minimum of two years. In addition, sources should submit quarterly reports to the State of Indiana in which the required daily or monthly fuel information is provided.

4. All coal sampling and analysis should be performed in conformance with 40 CFR Part 60, Appendix A, Method 19.

Whether sampling is done as a 30-day rolling weighted average, a monthly weighted composite or a vendor certification, the underlying policy will be to proceed with enforcement against any sources which exceed the SIP emission limitation on a 30-day rolling weighted average basis. Thus, U.S. EPA does not have a significant economic impact on a substantial number of small sources who wish to avail themselves of U.S. EPA's enforcement discretion priorities. The policy does not impose any additional requirements beyond those previously required by the SIP unless a source chooses to comply with the option.

The information collection requirements contained in this notice have been cleared by the Office of Management and Budget under the authority of the Paperwork Reduction Act.

Under Executive Order 12291, U.S. EPA must judge whether a regulation is "major" and therefore, subject to the requirement of a regulatory impact analysis. This determination is not "major" as defined by Executive Order 12291, because this action imposes no new requirements on any source. Any source may opt to continue compliance with the existing SIP requirements as approved.

This determination was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Dated: September 24, 1981.

Vadis V. Adamkus, Acting Regional Administrator.

(AFR Doc. 01-2259 Filed 12-5-81; 045 am)

BILING CODE 6655-38-M

40 CFR Part 81

Designation of Areas for Air Quality Planning Purposes: Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA announces the redesignation of Tippecanoe County, Indiana from unclassifiable to attainment for total suspended particulate (TSP). This change is based on nine recent, consecutive quarters of representative quality assured monitored data showing attainment of the TSP standards. This action will be effective on March 1, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

EFFECTIVE DATE: This final rulemaking is effective on March 1, 1982.

ADDRESSES: Copies of the redesignation request and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Susanne S. Karack at 312-353-2211 before visiting the Region V Office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Indian Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

FOR FURTHER INFORMATION CONTACT: Susanne S. Karack at 312-353-2211 or at the above Region V office.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 6692) and on October 5, 1978 (43 FR 45993), pursuant to the requirements of Section 107 of the Clean Air Act, EPA designated Tippecanoe County, Indiana as unclassifiable for TSP. On August 20, 1981 the State petitioned EPA to revise the Tippecanoe County TSP designation from unclassifiable to attainment. Indiana's redesignation request was not accompanied by the correlated promulgation of changes in the Indiana Air Pollution Control Board Regulation 325 IAC 11-3-8 which designates the attainment status of geographical areas in Indiana.

Tippecanoe County was originally designated unclassifiable by EPA because of uncertainty in the validity of the air quality monitoring data. To support the redesignation request from unclassifiable to attainment, Indiana submitted nine recent, consecutive quarters (April 1, 1979 through June 30, 1981) of quality assured monitored data collected at one monitor in Lafayette, Indiana. The monitored data show no violations of the TSP standards. To demonstrate the representativeness of the data, the State provided information to show that all of the industrial TSP emission sources, and thus the highest industrial TSP emissions, are located in the vicinity of the Lafayette monitor. EPA has determined that Indiana's submittal meets the criteria for a redesignation to attainment. Accordingly, EPA is redesignating Tippecanoe County from unclassifiable to attainment for TSP.

Because EPA considers today's action as noncontroversial and routine, EPA is approving it without prior proposal. The public is advised that this action will be effective March 1, 1982. However, if notice is received within 30 days at the Region V office listed above that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached
rule will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It will impose no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it merely changes the air quality designation to attainment.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Doc. 107, Clean Air Act, as amended (42 U.S.C. 7407))
Dated: December 24, 1981.
Anne M. Gorsuch,
Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations
1. Section 81.315 is amended by removing all reference to Tippecanoe County under the TSP column as follows:

§ 81.315 Indiana.

<table>
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<tr>
<td>Designated area</td>
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<tr>
<td>Sullivan County</td>
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<td>Vanderburgh County</td>
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[FR Doc. 81-37248 Filed 12-30-81; 8:45 am]
BILLING CODE 6560-38-M

41 CFR Part 15
[AAA—FRL—2015-8]

Cost Sharing Contracts

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Executive Order 12291 dated February 17, 1981, called upon all agencies to review regulations with the objective of reducing the regulatory burden, minimizing duplication and conflict, and ensuring well-reasoned regulations. As a part of the effort to reduce government regulatory requirements, the Office of Management and Budget rescinded Federal Management Circular 73–3, "Cost Sharing on Federal Research," on June 23, 1981. The Environmental Protection Agency had issued guidelines for cost sharing contracts based on the Circular. This final rule abolishes the EPA guidelines. This revised regulation will grant greater flexibility in deciding when contract cost should be shared by a proposer and the Government.

EFFECTIVE DATE: December 31, 1981.


(40 U.S.C. 471)
Dated: December 3, 1981.
John P. Horton,
Assistant Administrator for Administration.

PART 15—PROCUREMENT BY NEGOTIATIONS

Subpart 15.3—Types of Contracts

15.305 Cost reimbursement type contracts.
15.305–3 Cost sharing contracts.
15.305–3–51 Unsolicited proposals.
15.308 Letter contract.

2. 41 CFR 15.305–3 is revised as follows:

§ 15.305–3 Cost sharing contract.
This section prescribes the conditions under which cost sharing contracts are to be used. As defined in the Federal procurement regulations, a cost sharing contract is a cost-reimbursement type contract under which the contractor receives no fee but is reimbursed only for an agreed portion of its allowable costs. However, the principles set forth in this section are considered to apply equally to fixed-price contracts where the contractor agrees, or is required by statute, to bear a portion of the cost of performance.

3. 41 CFR 15.305–3–50 is revised as follows:

§ 15.305–3–50 Basic guidelines.

Cost sharing with non-Federal organizations shall be encouraged where the parties have considerable mutual interest in the basic or applied research subject matter of the contract. This mutual interest can occur, for example, when it is probable that the contractor will receive significant future benefits from the research such as increased technical knowledge useful in future operations, additional technical or scientific expertise or training for its personnel, opportunity to benefit through patent rights, and the use of background knowledge in future production contracts.

4. 41 CFR 15.305–3–51 is revised as follows:

§ 15.305–3–51 Unsolicited proposals.

The Department of Housing and Urban Development-Independent Agencies Appropriation Act contains a requirement that none of the funds provided in the Act may be used for payment through grants or contracts to recipients that do not share in the cost of conducting research resulting from proposals that are not specifically solicited by the Government. Accordingly, contracts which result from unsolicited proposals shall provide for the contractor to bear a portion of the cost of performance. However, where there is no measurable gain to the performing organization, there is no mutuality of interest, and therefore, no means by which the extent of cost sharing may reflect a mutuality of interest.


5. 41 CFR 15.305–3–52 is removed.

[FR Doc. 81–37249 Filed 12–30–81; 8:45 am]
BILLING CODE 6560–38–M
Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309-C of the Department's office at 200 Independence Ave., S.W., Washington, D.C., 20201, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202-245-3800).

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, if as a result of comments we believe that changes are needed in these regulations, we will publish the changes in the Federal Register and respond to the comments in the preamble of that document.

For Further Information Contact: Paul Riesel (301) 597-1843.

Supplementary Information: The Supplementary Medical Insurance program, Part B of Medicare, pays for a variety of medical and related health services, such as physicians' services, certain types of outpatient services, and medical supplies and equipment.

Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u[b](3)) provides that, where payment for services furnished under Part B is on a charge basis (as opposed to cost), the charge will be reasonable (and not higher than the charge applicable for a comparable service and under comparable circumstances to the policyholders and subscribers of the carrier). The statute further specifies that the carrier, in determining reasonable charges, shall take into consideration the customary charges for similar services generally made by the physician or other person furnishing the services, and the prevailing charges for similar services in the locality. The law provides that (1) the carrier's prevailing charge calculations for a fee screen year (July 1–June 30) of each year may not exceed the 75th percentile of the customary charges made for services in the preceding calendar year (for example, the carrier's calculations of prevailing charges for the period July 1, 1980–June 30, 1981 are based on charges made for services during calendar year 1979), and (2) increases above fiscal year 1973 levels in prevailing charges for physicians' services can be recognized for Medicare reimbursement purposes only to the extent they are justified by economic index data. The economic index is calculated on the basis of changes in physicians' costs of practice and in general earnings levels, and is published in the Federal Register usually by July 1 of each year.

In order to receive reimbursement, the statute (section 1842(b)(3)(B)) requires beneficiaries or physicians and suppliers to submit an itemized bill, or some other written request for payment that is permitted under the regulations. Currently, payment is determined on the basis of the customary and prevailing charge screens in effect at the time the bill is submitted or the request for payment is made, not when the service was actually furnished. This situation can result in an inequity, because bills received by carriers after the charge levels are updated are paid at a higher rate than those submitted before the updating, even if the services in both instances were performed on the same day.

To reduce this inequity, section 946 of Pub. L. 96-499 (Omnibus Reconciliation Act of 1980) was enacted. Congressional Record, p. S2427, June 26, 1980, regarding section 567 of S. 2885, for discussion of Congressional concern.

This new provision amended section 1842(b)(3) to provide that payment for services furnished under Part B will be determined on the basis of customary and prevailing charge screens in effect at the time the service is actually furnished, rather than being based on the date of submitting or a request for payment. The amendment also provides, however, that, if the service was furnished more than 12 months before the fee screen year in which the bill or request is submitted, payment will be made on the basis of the customary and prevailing charge screens in effect during the fee screen year that ended just before the fee screen year in which the bill or request for payment was submitted. For example, if a service is furnished on October 1, 1981, (during the July 1, 1981–June 30, 1982 fee screen year) but a bill is not submitted until August 1983 (during the fee screen year July 1983–June 1984), payment would be based on charge screens in effect during the period July 1, 1982–June 30, 1983, rather than when the service was furnished.

By enacting this legislation, the Congress has removed a financial incentive for beneficiaries, physicians and suppliers to delay filing claims, but also avoided unduly penalizing those who, for various reasons, submit claims much later than the date when the service was furnished.

We are revising the regulations at 42 CFR 405.501 and 405.502 to conform them to the requirements contained in the statutory amendments.

Waiver of Notice of Proposed Rulemaking

We are issuing these amendments to the regulations in final, rather than as proposed, because the statute is so
specific as to leave no room for discretion and because it provided an effective date of July 1, 1981. In view of the statutory requirements, we find that it would be impractical, unnecessary, and contrary to the public interest to deny publication of final rules in order to allow a period of public comment. For these reasons, we find that good cause exists to waive proposed rulemaking procedures. For the same reasons, we find good cause to make the regulations effective July 1, 1981, rather than to provide the usual 30-day delayed effective date.

Executive Order 12291

Executive Order 12291, “Federal Regulation”, issued February 19, 1981, requires Federal agencies to prepare a Regulatory Impact Analysis for any rule that “is likely to result” in an annual effect on the economy of $100 million or more (or meets certain other criteria). Actuarial estimates prepared in connection with the pending legislation indicate that there will be savings of $173 million in Fiscal Year 1981 and greater amounts (ranging from $226 million to $279 million) in subsequent years, through 1985. This impact exceeds the benchmark figure specified in the Executive Order, and therefore would normally require an impact analysis, describing alternative policy proposals. Since section 946(c) of Pub. L. 96-499 provides that the amendment “shall become effective with respect to bills submitted or requests for payment made on or after July 1, 1981”, the Office of Management and Budget has granted a waiver from the requirement to conduct a regulatory impact analysis.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires Federal agencies to prepare a Regulatory Flexibility Analysis for regulations which will have a “significant economic impact on a substantial number of small entities”. For the reasons given in the Executive Order certification, we certify that a Regulatory Flexibility Analysis is not required. In addition, even if these impacts were the result of this regulation, we do not have any discretion in implementing the provisions of the statute, and the overall impact will be spread over approximately 300,000 providers.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

42 CFR Part 405, Subpart E is amended as follows:

1. The authority citation for Part 405, Subpart E reads as follows:

Authority: Sections 1102, 1314(b), 1333(a), 1850(b), and 1871, 49 Stat. 647, as amended; 70 Stat. 206; 79 Stat. 302, 79 Stat. 310, 79 Stat. 331; 42 U.S.C. 1302, 1395(f), 1395(a), 1395s(b), and 1395hh.

2. 42 CFR 405.501 is revised to read as follows:

§ 405.501 Determination of reasonable charges.

(a) Except as specified in paragraph (b) of this section, Medicare pays no more for Part B medical and other health services than the "reasonable charge" for such service. The reasonable charge is determined by the carriers (subject to any deductible and coinsurance amounts as specified in § 405.240 and § 405.245).

(b) Part B of Medicare pays on the basis of "reasonable cost" (see Subpart D of this part) for certain institutional services, certain services furnished under arrangements with institutions, and services furnished by entities that elect to be paid on a cost basis (including health maintenance organizations, rural health clinics, and end-stage renal disease facilities).

(c) Carriers will determine the reasonable charge on the basis of the criteria specified in § 405.502, and the customary and prevailing charge screens in effect when the service was furnished. (Also see §§ 405.480 through 405.488, which pertain to determination of reimbursement for services performed by hospital-based physicians.) However, when services are furnished more than 12 months before the beginning of the fee screen year (July 1 through June 30) in which a request for payment is made, payment will be based on the customary and prevailing charge screens in effect for the fee screen year that ends just before the fee screen year in which the claim or request for payment is submitted.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: October 3, 1981.

Caroline K. Davis, Administrator, Health Care Financing Administration.

Approved: December 14, 1981.

Richard S. Schweiker, Secretary.

[FR Doc. 81-3746 Filed 12-30-81; 8:45 am]
BILLING CODE 4120-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 151

[GGD 80-001]

Unmanned Barges Carrying Certain Bulk Dangerous Cargoes

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: In the interest of safety, the Coast Guard reviews all chemicals proposed for bulk shipment by water. All cargoes classified as dangerous are regulated. Since the original regulations were written, many cargoes have been accepted for bulk carriage under interim guidelines. This final rule updates Part 151 and incorporates modifications resulting from receiving additional information, experience, and public comments.

EFFECTIVE DATES: February 1, 1982. To alleviate hardship in those cases where more stringent carriage requirements are being imposed, the effective date is December 31, 1982 to permit a gradual phasing-in of the more stringent requirements.

FOR FURTHER INFORMATION CONTACT: Joseph J. Jakobcin, Office of Merchant Marine Safety (C-MHM-3), Room 1402, U.S. Coast Guard Headquarters, 2100

Richard S. Schweiker, Secretary.
Mixtures (containing acetylenes). For original entry is being changed to restricted. The Mixtures, are not included in this final requirements for suspected carcinogens. Itself will be made in the near future.

Three chemicals have the same minimum classification. However, if subsequent evidence indicates that a change is in order, such a change is made. Creosote, for example, is more toxic than realized when initially-classified under Subchapter D. Creosote, already in Subchapter O for self-propelled vessels, 46 CFR Part 153, can produce severe neurological disturbances. Considerable evidence has been gathered by the U.S. Department of Health and Human Services and the Department of Labor indicating that both Perchloroethylene and Trichloroethylene are toxic and potential carcinogens. Therefore, these three chemicals have the same minimum requirements in this final rule as were given in the proposed rule.

The electrical hazard group is deleted for the following: Hydrochloric Acid, Spent (15 percent or less); Hydrofluorosalic Acid (25 percent or less); and Nitric Acid (70 percent or less).

7. Methyl-tertiary-Butyl Ether is deleted.

8. Polyethyleneamine is changed to Polyethylenepolyamine.

9. The concentration of Sodium Chlorate Solution is increased from 45 percent to 50 percent.

10. Part 151.30–72 is added.

11. Part 151.50–73 is modified.

12. Part 151.50–74 is modified.

13. In 151.50–76, 10 percent is changed to 15 percent.

Several changes are made to correct errors of no substantive effect.

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). Although section 605(b) of the regulatory Flexibility Act (94 Stat. 1164) does not apply because the NPRM was published before January 1, 1981, these rules have been reviewed and it has been determined that they will not have a significant economic impact on a substantial number of small entities.

This final rule has been evaluated in accordance with DOT "Regulatory Policies and Procedures." 44 FR 11033 (February 28, 1979), as amended by 44 FR 28126 (May 14, 1979). A copy of the final evaluation may be obtained from the Commandant (G-CMC), Room 2418,
DANGEROUS CARGOES CARRYING CERTAIN BULK, PART 151—UNMANNED BARGES, MERCHANT MARINE SAFETY.

1. By revising Table 151.01-10(b) to read as follows:

§ 151.01-10 Application of vessel inspection regulations.

Table 151.01-10(b)—Cargoes Regulated by Subchapter O

Carbon tetrachloride.
Caustic potash solution.
Caustic soda solution.
Chemical wastes (mixture of chlorinated hydrocarbons and caustic materials).
Chlorine.
Chlorobenzene.
Chloroform.
Chlorohydrins (crude).
Chlorosulfonic acid.
Creosote.
Cresol.
Cresylate spent caustic.
Crotonaldehyde.
Diallylperoxide.
Diethylamine.
Diisopropylamine.
Diisopropanolamine.
Dilsobutylamine.
Diethylenetriamine.
Diethanolamine.
Dichloropropene.
Dichloroethylene.
Dichloromethane.
Decyl acrylate (iso- (inhibited).'
Diisopropanolamin.
Cresylate spent caustic.
2-Methyl pyridine.
Nitric acid (70% or less).
Nitrobenzene.
1- or 2-Nitropropane.
Oxal.
1,3-Pentadiene (inhibited).
Perchloroethylene.
Phenol.
Phosphoric acid.
Phosphorus.
Phthalic anhydride.
Polyethylene polyamine.
Polyethylene-polyphenyl-isocyanate.
Polyvinylbenzyltrimethyl ammonium chloride solution.
Propionie acid.
Propylamine-(iso-).
Propylene oxide.
Pyridine.
Sodium chlorate solution (50% or less).
Sodium Sulfide, Hydrosulfide solutions (H2S 10 ppm or less).
Sodium sulfide, Hydrosulfide solutions (H2S greater than 10 ppm but less than 200 ppm).
Sodium sulfide, Hydrosulfide solutions (H2S greater than 200 ppm).
Styrene.
Sulfur (liquid).
Sulfur dioxide.
Sulfuric acid.
Sulfuric acid spent.
Tetraethylene pentamine.
Toluene disiocyanate.
Trichloroethylene.
1,2,3-Trichloropropane.
Triethylene.
Triethylene tetramine.
Trisopropylamine.
Triethylamine.
Vinyl acetate.
Vinyl chloride.
Vinyldiene chloride (inhibited).

§§ 151.05-1 [Amended]

2. By adding the following items in alphabetical order to table 151.05-1:
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Federal Register / Vol. 46, No. 251 / Thursday, December 31, 1981 / Rules and Regulations

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<th>Cargo identification name</th>
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<th>Hull type</th>
<th>Cargo segregation tank</th>
<th>Type</th>
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<th>Piping class</th>
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<th>Elect. hazard class group</th>
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<th>Tank Internal Inspect.</th>
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<tbody>
<tr>
<td>Industrial Wastes containing Dimethylsulfoxide, Methyl Mercaptan, and Methanol.</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>11</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-78</td>
<td>I-D</td>
<td>NA</td>
</tr>
<tr>
<td>Methylacetylene Propadiene mixture</td>
<td>Proc</td>
<td>Amb</td>
<td>III</td>
<td>1</td>
<td>Integ</td>
<td>Grav</td>
<td>SR</td>
<td>Restr</td>
<td>II</td>
<td>G-8</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-70</td>
<td>I-D</td>
<td>NA</td>
</tr>
<tr>
<td>2-Methyl Pyridine</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-10</td>
<td>I-D</td>
<td>NA</td>
</tr>
<tr>
<td>2-Methyl-5-Ethyl Pyridine</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>25</td>
<td>Integ</td>
<td>Grav</td>
<td>Grav</td>
<td>Grav</td>
<td>Cpld</td>
<td>Cpld</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-10</td>
<td>NA</td>
<td>G.</td>
</tr>
<tr>
<td>alpha-Methyl Styrene (inhibitor)</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-76</td>
<td>NA</td>
<td>G.</td>
</tr>
<tr>
<td>Nitric Acid (70 ppt or less)</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>No</td>
<td>151.50-89</td>
<td>I-D</td>
<td>NA</td>
</tr>
<tr>
<td>Nitromethane</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Closed</td>
<td>I</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-89</td>
<td>I-D</td>
<td>NA</td>
</tr>
<tr>
<td>1- or 2-Diisopropanolamine</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-81</td>
<td>I-C</td>
<td>NA</td>
</tr>
<tr>
<td>1,3-Pentadiene (inhibited)</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-81</td>
<td>I-C</td>
<td>NA</td>
</tr>
<tr>
<td>Dichloropropylene</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-81</td>
<td>I-C</td>
<td>NA</td>
</tr>
<tr>
<td>Polystyrene polyphenyl isocyanate</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-81</td>
<td>I-C</td>
<td>NA</td>
</tr>
<tr>
<td>Polychloropropylene</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-81</td>
<td>I-C</td>
<td>NA</td>
</tr>
<tr>
<td>Polyvinylisocyanate</td>
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<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-81</td>
<td>I-C</td>
<td>NA</td>
</tr>
<tr>
<td>Polyvinylpyridine</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-81</td>
<td>I-C</td>
<td>NA</td>
</tr>
<tr>
<td>Polyethylene</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-81</td>
<td>I-C</td>
<td>NA</td>
</tr>
<tr>
<td>Polyvinylchloride</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-81</td>
<td>I-C</td>
<td>NA</td>
</tr>
<tr>
<td>Sodium Chloride Solution (50 ppt or less)</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>Grav</td>
<td>Grav</td>
<td>Cpld</td>
<td>Cpld</td>
<td>NR</td>
<td>Vent N</td>
<td>No</td>
<td>151.50-83</td>
<td>NA</td>
<td>G.</td>
</tr>
<tr>
<td>Sodium Sulfide, Hydroxide Solutions (H,S) less than 150 ppm or less</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>Grav</td>
<td>Grav</td>
<td>Cpld</td>
<td>Cpld</td>
<td>NR</td>
<td>Vent N</td>
<td>No</td>
<td>151.50-83</td>
<td>NA</td>
<td>G.</td>
</tr>
<tr>
<td>Sodium Sulfide, Hydroxide Solutions (H,S) greater than 150 ppm but less than 200 ppm</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Cpld</td>
<td>Cpld</td>
<td>NR</td>
<td>Vent N</td>
<td>No</td>
<td>151.50-83</td>
<td>NA</td>
<td>G.</td>
<td>G.</td>
</tr>
<tr>
<td>Sodium Sulfide, Hydroxide Solutions (H,S) greater than 200 ppm</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Cpld</td>
<td>Cpld</td>
<td>NR</td>
<td>Vent N</td>
<td>No</td>
<td>151.50-83</td>
<td>NA</td>
<td>G.</td>
<td>G.</td>
</tr>
<tr>
<td>Sulfur Dioxide</td>
<td>Proc</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>No</td>
<td>151.50-84</td>
<td>NA</td>
<td>2 yr.</td>
</tr>
<tr>
<td>Tetrachloroethylene Pentaflourobenzene</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>Grav</td>
<td>Grav</td>
<td>Cpld</td>
<td>Cpld</td>
<td>NR</td>
<td>Vent N</td>
<td>Yes</td>
<td>151.50-10</td>
<td>NA</td>
<td>G.</td>
</tr>
<tr>
<td>Telene Disocyanate</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>Grav</td>
<td>Grav</td>
<td>Cpld</td>
<td>Cpld</td>
<td>NR</td>
<td>Vent N</td>
<td>Yes</td>
<td>151.50-10</td>
<td>NA</td>
<td>G.</td>
</tr>
<tr>
<td>Trichloroethylene</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>No</td>
<td>151.50-83</td>
<td>NA</td>
<td>G.</td>
</tr>
<tr>
<td>1,2,3-Trichloropropane</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-83</td>
<td>NA</td>
<td>G.</td>
</tr>
<tr>
<td>Trichloroethylene</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-83</td>
<td>NA</td>
<td>G.</td>
</tr>
<tr>
<td>Trichloroethylene</td>
<td>Almos</td>
<td>Amb</td>
<td>III</td>
<td>23</td>
<td>Integ</td>
<td>Grav</td>
<td>PV</td>
<td>Restr</td>
<td>II</td>
<td>G-1</td>
<td>NR</td>
<td>Vent F</td>
<td>Yes</td>
<td>151.50-83</td>
<td>NA</td>
<td>G.</td>
</tr>
</tbody>
</table>
§ 151.05 [Amended]
3. By inserting in the footnotes of Table 151.05-1 between “Gauging devices” and “General usage”:
* Padded with dry nitrogen (100 ppm or less of water)

§ 151.50-20 [Amended]
4. By inserting the following in § 151.50-20(b)(2) between Hydrochloric Acid and Phosphoric Acid:
hydrofluorsilicic Acid—50 pounds per square inch gage.

§ 151.50-72 Benzene-hydrocarbon mixtures (containing acetylenes).
(a) Copper, silver, mercury, or other acetylide forming metals and their alloys must not be used as materials of construction for tanks, pipelines, valves, fittings, and other items of equipment that may come in contact with the cargo liquid or vapor.

§ 151.50-74 Butadiene, Butene mixture (inhibited).
When Table 151.05 refers to this section, the following requirements must be met:
(a) 151.50-30
(b) 151.50-71(a)

§ 151.50-73 Cresylate spent caustic.
Protective clothing (eye goggles, gloves, apron, and boots) must be worn in the vicinity of the cargo transfer equipment during cargo transfer and tank gauging operations.

§ 151.50-74 Ethylidene norbornene (inhibited).
When Table 151.05 refers to this section, the following apply:
(a) 151.50-30
(b) 151.50-71(a)

§ 151.50-75 Feni chloride solution.
(a) A containment system (cargo tank piping system, venting system, and gauging system) carrying this solution must be lined with rubber, corrosion resistant plastic, or a material approved by the Commandant (G-MHM).
(b) Protective clothing must be worn during cargo transfer and tank gauging operation.

§ 151.50-76 Hydrochloric acid, spent (NTE 15%).
(a) (1) Gravity type cargo tanks must be designed and tested to meet the rules of the American Bureau of Shipping for a head of water at least 8 feet above the tank top or the highest level the lading may rise, whichever is greater. The plate thickness of any part of the tank may not be less than three-eighths inch. A shell plating of a barges may not be on the boundary of any part of the cargo tank.
(2) Gravity tank vents must—
(i) Terminate above the weatherdeck, clear of all obstructions and away from any from any source of ignition; and
(ii) Be fitted with a single flame screen or two fitted flame screens as described in § 151.09-25. Neither a shut-off valve nor a frangible disk may be fitted in the vent lines.
(b) Openings in the tanks are prohibited below deck, except for access openings used for inspection and maintenance of tanks, or unless otherwise specifically approved by the Commandant (G-MHM). Openings must be fitted with bolted cover plates and acid-resistant gaskets.

§ 151.50-77 Hydrofluorsilicic acid (25% or less).
(a) Hydrofluorsilicic acid must be carried in gravity or pressure type cargo tanks independent of the vessel’s structure. The tanks must be lined with rubber or other equally suitable material approved by the Commandant (G-MHM). See § 151.15-3(f)(2).
(b) Notwithstanding the provisions of § 151.50-20(b)(3), no compressed air may be used to discharge hydrofluorsilicic acid from gravity type cargo tanks unless—
(1) The tanks are of cylindrical shape with dished heads, and
(2) The air pressure does not exceed—
(i) The design pressure of the tank, and
(ii) 10 pounds per square inch gage.
The tanks must be fitted with pressure relief devices.
(c) During cargo transfer, a water hose must be connected to a water supply and be ready for immediate use. Any leakage or spillage of acid must be immediately washed down. This requirement can be met by facilities provided from shore.

§ 151.50-78 Industrial wastes (containing dimethylsulfide, methyl mercaptan, and methanol).
(a) Protective clothing must be worn during cargo transfer and tank gauging operations.

§ 151.50-79 Methyl acetylene-propadiene mixture.
(a) The composition of the methyl acetylene-propadiene mixture at loading must be within one of the following sets of composition limits:

<table>
<thead>
<tr>
<th>Composition set</th>
<th>Methyl acetylene:propadiene ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1:2</td>
</tr>
<tr>
<td>2</td>
<td>1:4</td>
</tr>
</tbody>
</table>

(b) Maximum combined concentration of methyl acetylene and propadiene of 65 mole percent;
(c) Minimum combined concentration of propane, butane, and isobutane of 24 mole percent, of which at least one-third (on a molar basis) must be butanes and one-third propane; and
(d) Maximum combined concentration of propylene and butadiene of 10 mole percent.

§ 151.50-80 Maximum combined concentration of propylene and butadiene of 10 mole percent.
(1) Composition 1 is—

<table>
<thead>
<tr>
<th>Methyl acetylene:propadiene ratio</th>
<th>Methyl acetylene</th>
<th>Propadiene</th>
</tr>
</thead>
<tbody>
<tr>
<td>1:2</td>
<td>1/3</td>
<td>2/3</td>
</tr>
</tbody>
</table>

(2) Composition 2 is—

<table>
<thead>
<tr>
<th>Methyl acetylene:propadiene ratio</th>
<th>Methyl acetylene</th>
<th>Propadiene</th>
</tr>
</thead>
<tbody>
<tr>
<td>1:4</td>
<td>1/4</td>
<td>3/4</td>
</tr>
</tbody>
</table>

§ 151.50-81 Maximum combined concentration of propylene and butadiene of 10 mole percent.
(1) Maximum methyl acetylene and propadiene combined concentration of 50 mole percent;
(2) Maximum methyl acetylene concentration of 20 mole percent;
(3) Maximum propadiene concentration of 20 mole percent;
(4) Maximum propylene concentration of 45 mole percent;
(5) Maximum butadiene and butylenes combined concentration of 2 mole percent;
§ 151.50-81 1- or 2-Nitropropane.
(a) Must be carried in a tank equipped with heating coils unless the heating supply to the coils is disconnected.
(b) Must not be carried in a tank adjacent to another tank containing an elevated temperature cargo.
(c) Must not be carried in a deck tank.

§ 151.50-82 Polyvinylbenzyltrimethyl ammonium chloride solution.
(a) Persons involved with cargo transfer operations shall wear protective clothing.

§ 151.50-83 Sodium sulfide, hydrosulfide solutions.
(a) Protective clothing must be worn during cargo transfer operations.

§ 151.50-84 Sulfur dioxide.
(a) Sulfur dioxide that is transported under the provisions of this part may not contain more than 100 ppm of water.
(b) Cargo piping must be at least Schedule 90 pipe.
(c) Flanges must be 150 lb. A.N.S.I Standard minimum with tongue and groove or raised face.
(d) A cargo tank must—
(1) Meet the requirements of a Class I welded pressure vessel;
(2) Be designed for a maximum allowable working pressure of at least 125 psig.
(3) Be hydrostatically tested every two years to at least 168 psig.
(4) Be provided with one or more manholes that are fitted with a cover sized not less than 18 inches by 23 inches or 13 inches nominal diameter, located above the maximum liquid level, and as close as possible to the top of the tank;
(5) Have no openings other than those required in paragraph (d)(4) of this section;
(6) Have no liquid level gauges other than closed or indirect gauges;
(7) Have all valves and the closed gauge that is required by Table 151.05 bolted to the cover or covers that are required in paragraph (d)(4) of this section;
(8) Have a metal housing that is fitted with a drain and vent connection protecting all valves and the closed gauge within this housing against mechanical damage;
(9) Have all safety relief valves discharging into the protective housing;
(10) Not be interconnected with another cargo tank by piping or manifold that carries cargo liquid, except vapor lines connected to a common header, and
(11) Have an excess flow valve that is located on the inside of the tank for every liquid and vapor connection, except the safety relief valve;
(12) Have no bypass opening on any excess flow valve.
(e) Cargo transfer operations—
(1) May not be conducted with more than one cargo tank at a time unless each tank is filled from or discharged to shore tanks through separate lines;
(2) Must be conducted with connections between fixed barge piping and shore piping of either Schedule 40 pipe having flexible metallic joints that meet § 151.04-5(b) or of flexible metallic hose that is acceptable to the Commandant (G-MHM);
(3) From barge to shore must be by pressurization with an oil free, non-reactive gas that has a maximum of 100 ppm moisture;
(4) Must be conducted with vapor return to shore connections that ensure that all vapor is returned to shore;
(5) Must be conducted with every person on the barge carrying a respiratory protective device that protects the wearer against sulfur dioxide vapors and provides respiratory protection for emergency escape from a contaminated area that results from cargo leakage.
(f) Respiratory protective equipment must be of a size and weight that allows unrestricted movement and wearing of a lifesaving device.
(g) After the completion of cargo transfer, all liquid sulfur dioxide in the cargo piping must be removed and cargo transfer piping must be disconnected at the cargo tanks. After the cargo piping is disconnected, both ends of the line must be plugged or fitted with blind flanges.

§ 151.50-85 1,2,3-Trichloropropane.
(a) Aluminum may not be used as a material of construction for tanks, pipelines, valves, fittings, and other items of equipment that may come in contact with the cargo liquid or vapor.
(b) Protective clothing (goggles, gloves, boots, and apron) must be worn by persons involved in cargo transfer operations.

[46 U.S.C. 170, 379b; 49 CFR 1.46(a)(4) and (l)]
[FR Doc. 01-3710 Filed 02-05-01; 03:45 am]
BILLING CODE 4910-14-M
A total of 136 comments were received from 20 parties on the NPRM before the comment period closed on October 22, 1979. Commenters included pilots and pilot organizations, vessel operators, and equipment manufacturers. These comments are discussed in subsequent paragraphs. The commenters made various changes that have been made in response to comments and on the basis of further analysis of the proposed rules within the Coast Guard. Commenters who recommended changes generally provided sufficient supporting rationale for the Coast Guard to reach informed decisions on whether the changes are needed and workable. None of the changes will significantly increase the cost of equipment or approval testing, and they will provide a greater measure of safety to users of the equipment.

Although a public comment period has already been provided in this rule making, an additional opportunity for comment, principally on the changes made, is being provided to assure that the rules as revised represent workable and reasonable procedures and requirements. Accordingly, persons wishing to comment may do so by submitting comments to the address listed in the ADDRESSES section. Commenters should include their names and addresses, identify this rule making (CGD 74-140) and the specific section of the regulations to which their comments apply, and give reasons for the comments. Persons desiring acknowledgment of their comments should enclose a self-addressed post card or envelope. Based upon comments received, the regulations may be further revised or additional regulations may be issued. All comments received before the expiration of the comment period will be considered.

Some comments have not been specifically addressed in the discussion of comments that follows. These comments generally fall into one of the following categories:

(a) Comments that resulted in minor revisions or clarifications to the final rules.
(b) Comments that were not relevant to the proposed regulations.
(c) Comments that recommended addition of requirements already in the proposed regulations.
(d) Comments that apply to the installation, maintenance and inspection of pilot ladders, accommodation ladders, chain ladders and pilot hoists on vessels. The Coast Guard is currently preparing proposed regulations governing these matters, and the comments will be considered in that rule making. Its docket number is CGD 79-032.
(e) Comments making recommendations that would result in overregulation. (For example, some commenters recommended requiring features of a specific manufacturer's equipment that would accomplish a purpose already accomplished by other regulations in this rule making.)
(f) Comments that recommended changes without providing supporting reasons, and for which no sound reasons could otherwise be established.

Summary of Final Evaluation

A Final Evaluation has been prepared for these regulations in accordance with the Department of Transportation’s Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). That order requires that the evaluation quantify, to the maximum extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State and local governments, as well as the anticipated benefits and impact of the regulations.

This rule making is expected to result in an initial cost of about $165,750 to obtain approval of equipment, and a recurring annual cost of about $49,375 for production testing and increased equipment cost. These costs will be imposed directly on manufacturers of pilot hoists, pilot ladders, and chain ladders. The manufacturers, in all probability, will pass the costs through to the ultimate consumers of this equipment in the form of price increases.

There are seven pilot ladder and chain ladder manufacturers and eight known manufacturers of pilot hoists. Equipment approval cost per manufacturer of pilot ladders would be approximately $9,750, and approximately $17,590 for each pilot hoist manufacturer. Annual recurring costs per manufacturer would average between $2,000 and $2,500. No objections have been received in this rule making concerning the costs involved with the regulations and none of the regulations should hinder or restrict manufacturers in building equipment or obtaining certificates of approval.

The Coast Guard will administer the regulations within existing resources. Coast Guard inspectors are no longer performing the approval and production tests required for this equipment. A program to transfer this function to independent laboratories was established under a separate rule making published in the Federal Register on December 17, 1979 (44 FR 79038).
The primary benefit identified for this rule making is the increased safety for pilots and other users of the equipment.

The Final Evaluation has been included in the public docket for this rule making, and may be obtained from the Maritime Safety Council at the address listed in the “ADDRESSES” section of this preamble.

On the basis of the information contained in the final evaluation, the Coast Guard has determined that these regulations are not major rules under Executive Order 12291 of February 17, 1981. Also, it is certified that these regulations will not have a significant impact on a substantial number of small entities for the purposes of the Regulatory Flexibility Act (Pub. L. 96–354).

Drafting Information

The principal persons involved in drafting these regulations are: Mr. Robert Markle, Office of Merchant Marine Safety, and Mr. William Register, Office of the Chief Counsel.

Discussion of the Regulations

a. General.

1. These regulations revise the existing specifications for pilot ladders and chain ladders and add a new specification for pilot hoists. Pilot hoists and chain ladders are items of vessel equipment used in routine boarding of pilots and other personnel when the vessel is away from the dock. Chain ladders are items of lifesaving equipment that are intended for emergency use in boarding lifeboats and liferafts. The requirements for pilot, chain, and pilot hoists were in Subpart 160.017 of Title 46. However, in the amendments published here, the requirements for pilot ladders and the new requirements for pilot hoists have been placed in Subparts 163.003 and 163.002 respectively. The requirements for chain ladders have been retained in Subpart 160.017. A detailed description of the amendments was provided in the NPRM and is not repeated here in order to minimize publishing costs.

2. The specification for pilot ladders is based primarily on Chapter V, Regulation 17 of the Safety of Life at Sea Convention, 1974 (SOLAS 1974) and on the comments that were received on the notice of proposed rule making. Until SOLAS 1974 came into force on May 25, 1980, the requirements of Chapter V, Regulation 17 were Recommendation A.283 (VIII) of the Intergovernmental Maritime Consultative Organization (IMCO). The specification for pilot hoists is based primarily on Resolution A.275 (VIII) adopted by IMCO in 1973. The Coast Guard actively participated in developing this resolution and Resolution A.263 (VIII).

3. The notice of proposed rule making contained detailed procedures for approval and production testing. These procedures have been deleted in the final rules and replaced with a cross reference to the approval procedures in 49 CFR Part 159. The procedures in Part 159 are essentially the same as corresponding procedures proposed in the NPRM. Part 159 was published in the Federal Register of December 17, 1979 (44 FR 73038).

4. A number of changes have been made in each of the specification regulations which are intended to remove unnecessary detail requirements in order to remove barriers to innovative design. New § 163.001–9(c) (chain ladder) and 160.003–9(c) (pilot ladder) contain a discussion on the approval of alternative designs. These sections are similar to § 163.002–9(c) (pilot hoists) which was in the NPRM. Other changes were made to replace design requirements with performance requirements. These are noted in the following discussion of changes to each of the specifications.

5. Section 163.003–3 of these regulations incorporates by reference the American Society for Testing and Materials’s “Standard Recommended Practice for Outdoor Weathering of Plastics.” The number of the standard is ASTM D 1435, published in 1975 and reapproved in 1979. The standard may be purchased from ASTM at the address listed under ADDRESSES. Approval to incorporate this standard by reference was obtained from the Director of the Federal Register on January 13, 1981. The standard is incorporated as it exists on the date of approval, and notice of any future changes that are incorporated will be published in the Federal Register.

Discussion of Changes to the Proposed Regulations

a. Chain Ladders.

1. Section 160.017–11(e). This paragraph required single-loop, weldless, lock-link pattern chain, trade number 7–0 or larger. This design requirement was replaced with a requirement for nén-kinking chain with a minimum breaking strength of at least 16 kN (3,560 lb.) (the equivalent strength of trade 7–0 single-loop, weldless, lock-link chain). Although at the present time there is no other commonly available chain known to be suitable for this application, the change in the requirement does provide both ladder and chain manufacturers with a degree of design flexibility.

2. Sections 160.017–11(b) and –13(h). One commenter recommended that stainless steel bolts be required and that galvanized steel bolts be prohibited. The commenter pointed out that the bolts would have to be peened over the nuts and that this would lead to damage of the zinc coating on the end of the galvanized bolts, so that they would eventually rust. Section 160.017–11(b) has been revised to require that the peened thread ends of galvanized bolts be given an additional corrosion resisting treatment after peening.

3. Section 160.017–11(d). The details on the type of water repellent wood preservative and method of application have been removed.

4. Section 160.017–11(e) The dimensional details of the lashing ring have been deleted (with the exception of the inside diameter) and have been replaced with a requirement that the lashing ring be of the same minimum strength as the chain.

5. Section 160.017–13(a). The figure that identified the detail parts of the ladder has been deleted.

6. Sections 160.017–13(b) and 163.003–13(b)(5).

(a) The requirement that the suspension member be a continuous length of chain has been deleted from § 160.017–13(b). The strength requirements in § 163.017–13(a), as well as the ladder strength tests, are sufficient to determine that there are no “weak links” in the ladder suspension members.

(b) One commenter recommended that a small line of considerable strength be interlaced through the chain for additional strength. This recommendation has not been adopted. The requirements for chain are the same as those in existing ladder designs currently approved by the Coast Guard. Existing ladders have been shown through use over many years to be of sufficient strength for their intended use.

(c) Another commenter made a recommendation for pilot ladders that was considered to be relevant for chain ladders as well. The comment was that a maximum distance between suspension members of 480 mm (19 in.) should be specified, because the 400 mm (16 in.) minimum spacing without a specified maximum would allow the production of steps that could be too wide to use safely. The 400 mm (19 in.) maximum distance is the same as that required on all chain ladders approved by the coast Guard up to this time, and these ladders have been used satisfactorily in service. A wider distance could place the suspension members at a position wider than the...
shoulders of most persons, which would make using the ladder awkward. A 480 mm (19 in.) maximum distance between suspension members has been added to § 160.017–13(b) and § 163.002–13(b)(5).

7. Section 160.017–13(g) and –13(h). These paragraphs replace §§ 160.017–13(c), –13(d), –13(e), –13(f), and –13(g) in the NPRM that described the attachment of the lashing rings to the top and bottom of the suspension members in detail. Since these lashing rings are part of the suspension members which have an overall strength requirement, as well as a strength test, these details were found to be unnecessary.

8. Section 160.017–13(e). The reasons for the detail requirements in this paragraph have been added. The purpose of the addition is to provide ladder designers with a performance requirement which must be met if an alternate design is proposed.

9. Section 160.017–13(f). The reasons for the detail requirements for rungs have been added wherever detail requirements remain. The requirement for each edge of a rung to be rounded or chamfered has been deleted since this is adequately covered in § 160.017–13(l). The requirement for each rung to be attached to the spacer ear by a clip has been deleted since there are a number of ways that rungs could be successfully attached.

10. Section 160.017–13(g). The requirement for each spacer ear to have a smooth finish with rounded or chamfered edges has been deleted since this is adequately covered in § 160.017–13(l). Section 160.017–13(g)(1) has been revised to delete specific requirements for ribs, flanges, and stress relief holes, and instead the ear is required to be designed to prevent its tearing or bending. The details are listed as examples of the ways that this can be accomplished.

11. Section 160.017–13(h). The details in this paragraph have been replaced with a performance requirement for fastening devices to have a means to prevent their loosening.

12. Sections 160.017–25 and –27. To comply with § 160.017–25, each manufacturer of an approved chain ladder must begin marking ladder steps constructed after the effective date of these regulations. Each manufacturer will also have to make arrangements to have production tests conducted by or under supervision of an independent laboratory. This procedure is required under § 160.027–27.

b. Pilot Hoist

13. One commenter objected to the various sections of the proposed regulations that included provisions in addition to those in IMCO Resolution A.275 (VIII). The IMCO Resolution provides a good starting point for pilot hoist requirements, but additional provisions have also been included in the specification to provide an additional margin of safety for users. This possibility was foreseen by the IMCO Lifesaving Appliances Subcommittee which developed the Resolution. At its sixth session in 1973, the Subcommittee declined to develop detailed regulations for pilot hoists to be incorporated into SOLAS 1974 because of continuing developments in mechanical pilot-hoists, the variety of designs available, and the desire not to inhibit further development.

14. Section 163.002–11(a) and –11(d). The reason for the material requirement has been added to each of these paragraphs. The purpose of the additions is to provide pilot hoist designers with a performance requirement which must be met if an alternate design is proposed.

15. Section 163.002–11(b). The requirement for each suspension cable to be at least 4.5 mm (1/16 in.) in diameter has been deleted. The strength tests make sure that these cables are of adequate strength.

16. Section 163.002–13(h). One commenter recommended that air-powered portable pilot hoists be allowed to use a simple air disconnect instead of a deck interlock. This recommendation has not been adopted. A simple air disconnect would not prevent the hoist from operating when improperly installed. An interlock for an air-powered hoist does not have to be especially complex or costly. It simply requires an air valve that is always closed, except when held open by a part of the device that secures the pilot hoist to the deck.

17. Sections 163.002–13(k) and –17(c). One commenter noted that pilot problems with pilot hoists included insufficient air pressure and wet and frozen air lines. Section 163.002–13(k) in both the NPRM and the final rules requires pilot hoists to have a pressure gauge, air filter and regulator, oil lubricator, and water trap which should prevent these problems. In line with the commenter’s concern, however, § 163.002–17(c) has been added in the final rules to require each gauge on a pilot hoist to be marked with normal operating ranges.

18. Section 163.002–13(p). One commenter questioned the need for the hand operated device to be operable from the standing position, rather than from a kneeling position, because of the cost required to redesign some existing hoists. Redesigning costs should not be expensive. In all probability, the only design change needed will be to reposition the shaft of the device so that the operator can stand rather than kneel to use it. The purpose of this requirement is to allow a person to operate the hand crank safely and efficiently. Operating the crank from a kneeling position would be difficult and would not allow the operator to concentrate attention on movement of the ladder or lift platform.

19. Section 163.002–13(f). This paragraph has been expanded so that the reason for requiring worm gears to operate in an oil bath is included. Sliding contact gears, such as worm gears, are subject to accelerated wear unless provided with ample lubrication. Alternate means of lubricating the gear teeth on each revolution are also permitted.

20. Section 163.002–13(s). Several unnecessary detail requirements on the design of inspection ports and provisions for drainage have been deleted from this paragraph.

21. Section 163.002–13(t). Two commenters stated that designing a hoist with two cables arranged so that the ladder or lift platform would remain level and stationary if one cable brakes is difficult to accomplish. At least one pilot hoist manufacturer has produced such a device. It has cables that lead from the winch drum down to the rigid ladder, through a sheave on either side, and back up to an anchor point on the hoist unit on deck.

22. Section 163.002–13(u) and –21(c)(11).

(a) Two commenters recommended that something be done to prevent hoist cables from jumping off sheaves and jamming. Section 163.002–13(u) has been revised in accordance with this recommendation to require a device on each sheave that prevents the cable from jumping out of the sheave groove.

(b) Two commenters recommended that a level winding mechanism be required for the winch drum of a hoist. Section 163.002–13(u), as proposed, required that winch drums be designed to accept one level wind of wrap and the test in proposed § 163.002–21(c)(11) required the cable to wind onto the drum in one level wind. This may be accomplished with or without a level winding device. Accordingly, this recommendation has not been adopted. However, the test in § 163.002–21(c)(11) has been revised in the final rules to provide a more thorough check for reliability of level wrap winding. As proposed, the test was run once with the full working load on the hoist, and again with the weight of only the rigid ladder or lift platform on the hoist. The test, as
revised, requires ten repetitions under both conditions. This should reveal any cable designs that, on occasion, will fail to wind in a level wrap.
23. Section 163.002-13(w) and -21(c)(12). Section 163.002-13(w) has been revised to prohibit the use of adhesive sheets as a means for providing the non-skid stepping surface. required by that section. An example of how the requirement can be met has been added. Also, a test has been added in § 163.002-21(c)(12) to measure the surface friction of the step. These changes were made in response to a comment on pilot ladders and are more fully discussed in paragraph 40 below.
24. Section 163.002-13(w) and -13(z)(1). Three comments on the proposed pilot ladder requirements recommended that the distance from the top of one step to the top of the next should be 13 5/8 in. instead of the range of 300 mm (12 in.) to 360 mm (15 in.). Section 163.002-13(w) has been revised in accordance with this comment to require a step spacing of between 300 mm (12 in.) and 350 mm (13 7/8 in.). This comment and the revisions are discussed in paragraph 25 below.
Another commenter recommended that the distance from the top step of the pilot ladder under the pilot hoist ladder or lift platform to the top of the bottom step of the rigid ladder or the surface of the lift platform should be the same as the pilot ladder step spacing instead of the wide range of 225 mm (9 in.) to 400 mm (16 in.) permitted in proposed § 163.002-13(e)(1). This section has been changed in accordance with the commenter’s recommendation to require the same spacing that is required between pilot ladder steps.
25. Section 163.002-13(bb). One commentator recommended that a chain ladder be permitted at the bottom of a pilot hoist in place of a pilot ladder. This recommendation was not adopted since a rope pilot ladder provides a better hand grip than the chain ladder.
26. Section 163.002-13(b)(5). The details listing various fasteners and locking methods have been deleted. The remaining paragraph is a performance requirement for fasteners to have a means to prevent loosening.
27. Section 163.002-21(c)(8). One commentator objected to the speed requirement of 1.5 m (5 ft.) per minute for the hand operated device on the pilot hoist as being cost prohibitive since existing hoists would have to be redesigned to meet the requirement. This speed requirement was proposed as one which could be reasonably met by an operator in good physical condition and that would allow recovery of a stranded ladder or lift platform in a reasonable amount of time. In the case of some present designs, if the hoist becomes disabled 9 m (30 ft.) from the deck of the vessel, it can require as much as 20 minutes to recover it. This is an unacceptable risk for a person on the ladder or lift platform in cold temperatures or in heavy seas. At a speed of 1.5 m per minute, the ladder or lift platform can be recovered in about 6 minutes.
28. Section 163.003-7. One commentator objected to the introduction of independent laboratories as unnecessary and stated that a recent production test of pilot ladders by a Coast Guard inspector required only an hour. The conversion from Coast Guard testing to independent laboratory testing is proceeding since there are no longer enough inspectors available in the Coast Guard to conduct or observe testing of all present and potential manufacturers of Coast Guard approved equipment, even though each test, taken individually, would not appear to be a great burden.
29. Section 163.003-11(a). Six commentators recommended that dacron "safety core" rope be permitted or required in place of manila rope. This particular rope is white dacron with an orange polypropylene rope core. The advantage of this rope is supposed to be that it provides a better gripping surface than manila and has durability properties as good or better than manila. The core of a different color indicates that the rope is severely worn when the core shows through the outer strands of the rope. Synthetic ropes in general have not been favored for pilot ladder use in the past, since some types deteriorate rapidly with the weather, and other types such as nylon stretch so much that the pilot on the end of a long ladder tends to bounce. However, dacron rope is as durable as manila and, although it stretches more than manila rope, it does not stretch nearly as much as nylon rope. Accordingly, § 163.003-11(a) has been modified to permit the use of this rope as an alternative to manila.
30. Section 163.003-11(b). The list of different types of defects has been removed from this paragraph to eliminate unnecessary detail.
31. Section 163.003-11(c). The specific types of water-repellant wood preservatives and their methods of application have been deleted from this paragraph as unnecessary design details.
32. Section 163.003-11(e). Four commentators recommended that all of the metal parts of the ladder be a corrosion resistant metal and that galvanized steel be prohibited. Fasteners such as bolts and nuts may have to be removed in order to replace broken steps and a galvanized coating would probably be destroyed in such an operation. However, galvanizing can be successfully used for other metal parts if applied by the hot dip process after the parts are produced. Accordingly, the section has been revised to require that metal fasteners be a corrosion resistant metal, but retains the provision allowing other metal parts to be of galvanized steel.
33. Section 163.003-13(z)(a).
(a) The figures that were in the NPRM identifying the detailed parts of the ladder have been eliminated as unnecessary detail.
(b) One commentator recommended that a pilot ladder be required to float, presumably so that if the ladder falls from a vessel while in use, it can also be used for flotation. This comment has not been adopted. Persons climbing pilot ladders should be wearing personal flotation devices and should not have to depend on the ladder for flotation.
(c) Three commentators recommended weight limitations for the pilot ladder. One suggested drilling holes in the step to lighten it. Two others suggested upper weight limits of 8 lb per ft (4 lb./ft.). The reason for limiting the weight would be to prevent the ladder from becoming too cumbersome to handle on the vessel. The weight limitation has not been adopted since it is not directly related to the safety of persons using the ladder. A heavier ladder means more material and a more expensive ladder in general. Therefore, there is an economic incentive for the manufacturer to keep the weight low. It is believed that market forces will prevent ladders from becoming too heavy to handle on deck, and that Federal regulation in this area is unnecessary.
34. Section 163.003-13(b)(3). The reference to tarred manila for use in serving the ends of the suspension members has been deleted as an unnecessary design detail.
35. Section 163.003-13(b)(4). Six commentators recommended that metal clamps be required in place of tarred manila for securing the steps, inserts, and suspension members in place. Reasons for opposing the use of tarred manila include its tendency to loosen once it has been wet and dried, and a lowering quality of manila being produced. Section 163.003-13(b)(4) has been revised in accordance with these comments to require the use of metal clamps in lieu of tarred manila.
36. Section 163.003-13(b)(5). As explained in paragraph b(4) above, this requirement has been revised to include
an upper limit of 480 mm of clear space between suspension members.

Section 163.003-13(b)(6). One commenter recommended prohibiting shackles, thimbles, or similar fittings at the bottom of the ladder to discourage the attachment of additional ladder sections. This requirement has been changed as recommended. SOLAS 1974 requires that ladders used on vessels be of a single length, so there is no reason to have fittings at the bottom of the ladder.

Section 163.003-19(c). (a) Section 163.003-13(c)(5) in the NPRM which required the top edges of the step to be rounded or chamfered has been deleted since it unnecessarily repeats the requirements of § 163.003-19(f).

(b) Section 163.003-13(c)(10) in the NPRM which required four inserts has been deleted since there are a number of ways that the suspension members can be secured to the steps besides inserts. Other paragraphs referring to inserts and providing detailed requirements for them have also been deleted. This includes all of what was § 163.003-13(d) in the NPRM.

Section 163.003-13(c)(1) and (c)(2). (a) One commenter recommended that molded steps at the bottom of the ladder not be required since wood steps provide a better stepping surface than molded steps. This comment has not been adopted. The reason for requiring the molded steps at the bottom of the ladder is that they can withstand the abuse to which the lower steps of a pilot ladder are subjected better than wooden steps can. Furthermore, the requirement in § 163.003-13(c)(2) for a non-skid surface on the step will result in a step that is comparable in traction to the wood step, wet or dry. Section 163.003-15(c)(2) is discussed in more detail in paragraph 40 below.

(b) Five commenters recommended that molded steps be either secured or permitted in lieu of wood steps in a ladder. Section 163.003-13(c)(1) has been changed to permit molded steps, and § 163.003-21(c)(1) has been changed to provide for appropriate testing which is discussed further in paragraph 48 below.

Section 163.003-13(c)(2) and (c)(6). Six commenters recommended that the required non-skid surface of ladder steps be provided by a permanently applied grit. Some of these commenters also recommended that (1) the steps should have grooving in a diamond pattern so that all of the grooves would lead to the edge of the step to promote drainage of water, (2) grooves should be either ¼ in. or ¾ in. deep, (3) non-skid surfaces should not be provided by adhesive sheets (presumably since they can peel off), and (4) the grit should be set back from the edge of the step so that it will not have a cutting abrasive edge. Section 163.003-13(c)(2)(c) has been revised to prohibit the use of adhesive sheets. The other features have been added as an example of how the non-skid requirement can be met. An approval test has also been added in § 163.003-21(c)(8) to check for effectiveness of the non-skid surface. This test is similar to one developed by Underwriters Laboratories.

Section 163.003-13(c)(5). Two commenters recommended more positive requirements regarding the use of replacement steps. Special replacement steps will be approved under this subpart if they are necessary to permit steps to be replaced without unstrapping the ladder. This section has been revised to make it clear that replacement steps are acceptable and that they must meet all of the other requirements for steps in the subpart.

Section 163.003-13(c)(7). Three commenters recommended that either 13½ in. or 13¾ in. be specified as the distance from the top of one step to the top of the next. The NPRM specified a maximum distance of 350 mm (13 ⅞ in.). This provision has been revised in accordance with these comments to require a maximum top-to-top step spacing of 350 mm (13¾ in.). (350 mm was selected as the closest round metric figure including 13 in. and 13¾ in.) As evidenced by the commenters' concern, spacing that is much larger than 350 mm, could result in making the ladder steps difficult to climb.

Section 163.003-13(c)(8). Seven commenters recommended that the steps be a highly visible color such as orange and that a hard epoxy paint be required for wooden steps so that the paint would stand up to hard use and be easier to keep clean. In support of this recommendation, the commenters stated that brightly colored steps, when contrasted against a dark ship hull, would make the ladder more visible to an approaching pilot boat. A requirement has been added to § 163.003-13(c)(8) of the final rule in accordance with this recommendation. Section 163.003-13(c)(8) does not require the non-skid step surface to be brightly colored since it would be difficult to paint the grit and retain the required non-skid surface. An unpainted stepping surface, however, should not reduce the visibility of the ladder from an approaching pilot boat since the stepping surfaces of the steps are not seen from this vantage point. One commenter's recommendation that the clamps used on the ladder also be orange was not adopted since the major factor in visibility will be the brightly colored step area.

Section 163.003-13(c)(9). The reason for requiring that devices attached to the top of the step not be higher than one-half the step width has been added. This provides a performance requirement for manufacturers that might propose an alternative design.

Section 163.003-13(d). One commenter recommended thatspreaders be optional. This recommendation has not been adopted since spreaders are required by SOLAS 1974.

Section 163.003-13(e) and 163.002-13(bb). One commenter recommended that self-locking nuts be required instead of peening over the ends of bolts as the means to secure them. Peening over the ends of bolts would discourage prompt and easy replacement of damaged steps. To correct this, § 163.003-13(e) has been revised to require fasteners to have lock washers or other locking devices to prevent the fasteners from loosening.

The pilot hoist specification also includes this requirement in § 163.002-13(bb).

Sections 163.003-21(a) and -27(b). One commenter recommended that steps subjected to the 800 kg load not be used in any production ladders because of the heavy load to which they have been subjected. A step that passes the test may be distorted and should not be used in a ladder that is sold for use. However, a step that is not distorted as a result of the test should be satisfactory for use. The recommendation has been adopted for steps that have a permanent deflection as a result of testing.

Sections 163.003-21(c)(1) and -27(b). One commenter recommended that the flexibility test be required at a load of 300 kg (661 lb.) with a maximum deflection of 20 mm (¾ in.) permitted during testing. The purpose of the test is to prevent the use of steps that are too flexible for safe use. Although a 20 mm deflection at 300 kg is acceptable for the lowest four rungs that must withstand frequent impact from a pilot boat, this is too much flexibility for steps used in the rest of the ladder since it would be difficult to climb. The recommended test has been adopted, but a step that passes this test would be acceptable only for the bottom four molded steps. For steps used above the bottom four steps, a test at 320 kg (707 lb.) has been added. The approval tests for pilot ladders currently approved by the Coast Guard also include a test at 320 kg.
is at least as effective as that specified by the requirements of this subpart. The Commandant may also prescribe different production tests if the tests required by this subpart are not appropriate for the alternative ladder configuration.

§ 160.017-11 Materials.
(a) Suspension members. Each suspension member of a chain ladder must be a continuous length of non-kinking chain, such as single loop lock link coil chain, with a minimum breaking strength of at least 16 kN (3,560 lbs.).
(b) Metal parts. Each metal part of a ladder must be made of corrosion-resistant metal or of steel galvanized by the hot dip process after the part is formed. If the ends of galvanized fasteners are peened over to lock them in place, a corrosion resisting surface treatment must be applied to each peened surface.
(c) Wooden parts. Each wooden part of a ladder must be made of hardwood that is free of defects affecting its strength or durability.
(d) Wood preservative. After each wooden part is formed and finished, it must be treated with water-repellant wood preservative that is properly applied.
(e) Lashing rings. The inside diameter of each lashing ring must be at least 75 mm (3 in.). Each lashing ring must have a minimum breaking strength of at least 16 kN (3,560 lbs.).

§ 160.017-13 Construction.
(a) General. Each chain ladder must have two suspension members. Each step in the ladder must be supported at each end by a suspension member.
(b) Suspension member. The distance between the two suspension members must be at least 400 mm (16 in.), but not more than 480 mm (19 in.). The chain between each top lashing ring and the first step must be long enough so that the distance between the center of the lashing ring and the top of the first step is approximately 600 mm (24 in.).
(c) Lashing rings. A lashing ring must be securely attached to the top and bottom of each suspension member. The means of attachment must be as strong as the chain and the lashing ring.
(d) Thimble or wear plate. A thimble or wear plate must be attached to the chain where it can slide on its connections to the lashing rings.
(e) Steps. Each step of a ladder must have two rungs arranged to provide a suitable handhold and stepping surface. The distance between steps must be uniform. This distance must be between 300 mm (12 in.) and 380 mm (15 in.).

(f) Rungs. Step rungs must meet the following requirements:
(1) Each rung must be wooden, or a material of equivalent strength, durability, handhold, and step surface characteristics.
(2) In order to provide a suitable handhold and step surface, the width of each rung must be at least 40 mm (1½ in.) and the thickness must be at least 25 mm (1 in.), but not more than 40 mm (1½ in.).
(3) The distance between the rungs in each step must be uniform. This distance must be between 40 mm (1½ in.) and 65 mm (2½ in.).
(4) Each rung must be attached to a spacer ear by a method that prevents the rung from rotating and that supports it in a horizontal position when the ladder is hung vertically.

(g) Spacer ears. Spacer ears must meet the following requirements:
(1) All spacer ears on a ladder must be the same size and shape.
(2) The top and bottom of each spacer ear must be attached to a suspension member.
(3) The top point of attachment must be at least 100 mm (4 in.) above the top surface of the rungs attached to the spacer ear.
(4) Each spacer ear made of sheet metal must have features such as formed ribs, rolled flange edges, and stress relief holes at the ends of cuts, to prevent the ear from bending or tearing.
(h) Fasteners. Each fastening device must have a means to prevent the device from loosening.

(i) Workmanship. A ladder must not have splinters, burrs, sharp edges, corners, projections, or other defects that could injure a person using the ladder.

§ 160.017-15 Performance.
(a) Each chain ladder must be capable of being rolled up for storage.
(b) Each ladder when rolled up must be able to unroll freely and hang vertically.

§ 160.017-17 Strength.
(a) Each chain ladder must be designed to pass the approval tests in § 160.017-21.

§ 160.017-21 Approval tests.
(a) General. Each approval test must be conducted on a ladder of the longest length for which approval has been requested. If a ladder fails one of the tests in this section, the cause of the failure must be identified and any needed changes made. After a test failure and any design change, the failed test, and any other previously completed
tests affected by the design change, must be rerun.

(b) Visual examination. Before starting the tests described in this section, an assembled chain ladder is examined for evidence of noncompliance with the requirements in §§ 160.017-11, 160.017-13, and 160.017-15.

(c) The following approval tests must be conducted:

(1) Strength test #1. An assembled ladder is supported so that a static load, if placed on any of its steps, would exert a force both on the step and each suspension member. A static load of 315 kg (700 lb.) is then placed on one step for at least one minute. The load must be uniformly distributed over a contact surface that is approximately 100 mm (4 in.) wide. The center of the contact surface must be at the center of the step. This test is performed on six different steps. No step may break, crack, or incur any deformation that remains after the static load is removed. No attachment between any step and a suspension member may loosen or break during this test.

(2) Strength test #2. A ladder is suspended vertically to its full length from its top lashing rings. A static load of 900 kg (2000 lbs.) is then applied to the bottom lashing rings so that it is distributed equally between the suspension members. The suspension members, lashing rings, and spacer ears must not break, incur any elongation or deformation that remains after the test load is removed, or be damaged in any other way during this test.

§ 160.017-25 Marking.

(a) Each chain ladder step manufactured under Coast Guard approval must be branded or otherwise permanently and legibly marked on the bottom with—

(1) The name of the manufacturer;
(2) The manufacturer's brand or model designation;
(3) The lot number and date of manufacture; and
(4) The Coast Guard approval number.

§ 160.017-27 Production tests and examination.

(a) General. Each ladder manufactured under Coast Guard approval must be tested in accordance with this section and subpart 159.007 of this chapter. Steps that fail testing may not be marked with the Coast Guard approval number and each assembled ladder that fails testing may not be sold as Coast Guard approved.

(b) Test #1: Steps. Steps must be separated into lots of 100 steps or less. One step from each lot must be selected at random and tested as described in § 106.017-21(c)(1), except that the step may be supported at the points where it would be attached to suspension members in an assembled ladder. If the step fails the test, ten more steps must be selected at random from the lot and tested. If one or more of the ten steps fails the test, each step in the lot must be tested.

(c) Test #2: Ladders. Assembled ladders must be separated into lots of 20 ladders or less. One ladder must be selected at random from the ladders in the lot. The ladder selected must be at least 3 m (10 ft.) long or, if each ladder in the lot is less than 3 m long, a ladder of the longest length in the lot must be selected. The ladder must be tested as prescribed in § 160.017-21(c)(2), except that only a 3 m section of the ladder need be subjected to the static load. If the ladder fails the test each other ladder in the lot must be tested.

(d) Independent laboratory. Each production test must be conducted or supervised by an independent laboratory. However, if a test is performed more than 4 different times per year, laboratory participation is required only 4 times per year. If the laboratory does not participate in all tests, the times of laboratory participation must be as selected by the laboratory. The times selected must provide for effective monitoring throughout the production schedule.

(e) Visual examination. The visual examination described in § 160.017-21(b) must be conducted as a part of each production test.

PART 163—CONSTRUCTION

2. A new Subpart 163.002 is added to Part 163 to read as follows:

Subpart 163.002—Pilot Hoist

Sec. 163.002-1 Scope.
163.002-2 Applicable technical regulations.
163.002-3 Definitions.
163.002-4 Independent laboratory.
163.002-5 Construction.


Subpart 163.002—Pilot Hoist

§ 163.002-1 Scope.

(a) This subpart contains standards and approval and production tests for pilot hoists used on merchant vessels.

(b) The requirements in this subpart apply to a pilot hoist designed for use along a vertical portion of a vessel's hull.

§ 163.002-3 Applicable technical regulations.

(a) This subpart makes reference to the following Coast Guard regulations in this chapter:

(1) Subpart 58.30° (Fluid Power and Control Systems).

(2) Section 94.33-10 (Description of Fleet Angle).

(3) Part 111 (Electrical System, General Requirements).

(4) Subpart 163.003 (Pilot Ladder).

§ 163.002-5 Definitions.

(a) “Maximum persons capacity” means—

(1) If the hoist has a rigid ladder, one person; or

(2) If the hoist has a platform, one person per square meter (10.75 sq. ft.) or fraction thereof of platform area (including hatch area);

(b) “Working load” means the sum of the weights of—

(1) The rigid ladder or lift platform, the suspension cables (if any) and the pilot ladder on a pilot hoist; and

(2) 150 kilograms (330 pounds) times the maximum persons capacity of the hoist;

(c) “Lift height” means the distance from the lowest step of the pilot ladder on a pilot hoist to the deck of a vessel on which the hoist is designed for installation when—

(1) The suspension cables of the hoist are run out until only three turns of cable remain on each drum; or

(2) If the hoist does not have suspension cables, the ladder or lift platform is in its lowest position.

§ 163.002-7 Independent laboratory.

(a) The approval and production tests in this subpart must be conducted by, or under the supervision of, an independent laboratory accepted by the
§ 163.002-9 Approval procedure.

(a) General. A pilot hoist is approved by the Coast Guard under the procedures in Subpart 159.009 of this chapter.

(b) Approval testing. Each approval test must be conducted in accordance with § 163.002-21.

(c) Approval of alternative designs. A pilot hoist that does not meet the materials, construction, or performance requirements of this subpart may be approved if the application and any approval tests prescribed by the Commandant in place of or in addition to the approval tests required by this subpart, show that the alternative materials, construction, or performance is at least as effective as that specified by the requirements of this subpart.

§ 163.002-11 Materials.

(a) Gears. Each gear in a pilot hoist must be made of machine cut steel or machine cut bronze, or must be of a design of equivalent strength, durability, reliability and accuracy.

(b) Suspension cables. Each suspension cable on a pilot hoist must be a corrosion-resistant wire rope other than galvanized wire rope.

(c) Corrosion-resistant materials. Materials of a pilot hoist that are not in watertight enclosures must be—

(1) Corrosion-resistant or must be treated to be corrosion-resistant; and

(2) Galvanically compatible with each other adjoining material.

(d) Aluminum alloys. Any aluminum alloy which is not resistant to stress corrosion in marine atmospheres (i.e., contains more than 0.6 percent copper), must not be used in a structural component of any other hoist component subject to stress.

§ 163.002-13 Construction.

(a) General. Each hoist must have a rigid ladder or a lift platform on which a person being raised or lowered may stand.

(b) Spreader. Each hoist must have a spreader or other device to prevent twisting of its ladder or lift platform. If a spreader is provided, it must be at least 1800 millimeters (5 feet, 10 inches) long.

(c) Rollers. The rigid ladder or lift platform on a pilot hoist and the ends of its spreader (if a spreader is provided) must have rollers at each point of contact with the vessel that allow the ladder or platform to move smoothly over the side of the vessel.

(d) Load carrying parts. Each load carrying part of a pilot hoist must be designed to have a minimum breaking strength of at least six times the load imposed on the part by the working load during operation of the hoist.

(e) Exposed moving parts. Each exposed moving part of a pilot hoist that poses a hazard to personnel must have a screen or guard.

(f) Nonfunctional sharp edges and projections of excessive length. A pilot hoist must not have nonfunctional sharp edges and must not have fastening devices or other projections of excessive length.

(g) Installation requirements. Each pilot hoist must be designed to allow—

(1) Its installation along the edge of a deck at a vertical portion of the hull;

(2) Its installation on the deck in a manner that does not require use of the vessel's side rails for support; and

(3) Unobstructed passage between the ladder or lift platform of the hoist and the deck of a vessel.

(h) Deck interlock for portable hoist. A pilot hoist, if portable, must have a deck interlock that prevents movement of the ladder or lift platform when the hoist is not installed.

(i) Power source. Each hoist must be designed to operate on electric, pneumatic, or hydraulic power or a combination of these.

(j) Electrical equipment. Electrical equipment of a pilot hoist must meet the electrical engineering regulations in Part 111 of this chapter. The operating voltage of electrical equipment on the ladder or lift platform of a pilot hoist must not exceed 25 volts.

(k) Pneumatic and hydraulic equipment. Pneumatic and hydraulic equipment of each pilot hoist must comply with the marine engineering regulations of Subpart 58.30 of this chapter. Each pneumatically powered hoist must have a water trap, air filter, air regulator, pressure gauge, and oil lubricator in the air line between the vessel's compressed air source and the pneumatic motor.

(l) Hoist control lever. Each pilot hoist must have a control lever for raising and lowering its ladder or lift platform. Movement of the lever upward or toward the operator must result in upward movement of the ladder or lift platform. Movement of the control in the opposite direction must result in downward movement of the ladder or lift platform. The control must be designed so that when released by the operator the ladder or lift platform stops immediately.

(m) Emergency disconnect device. Each pilot hoist must have a switch or valve for disconnecting the main power source in an emergency.

(n) Power indicator. Each pilot hoist must have an indicator to show the operator when power is being supplied to the hoist.

(o) Arrangement of controls and power indicator. The hoist control lever, the emergency disconnect device, and the power indicator on a pilot hoist must be arranged so that the hoist operator, when standing, can view all movement of the ladder or lift platform while using this equipment.

(p) Hand-operated device and interlock. Each pilot hoist must have a hand-operated device for raising and lowering its ladder or lift platform. The device must be operable from a standing position. The hoist must have an interlock that prevents simultaneous operation of its hand-operated device and its power source. Any removable hand gear, crank, or wheel of the hand-operated device must be securely stowed on the hoist.

(q) Upper position step. Unless a hoist has a pneumatic motor that stalls at the end of cable travel without jarring, jerking, or damaging the hoist, it must have one or more limit switches or valves that stop the ladder or lift platform at its upper end of travel without jarring, jerking, or damaging the hoist.

(r) Means of lubrication. Each hoist must have a means to lubricate its bearings. Sliding-contact gearing, such as worm gears, must operate in an oil bath, or have another means of lubricating the gear teeth on each revolution. Each lubricant enclosure must be designed so that it can be readily filled, drained, and checked for lubricant level.

(s) Machinery housing. Each machinery housing on a pilot hoist except gear boxes and other enclosures that retain lubricants, must have means that permit examination of all internal moving parts using common tools or without tools. Each machinery housing, except gear boxes and other enclosures that retain lubricants, must be designed to prevent moisture accumulation.

(t) Suspension cable. If a hoist has suspension cables, at least 2 cables must be provided and they must be arranged so that the ladder or lift platform remains level and stationary if one of the cables breaks. Each cable must be arranged to lead fair in a 15 degree vessel list toward the side of the vessel on which the hoist is installed. The devices for attaching the cables to their winch drums must be capable of supporting 2.2 times the working load with the cables run all the way out.

(u) Sheaves and drums. Each sheave and each winch drum for a suspension cable on a pilot hoist must be of a size recommended by the cable supplier for
the diameter and construction of the cable. Each sheave must have a device that prevents the cable from jumping out of the sheave groove. Each drum must be designed to accept one level wind of wrap. The fleet angle of a grooved drum must not exceed 6 degrees, and the fleet angle of a non-grooved drum must not exceed 4 degrees.

Note—The term "fleet angle" is defined in § 94.33-30 of this chapter.

(v) Rigid ladder. A rigid ladder on a pilot hoist must have thermally insulated handholds and a padded backrest so that the person being raised or lowered may firmly brace himself or herself between the ladder and the backrest. The ladder must be at least 2.5 m (100 in.) long from the bottom rung to the top of the handholds.

(v) Ladder rungs. Each rigid ladder must have at least six rungs, each with a non-skid surface that does not retain water. Adhesive non-skid sheets may not be used. (For example, a suitable surface for a wooden rung is one that has grooves at least 3 mm (1/8 in.) deep cut in a diamond pattern so that water runs off the edge of the step. Non-skid grit is applied directly to the step surface.) The stepping surface of each rung must be not less than 115 mm (4 1/2 in.) wide and not less than 400 mm (16 in.) long. The distance from the top of one rung to the top of the next must be uniform, between 300 mm (12 in.) and 350 mm (13 1/2 in.).

(x) Platform railing. A lift platform on a pilot hoist must be enclosed by a guardrail that has a diameter of between 30 millimeters (1 1/8 inches) and 75 millimeters (3 inches). The center of the guardrail must be at least 900 millimeters (3 feet) above the platform. At least one intermediate rail must be provided between the guardrail and the platform. Each rail must be set back from the edge of the platform at least 50 millimeters (2 inches). Each gate in the rails must have a latch that can keep the gate securely closed.

(y) Platform floor. The platform floor of a pilot hoist must have a non-skid surface and must be at least 750 millimeters (30 inches) by 750 millimeters, exclusive of the surface area of any hatch. Each hatch in the platform floor must be at least 750 millimeters (30 inches) by 750 millimeters. Each hatch must have a means to keep it securely positioned both when opened and closed.

(2) Pilot ladder fittings. The bottom of the rigid ladder or lift platform on a pilot hoist must have fittings to attach a pilot ladder of the type that meets the requirements of Subpart 163.003 of this chapter. The fittings must be arranged so that:

(1) The distance between the top of the highest step on the pilot ladder and the surface of the lift platform or top of the bottom rung on the rigid ladder is between 300 and 350 millimeters (12 and 13% inches);

(2) The steps of the pilot ladder are directly below and in line with the steps of the rigid ladder or edge of the lift platform; and

(3) The pilot ladder can bear on the side of the vessel when in use.

(aa) Emergency stop switch. Each pilot hoist must have an emergency stop switch that can be operated by a person on the ladder or lift platform.

(bb) Fasteners. Each fastening device securing a part of a pilot hoist must have a means to prevent the device from loosening.

(cc) Gears. Each gear must be keyed to its shaft.

(dd) Welding. Each weld must be made using automatic welding equipment or be made by a welder who is qualified by the U.S. Navy, American Bureau of Shipping, American Welding Society, American Society of Mechanical Engineers, or other organization that has similar procedures for welder qualifications that are acceptable to the Commandant.

§ 163.002-15 Performance.

(a) Each pilot hoist must have sufficient performance capability to pass the approval tests in § 163.002-21.

§ 163.002-17 Instructions and markings.

(a) Instruction plates or placards. Each pilot hoist must have instructions that show its method of operation and lubrication of its working parts. The instructions must be on one or more corrosion-resistant plates, or must be weatherproof placards. The instructions must be attached to the hoist. Each instruction must be in English or must have understandable symbols or pictograms. The operator of the hoist must be able to see and read the operating instructions when operating the hoist control lever. The lubricating instructions must state the recommended lubricants for the temperature range in which the hoist is designed to operate. The temperature range must be stated in both degrees Celsius and Fahrenheit.

(b) Marking of controls. Each control on a pilot hoist and each position of the control must be identified by a marking on the hoist.

(c) Marking of gauges. Each gauge on a pilot hoist must be marked with its normal operating range.

(d) Manual. Each pilot hoist must have a manual of installation instructions, operating instructions, maintenance and repair instructions, a lubrication chart, a parts list, a list of sources of repair parts, and a log for keeping maintenance records. Each manual must be in English.

§ 163.002-21 Approval tests.

(a) General. If a pilot hoist fails one of the tests in this section the cause of the failure must be identified and any necessary repairs made. After the test failure any design changes, the failed test, and any other previously completed tests affected by the change, must be rerun.

(b) Visual examination. Before starting the tests described in this section an assembled pilot hoist is examined for evidence of noncompliance with the requirements in §§ 163.002-11 and 163.002-13.

(c) The following approval tests must be conducted:

(1) Rung strength. If the pilot hoist has a rigid ladder a static load of 900 kilograms (2000 pounds) is applied to the center of a ladder rung for one minute. The load must be uniformly distributed over a 100 millimeter (4 inch) wide contact surface. The test must be repeated using a second ladder rung. The rungs must not break or crack during these tests.

(2) Platform strength. If the pilot hoist has a lift platform, the platform is lifted to a level where it is supported only by its suspension components. A static load of 900 kilograms (2000 pounds) is then applied to the center of the platform for one minute. The load must be uniformly distributed over a 100 millimeter (4 inch) square contact surface. The test must be repeated enough additional times so that the load is placed in the center of each hatch cover when in its closed position, and in the center of each area of the platform located between floor supports. The platform must not break or crack during these tests.

(3) Deck interlock. If the pilot hoist is portable, it is placed in an uninstalled position. Its hoist control lever is then activated. The deck interlock must prevent movement of the ladder or lift platform when the lever is activated.

(4) Lifting and lowering speed and level wind. The hoist is installed in a level operating position and a weight equal to the weight of the pilot ladder plus 150 kg (330 lb) times the maximum persons capacity of the hoist is placed on its ladder or lift platform. The ladder or lift platform is repeatedly raised and lowered under power operation until a total distance of at least 150 meters (500
An attempt is made to turn it on. Then, with the power source turned off, the hand operated device is disengaged. The power source is then turned on and an attempt made to engage the hand operated device. The procedure must prevent simultaneous operation of the power source and the hand operated device.

(9) 2.2x overload. The hoist is installed in a level operating position. Each roller on the ladder or lift platform is placed in contact with a vertical surface. A weight equal to the difference between 2.2 times the working load and the weight of the ladder or lift platform is placed on the ladder or lift platform. The ladder or lift platform is raised through a distance of at least 5 meters (16 ft) and the hoist control lever is then released. The ladder or lift platform must stop without jarring or damage and must hold the weight for at least one minute. The weight is then lowered through a distance of not less than 5 meters (16 ft) and the control lever is then released. The ladder or lift platform must stop within 600 millimeters (2 ft) of where the hoist was when the lever was released and the ladder or lift platform must remain stationary for at least one minute thereafter. Each roller must move smoothly over the vertical surface without jamming or sliding during the test.

(10) 6x overload. The hoist is installed in a level operating position. A load of six times the working load is attached to the hoist. (If the hoist has suspension cables, the cables must be run out at least one meter (3 ft) before adding the load to the hoist). The weight must remain stationary for at least one minute without damage to any part of the hoist. The test is repeated simulating a vessel list of 15 degrees toward the side on which the hoist is installed.

(11) Level wind suspension cable. If the hoist has suspension cables, it is installed in a level operating position with the cables wound onto the drums. A weight equal to the working load is attached to the hoist. The cables are run all the way out and then rewound back onto the drums at least ten times. Each drum and cable is observed for level winding as the cable is wound onto the drum. The test must be repeated with a weight equal to the weight of the rigid ladder or lift platform. In each test, each cable must always rewind onto the drum in one level wind of wrap.

(12) Rung friction test. One rung of each type used on a rigid ladder must be subjected to this test. This test compares the dry and wet surface friction characteristics of ladder rungs with those of a standard oak step.

(i) The standard step must have a surface of clean oak that meets §163.003-11(b) of this chapter and that is 113 mm (4 1/2 in.) wide by 400 mm (16 in.) long. The stepping surface must have grooves that are 3 mm (1/8 in.) deep and 8 mm (3/8 in.) wide. The grooves must run in two different directions at right angles to each other, and at 45 degree angles with each edge of the stepping surface, so that the grooves form a diamond pattern covering the stepping surface. The centers of all parallel grooves must be 13 mm (1/2 in.) apart.

(ii) The standard step must be set in a level position. A metal block must be placed on one end of the step so that the block is in contact with the stepping surface. The metal block must weigh between 1.5 kg (3 lb) and 3.0 kg (6.6 lb) and must not be more than 100 mm (4 in.) wide by 135 mm (5 in.) long. The surface of the block in contact with the step must have leather or composition shoe sole material attached to it.

(iii) The end of the step that has the metal block on it must be slowly raised until the block starts to slide. The angle of the step in this position must be measured and recorded. The step and block must then be placed under water and the procedure repeated.

(iv) The procedure in paragraph (e)(12)(iii) of this section must be repeated using a rigid ladder rung in place of the standard step.

(v) The ladder rung must then be secured in a horizontal position with a block resting on its stepping surface. The block must be of a size similar to the one used in the previous tests and have the same shoe sole surface used in the previous tests. The block must be arranged to apply a vertical load of 40 kg (88 lb) to the rung. The block must be then moved back and forth in the same line from one end of the stepping surface to the other. This must be done for a total of 1,500 cycles.

(vi) The rung must again be tested as described in paragraph (e)(12)(ii) of this section, except that the initial position of the block must be on a part of the stepping surface that was subjected to the 1,500 cycles of rubbing.

(vii) The angles at which the block starts to slide on a wet and dry ladder rung when tested under paragraphs (e)(12)(iv) and (e)(12)(v) of this section must be equal to or greater than the corresponding angles measured for the standard step when tested under paragraph (e)(12)(iii) of this section.

§163.002-25 Marking.

(a) Each pilot hoist manufactured under Coast Guard approval must have a corrosion-resistant nameplate. The nameplate must contain the—

(1) Name of the manufacturer;
Materials is incorporated by reference into this subpart: ASTM D 1435 entitled “Standard Recommended Practice for Outdoor Weathering of Plastics.”

§ 163.003-7 Independent laboratory.

The approval and production tests in this subpart must be conducted by or under the supervision of an independent laboratory accepted by the Coast Guard under Subpart 159.010 of this chapter.

§ 163.003-9 Approval procedure.

(a) General. A pilot ladder is approved by the Coast Guard under the procedures in Subpart 159.005 of this chapter.

(b) Approval testing. Each approval test must be conducted in accordance with § 163.003-31.

(c) Approval of alternatives. A pilot ladder that does not meet the materials, construction, or performance requirements of this subpart may be approved if the application and any approval tests prescribed by the Commandant in place of or in addition to the approval tests required by this subpart, show that the alternative materials, construction, or performance is at least as effective as that specified by the requirements of this subpart. The Commandant may also prescribe different production tests if the tests required by this subpart are not appropriate for the alternative ladder configuration.

§ 163.003-11 Materials.

(a) Suspension members. Each suspension member must be mildew-resistant manila rope or dacron polyester rope with a polypropylene core of a color that contrasts with the dacron. Each suspension member must have a breaking strength of not less than 24 kN (5,400 lb.) and a nominal circumference of not less than 60 mm (2¼ in.).

(b) Wooden parts. Each wooden part of a pilot ladder must be hardwood that is free from knots and any other defects affecting its strength or durability.

(c) Wood preservative. After each wooden part is formed and finished, it must be treated with water-repellant wood preservative that is properly applied.

(d) Molded steps. Each step made of molded construction must be rubber or resilient plastic.

(e) Metal parts. Each metal fastener must be made of a corrosion resistant metal. Each other metal part must be made of corrosion-resistant metal or of steel galvanized by the hot dip process after the part is formed.

(f) Plastics. Each plastic material must be of a type that retains at least 30 percent of its original tensile strength and at least 80 percent of its original impact strength when subjected to the one year outdoor weathering test described in ASTM D 1435.

§ 163.003-13 Construction.

(a) General. Each pilot ladder must have two suspension members on each side. Each step in the ladder must be supported by each suspension member.

(b) Suspension member. The suspension members of a pilot ladder must meet the following requirements:

(1) Each suspension member must be continuous from the top of the ladder to the bottom and must not be painted or otherwise coated or covered.

(2) Except as provided in paragraph (g) of this section—

(i) The top end of one suspension member on each side of the ladder must extend at least 3 m (10 ft.) beyond the top ladder step; and

(ii) The top ends of the other suspension members must be just above the top step and must have an eye splice or thimble large enough to fit two passes of a suspension member.

(3) The top end of each suspension member that does not have an eye splice or thimble must be served or treated to prevent fraying.

(4) Each pair of suspension members must be clamped together both above and below each step. Marline seizing may not be used.

(5) The clear space between the suspension members on one side of a ladder and those on the other side must be at least 400 mm (16 in.), but not more than 480 mm (19 in.).

(6) The suspension members must not have fittings at the bottom of the ladder that can be used for attaching additional ladder sections.

(c) Steps. Pilot ladder steps must meet the following requirements:

(1) The four lowest steps must be molded steps and the rest of the steps must be either wooden or molded steps.

(2) The top face of each step must have a rectangular surface that is at least 115 mm (4½ in.) wide with a non-skid surface that does not retain water. Adhesive non-skid sheets may not be used. (For example, a suitable surface for a step is one that has grooves at least 3 mm (¼ in.) deep cut in a diamond pattern so that water runs off the edge of the step. Non-skid grit is applied directly to the step surface extending to almost the full width of the step.)

(3) Each step at its thinnest point must be at least 25 mm (1 in.) thick and in determining this thickness, the depth of the grooves in the non-skid surface and
the diameter of any hole extending from one side of the step to the other must not be counted.

(4) Each step must be at least 400 mm (16 in.) long.

(5) Each step must be designed so that it can be removed and replaced without unstringing the ladder. If special replacement steps are made to meet this requirement, the replacement steps must meet the requirements of this section.

(6) If a step has grooves for its suspension members, the grooves must be in the sides of the steps.

(7) The spacing from the top of one step to the top of the next step must be uniform and this spacing must be between 300 mm (12 in.) and 380 mm (13 3/4 in.).

(8) Each step must be a bright orange color, except that this color is not required for the non-skid surface. If a step is painted, it must be painted with a two-part epoxy paint intended for marine use, or a paint of equivalent durability.

(9) The height of each device attached to the step for securing the suspension members must not be more than one-half the width of the step so that the step is not prevented from rolling if the ladder is caught between a pilot boat and the hull of the vessel.

(d) Spreaders. Each pilot ladder with 9 or more steps must have one or more spreaders that meet the following requirements:

(1) Each spreader must be at least 1.6 m (70 in.) long.

(2) The spreaders must be positioned at intervals of not more than 9 steps.

(3) The lowest spreader on a ladder must be on the fifth step from the bottom.

(e) Fasteners. Each fastening device securing a part of a pilot ladder must have a means to prevent the device from loosening.

(f) Workmanship. A pilot ladder must not have splinters, burrs, sharp edges, corners, projections, or other defects that could injure a person using the ladder.

(g) Special arrangements for pilot hoists. Each pilot ladder produced for use with an approved pilot hoist must have at least 8 steps. The top ends of its suspension members need not have an eye splice or thimble or be arranged as required in paragraph (b) of this section if necessary to permit attaching the ladder to fittings of a particular pilot hoist.

§ 163.003-15 Performance.

(a) Each pilot ladder must be capable of being rolled up for storage.

(b) Each ladder when rolled up must be able to unroll freely and hang vertically.

(c) Each suspension member must be arranged so that, when the ladder is in use on a vessel, the suspension member cannot come in contact with the vessel's side.

(d) Each step must be arranged so that it can bear on the side of the vessel when the ladder is in use.

§ 163.003-17 Strength.

(a) Each pilot ladder must be designed to pass the approval tests in § 163.003-21.

§ 163.003-21 Approval tests.

(a) General. Each approval test must be conducted on a ladder of the longest length for which approval has been requested. If the ladder fails one of the tests, the cause of the failure must be identified and any needed design changes made. After a test failure and any design change, the failed test, and any other previously completed tests affected by the change, must be rerun. Any ladder step that has a residual deflection after testing under this section may not be used thereafter in any ladder represented as Coast Guard approved.

(b) Visual examination. Before starting the approval tests, an assembled pilot ladder is examined for evidence of noncompliance with the requirements in § 163.003-11, 163.003-12, and 163.003-13.

(c) The following approval tests must be conducted:

(1) Step flexibility test. This test is performed on six different steps, one of which must be a molded step and one of which must be a replacement step if special replacement steps are made by the manufacturer. Each step is placed on a pair of supports located at the points where the step would ordinarily be attached to the suspension members. A static load must be applied uniformly for a period of at least one minute over a contact surface that is at the center of the step and is approximately 100 mm (4 in.) wide. The load must be 150 kg (330 lb.) for each molded step that is used only as one of the four bottom steps in the ladder. The load must be 320 kg (700 lb.) for each other step. The deflection of the step is measured while the step is under load and after the load is removed. The step must not deflect more than 20 mm (7/4 in.) under the load, and there must be no residual deflection after the load is removed.

(2) Strength test #2. An assembled ladder is supported so that a static load, if placed on any of its steps, would exert a force on both the step and each suspension member. A static load of 900 kg (2,000 lb.) is then placed on one step for at least one minute. The load must be uniformly distributed over a contact surface that is approximately 100 mm (4 in.) wide. The center of the contact surface must be at the center of the step. This test is performed on six different steps, one of which must be a molded step. None of the steps may break or crack. No attachment between any step and a suspension member may loosen or break during this test.

(3) Strength test #3. A rolled up ladder is attached to anchoring fixtures in a location away from any wall or structure that would prevent it from falling freely, and where it can hang to its full length vertically. The ladder, when dropped must unroll freely. When unrolling the ladder, its steps and attachments must not become cracked, broken, or loosened. Other similar damage making the ladder unsafe to use must likewise not occur.

(5) Step friction test. One step of each type used on a pilot ladder must be subjected to this test. This test compares the dry and wet surface friction characteristics of ladder steps with those of a standard oak step.

(i) The standard step must have a surface of clean oak that meets 8/ 163.003-11(b) and that is 115 mm (4 1/2 in.) wide by 400 mm (16 in.) long. The stepping surface must have grooves that are 3 mm (1/8 in.) deep and 3 mm wide. The grooves must run in two different directions at right angles to each other, and at 45 degree angles with each edge of the stepping surface, so that the grooves form a diamond pattern covering the stepping surface. The centers of all parallel grooves must be 13 mm (1/2 in.) apart.

(ii) The standard step must be set in a level position. A metal block must be placed on one end of the step so that the block is in contact with the stepping surface. The metal block must weigh between 1.5 kg (3.3 lb.) and 3.0 kg (6.6 lb.) and must not be more than 100 mm (4 in.) wide by 135 mm (5 in.) long. The surface of the block in contact with the step must have leather or composition shoe sole material attached to it.
The end of the step that has the metal block on it must be slowly raised until the block starts to slide. The angle of the step in this position must be measured and recorded. The step and block must then be placed under water and the procedure repeated.

The procedure in paragraph (c)(6)(iii) of this section must be repeated using a pilot ladder step in place of the standard step.

The ladder step must then be secured in a horizontal position with a block resting on its stepping surface. The block must be of a size similar to the one used in the previous tests and have the same shoe sole surface used in the previous tests. The block must be arranged to apply a vertical load of 40 kg (88 lb.) to the step. The block must then be moved back and forth in the same line from one end of the stepping surface to the other. This must be done for a total of 1,500 cycles.

The step must again be tested as described in paragraph (c)(6)(iii) of this section, except that the initial position of the block must be on a part of the stepping surface that was subjected to the 1,500 cycles of rubbing.

The angles at which the block starts to slide on a wet and dry ladder step when tested under paragraphs (c)(6)(iv) and (c)(6)(vi) of this section must be equal to or greater than the corresponding angles measured for the standard step when tested under paragraph (c)(6)(iii) of this section.

§ 163.003-25 Marking.

(a) Each pilot ladder step manufactured under Coast Guard approval must be permanently and legibly marked on the bottom with—

(1) The name of the manufacturer;
(2) The manufacturer's brand or model designation;
(3) The lot number or date of manufacture; and
(4) The Coast Guard approval number.

§ 163.003-27 Production tests and examination.

(a) General. Each ladder produced under Coast Guard approval must be tested in accordance with this section and Subpart 163.007 of this chapter. Steps that fail testing may not be sold as Coast Guard approved.

(b) Test No. 1: Steps. Steps must be separated into lots of 100 steps or less. Steps of different types must be placed in separate lots. One step from each lot must be selected at random and tested as described in § 163.003-21(c)(2) except that supports are placed under the step at the points where it would be attached to suspension members in an assembled ladder. If the step fails the test, ten more steps must be selected at random from the lot and tested. If one or more of the ten steps fails the test, each step in the lot must be tested. No step that has any residual deflection after the test may be placed in a ladder represented by the manufacturer as Coast Guard approved.

(c) Test No. 2: Ladders. Assembled ladders must be separated into lots of 20 ladders or less. One ladder must be selected at random from the ladders in each lot. The ladder selected must be at least 3 m (10 ft.) long or, if each ladder in the lot is less then 3 m long, a ladder of the longest length in the lot must be selected. The ladder must be tested as prescribed in § 163.003-21(c)(3) except that only a 3 m section of the ladder need be subjected to the static load. If the ladder fails the test, each other ladder in the lot must be tested.

(d) Independent laboratory. Each production test must be conducted or supervised by an independent laboratory. However, if a test is performed more than 4 different times per year, laboratory participation is required only 4 times per year. If the laboratory does not participate in all tests, the times of laboratory participation must be as selected by the laboratory. The times selected must provide for effective monitoring throughout the production schedule.

(e) Visual examination. The visual examination described in § 163.003-21(b) must be conducted as a part of each production test.

§ 163.003-29 Effective date and status of prior approval.

(a) Approval certificates for pilot ladders issued under Subpart 163.017 terminate on March 31, 1982.

(b) Applications for approval of pilot ladders under this subpart will be accepted on and after December 31, 1981.

(c) In previous regulations, pilot ladders were referred to as Type I—Rope Suspension Ladders.

Office of the Secretary

49 CFR Part 1

Organization and Delegation of Powers and Duties; Superfund

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: DOT delegates to appropriate Departmental officials functions vested in the Secretary by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and by Executive Order 12316, Response to Environmental Damage.

DATE: This amendment becomes effective December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, (202) 426-4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the Federal Register.

Executive Order 12316 of August 14, 1981 (46 FR 42237; August 20, 1981) delegates to various officials of the Executive Branch functions vested in the President by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (94 Stat. 2796; 42 U.S.C. 9615) ("Superfund"). A number of the functions are delegated to the Secretary of Transportation specifically and a number are delegated to the Secretary of the department in which the Coast Guard is operating (currently, DOT; in case of war or order of the President, Coast Guard transfers to the Navy under 43 U.S.C. 3). This document delegates to the Commandant of the Coast Guard the second type of functions and to other appropriate DOT officials the first type.

The functions of the second type are being delegated to the Coast Guard. Pursuant to section 8(f) of the Executive Order, a number of these functions have been delegated to the Administrator of the Environmental Protection Agency (EPA). A copy of the agreement between DOT and EPA on those functions appears below and the delegation to Coast Guard reflects this agreement.

Finally, one section of Superfund itself vests authority directly in the Secretary: § 108(c)(3), concerning denial of entry and detention of vessels not evidencing the financial responsibility required by § 108(c)(1); that is also delegated to the Coast Guard.

PART I—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. Section 1.46 is amended by adding at the end thereof the following new
§ 1.46 Delegations to Commandant of the Coast Guard.

The Commandant of the Coast Guard is delegated authority to—

* * * * * *


(g) Carry out the functions vested in the Secretary by sections 2(d), (f), and (g) of Executive Order 12319 insofar as they relate to—

1. Responses to releases or threats of releases from vessels;
2. Immediate removal action concerning releases or threats of releases at facilities other than active or inactive “hazardous waste management facilities” (as defined in 40 CFR 122.3), and
3. Immediate removal action concerning releases or threats of releases at active or inactive “hazardous waste management facilities” only when the Coast Guard On-Scene Coordinator determines that such action must be taken pending the arrival on scene of an Environmental Protection Agency On-Scene Coordinator. Unless otherwise agreed upon by EPA and Coast Guard, this authority will not be exercised unless the EPA OSC is scheduled to arrive on scene within 48 hours of notification of the release or threat.

As used in this paragraph, “immediate removal action” includes any removal action which, in the view of the Coast Guard On-Scene Coordinator, must be taken immediately to prevent or mitigate immediate and significant harm to human life or health, to the environment, or to real or personal off-site property. Situations in which such actions may be taken include, but are not limited to, fire, explosions, and other sudden releases; human, animal, or food chain exposure to acutely toxic substances; and the contamination of a drinking water supply. All functions listed in this paragraph include the authority to contract for, obligate monies for, and otherwise arrange for and coordinate the responses included within such functions.

2. Section 1.47 is amended by adding at the end thereof a new paragraph (m), to read as follows:

§ 1.47 Delegations to Federal Aviation Administrator.

The Federal Aviation Administrator is delegated authority to—

* * * * * *

(m) Carry out the functions vested in the Secretary by sections 4(a) and 5(c) of Executive Order 12316 of August 14, 1981 (46 FR 42237; August 20, 1981) (delegating sections 107(c)(1)(c) and 108(b), respectively, of the Comprehensive Environmental Response, Compensation, and Liability Act of 1981, Pub. L. 96-510), insofar as they relate to pipelines.

* * * * * *

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1067(e))

Issued in Washington, D.C., on December 16, 1981.

Andrew L. Lewis, Jr.,
Secretary of Transportation.

Instrument of Delegation

In accordance with Section 6(f) of Executive Order 12310 of August 14, 1981, the Secretary of the Department in which the Coast Guard is operating hereby redelegates to the Administrator, Environmental Protection Agency, subject to the Administrator's consent, all functions specified in sections 2(d), 2(f), 2(g), 2(h), and 4(b) of that Executive Order with the exception of the following:

a. Functions related to responses to releases or threats of releases from vessels;

b. Functions related to immediate removal action concerning releases or threats of releases at facilities other than active or inactive “hazardous waste management facilities” as defined in 40 CFR 122.3; and

c. Functions related to immediate removal action concerning releases or threats of releases at active or inactive “hazardous waste management facilities” when the Coast Guard On-Scene Coordinator determines that such action must be taken pending the arrival on scene of an Environmental Protection Agency On-Scene Coordinator. Unless otherwise agreed upon by EPA and Coast Guard, this authority will not be exercised unless the EPA OSC is scheduled to arrive on scene within 48 hours of notification of the release or threat.

For purposes of this instrument the term “immediate removal action” includes any removal action which, in the view of the Coast Guard On-Scene Coordinator, must be taken immediately to prevent or mitigate immediate and significant harm to human life or health, to the environment, or to real or personal off-site property. Situations in which such action may be taken include, but are not limited to, fire, explosions, and other sudden releases; human, animal, or food chain exposure to acutely toxic substances; and the contamination of a drinking water supply.

All functions described in this instrument, whether redelegated or retained, include the authority to contract for, obligate monies for, and otherwise arrange for and coordinate the responses included within such functions.

Andrew L. Lewis, Jr.,
Secretary of Transportation.

October 2, 1981.

I hereby consent to the redelegation as set forth in this instrument.

Anna M. Gorsuch,
Administrator.

October 9, 1981.

[FR Doc. 81-30764 Filed 12-30-81; 8:45 am]
DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
50 CFR Part 17
Endangered and Threatened Wildlife and Plants; Kangaroos; Effect of Final Decision To Permit Commercial Importation
AGENCY: Fish and Wildlife Service, Interior.
ACTION: Notice of interpretation.
SUMMARY: On April 29, 1981, the Service published in the Federal Register (46 FR 23929) a notice of final agency action authorizing the importation for commercial purposes of hides and parts of the red kangaroo (Macropus rufus), the eastern gray kangaroo (Macropus giganteus), and the western gray kangaroo (Macropus fuliginosus), species listed as threatened pursuant to the Endangered Species Act of 1973, 50 CFR 17.42. By this notice the Service notifies the public of the effect of the April 29, 1981 action in terms of interstate commerce in red, eastern gray, and western gray kangaroo hides and parts. ADDRESSES: Questions concerning this notice may be addressed to Director (CES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.
SUPPLEMENTARY INFORMATION: The red, eastern gray, and western gray kangaroos were listed as threatened pursuant to the Endangered Species Act of 1973 on December 16, 1974 (49 FR 44900). This listing prohibited the commercial importation of these kangaroos [50 CFR 17.40(a)(1)(i)], and also prohibited interstate commerce in unlawfully imported kangaroo [50 CFR 17.40(a)(1)(ii)]. Since the red, eastern gray, and western gray kangaroo are foreign species, the effect of the regulation was to make unlawful both importation of, and interstate commerce in, these species.
At the time of the listing, however, it was stated [50 CFR 17.40(a)(1)(i)(B)] that:
Upon receiving from the Australian Government a certificate that (1) a particular Australian state has developed an effective sustained-yield program for such wildlife and (2) the taking of such wildlife in that state will not be detrimental to the survival of the species or subspecies of which such wildlife is a part, the Director may, consistent with the purposes of the Act, permit by publication in the Federal Register the commercial importation of any such wildlife originating from the state. . . .
In an April 29, 1981 Federal Register notice (46 FR 23929), the Service announced that the Australian States had met the conditions of 50 CFR 17.40(a)(1)(i)(B) for resuming commercial trade with the United States in the three kangaroo species. Commercial importation of kangaroo from these states was therefore permitted provided certain conditions relating to point of entry were met. Since the prohibition against interstate commerce applies only to unlawfully imported kangaroo and importation is now lawful, interstate commerce in these species is now also lawful. See 50 CFR 17.40(a)(1)(i)(i)(ii).
The Service thus interprets its April 29, 1981 action as authorizing, pursuant to an exemption provided for by regulation, [50 CFR 17.40(a)], the importation of, and interstate commerce in, the red, eastern gray, and western gray kangaroo.
G. Ray Amett, Assistant Secretary of the Interior.
[FR Doc. 81-37230 Filed 12-1-81; 8:45 am]
BILLING CODE 4310-55-M
DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Parts 611 and 675
Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area
AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.
ACTION: Final rule.
SUMMARY: NOAA issues a final rule implementing the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The FMP governs fishing for groundfish by United States and foreign fishing vessels in those parts of the Bering Sea and Aleutian Islands area that are subject to Federal fishery management jurisdiction under the Magnuson Fishery Conservation and Management Act. This action is necessary to assure optimum utilization while preventing overfishing of groundfish resources, and to ensure the regular collection of reliable information concerning the developing United States groundfish fishery. It is expected that this action will accomplish these objectives and that experience gained in applying the rule will provide insights concerning ways in which the efficiency and effectiveness of this fishery's management can be improved.
EFFECTIVE DATE: January 1, 1982, for all sections except §§ 611.93(d), 675.4, and 675.5(a). Section 675.4, Federal permits, and § 675.5(a), domestic reporting requirements, are not effective until February 1, 1982. Notice of the effective date of § 611.93(d) will be published later in the Federal Register.
ADDRESSES: Communication concerning this rule may be addressed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.
FOR FURTHER INFORMATION CONTACT: Robert W. McVey, (907) 586-7221.
SUPPLEMENTARY INFORMATION:
Introduction
On October 19, 1979, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator) preliminarily approved the fishery management plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) under section 304 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, 90 Stat. 331, as amended, 16 U.S.C. 1801 et seq., (Magnuson Act)). The FMP had been prepared by the North Pacific Fishery Management Council (Council) under Magnuson Act sections 302 and 303 to govern fishing for groundfish by United States and foreign vessels in the fishery conservation zone (FCZ) of the Bering Sea and of that part of the North Pacific Ocean adjacent to Alaska west of 170° W, longitude. The FCZ, over which the Magnuson Act extends the exclusive fishery management authority of the United States, includes ocean areas lying between the seaward boundary of the State of Alaska (the "three-mile limit") and a line each point of which lies two hundred miles from the baseline used to measure the territorial sea, except for those areas lying west of the United States-Russia Convention line of 1867. The Assistant Administrator, acting under a delegation of authority from the Secretary of Commerce, has primary authority under the Magnuson Act for regulating fisheries carried out in the FCZ by all United States and foreign vessels. In addition, a State may enforce regulations consistent with those of the Assistant Administrator governing fishing in the FCZ by vessels "registered under the laws" of that State.
Pursuant to Magnuson Act section 305(a), the Assistant Administrator published the FMP and proposed regulations to implement the FMP in the
Federal Register on November 19, 1979, inviting public comments on both the FMP and the proposed regulations for 45 days ending January 18, 1980 (44 FR 69356). In light of the comments received and other information obtained following publication of the FMP and proposed regulations, the Assistant Administrator decided that a revised draft environmental impact statement (EIS) should be prepared on the proposed implementation of the FMP under the National Environmental Policy Act. The revised draft EIS was released for public review and filed with the Environmental Protection Agency on September 19, 1980. A final EIS, based upon the draft, the public comments received on the draft, and other information obtained since the release of the draft, was released and filed on November 20, 1981.

In addition to the original FMP, the EIS deals with certain amendments to the FMP that have been adopted or considered by the Council. These include Amendments 1- and 2, discussed further below. Public comments on these amendments to the FMP and proposed implementing regulations were published for a 45-day comment period on October 29, 1981 (46 FR 35275).

A draft regulatory analysis (RA) on implementation of the FMP was prepared in accordance with Executive Order 12044, 43 FR 12281 (March 24, 1978). Subsequently, Executive Order 12044 was superseded by Executive Order 12291, 43 FR 13193, February 18, 1988, requiring the preparation and submission to the Office of Management and Budget (OMB) of a regulatory impact analysis (RIA) on any "major rule." In addition, the Regulatory Flexibility Act (Pub. L. 95-213, 94 Stat. 696, 5 U.S.C. 601 et seq.), requiring the preparation of a regulatory flexibility analysis (RFA) on any rule which has been determined by the Administrator of NOAA "have a significant economic impact on a substantial number of small entities" took effect on January 1, 1981.

Under interim procedures required by the National Marine Fisheries Service (NOAA) to implement Executive Order 12291 and the Regulatory Flexibility Act, a regulatory impact review (RIR) was prepared that analyzed the extent to which this final rule may be burdensome or would significantly impact a number of small business entities. On the basis of this analysis, the Administrator has determined that the final rule is not major under Executive Order 12291 and is not significant within the meaning of the Regulatory Flexibility Act.

The Assistant Administrator, upon consideration of the comments received on the notice of proposed rulemaking:

1. Treatment of "Prohibited Species" Under the FMP

The most controversial issue that was considered by the Council and the Assistant Administrator during the development and review of the FMP was whether and what kinds of restrictions should be imposed on foreign groundfish operations for the protection of "prohibited species." In addition to the restrictions imposed for that purpose by current regulations on foreign fishing operations in the FCZ generally.

The groundfish species of the Bering Sea and Aleutians that are the primary targets of the fishery governed by the FMP are commingled throughout their range, and particularly in the eastern Bering Sea, with salmon, halibut, king crab, and Tanner crab, as well as with a wide variety of other marine life. The trawl gear that currently provides the most efficient means of exploiting most groundfish in the area, particularly the vast pollock stocks, is unselective, catching all forms of marine life that it encounters, whether or not it is a target groundfish species. Because of the close association of the target groundfish species with other forms of marine life, the Council and Assistant Administrator could have included the "incidental catch" of all those other marine life forms, except for marine mammals, in the fishery covered by the FMP under the wide discretion granted them by Magnuson Act section 308, which defines the term "fishery" as one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of "geographic, scientific, technical, recreational, and economic characteristics," and "any fishing for such stocks." Once the incidental catch of these other marine life forms was included as part of the "fishery," it would have constituted part of the "optimum yield" (OY) of the fishery, to be allocated between United States and foreign vessels in a manner related to their respective expected harvests of the target groundfish species. In fact, the FMP treats the great majority of the marine life that is caught incidentally to the target groundfish species in just this way, it divides them into "other species," which have some commercial value, to which a single OY figure applies, and "nonspecified species," a residual category of creatures having little or no current commercial value, the OY for which is defined as the amount actually taken...
incidentally to the harvest of the “target” and “other” groundfish species. Both types of species, like the target groundfish species, may be retained when caught.

While the Magnuson Act would have permitted similar treatment of salmon, halibut, king crab, and Tanner crab, both the Council and the Assistant Administrator have determined as a matter of policy that they should be treated more stringently. Unlike most of the other species that are caught incidentally to the groundfish fishery, each of these four types of fish is the target in its own right of one or more other fisheries which are extremely lucrative to the United States fishermen. In addition, they are so valuable in comparison to the target groundfish species that there is strong reason to believe that vessels ostensibly fishing for groundfish would begin to target on the salmon as soon as they were allowed to be retained.

In recognition of this situation, which also exists for other species in other regions of regulation, 50 CFR 611.13 designates a category of “prohibited species” which may not be targeted upon, the incidental harvest of which must be minimized, and which may not be retained. A species may be declared “prohibited” to foreign vessels by excluding it from the “fishery” to which a FMP applies, so that its incidental harvest in that fishery does not form a component of that fishery’s OY. Because no OY figure is recognized for the species in that fishery, none of it can be allocated as part of the total allowable levels of foreign fishing (TALFF) for that fishery, and it is a prohibited species to that fishery.

Until 1981, salmon, halibut, Tanner crab and king crab, as well as several fish of lesser importance, were treated as prohibited species and made subject to the requirements of 50 CFR 611.13 without any additional limitations. Foreign vessels in the groundfish fishery were therefore required only to minimize their incidental catch of these species and to return them to the seas with a minimum of injury regardless of condition. In addition, certain time and area closures, such as those of the Bristol Bay Pot Sanctuary and the Winter Halibut Savings Area, were imposed partly to reduce incidental catches of crab and halibut.

During 1979 and 1980, however, it appeared that the incidental catch of chinook salmon in the groundfish fishery had risen sharply. This gave rise to concern by residents of western Alaska, who harvest these salmon for commercial and subsistence purposes when they return to spawn in the Yukon and Kuskokwim river systems that the continuation of the foreign groundfish fishery in the Bering Sea without further restrictions would endanger the Alaskans' livelihood. Through administrative and judicial means, they sought unsuccessfully to have the eastern Bering Sea closed to foreign groundfish trawling between October and March, the period when the concentration of Alaska salmon in that area is highest. Subsequently, they entered into negotiations with representatives of the Japanese groundfish trawl industry to arrive at mutually agreeable measures for further limitation and reduction of the incidental chinook salmon catch. They agreed upon a system by which an area of the central Bering Sea would be closed for the winter to trawling after a certain annual amount of salmon had been caught incidentally by the foreign groundfish fleet. This amount was 65,000 fish for calendar year 1981 and 55,250 fish for 1982. The Council adopted this agreement as Amendment 1a to the FMP. Proposed rules to implement the amendment were published on October 9, 1981 (46 FR 53475).

Concurrently with the controversy and negotiated settlement concerning the incidental catch of salmon, the Council has been considering more comprehensive and permanent proposals for the long term reduction of prohibited species incidental catches. At its meeting of September 24-25, 1981, the Council adopted Amendment 3 to the FMP, prescribing management standards and procedures designed for this purpose, and treating halibut, king crab, and Tanner crab, as well as salmon. 2. Treatment of Herring Under the FMP

Pacific herring is an unavoidable incidental catch in the groundfish trawl fishery of the Bering Sea and Aleutian Islands Area, particularly in the eastern Bering Sea. From 1977 through 1978, foreign vessels were allowed to catch and retain Pacific herring under the FMP’s herring regulations. However, the U.S. District Court in Alaska nullified the FMP’s herring regulations, and there has been no foreign fishery for herring in 1980 or 1981. Instead, herring have been treated as a prohibited species.

The Assistant Administrator has determined that the herring provisions of the FMP will remain in effect when this Bering Sea and Aleutian Islands Area groundfish FMP is implemented. Because data on the herring stock are scanty when the herring are offshore, the special reporting requirements under the FMP are retained in § 611.95(d) of these final regulations, and expanded to include the reporting of retained “non-specified species.” This section requires foreigners to notify the U.S. Coast Guard when they enter or leave the geographic area in which herring congregate during September through April, and to provide weekly reports of the herring catch, even though herring must be discarded.

The Council is preparing an FMP for herring. It probably will limit offshore harvest to the true incidental catch rate. A limited foreign fishery on herring may be allowed in special circumstances.

3. The Effects of the Fishery Under the FMP on Marine Mammals and Birds and Endangered Species

In a biological opinion issued under section 7 of the Endangered Species Act of 1973, the Assistant Administrator concluded that implementation of the FMP would not jeopardize the continued existence of endangered whales in the Bering Sea and Aleutians, or their critical habitat. This opinion is included as part of the final EIS. The fishery, as it would be carried out under the FMP, would, however, have significant effects on other marine mammal species in the area, including pinnipeds and sea otters, which occur in great numbers. (Many of the marine mammals are relied upon for subsistence by Alaska Natives.) These effects are of two major kinds: direct injury of marine mammals by groundfish trawl gear, and food competition by the fishery with marine mammals. Like the other forms of marine life discussed above, marine mammals caught in groundfish trawl gear are unlikely to survive. Marine mammals feed on the target groundfish species, and there is evidence that their numbers in recent years have been lower than they would have been in the absence of the groundfish fishery. Both of the effects of the fishery appear to have had the greatest impact on the northern sea lion and the northern fur seal. The OY specifications for groundfish prescribed in the FMP have been depressed in order to reduce the level of food competition with marine mammals. In addition, the Assistant Administrator has determined, on the basis of information presented in the FMP and the (final EIS, that all marine mammals that are likely to be affected significantly by the fishery are at their optimum sustainable population (OSP) levels, and are not likely to be reduced to levels below OSP by the fishery as it would be conducted under the FMP. Fishery operations that are likely to result in the direct taking of marine mammals must be conducted under a certificate of inclusion issued by the Assistant Administrator under a general permit for the taking of marine mammals...
incidental to commercial fishing operations. The Assistant Administrator has therefore concluded that implementation of the FMP will comply with both the spirit and the letter of the Marine Mammal Protection Act of 1972. It is believed that the use of trawl gear, the Assistant Administrator has determined that a requirement that foreign vessels only trawl bottom in the area of groundfish trawling operations in the Bering Sea and Aleutians would reduce incidental catches of crab and flatfish. Almost all trawl gear currently in use in the Bering Sea and Aleutians remains in contact with the bottom during fishing operations. Despite the benefits of off-bottom trawl gear, the Assistant Administrator has determined that a requirement that it be used should not be included in the FMP at this time. Because flounders and other flatfish that are heavily relied upon by both the foreign and the United States groundfish fisheries cannot be caught with off-bottom trawl gear, it is highly likely that any off-bottom requirement extensive enough to have significant benefits would cause great economic distress to current participants in the fishery, and would leave flatfish resources largely unutilized. If an off-bottom requirement is found to be particularly helpful in limited areas, it might be imposed in such areas through later amendment of the FMP. The Assistant Administrator considers it more realistic to expect longline harvest of flatfish to substitute economically for trawling in such limited areas rather than in the entire fishery area. When more limited areas are subjected to an off-bottom requirement, foreign trawl vessels already in the fishery can shift to other areas and foreign longline vessels already available to the fishery can intensify their efforts in the more limited areas without a massive dislocation of capital investment. An off-bottom requirement throughout the fishery imposed on United States fishing vessels would also seriously cripple United States efforts to establish a viable groundfish fishery. This would be contrary to the purposes of the Magnuson Act. Even if imposed in limited areas, an off-bottom trawl requirement would be difficult to enforce without greatly increased enforcement resources.

The FMP as adopted by the Council imposes certain restrictions on groundfish fishing by United States vessels in the Bristol Bay Pot Sanctuary and the Winter Halibut Savings Area. The FMP would allow United States vessels to trawl in the Pot Sanctuary only during open seasons for United States crab fisheries. It would allow United States fishing in the Savings Area between December 1 and May 31 only until the United States trawl catch of groundfish equaled 2,000 metric tons (mt); and would permit United States longlining landward of the 500 meter isobath only until the United States longline catch of groundfish, excluding halibut, equaled 2,000 mt. More stringent restrictions in foreign fishing would be imposed in each area.

Following adoption of the FMP by the Council, representatives of United States groundfish fishing interests protested against the proposed restrictions on United States fishing in the Pot Sanctuary and Savings Area. Following publication of the notice of proposed rulemaking, the Council voted to decrease the size of the Savings Area by eliminating the “Misty Moon” grounds south of the Pribilof Islands, and also voted to allow a closely monitored United States groundfish fishery in both the Pot Sanctuary and the Savings Area on a year-round basis. These changes to the FMP have been incorporated into Amendment 1, which is now under review by the Assistant Administrator. Even though Amendment 1 has not yet been approved, the Assistant Administrator has decided to accommodate the concern of the United States groundfish industry, and the Council’s intent by deleting from this final rule any provisions that would implement the current restrictions in the FMP on United States fishing in both the Pot Sanctuary and Savings Area. Restrictions on foreign fishing in the “Misty Moon” grounds also are deleted.

Four amendments to the FMP have thus far been adopted by the Council and submitted to the Secretary for approval. Amendment 1 puts the OY specification for target and “other” groundfish species on a multispecies basis, with provision for fluctuation from year to year in the total OY and the allowable catch of each species group. Amendment 2 also increases the authority of the Secretary to impose in-season time and area closures; revises the estimates of DAH; changes the restrictions on United States fishing in the Pot Sanctuary and Savings Area, as described above, as well as reducing the size of the Savings Area; and specifies that the fishing year under the plan is the same as the calendar year.

Amendment 1a incorporates into the FMP the measures for reducing the salmon incidental catch, described above. Amendment 2 changes certain allowable catch specifications for Pacific cod and yellowfin sole, reflecting recent increases in the United States harvest of those species. Amendment 3 introduces to the FMP the comprehensive management measures for conservation of prohibited species discussed above.

The Assistant Administrator has not yet completely evaluated Amendments 1 and 3, or the scientific information on which they are based. He has concluded, however, that there is nothing in the information upon which these amendments were based that would render the FMP, as implemented by this final rule, inconsistent with the Magnuson Act or other applicable law,
even if that information is eventually accepted by the Assistant Administrator as the best available scientific information. Except for Pacific cod and yellowfin sole, the data on stock condition upon which Amendment 1 is based would support the OY level currently specified in the FMP. The DAH figures set forth in Amendment 1 can, with the exception of the figures for these two species, be effected through the FMP’s current flexible system of reserve releases, a fact that has been demonstrated by practice under the FMP. As was discussed above, the incidental catches of halibut, king crab, and Tanner crab have not presented the same problems as those of salmon in recent years, so that the FMP can be implemented before the approval and implementation of Amendment 3 without the serious risk of harm to these species.

In contrast with Amendments 1 and 3, Amendments 1a and 2 respond to significant changes in relevant information about the fishery that have occurred since the FMP was adopted by the Council. While opinions on the urgency of the two amendments, particularly Amendment 1a, have differed, the Assistant Administrator considers both of them, in light of the new information, to be highly desirable additions to the FMP that should be implemented as soon as possible. The Assistant Administrator has evaluated the new information upon which these two amendments are based in his consideration of similar amendments to the FMP, which he has implemented, and has found that information to be the best scientific information available. Amendments 1a and 2, published as proposed rules on October 29, 1981 (46 FR 53475) will be implemented early in the current year.

More detailed discussion of these general issues, as well as others that were raised in the course of the FMP’s development and consideration, can be found in the final EIS and the RIR, as well as in the FMP itself and its amendments. All of these documents are available free of charge upon request from the Regional Director at the address listed above.

Responses to Specific Comments on the Notice of Proposed Rulemaking

In response to the notice of proposed rulemaking, the Assistant Administrator received comments on the FMP and proposed rules from ten interested persons, agencies, and organizations. The substantive points raised in these comments will now be addressed. The names of those submitting each comment appear after the comment, in parentheses.

(1) Comment: The eastern Bering Sea should be closed to foreign trawling from November 1 through March 1 to reduce the incidental catch of salmon. (Nunam Kitlutsisti)

Response: Amendment 1a to the FMP responds to this concern as was discussed above. Nunam Kitlutsisti is a party to the agreement with the Japanese trawl industry upon which Amendment 1a is based.

(2) Comment: The original FMP’s restrictions on fishing by United States vessels in the Pot Sanctuary and Halibut Savings Area are so stringent as to threaten the development of United States groundfisheries, and should be relaxed. (Stuart Fisheries, Marine Resources Company, Daniel E. Webster, Marine Construction and Design Company)

Response: The Council has voted to relax the original FMP’s restrictions on United States fishing in the Pot Sanctuary and Savings Area, as was discussed above, and the new measures are part of Amendment 1. Pending approval and implementation of Amendment 1, the restrictions currently contained in the FMP will not be implemented by this final rule.

(3) Comment: The OY for Pacific cod should be raised in light of a recent increase in abundance. (Japanese fishing industry)

Response: Amendment 2 raises the Pacific cod OY.

(4) Comment: The OY for the fishery, and particularly the pollock component of the OY, should be increased. (Government of Japan; North Pacific Fisheries Development Association of Korea)

Response: Given the best available scientific information, as determined by the Council and the Assistant Administrator, and the objectives of rebuilding depleted stocks and minimizing the impact of the groundfishery on other components of the ecosystem, the OY specifications of the FMP as modified by Amendment 2 are appropriate.

(5) Comment: A separate pollock OY should not be specified for the Aleutians. (Government of Japan)

Response: The Assistant Administrator has concluded that there is good evidence supporting the contention that the deep-water pollock resource found in the Aleutians is a separate stock. Therefore, a separate OY for this stock should be specified for the time being.

(6) Comment: The DAH specifications contained in the FMP are too high. (Government of Japan, North Pacific Longline-Gillnet Association)

Response: While the DAH specifications are generally much higher than the amounts of fish actually taken by United States fishermen in previous years, the erratic situation of the United States fishery and the sudden spurts of growth that have occurred in the past due to joint ventures or other markets make initial high DAH specifications reasonable. If, in the course of the year, these amounts are not taken by United States vessels, the unused portions may be reassigned to TALFF.

(7) Comment: Because the DAH specifications are too high, there should be no reserves if DAH is left at the current level. (Government of Japan)

Response: See response to the immediately preceding comment. It has already proved necessary to supplement DAH for yellowfin sole, pollock, Atka mackerel, and “other species” with reserves under the identical provisions of the FMP.

(8) Comment: The FMP’s provisions for transferring unused DAH and reserves to TALFF are desirable. (Government of Japan, North Pacific Longline-Gillnet Association)

Response: Comment noted.

(9) Comment: The introduction of the “unspecified species” component of OY is desirable. (Government of Japan, North Pacific Longline-Gillnet Association)

Response: Comment noted.

(10) Comment: The FMP’s establishment of a longline sanctuary is desirable. (North Pacific Longline-Gillnet Association)

Response: Comment noted.

(11) Comment: The foreign longlining restrictions in the Savings Area are unduly severe, because longlining results in a lower incidence of halibut than other fishing methods and most of them are returned to the sea alive and in good condition. (North Pacific Longline-Gillnet Association)

Response: The Council and the Assistant Administrator regard protection of halibut in the Savings Area to be so important as to make even the limited foreign longline incidental catch undesirable. This is particularly so in light of the poor condition of the halibut resource in the Bering Sea and the relaxation of the restrictions on United States trawling originally contained in the FMP.

(12) Comment: A foreign nation’s longline fishery should not be closed when that nation’s allocation of “other species” is taken, because longline fisheries do not take any of the “other species” except for sculpins. This
provision fails to reflect the transfer of the "nonspecified species" category. (North Pacific Longline-Gillnet Association)

Response: Comment accepted. The reference to "other species" in the FMP and regulatory provisions on fishery closure should have been changed as part of the introduction of the "nonspecified species" category, and appropriate changes are made in these final rules.

(13) Comment: The 500 meter isobath, which the FMP specifies as a boundary between open and closed fishing areas, is difficult to comply with and enforce, as there is no corresponding contour depicted on nautical charts. It should be replaced with specified distances from shore or geographically defined zones. (U.S. Coast Guard)

Response: This problem will be brought to the attention of the Council. While the Assistant Administrator cannot unilaterally make the suggested changes, and while the problem does not appear to warrant further delay in the FMP's implementation, this difficulty is worthy of prompt investigation.

(14) Comment: Prohibited species mortality would be reduced if the FMP either imposed a time limit within which catcher vessels must deliver cod ends to mother ships, or required that each catcher vessel sort its own catch for prohibited species before delivering it to a mother ship. (U.S. Coast Guard)

Response: The Assistant Administrator has considered such measures both for this and other fisheries. He has concluded both that such requirements would be extremely difficult to enforce and that the additional duties they would impose on foreign fisheries would be far out of proportion to any reduction in prohibited species mortality. Most salmon and halibut mortality seems to occur soon after the cod end is brought aboard the catcher vessel as a result of crunching, and could not be prevented even by prompt sorting of the catch.

(15) Comment: The FMP should require that foreign vessels provide a certified hold plan to enforcement personnel; and that they contain more prominent identifying markings. (U.S. Coast Guard)

Response: Both of these requirements are desirable. They are, however, relevant to enforcement needs nationwide and will be addressed by the Assistant Administrator on a more comprehensive basis.

(16) Comment: The rule's definition of "vessel of the United States" should be changed to include any vessel documented under the laws of the United States; any vessel numbered by a State or the Federal government under the Federal Boat Safety Act of 1971; and any non-powered vessel owned by a United States national and operated from a United States port. (U.S. Coast Guard)

Response: The rule's definition of "vessel of the United States" includes any vessel documented or numbered by the Coast Guard and any vessel which is "registered under the laws of any State." The comment appears to reflect an erroneous assumption that "registration" under State law is limited to vessel numbering by States under the Boat Safety Act. This is not the case, and the Assistant Administrator, as well as certain courts that have addressed the matter, have treated State "registration" under the Magnuson Act to include a broader range of the State fishing vessel licensing. One change that will be made to conform the rule to the definition of this term in the foreign fishing regulations is to clarify that registration under the laws of a State alone will make a vessel a "vessel of the United States" only if it weighs less than five net tons, and is therefore not subject to Federal registration.

(17) Comment: Both United States fishermen and enforcement personnel would benefit if fishermen were advised to monitor Channel 16, VHF-FM, or 2182 KHz for instructions; and if it were made clear that visual signals might also be used. (U.S. Coast Guard)

Response: Comment accepted. The suggested changes have been made.

(18) Comment: Formal constraints should be placed upon the discretion of the Regional Director to delegate his authority under the rule. (Steuart Fisheries)

Response: Since ultimate responsibility lies with the Secretary of Commerce, the proposed provision has been deleted from the final regulations.

(19) Comment: It is unclear whether the permit for a United States vessel to take part in the fishery remains valid if there is a change of ownership or gear, or if the vessel is chartered. (Steuart Fisheries)

Response: United States vessel permits for the fishery do not specify or restrict the kind of gear to be employed. A charterer of a permitted vessel does not require a new permit. The Regional Director must be notified within thirty days of a change of ownership, or of any other fact set forth in the permit application, but the permit will remain in effect unless the Regional Director takes affirmative action to revoke it.

(20) Comment: The Magnuson Act authorizes only the revocation of foreign vessel permits. To allow the revocation or suspension of a United States vessel permit for use of the vessel in the commission of a violation of the Magnuson Act would allow the government to impose a drastic penalty for minor violations or violations based on honest differences in interpretation. (Steuart Fisheries)

Response: 30 CFR Part 621, Subpart D, governs the imposition of penalties under the Magnuson Act. Section 621.51(c) specifically provides that sanctions may be imposed on United States vessel permits. Neither section 303(b)(1) nor any other provision of the Magnuson Act limits the agency's authority to impose such sanctions on United States vessels. An entire section of the Magnuson Act, section 204, is devoted to foreign vessel permits, and this section provides for many details, including imposition of permit sanctions, that are left to the agency's discretion under the very general provisions of section 303(b)(1). United States participants in this fishery who commit serious violations of the Magnuson Act and this rule will be subject to permit sanctions, seizure and civil forfeiture, civil penalties, and criminal prosecution to the same extent as serious foreign violators. Each type of sanction is imposed only through administrative and judicial procedures, including opportunities for formal hearings, designed to ensure, among other things, that the penalty is proportionate to the seriousness of the violation.

(21) Comment: Because the State of Alaska might change the information required on its fish tickets, the rule should specify exactly what information fishermen must report for Federal purposes, rather than simply requiring submission of a State of Alaska fish ticket or equivalent document. (Steuart Fisheries)

Response: Because of the State of Alaska's expertise in collection of fishery data, the Assistant Administrator considers it advisable to retain the flexibility to implement improvements in the fish ticket form without amendment of the rule. Such changes would, however, be subject to the safeguards of the Paperwork Reduction Act of 1980.

(22) Comment: The requirements that United States fisherman submit catch reports within one week after sale or delivery and that United States processors submit reports on fish handled by them are excessively burdensome and unnecessary. (Steuart Fisheries)

Response: The Assistant Administrator disagrees with these assertions. The lack of data on the groundfish stocks subject to this fishery
provides the greatest obstacle to its sound conservation and full utilization. In season management measures and decisions on allocation among United States and foreign fishermen require that the progress of the fishery be closely monitored. It is imperative, therefore, that timely, accurate information on their catches be provided by United States fishermen. Most businesses maintain weekly records and therefore should be able to provide catch information within one week, if not sooner. Failure of United States fishermen to report their catches fully will merely increase the size of the allocations to the foreign fishery, for lack of evidence that the resource is being used by United States fishermen. Reports by United States fish processors on the amount of fish utilized by them is necessary for a determination of the amount of United States-harvested fish, if any, that can be made available to foreign processing vessels through joint ventures.

(23) Comment: The rule should clearly state that information required to be submitted under it is subject to the Magnuson Act's confidentiality requirements and that such information will not be used for enforcement purposes. (Steuart Fisheries)  
Response: Information required to be submitted under this rule is subject to the confidentiality provisions of Magnuson Act section 306(d) and of 50 CFR Part 603. Nothing in these provisions forbids the use of such information by NOAA for enforcement purposes, and it will be so used to the extent consistent with other law.

(24) Comment: The rule's requirement that prohibited species be avoided and that the catch be sorted as soon as possible is unrealistic. In addition, the rebuttable presumption that any prohibited species on board was caught and retained in violation of the rule could result in penalties for a species that was on board only a short time after a catch was retrieved. The only rebuttable presumption authorized by the Magnuson Act is that of section 310(3) relating to civil forfeiture of vessels or catch. (Steuart Fisheries)  
Response: The requirements on avoidance and sorting of prohibited species contained in the rule have been applied successfully in the foreign fishery for several years and are the backbone of the effort to minimize the impact of the groundfish fishery on these species. If anything, more stringent measures can be expected to be imposed on both foreign and United States participants in the groundfish fishery in future years. The rebuttable presumption that prohibited species found on board were taken and retained in violation of the rule is in addition to and distinct from the statutory presumption of Magnuson Act section 310(3) that all fish on board a seized fishing vessel were taken or retained in violation of that act. It should be apparent that the presumption would be rebutted if the prohibited species in question had just been brought on board with a groundfish catch before a reasonable time for sorting the catch had passed.

(25) Comment: It is indefensible to halt all fishing for groundfish when the OY for any single species group has been attained. (Steuart Fisheries)  
Response: Because of the nonrenewable nature of most groundfish fishing gear, especially trawl gear, this measure is necessary for adequate conservation of the fishery. It has applied for years to foreign operations in this fishery and to both foreign and United States groundfish fisheries in the Gulf of Alaska.

(26) Comment: It is unfair to allow longlining to continue even after the OY for certain species has been attained when trawling must stop. (Steuart Fisheries)  
Response: This difference in the treatment of longline and trawl gear is based on the facts that longline gear is more selective than trawl gear and that a much higher percentage of the fish caught on longline gear can be returned to the sea in viable condition.

(27) Comment: The rule should specify the procedures other than publication in the Federal Register to be used to publicize field orders. The 48-hour notice currently provided for in the State procedures, which are referred to in the rule, is insufficient. Closures without full opportunity for prior public comment should be allowed only in cases of true emergency. (Steuart Fisheries)  
Response: The State of Alaska procedures for publicizing field orders have proven to be effective over a long period of time, and 48-hour notice of closures is sufficient to ensure that participants are adequately informed. The risk of closures on short notice is one that participants in any fishery, no matter how large, must be prepared to accept, due to the fluctuating characteristics of fishery resources. There is no reason to specify the State's procedures in detail in the rule, and this would simply make it more difficult for improvements in the procedure to be made. Closures by field order without prior public comment will be imposed only when there is "good cause" within the meaning of the Federal Administrative Procedure Act for not providing prior public notice and opportunity for comment.

Classification
As was discussed above, the NOAA Administrator has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, because it will not result (1) in an annual effect on the economy of $100 million or more; (2) in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (3) in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. By enhancing the long-term productivity of the groundfish fishery resources and thus increasing the long-term availability of this resource to U.S. and/or foreign fishermen and to consumers, this rule can be expected to enhance investment in, and the productivity of, the United States fishing industry. The Administrator has also certified that this rule will not have a significant economic impact on a substantial number of small entities, and thus does not require preparation of a regulatory flexibility analysis under 5 U.S.C. 603 and 604 of the Regulatory Flexibility Act.

The Administrator finds for good cause that it is impracticable, unnecessary, and contrary to the public interest to delay effectiveness of this rule for 30 days. That finding is based on the following:

1. A delay in the effective date of this rule would delay collection of information on amounts of fish being harvested by domestic fishermen, and would make impracticable timely reserve apportionments based on the best available information. Timely receipt of catch information from domestic fishermen is essential to the mission of NMFS, which must make a determination as early as February 2 concerning the need to supplement DAH with reserves. Without knowledge of the domestic harvest levels, amounts of fish may be declared surplus to domestic needs and allocated to TALFF. This could be harmful to the public if amounts of fish available to domestic fishermen prove inadequate and certain segments of the domestic fishery are prematurely closed.

2. The affected public has advance notice of this action, is generally familiar with it, and was afforded ample opportunity to participate in
development of the FMP—at public hearings and meetings of the North Pacific Fishery Management Council, and during the 45-day comment periods on the draft EIS and the proposed rulemaking. Domestic fishermen will be informed through news releases of the effective date of the final rule.

3. The affected public expects the implementation of the FMP through regulations effective January 1, 1982. Implementation on that date will greatly reduce uncertainty, will allow better planning by user groups, and will facilitate improved monitoring of the fishery. The regulations will be amended to reduce the incidental catch of Chinook Salmon.

Paperwork Reduction Act of 1980

This rule contains a number of collection of information requirements that are subject to comment and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501–3520). These requirements and the corresponding information collection request forms have either been approved or are being reviewed by the Office of Management and Budget under that Act.

National Environmental Policy Act

The final EIS discussed above, which was filed with the Environmental Protection Agency on November 20, 1981, treats the implementation of the original FMP and of all four amendments to it that have thus far been developed. As a result, it is not expected that further environmental analyses will be required when Amendments 1, 2, 3 to the FMP are implemented.

Dated: December 23, 1981.

E. Craig Felber,
Acting Executive Director, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 611 is amended and a new 50 CFR Part 675 is added, as follows:

PART 611—FOREIGN FISHING

1. The authority citation of Part 611 reads as follows:

Authority: 16 U.S.C. 1821 and 1855.

2. In Part 611, § 611.9, Appendix II, Figure 2 is revised as follows:

§ 611.9 Reports and recordkeeping.

Appendix II—Area Codes

BILLING CODE 3510–22–M
Figure 2. Fishing areas of the Bering Sea and Aleutian Islands.  

For the purposes of §611.4 only, and for the period September 1 through April 30, the term "fishing area" shall, for all foreign trawl vessels subject to the requirements of §611.93, also mean the area described in §611.93(d)(1). This area is represented by the cross-hatched portion of Fishing Area III, above.
4. Alaska Fisheries:
A. Bering Sea and Aleutian Islands Groundfish Fishery:

<table>
<thead>
<tr>
<th>Species</th>
<th>Area</th>
<th>OY</th>
<th>DAH</th>
<th>DAP</th>
<th>JVP</th>
<th>DNP</th>
<th>Res</th>
<th>TALFF</th>
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</thead>
<tbody>
<tr>
<td>Pollock</td>
<td>Bering Sea</td>
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<td>19,550</td>
<td>10,500</td>
<td>9,050</td>
<td>50,000</td>
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<td>250</td>
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<tr>
<td>Hake</td>
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</tbody>
</table>

4. In Part 611, § 611.93 is revised to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

(a) Purpose. (1) This section regulates foreign fishing for squid, octopus, and all species of flatfishes, except salmon, Pacific halibut, herring, and steelhead, within that portion of the Bering Sea, and that portion of the North Pacific Ocean adjacent to the Aleutian Islands west of 170° W. longitude, over which the United States exercises exclusive fishery management authority under the Act (hereinafter referred to as the "management area"). See § 611.9, Appendix II, Figure 2.

(b) Authorized fishery.—(1) TALFFs and reserves. (i) The OY, DAH, TALFF and reserve for target species and other species taken in the fishery are specified in § 611.20. Appendix I, Entry 4A. The TALFF for nonspecified species shall be any amount of such species taken incidentally to the harvest of the TALFF specified in § 611.20, Appendix I, Entry 4A, and of such amounts of the reserve and DAH specified therein as may be apportioned to TALFF.

(ii) Categories of species. Five categories of species are recognized for regulatory purposes in this fishery. They are set forth in Table 1.

Table 1.—Categories of Species Involved in the Bering Sea and Aleutian Islands Fishery

<table>
<thead>
<tr>
<th>Unallocated species 1</th>
<th>Target species 2</th>
<th>Other species 3</th>
<th>Non-specified species 4</th>
<th>Groundfish</th>
</tr>
</thead>
<tbody>
<tr>
<td>(\text{Salmonidae, Halibut, Herring, King Crab, Tanner Crab, Greyish Shrimp, Horsehair Crab, Lure Crab, Scallop, Snails, Dungeness Crab, Surf Clams.})</td>
<td>(\text{Pollock, Cod, Other flatfishes, Alka Mackerel, Salmon, Seabass, Turbot, Pacific Ocean perch, other rockfish, Yellowtail sole.})</td>
<td>(\text{Sculpins, Sharks, Skates, Eulachon, Smelts, Capelin, Octopus.})</td>
<td>(\text{All species not included in previous categories.})</td>
<td>(\text{Target, &quot;other&quot;, and non-specified species.})</td>
</tr>
</tbody>
</table>

1 Records must be maintained as required by § 611.9.
2 Records must be maintained.
3 Records must be maintained of the aggregate catches.
4 If non-specified species are retained, records must be maintained of the aggregate retained catches.

(A) The term "unallocated species" means for purposes of this section: shrimps (\(\text{Pandalidae}\)); scallops (\(\text{Pectinidae}\)); snails (\(\text{Gastropoda}\)), Pacific herring (\(\text{Clupea harengus pallasi}\)), salmons (\(\text{Salmonidae}\)), Pacific halibut (\(\text{Hippoglossus stenolepis}\)); king crab (\(\text{Paralithodes spp.}\)), Tanner crab (\(\text{Chionoecetes opilio, C. bairdi}\));

Dungeness crab (\(\text{Cancer magister}\)); corals (\(\text{Coelenterata}\)); surf clam (\(\text{Spisula solidissima}\)); horsehair crab (\(\text{Erimacrus isenbeckii}\)); and lyre crab (\(\text{Hya loratus}\)). Foreign allocations for these species exists, if at all, only under other fishery management plans.

(B) The term "other species" means: sculpins, sharks, skates; eulachon; smelts, capelin; and octopus.

(C) The term "nonspecified species" means all fish other than those specifically listed in paragraphs (b)(1)(i) through (b)(1)(ii) (A), (B), and (D) of this section.

(D) The term "target species" means pollock, Pacific cod, all flatfishes, Alka mackerel, sablefish, all rockfishes, and squids.
(E) "Groundfish" includes all fish listed in paragraphs (b)(1)(i), (b)(2), (C), and (D) of this section.

(2) Apportionment to TALFF of reserves and initial DAH.—(i) Apportionment of reserves. As soon as practicable after each of the following dates, and after consultation with the North Pacific Fishery Management Council, the Secretary shall apportion to TALFF up to one-fourth (1/4) of each reserve amount set forth at §611.20, Appendix J, Entry 4A, in accordance with paragraph (b)(2)(iii) of this section: February 2, April 2, June 2, and August 2.

(ii) Apportionment of initial DAH. As soon as practicable after each of the following dates, and after consultation with the North Pacific Fishery Management Council, the Secretary shall reassign each DAH amount set forth at §611.20, Appendix J, Entry 4A, and shall apportion to TALFF such parts thereof as he or she determines will be appropriate in accordance with paragraph (b)(2)(iii) of this section: June 2 and August 2.

(iii) Standards and Procedure for Apportionment.—(A) General. The Secretary shall apportion under paragraphs (b)(2)(i) and (b)(2)(ii) of this section such amounts as the Regional Director determines will not be harvested by vessels of the United States during the remainder of the calendar year. The amount of reserve which the Regional Director determines will be harvested by vessels of the United States may, at the discretion of the Secretary, be either apportioned to the estimate of domestic annual harvest (DAH) or retained in the reserve as eligible for later apportionment under paragraph (b)(2)(iii) of this section.

(B) Factors. In determining whether or not amounts proposed to be apportioned under paragraphs (b)(2)(i) and (b)(2)(ii) of this section will be harvested by vessels of the United States during the remainder of the fishing year, the Regional Director shall consider the following factors, although he or she shall not be limited to these factors:

(1) Reported United States catch and effort by species and area compared to previously projected United States harvesting capacity;

(2) Projected United States catch and effort by species and area for the remainder of the fishing year;

(3) Amounts of fish, particularly United States harvested fish, already purchased or processed by United States fish processors during the fishing year, compared to the previously projected processing capacity of United States fish processors;

(4) Projected processing capacity, and utilization of that capacity for the processing of United States harvested fish, by United States fish processors for the remainder of the fishing year; and

(5) Amounts of United States harvested fish already purchased or processed by foreign fishing vessels, compared to previously projected levels of such purchasing or processing.

(C) Allocation of increases and decreases in DAH among DAP, JVP, and DNP. The Secretary shall allocate any increases or decreases in DAH amounts resulting from apportionments under paragraphs (b)(2)(i) and (b)(2)(ii) of this section among the three components of DAH: the estimates of domestic annual processing (DAP); joint venture processing (JVP); and domestic non-processed fish (DNP).

(D) Public comment. (1) Comments may be submitted to the Regional Director concerning:

(1) Whether, and the extent to which, vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year; and

(2) Whether and the extent to which, United States harvested groundfish can, or will be processed by United States fish processors or by foreign processing vessels.

Comments should be addressed to Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802, and must be received by the Regional Director no later than 5 days before the relevant date specified in paragraph (b)(2)(i) or (b)(2)(ii) of this section. Any comments submitted in accordance with this paragraph in determining whether, and to what extent, vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year, and whether any part of such amounts will be allocated to TALFF under paragraphs (b)(2)(i) and (b)(2)(ii) of this section.

(2) The Secretary shall consider any timely comments submitted in accordance with this paragraph in determining whether, and to what extent, vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year, and whether any part of such amounts will be allocated to TALFF under paragraphs (b)(2)(i) and (b)(2)(ii) of this section.

(3) The Regional Director shall compile, in aggregate form, the most recent available reports on (1) level of catch and effort by vessels of the United States fishing for groundfish in the Bering Sea and Aleutian Islands fishery; and (2) amounts of United States-harvested groundfish taken in the Bering Sea and Aleutian Islands fishery and processed by United States fish processors or delivered at sea to foreign fishing vessels. These data shall be available for public inspection during business hours (8:00 a.m.-4:30 p.m., Monday-Friday) at the National Marine Fisheries Service Alaska Regional Office, Federal Building, Room 121, 709 West Ninth Street, Juneau, Alaska 99802, during the last 15 days of each comment period.

(E) Procedure. As soon as practicable after each of the dates specified in paragraphs (b)(2)(i) and (b)(2)(ii) of this section, the Secretary shall publish in the Federal Register:

(1) Any reserve amounts to be apportioned to TALFF or DAH;

(2) Any DAH amounts to be apportioned to TALFF;

(3) The distribution of amounts apportioned to or from DAH among DAP, JVP, and DNP;

(4) The reasons for any apportionments and their distribution; and

(5) Responses to any comments received.

(F) Add-on. If, following any of the first three of the four dates specified in paragraph (b)(2)(i) of this section, the Secretary apportions less than 25 percent of any reserve amount to TALFF and DAH, the nonapportioned part of that 25 percent shall be added to the reserve amounts available for apportionment on the next date specified in paragraph (b)(2)(ii) of this section.

(3) Fishing permitted. (i) The catching in the management area and retention of any groundfish for which a nation has an allocation is permitted, except as provided in this section.

(ii) Under the procedures of §611.15(c), the Regional Director shall notify the foreign nation(s) involved and the designated representative for any affected fishing vessel of a closure prohibiting fishing with specified gear types for any species or species group. The closure may be for all or part of the management area.

(A) Optimum yield. If the optimum yield (OY) for any species or species group except sablefish, turbot, or Pacific cod will be reached, the Regional Director shall prohibit fishing using trawl gear until January 1. If the optimum yield for sablefish, turbot, or Pacific cod will be reached, the Regional Director shall prohibit all fishing for sablefish until January 1.

(B) Total allowable level of foreign fishing. If the total allowable level of foreign fishing (TALFF) for any species or species group except sablefish, turbot, or Pacific cod will be reached, the Regional Director shall prohibit fishing using trawl gear by foreign vessels. If the TALFF for sablefish, Pacific cod, or turbots will be reached, the Regional Director shall prohibit fishing for groundfish by foreign vessels.

(C) Allocation of a nation. If the allocation of a nation for any species or species group except sablefish, turbot, or Pacific cod will be reached, the Regional Director shall prohibit fishing
using trawl gear by that nation. If the nation's allocation of sablefish, Pacific cod, or turbots will be reached, the Regional Director shall prohibit fishing for groundfish by all vessels of that nation.

(iii) On the effective date of a notice of closure from the Regional Director under the procedures of § 611.15(c), fishing by vessels of that nation is prohibited for the groundfish species or species groups, in the areas and during the periods stated in the notice. A notice of closure issued pursuant to paragraph (b)(3) of this section shall not apply to any receipt or processing by foreign vessels of United States-harvested fish, which is authorized by permit issued by the Department of Commerce under the Act. Foreign receipt and processing of U.S. harvested fish may continue until specifically prohibited under the restrictions prescribed in the applicable permit.

(iv) A notification pursuant to paragraph (b)(3)(ii) of this section shall expire: (A) On the effective date of a notification issued pursuant to § 611.15(c) resinding that previous notice; (B) when the time period stated in that notice expires; or (C) at midnight, Alaska Standard Time, or the following December 31, whichever is earlier.

(4) Fishing prohibited. Whether or not a nation receives a notice under paragraph (b)(3) of this section, fishing for groundfish by trawl vessels of a nation is prohibited when that nation’s national allocation for any groundfish species is reached; and fishing for groundfish by all vessels of a nation is prohibited when that nation’s national allocation for sablefish, Pacific cod, or turbots is reached.

c. Open and closed areas.—

(1) General. Foreign fishing for groundfish may be conducted beyond 12 nautical miles from the baseline used to measure the territorial sea in the entire management area, except as prohibited in this paragraph. No foreign vessels may engage in fishing within 12 nautical miles from the baseline used to measure the territorial sea, unless authorized in this paragraph.

(2) Trawling. (i) Trawling by foreign vessels between 3 and 12 nautical miles from the baseline used to measure the territorial sea is allowed west of 172°30' W. longitude, from May 1 through December 31, except in the area known as Petrel Bank, described in paragraph (c)(2)(ii)(E) of this section.

(ii) Trawling of groundfish prohibited in the areas and during the periods which follow:

(A) At all times in the Bristol Bay "Pot Sanctuary" which is the area enclosed by straight lines from Cape Sarichef light at 54°36' N. latitude, 164°55'42" W. longitude; to 55°16' N. latitude, 166°10' W. longitude; to 56°20' N. latitude, 163°00' W. longitude; to 57°10' N. latitude, 163°00' W. longitude; to 58°10' N. latitude, 160°00' W. longitude; then due south along 160°00' W. longitude to the Alaska Peninsula.

(B) At all times in the area between 37°2' W. longitude and 170°30' W. longitude and south of a line connecting the following coordinates in the order listed: 53°14' N. latitude, 172°00' W. longitude; 52°23' N. latitude, 176°00' W. longitude; 52°00' N. latitude, 178°00' W. longitude; and 52°00' N. latitude, 178°30' W. longitude.

(C) From December 1 through May 31 in the area bounded by straight lines connecting the following coordinates in the order listed: 54°38' N. latitude, 164°55'42" W. longitude (Cape Sarichef light); 52°40' N. latitude, 170°00' W. longitude; 55°30' N. latitude, 170°00' W. longitude; 55°30' N. latitude, 166°47' W. longitude; 36°00' N. latitude, 167°45' W. longitude; 36°00' N. latitude, 168°00' W. longitude; 36°00' N. latitude, 168°30' W. longitude; 52°20' N. latitude, 163°00' W. longitude; 55°16' N. latitude, 166°10' W. longitude, 54°36' N. latitude, 164°55'42" W. longitude (Cape Sarichef light).

(D) From January 1 through April 30 in the area west of 176°30' W. longitude and south of 55°00' N. latitude.

(E) From May 1 through June 30 between 3 and 12 nautical miles from the baseline from which the United States territorial sea is measured in the area known as Petrel Bank, bordered by straight lines connecting the following coordinates in the order listed: 52°51' N. latitude, 176°30' W. longitude; 52°51' N. latitude, 176°30' W. longitude; 51°15' N. latitude, 170°00' E. longitude; 51°15' N. latitude, 170°00' E. longitude; 52°31' N. latitude, 176°30' W. longitude.

(F) Limitation of salmon catch. [Reserved]

(3) Longlining. (i) Longlining by foreign vessels between 3 and 12 nautical miles of the baseline used to measure the territorial sea is allowed west of 172°30' W. longitude.

(ii) Longlining by foreign vessels is prohibited from December 1 through May 31 in water less than 500 meters deep in the area bounded by straight lines connecting the following coordinates in the order listed: 54°36' N. latitude, 164°55'42" W. longitude (Cape Sarichef light); 52°40' N. latitude, 170°00' W. longitude; 55°30' N. latitude, 170°00' W. longitude; 55°30' N. latitude, 166°47' W. longitude; 36°00' N. latitude, 167°45' W. longitude; 36°00' N. latitude, 168°00' W. longitude; 36°00' N. latitude, 168°30' W. longitude; 52°20' N. latitude, 163°00' W. longitude; 55°16' N. latitude, 166°10' W. longitude, 54°36' N. latitude, 164°55'42" W. longitude (Cape Sarichef light).

(a) Receipts of fish at sea. Foreign fishing vessels holding permits to receive U.S.-harvested fish may receive those fish in the management area between 3 and 12 nautical miles from the baseline from which the United States territorial sea is measured.

Receiving foreign-harvested fish in the 3 to 12 mile area is prohibited, except: (i) When the foreign vessel delivering the foreign-caught fish is authorized to harvest fish in the 3 to 12 mile area, or (ii) in the support operations areas designated in § 611.30(c)(2).

(d) Additional reporting requirements.—(1) Vessel reporting. During the period from September 1 through April 30, and for the purposes of the requirements of 50 CFR 611.4 only, the area bounded by the following coordinates is a "fishing area" for all foreign vessels fishing for groundfish under this § 611.03: 56° N. latitude, 175° W. longitude; 56° N. latitude, 172° W. longitude, 59°30' N. latitude, 172° W. longitude, 59°30' N. latitude, 175° W. longitude. (See § 611.9, Appendix II, Figure 2).

(2) Reports and recordkeeping. (i) In addition to the requirements of 50 CFR 611.9, the operator of each foreign fishing vessel fishing for groundfish in the management area and each nation whose vessel fish for groundfish in the management area shall also comply with all the requirements of § 611.9 for the prohibited species herring (code 209), even though discarded, and for non-specified species which are retained, by weight of fish to the nearest 1/10 (tenth) of a metric ton.

(ii)(A) During the period September 1 through April 30, and in addition to the requirements of § 611.9, each foreign nation shall submit, through the designated representative, a weekly report stating any catch of herring by trawl vessels in the area described in § 611.9(d)(1).

(B) The weekly report shall contain the following information:

(1) Name of vessel;

(2) Permit number;

(3) Effort in hours trawled, by each weekly reporting period, by vessel, by 1/4° (latitude) × 1° (longitude) of area fished.

(c) Catch of herring (code 209) to the nearest 1/10° (one-tenth) of a metric ton, by vessel, by each weekly reporting period, by 1/4° (latitude) × 1° (longitude) of area fished.

(C) The weekly report shall be received from the designated...
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Subpart A—General

§ 675.1 Purpose and scope.
(a) Regulations in this part govern fishing for groundfish by vessels of the United States within that portion of (1) the Bering Sea, and (2) the North Pacific Ocean adjacent to the Aleutian Islands west of 170°00' W. longitude, over which the United States exercises exclusive fishery management authority under the Act.
(b) [Reserved]
(c) [Reserved]
(d) These regulations implement the Bering Sea and Aleutian Islands groundfish fishery management plan developed by the North Pacific Fishery Management Council.

§ 675.2 Definitions.
In addition to the definitions in the Act, and unless the context requires otherwise, the terms used in this part shall have the following meanings (some definitions in the Act have been repeated here to aid understanding of the regulations):


ADFG means the Alaska Department of Fish and Game.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, United States Department of Commerce, or an individual to whom the Assistant Administrator for Fisheries has delegated appropriate authority.

Authorized Officer means:
(a) Any commissioned, warrant, or petty officer of the United States Coast Guard;
(b) Any certified enforcement or special agent of the National Marine Fisheries Service;
(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Act; or
(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Bering Sea and Aleutian Islands management area means the fishery conservation zone (FCZ) in the Bering Sea, and that portion of the FCZ in the North Pacific Ocean that is adjacent to the Aleutian Islands and west of 170°00' W. longitude.

(a) The Bering Sea sub-area of the management area means that portion of the FCZ contained in areas I, II, and III of Figure 1.
(b) The Aleutian Islands sub-area of the management area means that portion of the FCZ contained in area IV of Figure 1.

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Figure 1. Bering Sea and Aleutian Islands Management Area

(a) Bering Sea sub-area are areas I, II, and III.
(b) Aleutian Islands sub-area is area IV.
Fishery, for the purposes of this part, means all fishing for groundfish which is conducted in the Bering Sea and Aleutian Islands management area and adjacent territorial waters.

The Bering Sea sub-area of the fishery means areas I, II, and III of Figure 1.

(b) The Aleutian Islands sub-area of the fishery means area IV of Figure 1.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;
(b) The attempted catching, taking or harvesting of fish;
(c) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or
(d) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (a) fishing; or (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Groundfish means pollock, cod, any species of flatfish, Pacific ocean perch, other rockfish, sablefish, Atka mackerel, squid, octopus; all other marine invertebrates except shrimp, scallops, snails, king crab, Tanner crab, Dungeness crab, horsehair crab, lyre crab, coral, and clams; and all other finfish except salmonids, Pacific herring, and Pacific halibut. The scientific names of these species are as follows:

Pollock means Theragra chalcogramma;
Cod means Gadus macrocephalus;
Arrowtooth flounder means Atheresthes stomias;
Other flatfish means Pleuronectiformes (order) not specifically defined;
Yellowfin sole means Limanda aspera;
Rock sole means Lepidopsetta bilineata;
Flathead sole means Hippoglossoides elassodon;
Greenland halibut means Reinhardtius hippoglossoides;
Pacific ocean perch means Sebastes alutus, S. polypterus, S. aleutianus, S. borealis, and S. Zacentrus;
Atka mackerel means Pleurogrammus monopterygius;
Other rockfish means Scopaeidae (family) not specifically defined;
Sablefish means Anoplopoma fimbria; Squid means sepigid and teuthoid squid;
Octopus means Octopoda, not specifically defined;
Salmonids means of the family Salmonidae;
Pacific halibut means Hippoglossus stenolepis;
Pacific herring means Clupea harengus pallasi.

Landing means off-loading fish.

Longline means a stationary, buoyed, and anchored line with hooks or pots (other than king or Tanner crab pots) attached, or the taking of fish by means of such a device.

Operator, with respect to any vessel, means the master of other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;
(b) Any charterer of the vessel, whether bareboat, time, or voyage;
(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function or operation of the vessel; or
(d) Any agent designated as such by any person in paragraphs (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of such government.

Regional Director means Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1069, Juneau, Alaska 99802, or an individual to whom the Regional Director has delegated appropriate authority.

Secretary means the Secretary of Commerce, or his or her designee.

Trawl means a bag-shaped net dragged through the water to capture fish.

Vessel of the United States means (a) a vessel documented or numbered by the Coast Guard under United States law; or
(b) A vessel weighing less than five net tons which is registered under the laws of any state.

United States fish processors means facilities located within the United States for, and vessels of the United States used or equipped for, the processing of fish for commercial use or consumption.

United States-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated by a fishery management plan or preliminary fishery management plan implemented under the Act.

§ 675.3 Relation to other laws.

(a) Federal law. For regulations governing fishing by vessels of the United States for halibut, see the regulations of the International Pacific Halibut Commission. For regulations governing fishing for Tanner crab, see 50 CFR Part 671; for those governing fishing for groundfish in the Gulf of Alaska, see 50 CFR Part 672; for those governing salmon fishing off Alaska, see 50 CFR Part 674; for those governing permits and certificates of inclusion for the taking of marine mammals, see 50 CFR 216.24.

(b) State law. Certain responsibilities relating to the issuance of permits, data collection, and enforcement may be performed by personnel of the State of Alaska under an agreement with NOAA/NMFS and the United States Coast Guard.

§ 675.4 Permits.

(a) General. No vessel of the United States may fish for groundfish in the Bering Sea and Aleutian Islands management area without first obtaining a permit issued under this Part. Such permits shall be issued without charge.

(b) Application. A vessel owner may obtain a permit required under the preceding subsection by submitting to the Regional Director a written application containing the following information:

(1) The applicant's name, mailing address, and telephone number;
(2) The name of the vessel;
(3) The vessel's U.S. Coast Guard documentation number or state registration number;
(4) The home port of the vessel;
(5) The length of the vessel;
(6) The type of fishing gear to be used; and
(7) The signature of the applicant.

The Regional Director may accept a completed State of Alaska commercial
§ 675.5 Reporting requirements.
(a) Fishing vessel reporting requirements.—(1) Port of Landing outside Alaska. The operator of any fishing vessel regulated under this part whose port of landing is outside the State of Alaska shall submit a completed State of Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket. This information must be submitted to ADF&G within one week after the date of each sale or delivery not at sea of any groundfish taken in the Bering Sea and Aleutian Islands management area. The address to which these documents must be sent is: Director, Commercial Fish Division, Alaska Department of Fish and Game Headquarters, Subport Building, Juneau, Alaska 99801.

(b) Sale, delivery, or consumption at sea. (i) For each consumption or sale or delivery to a United States fish processor at sea of unlanded groundfish taken in the Bering Sea and Aleutian Islands management area, the operator of any fishing vessel regulated under this part shall submit the following information to ADF&G:

(A) A completed State of Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket; and

(B) A statement indicating whether or not the vessel to which any sale or delivery was made was a vessel of the United States.

(ii) The information required by paragraph (a)(2)(i) of this section shall be submitted to ADF&G within one week of the first return of that vessel to port following such sale, delivery, or consumption. Such information may be submitted by the United States fish processor to which the sale or delivery at sea was made, acting as the agent of the fishing vessel operator.

§ 675.6 [Reserved]

§ 675.7 General prohibitions.
It shall be unlawful for any person to:
(a) Fish for groundfish in the Bering Sea and Aleutian Islands management area with a vessel of the United States which does not have aboard a valid permit issued pursuant to this part;

(b) Possess, have custody or control of, ship, transport, import, export, offer for sale, sell, or purchase any fish taken or retained in violation of the Act, this part, or any other regulation or permit issued under the Act;

(c) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Act, this part, or any other regulation or permit issued under the Act;

(d) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (c) of this section;

(e) Resist a lawful arrest for any act prohibited by this part;

(f) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such person has committed any act prohibited by this part;

(g) Violate any other provision of this part, the Act, or any other regulation or permit issued under the Act.

§ 675.8 Enforcement.
(a) General. The owner or operator of any fishing vessel regulated under this part, the Act, this part, or any other regulation or permit issued under the Act shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the fishing vessel, its gear, equipment, and catch for purposes of enforcing the Act and this part.

(b) Signals. Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The vessel may guard Channel 16, VHF-FM, or 2182 KH2, if equipped with suitable radios, to receive verbal instructions. The following visual signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly."

(2) "SQS" meaning "You should stop or heave to; I am going to board you."

(3) "RY CY" meaning "You should proceed at slow speed, a boat is coming to you."

(4) "AA AA AA etc." is the call to an unknown station.
Boarding. A vessel signaled to stop or heave to for boarding shall:

1. Stop immediately and lay to or maneuver in such a way as to permit the authorized officer and his or her party to come aboard;
2. If requested, provide a safe ladder for the authorized officer and his or her party;
3. When necessary to facilitate the boarding, provide a man rope, safety line, and illumination for any ladder; and
4. Take such other actions as necessary to ensure the safety of the authorized officer and his or her party and to facilitate the boarding.

§ 675.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, in 50 CFR Parts 620 (Citations and Other Proceedings), and in other applicable provisions.

Section: February 2, April 2, June 2, and August 2.

(b) Apportionment to TALFF of reserves and initial DAH.—(1) Apportionment of reserves. As soon as practicable after each of the following dates, and after consultation with the North Pacific Fishery Management Council, the Secretary shall apportion to TALFF up to one fourth (Y) of each reserve amount set forth in Table 1, in accordance with paragraph (b)(3) of this section: February 2, April 2, June 2, and August 2.

(2) Apportionment of initial DAH. As soon as practicable after each of the following dates and after consultation with the North Pacific Fishery Management Council, the Secretary shall reassess each DAH amount set forth in Table 1 and shall apportion to TALFF such parts thereof as he determines to be appropriate in accordance with paragraph (b)(3) of this section: June 2 and August 2.

(3) Standards and procedure for apportionment.—(1) General. The Secretary shall apportion under paragraphs (b)(1) and (b)(2) of this section such amounts as the Regional Director determines will not be harvested by vessels of the United States during the remainder of the fishing year.

The amount of reserve which the Regional Director determines will be harvested by vessels of the United States may, in the discretion of the Secretary, be either apportioned to the estimate of domestic annual harvest (DAH) or retained in the reserve as eligible for later apportionment under paragraph (b)(3)(vi) of this section.

(ii) Factors. In determining whether or not amounts proposed to be apportioned under paragraphs (b)(1) and (b)(2) of this section will be harvested by vessels of the United States during the remainder of the fishing year, the Regional Director shall consider the following factors, although he shall not be limited to these factors:

(A) Reported United States catch and effort by species and area compared to previously projected United States harvesting capacity;

(B) Projected United States catch and effort by species and area for the remainder of the fishing year;

(C) Amounts of fish, particularly United States harvested fish, already purchased or processed by United States fish processors during the fishing year, compared to previously projected processing capacity of United States fish processors;

(D) Projected processing capacity, and utilization of that capacity for the processing of United States fish processors for the remainder of the fishing year;

(E) Amounts of United States harvested fish already purchased or processed by foreign fishing vessels, compared to previously projected levels of such purchase or processing.

(iii) Allocation of increases and decreases in DAH among DAP, JVP, and DNP. The Secretary shall allocate any increases or decreases in DAH amounts resulting from apportionments under paragraphs (b)(1) and (b)(2) of this section among the three components of DAH: the estimates of domestic annual processing (DAP); joint venture processing (JVP); and domestic non-processed fish (DNP).

(iv) Public Comments: (A) Comments may be submitted to the Regional Director concerning:

(1) Whether, and the extent to which, vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year; and

(2) Whether, and the extent to which, United States harvested groundfish can or will be processed by United States fish processors or by foreign processing vessels.

Comments should be addressed to Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802, and must be received by the Regional Director no later than 5 days before the relevant date specified in paragraph (b)(1) or (b)(2) of this section.

(B) The Regional Director shall consider any timely comments submitted in accordance with this paragraph in determining whether and to what extent vessels of the United States...

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Table 1—Bering Sea and Aleutian Islands Fishery Optimum Yields, TALFFs, and Reserves (in Metric Tons)

<table>
<thead>
<tr>
<th>Reference: Species group</th>
<th>Sub-area</th>
<th>ABC=OY</th>
<th>Reserve</th>
<th>Initial DAH</th>
<th>TALFF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pacific halibut</td>
<td>Bering Sea</td>
<td>1,000,000</td>
<td>90,000</td>
<td>15,500</td>
<td>20,000</td>
</tr>
<tr>
<td>Pacific halibut</td>
<td>Aleutians</td>
<td>100,000</td>
<td>10,000</td>
<td>1,500</td>
<td>2,000</td>
</tr>
<tr>
<td>Yellowfin sole</td>
<td></td>
<td>117,000</td>
<td>5,000</td>
<td>1,000</td>
<td>1,500</td>
</tr>
<tr>
<td>Turbot</td>
<td></td>
<td>61,000</td>
<td>3,000</td>
<td>600</td>
<td>1,000</td>
</tr>
<tr>
<td>Other gadoids</td>
<td></td>
<td>12,000</td>
<td>1,000</td>
<td>200</td>
<td>300</td>
</tr>
<tr>
<td>Pacific cod</td>
<td></td>
<td>1,400</td>
<td>1,000</td>
<td>200</td>
<td>300</td>
</tr>
<tr>
<td>Pacific ocean perch</td>
<td></td>
<td>5,500</td>
<td>500</td>
<td>100</td>
<td>150</td>
</tr>
<tr>
<td>Pacific ocean perch</td>
<td></td>
<td>1,000</td>
<td>100</td>
<td>20</td>
<td>30</td>
</tr>
<tr>
<td>Other rockfish</td>
<td></td>
<td>1,000</td>
<td>100</td>
<td>20</td>
<td>30</td>
</tr>
<tr>
<td>Sabrefish</td>
<td></td>
<td>1,000</td>
<td>100</td>
<td>20</td>
<td>30</td>
</tr>
<tr>
<td>Sablefish</td>
<td></td>
<td>1,000</td>
<td>100</td>
<td>20</td>
<td>30</td>
</tr>
<tr>
<td>Alaska Mackeral</td>
<td></td>
<td>1,000</td>
<td>100</td>
<td>20</td>
<td>30</td>
</tr>
<tr>
<td>Jacky Pinky</td>
<td></td>
<td>1,000</td>
<td>100</td>
<td>20</td>
<td>30</td>
</tr>
<tr>
<td>Others</td>
<td></td>
<td>1,000</td>
<td>100</td>
<td>20</td>
<td>30</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>1,593,258</td>
<td>123,249</td>
<td>19,100</td>
<td>25,529</td>
</tr>
</tbody>
</table>

1 Bering Sea (Statistical areas I, II, III combined). Aleutians (Statistical area IV). Includes Tctalized water.
2 Excluding Pacific halibut.

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States will harvest reserve or DAH amounts during the remainder of the fishing year, and whether any part of such amounts will be allocated to TALFF under paragraphs (b)(1) or (b)(2) of this section.

(C) The Regional Director shall compile, in aggregate form, the most recent available reports on (1) level of catch and effort by vessels of the United States fishing for groundfish in the Bering Sea and Aleutian Islands fishery; and (2) amounts of United States harvested groundfish taken in the Bering Sea and Aleutian Islands fishery and processed by United States fish processors or delivered at sea to foreign fishing vessels. These data shall be available for public inspection during business hours (8:00 a.m.—4:30 p.m., Monday—Friday) at the National Marine Fisheries Service Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during the last 15 days of each comment period.

(v) Procedure. As soon as practicable after each of the dates specified in paragraphs (b)(1) and (b)(2) of this section, the Secretary shall publish in the Federal Register:

(A) Any reserve amounts to be apportioned to TALFF or DAH;

(B) Any DAH amounts to be apportioned to TALFF;

(C) The distribution of amounts apportioned to or from DAH among DAP, JVP, and DNP;

(D) The reasons for any apportionments and their distribution; and

(E) Responses to any comments received.

(vi) Add-on. If, following any of the first three of the four dates specified in paragraph (b)(1) of this section, the Secretary apportions less than 25 percent of any reserve amount to TALFF and DAH, the nonapportioned part of that 25 percent shall be added to the reserve amounts available for apportionment on the next date specified in paragraph (b)(1) of this section.

(c) Prohibited species. (1) Prohibited species, for the purpose of this part, means any species of fish caught while fishing for groundfish in the Bering Sea and Aleutian Islands management area, the retention of which is prohibited by other applicable law. Any catch of Pacific halibut by fishing vessels regulated under this part is a catch of a prohibited species, unless retention is authorized by regulations of the International Pacific Halibut Commission. Any catch of Tanner crab or salmon by vessels regulated under this part is catch of a prohibited species.

(2) The operator of each vessel regulated under this part shall minimize its catch of prohibited species.

(3) The operator of each vessel regulated under this part shall sort its catch as soon as possible after retrieval of the catch and, after allowing for sampling by an observer (if any), shall return any catch of prohibited species or parts thereof to the sea immediately with a minimum of injury regardless of its condition.

(4) It shall be a rebuttable presumption that any prohibited species found onboard a fishing vessel regulated under this part was caught and retained in violation of this subsection.
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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 958

Onions Grown in Certain Designated Counties in Idaho and Malheur County, Oregon; Decision on Proposed Amendment of Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision proposes an amendment to the marketing agreement and order regulating onions grown in Idaho and Malheur County, Oregon. The proposed amendment would add a public member to the marketing order administrative committee and authorize the prohibition of overloading railcars. The primary intent of the proposal is to improve the program's administration and usefulness.


FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-2615.


This action is subject to the formal rulemaking requirements of the Administrative Procedure Act, and therefore is not subject to the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the regulated handlers.

This proposed amendment was formulated on the record of a public hearing held in Ontario, Oregon, on May 13, 1981. Notice of the hearing was published in the April 17, 1981, issue of the Federal Register. The notice set forth a proposed amendment submitted by the Idaho-Eastern Oregon Onion Committee on behalf of onion producers and handlers in the production area.

On the basis of the evidence introduced at the hearing and placed in the record, on September 23, 1981, the Deputy Administrator filed a recommended decision with the U.S. Department of Agriculture Hearing Clerk. Notice of such recommended decision was published in the September 29, 1981 issue of the Federal Register (46 FR 47585). In the recommended decision notice was given of the opportunity to file comments by October 29, 1981. One exception was filed by M. J. Glen, Market Manager, Exempt Agricultural Products, Union Pacific Railroad Company.

Findings and Conclusions: The material issues, findings and conclusions of the recommended decision are hereby incorporated by reference and made part of this decision, subject to the following modifications and corrections.

In Material Issue (2), seven new paragraphs are added after the thirteenth paragraph as follows:

"In support of his first point, the exceptor questions conclusions drawn from the results to a survey conducted by the Idaho-Eastern Oregon Fruit and Vegetable Association, an organization whose membership includes all area onion shippers. The association requested the 21 area onion shippers to indicate damage claims experienced during the 1979-80 season which were related to overloaded railcars, and eight responses were received. Results appearing in the hearing record show total dollar amounts of claims for different ranges of loading levels, with larger dollar amounts appearing for cars loaded more heavily. The exceptor contends that these total amounts are meaningless and that it is necessary to take into consideration the number of cars in each weight category and calculate the average claim per sack. Using Union Pacific records, these figures were calculated. The relationship between the number of sacks per car and the claim per sack was not linear; that is, there was not an increase in the claim per sack figure for each increase in the number of sacks per car. The exceptor concludes that damage is therefore not related to heavier loading."

"However, the claim per bag figures for cars loaded with less than 1,800 sacks are substantially below those for cars more heavily loaded. This fact, in conjunction with other information on the record, supports the conclusion that heavier loading and increased damage to onions are related."

"In relation to his second point, the exceptor contends that a loading limitation would increase transportation costs. This increase would be reflected in higher delivered prices, and therefore onions from Idaho-Eastern Oregon would be less competitive with those from other areas."

"The marketing order program is used to improve the quality of onions shipped from the production area and to promote that quality, thereby improving the position of the area's onions in the marketplace. It is financed by assessments levied on handlers and voluntary contributions from industry members. Investments in the program are believed to be offset by benefits derived from offering a higher quality product. Limiting loads on railcars is necessary for the success of this program, and any increase in cost should be offset by gains in consumer acceptance resulting from offering higher quality."

"The exceptor believes the increased transportation cost will also make Union Pacific less competitive in relation to trucks. Over 80 percent of the onions from Idaho-Eastern Oregon that are transported by rail are shipped to eastern markets. This is primarily due to cost savings relative to trucks in shipping onions this distance. As
in accordance with the procedure for the conduct of referenda (7 CFR 900.400 et seq.), to determine whether the issuance of the annexed order amending the marketing order regulating the handling of onions grown in Idaho and Malheur County, Oregon, is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be July 1, 1980, through June 30, 1981.

The agents of the Secretary to conduct such referendum are hereby designated to be Joseph C. Perrin, Gary D. Olson, and Anne M. Dec.

Copies of this decision are being mailed to known interested persons. Others may obtain copies from Mr. Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Phone (202) 447–2815, or from Joseph C. Perrin, Northwest Marketing Field Office, AMS–USDA, Boise-Cascade Building, Suite 603, 1600 SW. 4th Avenue, Portland, Oregon 97201, Phone (503) 221–2274.

Signed at Washington, D.C., on December 23, 1981.

John Ford, Deputy Assistant Secretary, Marketing and Inspection Services.

Order 1 amending the order regulating the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of Marketing Order No. 958 (7 CFR Part 958), regulating the handling of onions grown in Idaho and Malheur County, Oregon.

Upon the basis of the record, it is found that:

(1) The order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as hereby amended, regulates the handling of onions grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing order upon which hearings have been held;

(3) The order, as hereby amended, is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as hereby amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of onions grown in the production area; and

(5) All handling of onions grown in the production area is in the current of interstate or foreign commerce or is not directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, handling of onions grown in Idaho and Malheur County, Oregon, shall be in conformity to and in compliance with the terms and conditions of the said order, as hereby amended.

The provisions of the proposed marketing order, amending the order, contained in the recommended decision issued by the Deputy Administrator on September 23, 1981, and published in the Federal Register on September 29, 1981 (46 FR 49635), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. Revise paragraph (a) of § 958.20 to read:

§ 958.20 Establishment and membership.

(a) The Idaho-Eastern Oregon Onion Committee, consisting of six producer

1This order shall not become effective unless and until the requirements of § 955.34 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.
members, four handler members, and one public member is hereby established. Each shall have an alternate who shall have the same qualifications as the member.

2. Revise the introductory text and add paragraph (e) to §958.22 to read:

§958.22 -- Selection.

The Secretary shall select committee members and alternates from the nominee lists submitted pursuant to this part or from among other eligible persons.

(e) The public member shall be a resident of the production area and have no direct financial interest in the commercial production, financing, buying, packing or marketing of onions except as a consumer nor be a director, officer or employee of any firm so engaged.

§958.25 [Amended]

3. Add a new paragraph (k) to §958.25 to read:

(k) To recommend nominees for the public member and alternate.

4. Add a new paragraph (g) to §958.28 to read:

§958.28 Nomination.

(g) The producer and handler members of the committee shall nominate the public member and alternate. The committee shall prescribe such additional qualifications, administrative rules and procedures for selection and voting for each candidate as it deems necessary and as the Secretary approves.

5. Add a new paragraph (a)(6) to §983.52 to read:

§983.52 Issuance of regulations.

(a) * * *

6. Add the following subdivisions to the end of §958.22:

(c) The public member shall be a resident of the production area and have no direct financial interest in the commercial production, financing, buying, packing or marketing of onions except as a consumer or be a director, officer or employee of any firm so engaged.

§958.25 [Amended]

3. Add a new paragraph (k) to §958.25 to read:

(k) To recommend nominees for the public member and alternate.

4. Add a new paragraph (g) to §958.28 to read:

§958.28 Nomination.

(g) The producer and handler members of the committee shall nominate the public member and alternate. The committee shall prescribe such additional qualifications, administrative rules and procedures for selection and voting for each candidate as it deems necessary and as the Secretary approves.

5. Add a new paragraph (a)(6) to §983.52 to read:

§983.52 Issuance of regulations.

(a) * * *

6. Add the following subdivisions to the end of §958.22:

(c) The public member shall be a resident of the production area and have no direct financial interest in the commercial production, financing, buying, packing or marketing of onions except as a consumer or be a director, officer or employee of any firm so engaged.

§958.25 [Amended]

3. Add a new paragraph (k) to §958.25 to read:

(k) To recommend nominees for the public member and alternate.

4. Add a new paragraph (g) to §958.28 to read:

§958.28 Nomination.

(g) The producer and handler members of the committee shall nominate the public member and alternate. The committee shall prescribe such additional qualifications, administrative rules and procedures for selection and voting for each candidate as it deems necessary and as the Secretary approves.

5. Add a new paragraph (a)(6) to §983.52 to read:

§983.52 Issuance of regulations.

(a) * * *

6. Add the following subdivisions to the end of §958.22:

(c) The public member shall be a resident of the production area and have no direct financial interest in the commercial production, financing, buying, packing or marketing of onions except as a consumer or be a director, officer or employee of any firm so engaged.
could occur from a loss of coolant accident. A loss of coolant accident for research and test reactors is where the reactor core could be drained through a break in the experimental beam port, crack of a primary coolant line, or other means, thus removing the liquid coolant medium from the reactor. This has the possibility, for reactors operating at above 2 MW thermal, of causing fuel melt with the possible consequences of releasing fission products. A heat transfer analysis of plate-type fuel with aluminum cladding shows that these fuel elements do not melt until they reach a temperature of 923°K. The University of Michigan’s 2 MW pool reactor has shown by analysis and simulation experiments for MTR plate-type fuel that if the pool was drained (water cooling removed) over a period of 10 minutes, the fuel would not melt. Some types of research reactors, operating at power levels up to 0.1 MW, routinely dump water from the core on scram to further assure a rapid decrease in reactivity. In light of the credible accidents postulated for research and test reactors resulting in core degradation, the 2 MW thermal power level is a more realistic power level threshold governing the dates for submittal of emergency plans for these facilities. Specifying that the few higher power research and test reactors must submit emergency plans first will assure that priority attention will be given to those reactors which have the most potential to present an offsite hazard. Based on the above information, the Commission finds that there exists sufficient reason to believe that appropriate protective measures can and will be taken for the protection of the health and safety of the public in the event of a radiological emergency if the date to submit emergency plans for 2 MW and above licensees is deferred from November 3, 1981 to four months after effective date of rule, and if the authorized power level threshold governing those licensees subject to the new submittal date is changed from 500 KW thermal to 2 MW thermal. For licensees under 2 MW thermal, the submittal date of November 3, 1982 would remain unchanged. The results of this proposed amendment would be that 10 facilities having power levels of 2 MW and above would be required to make submittals by four months after effective date of rule and the remaining 55 facilities by November 3, 1982.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC certifies that this rule will not have a significant economic impact on a substantial number of small entities. The proposed rule concerns an extension of the date for research and test reactors licensed under 10 CFR Parts 50 and 70 to submit emergency plans complying with 10 CFR Part 50, Appendix E, to the Director of Nuclear Reactor Regulation for approval. Accordingly, there is no significant economic impact on a substantial number of small entities, under the Regulatory Flexibility Act of 1980.

Paperwork Reduction Act Statement

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the NRC has made a preliminary determination that this proposed rule does not impose new recordkeeping, information collection, or reporting requirements. Accordingly, notice is hereby given that, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, adoption of the following amendments to 10 CFR Part 50 is contemplated.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 reads as follows:


2. Paragraph (r) of 10 CFR 50.54 is revised to read as follows:

§ 50.54 Conditions of licenses.

(r) Each licensee who is authorized to possess and/or operate a research or test reactor facility with an authorized power level greater than or equal to 2 MW thermal, under a license of the type specified in § 50.21(c), shall submit emergency plans complying with 10 CFR Part 50, Appendix E, to the Director of the Nuclear Reactor Regulation for approval within four months after effective date of rule. Each licensee who is authorized to possess and/or operate a research or test reactor facility with an authorized power level less than 2 MW thermal, under a license of the type specified in § 50.21(c), shall submit emergency plans complying with 10 CFR Part 50 Appendix E, to the Director of the Nuclear Reactor Regulation for approval by November 3, 1982.

* * * * *

Dated at Washington, D.C. this 28th day of December, 1981.

For the Nuclear Regulatory Commission.

Samuel J. Chilk, Secretary of the Commission.

[FR Doc. 81-3726 Filed 12-30-81; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 81-6A-33]

Proposed Alteration of Transition Area: Oneonta, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Oneonta, N.Y., Transition Area over Oneonta Municipal Airport, Oneonta, N.Y. A new instrument approach has been developed for the airport and will require protection for aircraft executing the new instrument approach. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before February 8, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following locations: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

All communications received on or before February 8, 1982, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, ABA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York, 11430, or by calling (212) 905-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Oneonta, N.Y., Transition Area. The area will be altered by adding an extension to the northeast approximately 7 miles wide and 11.5 miles long.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposed to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by altering the description of the Oneonta, New York, 700-foot floor transition area by deleting, "extending from the 7-mile radius area to the VORTAC," and by substituting therefor, "extending from the 7-mile radius area to the VORTAC, and within 3.5 miles each side of the Oneonta Municipal Airport localizer course extending from the 7-mile radius area to 11.5 miles northeast of the outer marker."

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and procedures (49 FR 11034; February 28, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Jamaica, New York, on December 1, 1981.

Timothy L. Hartnett,
Acting Director, Eastern Region.

[FR Doc. 81-30038 Filed 12-29-81; 8:45 am]
BILLING CODE 4410-13-M

14 CFR Part 71

[Airspace Docket No. 81-ASW-68]

Proposed Alteration of Transition Area: Leeville, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes the alteration of a transition area at Leeville, LA. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing new instrument approach procedure to the Caillou Island Seaplane Base. This action is necessary since new instrument operations will be conducted arriving/departing the seaplane base. The standard instrument approach procedure (SIAP) will utilize the Leeville VORTAC. Coincident with this action, the seaplane base is changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received on or before February 1, 1982.

ADDRESSES: Send comments on the proposals to the following address: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1669, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT:
Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1669, Fort Worth, TX 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G § 71.181 as reprinted in the Federal Register on January 2, 1981 (46 FR 5419), contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Leeville, LA, will necessitate an amendment to this subpart. This amendment will be required at Leeville, LA, since there are proposed IFR procedures to the Caillou Island Seaplane Base.

Comments Invited

Interested persons may participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Commenters are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.)

Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81-ASW-68." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available.
for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1699, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

Leeville, LA

* * * and within a 5-mile radius of the Caillou Island Seaplane Base (latitude 29°06'20" N., longitude 90°28'40" W.) and within 2.5 miles of each side of the 258° radial of the Leeville VORTAC extending from the 5-mile radius area to 10 miles west of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 8(c), Department of Transportation Act (49 U.S.C. 1036(c)); and 14 CFR 11.61(5))

Note—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a “major rule” under Executive Order 12291; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX. on December 21, 1981.

F. E. Whitfield,
Acting Director, Southwest Region.

[FR Doc. 81-37221 Filed 12-30-81; 8:45 am]

BILLING CODE 4910-13-M
PART 73—SPECIAL USE AIRSPACE

§ 73.25 [Amended]

By adding the following temporary restricted areas:

R-2538A, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 34°59'N., long. 116°53'W.; to lat. 35°01'N., long. 116°41'W.; to lat. 35°39'N., long. 115°53'W.; to lat. 35°12'N., long. 117°20'W.; to lat. 36°20'N., long. 117°23'W.; to lat. 35°40'N., long. 117°16'W.; to lat. 35°36'N., long. 117°16'W.; to lat. 35°38'N., long. 117°25'W.; to lat. 35°16'N., long. 117°05'W.; to point of beginning.

Designated altitudes. 500 feet AGL to FL 500 (3,000 feet AGL minimum altitude over Death Valley National Monument).

Time of designation. 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.


R-2538B, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 34°59'N., long. 116°53'W.; to lat. 35°01'N., long. 116°41'W.; to lat. 35°39'N., long. 115°53'W.; to lat. 34°43'N., long. 115°27'W.; to lat. 34°43'N., long. 115°06'W.; to lat. 34°40'N., long. 115°35'W.; to point of beginning.

Designated altitudes. FL 250 to FL 500.

Time of designation. 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.


R-2538C, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 34°41'N., long. 116°30'W.; to lat. 34°43'N., long. 116°30'W.; to lat. 34°45'N., long. 116°22'W.; to lat. 34°43'N., long. 116°14'W.; to lat. 34°01'N., long. 116°41'W.; to lat. 35°01'N., long. 115°22'W.; to lat. 35°02'N., long. 115°14'W.; to point of beginning.

Designated altitudes. 100 feet AGL to 7,500 feet MSL.

Time of designation. 0100 to 2300 local time, March–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.


R-2538D, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 34°14'N., long. 115°44'W.; to lat. 34°17'N., long. 115°46'W.; to lat. 34°22'N., long. 115°35'W.; to lat. 34°34'N., long. 115°27'W.; to lat. 34°34'N., long. 115°28'W.; to lat. 34°34'N., long. 115°28'W.; to lat. 34°14'N., long. 115°19'W.; to point of beginning.

Designated altitudes. 500 feet AGL to FL 500.

Time of designation. 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.


R-2538E, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 34°03'N., long. 116°11'W.; to lat. 34°09'N., long. 116°01'W.; to lat. 34°14'N., long. 116°19'W.; to point of beginning.

Designated altitudes. 2,000 feet AGL to 17,000 feet MSL.

Time of designation. 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.


R-2538F, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 36°01'N., long. 119°13'W.; to lat. 36°22'N., long. 119°26'W.; hence NW along boundary of R-4806; to lat. 36°41'N., long. 119°59'W.; lat. 36°21'N., long. 119°32'W.; to point of beginning.

Designated altitudes. 14,000 feet MSL to 15,000 feet MSL.

Time of designation. 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.


R-2538G, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 36°33'N., long. 117°01'W.; to lat. 36°09'N., long. 116°43'W.; to lat. 37°20'N., long. 116°59'W.; to lat. 37°12'N., long. 117°20'W.; to point of beginning.

Designated altitudes. FL 210 to 220.

Time of designation. 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.


R-2538H, GALLANT EAGLE 82 [New]

Boundaries. Beginning at lat. 36°33'N., long. 117°01'W.; to lat. 37°09'N., long. 116°43'W.; to lat. 37°20'N., long. 116°59'W.; to lat. 37°12'N., long. 117°20'W.; to point of beginning.

Designated altitudes. 100 feet AGL to 2,000 feet AGL.

Time of designation. 0100 to 2300 local time, March 30–April 6, 1982.

Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.


(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1658(c); and 14 CFR 11.63).

Note.—The FAA has determined that this proposed regulation only imposes minor changes. The existing body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore—[1] is not a "major rule" under Executive Order 12291; [2] is not a "significant rule" under DOT Regulatory...
Policies and Procedures (44 FR 11034; February 28, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, DC, on December 23, 1981.

John W. Baker,
Acting Chief, Airspace and Air Traffic Rules Division.

[CFR Doc. 81-37147 Filed 12-20-81; 6:45 am]
BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD
14 CFR Ch. II
Regulatory Flexibility Act Review List

AGENCY: Civil Aeronautics Board.

ACTION: Publication of annual Regulatory Flexibility Act review list.

SUMMARY: The CAB invites comments on several of its rules in accordance with the review provisions of the Regulatory Flexibility Act.


ADDRESSES: Twenty copies of comments should be sent to Docket 39932, 40336, or 40337 (see below). Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., 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, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Mark Schùmmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-783-5432.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, Pub. L. 96-354, requires each agency to publish in the Federal Register a plan for the periodic review of the agency's rules that "have or will have a significant economic impact on a substantial number of small entities." The plan must provide for review of all such rules within 10 years. In addition, the agency must publish annually in the Federal Register a list of those rules to be reviewed during the following 12 months, with an invitation for public comments on them. The purpose of the review is to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. (5 U.S.C. 610)

The Board publish its review plan at 46 FR 33353, June 29, 1981. The Board explained that, in connection with the impending sunset of the agency, it was reviewing all its rules, not merely those that met the impact criterion of the Regulatory Flexibility Act. The Board also listed seven rules that were already under review, and announced that in December 1981 it would publish a list of the most important rules that it had not already begun to review in individual proceedings.

This notice updates the status of the rules listed in June, and invites comments on three of them. The rules are as follows:

1. Denied boarding compensation.
2. Charters.
3. Baggage liability in domestic air transportation.


2. Charters. (14 CFR Parts 207, 208, 212, 380). The Board's current charter rules are based on sections 204, 401, 402, 403, 404, 407, 408, 409, 411, and 416 of the Federal Aviation Act of 1958. They specify the types of charters that may be performed, and prohibit all others. For those that are authorized, the requirements can be divided into four areas: (1) protection of public charter participants' funds, in the form of requirements for both carriers and charter operators to post bonds and set up depository accounts, (2) protection of participants' expectations, in the form of rules imposing detailed requirements concerning the contents of operator-participant contracts, such as price changes, cancellations, and itinerary changes, (3) a body of rules dealing with non-public charters, such as "affinity group" and "single-entity" charters, and (4) the remainder, a miscellaneous collection of rules dealing with the regulation of the direct air carrier and the charterer. The Board is reconsidering all these rules on charters in light of deregulation, and plans to issue a notice of proposed rulemaking on this subject in the near future. Interested persons are invited to file comments on charters in this docket, and need not await publication of the proposal.

3. Baggage liability in domestic air transportation. The Board's domestic baggage liability rules are based on sections 204, 403, 404, and 411 of the Federal Aviation Act of 1958. The rules govern air carriers' liability limits for...
lost, damaged, or delayed baggage. They also affect disclaimers of liability for fragile or perishable items and carriers' baggage claim procedures. The Board is reconsidering these rules in light of deregulation, and plans to issue a notice of proposed rulemaking on baggage liability in Docket 40537 in the near future. Interested persons are invited to file comments on baggage liability in this docket, and need not await publication of the proposal.

By the Civil Aeronautics Board.

Phyllis T. Kaylor, Secretary.

[FR Doc. 82-37344 Filed 12-30-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (Wyoming-8)]

High-Cost Gas Produced From Tight Formations; Wyoming

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(6), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulations contains the recommendation of the State of Wyoming that the Frontier Formation be designated as a tight formation under §271.703(d).

DATE: Comments on the proposed rule are due on January 22, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 7, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:
Leslie Lawner, (202) 357-8317, or Victor Zabel, (202) 357-0060.

SUPPLEMENTARY INFORMATION:

I. Background

On December 14, 1981, the State of Wyoming Oil and Gas Conservation Commission (Wyoming) submitted to the Commission a recommendation, in accordance with §271.703 of the Commission's regulations (45 FR 50934, August 22, 1980), that the Frontier Formation located in Lincoln, Sublette, and Sweetwater Counties, Wyoming, be designated as a tight formation. Pursuant to §271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Wyoming's recommendation that the Frontier Formation be designated a tight formation should be adopted. The United States Geological Survey concurs with Wyoming's recommendation. Wyoming's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation is located north and east of the LaBarge platform area in southwest Wyoming. The area contains about 222,720 acres and is in Lincoln, Sublette, and Sweetwater Counties, Wyoming. It encompasses all or part of Townships 25 and 26 North, Range 106 West; Townships 29 North, Range 111 West; Townships 26 through 31 North, Range 112 West; and Townships 28 through 31 North, Range 113 West. The vertical limits of the Frontier Formation are defined by the Baxter Shale Formation above and the Mowry Shale Formation below. The depth to the top of the formation averages 7,700 feet and gross thickness varies from 50 to 150 feet.

III. Discussion of Recommendation

Wyoming claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 1, Order No. 1, Docket No. 53-81(A) convened by Wyoming on this matter demonstrates that:

1. The average in situ gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

2. The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in §271.703(c)(2))]

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Wyoming further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM50-58 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Wyoming that the Frontier Formation, as described and delineated in Wyoming's recommendation as filed with the Commission, be designated as a tight formation pursuant to §271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, on or before January 22, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Wyoming-8), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and four conformal copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE, Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 7, 1982.


Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations as set
forth below, in the event Wyoming's recommendation is adopted.

Kenneth A. Williams,
Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (84) to read as follows:

§ 271.703 Tight formations.

(d) Designated tight formations. The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

[(80) through (83) [Reserved]

(84) Frontier Formation in Wyoming. RM79-76 (Wyoming—8)—(1) Delineation of formation. The Frontier Formation is found in Lincoln, Sublette, and Sweetwater Counties, Wyoming, encompassing all or parts of Townships 25 and 26 North, Range 109 West; Township 28 North, Range 121 West; Townships 26 through 31 North, Range 112 West; and Townships 28 through 31 North, Range 113 West.

(ii) Depth. The Frontier Formation's vertical limits are defined by the Baxter Shale Formation above and the Mowry Shale Formation below. The gross thickness of the formation varies from 50 to 150 feet. The average depth to the top of the Frontier Formation is 7,700 feet.

[FDI Doc. 63-37233 Filed 12-30-81 8:45 am]
BILLING CODE 6717-01-M

INTERNATIONAL COMMUNICATION AGENCY

22 CFR Part 514

Exchange-Visitor Program

AGENCY: International Communication Agency.

ACTION: Proposed rule.

SUMMARY: The International Communication Agency proposes to establish criteria for the use of the J-1 Visa for the following: (a) Practical Trainees; (b) Summer Student Travel/Work Programs; and (c) International Camp Counselor Programs.

These categories under the J-1 Visa are described by this regulation to ensure proper adherence to the law by program sponsors who are designated to sponsor aliens classified as exchange visitors.

DATE: Comments are due by March 1, 1982.

ADDRESS: Comments should be sent to: James Kelman, Deputy Chief, Exchange Visitor Program, Designation Branch (ECA/PE), International Communication Agency, Room 949, 1776 Pennsylvania Avenue, NW., Washington, D.C. 20547.

FOR FURTHER INFORMATION CONTACT: James Kelman (202) 724-9598.

SUPPLEMENTARY INFORMATION: The International Communication Agency (USICA) assumed from the Department of State overall responsibility for the Exchange-Visitor Program and all related procedures effective April 1, 1978, by Reorganization Plan No. 2 of 1977 and by Executive Order 12098 of March 27, 1978. The Exchange-Visitor Program serves as the accrediting authority for both U.S. Government agencies and private organizations to bring students, teachers, scholars, and trainees to the United States. The Exchange-Visitor Program monitors the host organization's performance to ensure that established criteria are met. The proposed amendment to the present regulations is expected to provide organizations with effective guidelines and criteria with which to administer practical training use of the J-1 Visa.

PART 514—EXCHANGE-VISITOR PROGRAM

22 CFR Part 514 is amended by adding three new paragraphs (c), (d), and (e) to § 514.13 to read as follows:

§ 514.13 Sponsor obligations—specific.

(c) Practical trainees. These criteria govern the designation and monitoring by the International Communication Agency (USICA) of Exchange-Visitor Programs under which foreign nationals are provided with opportunities for on-the-job, practical training in the United States for periods of up to 18 months. These criteria apply to Exchange-Visitor Programs having practical training as the primary purpose and do not apply to practical training opportunities which may, under certain conditions, be authorized for foreign students who have completed the requirements for degrees or certificates at educational institutions in the United States. The primary purpose of practical training programs is to improve the participant's knowledge of American techniques, methodology, and philosophy of the individual's own field of endeavor and to enhance the participant's skills through active participation in the day-to-day operations at the training location. It is also designed to enable the exchange visitor to observe and participate in American life and, if applicable, to improve his or her English language competency. Another prime purpose is to improve American knowledge of a foreign culture by providing the opportunity for an open interchange of ideas between the trainees and their American counterparts.

(1) Selection. The Exchange-Visitor Program sponsor must assume ultimate responsibility for the selection of trainees, regardless of the extent to which cooperating organizations in other countries may be involved. Professional recruiters, as well as employment or travel agencies, either in the United States or abroad, shall not be used for the recruitment, screening, or selection of trainees or prospective trainees. The sponsor shall secure sufficient background information on the individual's education and previous practical training and/or work experience to be able to ensure that the practical training experience in the United States is suitable and appropriate for the individual's level of career development. Trainees must have sufficient knowledge of English to enable them to function in the English speaking environment, both during the normal work period and non-working hours. Selection procedures should ensure that the trainee is medically qualified to perform the specific duties to be assigned.

(2) Content of training assignments and related activities. Practical training is intended to provide the individual with a "real life" experience in the conduct of his or her field of endeavor as normally practiced in the United States. As such, the normal or standard number of working hours per week for the particular business or industry must be observed. Suitable training may include one or more of the following: (i) Rotation through several departments; (ii) concentration in a single department; (iii) special projects; (iv) rotation followed by projects; (v) participation in an employer's regularly scheduled training program; or (vi) a special program determined after the trainee's arrival. Related activities which support the practical training experience such as attendance at conferences or conventions, participation in short courses, or enrollment in English language improvement courses may be appropriate in specific individual cases. Such related activities must be clearly secondary to and supportive of the practical training experience. The
content of the practical training assignment and any realted activities must be suitable and appropriate to the individual's level of educational attainment and previous practical training and/or work experience. The future employment and career development of the individual should also be considered in designing the practical training experience.

(3) Orientation. The sponsor shall be responsible for providing each participant (and each employer, if appropriate) with orientation which is suitable to the nature and length of the training assignment. This orientation should clearly indicate: (i) The purposes of the program; (ii) the role of the sponsor; (iii) the explanation that the participant is being admitted on a temporary nonimmigrant visa and that he or she must depart from the United States at the conclusion of the training assignment; (iv) the procedures to be followed in the event of an emergency; and (v) the details, to the extent they apply, on matters such as the individual's tax liability, procedures for securing a Social Security Number, securing of a driver's license, etc. Where possible, orientation for individual participants should also include basic information about the United States, the city or state in which the participant will be assigned, the practice of the individual's field of endeavor in the United States, and any other information which would help to make the individual's experience while in the United States professionally rewarding and personally enriching.

(4) Interaction with Americans. The sponsor shall assist and encourage trainees to seek maximum interaction with American citizens during the training period. Subject to limitations imposed by geographic location, length and/or nature of the training assignment, interaction should be encouraged with groups such as families, professional societies, trade unions, educational institutions, service clubs, etc.

(5) Financial responsibility. All materials provided to program participants must clearly state the amount(s) to be paid to the trainees by the employer, and additional amount(s) to be paid by the designated program sponsor, and the costs which the trainee is expected to cover personally. Such information should include estimated cost of living in the area where the participant will work. The amount paid to the participant by the employer should be comparable to that paid to other individuals having similar education and previous work experience. In all cases, at least the prevailing minimum wage as determined by the United States Department of Labor must be paid to the participant by the employer. Payment in kind (housing, meals, etc.) may be used to supplement the prevailing minimum wage, but may not be used resident payment of the minimum wage. Payment on the basis of commissions and similar forms of variable amount wages may be used only to the extent that such payments exceed the prevailing minimum wage. If payments are to be made by third parties (i.e., parents, schools, sponsors, government or international organization agencies, etc.) in lieu of paychecks by the employer, the Exchange-Visitor Program Designation Branch (ECA/PE), International Communication Agency, Washington, D.C. 20547 must be notified in writing to enable the Agency to determine the suitability of such payments.

(6) Insurance. The sponsor should be responsible for determining that each participant and any accompanying dependents are adequately covered by health and accident insurance, including provision for repatriation in the event of death or disability, for the entire duration of their stay in the United States in Exchange-Visitor status. A Certificate of Eligibility for Exchange-Visitor Status (IAP-66) should not be issued to a participant and/or dependents unless the sponsor can verify that they are adequately protected.

(7) Evaluation. To assure quality control of the training experience, the sponsor shall develop procedures for the on-going evaluation of each training assignment. Such evaluation should include, as a minimum, evaluation reports from the trainee and the immediate supervisor at the end of the training period. Mid-point reports (verbal or written) should also be used for training assignments of one year or more.

(8) Dependents. As a general rule, trainees shall be permitted to have their spouse and dependent children accompany them to the United States and the sponsor may document such dependents for J-2 status. All such dependents must be covered by health and accident insurance.

(9) Limitation on duration of stay. As specified in §§1423(a)(3)(ii) of these regulations, the maximum length of stay for practical training employment shall not exceed 18 months total for any one individual, except as specifically approved by USCIA under highly unusual circumstances. Such limitation shall apply regardless of the number of Exchange-Visitor Programs in which the individual participates.

(10) Reciprocity. As a general principle, each program sponsor shall be expected to seek, as feasible, reciprocal practical training or work experience in other countries for American citizens, either directly or through cooperating agencies, organizations, or institutions abroad. Ideally, the number of placement opportunities for Americans in other countries should be approximately equal to the number of foreign trainees placed in the United States. The Exchange-Visitor Program Designation Branch, International Communication Agency, will review the sponsor's program annually to assure good faith compliance with this objective.

(11) Reports. Designated sponsors shall furnish the Exchange-Visitor Program Designation Branch, International Communication Agency, with an annual report at the end of each calendar year or the close of such other yearly reporting period as may be mutually agreed upon. The annual report shall include (i) Statistical data on foreign trainees placed in the United States and, where applicable, on American trainees placed in other countries; (ii) A brief evaluation report of the effectiveness of the program for the year including a description of standards and methods used in the evaluation process; and (iii) Specific examples of program accomplishments over a long-range period. Copies on descriptions of program materials such as information folders, orientation data, general publications, evaluation forms, etc. may be appended to the report to verify compliance with criteria stated above. Organizations which have been granted tax-exempt status under the provisions of section 501(c)(3) of the Internal Revenue Code shall also submit a copy of the Form 990 report most recently filed with the Internal Revenue Service.

(12) Suspension or revocation of Exchange-Visitor Program designation. Designated sponsors found to be in violation of the above criteria are subject to having program designations suspended or revoked in accordance with § 514.17 of these regulations.

(d) Summer Student Travel/Work Programs. The following criteria apply to United States organizations which have been designated by the International Communication Agency (USICA) to administer Summer Student Travel/Work Programs. These programs are designed to achieve the educational objectives of international exchange by involving students during their summer vacations directly in the daily life of the
host country through temporary employment opportunities. The criteria require program sponsors to promote the exchange of United States and foreign students on a reciprocal basis thereby assuring that the operation of such programs will not have an adverse impact on labor opportunities for United States youth in the 18-23 year age bracket.

(1) Selection. The selection will be limited to bona fide university students screened for maturity and ability to get maximum benefit from Summer Travel/Work Programs. These programs are designed to give foreign university students an opportunity to travel to the United States during their summer vacations with permission to accept employment to help defray their travel and living expenses while here. Priority consideration will be given to students who do not live in close proximity to the United States and who would not be able to visit this country if temporary work permission were not authorized to help defray their travel expenses.

(2) Orientation. All students should be provided with orientation, both pre-departure and upon arrival in the United States. The orientation should be designed to give the students a good basic knowledge of our country and its people. Students should be fully informed of the nature of the program in which they are participating. They should be provided with some type of identification card which includes the name and phone number of an official of the sponsoring organization as well as the number of the Exchange-Visitor Programs in which they are participating. In addition, orientation should cover proper methods of obtaining and holding a job and the customary practices of giving employers adequate advance notice of resignation. Students should be fully briefed on the employment situation in the United States and admonished not to seek jobs in areas where high unemployment situation exists.

(3) Supervision. Sponsors must be prepared to help their students at any time they have a medical, personal, employment, or other type of problem.

(4) Jobs. Each student sponsored on such a program must either have a pre-arranged job before he or she comes to the United States, or firm appointments with prospective employers, or have sufficient personal funds so as not to be financially embarrassed if not employed.

(5) United States employment. Sponsors are required to check in advance with the Department of Labor to obtain information regarding areas or cities which have a high unemployment rate. Students should be advised to avoid such areas in seeking employment.

(6) Financial responsibility. Sponsors are required to ensure that all participants return home at no charge to the United States Government.

(7) Health and accident insurance. Sponsors are required to ensure that all students are adequately covered with health and accident insurance.

(8) Geographical distribution. Sponsors should develop plans to ensure that groups of students, especially those of the same nationality, are not "clustered" in certain areas or cities. Every effort should be made to have the students widely dispersed throughout the country.

(9) Arrival time. Students for whom the sponsors have arranged "placement" for jobs can begin their programs at any time. Travel for students who have not been "pre-placed" should be delayed by the sponsors as late as possible, preferably after June 15. Such delayed travel will give American students who are interested in obtaining summer jobs from two to four weeks in an uncompetitive market.

(10) Reciprocity. Sponsors are required to administer Student Travel/Work Programs on a reciprocal basis. The number of foreign students a sponsor brings to the United States under this program shall not exceed, in any calendar year, the number of American students who were sent abroad by the sponsor on a Travel/Work Program. Should a sponsor fail in the realization of reciprocity in any given calendar year, the Agency may restrict the number of foreign students that the sponsor brings to the United States in the next calendar year to the number sent abroad by the sponsor in the preceding calendar year.

(11) Report requirement. Sponsors are required to submit an annual report, not later than July 31, on the United States students who were sent abroad the previous calendar year under Travel/Work Programs. The report should contain the following information: name and United States address of the student, the country where the student was employed, name of employer and type of business, and the type and length of employment (dates). The report should also include an ongoing evaluation of both the incoming program for foreign students and the outgoing program for American students. Major problems encountered in the administration of the program should also be listed. Failure to submit the report by July 31 will result in the automatic suspension of the program.

The program will not be reactivated until the report is received by USICA and the sponsor notified that suspension has been lifted.

(12) Unauthorized activities. Employment as servants, mother's helpers, au pair or other jobs of a domestic nature in private homes are not authorized. Employment must be of a commercial or industrial capacity. Also, employment as a Camp Counselor is not authorized under the Travel/Work Program. Special programs with guidelines and criteria have been prepared for both Camp Counselor and Family Placement Programs. All such unauthorized placements will be removed from the count of United States placements abroad which could reduce the number of foreign students which the sponsor will be permitted to bring into the United States during the following year.

(e) International Camp Counselor Program. These criteria apply to the designation and monitoring by the International Communication Agency (USICA) of Exchange-Visitor Programs which are designed to give carefully selected International Camp Counselors an opportunity to spend approximately eight (8) weeks at an American camp imparting appropriate skills to American youth concluding with an optional one to three week period to tour the United States. The principal purpose of these programs bringing International Counselors to serve in American summer camps is to improve American knowledge of a foreign culture and to allow the youth at camps throughout the United States to experience international understanding on a personal basis. A secondary purpose is to improve the foreign camp counselor's knowledge of American culture and language skills though active participation in every facet of camping life.

(1) Selection. The designated sponsoring organization must assume responsibility for the selection of international counselors to participate in these programs. As a general rule, individuals who have already served once as a Camp Counselor should not be selected again. The intent of this program is a principal one of cultural exchange and is intended to give as many foreign camp counselors as possible an opportunity to visit the United States. Sponsoring organizations must have strong supporting documentation justifying the necessity for reselecting an individual who has already once served as counselor. Prospective participants should be individually interviewed by a...
representative of the sponsoring organization. The interviewer’s report should be provided for the camp director’s review. Each participant should submit a confidential reference from a teacher, employer or the sponsoring organization, a copy of which should be made available to the Camp Director. All participants must be fluent in English and be at least 18 years of age upon departure from their home country. The sponsor is responsible for handling the arrival of the counselors, completing transportation arrangements and directing them to their assigned camp.

(2) Orientation. Orientation, both pre-departure and upon arrival in the United States, should be provided to all counselors. The orientation should be designed to give the counselors a good basic knowledge of the United States, its people, and a description of the varieties of American camps. It should provide clear descriptions of the roles and responsibilities of camp counselors and camp staff as well as the contractual obligations between the sponsoring organization, camp, and counselor. Counselors should be fully informed of the nature of the programs in which they are participating. Each should be given a general orientation manual by the sponsor and descriptive information about their assigned camps. They should participate in a training session conducted by the sponsoring organization and a pre-camp training session sponsored by the cooperating camp. The camp or the sponsor must provide the counselors a detailed job description and a copy of these guidelines at the beginning of this pre-camp training session. Counselors should be provided with some type of identification card which includes the name and phone number of an official of the sponsoring organization as well as the name and number of the Exchange-Visitor Program in which they are participating. It should contain the counselor’s name and home address as well as the cooperating camp’s name, address, telephone number and name of the camp director.

(3) Health and accident insurance. It is the responsibility of the sponsor to make certain that each participant is adequately covered with health and accident coverage. This may be done in any of the following ways: (i) by health and accident coverage arranged for by the counselors themselves, (ii) by health and accident insurance coverage arranged for by the sponsor or (iii) by the sponsor assuming all financial responsibilities for a counselor’s illnesses and accidents from the time they leave their home country until they return to their home country.

(4) Geographical distribution. Sponsors should develop plans to ensure that groups of counselors, especially those of the same nationality, are not “clustered” in the same camps in certain areas. Every effort should be made to have the international counselors widely dispersed throughout the country. As a general rule, not more than 10 percent of the total number of counselors at a camp should be international counselors, nor should there be more than two international counselors of the same nationality at one camp. An exception to this requirement will be made by USICA for camps which have specific ethnic, language or nationality programming as a prime or principal programming concept.

(5) Supervision. The sponsor must assume the responsibility of resolving problems including, if necessary, finding a replacement camp position for counselors whose original assignment does not work out, and the early return home of the counselors because of personal or family difficulties. The sponsor must provide both the cooperating camp and the counselor with the names and telephone numbers of officials of the sponsoring organization who can be contacted at any time in case of an emergency or other problems. The sponsoring organization should have offices or personnel available both in the United States and abroad for this purpose. All counselors should have a prearranged camp assignment before their departure for the United States. Participants may be placed only in counseling positions. The intent of this program is principally one of cultural exchange and not one intended for staffing purposes or to provide an inexpensive labor pool. Therefore, participants may not be placed in office or kitchen or custodial jobs or other jobs which are basically menial labor. Sponsors must make every effort to assure that individual counselors are placed with the particular camp which seems to promise the greatest compatibility for the counselor and the camp. Such arrangements should be made well in advance so that the prospective counselors and camp directors will have ample time for correspondence before the counselors leave their home country. Sponsoring organizations shall notify participants of their camp placement at least five weeks prior to their departure for the United States. Coacting camps should be given the background data and arrival information of the participants at least five weeks prior to their arrival in the United States. The sponsoring organization should have a representative visit and inspect as many camps as possible where their exchange visitors are placed. It is important that the cooperating camps guarantee that when an international counselor drives a motor vehicle in connection with assigned duties that the state laws are being met and that there is sufficient insurance coverage. International counselors should be allowed at least 24 hours off each two weeks (with at least 12 hours continuous). International counselors must be able to leave camp distribution(s) off and the camp should assist the counselors with accessible, affordable transportation to and from the nearest town.

(6) Financial responsibility. Sponsors must ensure that all participants will return home at no charge to the U.S. Government. Sponsors are required to have available for review by USICA an audited annual financial statement of its operations. The financial statement should include an itemized list of the salaries of the officers of the organization.

(7) Evaluation reports. Sponsors will furnish USICA an evaluation report of their programs at the end of each camping year (no later than November 1). Reports should include but not be limited to: (i) Number of participants and countries of origin; (ii) geographic distribution of counselors within the United States, by State; (iii) noteworthy achievements or major problems or difficulties encountered; (iv) details regarding the extent to which the sponsor has evaluated the success of the program including specific examples of how counselors enhance the knowledge of Americans about other lands and other people and vice versa; and (v) names and addresses of persons and organizations in the United States and abroad assisting in the administration of the program. The annual evaluation report should also include copies of the program materials (forms, instruction sheets, publications, information folders, etc.) and a copy of the health and accident insurance policy provided for the counselor. The copy of the health and accident insurance policy must be included exactly as it was issued. Other materials once provided need not be duplicated. Only new or updated materials need be included in the annual report in ensuing years.

(8) Post camp cultural experience. Every international counselor should be given an opportunity to participate in at least a two week cultural experience at the end of his or her camp assignment. This experience can be accomplished
either (i) by a group tour arranged by the sponsoring organization or (ii) by independent travel preferably with a small group of fellow international counselors or American friends. The international counselor who plans independent travel should send a proposed itinerary to the sponsoring organization so that the counselor can be contacted in case of an emergency.

(9) Departure. Program sponsors are required to take all necessary action to ensure the departure of the participants at the conclusion of their authorized stay. The Immigration and Naturalization Service must be notified of any Camp Counselor who fails to depart the United States on schedule.

[5x298]'Director, International Communication.
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[7x360]ability of United States-based
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[7x398]agencies, or geographic regions; or
[7x408]Federal, State, or local government
[7x418]for consumers, individual industries,
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[7x465]12291,
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[7x498]E.O. 12291
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[7x546]104(a), 212(e), 66 Stat. 168, 174.182,184; sec. 2,
[7x555]75 Stat.
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[7x586]of any Camp Counselor who fails to
[7x596]stay. The Immigration and
[7x606]ensure the departure of the participants
[7x624]independent travel should send a
[7x633]international counselor who plans
[7x653]be contacted in case of an emergency.
[8x94]acquisition of qualified mass commuting
[8x103]issuance of tax-exempt bonds
[8x113]proposed regulations relating to the,
[8x123]SUMMARY.
[8x160]AGENCY:
[8x173]Mass Commuting Vehicles
[16x389](3)
[16x446](1)
[16x485]USICA has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it
[28x475]A major increase in costs or prices
[28x446]An annual effect on the economy
[33x465]Federal Regulation, because it
[354x730]providing mass commuting services.

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Regulatory Flexibility Act

Although this is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed are interpretative and that the notice and public procedure requirements of U.S.C. 553 do not apply. Accordingly, these proposed amendments do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of these proposed regulations is Susan K. Thompson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) [202-267-6452].

SUPPLEMENTARY INFORMATION:

Background


Explanation of New Provisions

Under section 103, interest on State and local government obligations is generally exempt from Federal income tax. However, tax exemption is denied to State and local government issues of industrial development bonds with certain exceptions. Certain industrial development bonds qualify for the exemption where the proceeds of the bonds are used to provide exempt facilities. Included among these facilities are mass commuting facilities, but not, under prior law, the vehicles used for mass commuting purposes.

The Economic Recovery Tax Act of 1981 provides that interest on obligations or a State or local government are exempt from Federal income tax if substantially all of the proceeds of the obligations are used to provide qualified mass commuting vehicles. This term is defined to mean a bus, subway car, rail car, or similar equipment used by a mass transit system that is wholly owned by one or more governmental units and that is

used by the mass transit system in providing mass commuting services.

The principal author of these proposed regulations is Susan K. Thompson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART I—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Section 1.103-8 is amended by redesignating paragraph (i) as paragraph (k) and by adding new paragraphs (i) and (j) immediately following paragraph (h). These added paragraphs read as follows:

§ 1.103-8 Interest on bonds to finance certain exempt facilities.

* * * * *

(1) Qualified hydroelectric generating facilities. [Reserved]

(1) Qualified mass commuting
vehicles—(1) General rule. Section 103(b)(1) provides that section

103(b)(1) shall not apply to obligations


issued by a State or local governmental unit which are part of an issue substantially all the proceeds of which are to be used to provide qualified mass commuting vehicles. The term “qualified mass commuting vehicle” is defined in section 103(b)(4) and paragraph (j)(2) of this section. Section 103(b)(4)(I) and (9) and this paragraph (j) apply only to obligations issued after August 13, 1981, and before January 1, 1985.

(2) Qualified mass commuting vehicle defined. For purposes of section 103(b)(4)(I) and (9) and this paragraph, the term “qualified mass commuting vehicle” means any bus, subway car, rail car or similar equipment:

(i) That is leased to a mass transit system wholly owned by one or more governmental units, or agencies or instrumentalities of a governmental unit, and

(ii) That is used by the mass transit system in providing mass commuting services.

(3) Similar equipment. For purposes of paragraph (j)(2) of this section, the term “similar equipment” means a vehicle for the transportation of passengers. Thus, for example, the term “similar equipment” includes a streetcar, cable car, van, hydroplane, or ferry vessel. It also includes a vehicle used to power a vehicle that transports passengers, such as the engine car of a subway train. The term “similar equipment” does not include machinery, furniture, or other equipment or parts not attached to, located in, or otherwise made an integral part of a vehicle. Machinery, furniture, or other non-vehicular equipment not made a part of a vehicle as described in the preceding sentence may qualify as a part of, or as functionally related and subordinate to, a mass commuting facility under section 103(b)(4)(II) and § 1.103–8(a)(9). For other rules relating to mass commuting facilities, see § 1.103–8(e)(2)(iv).

(4) Mass commuting services. A transportation service is a mass commuting service within the meaning of section 103(b)(9) and this paragraph (j) if it is used predominantly by business commuters on a day-to-day basis. Thus, for example, a sightseeing service is not a mass commuting service because it is not used predominantly by business commuters. Likewise, the transportation of children to and from school is not a mass commuting service.

(5) Public use requirement. To qualify under section 103(b)(4) and paragraph (a)(2) of this section as a mass commuting vehicle, the vehicle must serve or be available on a regular basis for general public use. A vehicle will not qualify under this section if more than an insubstantial portion of its use is reserved for the exclusive benefit of particular individuals or private groups. For example, a van used by employees of a specific employer or employers will not qualify as a mass commuting vehicle.

(6) Wholly owned by governmental unit. Section 103(b)(9) and paragraph (j)(2) of this section require that a qualified mass commuting vehicle be leased to a mass transit system wholly owned by one or more governmental units (or agencies or instrumentalities of a governmental unit). In determining whether an entity qualifies as a governmental unit or agency or instrumentality of a governmental unit, the rules of section 101(a)(1) and § 1.103–1 apply.

Approved: December 24, 1981.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

John E. Chapoton,
Assistant Secretary of the Treasury.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothy E. Reese, Associate Director, Affiliated Education Programs, Office of Academic Affairs, Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. 20420. All written comments received will be available for public inspection in the Veterans Services Unit, room 132, at the address shown above only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until February 16, 1982. Records are available for inspection only at VA Central Office.

SUMMARY: The "Veterans Administration Health Care Amendments of 1980" established the Veterans Administration Health Professional Scholarship Program. The purpose of the Scholarship Program is to assist in providing an adequate supply of trained physicians and nurses for the Veterans Administration and for the Nation and, if needed by the Veterans Administration, certain other health-care professionals. Under this program, medical, osteopathic and nursing students could receive up to four years of financial assistance during their training. This assistance would include payment of tuition, other educational expenses and a monthly stipend, all of which would be exempt from taxation. In return for this financial assistance, a scholar or participant would be obligated to serve as a full-time employee in the VA's Department of Medicine and Surgery for a period of time equal to the period of support or two years, whichever is greater. Medical or osteopathic students may request a deferment of obligated service to complete a residency or other advanced clinical training. Such a deferment may, however, obligate the student to an additional period of service.

It is intended that the proposed regulations will set forth the requirements for the award of scholarships under the VA Professional Health Scholarship Program to students receiving academic training in medicine, osteopathy, nursing and, if needed by the Veterans Administration, certain other health-care professionals. However, for the 1982–83 school year, scholarships will be awarded only to students pursuing academic training leading to a degree in nursing.

DATES: Comments must be received on or before February 1, 1982. It is proposed to make these regulations effective the date of final approval.

ADDRESSES: Interested persons are invited to send written comments to:

Administrator of Veterans Affairs (271A), 810 Vermont Avenue, NW, Washington, D.C. 20420. All written comments received will be available for public inspection in the Veterans Services Unit, room 132, at the address shown above only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until February 16, 1982. Records are available for inspection only at VA Central Office.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothy E. Reese, Associate Director, Affiliated Education Programs, Office of Academic Affairs, Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. 20420, Phone (202) 389–3829.

SUPPLEMENTARY INFORMATION: The proposed regulations for the Veterans Administration Health Professional Scholarship Program have been designated as non-major by the Administrator under Executive Order 12291. The regulations will apply to individuals seeking benefits of the program. The regulations will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment investment, productivity, innovation, or the stability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator hereby certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are
defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this proposed rule is therefore exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604. The reason for this certification is that this rule will, almost exclusively, be directed to individuals who wish to apply for assistance from the VA Professional Nurse Scholarship Program. It will, therefore, have no significant direct impact on small entities (i.e., small business, small private and non-profit organizations, and small governmental jurisdictions.)

The Catalog of Federal Domestic Assistance number for this program is 94.023.

Approved: December 18, 1981.
Robert P. Nimmo,
Administrator.

PART 17—MEDICAL

It is proposed to amend 38 CFR Part 17 by adding §§ 17.600 through 17.612 to read as follows:

VA Health Professional Scholarship Program

Sec.
17.600 Purpose.
17.601 Definitions.
17.602 Eligibility.
17.603 Availability of scholarships.
17.604 Application for the scholarship program.
17.605 Selection of participants.
17.606 Award procedures.
17.607 Obligated service.
17.608 Deferment of obligated service.
17.609 Pay during period of obligated service.
17.610 Failure to comply with terms and conditions of participation.
17.611 Bankruptcy.
17.612 Cancellation, waiver or suspension of obligation.


VA Health Professional Scholarship Program

§ 17.600 Purpose.

The purpose of §§ 17.600 through 612 is to set forth the requirements for the award of scholarships under the Veterans Administration Health Professional Scholarship Program (Pub. L. 96–330; 38 U.S.C. 4141–4146) to students receiving academic training in medicine, osteopathy or nursing to assure an adequate supply of such health professionals for the Veterans Administration and for the Nation.

§ 17.601 Definitions.

For the purpose of these regulations:
(a) "Acceptable level of academic standing" means the level at which a full-time student retains eligibility to continue in attendance in school under the school's standards and practices.
(c) "Affiliation agreement" means a Memorandum of Affiliation between a Veterans Administration health care facility and a school of medicine or osteopathy.
(d) "Approved graduate training" means those programs of graduate training in medicine including osteopathy which (1) lead to board certification or which provide other evidence of completion, and (2) have been approved by the appropriate body as determined by the Administrator.
(e) "Administrator" means the Administrator of Veterans Affairs.
(f) "Chief Medical Director" means the Chief Medical Director of the Department of Medicine and Surgery (DM&S), Veterans Administration.
(g) "Citizen of the United States" means any person born, or lawfully naturalized in the United States, subject to its jurisdiction and protection, and owing allegiance thereto.
(h) "Degree in nursing" means a baccalaureate degree or a master's degree in a clinical specialty, excluding maternal-child health, pediatrics, midwifery and related fields for which the Veterans Administration has no employment needs.
(i) "Full-time student" means an individual pursuing a course of study leading to a baccalaureate degree or a master's degree in a clinical specialty, excluding maternal-child health, pediatrics, midwifery and related fields for which the Chief Medical Director.
(j) "Full-time study" means an individual pursing a course of study leading to a degree in medicine, osteopathy or nursing who is enrolled for a sufficient number of credit hours in any academic term to complete the course of study within not more than the number of academic terms normally required by the school, college or university.
(k) "Required educational equipment" means educational equipment which must be rented or purchased by all students pursuing a similar curriculum in the school.
(l) "Required fees" means those fees which are charged by the school to all students pursuing a similar curriculum.
(m) "Scholarship Program" means the Veterans Administration Health Professional Scholarship Program authorized by Section 201 of the Act.
(n) "Participant" means an individual whose application to the Scholarship Program has been approved and whose contract has been accepted by the Administrator.
(o) "School" means a school of medicine, osteopathy or nursing which (1) provides training leading to a degree of doctor of medicine, doctor of osteopathy or degree in nursing and (2) which is accredited by a body or bodies recognized for accreditation by the Administrator.
(p) "School year" means all or part of the 12-month period from July 1 through June 30 during which an applicant is enrolled in the school as a full-time student.
(q) "State" means one of the several States, Territories and possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

§ 17.602 Eligibility.

(a) To be eligible for a scholarship under this program an applicant must—
(1) Be a citizen of the United States;
(2) Be pursuing a course of study or program offered by a school of nursing leading to a degree in medicine, osteopathy or in nursing;
(3) Be a citizen of the United States; and
(4) Submit an application to participate in the Scholarship Program together with a signed contract.
(b) Any applicant who, at the time of application, owes a service obligation to another Federal program to perform service after completion of the course of study is ineligible to receive a scholarship under the Veterans Administration Scholarship Program.

§ 17.603 Availability of scholarships.

Scholarships will be awarded only when necessary to assist the Veterans Administration in alleviating shortages or anticipated shortages of personnel in particular health professions. The existence of a shortage of personnel will be determined in accordance with specific criteria for each health profession, promulgated by the Chief Medical Director. If it becomes necessary for the Veterans Administration to award scholarships in any health profession other than medicine, osteopathy or nursing, the Administrator may publish a list of those professions in the Federal Register.

§ 17.604 Application for the scholarship program.

Each individual desiring a scholarship under this program must submit an application in the form and at the time prescribed by the Administrator. Included with the application will be a...
signed written contract to accept payment of a scholarship and to serve "a period of obligated service" (as defined in §17.607) if the application is approved and if the contract is accepted by the Administrator. (38 U.S.C. 4142(e)(3)(B)(iv))

§ 17.605 Selection of participants.

(a) General. In deciding which Scholarship Program applications will be approved by the Administrator, priority will be given to applicants who previously received scholarship awards and who meet the conditions of paragraph (d) of this section. Except for continuation awards (see paragraph (d)), applicants will be evaluated under the criteria specified in paragraph (b) of this section. (38 U.S.C. 4142(c)(1))

(b) Selection. In evaluating and selecting participants, the Administrator will take into consideration those factors determined necessary to assure effective operation in the Scholarship Program. The factors may include, but not be limited to—

1. Work experience, including prior medically related employment and Veterans Administration employment;
2. Faculty and employer recommendations;
3. Academic performance; and
4. Related experience gained in college and community activities. (38 U.S.C. 4142(f))

(c) Duration of scholarship award. Subject to the availability of funds for the Scholarship Program, the Administrator will award a participant a scholarship under §§ 17.607–17.612 for a period of 1 school year. (38 U.S.C. 4142(c)(2)(A), 4142(f))

(d) Continuation awards. Subject to the availability of funds for the Scholarship Program and selection, the Administrator will award a continuation scholarship if—

1. The participant requests a continuation;
2. The award will not extend the total period of the Scholarship Program beyond 4 years; and
3. The participant remains eligible for continued participation in the Scholarship Program. (38 U.S.C. 4142(c)(1), (f))

§ 17.606 Award procedures.

(a) Amount of scholarship. (1) A scholarship award for each school year will consist of (i) tuition, (ii) reasonable educational expenses, including required fees, books, laboratory equipment, and (iii) a monthly stipend for the 12-month period beginning with the first month of each school year in which the participant is enrolled in the course of study. All such payments to scholarship participants are exempt from taxation. (38 U.S.C. 4145)

(2) The Administrator may make arrangements with the school in which the participant is enrolled for the direct payment of the amount of tuition and/or reasonable educational expenses on the participant's behalf. (38 U.S.C. 4142(f)(1) and (2); 4145)

(b) Leave-of-absence, repeated course work. The Administrator will suspend scholarship payments to or on behalf of a participant if the school (1) approves a leave-of-absence for the participant for health, personal, or other reasons, or (2) requires the participant to repeat course work for which the Administrator previously has made payments under the Scholarship Program. Only if the repeated course work does not delay the participant's graduation date, will scholarship payments continue; however, additional costs relating to the repeated course work will not be paid under this section. Any scholarship payments suspended under this section will be resumed by the Administrator upon notification by the school that the participant has returned from the leave-of-absence or has completed the repeated course work and is pursuing as a full-time student the course of study for which the scholarship was awarded. (38 U.S.C. 4142(j)).

§ 17.607 Obligated service.

(a) General. Except as provided in paragraph (d) of this section, each participant is obligated to provide service as a Veterans Administration employee in full-time clinical practice in his or her clinical specialty or discipline in an assignment or location determined by the Administrator. (38 U.S.C. 4143(a))

(b) Beginning of service. The period of obligated service will begin with the participant is appointed under title 38 as a full-time employee of the Department of Medicine and Surgery, Veterans Administration in the clinical field or discipline in which the individual was trained. Except for those participants who receive a deferral under § 17.608, the assignment will be made by the Administrator within 60 days of (1) the completion of the participant's course of study leading to a degree in medicine, osteopathy or nursing or (2) the date upon which the participant becomes licensed to practice medicine, osteopathy, or nursing. (38 U.S.C. 4143(b), (c))

(c) Duration of service. Except as provided in paragraph (d) of this section, the period for which the participant is obligated is a full-time basis in the clinical field or discipline in which the individual was trained to serve is equal to 1 year for each school year for which the participant receives a scholarship award under these regulations, or 2 years, whichever is greater. (38 U.S.C. 4142(e)(1)(B)(iv))

(d) Service by detail. The Administrator, in cooperation with and with the consent of the heads of other relevant Federal departments and agencies and with the consent of the participant involved, may permit—

1. Any period of required obligated service to be performed in another Federal department or agency or in the Armed Forces; and
2. Any period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel scholarship program to be performed in the Department of Medicine and Surgery, Veterans Administration. (38 U.S.C. 4144(e))

(e) Creditability of approved graduate medical training. No period of approved graduate training will be credited toward satisfying the period of obligated service incurred under the Scholarship Program. (38 U.S.C. 4149(b)(3)(A)(ii))

§ 17.608 Deferment of obligated service.

(a) Request for deferment. A participant receiving a degree from a school of medicine or osteopathy may request deferment of obligated service to complete approved graduate medical training. The Administrator will generally defer the beginning date of the obligated service to allow the participant to complete the approved graduate training program. The period of this deferment will be the time designated for the specialty training in which the physician is enrolled as defined by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association. (38 U.S.C. 4142(b); 4149(b)(3)(A)(ii))

(b) Deferment requirements. Any participant whose period of obligated service is deferred shall be required to take all or part of the approved graduate medical training in an accredited program in an educational institution affiliated with a Veterans Administration health care facility. (38 U.S.C. 4149(b)(3)(A))

(c) Additional service obligation. A participant who has requested and received deferment of obligated service is deferred shall be required, at the time of approval of such deferment and at the discretion of the administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

1. At the rate of one-half of a calendar year for each year of approved graduate training (or a proportionate
§ 17.609 Pay during period of obligated service.

The initial appointment of physicians for obligated service will be made in a grade commensurate with qualifications as determined in section 4107(b)(1) of title 38, United States Code. A physician serving a period of obligated service is not eligible for incentive special pay during the first three years of such obligated service. He or she may be paid primary special pay at the discretion of the Administrator upon the recommendation of the Chief Medical Director. (Pub. L. 98–330, Sec. 202; 38 U.S.C. 4118(b))

§ 17.610 Failure to comply with terms and conditions of participation.

(a) If a participant, other than one described in paragraph (b) of this section, fails to complete payment or instructs the school not to accept payment of the scholarship provided by the Administrator, the participant must, in addition to any service or other obligation incurred under the contract, pay to the United States the amount of $1,500 liquidated damages. Payment of this amount must be made within 90 days of the date on which the participant fails to accept payment of the scholarship award or instructs the school not to accept payment. (38 U.S.C. 4144(a))

(b) When a participant fails to maintain an acceptable level of academic standing, is dismissed from the school for disciplinary reasons, voluntarily terminates the course of study or program for which the scholarship was awarded before completing the course of study or program, or fails to become licensed to practice medicine or osteopathy in a State or fails to become licensed as a graduate nurse in a State within 2 years from the date such person becomes eligible to apply for state licensure, the participant must, instead of performing any service obligation, pay to the United States an amount equal to all scholarship funds awarded under the written contract executed in accordance with § 17.602. Payment of this amount must be made within 3 years from the date academic training terminates. (38 U.S.C. 4144(b))

(c) Participants who breach their contracts by failing to begin or complete their service obligation (for any reason) are liable to repay the amount of all scholarship funds paid to them and to the school on their behalf, plus interest, as determined by the following formula:

\[ A = \frac{t-s}{t} \]

in which:

- 'A' is the amount the United States is entitled to recover;
- 'o' is the sum of the amounts paid to or on behalf of the applicant and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;
- 't' is the total number of months of the applicant's period of obligated service; and
- 's' is the number of months of the period of obligated service served by the participant.

The amount which the United States is entitled to recover shall be paid within 1 year of the date on which the participant failed to begin or complete the period of obligated service, as determined by the Administrator. (38 U.S.C. 4144(c))

§ 17.611 Bankruptcy.

Any payment obligation incurred may not be discharged in bankruptcy under title 11 of the United States Code until 5 years after the date on which the payment obligation is due. (38 U.S.C. 4144(d)(3))

§ 17.612 Cancellation, waiver, or suspension of obligation.

(a) Any obligation of a participant for service or payment will be canceled upon the death of the participant. (38 U.S.C. 4144(d)(1))

(b)(1) A participant may seek a waiver or suspension of any service or payment obligations incurred under this program by written request to the Administrator setting forth the basis, circumstances, and causes which support the requested action. The Administrator may approve an initial request for a suspension for a period of up to 1 year. A renewal of this suspension may also be granted.

(2) The Administrator may waive or suspend any service or payment obligation incurred by a participant whenever compliance by the participant (i) is impossible, due to circumstances beyond the control of the participant or (ii) whenever the Administrator concludes that a waiver or suspension of compliance would be in the best interest of the Veterans Administration. (38 U.S.C. 4144(d)(2))

(c) Compliance by a participant with a service or payment obligation will be considered impossible due to circumstances beyond the control of the participant if the Administrator determines, on the basis of information and documentation as may be required, that the participant suffers from a physical or mental disability resulting in permanent inability to perform the service or other activities which would be necessary to comply with the obligation. (38 U.S.C. 4144(d)(2))

(d) Waivers or suspensions of service or payment obligations, when not related to paragraph (c) of this section, and when considered in the best interest of the Veterans Administration, will be
DEPARTMENT OF THE INTERIOR:

Bureau of Reclamation

43 CFR Part 426

Acreage Limitation: Reclamation Rules and Regulations and Draft Environmental Impact Statement

AGENCY: Bureau of Reclamation, Interior.

ACTION: Extension of comment periods and scheduling of public hearings on proposed rules and draft environmental impact statement on acreage limitation.

SUMMARY: This notice extends the comment periods on the acreage limitation proposed rules (46 FR 37528, July 22, 1981) and draft environmental impact statement (46 FR 37529, July 22, 1981) from December 31, 1981, to March 5, 1982. The extension will allow the Bureau of Reclamation time to conduct 10 public hearings. The information gathered at these hearings will be considered before making any revisions to the published proposed rules and regulations (46 FR 3359-3359) for administering the acreage limitation provisions of Reclamation law and in writing the final environmental impact statement on those rules.

DATES: Comments are due on or before March 5, 1982. The hearings will be held on the dates shown below. All hearings will begin at 9:00 a.m. and will continue until all comments have been heard.

ADDRESSES: The hearings will be held at the locations shown below.

FOR FURTHER INFORMATION CONTACT: Vernon S. Cooper, (202) 343-2148.

SUPPLEMENTARY INFORMATION: The hearings will be held on the dates and at the locations shown below.

February 26—Department of Interior, Auditorium, Washington, DC
February 27—Sacramento Convention Center, Sacramento, California
February 23—Chandler Civic Plaza, Chandler, Arizona
February 22—Salt Lake City, Utah
February 21—Fresno Convention Center, Fresno, California
February 20—Albuquerque Convention Center, Santa Fe, New Mexico
February 19—Salt Lake City, Utah
February 18—Phoenix, Arizona
February 17—Federal Building, Room 5421, Salt Lake City, Utah
February 16—Sacramento, California
February 15—Boise, Idaho
February 14—Pocatello, Idaho
February 13—Denver, Colorado
February 12—Boulder, Colorado
February 11—Boise, Idaho
February 10—Salt Lake City, Utah
February 9—Denver, Colorado
February 8—Minneapolis, Minnesota
February 7—Phoenix, Arizona
February 6—Boulder, Colorado
February 5—Salt Lake City, Utah
February 4—Denver, Colorado
February 3—Boise, Idaho
February 2—Federal Building, Room 5421, Salt Lake City, Utah
February 1—Salt Lake City, Utah

Oral statements will be limited to minutes. Speakers will not be permitted to trade their time to obtain a longer oral presentation; however, the hearing officer may allow any person additional time after all other comments have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request, whenever possible. Any scheduled speaker not present when called will lose his or her privilege in the scheduled order, but will be called back after all the scheduled speakers have been heard. Speaker requests will be scheduled up to two working days preceding the hearings and any subsequent request will be handled on a first-come-first-served basis following the scheduled presentations.

Individuals or organizations wishing to speak at the hearings or who desire additional information should contact the appropriate office listed below:

Contact: Regional Director, Pacific-Northwest Region, Bureau of Reclamation, 550 West Port Street, P.O. Box 843, Boise, Idaho 83724, (208) 334-1908.

Hearing: Sacramento and Fresno, California.
Contact: Regional Director, Mid-Pacific Region, Bureau of Reclamation, Federal Office Building, 280 Cottage Way, Sacramento, California 95825, (916) 484-4680.

Hearing: Phoenix, Arizona.
Contact: Regional Director, Lower Colorado Region, Bureau of Reclamation, 125 South State Street, P.O. Box 11568, Salt Lake City, Utah 84147, (801) 524-5457.

Hearing: Albuquerque, New Mexico.
Contact: Regional Director, Southwest Region, Bureau of Reclamation, 714 South Tyler, Amarillo, Texas 79101, (806) 378-5400.

Hearing: Billings, Montana.
Contact: Regional Director, Upper Missouri Region, Bureau of Reclamation, 510 North 25th Street, P.O. Box 2533, Billings, Montana 59103, (406) 657-6112.

Hearing: Denver, Colorado.
Contact: Regional Director, Lower Missouri Region, Bureau of Reclamation, Building 20, Denver, Federal Center, P.O. Box 25247, Denver, Colorado 80225 (303) 234-3327.

Hearing: Washington, DC.
Contact: Commissioner, Bureau of Reclamation, Attention: Code 410, 18th and C Streets NW., Washington, DC 20240, (202) 343-2148.

Those wishing to supplement their testimony with a written statement or those who would prefer to submit only a written statement for the public hearing should address them to: Mr. Phillip T. Doe, Bureau of Reclamation, E&R Center, Code D-700, P.O. Box 25007, Denver, Colorado 80225.

Public hearing testimony will be summarized and responded to in the final environmental impact statement. Written statements will be processed in a like manner.

Dated: December 23, 1981.

R. N. Broadbent, Commissioner, Bureau of Reclamation.

Federal Register / Vol. 46, No. 251 / Thursday, December 31, 1981 / Proposed Rules 63331

Bureau of Land Management

43 CFR Part 3550

Federal Oil Shale Management Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to propose rules; prepare an Environmental Impact Statement and hold scoping meetings.

SUMMARY: This document serves as public notice of intent to publish proposed regulations for Federal oil shale management; prepare an Environmental Impact Statement (EIS) pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, hold scoping meetings on the EIS, and to hold a Regional Oil Shale Team (ROST) meeting.

DATES: The meetings will be held on February 1-5, 1982.

ADDRESSES: The meeting locations are listed in Supplementary Information below.


SUPPLEMENTARY INFORMATION: The regulations will cover such things as lands subject to leasing, acreage or lease size limitation, diligent...
development requirements, and rentals and royalties. Additionally, the regulations may include requirements to guide tract selection, lease management procedures, and surface management and protection standards.

The EIS will consider alternative methods of leasing oil shale, alternative production levels, and alternative energy sources. Regional and cumulative impacts of oil shale development, particularly in Colorado, Utah, and Wyoming, will be assessed. The cumulative analysis will include other development in those areas (i.e., coal, oil and gas, power plants, recreation projects, other oil shale projects, etc.). The Department intends to publish proposed rules and the draft programmatic EIS in July 1982, the final EIS in December 1982, and the final rules in January 1983.

A series of scoping meetings for the programmatic EIS will be held during the first week of February 1982. These meetings are open to the public. Interested persons are invited to attend the meetings, and to submit oral and written comments on the scoping of the EIS and the program. In addition, oral and written comments may be submitted until February 19, 1982, to either of the parties listed under the section of this notice entitled, "For Further Information Contact."

Specifically, the meetings are scheduled for:

Monday, February 1, 1982—1 p.m., Room 209, Main Post Office Building Auditorium, 18th and Stout, Denver, Colorado
Tuesday, February 2, 1982—1 p.m., Room 128, Salt Palace, Salt Lake City, Utah
Wednesday, February 3, 1982—7 p.m., Golden Age Center, 155 South 100 West, Vernal, Utah
Wednesday, February 3, 1982—7 p.m., Signal Room, Holiday Inn, 1675 Sunset Drive, Rock Springs, Wyoming
Thursday, February 4, 1982—7 p.m., Fairfi eld Center, 200 Main Street, Meeker, Colorado
Friday, February 5, 1982—7 p.m., Grand Junction City Auditorium, Road Avenue between 5th and 6th Streets, Grand Junction, Colorado

The February 1, 1982, scoping meeting will be part of a Regional Oil Shale Team (ROST) meeting scheduled for the same day. The purpose of the ROST meeting is to announce and scope the proposed Federal Oil Shale Management Program and associated programmatic EIS.

The scoping process will involve contact with agencies and individuals, in addition to formal contact with other Federal, State, and local agencies and groups.

In accordance with the final regulations of the Council on Environmental Quality for Implementation of Procedural Provisions of the National Environmental Policy Act (40 CFR Part 1500) the scoping meetings will:

a. Inform affected Federal, State, and local agencies, and other interested groups or individuals about the EIS and the regulations.

b. Define the scope and significant issues to be analyzed in the EIS. This includes identification of and elimination from detailed study those issues which are not significant.

c. Identify environmental reports which may be related to the proposal or may contain relevant data.

d. Identify related consultation and review requirements which will be addressed in the EIS, including identification of mandated documentation.

e. Identify subject areas which may be relevant to proposed regulations for leasing.

Dated: December 30, 1981.

James M. Parker,
Acting Director.

[FR Doc. 81-37347 Filed 12-30-81; 8:45 am]

BILLING CODE 4310-04-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67
[Docket No. FEMA-6224]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base elevation determinations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the

community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the publication of this proposed rule in a newspaper of general circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT:


These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of § 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1303 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.
The proposed base (100-year) flood elevations for selected locations are:

**PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS**

<table>
<thead>
<tr>
<th>State</th>
<th>City/town/county</th>
<th>Source of flooding</th>
<th>Location</th>
<th>#Depth in feet above ground</th>
<th>Elevation in feet (FEGO)</th>
<th>Elevation in feet (VELVR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>Unincorporated areas of Shelby County</td>
<td>Cahaba River</td>
<td>Approximately 1,000 foot upstream from Tuscaloosa Road Bridge, Approximately 500 foot downstream from Southern Railway Bridge, Approximately 1,200 foot upstream from County Road 52 bridge, Approximately 600 foot downstream from confluence of Patton Creek, Approximately 120 foot downstream from confluence of southbound lane of U.S. Highway 31, Approximately 800 foot downstream from confluence of Acton Creek, Approximately 1,000 foot downstream from County Road 29 (Caldwell M3 Road) bridge.</td>
<td>Just upstream from U.S. Highway 31</td>
<td>353</td>
<td>353</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bishop Creek</td>
<td>Just upstream from U.S. Highway 31</td>
<td>530</td>
<td>530</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yellow Fork Creek</td>
<td>Just upstream from U.S. Highway 31</td>
<td>549</td>
<td>549</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Four Mule Creek</td>
<td>Just upstream from County Road 55</td>
<td>493</td>
<td>493</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Muddy Prong</td>
<td>Just upstream from County Road 43</td>
<td>476</td>
<td>476</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>South Fork Yellow Fork Creek</td>
<td>Just upstream from County Road 43</td>
<td>493</td>
<td>493</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Oak Creek</td>
<td>Just upstream from County Road 43</td>
<td>493</td>
<td>493</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>North Fork Yellow Fork Creek</td>
<td>Just upstream from County Road 43</td>
<td>490</td>
<td>490</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Little Creek</td>
<td>Just upstream from U.S. Highway 200</td>
<td>432</td>
<td>432</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Hang's Retreat Creek</td>
<td>Just upstream from U.S. Highway 200</td>
<td>432</td>
<td>432</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Spencer Creek</td>
<td>Just upstream from Bresehd Dam</td>
<td>432</td>
<td>432</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Yellow Creek</td>
<td>Just upstream from Bresehd Dam</td>
<td>432</td>
<td>432</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Waxahatchee Creek</td>
<td>Just upstream from Bresehd Dam</td>
<td>432</td>
<td>432</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Camp Branch</td>
<td>Just upstream from County Road 42</td>
<td>432</td>
<td>432</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Wolf Creek</td>
<td>Just upstream from County Road 42</td>
<td>432</td>
<td>432</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Willow Creek</td>
<td>Just upstream from County Road 42</td>
<td>432</td>
<td>432</td>
<td></td>
</tr>
</tbody>
</table>
### Proposed Base (100-Year) Flood Elevations—Continued

<table>
<thead>
<tr>
<th>State</th>
<th>City/town/county</th>
<th>Source of flooding</th>
<th>Location</th>
<th>Depth in feet above ground</th>
<th>Elevation in feet (NAVD)</th>
<th>Elevation in feet (VLLV)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>Delta Junction (city), Southeast Fairbanks Division</td>
<td>Javine Creek</td>
<td>700 feet southwest from intersection of Donnelly Street and Shaw Avenue.</td>
<td></td>
<td><strong>1,160</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alaska</td>
<td>Dillingham (city), Bristol Bay Division</td>
<td>Nushagak Bay</td>
<td>100 feet southeast from the center of the intersection of State Hill Road and Dillingham Akutanak Road. 700 feet south of the center of the intersection of G Street and Main Street.</td>
<td></td>
<td><strong>42</strong></td>
<td></td>
</tr>
<tr>
<td>Arizona</td>
<td>Apache Junction (city), Pinal County</td>
<td>Weekes Wash</td>
<td>50 feet downstream from the center of East Superstition Boulevard. Center of East 4th Avenue, 250 feet west from its intersection with South Winchester Road. Center of North Delaware Drive 100 feet north from its intersection with the center of U.S. Highway 60 and 89 (West Apache Trail).</td>
<td></td>
<td><strong>1,700</strong></td>
<td></td>
</tr>
<tr>
<td>Arizona</td>
<td>Pinal County</td>
<td>Gila River (at Florence)</td>
<td>200 feet upstream from the center of U.S. Highway 60 and 89.</td>
<td></td>
<td><strong>1,460</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Gila River (at Riverside)</td>
<td>Intersection of South Kelvin Road and Apache Way. Center of Hawth Road at approximately 1,100 feet west of its intersection with State Highway 177.</td>
<td></td>
<td></td>
<td><strong>1,705</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Gila River (at Keamy)</td>
<td>40 feet upstream from the center of State Highway 77.</td>
<td></td>
<td></td>
<td><strong>1,630</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Gila River (at Hayden and Winlock). San Pedro River (at Dudleyville)</td>
<td>Intersection of Eskiminuk Wash and State Highway 77. 100 feet upstream from the center of State Highway 77.</td>
<td></td>
<td></td>
<td><strong>1,590</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>San Pedro River (at Mammoth)</td>
<td>50 feet downstream from the center of U.S. Highway 60 and 89.</td>
<td></td>
<td></td>
<td><strong>1,500</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Queen Creek</td>
<td>West Branch</td>
<td>25 feet upstream from the center of Bur Drive. 100 feet downstream from the center of Uton Valley Drive.</td>
<td></td>
<td><strong>1,500</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>West Branch</td>
<td>North Branch Santa Cruz Wash</td>
<td>40 feet upstream from the center of Thornton Road.</td>
<td></td>
<td><strong>1,500</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Wookies Wash</td>
<td>Santa Cruz Wash</td>
<td>50 feet upstream from the center of North Apache Trail (State Highway 89).</td>
<td></td>
<td><strong>1,500</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Santa Cruz Wash</td>
<td>Green Wash</td>
<td>Intersection of Candolick Drive and State Highway 84.</td>
<td></td>
<td><strong>1,500</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Intersection of Anderson Road and State Highway 84.</td>
<td></td>
<td><strong>1,500</strong></td>
<td></td>
</tr>
<tr>
<td>Colorado</td>
<td>Cliffs (town), Montrose County</td>
<td>Uncompahgre River</td>
<td>25 feet upstream of intersection of State Highway 345 and Uncompahgre River.</td>
<td></td>
<td><strong>5,537</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Downstream Corporate Limits</td>
<td>Intersection of Church Avenue and 6th Street.</td>
<td></td>
<td><strong>5,543</strong></td>
<td></td>
</tr>
<tr>
<td>Colorado</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Connecticut</td>
<td>Ridgefield, town, Fairfield County</td>
<td>Norwalk River</td>
<td>Downstream Corporate Limits. First crossing of downstream Corporate Limits.</td>
<td></td>
<td><strong>344</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Second crossing of upstream Corporate Limits.</td>
<td></td>
<td><strong>370</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Millers Pond Dam (upstream side).</td>
<td></td>
<td><strong>370</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Topstone Road (upstream side)</td>
<td></td>
<td><strong>400</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Stoneywane Road (upstream side).</td>
<td></td>
<td><strong>410</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Great Pond Road (upstream side).</td>
<td></td>
<td><strong>400</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>State Route 25 (upstream side).</td>
<td></td>
<td><strong>400</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Great Hill Road (upstream side).</td>
<td></td>
<td><strong>531</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Downstream of Taylor Pond Dam.</td>
<td></td>
<td><strong>503</strong></td>
<td></td>
</tr>
</tbody>
</table>

Maps available for inspection at City Hall, Minturn, Colorado. Send comments to the Honorable Jerold Barger, Box 229, Delta Junction, Alaska 99737.

Maps available for inspection at City Hall, Dillingham, Alaska. Send comments to the Honorable Wendell Clarke, Box 1001, Dillingham, Alaska 99576.

Maps available for inspection at Department of Public Works, 1001 North Idaho Road, Apache Junction, Arizona. Send comments to the Honorable Wendell Clarke, 1001 North Idaho Road, Apache Junction, Arizona 85220.

Maps available for inspection at Department of Planning, 1201 Pinal, Florence, Arizona. Send comments to the Honorable James Karam, P.O. Box 87, Florence, Arizona 85222.

Maps available for inspection at Town Hall, 420 Horton Street, Cliffs, Colorado. Send comments to the Honorable John Harold, P.O. Box 36, Cliffs, Colorado 81425.
## PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

<table>
<thead>
<tr>
<th>State</th>
<th>City/town/county</th>
<th>Source of Reading</th>
<th>Location</th>
<th>#Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>#Elevation in feet above ground.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>#Elevation in feet (NNSDO).</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>#Elevation in feet (MLNV).</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>#Depth in feet upstream from Old Washington Road.</td>
<td></td>
</tr>
<tr>
<td>Triton River</td>
<td>Downstream Corporate Units</td>
<td>+456</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ridges Road</td>
<td>(upstream side)</td>
<td>+506</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Argyle Road</td>
<td>(upstream side)</td>
<td>+524</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Batavia Road</td>
<td>(upstream side)</td>
<td>+574</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Route 116 (upstream side)</td>
<td>+594</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Racine Road (upstream side)</td>
<td>+674</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taylor Pond Dam (upstream side)</td>
<td>+685</td>
<td>Approximately 620 feet upstream from Overlook Drive</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Route 29 (upstream side)</td>
<td>+573</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West Branch Silvermine River</td>
<td>Downstream Corporate Limits</td>
<td>+581</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Downstream cross of Willow Road East (upstream side)</td>
<td>+574</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Spectacle Lake (downstream side)</td>
<td>+584</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Maps available for inspection at the Planning and Zoning Office, Ridgefield Town Hall, 400 Main Street, Ridgefield, Connecticut.

Send comments to Honorable Louis Fossati, Chairman of the Board of Selectmen, 403 Main Street, Ridgefield, Connecticut 06877.

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Maps available for inspection at the City Clerk's Office, Ridgefield Town Hall, 400 Main Street, Ridgefield, Connecticut.

Send comments to Honorable Dave Rader, Town Board President, Town of Greenacres, Greenacres Town Hall, 1514 Sunset Drive, McHenry, Illinois 60050.

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Maps available for inspection at the Village Hall, 323 West State St, Island Lake, Illinois.

Send comments to Honorable Al Schmidt, Mayor, Village of Island Lake, Village Hall, 323 West State St, Box 335, Island Lake, Illinois 60042.

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Maps available for inspection at the City Clerk's Office, City Hall, 222 East 9th Street, Lockport, Illinois.

Send comments to Honorable Joseph Galasso, Mayor, City of Lockport, City Hall, 222 East 9th Street, Lockport, Illinois.

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Maps available for inspection at the City Hall, 200 North Lincoln Avenue, O'Fallon, Illinois.

Send comments to Honorable Gary Mackey, Mayor, City of O'Fallon, City Hall, 200 North Lincoln Avenue, O'Fallon, Illinois.
| State | City/town/county | Source of flooding | Location | #Depth in feet above ground.
|-------|-----------------|--------------------|----------|----------------------
| Illinois | Pinckneyville, Perry County | Railroad Tributary | At mouth... | *414
| Illinois | Pinckneyville, Perry County | Beaucoup Creek | Just downstream of State Route 127 | *414
| Illinois | (Unincorporated), Sangamon County | Sangamon River | About 1,100 feet downstream of U.S. Route 36 | *599
| Illinois | (Unincorporated), Sangamon County | South Fork Sangamon River | About 3.9 miles downstream of the Chicago and North Western Railroad. | *599
| Illinois | (Unincorporated), Sangamon County | Sugar Creek | Just upstream of Illinois Central Gulf Railroad | *569
| Illinois | (Unincorporated), Sangamon County | Horse Creek | At mouth. | *559
| Illinois | (Unincorporated), Sangamon County | Clear Creek | Just downstream of County Highway 1A North. | *559
| Illinois | (Unincorporated), Sangamon County | Hoover Branch | At mouth. | *559
| Illinois | (Unincorporated), Sangamon County | Jacksonville Branch | About 300 feet downstream of Jacksonville Road. | *559
| Illinois | (Unincorporated), Sangamon County | Town Branch | About 150 feet upstream of Ames Avenue. | *559
| Illinois | (Unincorporated), Sangamon County | Brush Creek | At mouth. | *559
| Illinois | (Unincorporated), Sangamon County | Spring Creek | At mouth. | *559
| Illinois | (Unincorporated), Sangamon County | Delaware Creek | At mouth. | *559
| Illinois | (Unincorporated), Sangamon County | South Fork Sangamon River | At mouth. | *559
| Illinois | (Unincorporated), Sangamon County | Sugar Creek | At mouth. | *559

Maps available for inspection at the Clerk's Office, Village Hall, 1,100 South Walnut, Pinckneyville, Illinois.

Send comments to Honorable Richard J. Seliger, Village President, Village of Plainfield, Village Hall, 1,100 North Division Street, Plainfield, Illinois 60544.

Maps available for inspection at the Sangamon County Planning Commission Office, 703 Meyers Building, Springfield, Illinois 62701.
<table>
<thead>
<tr>
<th>State</th>
<th>City/town/county</th>
<th>Source(s) of flooding</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>V, Warsaw, Stephenson County</td>
<td>Peaatonia River, Indian Creek</td>
<td>Within corporate limits, Within corporate limits</td>
</tr>
</tbody>
</table>

Maps available for inspection at the Post Office, Warsaw, Illinois.

Send comments to Honorable Richard Miller, Village President, Village of Warsaw, P.O. Box 13, Warsaw, Illinois 46580.

| Indiana       | (T), Andrews, Huntington County | Loos Creek | About 200 feet downstream of Norfolk and Western Railroad. About 150 feet upstream of Moore Street. About 1,000 feet upstream of Main Street. | 703 |

Maps available for inspection at the Town Hall, 66 Main Street, Andrews, Indiana.

Send comments to Honorable Roger Stambaugh, Town Board President, Town of Andrews, Town Hall, Box 259, 66 Main Street, Andrews, Indiana 46702.

| Indiana       | (Unincorporated), Boone County | Peabull Creek (near Lebanon) | About 2.3 miles downstream of U.S. Route 52. About 1,600 feet upstream of Decatur Road. About 1,400 feet downstream of East Washington Street. About 400 feet upstream of 400 South Road. At confluence with Sugar Creek. About 0.55 mile downstream of State Route 47. About 0.55 mile downstream of Cincinnati Road. About 0.65 mile upstream of Kainsville Road. About 0.85 mile upstream of State Route 32. At Town of Zionsville corporate limits. About 1.93 miles downstream of Interstate 465. About 0.70 mile downstream of State Route 334. About 1.05 miles downstream of Golf Course Drive. Just downstream of the Elms Swamp Road. | 703 |

Maps available for inspection at the Boone County Area Planning Commission Office, First Floor, Boone County Courthouse, Lebanon, Indiana.

Send comments to Honorable Sam Dodd, County Commission Board President, Boone County, Boone County Area Planning Commission, First Floor, Boone County Courthouse, Lebanon, Indiana 46702.

| Indiana       | (Unincorporated), Dearborn County | Logan Creek | At mouth. About 0.66 mile upstream of State Route 46 (second crossing). About 0.26 mile downstream of State Street. Just downstream of Interstate 74. Just upstream of county boundary. At abandoned bridge. At Garm. | 533 |

Maps available for inspection at the Planning Office, Dearborn County Courthouse, Lawrenceburg, Indiana.

Send comments to Honorable Joe Mayer, President of the County Board of Commissioners, Dearborn County, Dearborn County Courthouse, Lawrenceburg, Indiana 47025.

| Indiana       | (T), Decker, Knox County | White River | Within corporate limits. | 418 |

Maps available for inspection at the Knox County Area Planning Commission, Knox County Courthouse, Vincennes, Indiana.

Send comments to Honorable Donald Farrell, Town Board President, Town of Decker, Box 96, Decker, Indiana 47525.

| Indiana       | (C), Lawrenceburg, Dearborn County | Ohio River, Tanners Creek | About 0.75 mile downstream of confluence with Tanners Creek. About 2.5 miles upstream of confluence with Tanners Creek. | 488 |

Maps available for inspection at the City Hall, 405 Main Street, Lawrenceburg, Indiana.

Send comments to Honorable Henry Hunt, Mayor, City of Lawrenceburg, City Hall, 405 Main Street, Lawrenceburg, Indiana 47025.

| Indiana       | (T), Marengo, Crawford County | Whiskey Run, Sandywine Fork | About 1,200 feet downstream of Pleasant Street. About 1,400 feet upstream of Main Street. At mouth. Just upstream of Jefferson Street. About 250 feet upstream of Southern Railway. | 582 |

Maps available for inspection at the Town Hall, Route 1, Lincoln Avenue, Marengo, Indiana.

Send comments to Honorable Milt Hughes, Town Board President, Town of Marengo, Town Hall, Route 1, Lincoln Avenue, Marengo, Indiana 47140.
## Proposed Base (100-Year) Flood Elevations—Continued

<table>
<thead>
<tr>
<th>State</th>
<th>City/town/county</th>
<th>Source of flooding</th>
<th>Location</th>
<th>Depth in feet above ground.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Iowa</td>
<td>(Unincorporated), Black Hawk County</td>
<td>Crane Creek</td>
<td>About 1,000 feet downstream of Nelson Road</td>
<td>941</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Elk Run Creek</td>
<td>About 800 feet downstream of South Elk Run Road</td>
<td>942</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Miller Creek</td>
<td>About 300 feet upstream of Pilot Grove Road</td>
<td>952</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Payn River</td>
<td>Just upstream of Gilbertsville Road</td>
<td>959</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Cedar River</td>
<td>At downstream county boundary</td>
<td>964</td>
</tr>
<tr>
<td></td>
<td>Iowa</td>
<td>West Fork Cedar River</td>
<td>At mouth</td>
<td>964</td>
</tr>
<tr>
<td></td>
<td>(Unincorporated), Mills County</td>
<td>Black Hawk Creek</td>
<td>At upstream county boundary</td>
<td>967</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Wolf Creek</td>
<td>Just downstream of Grundy Road</td>
<td>970</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Shallow Flooding</td>
<td>At La Porte City corporate limits</td>
<td>970</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>At intersection of Bishop Road and City of La Porte City corporate limits.</td>
<td>970</td>
</tr>
</tbody>
</table>

Maps available for inspection at the Town Hall, 2nd and Wayne Streets, Warren, Indiana.

Maps available for inspection at the City Hall, Malvern, Iowa.

Maps available for inspection at the County Engineer's Office, County Courthouse, Glenwood, Iowa.

Send comments to Honorable Dallas Heyde, Town Board President, Town of Warren, Town Hall, F.D. Box 477, 2nd and Wayne Streets, Warren, Indiana 46762.

Send comments to Honorable Sonia Johannson, Chairperson of the Board of Supervisors, Black Hawk County, Black Hawk County Courthouse, Room 201, Waterloo, Iowa 50701.

Send comments to Honorable Temple Bowers, Mayor of Calumet, City Hall, Malvern, Iowa 51551.

Send comments to Honorable Clinton Miller, Chairman of the Board of Supervisors, Mills County, County Courthouse, Glenwood, Iowa 51534.
### PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

<table>
<thead>
<tr>
<th>State</th>
<th>City/Town/County</th>
<th>Source of flooding</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kansas</td>
<td>(E), Galva, McPherson County</td>
<td>Galva Drain</td>
<td>About 600 feet downstream of McPherson Street</td>
</tr>
<tr>
<td>Kansas</td>
<td>(E), Garfield, Pawnee County</td>
<td>Arkansas River Tributary (Sec. 1)</td>
<td>Drain. About 1,700 feet upstream of Addison, Topeka and Santa Fe Railway.</td>
</tr>
<tr>
<td>Kansas</td>
<td>(Unincorporated), Lyon County</td>
<td>Neosho River</td>
<td>About 2.0 miles downstream of confluence with Dry Creek.</td>
</tr>
<tr>
<td>Michigan</td>
<td>(V), Benzie, Sogn County</td>
<td>Shuwaressa River</td>
<td>About 1.5 miles downstream of Broad Street.</td>
</tr>
<tr>
<td>Michigan</td>
<td>(Township), Comstock, Kalamazoo County</td>
<td>Kalamazoo River</td>
<td>Just upstream of Sprinkle Road.</td>
</tr>
<tr>
<td>Michigan</td>
<td>(T), Grandville, Kent County</td>
<td>Hulsenga Drain</td>
<td>Just upstream of Kenowa Avenue.</td>
</tr>
</tbody>
</table>

Maps available for inspection at the City Hall, Galva, Iowa.
SEND COMMENTS TO HONORABLE WAYNE FORD, MAYOR, CITY OF GALVA, CITY HALL, GALVA, IOWA 52224.

Maps available for inspection at the City Hall, Galva, Kansas.
SEND COMMENTS TO HONORABLE WAYNE FORD, MAYOR, CITY OF GALVA, CITY HALL, GALVA, KANSAS 67443.

Maps available for inspection at the City Hall, Garfield, Kansas.
SEND COMMENTS TO HONORABLE GLEN MCKEOWN, MAYOR, CITY OF GARFIELD, CITY HALL, GARFIELD, KANSAS 67520.

Maps available for inspection at the Lyon County Courthouse, Emporia, Kansas.
SEND COMMENTS TO HONORABLE GAIL GASTER, CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS, LYON COUNTY, LYON COUNTY COURTHOUSE, EMPORIA, KANSAS 66801.

Maps available for inspection at the Village Hall, 1100 West Broad Street, Cheesman, Michigan.
SEND COMMENTS TO HONORABLE KENNETH BUELCH, VILLAGE PRESIDENT, VILLAGE OF CHEESMAN, VILLAGE HALL, 1100 WEST BROAD STREET, CHEESMAN, MICHIGAN 48616.

Maps available for inspection at the Town Hall, 6138 King Highway, Comstock, Michigan.
SEND COMMENTS TO HONORABLE JOSHDAN VAN BRUGGEN, SUPERINTENDENT, TOWNSHIP OF COMSTOCK, TOWN HALL, P.O. BOX 416, COMSTOCK, MICHIGAN 49041.
<table>
<thead>
<tr>
<th>State</th>
<th>City/town/county</th>
<th>Source of flooding</th>
<th>Location</th>
<th>Elevations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Buck Creek</td>
<td>At upstream corporate limits</td>
<td>007</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of Canal Avenue</td>
<td>005</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 100 feet downstream of Cemetery Road</td>
<td>010</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>At upstream corporate limits</td>
<td>003</td>
</tr>
<tr>
<td>Minnesota</td>
<td>(C), Beltrami, Polk County</td>
<td>Sandhills River</td>
<td>Western corporate limits</td>
<td>004</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of Burlington Northern railroad</td>
<td>004</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of County Highway 1</td>
<td>005</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Eastern corporate limits</td>
<td>009</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Maps available for inspection at the City Hall, Beltrami, Minnesota</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Send comments to Honorable Adrian Pulczinsk, Mayor, City of Beltrami. City Hall, Beltrami, Minnesota 56517</td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td>(C), Greenbush, Roseau County</td>
<td>South Branch Two Rivers</td>
<td>About 2,750 feet downstream of Main Street (at southern corporate limits)</td>
<td>1003</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 2,000 feet upstream of State Highway 32 (at eastern corporate limits)</td>
<td>1069</td>
</tr>
<tr>
<td></td>
<td></td>
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<td>Maps available for inspection at the City Hall, Greenbush, Minnesota</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Send comments to Honorable Terry Wells, Mayor, City of Grygla, City Hall, Grygla, Minnesota 56727</td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td>(C), Osaka, Marshall County</td>
<td>Red River of the North</td>
<td>About 2,750 feet downstream of State Highway 1 (at northernmost corporate limits)</td>
<td>010</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 850 feet upstream of Sooline Railroad (at southern corporate limits)</td>
<td>011</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>Maps available for inspection at the City Hall, Osaka, Minnesota</td>
<td></td>
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<tr>
<td></td>
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<td></td>
<td>Send comments to Honorable Bud Monda, Mayor, City of Osaka, City Hall, P.O. Box 177, Osaka, Minnesota 56744</td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td>(C), Stephon, Marshall County</td>
<td>Tamarae River</td>
<td>About 300 feet upstream of County Highway 9</td>
<td>024</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>At Lofghaven</td>
<td>020</td>
</tr>
<tr>
<td></td>
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<td>Maps available for inspection at the City Hall, Stephon, Minnesota</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Send comments to Honorable Lawrence Sunsdahl, Mayor, City of Stephon, City Hall, Stephon, Minnesota 56757</td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td>(V), Silex, Lincoln County</td>
<td>North Fork Culve River</td>
<td>About 0.3 mile downstream of Church Street</td>
<td>011</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of County Highway E Bridge</td>
<td>013</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of Main Street</td>
<td>012</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 900 feet upstream of Main Street</td>
<td>013</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Maps available for inspection at the Mayor’s Home, Olive and Williams Streets, Silex, Missouri</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Send comments to Honorable Larry Dean, Mayor, Village of Silex, P.O. Box 147, Silex, Missouri 63377</td>
<td></td>
</tr>
<tr>
<td>Missouri</td>
<td>(C), Winfield, Lincoln County</td>
<td>Mississippi River</td>
<td>At Winfield</td>
<td>048</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 0.5 mile downstream of Walnut Street</td>
<td>045</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 0.34 mile upstream of State Highway 70</td>
<td>043</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Maps available for inspection at the City Hall, P.O. Box 155, Winfield, Missouri</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Send comments to Honorable J. F. Scroggin, Mayor, City of Winfield, City Hall, P.O. Box 155, Winfield, Missouri 63389</td>
<td></td>
</tr>
<tr>
<td>Nebraska</td>
<td>(C), Nebraska City, Otoe County</td>
<td>Missouri River</td>
<td>About 2.3 miles downstream of State Highway 2</td>
<td>026</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 1.13 miles upstream of confluence of Walney Creek</td>
<td>035</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 0.5 mile downstream of north-south County Road (at downstream intersection)</td>
<td>028</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of north-south County Road</td>
<td>029</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of north-south County Road</td>
<td>031</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of east-west County Road</td>
<td>031</td>
</tr>
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<td></td>
<td></td>
<td></td>
<td>Just upstream of east-west County Road</td>
<td>031</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of U.S. Highway 73-75</td>
<td>010</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>At mouth of Tributary to South Table Creek</td>
<td>006</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>At mouth of Tributary to South Table Creek</td>
<td>005</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 900 feet upstream of mouth</td>
<td>032</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>At mouth of Missouri River</td>
<td>031</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of Argo Avenue</td>
<td>030</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of Argo Street</td>
<td>030</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of Skidmore Street</td>
<td>030</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of Skidmore Street</td>
<td>030</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of 19th Street</td>
<td>038</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of 19th Street</td>
<td>038</td>
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<td></td>
<td></td>
<td></td>
<td>Just upstream of 19th Street</td>
<td>038</td>
</tr>
<tr>
<td>State</td>
<td>City/town/county</td>
<td>Source of flooding</td>
<td>Location</td>
<td>#Height in feet above ground</td>
</tr>
<tr>
<td>------------</td>
<td>--------------------------------</td>
<td>---------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>New Jersey</td>
<td>Greenwich, township, Gloucester County</td>
<td>Delaware River</td>
<td>Just downstream of County Road (west of GNKY village)</td>
<td>1,029</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Hampsgo Creek</td>
<td>Just upstream of County Road (west of GNKY village)</td>
<td>1,040</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of County Road (to McCarthy School)</td>
<td>1,050</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of County Road to McCarthy School</td>
<td>1,007</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 0.24 mile upstream of County Road</td>
<td>1,109</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of Burlington Northern Railroad (downstream of 11th Cross)</td>
<td>0.985</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 3,200 foot upstream of 11th Cross</td>
<td>0.970</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of north-south County Road</td>
<td>1,020</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of Burlington Northern Railroad (upstream crossing)</td>
<td>1,093</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 1.7 miles upstream of Burlington Northern Railroad (upstream crossing)</td>
<td>1,095</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tributary to South Table Creek</td>
<td>At mouth at Missouri River</td>
<td>1,002</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of 16th Street</td>
<td>1,091</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of Central Avenue</td>
<td>1,007</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of Central Avenue</td>
<td>0.941</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of County Road (to McCarthy School)</td>
<td>1,088</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of County Road (to McCarthy School)</td>
<td>1,083</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 0.45 mile upstream of County Road (at upstream extra-foreshore limit)</td>
<td>1,122</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 1.0 mile upstream of mouth at Missouri River</td>
<td>1,093</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of north-south County Road</td>
<td>0.935</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of Missouri Pacific Railroad</td>
<td>0.973</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 1.23 miles upstream of Missouri Pacific Railroad</td>
<td>1,019</td>
</tr>
<tr>
<td></td>
<td></td>
<td>North Table Creek</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Walnut Creek</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Jersey</td>
<td>Jackson, township, Ocean County</td>
<td>North Branch Metocook Creek</td>
<td>Downstream Corporate Limits</td>
<td>1,030</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Bristol Church Road (upstream side)</td>
<td>1,023</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Aldrich Road (upstream side)</td>
<td>0.91</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Landon Road (upstream side)</td>
<td>0.86</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Upstream Corporate Limits</td>
<td>0.83</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 90 feet downstream of Caswell-Toms River Road</td>
<td>1.122</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Caswell-Toms River Road (upstream side)</td>
<td>1.116</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 7,765 feet upstream of Caswell-Toms River Road</td>
<td>1.125</td>
</tr>
<tr>
<td>New York</td>
<td>Great Neck, village, Nassau County</td>
<td>Mahasset Bay</td>
<td>From the Kings Point/Great Neck Corporate Limits to a point 170 feet south of Forest Vista Road</td>
<td>1.16</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>From a point 170 feet south of Forest Vista Road to the Great Neck/Kenncington Corporate Limits</td>
<td>1.15</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>From the Kings Point/Great Neck Corporate Limits to Old Pond Road</td>
<td>1.11</td>
</tr>
</tbody>
</table>

Maps available for inspection at the Municipal Building, Route 528, Jackson, New Jersey.

Send comments to Honorable James J. Moirerno, Mayor of Jackson Township, Municipal Building, Route 528, Jackson, New Jersey 08327.

Maps available for inspection at the Municipal Building, 61 Baker Hill Road, Great Neck, New York.

Send comments to Honorable Howard Makum, Mayor of Great Neck, Municipal Building, 61 Baker Hill Road, Great Neck, New York 11021.
## PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

<table>
<thead>
<tr>
<th>State</th>
<th>City/town/county</th>
<th>Source of flooding</th>
<th>Location</th>
<th>Depth in feet above ground</th>
<th>Elevation in feet (NGVD)</th>
<th>Elevation in feet (NAVD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York</td>
<td>Marathon, village, Cortland County</td>
<td>Tioughnioga River</td>
<td>Downstream Corporate Limits</td>
<td>1.012</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td>Middleburgh, village, Schoharie County</td>
<td>Schoharie Creek</td>
<td>Downstream Corporate Limits</td>
<td>1.012</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td>Moravia, village, Cayuga County</td>
<td>Dry Creek</td>
<td>Confluence with Owasco Inlet</td>
<td>1.034</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td>Moravia, village, Cayuga County</td>
<td>Mill Creek</td>
<td>Upstream Corporate Limits</td>
<td>1.035</td>
<td></td>
<td></td>
</tr>
<tr>
<td>North Carolina</td>
<td>Unincorporated areas of Madison County</td>
<td>French Broad River</td>
<td>Just upstream of Barnard Bridge (SR 1151)</td>
<td>1.259</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td>Washington County (unincorporated area)</td>
<td>Tuulsan River</td>
<td>100 feet upstream from center of Schambos Bridge</td>
<td>1.139</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Maps available for inspection at the Village Office, Four Main Street, Marathon, New York.

Send comments to Honorable David L. Light, Mayor of Marathon, Village Office, Four Main Street, Marathon, New York 13803.

Maps available for inspection at the Municipal Building, Middleburgh, New York.

Send comments to Mr. James T. Leadford, Chairman or Mr. James M. Cody, County Clerk, Madison County Courthouse, Marshall, North Carolina 28753.

Maps available for inspection at Middleburgh Village Office, Four Main Street, Middleburgh, New York.

Send comments to Honorable Lawrence Van Dyke, Mayor of the Village of Middleburgh, Municipal Building, Middleburgh, New York 12122.

Maps available for inspection at the Office of the Village Clerk, 22 Central Street, Moravia, New York.

Send comments to Honorable Clinton Fuller, Mayor of Moravia, 22 Central Street, Moravia, New York 13116.

Maps available for inspection at Madison County Courthouse, Marshall, North Carolina 28753.

Send comments to Mr. James T. Leadford, Chairman or Mr. James M. Cody, County Clerk, Madison County Courthouse, Marshall, North Carolina 28753.
**Proposed Base (100-Year) Flood Elevations—Continued**

<table>
<thead>
<tr>
<th>State</th>
<th>City/Town/County</th>
<th>Source of Flooding</th>
<th>Location</th>
<th>#Depth in feet above ground</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pennsylvania</td>
<td>South Coventry, township, Chester County</td>
<td>French Creek</td>
<td>Upstream of Pottstown Pike (State Route 100)</td>
<td>259</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 244 feet upstream of Pottstown</td>
<td>259</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Pike (State Route 100)</td>
<td>259</td>
</tr>
<tr>
<td>South Carolina</td>
<td>Unincorporated areas of Florence County</td>
<td>Jetties Creek</td>
<td>At State Highway 227</td>
<td>62</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 50 feet upstream from confluence of</td>
<td>64</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Coxe Branch</td>
<td>71</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 100 feet upstream of Seaboard</td>
<td>97</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Coast Line Railroad</td>
<td>97</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 500 feet downstream of Second</td>
<td>103</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Loop Road</td>
<td>103</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of north bound lane of Interstate</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Highway 95</td>
<td>103</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of Colonial Heights Dam</td>
<td>119</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>At National Comity Road</td>
<td>119</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of State Highway 724</td>
<td>123</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of Seaboard Coast Line Railroad</td>
<td>123</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of Seaboard Coast Line Railroad</td>
<td>123</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 100 feet downstream of State Road</td>
<td>123</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>518</td>
<td>123</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of Bynens Road</td>
<td>123</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of Old Marion Highway</td>
<td>123</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 200 feet downstream of State Highway</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>227</td>
<td>123</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of State Highway 227</td>
<td>123</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 100 feet downstream of Unnamed Tributary</td>
<td>103</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of Williams Road (State Road</td>
<td>117</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>925</td>
<td>117</td>
</tr>
<tr>
<td></td>
<td>Two Mile Creek</td>
<td></td>
<td>Just downstream of Williams Road (State Road</td>
<td>106</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>925</td>
<td>106</td>
</tr>
<tr>
<td></td>
<td>Black Creek</td>
<td></td>
<td>Approximately 500 feet upstream of State Highway</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>227</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 200 feet downstream of North</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Iby Street</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>McColl Branch</td>
<td></td>
<td>Approximately 100 feet downstream of Douglas</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Street</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of Seaboard Coast Line Railroad</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>Tributary 1 to McColl Branch</td>
<td></td>
<td>Just upstream of Douglas Street</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of confluence of Tributary 3</td>
<td>101</td>
</tr>
<tr>
<td></td>
<td>Tributary 2 to McColl Branch</td>
<td></td>
<td>Just downstream of State Highway 343, North</td>
<td>118</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Iby Street</td>
<td>118</td>
</tr>
<tr>
<td></td>
<td>Tributary 3 to McColl Branch</td>
<td></td>
<td>Just downstream of State Highway 343, North</td>
<td>118</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Iby Street</td>
<td>118</td>
</tr>
<tr>
<td></td>
<td>High HCi Creek</td>
<td></td>
<td>Approximately 100 feet upstream of South Bound</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Lane of Interstate Highway 95</td>
<td>100</td>
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<tr>
<td></td>
<td>Cane Branch</td>
<td></td>
<td>Approximately 700 feet downstream of Poplar</td>
<td>89</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Road</td>
<td>89</td>
</tr>
<tr>
<td></td>
<td>Eastman Branch</td>
<td></td>
<td>Approximately 300 feet downstream of Seaboard</td>
<td>93</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Coast Line Railroad</td>
<td>93</td>
</tr>
<tr>
<td></td>
<td>Poy Branch</td>
<td></td>
<td>Approximately 150 foot downstream of National</td>
<td>94</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Comity Road</td>
<td>94</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of Jetties Street</td>
<td>104</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 100 feet upstream of Old Mars</td>
<td>113</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Bluff Road</td>
<td>113</td>
</tr>
<tr>
<td></td>
<td>Beaversdam Creek</td>
<td></td>
<td>Approximately 400 foot downstream of Hoffmeyer</td>
<td>107</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Road</td>
<td>107</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 500 foot downstream of State Highway</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>105</td>
<td>105</td>
</tr>
<tr>
<td></td>
<td>Beaversdam Tributary</td>
<td></td>
<td>Just upstream of South Bound Lane of Interstate</td>
<td>111</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Highway 05</td>
<td>111</td>
</tr>
<tr>
<td></td>
<td>Middtde Swamp</td>
<td></td>
<td>Approximately 200 foot upstream of Poochpio</td>
<td>79</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Highway</td>
<td>79</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 100 foot upstream of Seaboard Coast</td>
<td>77</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Coast Line Railroad</td>
<td>77</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of confluence of Alligator Branch</td>
<td>92</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 700 feet downstream of Forest Lake</td>
<td>103</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Road</td>
<td>103</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of Forest Lake Dam</td>
<td>114</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of Seaboard Coast Line Railroad</td>
<td>114</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of State Highway 695</td>
<td>115</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just downstream of Penrod Road</td>
<td>116</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Just upstream of Whipples Well Road</td>
<td>99</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Approximately 250 feet downstream of State Highway</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>106</td>
<td>123</td>
</tr>
</tbody>
</table>

Maps available for inspection at the residence of the Township Secretary, Mr. Robert W. Fikes, R.D. 2, Pottstown, Pennsylvania, at the Springs Store in Pottstown, Pennsylvania, and at the Bucktown Branch of the Elverson National Bank.

Maps available for inspection at Public Works Office, 150 N. 1st Avenue, Hillsboro, Oregon 97123.

Send comments to the Honorable Richard Whitlock, Chairman of the South Coventry Board of Supervisors, R.D. 3, Pottstown, Pennsylvania 19454.
PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

<table>
<thead>
<tr>
<th>State</th>
<th>City/Town/County</th>
<th>Source of flooding</th>
<th>Location</th>
<th>Depth in feet above ground</th>
<th>Elevation in feet (CPE)</th>
<th>Elevation in feet (ULW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Virginia</td>
<td>Wachapreague, town, Accomack County</td>
<td>Atlantic Ocean</td>
<td>From southern corporate limits to Finney Creek</td>
<td>*12</td>
<td>*117</td>
<td>*117</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>From Finney Creek to Richardson Avenue extended to corporate limits</td>
<td>*13</td>
<td>*12</td>
<td>*12</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>From Richardson Avenue extended to corporate limits to northern corporate limits</td>
<td>*11</td>
<td>*10</td>
<td>*10</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>(V), Johnson Creek, Jefferson County</td>
<td>Johnson Creek</td>
<td>About 0.64 mile downstream of Union Street</td>
<td>*702</td>
<td>*702</td>
<td>*702</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>About 0.64 mile upstream of the Chicago and North Western Railroad</td>
<td>*702</td>
<td>*702</td>
<td>*702</td>
</tr>
</tbody>
</table>

Maps available for inspection at Florence County Courthouse, City-County Complex, Florence, South Carolina 29501.

Send comments to Honorable M. L. Love, Jr., County Administrator or Mr. James H. Schaefer, Assistant Administrator, Florence County Courthouse, Box G, City-County Complex, Florence, South Carolina 29501.

Additonal comments to: Honorable Claude D. Welb, Mayor of Wachapreague, P.O. Box 163, Wachapreague, Virginia 23480.

Maps available for inspection at the Town Hall, Main Street, Wachapreague, Virginia.

Send comments to: Honorable James A. Best, Village President, Village of Johnson Creek, Village Hall, 110 Milwaukee Street, Johnson Creek, Wisconsin 53038.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), as amended; 42 U.S.C. 4001-4129; E.O. 12217, 44 FR 19867; and delegation of authority to the Associate Director)

Issued: December 27, 1981.

Lee M. Thomas,
Associate Director, State and Local Programs and Support.

[F.R. Doc. 81-37155 Filed 12-30-81; 8:45 am]
BILLING CODE 6715-03-M

FEDERAL COMMUNICATIONS
COMMISSION

47 CFR Part 67
[CC Docket No. 80-286; FCC 81-566]

Establishment of a Joint Board; Customer Premises Equipment (CPE); Recommended Decision and Order

AGENCY: Federal Communications Commission—Federal-State-Joint Board.

ACTION: Recommended decision and order.

SUMMARY: The Federal-State Joint Board is recommending that the Commission phase customer premises equipment (CPE) out of the jurisdictional separations process over a five-year period beginning in 1983. The Joint Board concluded that this would allow a smooth and gradual transition to the deregulated environment for the provision of CPE mandated by the Commission in CC Docket No. 20328, the Second Computer Inquiry.

DATES: The Joint Board's recommendations do not become effective until they have been reviewed and acted on by the Commission.


FOR FURTHER INFORMATION CONTACT: James McConnaughey, Policy and Program Planning Division, Common Carrier Bureau at (202) 632-3942.

In the matter of amendment of Part 67 of the Commission's rules, CC Docket No. 80-286.

Recommended Decision and Order

Adopted: November 18, 1981.

Released: December 14, 1981.

By the Federal-State Joint Board: Commissioner Fogarty dissenting and issuing a statement; State Commissioner Larkin dissenting.

I. Introduction

1. This Joint Board was established pursuant to Section 410(c) of the Communications Act, 47 U.S.C. 410(c) to develop, inter alia, modifications to the 1971 FCC-NARUC Separations Manual reflective of the Federal Communications Commission's policies regarding detariffing of customer premises equipment (CPE). Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, 78 FCC 2d 637 (1980). In its recent Order Inviting Comments and Suggested Information Requests, FCC 81-264 (released June 12, 1980), the Joint Board sought recommendations on the specific modifications to be made and the procedural framework within which the Joint Board should adopt them. In that Order, the Joint Board
acknowledged the potential severity of the impact on interstate revenue requirements, under either flash cut or bifurcated detariffing of CPE, that would occur if existing terminal equipment is removed from the separations process suddenly or in a disorderly and inconsistent manner. Further, the Joint Board recognized the relative urgency of resolving CPE separations issues, because of the approximately 18 percent annual growth rate in assignment of non-traffic sensitive costs to interstate and the increasing interest among some independent companies and state regulatory agencies in detariffing terminal equipment on an accelerated schedule. To provide assistance in meeting these concerns, the Joint Board requested comments on the advisability of adopting a phased approach to this proceeding, and on a specific proposal prepared by the Staff for the gradual elimination over a five-year period of the dollar amount of the investment and expenses subject to separations allocations.

2. Since the release of that Order, the Commission has issued a decision on further reconsideration of its detariffing plan in the Second Computer Inquiry, CC Docket No. 20282, FCC 81-481, (released October 30, 1981). In that Order, the Commission reaffirmed its bifurcated plan for detariffing CPE and established January 1, 1983, as the implementation date. All “new” CPE, defined as CPE acquired by a carrier or manufactured by an affiliated carrier after January 1, 1983, will be offered on a detariffed basis separate and apart from the carrier’s utility service. All “embedded” CPE, including that equipment which is under state or federal tariff or otherwise subject to the jurisdictional separations process as of the bifurcation date, will remain in the rate base until issues related to asset valuation and the manner of timing of detariffing embedded CPE have been decided.

3. The choice between flash cut or bifurcated detariffing of CPE has been a major variable influencing our decision regarding the separations treatment of terminal equipment. The legal and economic considerations underlying the adoption of a particular separations plan for CPE vary greatly between the two detariffing approaches. Since a bifurcated plan will now be implemented, we believe we can appropriately move forward with recommendations to the Separations Manual reflecting this plan without further delay. Our goal, which is consistent with that of the Commission, is to devise a plan that removes disincentives to detariffing and minimizes the inequities of uneven removal of CPE from various carriers’ rate bases. We believe this goal can be accomplished by adopting a modified version of the Staff proposal which was set forth in Appendix B to our June 12, 1981 Order. The modified plan is attached as Appendix A to this Decision.

II. Summary of the CPE Separations Plan

4. Under the original Staff proposal, no investment or expenses associated with CPE incurred after December 31, 1981 would be allocated to interstate operations. The net CPE plant balances in the relevant accounts on the books as of that date would constitute a “base amount” to which jurisdictional cost separations procedures would continue to be applied over a period of five years. The base amount would be reduced by one-sixtieth each month, eventually to be phased out entirely. A slightly altered version of this proposal constitutes the plan recommended herein.

5. The plan may be affected through slight additions and modifications to the current separations manual. The precise wording of these modifications is presented as Appendix A to this order. The portion of costs in various accounts subject to these changes is identified through the application of a definition of CPE that is to be added to the Glossary. This definition, which is intended to be consistent with the Commission’s recent decision in the Second Computer Inquiry, FCC 81-481 (released October 30, 1981), excluded multiplexing equipment, coin operated or pay stations and related equipment, and equipment on telephone company premises used in the normal course of business. Therefore, for the present, these excluded types of equipment, and the expenses attributable to them will receive the same treatment under separations as they do now. In the future, the Joint Board may change separations procedures applicable to these items, but the modifications recommended in this Decision are intended to affect only embedded customer premises equipment as identified in the Second Computer Inquiry.

6. The plan requires addition of a few new paragraphs and augmentation of existing paragraphs in the Manual to exclude from interstate allocation all investments and associated reserves and expenses incurred in connection with customer premises equipment after the implementation date. This date has been revised from December 31, 1981 to December 31, 1982 to reflect the postponement adopted by the Commission on further reconsideration. The accounts affected, in addition to Accounts 231 (station apparatus) and 234 (large PBXs), are those associated with materials and supplies (Account 122), maintenance expense (Account 605), depreciation expense (Account 608), the wage portion of maintenance expense (Accounts 661, 662, 663, 664, 665, 668, 669, and 677), and the depreciation reserve (Account 171). The amounts in these accounts related to CPE will constitute the base amount to be phased out for separations purposes.

7. The net CPE plant balances constituting the investment base amount are to be determined in accordance with Section 51.21 of the Manual. This section provides for the allocation of a portion of the aggregate depreciation reserve to Accounts 231 and 234 on the basis of the straight line reserves “theoretically applicable” to these accounts as of December 31, 1982. The base amount for net CPE plant balances so calculated will then be assigned to existing separations categories set forth in § 25.2 Under present procedures, CPE assigned to four of these categories, Teletypewriter Exchange Service, Private Line Services, Station Identification Equipment, and Wideband Message Service, would continue to be apportioned to interstate operations on bases other than the subscriber plant factor (SPF). CPE assigned to the fifth category, Other Station Equipment, would continue to be apportioned on the basis of SPF. The Joint Board has not yet determined the proper apportionment factors that eventually will be applied to these categories. This will be addressed in the next phase of this Joint Board proceeding. If the Joint Board recommends replacement of SPF with a new factor applicable to non-traffic sensitive plant, this new factor would be applied to the declining balance of the CPE base amount.

8. The apportionment to interstate of the expense base amount will follow established separations procedures which generally provide that apportionment of expenses follow the separation of related investment. The apportionment of other costs which may be based in part on the separation of station equipment, e.g., that of vehicles and other work equipment in Account 264, will be indirectly affected by the phase out of separations treatment of CPE.
CPE. However, no additional modifications to the wording of the Separations Manual are required at this time to institute these indirect effects.

III. Comments of the Parties and Discussion

A. Phased Approach to Separations Issues

9. In the June 12, 1981 Joint Board order, parties were asked to comment on the desirability of devising a plan for the removal of CPE from separations in advance of the resolution of the numerous other separations changes that may need to be considered. Virtually all of the parties recognize the importance of addressing CPE separations issues on a priority basis. However, there is disagreement as to whether CPE related changes should be initiated separately, or in coordination with other changes, or whether treatment of CPE issues should be delayed entirely until the Commission has made a final decision in certain other related proceedings.

10. Several parties specify particular matters which they feel must be addressed, along with the removal of CPE from separations, in an initial phase of this proceeding. Many of the larger telephone companies focused on the need to reduce assignments to interstate operations. AT&T argues that the Joint Board should develop a multifaceted plan to deal with exchange access allocations which would incorporate, at a minimum, the removal of CPE, reduction of the allocation of remaining non-traffic sensitive plant through the gradual transition from the subscriber plant factor (SPF) to the unweighted relative use (SLU), the replacement of five business days with seven calendar day usage studies, changes to accommodate the access charge plan proposed by the Commission in Docket No. 78-72, 77 FCC 2d 224 (1980), and the assignment of private line, FX and CCSA minutes of use to the interstate jurisdiction.

11. Many of the other telephone companies, while advocating the simultaneous resolution of several issues, have as their primary interest the mitigation of revenue requirement impacts that may accompany detarring of CPE and its removal from separations. Most of them do not specifically argue against a phased approach to allow for an initial resolution of CPE issues. Rather, they stress that related separations changes should be coordinated so that upward rate pressure at the local level will be minimized. The United States Independent Telephone Association (USITA) approves of the Joint Board Staff proposal. However, USITA recommends the synchronization of removal of CPE from separations with the capital recovery time frame and the inclusion of other separations issues such as changes in SPF and treatment of station connections within a “comprehensive package.” The Rural Telephone Coalition, Central Telephone and Utilities Corporation (Centel), Anchorage Telephone Utility (ATU) and the Kansas Corporation Commission argue generally that all variables should be considered simultaneously so that broader public interest issues such as the impact on price and availability of telephone service may be addressed. They also desire that revenue offset effects be incorporated in the plan. The Rural Electrification Administration (REA) further proposes that the Joint Board develop a comprehensive agenda for coordinating a CPE separations plan with the related major Commission proceedings concerning detarring of CPE, access charges, station connections, and the Uniform System of Accounts.

12. Other parties perceive advantages to the resolution of different separations issues in sequence. The Ad Hoc Telecommunications Users Committee believes that, in practice, the time constraints imposed by the Commission’s CPE detarring schedule require that the resolution of CPE separations issues take precedence over the development of any theoretically more appealing “comprehensive” solution to all separations problems. They argue that it is proper for the Joint Board to address separations seriatim so that the final question of subsidies may be addressed after other adjustments are determined. The New York State Department of Public Service, the Pennsylvania Public Utilities Commission, the Colorado Public Utilities Commission and International Business Machines Corporation (IBM) concur in the view that the simultaneous treatment of all issues would be impractical. They believe that the removal of CPE from separations is a discrete problem, and may best be examined apart from the time delays and encumbering complexity associated with the resolution of remaining separations issues. MCI Telecommunications Corporation (MCI) and Southern Pacific Communications Company (SPCC) support the prioritization of separations issues. Satellite Business Systems (SBS) also favors the treatment of CPE matters in an initial phase, and regards certain separations issues, such as access charge related changes as not ripe for decision-making. However, SBS suggests that intrastate ratepayers may actually benefit from the elimination of interstate allocations of CPE if the equipment is not currently priced to cover full costs, and proposes that an investigation to determine the actual costs and revenues of CPE be conducted before any revenue requirement offset mechanisms are adopted.

13. We believe that it is both necessary and proper to adopt CPE separations revisions in a separate and initial phase of this proceeding. Many of the parties seem to have misconstrued the significance of this approach. The division of this proceeding into separate segments is a matter of decision-making and administrative efficiency for the Joint Board itself. It is not necessarily determinative of the time frame within which any of the other potential separations changes before the Joint Board ultimately will be implemented. It is essential to adopt a CPE separations plan now to remove obstacles that may prevent adherence to the Commission’s detarring schedule. Adoption of a CPE plan which is interim in nature and narrow in scope will not only delay but prejudice the resolution of other
separations issues. Many of the parties that disapprove of a phased approach voice a fear of lack of coordination among the various separations issues and disregard for the revenue requirement impacts that major changes will impose. However, the mere fact that a plan for removal of CPE from separations procedures is subject to the Joint Board’s decision-making process on a phased basis in no way precludes the coordinated implementation of that plan with other separations changes. We fully intend to address all necessary modifications to the Separations Manual as expeditiously as possible. The choice of a CPE separations plan provides a foundation upon which these other modifications can be built in a sequence that achieves the most equitable result for all parties concerned. The institutionalization of changes that have the effect of providing revenue requirements offsets, such as the proper jurisdictional treatment of FX and CCSA minutes of use, or that render separations results more compatible with interexchange competition, such as adopting an alternative to SPF, will not be postponed for the entire five years during which CPE is being removed from separations. Rather, it is expected that implementation time frames will be designed with significant overlaps. Thus, the coordination that is so necessary for the minimization of upward rate pressure as well as the implementation of all of the Commission’s competitive policies will not be sacrificed.

14. The changes under review by the Joint Board are numerous and complex. Many of them, particularly those involving the proper allocation factor for non-traffic sensitive plant and the treatment of exchange access lines, will require diligent study so that reasoned and responsible choices may be made. In some cases, Commission policies have not yet been set. In others, voluminous amounts of data must be collected and analyzed so that controversies may be in expected to be resolved. It is clearly premature at this stage to adopt a comprehensive plan that would lock the industry into separations procedures that may turn out to be ill-considered and unresponsive to the actual requirements of the marketplace.

15. It is just as clearly unnecessary for the Joint Board to avoid making decisions that can and must be made on an expedient basis to facilitate the timely implementation of Commission policies that have been actually formulated. There is a great urgency to develop a separations plan for embedded CPE so that detariffing of terminal equipment will not be accompanied by unnecessary market dislocations and interferences. In addition, CPE separations issues are straightforward and lend themselves to relatively uncomplicated solutions. The only real issues are the amount of CPE to be removed and the period of time over which this should take place. Both of these issues can be adequately addressed on an expedited basis with modest alterations in the wording of the Separations Manual. We believe that CPE separations issues are now ripe for resolution, and that the adoption of a plan at this time will free the Joint Board for diligent analysis and proper coordination of the other more sensitive and complex issues.

B. Choice of a Plan

1. AT&T Proposal

16. On June 2, 1981, AT&T submitted a proposal to the Joint Board incorporating thirty-three changes to the Separations Manual that, among other things, would result in the initial removal of all CPE from the separations process and the transition from SPF to SLU over a five-year period. Under the plan, exchange access allocations for each company would be changed to reflect the uniform treatment of all access lines, measurement of FX/CCSA interstate minutes of use, a redefinition of exchange outside plant, seven calendar day traffic studies in place of the current five business day studies, identification of revenue accounting and business relations expenses associated with CCCs, and the specific treatment of host/remote complexes as local dial switching equipment—Category 6. To compensate for the removal of CPE, and to provide a means for a gentle shift from the allocations presently calculated on the basis of SPF to the level that will result from the use of a revised SLU, AT&T proposes the use of an “interim additive factor.” Thus, the multiplicative subscriber plant factor would be replaced by an additive amount calculated to provide, initially, the same allocations as achieved under SPF as of the implementation date. The additive factor would be reduced by one-sixtieth each month until entirely eliminated at the end of five years. At that time.

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Other Manual changes that have been under consideration by the National Association of Regulatory Utility Commissioners (NARUC) for the past several years, including updating the XS factor and the CSR ratios used in the Ozark (SPF) formula, are rendered moot under the AT&T proposal by the substitution of an interim additive factor for the SPF formula. Several other changes are also proposed, generally pertaining to interexchange network allocations.

allocations of all remaining non-traffic sensitive plant would be made on the basis of the revised SLU.

17. Although the Commission has now reaffirmed its decision to detariff CPE under a bifurcated plan, AT&T claim that its proposal is as equally adaptable to bifurcated detariffing as to flash-out detariffing. AT&T also defends the plan against criticism from CCTE that it would constitute an unacceptable allocation of surrogate costs to the interstate jurisdiction. AT&T maintains that the interim additive factor would be entirely proper since it would be applied to actual non-traffic sensitive costs remaining after all CPE is removed from separations, and would represent a reasonable mechanism for avoiding severe dislocations in the transition to radically altered industry procedures. In addition, AT&T responds to the objections of SBS, Alascom and SPCC that interexchange facilities allocations should not be addressed by the joint Board at this time. AT&T agrees that the interexchange modifications in its original proposal may be instituted in a second phase on this proceeding. AT&T asserts that one of the major benefits of its approach is that some of the modifications, such as the proper jurisdictional treatment of FX and CCSA minutes of use and the switch to seven day studies, will have offsetting effects and will ameliorate the disruptive impact of introducing several changes separately. Also, AT&T argues that its plan offers the best opportunity to coordinate all of the changes that should be addressed by the Joint Board as a first priority, particularly in the long postponed reduction of SPF.

18. ARINC, Central and Rochester Telephone Company also favor a plan that would combine the removal of CPE with the reduction of SPF. United supports the concept of capping SPF but believes that the AT&T proposal would reduce allocations too far too fast. The Rural Telephone Coalition observed that the AT&T plan would have a greater impact than the Staff proposal due to the eventual elimination of SPF. Letters from thirty-one small telephone companies in several states indicate that the removal of CPE combined with the allocation of remaining non-traffic sensitive plant on current SLU would have a dramatic effect on local rates.*

The studies reported in these letters, as is true of most of the impact studies filed by the parties, do not reflect projected growth in subscriber line usage over the five year transition period or the offsetting impact of other changes proposed by AT&T that will tend to increase allocations to interstate services. However, the small companies that filed letters assert that these offsetting changes will probably not be sufficient to forestall drastic rate increases. Five small companies (Haviland Telephone Company et al.), argue that their subscribers would not be able to afford the AT&T plan, especially since outside experts would have to be hired to perform the cost studies for the rate cases that will be necessary to obtain additional revenues. The Ad Hoc Telecommunications Users Committee argues that the AT&T proposal is attractive only as a "package deal," and that other changes in Commission policy, such as deregulation of inside wire, may not preserve the net effect of the plan and would lead to rate "churning.

19. The specialized carriers dislike the AT&T proposal for a variety of reasons. SBS, MCI, and SPCC argue that under AT&T's proposal, the effects of each aspect of the plan would be obscured through simultaneous implementation of several changes. They also contend that the access charge base is not yet ripe for decision making and should not be incorporated in a separations plan regarding treatment of CPE. MCI charges that, through its plan, AT&T is attempting to impose the cost consequences of various separations changes on its competitors, and that the Joint Board should focus on the identification of the particular cost elements caused by separations and with interexchange as opposed to exchange service. MCI believes that only exchange related costs should be shared by the SCCs. SPCC believes that the Joint Board should postpone any changes in separations until the completion of studies to identify the value of CPE to be transferred to AT&T's fully separated subsidiary, as mandated in the Second Computer Inquiry. The AT&T proposal for a variety of reasons.

20. We do not think that implementation of either the Staff or AT&T plan depends on valuation studies of embedded CPE. Any plan to remove CPE from the separations process would be properly designed if it were based on the same basic rules that presently guide the allocations of station equipment to interstate operations. Under current procedures, actual net account balances are not calculated. Rather, for separations purposes, net plant balances are determined through application of the theoretical depreciation reserve. Thus, the separations modifications needed to reflect detariffing policies do not require the same valuation studies as will be necessary to remove embedded CPE from the other aspects of the plan. We do not agree with the specialized carriers that separation should not be adopted until valuation studies, to be performed in the context of the Commission's implementation proceeding, are completed.

21. However, we do agree that it would be inappropriate to adopt some of the elements of the AT&T plan at this time. The Commission has not yet defined its policy with regard to access charges. In order to achieve consistency with the categories of services and the relative treatment of those categories that will be approved by the Commission, changes with respect to the separations treatment of exchange access lines await a final decision on access charges. In Docket No. 79-72. However, it is uncertain at this stage, what the most equitable schedule would be. The revenue offsetting items incorporated in AT&T's plan may not provide sufficient relief for the drastic increases in intrastate revenue requirements that the plan would impose by the end of the five year transition period. Five years may be sufficient for the implementation of some changes, but insufficient for others, especially if all of them are instituted within the same time frame. The Joint Board must retain the flexibility to design separations implementation schedules for different changes in order to regulate the
magnitude of adverse impact that may be experienced at any one time. For all of the foregoing reasons, we find that the AT&T plan cannot be adopted at this time.

2. Alternative Proposals

23. Some parties disapprove of both the Staff and AT&T plans, and have made counter proposals. In general, these parties are concerned that the Joint Board may not provide adequate guidance to the states, to develop the necessary detariffing time tables. Therefore, the Staff, in the context of this proceeding, will not in any way impair the ability of local companies to achieve full cost recovery for CPE. The equipment will continue to be carried on the balance sheets of the companies, until such time as AT&T's plans are implemented by each state.

24. We also perceive several deficiencies in these proposals. We agree with the Ad Hoc Telecommunications Users Committee that it is not incumbent upon this Joint Board to devise capital recovery plans for embedded CPE, or to ensure that CPE is appropriately priced. The Joint Board is charged with changes to separations procedures and therefore has no authority under Section 410(c) to make determinations as to whether or not reliance on depreciation rates should be included within the separations procedure. Where CPE is reduced through normal depreciation accruals, Haviland, the Rural Telephone Coalition, United Telephone Systems, and Citizens Telephone Utilities recommend the application of remaining life depreciation procedures to embedded CPE. GTE, in offering a similar counter proposal, suggests that the amortization period should not be extended beyond five to seven years. AT&T objects to these proposals, arguing that they merely constitute modified Staff plans and offer nothing in the way of attention to priority separations issues.

25. We reject the notion, proffered by STCC that the Joint Board's assumption that all terminal equipment rates are set or near full costs is contradicted by the Commission's own findings. The studies cited by STCC that were filed in the Commission's Customer Premises Equipment inquiry, Docket No. 2003, 81 FCC 2d 766 (1980), 76 FCC 2d 500 (1980), and that concluded that terminal equipment revenues did not cover costs, related only to the pricing of vertical services. These studies did not encompass the pricing of all customer premises equipment. Since the time that these studies were performed, most states have instituted unbundled rates for all CPE. Some states, particularly New York, have also increased the charges for vertical services. The price for terminal equipment transfer prices are used instead of the book costs as the basis for ratemaking, the unbundled rates, especially for residential CPE, may actually cover more than 100 percent of the costs.

410(c), to make determinations as to whether or not reliance on depreciation rates should be included within the separations procedure. We agree with the Ad Hoc Telecommunications Users Committee that it is not incumbent upon this Joint Board to devise capital recovery plans for embedded CPE. GTE, in offering a similar counter proposal, suggests that the amortization period should not be extended beyond five to seven years. AT&T objects to these proposals, arguing that they merely constitute modified Staff plans and offer nothing in the way of attention to priority separations issues.

26. Even as a means of providing a gradual reduction in SPF allocations, a depreciation based plan is unacceptable. In order to determine whether or not reliance on depreciation accruals for the removal of CPE from separations would even approach

equitable results for most companies, the Joint Board would be forced to wait until the implementation proceeding was completed and each state had rendered a decision on its own detariffing plan. It would not be until after these mechanisms had been set in motion that the Joint Board could begin to determine the impact on each company. This arrangement would inhibit the effective and timely implementation of competitive policies. Further, absent assurance that separations contribution would diminish, albeit at a measured rate, state commissions which currently desire to promote the removal of CPE from the rate base would lack the incentive to do so. This would be especially true if the depreciation process were allowed to extend much beyond a five year transition period.

27. The Staff proposal is favored by many of the parties. For example, the Ad Hoc Telecommunications Users Committee, Rochester Telephone Utility, and the California and the Colorado Public Utilities Commissions perceive it as a straightforward, readily implementable plan to spread the rate impact of deregulation over a reasonable period. United, USITA, Continental, the Pennsylvania Public Utilities Commission, the New York State Department of Public Service and Centel also essentially agree with the approach embodied in the Staff plan.

28. However, other parties assert either that the Staff proposal is deficient, or that it would be acceptable only with various modifications. Centel believes that the Staff plan is workable, but that valuation issues should be
resolved first, so that the net CPE plant balances subject to separations can be identified. SPCC advocates the determination of the actual cost of CPE to be removed from the rate base and transferred to the separate subsidiary to prevent cross subsidization between regulated and unregulated services. The staff plan does not depend upon valuation of CPE or upon the actual rate at which CPE will be removed from the rate base. The five year transition period of equally spaced reductions of a given level of CPE costs represents a reasonable approximation of the anticipated average rate of detariffing under desirable conditions. This is appropriate because, as previously stated, the purpose of the continued allocation of any CPE costs is not intended to contribute to capital recovery, but is intended to prevent abrupt increases in rates as result of the sudden evaporation of such a large portion of costs. The basis of support through the application of SPF. At any particular time during the transition period, some companies may have more CPE in the rate base than is reflected in the declining CPE base for separations allocations. Some companies may have less. The equal separations treatment of all companies, regardless of the actual rate of detariffing of embedded CPE, will not only create incentives for the realization of the Commission's Second Computer Inquiry objectives, but will provide equally fair treatment for all telephone companies while those objectives are being achieved. Thus, the actual CPE costs involved in a detariffing plan need not be accurately reflected in the separations process at any one time during the transition period. Additionally, SPCC's fears of inadequate protection against cross subsidies are not a proper subject for this proceeding. Those concerns should be addressed in the context of the Commission's implementation proceeding.

29. A.T. & T., GTE, Haviland et al., and Citizens Telephone Utilities are also concerned that, under the staff plan, local companies will not adequately be compensated for any increases in actual maintenance expenses associated with embedded CPE. We do not expect that maintenance of embedded CPE will become a burdensome expense. In any case, this issue is akin to the capital recovery issue, and it will remain the responsibility of each local jurisdiction to provide for adequate revenues to cover these expenses. However, the present form of the Staff proposal, once recommended by this Joint Board and adopted by the Federal Communications Commission, is not forever immutable. If it becomes necessary to accommodate unforeseen increases in costs, especially for more vulnerable small companies, adjustments can be made.

30. In a similar vein, several parties including GTE, Citizens, United, USITA, the Rural Telephone Coalition, and Haviland et al., believe that the termination date for the transition period should be coordinated with the target date for completed detariffing of all CPE. This would supposedly avoid a “mismatch” between the actual depreciation reserve and the CPE separations base, and would assist in the achievement of capital recovery. A.T. & T. and the Ad Hoc Telecommunications Users Committee view this as unnecessary. Although legal considerations might require the continued allocation of some CPE costs as long as they remain in the rate base, we view matched termination dates as offering the advantage of consistency and simplicity. While it is the responsibility of the Commission rather than the Joint Board to determine the ultimate detariffing date, the choice of a schedule coordinated with the completion of the separations changes recommended here is an option that may be considered in the implementation proceeding.

31. Centel thinks the regulatory treatment of inside wire in Account 232 should be clarified before a plan is adopted. ARINC, SPCC and the New York State Department of Public Service want assurance that A.T. & T. will reflect reduced revenue requirements in lowerized rates. We agree with A.T. & T. and the Ad Hoc Telecommunications Users Committee that the resolution of other federal regulatory policies including treatment of inside wire, access charges, depreciation schedules, and interstate rates outside the scope of this proceeding. Futhermore, it is not necessary to delay the choice of a CPE separations plan while these matters are being resolved. The operative effect of the staff proposal will be compatible with any other separations changes that may be necessary to accommodate additional developments in federal policies. This is due to the fact that the staff proposal requires only minimal changes in the Separations Manual and does not explicitly modify the allocative factor for nontraffic sensitive plant. As Commission policies become clarified, additional modifications can be made to the Manual, if necessary. In addition, the eventual resolution of the SPF issue may incorporate some means of softening the impact of any new policies that might place an added burden on exchange operations.

32. Haviland and the Rural Telephone Coalition desire assurance that SPF will be applicable to the embedded CPE balance until it is entirely removed from the rate base and title is deeded to customers. Citizens and United recommend that SPF be capped on the detariffing date and that the capped factor be applied to the decreasing CPE separations base. We decline to assure the application of SPF to remaining CPE throughout the entire transition period. As stated above, the issue of the appropriate allocation factor for nontraffic sensitive plant is not ripe for final determination at this time. SPF will be applicable to all nontraffic sensitive plant until the Joint Board has resolved their objectives. Such a result is clearly contrary to our goal.

33. AT&T, ARINC, SPCC, Centel and Rochester Telephone Company believe that the plan should at least incorporate a modification from SPF to SLU. MCI argues that existing jurisdictional allocations of CPE are unlawful because they are unrelated to “cost causative realities.” However, it is well known that there are no objectively verifiable cost causative realities involved in the allocation of nontraffic sensitive joint and common costs. See American Telephone & Telegraph Co., 54 FCC 2d at 392 (1981). The Ozark Plan is now under review because changes in usage patterns and the cost characteristics of
new technologies may have rendered it less serviceable. Although the allocation of non-traffic sensitive plant on the basis of traffic may not be perfect, it has provided some reasonable measure of the burden each jurisdiction must bear. It is the hazard of using such a mechanism, however, that it may need periodic alteration as cost and usage circumstances dictate. The continued value of the SPF formula is currently under consideration. However, until that evaluation is complete we can neither endorse a transition to SLU nor promise that SPF will always be applied to CPE. We leave these decisions to a separate phase of this proceeding.

34. We see several advantages to the Staff proposal. It is an easily administered plan for the orderly extraction of CPE from the separations process. It minimizes delay and creates incentives for detariffing CPE while avoiding severe economic dislocations for small carriers. Implementation of the Staff proposal does not depend on

35. Some state commissions have already begun programs to encourage the sale of terminal equipment and are anxious to detariff CPE, but are waiting for separations issues to be resolved. Without some kind of certainty as to the nature of separations adjustments that eventually will be made and the changes in settlements these adjustments will cause, many states may be reluctant to order detariffing. The fear of potential adverse revenue requirements impacts is a substantial deterrent to detariffing. Thus, any continued delay in the formation of a specific plan is a formidable impediment to achievement of the Commission's Second Computer Inquiry goals. Under the Staff proposal, states will easily be able to calculate the precise reduction in toll settlements that will occur for each company over a given period of time. Through apprehension over loss of settlements will not serve as a major disincentive to states desiring to move ahead with detariffing initiatives. Both carriers and the state regulators will be able to plan sufficiently in advance for any rate adjustments that may have to be instituted. In fact, the certainty of a particular schedule for reduced settlements for CPE will encourage states and companies to accelerate movement toward detariffing and establish schemes for adequate capital recovery. The plan will not, of course, derogate in any way from carriers' rights to full recovery of invested capital. Therefore, because of its administrative convenience, minimized economic impact, and serviceability for the achievement of detariffing objectives, we find that adoption of the modified version of the staff plan to remove CPE from separations, set forth in Appendix A, would best serve the public interest.

IV. Modifications to the Original Staff Plan

38. Several of the parties have suggested minor changes to the Staff plan. The Rural Electrification Administration, the Rural Telephone Coalition, Continental, and the Pennsylvania Public Utilities Commission indicate that a five year transition schedule may not be long enough. However, these parties have provided no substantive evidence regarding the specific extent of harms that they believe could be prevented through an extension of the five year period. Separations modifications relating to the removal of CPE from the jurisdictional allocation process should be made effective as swiftly as most carriers can accommodate. Further, the detariffing of CPE should be reflected in separations as straightforwardly as possible, and should not be unnecessarily confused with the general issue of the potential need for special separations treatment for small rural carriers. Thus, the staff plan properly does not attempt to address the relationship between jurisdictional cost allocations and maintenance of affordable local rates beyond the fact that a reasonable phase-in of the removal of CPE from separations seems to be most equitable.

37. In choosing the length of the transition period, the Joint Board and the Commission must carefully weigh the inequity to most carriers of a transition that may be too sudden with the deterrence from detariffing that may occur from a transition that is too long. The balancing of these factors is a specific problem arising from the implementation of a particular regulatory policy. It may be related to, but should not necessarily encompass, the broader more difficult question of the proper role of jurisdictional cost separations as an incentive to acceptance of universal service. The Joint Board and the Commission will address these latter issues and the special concerns of small carriers well before the five year transition period expires. From the response in particular AT&T, ARINC, United, USITA, Rochester Telephone Co., and the Ad Hoc Telecommunications Users Committee, it appears that a five year time frame for the limited changes adopted here is generally acceptable, and we believe that it would be wise not to alter it.

39. Many of the parties, including AT&T, Citizens, Centel, and Haviland et al., have mentioned that for the purposes of computing the separations base the expenses associated with repair and maintenance of embedded CPE, recorded in a specific month may not be fairly representative of the level of expenses incurred over the course of a year. They propose that annual average expense figures be used instead. We find this argument to be persuasive and have modified the proposed new Section 42.552 of the Manual to specify that the maintenance expense portion of the separations base shall consist of the average monthly recorded maintenance expense in Account 685 associated with repairs and maintenance of customer premises equipment in Accounts 231 and 234 (excluding amounts for installation, moves and changes) for the twelve months preceding the cut-off date. We have also reevaluated the advisability of requiring all carriers to reduce the CPE separations base by increments of one-sixth each month over the five year period. Some companies may not perform cost studies

40. We have also suggested minor changes to the Manual's Glossary that will best serve the public interest. We leave these decisions to a separate phase of this proceeding.
on a monthly basis, and this requirement may impose an unnecessary burden on them. Therefore, we have revised the Staff’s proposed new Section 25.32 of the Manual to permit companies that have a separation study period other than monthly to establish equal intervals consistent with such study periods for reducing the base amount over five years.

41. Finally, we have considered a change in the date of implementation of the Staff plan. Originally, the effective date was to be January 1, 1982. This was premised on the perceived advantage of coordinating the implementation date with the beginning of a new calendar year, and the need to have a plan in place at least by March 1, 1982, the Commission’s original cut-off date for detariffing of new CPE. On further reconsideration of its final decision in the Second Computer Inquiry, the Commission postponed the detariffing date to January 1, 1983. Thus, the urgency with which separation changes should be effected has been somewhat eased. We find that January 1, 1983, is the most appropriate date for execution of the staff plan.

42. There is certainly no need to delay implementation beyond January 1, 1983. The Anchorage Telephone Utility requested two or three years of lead time in order to allow adjustment of inventory levels, purchasing decisions, budgets, and borrowing commitments. However, it seems that many of these concerns are related to detariffing implementation rather than separations, and that, in any case, a full year of preparation before the gradual settlements reduction process begins should be sufficient for planning purposes. In contrast, the Ad Hoc Telecommunications Users Committee asserts that the date for separations changes need not be matched with the detariffing date, and may be scheduled earlier. Some states that are anxious to implement detariffing plans, such as California, may prefer an effective date for the staff plan that precedes the Commission’s implementation target by six months or so. However, the benefits of such an accelerated schedule are minimal, as are detriments of a slight additional postponement. Most of the parties that remarked on the issue, including GTE, USITA and Haviland et al., stated a preference for matched implementation dates. The January 1, 1983, date appears to be the most equitable for all parties. It preserves the advantages of beginning the plan with the calendar year, and offers the best opportunity for synchronizing the actual amounts of embedded CPE with the

The costs that will be phased out of separations.

43. Accordingly, it is ordered that the revisions to the 1971 FCC–NARUC Separations Manual set forth in Appendix A which are to be effective on January 1, 1983, are adopted, as a Recommended Decision and Order.

The Federal-State Joint Board. * Mark S. Fowler, Chairman.

Addendum to the Separations Manual

General

This addendum to the February, 1971 edition of the Separations Manual provides for the phase out and termination of the allocation to interstate of customer premises equipment in Accounts 231 and 234. No customer premises equipment investment which may be added to those accounts after December 31, 1982 shall be allocated to the interstate operation. The plant balances attributable to customer premises equipment on the books as of December 31, 1982 shall constitute a base amount for allocation between state and interstate operations during a phase out period of 60 months. Starting with January, 1983 the base amount shall be reduced by one sixtieth each month, and all customer premises equipment subject to allocation between state and interstate operations shall terminate after 60 months. A consistent treatment is afforded the expenses and reserves associated with customer premises equipment. The following revisions to the manual are made:

Section 1, Part 1

A new paragraph 11.25 shall be added as follows:

11.25 The procedures set forth herein provide for the exclusion from the interstate allocation of all investments and associated reserves and expenses incurred in connection with customer premises equipment after December 31, 1982. Investments in customer premises equipment on the books as of December 31, 1982 will be phased-out over a 60-month period for allocation to interstate operations. Consistent treatment is afforded the reserves and expenses associated with phase out of the investment in customer premises equipment.

Section 2, Part 5

A new section 25.131 shall be added as follows:

25.111 The investments in Accounts 231 and 234 shall be segregated between customer premises equipment and other station equipment. Customer premises equipment shall be apportioned among the operations as set forth in Sections 25.31 and 25.32. Other station equipment shall be apportioned as follows:

A new section 25.3 shall be added as follows:

25.3 Phase-out and Termination of Interstate Apportionment of Customer Premises Equipment in Accounts 231 and 234.

25.31 New customer Premises Equipment—No portion of any investment in customer premises equipment in Accounts 231 and 234 may be entered on the books of the company after December 31, 1982 shall be apportioned to Interstate operations.

25.32 Phase-Out of Customer Premises Equipment Recorded as of December 31, 1982—The recorded investments of customer premises equipment in Accounts 231 and 234 which are on the books as of December 31, 1982 shall be assigned to the five categories set forth under Section 23.2 for the month of January, 1983. Each month thereafter, the base December 31, 1982 amount shall be reduced by one sixtieth of the base amount in each category, and the apportionment between state and interstate operations shall be made in a similar manner. After sixty months the amounts in each category will be reduced to zero, and no apportionment of any customer premises equipment to interstate operations shall thereafter be made. Companies that have a separations study period different than monthly may establish equal periods for reducing the base amounts consistent with such study periods to write off the base amount in 6 years.

Section 2, Part 9

The following sentence shall be added to Paragraph 29.11:

Starting with January 1, 1983 any amounts included in Account 122 associated with customer premises equipment shall be excluded from the amounts which are allocated to the interstate operation.

Section 4, Part 2

A new Section 42.55 shall be added as follows:

42.55 Phase out and Termination Provision

42.551 No portion of any maintenance expense in Account 605 associated with repairs of customer premises equipment in Accounts 231 and 234 incurred after December 31, 1982 shall be apportioned to Interstate operations.

42.552 The average monthly recorded maintenance expense in Account 605 associated with repairs of customer premises equipment in Accounts 231 and 234 (excluding amounts for installation, moves and changes) for the 12 months preceding the cut-off date shall be used as a base in connection with the phase out of interstate allocation of customer

*See attached statement of Commissioner Joseph R. Fogarty.
Section 4, Part 3

A new Section 43.112 shall be added as follows:

43.112 Depreciation expense associated with customer premises equipment in Accounts 231 and 234 for the month of December, 1982 shall be expressed as a ratio to the plant in these accounts as recorded for December 31, 1982 and such ratio shall be applied to the phase-out of plant in these accounts as described in paragraph 23.32 in accord with the procedure in Paragraph 43.12.

Section 4, Part 7

The following sentence shall be added to Paragraph 47.211:

The wage portion of maintenance expense related to maintenance of customer premises equipment shall be determined in a manner consistent with the phase-out of maintenance expense provided in Section 42.55.

Section 5, Part 1

A new paragraph 51.22 shall be added as follows:

51.22 The depreciation reserve associated with customer premises equipment in Accounts 231 and 234 shall be determined as of December 31, 1982 as a base for the phase out of customer premises equipment in those accounts. Starting with January, 1983 such base amount shall be reduced by one-sixtieth each month.

Glossary

The following definition shall be added:

Customer Premises Equipment—Items of telecommunications terminal equipment in Accounts 231 and 234, such as telephone instruments, data sets, dialers and other supplemental equipment, and PBX's which are located on customer premises and inventory included in the accounts to be used for such purposes. Excluded from this classification are similar items of equipment located on telephone company premises and used by the company in the normal course of business as well as public telephones, channel multiplexing equipment and related equipment.

Dissenting Statement of Commissioner Joseph R. Fogarty

In Re: Amendment of Part 67 of the Commission's Rules, CC Docket 80-263

At its meeting on October 13, 1981, the Joint Board instructed the staff to prepare an order adopting a staff proposal—known as the "Papone or California Plan"—which would cap and then phase-out of the jurisdictional separations process the allocation to interstate of customer premises equipment (CPE) over a 60-month period. The phase-out procedure was to be implemented by use of "base amounts" derived from net CPE plant balances as of a date-certain (i.e., December 31, 1982). I dissented to these instructions in part because I believed that the plan was deficient in that it did not tie the phase-out of CPE from the separations process to the recovery of capital and expenses for the equipment. Additionally, I was concerned that the staff plan would not curb the alarming growth of the Subscriber Plant Factor (SPF).

Unfortunately, only part of my concerns have been met. In a companion order, the Joint Board is recommending to the Federal Communications Commission that the SPF factor be capped—an action which I proposed and support. However, I must dissent to this Recommended Decision and Order because I continue to believe that the CPE reduction factor (60th reduction each month) should be linked to actual revenue requirements derived from actual book costs and expenses instead of the frozen net balance figure proposed in the staff plan.

The question of whether the phase-out of the interstate allocation of embedded CPE should be based on a frozen net balance figure or actual revenue requirements is separate, but the consequences of such an action can be significant. It is because of these potential consequences that I believe that the Joint Board should have recommended a cost recovery-based phase-out scheme. Common sense dictates that in order not to unduly burden local rates both during and after the transition period, the proposed phase-out formula should reflect actual retirement, depreciation and maintenance expenses. Unless the proposed reductions are based on actual costs, there is the risk that some depreciation and maintenance expenses which should be borne by the interstate jurisdiction will not be because the expenses were not reflected in the interstate allocation of embedded CPE.

Although the Order recognizes this possibility, it unfairly places the burden on the states to provide for adequate revenues to recover actual—as opposed to the plan's theoretical—maintenance and depreciation expenses. See Recommended Decision at paras. 24 and 28. I do not believe that the Joint Board can wash its hands of this problem in its recommendation to the FCC.

My disagreement with much of the analysis in the Recommended Decision is fundamental. In particular, I am troubled by the assertion in the decision that the problems of capital recovery for CPE and its removal from separations procedures, although concededly related, are separable. Recommended Decision at para. 24. While this might be theoretically correct, in reality, separations and capital recovery for CPE are inseparable in a deregulated environment. To argue as is done in paragraph 28 that "the actual CPE costs involved in a detariffing plan need not be accurately reflected in the separations process" directly contradicts the Commission's policy that whenever possible costs should be placed on the causative customer. See, e.g., Further Notice of Inquiry, Deregulated Customer Premises Inside Wiring, FCC 2d 251 (1981). The justification of the proposal to base the decision to the Commission, the Commission, however, does have the authority to tie any phase-out of CPE to capital and expense recovery. See Smith v. Illinois Bell, 232 U.S. 148 (1919). I note that at para. 24 of the Recommended Decision would go farther and indicate that separations allocations of CPE are completely unrelated to capital recovery. This is inconsistent.

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phase-out formula on an equitable/reasonable averaging scheme is reminiscent of the "whole-life" depreciation theory which the Commission recently abandoned as inappropriate in a competitive environment. See *Property Depreciation*, 63 FCC 2d 269 (1980). The continued allocation of CPE costs is definitely intended to contribute to capital recovery. In the *Recommended Decision* the Joint Board neglects the fact that abrupt increases in local rates may come about not just as a result of a sudden evaporation of CPE costs, but also as a result of large depreciation and expense costs which are unfairly foisted on the state jurisdictions. See *Recommended Decision* at para. 28.

No undue delay would result if the phase-out of CPE allocations was based on actual revenue requirements. The Commission would not be forced to wait until the Computer II implementation proceeding was concluded. See *Recommended Decision* at paras. 28 and 34. The 60-month reduction could be based on actual book accounts until such time as the valuation proceeding was concluded. Any difference between the book and valuation amounts not only could be compensated for at that time, but would probably be less than the difference between the staff’s theoretical figures and the valuation amount.

Similarly, the use of the actual book accounts would neither create significant inequitable results among carriers nor cause severe economic dislocations for small carriers. See *Recommended Decision* at paras. 28 and 34. Instead, it would ensure that every carrier properly recovers all depreciation and maintenance expenses. Without such recovery, dislocations will occur.

The only substantial justification put forward for the use of frozen base amounts is that use of these amounts would permit a state to detariff and require the sale of CPE while still continuing to receive contributions from separations. I find this concept repugnant to the Commission’s basic procompetitive policies. To allow a state to continue to receive contributions from separations after all CPE has been detariffed and sold would permit it to receive a windfall it does not deserve. Moreover, ratepayers in those states which did not order the quick detariffing of CPE would subsidize the rates paid by ratepayers in those states which did. For years the Commission has attempted to stop cross-subsidization of this sort. To encourage it now in the guise of providing “incentives” is wrong.

- The Joint Board unrealistically attempts to base the phase-out of the interstate allocation of embedded CPE investment on a frozen revenue requirement which is in turn based on a “snap-shot” of net plant balances as of December 31, 1982. Revenue requirements have always been and will continue to be dynamic in nature. Any proposed phase-out of CPE investment which does not recognize this fact is fundamentally unfair and runs counter to the public interest. Therefore, I dissent.

34. Instead, it would ensure that every carrier properly recovers all depreciation and maintenance expenses.

Without such recovery, dislocations will come about not just as a result of a sudden evaporation of CPE costs, but also as a result of large depreciation and expense costs which are unfairly foisted on the state jurisdictions. See *Recommended Decision* at paras. 28 and 34. The 60-month reduction could be based on actual book accounts until such time as the valuation proceeding was concluded. Any difference between the book and valuation amounts not only could be compensated for at that time, but would probably be less than the difference between the staff’s theoretical figures and the valuation amount.

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The comments in that proceeding raised several issues relating to the allocation of non-traffic sensitive exchange costs to the interstate jurisdiction via the subscriber plant factor (SPF) as defined in Section 23.444 of the current Separations Manual. Thus, the examination of the continued appropriateness of SPF is a task of high priority for this Joint Board.

2. To date, we have taken several steps toward the completion of this task. On June 12, 1981, we released an Order Inviting Comments and Suggested Information Requests in which we solicited preliminary views on a list of questions concerning the proper separations treatment of non-traffic sensitive plant. Many parties have submitted comments in response to the June 12, 1981 Order, and have raised numerous complex issues which must be thoroughly analyzed before a final decision may be reached. The Joint Board Staff has prepared summaries of all comments filed in response to the June 12, 1981 Order and has presented a report of the options for long-range changes to SPF that must be considered. The Staff has also been directed to develop plans for regional hearings to be held in the near future. The hearings will allow the broadest possible participation in the development of a record that will provide the basis for our ultimate decision on the allocation of non-traffic sensitive plant. Finally, prior to the Joint Board’s next meeting in February, 1982, many of the issues currently under consideration will be held in order to best take advantage of their expertise on matters of long term solutions and implementation.

3. While we recognize the need to achieve an expeditious resolution of the SPF issue, we are also sensitive to the importance that any change in the allocative factor for non-traffic sensitive plant would have for both the individual parties and the public. For this reason, we will move toward a final decision to change SPF with due caution. Because of the complexity of the issue, the substantial diversity of interests and the economic significance of the outcome, we expect that a resolution of the SPF

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2 The questions were set forth in Appendix A to that Order.
issue will not be achieved for several months. Full implementation of a final plan may take a few years.

4. During that time, it is certain that continued application of SPF will cause allocations to the interstate jurisdiction to increase. The SPF formula is directly tied to usage. As interstate usage increases, as it has steadily over past years, allocations also increase. However, the SPF formula is structured so that relative use (subscriber line use or SLU) is multiplied by various factors and generally results in approximately a threefold increase in the usage measure. Therefore, SPF has the effect of magnifying the allocative impact as usage increases.

CSR is the composite station rate, a ratio that combines measurements of average initial 5 minute station charges and average lengths of haul for interstate toll calls. CSR is determined for each telephone company "study area."  

5. In the Commission's Order establishing this Joint Board, it was noted that the past dramatic increases in SLU were expected to continue. Thus, it is highly probable that interstate allocations would grow significantly before any necessary changes to SPF are fully effective. This could result in severe adjustment problems for many carriers. If it is later determined that SPF should be capped at the present percentage or dollar amount, or that it should be reduced below current levels many local companies ultimately might have to make more substantial rate adjustments if SPF has continued to grow than such companies would make if it had been maintained at a constant level. Although we do not here prejudge the final decision, we are concerned that the continued growth of the subscriber plant factor may impose undue hardships on many local companies during the transition to any new allocative scheme. For this reason, we have decided that it is necessary, as an interim measure, to freeze SPF at 1981 levels, pending a complete examination of the allocation of non-traffic sensitive plant.

6. At our meeting on October 13, 1981, we requested the Joint Staff to review the comments made by the parties and to recommend options for an interim freeze as well as the long-term resolution of the SPF issue. The Staff presented these options at the November 18, 1981 meeting. The Staff observed that inaction with respect to SPF would not preserve the status quo because it would result in the probable increase of interstate allocations each year. The Federal Staff developed a proposal for an interim percentage freeze of SPF to be imposed in order to approximate the status quo during further Joint Board proceedings to develop more permanent rules for the apportionment of exchange plant investment and related expenses.  

7. This recommendation reflected, in large part, the concerns voiced by several parties regarding the need to prevent further growth in SPF while an ultimate solution is developed. For example, United Telephone System, Inc. (UTS) has suggested that SPF be frozen at current levels, as a ceiling, in order to provide all parties with the "breathing room" necessary to determine an acceptable alternative allocative measure. The United States Independent Telephone Association (USITA) has proposed a temporary, transitional freeze of SPF followed by a reduction from SPF to SLU. Similarly, GTE Service Corporation (GTE) has advocated that SPF be capped and frozen for the first five years of a ten-year transition to SLU. Northeast Nebraska Telephone Company, while opposing an ultimate reduction to SLU, has specifically said that it would support the GTE and USITA proposals to cap SPF for five years. The Kansas Corporation Commission (KCC) also has viewed the capping of SPF as a practical interim approach to the SPF problem, and has recommended that SPF be capped for all companies whose allocations of costs related to non-traffic sensitive plant exceed 30% of the national average SPF factor (3.29), or 4.11. While we cannot, at this stage, adopt a particular transition plan or specifically endorse the GTE plan to reduce SPF to SLU within ten years, we believe that an immediate freeze of SPF is a necessary and warranted measure.

8. We believe that a freeze of actual 1981 SPF percentages is the most reasonable approach to an interim plan. An average percentage "cap," such as that proposed by KCC, would not necessarily create equitable results among carriers. In addition to being needlessly complex from an administrative standpoint, it would require that some telephone companies decrease their current allocations while other telephone companies could permit their interstate share to increase until it has reached the accepted level. Currently, the interstate percentage of non-traffic sensitive costs allocated to the interstate jurisdiction varies from state to state and carrier to carrier. Because a different SPF is calculated for each "study area," the imposition of a uniform percentage allocation would necessitate the redistribution of wealth among states or telephone companies. While it is conceivable that we may eventually determine that an average percentage is an equitable and efficient allocative technique, we are not yet prepared to make that determination. Thus, the frozen SPF amount must be based on actual percentages calculated for each study area for the most recent study period.

9. In addition, the freeze must be applied to a percentage rather than a dollar amount. A cap based on a dollar amount would not preserve the status quo. Rather, over time such a cap would actually result in reductions in the interstate share of costs. A percentage cap would permit each telephone company to allocate increased costs burdens resulting from such changes as inflation, new depreciation rates, and the expensing of station connections in the same proportion as the base year costs. This result would be more consistent with a desire to maintain the status quo during the course of further Joint Board deliberations.

10. The frozen SPF also would not reflect changes that might ultimately be made in the jurisdictional treatment of FX/CSSA services, private line or OCC access lines. The Joint Board has not completed its review of these issues and has not yet made any recommendations for amendments to the Separations Manual to reflect such changes. We cannot prejudge the outcome of these matters at this stage. We believe that the adoption of a frozen SPF, as a temporary interim measure, will not prejudice the positions of any of the parties and will serve to protect the best interests of all carriers until these matters can be resolved.

11. The modifications to the Separations Manual necessary to freeze

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*As percent of interstate MTS/IVATS revenue*
SPF as of January 1, 1982 are presented in Appendix A to this Recommended Interim Order. We believe that, because of the urgency of this matter, the cap should be effective January 1, 1982. The single frozen annual 1981 average SPF should be employed by each carrier for each study regardless of whether costs studies are performed monthly, quarterly, annually or on some other basis, beginning with the first study period after the Commission's designated implementation date.

12. Accordingly, it is ordered, That the revisions to the 1971 FCC–NARUC Separations Manual set forth in Appendix A, to be effective on January 1, 1982, subject to approval by the Federal Communications Commission, are adopted as a Recommended Interim Order.

The Federal-State Joint Board.7

Mark S. Fowler,
Chairman.

Appendix A

Section 2, Part 3

Revised paragraph 23.444 to read as follows:

23.444 The cost of subscriber line outside plant in Category 1.3 assigned to message telephone services in the study area, as determined in paragraph 23.443, is apportioned between state and interstate operations by the application, to the cost of such plant, of a subscriber plant factor, which is the sum of the following:

(a) Annual average interstate subscriber line use (SLU), for the calendar year 1981, representing the interstate use of subscriber plant as measured by the ratio of interstate holding time minutes of use to total holding time minutes of use applicable to traffic originating and terminating in the study area, multiplied by the nationwide ratio of (1) subscriber plant costs assignable to the exchange operation to (2) total subscriber plant cost per total minute of use of subscriber plant, plus

(b) Twice the annual average interstate subscriber line use rate for the study area for the calendar year 1981, multiplied by the ratio of (1) the average interstate initial 3-minute station charge at the study area average interstate length of haul to (2) the nationwide, industry-wide average interstate initial 3-minute station charge.

An interim solution is necessary if the SPF growth problem is not to go completely out of control before the Joint Board can develop a comprehensive plan. A Commission-ordered cap of the SPF factor as of January 1, 1982 is the only possible interim solution.

A SPF cap offers many advantages. A cap would stop the growth of the SPF factor but the actual dollars derived from interstate allocations because of the continuing growth of SLU. As a consequence, smaller carriers or companies would not be injured because the dollar amounts they receive should remain at approximately the same level. Further, it is fairly certain that the Joint Board will ultimately recommend adjustments in the separations process which will result in reducing SPF to SLU or an equivalent. A cap on SPF would minimize the ultimate size of that reduction by preventing the SPF factor from increasing while the Commission considers such issues as access charges and the Access Cost Factor proposed in the Wyoming Plan. The cap would not disadvantage one company or state against another. It would be easy to administer. Moreover, no company or state would assign a lower amount of its costs to interstate than was assigned in a previous year.

The cap on SPF should continue as long as the Joint Board has recommended and the Commission adopted a comprehensive plan. At that point the cap may be lifted and any modification of SPF begun.

Such a modification of SPF, however, must be undertaken with great care. I believe that the Joint Board must take special precautions to ensure that its future recommendations to the FCC regarding interstate allocations of SPF protect the vulnerable small rural telephone companies.

In conclusion, I urge that the Commission adopt this Joint Board recommendation to cap SPF.

Dissenting Statement of Richard D. Gravelle

I dissent. The action taken here to limit SPF is improper in at least four ways. It does not follow the procedures that the Joint Board, itself, adopted. No record has been developed to support the action. It does not maintain the status quo. No determination has been made as to the effect on rate payers.

This action does not follow the Joint Board's own procedures.

In our order adopted November 12, 1980, Released December 5, 1980, we stated that we would "in general attempt to follow the Commission's rules and regulations pertaining to Rule Making" set out in §§ 1.412(a) to 1.415 and 1.430 to 1.439 of the Commission's Rules since the purpose of this proceeding is to amend a rule, namely, Part 67 of the Commission's rules. Section 1.412(a) of the Rules provides, "Except as provided in paragraphs (b) and (c) of this section, prior notice of proposed rule making will be given." In my view there is nothing in paragraphs (b) and (c) of § 1.412 which would permit waiver of notice for a specific rule change as proposed here. Section 1.415 provides, inter alia, that a reasonable time will be afforded parties to file comments and reply comments. The order here adopted by the majority does neither. It proposes for the first

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7See Revised Decision and Order, Amendment of Part 67 of the Commission's Rules, CC Docket No. 80-289.


5See Proposal of Wyoming Telephone Company, Inc. et al.
time a specific rule change and then makes it effective on January 1, 1982 without further debate. I submit this is a clear violation of the rules under which we operate and a clear violation of any sense of fairness.

No record has been developed to support this action.

It is true that there have been numerous filings, many of them not specifically called for, which have demanded, “freeze SPF.” Mainly these filings contain allegations which are nothing more than self serving statements of the parties doing the filings. The claim is made that SPF is too high or that it is growing too fast. Why is it too high? Why is it growing too fast? What is the public detriment if SPF is too high or growing too fast? What are the effects to be expected if it continues to grow? What will be the effect on the ratepayer of freezing SPF—of permitting it to grow? These are all questions which should be answered before we take such a drastic action as here proposed.

As far as I can see the principal argument advanced by the carriers is that the established carriers, being saddled with SPF, cannot compete with the new common carriers (OCC’s) which do not have SPF costs added into their intercity rates. Here again I think a record should be developed. The information I have is that the message toll business continues to grow at 10% a year and that the specialized carriers have less than 3% of the business. At what rate should message toll grow? How much business should the competition have? Is the competition’s business merely a bite out of message toll or has competition generated new business? What will be the effect on competition if SPF is frozen, or reduced to SLU as some of my colleagues on the Joint Board appear to advocate? Can the OCC’s even continue to exist if the established carriers operate with the same local cost burden as the OCC’s?

These are all questions which must be answered before we move precipitously ahead to eliminate SPF or even just freeze it.

As a further point I note that the majority has ignored our staff in making this recommendation. The Joint Staff considered this matter at its meeting on November 15, 1981. The Joint Staff at this time concluded that there was an inadequate record on the subject of freezing SPF. By a unanimous vote the Joint-Staff recommended that the question should be the subject of an order to be issued at the February, 1981 Joint Board meeting seeking comments on the question: Should SPF be frozen and, if so, how?

The majority’s action does not maintain the status quo.

The majority also claims that the result of their action would be more consistent with a desire to maintain the status quo than would placing a cap on the dollar amount of costs assigned interstate. If the majority has a desire to maintain the status quo, why do they not leave things as they are? The majority’s action does not maintain the status quo. The status quo is a variable SPF factor that either increases or decreases with relative volumes of interstate and local traffic. The majority would have us believe that the only way SPF can move is up. That is false. Although SPF has generally increased in recognition of the recent phenomenal growth in toll, it can and has declined when toll business declines. For instance, see the 1981 Report of the NARUC Committee on Communications which includes an eight year tabulation of SPF by states on page 44 and 45. This shows that the Bell SPF for Michigan steadily declined from 14.70 to 13.44 between 1973 and 1978. Likewise the Bell SPF for North Carolina declined from 18.98 to 18.35 between 1974 and 1976.

The status quo is that state rates are based on costs which include a growth in SPF. Individual companies have counted on a growth in SPF to help meet the ever escalating cost of providing universal service in rural areas. What happens to the company that converts from rural eight- and ten-party service to individual line? What happens to a company that converts from average settlement to cost settlement? The majority on this Joint Board cannot tell me. In the rush to cap SPF the numerous questions associated with a cap of SPF have not been thought out or developed. At the very least this matter should have gone through the comment stage to seek answers to some of these questions.

The effect on rate payers has not been determined.

We have just finished taking an action to phase out customer premises equipment (CPE) which will cost the local rate payer an estimated $4.4 billion per year in five year’s time even with a growing SPF. In view of deregulation the alternative course was inevitable. Now, right on top of that, the majority on this board is asking the rate payer to swallow another big chunk all to the end that interstate rates can be lowered to meet the competition. My staff assistant has calculated, that assuming a continuing 4% growth in SPF, the cost of capping SPF to the local rate payer will be an additional $5.1 billion in 1987 when CPE is finally phased out. In sum, the majority has just taken action to transfer $9.5 billion to the local rate payer which, of necessity, must be made up in local rates.

If I heard my colleagues correctly there are some that say that is just the first step; the objective is to go to SLU. That would be another $5 billion, or so. Should we not be attempting to find what these actions will do to exchange rates and to universal service? I am apprised of recent testimony in the Bell anti-trust case that a doubling of exchange rates would decrease the telephone penetration of households from 91.5% to 83.7% and that a tripling of rates would further reduce the penetration to 70%. Is this the way we are headed? Does the concept of “Universal Service” mean that we should reduce the number of households that can afford telephone service from 91.5% to 70%? This could certainly be the effect in many high-cost areas. Such a heavy impact on the residential users of this country deserves more consideration than has been given to this hasty proposed “Cap SPF” decision.

I think we should find out what the effects are before we act on such far reaching changes as here adopted by the majority.

[FR Doc. 81-70755 Filed 12-30-81; 8:45 am]
BILLY CODE 0712-01-M

47 CFR Part 67

[CC Docket No. 80-286; FCC 81-580]
Establishment of a Joint Board; Customer Premises Equipment (CPE)
AGENCY: Federal Communications Commission.
ACTION: Further notice of proposed rulemaking.
SUMMARY: The Commission is requesting comments on the Joint Board’s recommended decisions phasing customer premises equipment (CPE) out of the jurisdictional separations process and freezing the subscriber plant factor (SPF). The Commission decided to allow additional input by interested persons prior to reviewing the Joint Board’s recommendations because of the importance of the issues involved.
DATES: Comments must be filed on or before January 18, 1982. Replies must be filed on or before February 2, 1982.
FOR FURTHER INFORMATION CONTACT: James McConnaughy, Policy and Program Planning Division, Common Carrier Bureau at (202) 334-3642.
Adopted: December 17, 1981.
Establishment of a Joint Board, Interstate expenses are presently allocated between the interstate services. Presently allocated to the interstate jurisdiction and certain proportion of local proceeding. Resolution of the issues in this interstate cost allocations resulting from status quo possible was necessary to preserve the released December 14, 1981. The Joint Commission's rules, changes. Amendment of Part 90 measure pending adoption of final rule decision, recommending that SPF be released December 14, 1981. At this meeting designed to phase the Joint Board adopted arecommended response to the Joint Board's Order. 18, 1981, (46 FR 32281) the Joint Board adopted an Order requesting comments on a proposed plan for phasing customer premises equipment (CPE) out of the separations process as well as a lengthy list of issues including, among other things, questions concerning the use of the subscriber plant factor (SPF) in the allocation of local exchange plant. Over 90 comments and replies were filed in response to the Joint Board's Order.

2. After considering these comments, the Joint Board adopted a recommended decision at its November 18, 1981 meeting designed to phase CPE out of the separations process over a five-year period. Amendment of Part 67 of the Commission's rules, FCC 81-586, released December 14, 1981. At this meeting, the Joint Board also adopted a decision recommending that SPF be frozen on January 1, 1982 as an interim measure pending adoption of final rule changes. Amendment of Part 67 of the Commission's rules, FCC 81-586, released December 14, 1981. The Joint Board felt that freezing SPF as soon as possible was necessary to preserve the status quo and prevent increases in interstate cost allocations resulting from the growth of SPF pending final resolution of the issues in this proceeding.2

3. In light of the importance of these proposed changes in the jurisdictional separations process, we are requesting comments on both Joint Board recommendations. We agree with the Joint Board that interim action concerning SPF is an urgent matter. We also believe that the benefits to our decision-making process resulting from a further round of comment justify the brief additional period of time involved. Due to the previous opportunities for comment on these issues and the need for expeditious action on the SPF proposal, we are establishing an expedited pleading schedule with comments due January 18, 1982 and replies due February 2, 1982.

4. Section 410(c) of the Act provides that the State members of the Joint Board are to be afforded an opportunity to participate in the Commission's deliberations concerning Joint Board recommendations, although they are not entitled to vote. Since the Joint Board will be meeting on or about February 24, 1982 in Washington, D.C. in conjunction with the February NARUC executive committee meeting, we will schedule Commission consideration of the Joint Board's recommendations at a regular or special meeting at that time. Although this allows only a relatively brief period of time for the analysis of comments on the Joint Board's recommendations, we believe that expeditious action is necessary and we are directing the staff to devote sufficient resources to this proceeding to allow Commission action in February 1982.

5. Accordingly, it is ordered, that comments concerning the Joint Board's recommended decisions involving CPE and SPF are to be filed no later than January 18, 1982. Replies are to be filed no later than February 2, 1982.3

6. It is further ordered, that the Secretary shall cause this Further Notice of Proposed Rulemaking as well as the Joint Board's recommended decisions concerning CPE and SPF to be published in the Federal Register.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 81-37355 Filed 12-30-41; 0:43 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1001, 1007, 1008, and 1220
[Ex Parte No. 420 (Sub-No. 2A)]

Regulatory Flexibility Act; Periodic Review of Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Notice of review of regulations.

SUMMARY: On November 3, 1981, the Commission published its 10-year plan for the review of its regulations which have or will have a significant impact on a substantial number of small entities [46 FR 54814]. Listed below are the rules which will be reviewed during calendar year 1982 in accordance with section 610 of the Regulatory Flexibility Act (5 U.S.C. 610). Following each rule identified is a brief description of the rule including its purpose and legal basis. Our general purpose is to ensure that each regulation which affects small entities achieves a valid purpose in the most efficient and economical manner possible.

DATE: Comments must be filed on or before March 1, 1982.

ADDRESSES: For each rule listed below, an address for the submission of comments is listed.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: Four sets of rules will be reviewed during calendar year 1982. Although it did not appear in our original schedule, we have included the regulation at 49 CFR Part 1001 (Inspection of Records) for review during calendar year 1982. The regulation implements the Freedom of Information Act and is a companion regulation to the regulation at 49 CFR Part 1001, already scheduled for review. The complete list of regulations to be reviewed is as follows:

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1. Since local exchange plant is used in the origination and termination of interstate services, a certain proportion of local exchange costs are presently allocated to the interstate jurisdiction and recovered through the charges for the relevant interstate services.

2. Non-traffic sensitive local exchange plant and expenses are presently allocated between the interstate and intrastate jurisdictions on the basis of
Description and objective of the rule: These rules implement the Freedom of Information Act (5 U.S.C. 552). They provide that all information on file with an agency be disclosed to the public unless any of the 9 exemptions set forth in the statute and rules give the FOIA officer a discretionary legal basis on which to withhold its release. The rules mandate that information be released within 10 days from the receipt of a request and sets forth appellate procedures in the event a requester desires to appeal the withholding of a part or all of a particular document.

Description and objective of the rule: These rules implement the Privacy Act of 1974 (5 U.S.C. 552a). They provide that systems of records containing information about individuals not be released to the public unless specifically exempted from nondisclosure. They also provide that individuals may see documents containing information about themselves and seek to have them amended or corrected. Additionally, the rules provide for appellate procedures should the Agency’s Privacy Officer’s determination in any of the areas be in conflict with individual interests.

Description and objective of the rule.—These regulations provide uniform procedures for motor common carriers and freight forwarders in handling and disposing of overcharge, duplicate payment, or overcollection claims.

Description and objective of the rule.—This part instructs carriers to maintain their corporate, treasury, property, personnel, insurance and claims, inventory, transportation, tariff, statistical, and miscellaneous records in certain forms (microfiche, hard paper copy, or machine readable) and for certain periods. The objectives of the rule are to assure that carriers’ records are secure, readable, and accessible and to provide carriers with firm guidelines for keeping records available.

(S U.S.C. 610)
Dated: December 23, 1981.
By the Commission, Chairman Taylor, Vice Chairman Clopp, Commissioners Graham and Gilliam.
Agatha L. Mergenovich,
Secretary.
[FR Doc. 81-37278 Filed 12-30-81]...am]
BILLING CODE 7035-01-M
only hook and line gear for sablefish east of 140° W., and (b) a winter, gulfwide closure of the sablefish fishery from November 15 to March 15 each year. The North Pacific Longline-Gillnet Association has proposed opening the Davidson Bank area to foreign longlining. The Plan Maintenance Team also proposed two options to amend the reporting requirements for domestic fishing vessels that land their catches outside of Alaska. One requires domestic fishing vessels to report their catch and advise the management agencies of their departure by radio before leaving Alaskan waters. The other requires them to report their catch by making a port call before leaving Alaskan waters. A new method for specifying the annual level of expected harvest of groundfish by domestic fishermen and for establishing reserve amounts of groundfish is also included in the amendment package.

Dated: December 22, 1981.
E. Craig Felber,
Chief, Management Services Staff, National Marine Fisheries Service.
DEPARTMENT OF AGRICULTURE

Forest Service

Public Review of Alternative Goals; 1985 Resources Planning Act (RPA) Program

The Department of Agriculture, Forest Service is inviting public comment to help prepare the 1985 Resources Planning Act (RPA) Program. This is the third long-range plan for the future management of the 190-million-acre National Forest System, as well as Forest Service research and cooperative assistance activities. Comments are being solicited in regard to national goals to be addressed by the 1985 RPA Program through a publication entitled "Alternative Goals—1985 RPA Program". Copies of this publication can be obtained at all Forest Service offices, Federal, State and local agencies, and individuals and organizations who may be interested in or affected by long-range natural resource planning are invited to participate. Comments must be received by the Forest Service on or before March 15, 1982.

Comments should be mailed and inquiries addressed to: Thomas E. Hamilton, Director, Resources Planning and Assessment; Room 3243 South Building; USDA, Forest Service; Box 2417; Washington, D.C. 20033; (202) 447-5440.

Douglas R. Leisz,
Associate Chief
December 21, 1981.

Revised Notice of Intent To Prepare Environmental Impact Statement; Competing Vegetation During Reestablishment of Forests; Pacific Southwest Region


The period for receiving written comments and suggestions concerning this analysis has been extended from January 15, 1982 to January 29, 1982.

Dated: December 23, 1981.
Robert W. Cermak,
Deputy Regional Forester for Resources and Environment

Review Period Extension Notice for Draft Environmental Impact Statement; Southwestern Region Land and Resource Management Plan

The deadline for review of the Draft Environmental Impact Statement and Southwestern Region Plan for Arizona, New Mexico, Oklahoma, and Texas was stated as December 18, 1981, in the Federal Register, vol. 46, No. 181, Friday, September 18, 1981.

The date for review is now extended to January 15, 1982. The responsible official is R. Max Peterson, Chief, USDA Forest Service. Comments should be sent to M. J. Hassell, Regional Forester, USDA Forest Service, 517 Gold Avenue, S.W., Albuquerque, New Mexico 87102.

Dated: December 18, 1981.
M. J. Hassell,
Regional Forester.

Toiyabe National Forest Grazing Advisory Board; Meeting

The Toiyabe National Forest Grazing Advisory Board will meet at 10:00 a.m., February 18, 1982 in the Lander County Courthouse, Austin, Nevada. The purpose of this meeting is to discuss the

Federal Register
Vol. 40, No. 251
Thursday, December 31, 1981
Committee is to advise the Secretary of Agriculture on the relative technical and scientific research grant applications submitted to Science and Education of the U.S. Department of Agriculture. The activities of the Technical Advisory Committee may be accomplished primarily through subcommittees consisting of peer scientists in areas of research to be funded.

Both Advisory Committees will meet annually in Washington, D.C. The duties of these Committees are to evaluate research proposals for scientific merit and to provide recommendations to the Secretary on proposals that should be considered for funding as a part of the selection process for research grant awards.

It has been determined that the establishment of these Advisory Committees is in the public interest in connection with the work of the U.S. Department of Agriculture.


Done at Washington, D.C. this 23rd day of December, 1981.

John Schrata,
Deputy Assistant Secretary.

[FR Doc. 81-07303 Filed 12-30-81; 8:45 am]
BILLING CODE 6320-22-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed under Subpart Q of the Board's Procedural Regulations; (See, 14 CFR 302.1701 et. seq.) Week Ended December 24, 1981

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedient procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

<table>
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<tr>
<th>Date filed</th>
<th>Docket No.</th>
<th>Description</th>
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<tr>
<td>Dec. 22, 1981</td>
<td>40326</td>
<td>Southcentral Air, Inc. c/o Richard P. Taylor, Siepker &amp; Johnson, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036. Application of Southcentral Air, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests a certificate of public convenience and necessity for an Indefinite term to perform scheduled interstate air transportation of persons, property and mail between the terminal point Anchorage, Alaska; the intermediate points Cordova, Alaska; Fairbanks, Alaska; Gulkana, Alaska; Homer, Alaska; Iliamna, Alaska; King Salmon, Alaska; Kenai, Alaska; Kodiak, Alaska; Prudhoe Bay/Sag River/Deadhorse, Alaska; Seattle; Washington; Valdez, Alaska; and the terminal point: Yakutat, Alaska. Conforming Applications, motions to modify scope, and answers may be filed by January 19, 1981. Capital International Airways, Inc., P.O. Box 325, Smyrna, Tennessee 37167. Conforming Application of Capital International Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests authorization to provide scheduled air transportation of persons, property and mail: Between the terminal points New York, N.Y. and Washington, D.C. the intermediate points Brussels, Belgium and/or Frankfurt, Germany, and the coterminal points Moscow and Leningrad, U.S.S.R. subject to such terms, conditions and limitations as the Board may find to be required by the public convenience and necessity. Answers may be filed by January 6, 1981.</td>
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<td>Dec. 23, 1981</td>
<td>40355</td>
<td>Northwest Airlink, Inc. c/o Richard P. Taylor, Siepker &amp; Johnson, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036. Application of Northwest Airlink, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests authorization to provide scheduled air transportation of persons, property and mail: Between the terminal points New York, N.Y. and Washington, D.C. the intermediate points Brussels, Belgium and/or Frankfurt, Germany, and the coterminal points Moscow and Leningrad, U.S.S.R. subject to such terms, conditions and limitations as the Board may find to be required by the public convenience and necessity. Answers may be filed by January 6, 1981.</td>
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Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-07304 Filed 12-30-81; 8:45 am]
BILLING CODE 6320-01-M

[Order 81-12-147]

Fitness Determination of Trans Midwest Airlines, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 81-12-147, Order to Show Cause.

SUMMARY: The Board is proposing to find that Trans Midwest Airlines, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board’s tentative fitness determination shall serve their responses on all persons listed below no later than January 14, 1982, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with Special Data Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Mr. James Lawyer, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5098.

SUPPLEMENTARY INFORMATION: The complete text of Order 81-12-147 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 81-12-147 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: December 23, 1981.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-07343 Filed 12-30-81; 8:45 am]
BILLING CODE 6320-01-M

[Order 81-12-146; Docket 39975]

Application of Trenton Hub Express Airline, Inc. for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting a Fitness Investigation of Trenton Hub Express Airline, Inc., 81-12-146, Docket 39975.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Trenton Hub Express Airline, Inc.
DATES: Persons wishing to file petitions to intervene in the Trenton Hub Express Fitness Investigation shall file their petitions in Docket 59975 by January 11, 1982 and serve such filings on all persons listed below.

ADDRESSES: Petitions to intervene should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 59975, application of Trenton Hub Express Airline, Inc. for a certificate of public convenience and necessity.

In addition, copies of such filings should be served on: Trenton Hub Express Airlines, Inc.; the Mayors of Trenton, New Jersey; Albany, Buffalo and Syracuse, New York; Atlanta, Georgia; Boston Massachusetts; Charlotte, North Carolina; Chicago, Illinois; Cincinnati, Cleveland and Columbus, Ohio; Detroit, Michigan; Ft. Lauderdale, Orlando, Tampa and West Palm Beach, Florida; Hartford, Connecticut; Indianapolis, Indiana; Pittsburgh, Pennsylvania; St. Louis, Missouri; and Washington, D.C.; the managers of these cities' airports; the State Department of Transportation or Aeronautics Commission of New Jersey, New York, Georgia, Massachusetts, North Carolina, Illinois, Ohio, Michigan, Florida, Connecticut, Indiana, Pennsylvania and Missouri; and the Federal Aviation Administration.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: John P. Brennan, Bureau of Domestic Aeronautics, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 777-5940.

SUPPLEMENTARY INFORMATION: The complete text of Order 61-12-148 is available from our Distribution Section. The Office of Export Administration, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 777-5940.

The Department and CIT have entered into a Consent Agreement whereby each party has agreed to settle this matter: (1) by a denial to CIT of all export privileges, subject to certain exceptions, for a period ending January 14, 1982; and (2) by payment of a civil penalty by CIT in the amount of $10,000.

The Hearing Commissioner approves the Consent Agreement.

First. For a period to and including January 14, 1982, CIT is denied all export privileges, except that, upon prior written notification of and prior written authorization by the Hearing Commissioner, CIT may, provided any such export complies with the Regulations, export to satisfy service and repair requirements (including spare and replacement parts) arising from prior legal exports.

Second. CIT is assessed a civil penalty, pursuant to Section 11(c)(1) of the Act, to be paid as follows.

A. Within 20 days of the date of this Order, CIT shall pay $3,000 in the manner specified in the attached instructions.

B. Payment of the remaining $7,000 by CIT shall be suspended for a period to and including October 14, 1982, with payment of this suspended penalty to be waived at the end of this period, provided CIT has committed no violation of the Act, the Regulations, or this Order.

Third. Within six months after the date of this Order, CIT shall submit a written report to the Director, Compliance Division, Office of Export Administration, setting forth in detail the steps CIT has implemented to ensure its future compliance with the Act and the Regulations. Because a copy of such report may be made available for public inspection, CIT may submit, for such public inspection, a duplicate of such report, marked "Public Inspection Copy", and may edit such copy to delete information that would be properly exempt from public disclosure under 5 U.S.C. section 552.

Fourth. The Charging Letter, the Consent Agreement, and this Order shall be made available to the Public, and this Order shall be published in the Federal Register.

This Order is effective immediately.

DATED: December 22, 1981.

Thomas W. Hoya,
Hearing Commissioner.

[FR Doc. 81-37121 Filed 12-30-81; 8:45 am]
BILLING CODE 3150-25-M

DEPARTMENT OF COMMERCE

International Trade Administration

Exporters' Textile Advisory Committee; Public Meeting

AGENCY: International Trade Administration, Commerce.
Preliminary Affirmative Determination of Sales at Less Than Fair Value; High Power Microwave Amplifiers and Components Thereof From Japan

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative determination of sales at less than fair value.

SUMMARY: We have preliminarily determined that high power microwave amplifiers and components thereof from Japan are being sold in the United State at less than fair value. We have notified the U.S. International Trade Commission of our decision and are directing the U.S. Customs Service to "suspend liquidation" of all entries or warehouse withdrawals of this merchandise for consumption and to require a cash deposit, bond, or other security in an amount equal to the estimated dumping margin of 16.6 percent. Because we have also found that this case does not present critical circumstances, this suspension will not be retroactive.

Unless we extend the investigation, we will make our final determination within 75 days of this notice's signature. Interested parties may submit oral or written views concerning this decision.

EFFECTIVE DATE: December 31, 1981.


SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based on our investigation and in accordance with 19 CFR 351.39 (a)(2), we have preliminarily determined that there is reason to believe or suspect that high power microwave amplifiers and components thereof from Japan are being sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act). We have found that the U.S. prices of this merchandise are lower than their foreign market values. The estimated dumping range is 13.2 to 36.9 percent with the weighted-average margin being 16.6 percent. Unless we extend this investigation, we will make our final determination within 75 days of this notice's signature.

Case History

On July 24, 1981, we received a petition in proper form from Aydin Corporation, Ft. Washington, Pennsylvania. The petition alleged that high power microwave amplifiers from Japan were being sold in the United States at less than fair value, and that such sales were materially injuring a U.S. industry. The petitioner compared the purchase price of the goods in question with the constructed value. The petitioner also claimed that this case presented "critical circumstances" because massive amounts of this merchandise would be imported during a relatively short period.

After reviewing the petition, we decided it contained sufficient grounds to initiate an antidumping investigation. Therefore, we notified the U.S. International Trade Commission of our decision and on August 17, 1981, we announced the initiation (46 FR 41542). On September 16, 1981, the ITC preliminarily found that there is a reasonable indication that these imports are materially injuring or are threatening to materially injure a U.S. industry (46 FR 46021).

Scope of Investigation

For purposes of this investigation, high power microwave amplifiers are radio-frequency power amplifier assemblies and components thereof, specifically designed for uplink transmission in the C, X and Ku bands from fixed earth stations to communication satellites and having a power output of one kilowatt or more. They are currently classified under item 685.29 of the Tariff Schedules of the United States. The International Trade Commission limited its preliminary determination to this merchandise. We have redefined the scope of merchandise covered to conform with the ITC definition.

Since Nippon Electric Company, Ltd. manufactures all of the high power microwave amplifiers that Japan exports to the United States, we limited our investigation to that company. There were two types of high power amplifiers exported: Klystron amplifiers, which include a Klystron tube, and TWT amplifiers, which include a travelling wave tube.

This investigation covers the period March 1, 1981 through August 31, 1981.

Methodology for Fair Value Comparison

To determine the fair value of any product, we compare its U.S. price with its foreign market value.

U.S. Price

To determine the U.S. price of the high power amplifiers we used the purchase price, as defined in section 770(b) of the Act. We did so because the price of the high power amplifiers to the unrelated U.S. customer was agreed to before it was imported to the United States.

In accordance with section 770(d) of the Act, we calculated the purchase price by deducting the following expenses the exporter incurred in Japan: inland freight, airport usage, handling, airport storage, cartage and customs handling.

Foreign Market Value

To determine the foreign market value of high power amplifiers, we used their constructed value, as defined in section 776(b) of the Act. We used this method of calculation because there were no separate sales of high power amplifiers in the home market or to third countries. While there were high power amplifiers sold to third countries as part of larger sales of earth stations, they comprised a minor element in those contracts. In addition, we were not able to determine if the contract items indicated — corresponded with the merchandise sold to the United States.

We constructed the foreign market value of high power amplifiers by adding the material and fabrication costs, the normal home market general expenses (which exceeded the statutory minimum), the estimated general expenses of the related U.S. subsidiary, the statutory profit (which was higher than the usual profit), and the cost of packing.

During the verification, we found that the costs of materials and parts were based on estimates. We requested actual cost data on materials and parts. NEC submitted the information for travelling wave tube amplifiers but not for Klystron amplifiers. In absence of actual cost data information on the Klystron amplifiers, we based our calculation of materials costs, excluding the cost of the Klystron tube, on the best information available. This was determined to be information furnished by the petitioner. We used NEC's cost for the Klystron tube because that information was verified.

We used labor costs which included directly related overhead costs for fabrication costs. We plan to conduct an additional verification to determine whether the estimates in NEC's submission accurately reflect the actual costs incurred to date. At that time we will also determine whether the method of allocation has appropriately classified fabrication costs and general expenses.

We calculated the general expenses in two steps. First we calculated NEC's expenses incurred in Japan on the basis of their submission. Since NEC's calculation of general expenses was
based on cost of goods sold, which included these expenses, we made an adjustment to exclude them in the calculation of the percentage to be applied to material and fabrication costs. We plan to conduct an additional verification to determine if all appropriate general expenses have been included in our calculations. We will verify cost categories such as research and development and indirect selling expenses. Secondly, we estimated the general expenses incurred by Nippon Electric Company of America (NECAM) on the basis of the amount of commission paid to NECAM by NEC. Since this commission is included in the price, we determined that the selling expenses of the U.S. subsidiary are part of the corporate general expenses and, therefore, should be included in the determination of constructed value. We are developing data on these expenses from NECAM.

We determined that NEC did not maintain profit data on the basis of destination. We determined the usual profit on sales of long-range communications equipment by NEC. These sales were mostly to the home market or third countries. This profit was less than the 8 percent statutory minimum. Therefore, we calculated profit as 8 percent of the total of the cost of materials, fabrication and general expenses.

We calculated packing on the basis of actual costs.

Negative Determination of Critical Circumstances

The petition asserted that imports of high powered amplifiers from Japan present "critical circumstances." We announced in the Notice of Initiation that there was not a reasonable basis for concluding that critical circumstances exist. To rule that critical circumstances exist we must find that the case provides a reasonable basis for believing that (1) there is a history of dumping of high power amplifiers in the United States or elsewhere, or the importer knew or should have known that the exporter was selling high power amplifiers at less than fair value, and (2) there have been massive imports of high power amplifiers during a relatively short period.

The petitioner has not come forward with further evidence that there is a history of dumping or that the importer knew or should have known that the high power amplifiers were sold at less than fair value. We have not considered the question of massive imports since the first criterion has not been met.

Therefore, since the petitioner has not met the statutory requirements, we conclude that critical circumstances do not exist. Accordingly, we will not direct the U.S. Customs Service to suspend liquidations retroactively.

Verification

In accordance with section 776(a) of the Act, we verified the information submitted in the original response and relied upon in this determination. We used traditional verification procedures, including on-site inspection of the manufacturer's operations and examination of accounting records and randomly selected documents containing relevant information. We will verify any additional information relied upon before we make our final determination. This verification will include additional analysis of accounting records.

Suspension of Liquidation

In accordance with section 735(d) of the Act, we are directing the U.S. Customs Service to suspend, upon this notice's publication, the liquidation of merchandise that is subject to this investigation and that is entered into the United States for consumption or withdrawn from warehouses for consumption. Customs will require that a cash deposit, bond, or other security be posted in the amount of 16.6 percent of the f.o.b. value of such merchandise. This suspension of liquidation will remain in effect until further notice.

ITC Notification

We are making available to the U.S. International Trade Commission all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

As described in 19 CFR 353.47, we will hold a public hearing to afford interested parties an opportunity to comment orally on this preliminary determination. If requested, this hearing is scheduled to begin on January 26, 1982 at 10:00 a.m. at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

All requests for hearings must be submitted within ten days of this notice's publication to the Deputy Assistant Secretary for Import Administration, Room 2009B, at the above address. They should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by January 21, 1982.

Oral presentations will be limited to the issues raised in the briefs.

Any written views should be filed in accordance with 19 CFR 353.46 at the above address, in at least ten copies, and within thirty days of this notice's publication.

Gary N. Horlick, Deputy Assistant Secretary for Import Administration.

December 24, 1981.

[FR Doc. 81-3721 Filed 12-30-81; 8:45 am]
BILLING CODE 2510-25-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,
Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.
SN 6-281,148 Load Proportional Antibacklash Gear Drive System. Filed 7 Jul 81 by the Air Force.
SN 6-281,149 Load Proportional Antibacklash Two-Step Gear Drive System. Filed 7 Jul 81 by the Air Force.
SN 6-281,437 Gallium Arsenide-Germanium Heteroface Junction Device and Fabrication. Filed 8 Jul 81 by the Air Force.
SN 6-250,269 Remotely Operated Microtome. Filed 2 Apr 81 by Health & Human Services.

SN 6-227,557 Low Frequency Pulse Generator Apparatus. Filed 22 Jan 81 by the Air Force.

SN 6-227,555 Low Frequency Pulse Generator Apparatus. Filed 22 Jan 81 by the Air Force.


SN 6-258,573 Position Modulated Power Amplifier with Differential Connecting Line Voltage Drop Comparators. Filed 22 Apr 81 by the Air Force.

SN 6-253,681 Phase Shifter Adjustment Apparatus. Filed 24 Apr 81 by the Air Force.

SN 6-253,671 Elastomeric Seal. Filed 30 Apr 81 by the Air Force.

SN 6-263,529 Production of Negative Ions of Hydrogen from Hydrogen Isotopes. Filed 14 May 81 by the Air Force.

SN 6-263,521 Polyampholy Ether-Keto-Sulfones Curable by Diels-Alder Cycloaddition. Filed 20 May 81 by the Air Force.

SN 6-265,719 Polyampholy Amides Containing 1,3-Butadiene Units. Filed 20 May 81 by the Air Force.

SN 6-265,721 Polyampholy Ether-Ketone-Sulfones Containing 1,3-Butadiene Units. Filed 20 May 81 by the Air Force.

SN 6-265,665 Current Transformer High Voltage Probe Utilizing Copper Sulfate Water Resistor. Filed 21 May 81 by the Air Force.

SN 6-279,938 An Adjustable Holder for an Optical Element on the Line. Filed 28 May 81 by the Air Force.

SN 6-270,050 Oxide Passivated Mesa Epitaxial Diodes with Int Heat Sink. Filed 3 Jun 81 by the Air Force.

SN 6-140,640 Solvent Mixture for Dissolving and Removing Epoxy Resinous Compounds. PATENT 4,278,557 issued 14 Jul 81.


SN 6-023,721 Near Millimeter Wavelength Modulator and Tunable Oscillator. PATENT 4,278,653 issued 14 Jul 81 by the Air Force.


SN 6-127,017 Method of Making Integrated Waveguide Cavities. PATENT 4,279,070 issued 21 Jul 81 to the Air Force.

SN 6-115,643 Metallurgical Specimen Tester. PATENT 4,279,164 issued 21 Jul 81 by the Air Force.

SN 6-000,200 Laser Gas Temperature Control and Spatial Equalizer PATENT 4,280,105 issued 21 Jul 81 by the Air Force.

SN 6-063,104 symmetrical Diphenylmethaneacyclocatetranes. PATENT 4,281,105 issued 28 Jul 81 by the Air Force.

SN 6-253,777 Method and Apparatus for Analyzing Supersonic Flow Fields by Laser Induced Fluorescence. Filed 18 Aug 81 by the Air Force.

SN 6-253,780 Mechanical Preload Nut Assembly. Filed 18 Aug 81 by the Air Force.

SN 6-035,488 Rudder Pedal Grip Assembly. Filed 18 Feb 81 by the Air Force.

SN 6-035,500 Method of Multivariant Infrared Gas and Aerosol Recognition. Filed 23 Apr 81 by the Air Force.

SN 6-258,617 Satellite Test Chamber with Electromagnetic Reflection and Resonance Damping for Simulating System Generated Electromagnetic Pulses. Filed 27 Jul 81 by the Air Force.


SN 6-258,619 Acoustic Amplitude-Doppler Target Ranging System. Filed 27 Jul 81 by the Air Force.

SN 6-258,621 Method for Providing In-Situ Non-Destructive Monitoring of Semi-Conductors During Laser Annealing Process. Filed 27 Jul 81 by the Air Force.

SN 6-258,630 Acoustic Amplitude-Threshold Target Ranging System. Filed 27 Jul 81 by the Air Force.

SN 6-257,851 Simulation of an Electronic countermeasure Technique. Filed 27 Jul 81 by the Air Force.

SN 6-251,803 Two-Way Flow Valve. Filed 10 Aug 81 by the Air Force.

SN 6-229,660 RF Laser Array Driver Apparatus. Filed 3 Aug 81 by the Air Force.

SN 6-257,672 Photographic Image Quality Assessment. Filed 28 Jul 81 by the Air Force.


SN 6-258,617 Satellite Test Chamber with Electromagnetic Reflection and Resonance Damping for Simulating System Generated Electromagnetic Pulses. Filed 27 Jul 81 by the Air Force.


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CONSUMER PRODUCT SAFETY COMMISSION

Toxicological Advisory Board; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: Toxicological Advisory Board.

SUMMARY: This notice announces a meeting of the Toxicological Advisory Board on Tuesday, January 26, 1982 from 8:30 a.m. until 4:00 p.m. and Wednesday, January 27, 1982 from 8:30 a.m. until approximately 2:00 p.m. The meeting, which is open to the public, will be held in Room 456 at 5401 Westbard Avenue, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Dr. Fred Marozzi, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6604.

SUPPLEMENTARY INFORMATION: The Toxicological Advisory Board is an established nine-member advisory committee which advises the Commission on Precautionary labeling for acutely toxic household substances and on instructions for first aid treatment labeling. In addition, the Board reviews labeling requirements that have been issued under the Federal Hazardous Substances Act and recommends revisions it deems appropriate. The Toxicological Advisory Board was created on November 10, 1978, under the authority of Section 10 of the 1978 CPSC Authorization Act (Pub. L. 95-631). The Toxicological Advisory Board has completed its preliminary review of the CPSC labeling guidelines for hazardous household chemical substances. Preparatory to developing a final report on its review and recommendations, the Board will spend the entire two-day session reviewing all recommendations made to date.

Particular emphasis will be given to correcting any inconsistencies which may exist among recommendations for similar chemicals, and to resolving unresolved issues.

The two-day meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations should notify Dr. Marozzi (see address above) by Friday, January 15, 1982. The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the Board may be allowed by the presiding officer. Requesters will be informed of the decision before the meeting.

Dated: December 23, 1981.
Sadie E. Dunn, Secretary.

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Intent To Prepare Draft Environmental Impact Statement (DEIS) for Proposed Channel Improvements on Whiskey and Rock Creek, Independence, Kans.

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action consists of channel improvement of Whiskey Creek through channel diversion, channel clearing and widening, and channel realignment to provide flood damage reduction for existing and future development.

2. Reasonable Alternatives: The alternatives evaluated include a no action plan, two channelization plans, and a flood plain acquisition plan for Whiskey Creek along the western edge of Independence, Kansas.

3. Scoping Process:
   a. Public Involvement. A comprehensive public involvement program was developed as a means of disseminating information and soliciting public views. A variety of techniques including formal public meetings, meetings with local interests, and meetings with local news media were employed to involve State, Federal, and local agencies, citizen committees, organizations, and the public in the planning studies.
   b. Significant Issues Requesting In-Depth Analysis. None.
   c. Assignments. The U.S. Fish and Wildlife Service will provide the Fish and Wildlife Coordination Act Report.
   d. Environmental Review and Consultation Requirements. The draft environmental impact statement will be circulated for review and all comments will be incorporated into the final environmental impact statement.
   e. A scoping meeting will not be held.
   f. Estimated date when the DEIS will be available to the public: February 1982.

ADDRESS: Mr. Buell O. Atkins, Chief, Environmental Resources Branch, U.S. Army Corps of Engineers, Tulsa District, P.O. Box 61, Tulsa, OK 74121. (918) 561-7857, FTS 736-7857.

Dated: December 21, 1981.
James J. Harmon, Colonel, CE, District Engineer.

Department of the Navy

Availability of Indexes of Final Dispositions of Complaints of Wrong Submitted Pursuant to Article 138, Uniform Code of Military Justice (UCMJ), and Reports of Wrong Submitted Pursuant to Article 1105, U.S. Navy Regulations, 1973

On July 15, 1981, at 46 FR 36730, the Department of the Navy published information concerning the availability of Indexes of final dispositions of Complaints of Wrong submitted pursuant to Article 138 of the Uniform Code of Military Justice (10 U.S.C. 938) and Reports of Wrong submitted pursuant to Article 1105, U.S. Navy Regulations, 1973. The following current information is provided in substitution:

Internally reproduced copies of the index are available at $8.60 per copy, the direct cost of duplication. This price is subject to change as the result of the addition of new pages in the future and/or increase in duplicating fees. At present rates each additional page will add $.10 to the price of the index.

Internally reproduced copies of individual complaint files are also available at $3.10 per page. Payment for requested material may be made by check or money order payable to the Treasurer of the United States.

A copy of the index and copies of final dispositions are available for public inspection and copying. An appointment for such purposes may be made in writing or by telephone.

All requests and inquiries should be addressed to: Head, Military Affairs Branch, Administrative Law Division, Office of the Judge Advocate General, 200 Stovall Street, Alexandria, Virginia 22332, Telephone (202) 325-9860.

Dated: December 22, 1981.
P. B. Walker,
Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.
Office of the Secretary

Defense Science Board Task Force on Retention of Contractor Civilians on Critical Jobs Overseas During Hostilities; Meeting

The Defense Science Board Task Force on Retention of Contractor Civilians on Critical Jobs Overseas During Hostilities will meet in closed session on January 27, 1982 at the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At the first meeting on October 21, 1981, the Task Force reviewed the extent of contractor civilians in critical jobs overseas, the resulting impact if these critical civilians were not retained during hostilities, and assessed the adequacy of existing statutes and regulations pertaining to retention of these critical civilian contractors. The next meeting on January 27, 1982 will be devoted to evaluating and refining potential recommendations.

In accordance with 5 U.S.C. App. 1 Section 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed U.S.C. Section 552(b)(1) (1976), and that accordingly this meeting will be closed to the public.

Dated: December 22, 1981.

M. S. Healy, OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 81-37255 Filed 12-30-81; 8:45 am]
BILLING CODE 3810-01-M

Privacy Act of 1974; Deletion of System Notice

AGENCY: Office of the Secretary, Defense.

ACTION: Deletion of system notice.

SUMMARY: The Office of the Secretary of Defense proposes to delete the notice for system of records: DATSD01, "Files of Personnel Evaluated for Presidential Support Duties" subject to the Privacy Act of 1974. It has been determined that the personnel data contained in this system duplicates the information contained in Privacy Act systems of records maintained by the Military Services.

DATE: This deletion shall be effective February 1, 1982.

ADDRESS: Send any comments to the System Manager identified in the system notice (44 FR 74088) December 17, 1979.


SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) were published in the Federal Register.

FR Doc. 81-697 (46 FR 6427) January 21, 1981
FR Doc. 81-5508 (46 FR 12772) February 16, 1981
FR Doc. 81-6689 (46 FR 14031) February 25, 1981
FR Doc. 81-6491 (46 FR 14154) February 26, 1981
FR Doc. 81-7597 (46 FR 16114) March 11, 1981
FR Doc. 81-8127 (46 FR 17074) March 17, 1981
FR Doc. 81-6281 (46 FR 27243) March 18, 1981
FR Doc. 81-6282 (46 FR 27243) March 18, 1981
FR Doc. 81-10261 (46 FR 20500) April 3, 1981
FR Doc. 81-10722 (46 FR 21228) April 9, 1981
FR Doc. 81-11473 (46 FR 22257) April 16, 1981
FR Doc. 81-11705 (46 FR 22832) April 20, 1981
FR Doc. 81-12692 (46 FR 23967) April 29, 1981
FR Doc. 81-13225 (46 FR 24920) May 1, 1981
FR Doc. 81-14220 (46 FR 26305) May 12, 1981
FR Doc. 81-14406 (46 FR 26976) May 14, 1981
FR Doc. 81-14909 (46 FR 27373) May 19, 1981
FR Doc. 81-14975 (46 FR 27373) May 19, 1981
FR Doc. 81-15007 (46 FR 28470) May 27, 1981
FR Doc. 81-17703 (46 FR 31305) June 15, 1981
FR Doc. 81-20040 (46 FR 35963) July 13, 1981
FR Doc. 81-21228 (46 FR 37305) July 20, 1981
FR Doc. 81-21498 (46 FR 37751) July 22, 1981
FR Doc. 81-23482 (46 FR 40768) August 12, 1981
FR Doc. 81-25853 (46 FR 44494) September 4, 1981
FR Doc. 81-28992 (46 FR 49177) October 6, 1981
FR Doc. 81-32109 (46 FR 54979) November 5, 1981
FR Doc. 81-32239 (46 FR 55139) November 6, 1981
FR Doc. 81-32659 (46 FR 55555) November 10, 1981
FR Doc. 81-33756 (46 FR 57339) November 23, 1981
FR Doc. 81-34483 (46 FR 58549) December 2, 1981


Deletion

DATSD01

System name:
Files of Personnel Evaluated for Presidential Support Duties

Reason:
The material contained in this system is adequately covered by the parent service organizations.

FR Doc. 81-37254 Filed 12-30-81; 0:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Intent To Revise Wholesale Power Rates; Change in Date on Which Revised Rates Are To Become Effective for Certain Customers

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Change in date on which revised rates are to become effective for certain customers.

SUMMARY: By Federal Register Notice of October 15, 1981 (46 FR 50838), BPA indicated that it is in the initial stages of developing wholesale power rate schedules to become effective for some customers on July 1, 1982, and for other customers on July 15, 1982. BPA hereby gives notice that certain of its customers who have signed contract amendments and who were to have their rates adjusted as of July 1, 1982, and other customers whose rates were to be adjusted July 15, 1982, will instead have their rates adjusted on October 1, 1982.

FOR FURTHER INFORMATION CONTACT:
Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 1500, West 920 Riverside Avenue, Spokane, Washington 99201, 509-459-2810.
Mr. George Gwinnett, Area Manager, Suite 288, 1500 NE Irving Street, Portland, Oregon 97206, 503-230-4551.
Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-345-0311.
Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-459-2810.
Mr. Gordon H. Brandenburger, District Manager, P.O. Box 258, Kalispell, Montana 59901, 406-755-6202.
Mr. Thomas M. Noguchi, Acting Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-443-4130.
Mr. Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-524-5500, ext. 701.
Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2705.

SUPPLEMENTARY INFORMATION: BPA's last wholesale power rate increase became effective on an interim basis on July 1, 1981. BPA has two sets of contracts which contain provisions allowing the adjustment of rates. The first set of contracts are those which were in existence prior to the offering of power sales contracts which, pursuant to section 5(g) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act), were offered on August 28, 1981. These "existing contracts" currently permit rate adjustments upon return of executed amendments to BPA on or before September 1, 1981. All customers being served under the "existing contracts" who have not agreed to the new contracts, therefore, were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

BPA expects to have its initial proposed rates developed by late February 1982. BPA will then publish a notice of proposed rates in the Federal Register. That notice will also include a schedule for formal hearings as specified in the Regional Act. Those hearings will give interested persons an opportunity to present both oral and written comments on the proposal.

SUPPLEMENTARY INFORMATION: On November 5, 1981, 46 FR 54993, the Office of Enforcement of the Economic Regulatory Administration (ERA) published notification in the Federal Register that it had executed a proposed Consent Order with Navajo Refining Company on October 8, 1981, which would not become effective sooner than thirty days after publication. Pursuant to 10 CFR 205.199(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

Although interested persons were invited to submit comments regarding the proposed Consent Order, no comments were received. The proposed Consent Order, therefore, was finalized and made effective on December 31, 1981.

Issued in Dallas, Texas on the 8th day of December, 1981.
Wayne L. Tucker,
Southwest District Manager, Economic Regulatory Administration.

BILLING CODE 6450-01-M

Economic Regulatory Administration

Navajo Refining Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a final Consent Order.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Wayne L. Tucker, District Manager for Enforcement, Southwest District Office Department of Energy, P.O. Box 37338, Dallas, Texas 75238, [phone] (214) 767-7745.

SUPPLEMENTARY INFORMATION: On December 24, 1981, the Atlanta Office, ERA, finalized a Consent Order with John W. McGowan, a Canton, Mississippi, crude producer firm. Under 10 CFR 205.199(b), a Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest becomes effective upon its execution only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order with John W. McGowan.

I. The Consent Order:

John W. McGowan, located in Canton, Mississippi, is a crude producer firm and is subject to the jurisdiction of the DOE with regard to prices charged in sales of crude oil, pursuant to 10 CFR Part 212. To resolve certain civil actions that could be brought by the DOE as a result of its audit of John W. McGowan, the ERA and John W. McGowan entered into a Consent Order, the significant terms of which are as follows:

1. The Consent Order relates to the sales of crude oil by John W. McGowan during the period September 1, 1973 through January 27, 1981.

2. From the audit conducted during the above period, ERA alleges that John W. McGowan sold crude oil at prices in
excess of the applicable lawful selling price. These alleged overcharges were due to errors in establishment of the effective date of stripper well qualification and/or errors in calculation of the maximum lawful selling price.

3. John W. McGowan agreed to immediately refund the total sum of $605,105.53, in full settlement of any and all civil liability within the jurisdiction of DOE during the audit period. The refunded total shall be paid in full to DOE by certified check no later than 15 days from the effective date of the Consent Order. The refund shall be forwarded to Director, Atlanta Office, ERA, for deposit in the U.S. Treasury as miscellaneous receipts.

4. The provisions of 10 CFR 205.199, including the publication of this notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In the Consent Order, John W. McGowan agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the DOE, arising out of the transactions specified in I.1. and I.2. above, the sum of $605,105.53 within 15 days of the effective date of the Consent Order. Refund methodology will be as specified in I.3. above. The amounts submitted to the Director, Atlanta Office, ERA will be in the form of a certified check made payable to the U.S. Department of Energy. The Director, Atlanta Office, ERA will forward the certified check to DOE's Support Office, SRO, for deposit in the U.S. Treasury.

III. The DOE invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order in accordance with 10 CFR 205.199(c).

You should send your comments as specified above to Leonard F. Bittner, Director, Atlanta Office, ERA, Department of Energy, 1855 Peachtree Street, N.E., Atlanta, Georgia 30309. You may obtain a copy of this Consent Order with proprietary information deleted by writing to Robert A. Burch at the same address.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on John W. McGowan Consent Order." Comments received by 4:30 p.m., local time February 1, 1982, will be considered. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.8(f).

Issued in Atlanta, Georgia on the 54th day of December 1981.

Leonard F. Bittner,
Director, Atlanta Office, Economic Regulatory Administration.

Concurrence:
Susan F. Tate,
Deputy Regional Counsel.

[F.R. Doc. 81-3729 Filed 12-30-81; 8:45 am] BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP82-113-000]

Consolidated Gas Supply Corp.; Application

December 30, 1981.

Take notice that on December 11, 1981, Consolidated Gas Supply Corporation [Applicant], 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP82-113-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 29.7 miles of 30-inch Line No. 50 and related and appurtenant facilities in Armstrong, Indiana and Jefferson Counties, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposed the construction and operation of approximately 29.7 miles of 30-inch Line No. 50 extending in a southwesterly direction from Applicant's Big Run Gas to a point on existing Line No. TL-376 near Valley Gate and looping existing 20-inch Line No. 260. The estimated cost of the proposed facilities is $22,652,700 which cost would be financed from funds on hand and from funds to be obtained from Applicant's parent corporation, Consolidated Natural Gas Company.

It is stated that the proposed extension of Line No. 50 is required to fill the northern storage pools during summer injection periods and would also enable Applicant to better maintain adequate storage inventories during unusually cold winter conditions. Moreover, the proposed facilities would enhance Applicant's ability to transport gas into its Northern Division to meet the day-to-day requirements of its northern market customers.

Any person desiring to be heard or to make any protest with reference to said application should 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 1.6 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 it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 16 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 or its designees 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.

[F.R. Doc. 81-3729 Filed 12-30-81; 8:45 am] BILLING CODE 6717-01-M

[Docket No. CP82-103-000]

MIGC, Inc.; Application

December 30, 1981.

Take notice that on December 4, 1981, MIGC, Inc. [Applicant], 19880 Wilshire Boulevard, Los Angeles, California 90024, filed in Docket No. CP 82-103-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas with Panhandle Eastern Pipe Line Company, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant and Panhandle have entered into the Powder River Basin transportation and exchange agreement and A systemwide transportation and exchange agreement both dated February 27, 1981. Such agreements, it is stated, would enable
Applicant and Panhandle to connect supplies of gas each has or might acquire in the future which are or would be located remote from the acquiring party's transmission system to the transmission system of the other party.

The Powder River Basin agreement provides for a maximum daily volume of gas to be delivered for transportation and/or exchange of 20,000 Mcf. Sources of supply under the agreement would be natural gas produced in the Powder River Basin of Wyoming. For the transportation of any imbalance volumes, it is stated that the party seeking transportation would pay a transportation charge of 5.5 cents per Mcf. It is also stated that the transporter would be reimbursed for the full cost of making the connection and installing gas measurement facilities at the point of delivery.

Applicant states that the authority requested herein is intended to include not only the specific delivery locations currently reflected in Exhibits C and D of the agreement but also the right of the parties to attach new delivery points at other locations by mutual agreement. In order to keep the Commission apprised of changes that may occur, Applicant proposes to submit each January 31 a tariff revision detailing the delivery points for all sources of gas transported and exchanged pursuant to the agreement. It is submitted that unaccounted-for gas would be based upon the transporting party's actual systemwide experience or 0.5 percent whichever is less. The transportation rates were at the time of the agreement 24.50 cents per Mcf for Panhandle's system and 23.61 cents per million Btu for Applicant's system, it is stated. Applicant asserts that any out-of-balance condition occurring during any month would be adjusted insofar as practicable during the following month.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 15, 1982, 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 and 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Taken further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee 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.

[Docket No. CP82-109-000]
Northern Natural Gas Company, Division of InterNorth, Inc.; Application December 30, 1981

Take notice that on December 9, 1981, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-109-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of three new delivery points and the modification of three existing delivery points to certain of its utility customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate three new delivery points for Peoples Natural Gas Company, Division of InterNorth, Inc. (Peoples) and to enlarge three existing delivery points serving Minnesota Gas Company (Minnegasco), Wisconsin Gas Company (Wisconsin Gas) and Peoples.

Applicant more specifically proposes the following:

1. Peoples has requested a new delivery point for Robert Schoenfelder in Olmstead County, Minnesota, to provide natural gas service to be used primarily for grain drying operations.

2. Peoples has requested a new delivery point to serve the new metal forging and treating plant of Shafer Machine Works, Inc. near Booker, Texas.

3. Peoples has requested a new delivery point to serve the Knapp Gardens housing project near Polk City, Iowa.

4. Minnegasco has requested modification of the Atwater, Minnesota, town border station thereby increasing
the firm load from 500 Mcf per day to
1,000 Mcf per day to provide for
increased expansion and growth.

(5) Peoples has requested modification
of the Ogden town border station No. 1A
in order to provide service to the L. & C.
Homes, Inc.

(6) Wisconsin Gas has requested
modification of the Hixton, Wisconsin,
town border station in order to serve
the South Alma Cheese Factory, Inc.

It is asserted that the estimated cost
of construction is $83,300 which cost
would be reimbursed by the appropriate
utilities. It is further stated that
additional volumes to be delivered to
the utilities through the proposed
facilities are within the present
entitlements of said utilities and would
developed pursuant to the effective
service agreement between Applicant
and the respective utility.

Any person desiring to be heard or
to make any protest with reference to said
application should on or before January
18, 1982, 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 it in determining the
appropriate action to be taken but will
not serve to make the protestants
parties to the proceeding. Any person
wishing to become a party to a
proceeding or to participate as a party in
any hearing therein must file a petition
to intervene in accordance with the
Commission's rules.

Take further notice that, pursuant to
the authority contained in and subject to
jurisdiction conferred upon the Federal
Energy Regulatory Commission by
sections 7 and 15 of the Natural Gas Act
and the Commission's rules of practice
and procedure, a hearing will be held
without further notice before the
Commission or its designee 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. 81-37210 Filed 12-30-81; 8:45 am]
BILLING CODE 6717-01-M

(Docket No. CP82-99-000)
Panhandle Eastern Pipe Line Co. and
Trunkline Gas Co.; Application
December 30, 1981.

Take notice that on December 1, 1981,
Panhandle Eastern Pipe Line Company
(Panhandle), P.O. Box 1642, Houston,
Texas 77001, and Trunkline Gas
Company (Trunkline), P.O. Box 1642,
Houston, Texas 77001, filed in Docket
No. CP82-99-000 a joint application
pursuant to section 7(e) of the Natural
Gas Act for a certificate of public
convenience and necessity authorizing
the transportation of natural gas for
Central Illinois Light Company (CILCO),
all as more fully set forth in the
application which is on file with the
Commission and open to public
inspection.

Pursuant to a transportation
agreement dated September 24, 1981,
Applicants propose to transport up to
1,000 Mcf of natural gas per day on an
interruptible basis for CILCO. It is
asserted that the gas would be received
by Panhandle by displacement from
CILCO at Peoria, Illinois, and that
Panhandle would redeliver such gas,
less 1.0 percent fuel, to Trunkline at
Tuscola, Illinois. Trunkline, it is stated,
would deliver equivalent volumes to
Midwestern Gas Transmission
Company (Midwestern) at Potomac,
Illinois, and Midwestern would deliver
equivalent volumes to CILCO at
Oakwood, Illinois. The maximum
volume of gas transported would not
exceed 60,000 Mcf annually.

It is submitted that CILCO would pay
Panhandle a unit charge of 3.48 cents
and that Panhandle would pay
Trunkline 1.0 cent per Mcf for its pro
rata share of the transportation service.

CILCO has informed Applicants that
it has excess gas supplies at the Peoria
delivery point and that it has a need for
additional gas at Oakwood. Applicants
assert that utilization of capacity in their
existing facilities is the most efficient
and economical means of transporting
CILCO's gas.

Any person desiring to be heard or to
make any protest with reference to said
application should on or before January
18, 1982, 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 it in determining the
appropriate action to be taken but will
not serve to make the protestants
parties to the proceeding. Any person
wishing to become a party to a
proceeding or to participate as a party in
any hearing therein must file a petition
to intervene in accordance with the
Commission's rules.

Take further notice that, pursuant to
the authority contained in and subject to
jurisdiction conferred upon the Federal
Energy Regulatory Commission by
sections 7 and 15 of the Natural Gas Act
and the Commission's rules of practice
and procedure, a hearing will be held
without further notice before the
Commission or its designee 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 Applicants to appear or
be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-37211 Filed 12-30-81; 8:45 am]
BILLING CODE 6717-01-M

(Docket No. CP82-106-000)
Southern Natural Gas Co.; Application
December 30, 1981.

Take notice that on December 7, 1981,
Southern Natural Gas Company
(Applicant), P.O. Box 2563, Birmingham,
Alabama 35202, filed in Docket No.
CP82-106-000 an application pursuant to
section 7(b) of the Natural Gas Act for
permission and approval to abandon
certain pipeline facilities and services,
all as more fully set forth in the
application which is on file with the
Commission and open to public
inspection.

Applicant proposes to abandon in
place approximately 3,770 feet of 4-inch
pipeline and appurtenances known as
the upstream portion of Applicant's
Tinsley Line in Yazoo County,
Mississippi, and the transportation
services related to that portion of the
line. The producers ceased their
operations in the area, and the line and services associated therewith have not been utilized.

Applicant also proposes to abandon a certain receiving station facility, approximately 800 feet of 4-inch pipeline and appurtenances located in the North Montegut Field area, Terrebonne Parish, Louisiana. These facilities were installed to receive gas sold to Applicant by Neuhoff Oil and Gas Corporation (Neuhoff), and Neuhoff has received authorization to abandon its sale to Applicant. Applicant states it would also abandon a receiving station facility and appurtenances located in the Pointe-a-Is-Hache Field area, Plaquemines Parish, Louisiana, which was constructed to receive gas sold by Davis Oil Company, et al. (Davis). It is stated that by letter dated November 20, 1979, Davis gave written notice of its intent to plug and abandon the well.

In addition, Applicant proposes to abandon approximately 1,500 feet of 10-inch pipeline and appurtenances located in the vicinity of the Bienville, Louisiana, Compressor Station on its 14-inch Logansport Line. The transportation service which was affected by those facilities was not required after April 1, 1981.

Finally, Applicant proposes to abandon a receiving station, approximately 0.8 mile of 4-inch pipeline facilities and appurtenances located in the Cranfield Field area, Adams County, Mississippi, which facilities were constructed to receive gas sold to Applicant by ADCO Producing Company, et al. (ADCO). It is stated that by letter dated August 17, 1981, ADCO gave written notice to Applicant of its abandonment of the well.

Any person desiring to be heard or to make any protest with reference to said application should 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 it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a 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 or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matters finds that permission and approval for the proposed abandonment are 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.

[Docket No. CP82-100-000]

Texas Gas Transmission Corp.; Application

December 30, 1981.

Take notice that on December 1, 1981, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP82-100-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a metering station located in Logan County, Kentucky, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the construction and operation of a metering station located at approximately m.p. 68+559 on its Elkton-Mitchellville 10-inch pipeline in Logan County at an estimated cost of $93,065. Western Kentucky Gas Company (Western) has agreed to reimburse Applicant for such costs.

It is stated that Western would construct 43,200 feet of 6-inch pipeline to provide natural gas service to Anaconda Aluminum Company's a division of the Anaconda Company (Anaconda) aluminum rolling mill which is under construction in Logan County. Western's proposed 6-inch line, it is stated, would extend from the plant site to a point of intersection with Applicant's 10-inch Elkton-Mitchellville line where the proposed sales meter station would be constructed by Applicant. It is asserted that the natural gas to be sold to Anaconda by Western would be used primarily in the aluminum melting and holding furnaces and in aluminum process furnaces in which aluminum ingot and sheet is thermally processed for metallurgical treatment.

It is stated that service by Western to Anaconda would be on an interruptible basis. The construction of the proposed sales meter station would not result in an increase in Western's existing contract demand or quantity entitlement.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 16, 1982, 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 it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a 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 or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matters 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.

Kenneth F. Plumb, Secretary.
Transcontinental Gas Pipe Line Corp.; Application

December 30, 1981.

Take notice that on December 8, 1981, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1398, Houston, Texas 77251, filed in Docket No. CP82-108-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited-term transportation of natural gas for Elizabethtown Gas Company (Elizabethtown), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to transport for Elizabethtown up to 29,000 dekatherms (dt) equivalent of natural gas per day which Elizabethtown has available to it from the exploration and development activities of affiliated companies in Genesee County, New York. It is stated that Elizabethtown would arrange to have 21,000 dt equivalent per day made available to Consolidated Gas Supply Corporation (Consolidated) which Consolidated would deliver to Applicant at Leidy, Clinton County, Pennsylvania. It is further stated that Elizabethtown would arrange to have the remaining 5,000 dt equivalent delivered to National Fuel Gas Supply Corporation (National Fuel) and National Fuel would make equivalent quantities available to Applicant at an existing interconnection at the Wharton Storage Field, Potter County, Pennsylvania. Equivalent quantities less quantities retained for compressor fuel and line loss make-up would be delivered by Applicant to Elizabethtown at existing points of delivery between the two companies.

The proposed interruptible transportation service is to be for a term beginning on the date of initial deliveries hereunder and ending on January 3, 1984.

It is stated that Elizabethtown would initially pay 7.0 cents per dt equivalent during the months of November through March and 3.5 cents per dt equivalent during the months of April through October for the subject service. Applicant asserts it would initially retain 0.7 percent per dt equivalent for compressor fuel and line loss make-up during the months of November through March.

It is asserted that the subject gas would assist Elizabethtown in meeting the requirements of its high-priority customers and in returning gas to storage during the summers of 1982 and 1983 for use by its high-priority customers during the following winters.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 18, 1982, 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 it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee 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 appropriate is required 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 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 or its designee 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 appropriate is required 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.

Persons interested in purchasing Volume 58 covering the period April 1 through June 30, 1977, may remit $33.00 for GPO Stock #081-002-000-75-8 to the following address:


Kenneth F. Plumb, Secretary.

[Project No. 4893-000]

City of Redding, California; Application for Preliminary Permit

December 28, 1981.

Take notice that City of Redding, California (Applicant) filed on June 4, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(f)) for Project No. 4893 to be known as the Shasta Dam Power Project located on Sacramento River near the City of Redding on United States lands managed by Department of Interior in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. W. Brickwood, City Manager, City of Redding, 790 Parkview Avenue, Redding, California 96001.

Project Description—The proposed project would consist of uprating the windings of units 3, 4, and 5 of the existing Shasta Dam Powerplant, owned and operated by the Bureau of Reclamation of the U.S. Department of Interior, which would increase the total installed capacity from 508.75 NW to 750 NW.

The Applicant estimates that with the proposed project the annual energy output from the powerplant would be 1200 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 30 months during which it would conduct engineering, economic, and environmental studies; and prepare an FERC license application. The Applicant estimates that these studies would cost $100,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 2, 1982, the competing application itself, or a notice of intent to file such an application.
application (see: 18 CFR 4.30 et seq. (1981))

The Commission will accept applications for license or exemption from licensing; or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before March 2, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission’s regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

 Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than May 2, 1982.

 Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained from agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

 Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 2, 1982.

 Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTESTS", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission’s regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice. Kenneth F. Plumb, Secretary.

BILLING CODE 6717-01-M

(Project No. 5051,000)

City of Yakima, Washington;
Application for Preliminary Permit
December 23, 1981.

Take notice that the City of Yakima, Washington (Applicant) filed on June 28, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(f)) for Project No. 5051 to be known as the Rattlesnake Creek Dam Hydroelectric Project located on Rattlesnake Creek within the Snoqualmie National Forest In Yakima County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Richard A. Zais, Jr., City Manager, City of Yakima, 129 North 2nd Street, Yakima, Washington 98901.

Project Description—The proposed project would consist of: (1) a 315-foot high and 1150-foot long dam; (2) a powerhouse with a surface area of 666 acres and a storage of 70,000 acre-feet; (3) a 1300-foot long, 84-inch diameter steel penstock; (4) a powerhouse with a total installed capacity of 7,600 kW; and (5) a 21-mile long, 34.5-kV transmission line interconnecting with the Naches substation owned and operated by the Pacific Power and Light Company. The Applicant estimates that the average annual energy output would be 14 million kWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a duration of 36 months during which, it would conduct technical, environmental, economic and financial studies; and prepare an FERC license application. The cost of conducting these studies is estimated by the Applicant to be $230,000.

Competing Applications—This application was filed as a competing application to the Sunnyside Irrigation District’s applications for Projects Nos. 4605 and 4606 filed on April 28, 1981. Public notices of the filings of the initial applications, which have already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission’s regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission’s regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

 Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before January 22, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTESTS", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission’s regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice. Kenneth F. Plumb, Secretary.

BILLING CODE 6717-01-M
Graniteville Co.; Application for License (5 MW or Less)

December 23, 1981.

Take notice that Graniteville Company (Applicant) filed on June 30, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(f)) for continued operation of the constructed Sibley Mill Project No. 5044. The project is to be located on the Augusta Canal of the Savannah River in the City of Augusta, Richmond County, Georgia.

Correspondence with the Applicant should be directed to: Mr. George S. Pardue, Asst. Vice President, Plant Services, Graniteville Company, Graniteville, South Carolina 29829.

Project Description—The Sibley Mill project consists of: (1) Intake works, consisting of four steel gates and a concrete headrace; (2) three hydroelectric generating units, with capacities of 750 kW, 875 kW and 1,000 kW, respectively, housed in the Sibley Mill Structure; and (3) appurtenant facilities. The estimated average annual generation is 13 million kWh:

Purpose of Project—To supplement power to the mill, which is otherwise purchased from Georgia Power Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 86-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, or before March 2, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission’s Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 1, 1982.

Filing and Service of Responsive Documents—Any filings must be in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission’s regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-37318 Filed 12-30-81; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3155-001]

John M. Jordan; Application for Short-Form License (Minor)

December 28, 1981.

Take notice that John M. Jordan (Applicant) filed on September 30, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(f)) for construction and operation of a run-of-river water power project to be known as the Carbonton Dam Hydropower Project No. 3155. The project would be located on the Deep River in the town of Carbonton in Lee County, North Carolina.

Correspondence with the Applicant should be directed to: Mr. John M. Jordan, P.O. Box 128, Saxapahaw, North Carolina 27579.

Purpose of Project—The (proposed) project would consist of: (1) An existing stone masonry dam 211 feet long and 10 feet high; (2) an existing reservoir with a surface area of 116 acres and with insignificant storage capacity; (3) proposed installation in the existing powerhouse of two turbine and generator units with a total installed capacity of 1 MW; (4) proposed installation of a transmission line less than 200 yards long; and (5) appurtenant facilities. The average annual generation is estimated to be 3.88 GWh. This application is filed pursuant to a preliminary permit held by Mr. Jordan for the Carbonton Dam hydropower project.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the
Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before March 2, 1982. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb, Secretary.

[FR Doc. 81-37219 Filed 12-30-81; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3156-001]

John M. Jordan; Application for Short-Form License (Minor)

December 28, 1981.

Take notice that John M. Jordan (Applicant) filed on September 30, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for the construction and operation of a run-of-river water power project to be known as the Worthville Dam Hydropower Project No. 3156. The project would be located on the Deep River in the Town of Worthville in Randolph County, North Carolina. Correspondence with the Applicant should be directed to: Mr. John M. Jordan, P.O. Box 128, Saxapahaw, North Carolina 27340.

Project Description—The proposed project would consist of: (1) An existing reservoir with a surface area of 340 acres and a storage capacity of 2,500 acre-feet; (2) an existing dam with an arch-shaped overflow section approximately 200 feet long and 20 feet high, a non-flow section approximately 60 feet long and 30 feet high, and an abutment section near the middle of the dam approximately 20 feet long and 30 feet high; (3) a proposed 600 kW capacity turbine and generator unit to be installed immediately below and with an intake hole through the non-flow section of the dam and with a discharge tube that exists through a canal in a canal wall below the dam; (4) a proposed transmission line approximately one-quarter mile in length; and (5) appurtenant facilities. The average annual generation will be approximately 3.3 GWh. This application is filed pursuant to a preliminary permit held by Mr. Jordan for the Avalon Dam hydropower project.

Purpose of Project—All project energy produced will be sold to the Duke Power Company by the applicant.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Environmental Protection Act, and the National Environmental Policy Act. Any comments, protest, or petition to intervene must be filed on or before March 2, 1982. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb, Secretary.

[FR Doc. 81-37219 Filed 12-30-81; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3202-001]

John M. Jordan; Application for Short-Form License (Minor)

December 28, 1981.

Take notice that John M. Jordan (Applicant) filed on August 3, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for the construction and operation of a run-of-river water power project to be known as the Avalon Dam Project No. 3202. The project would be located on the Mayo River near the town of Mayodan, Rockingham County, North Carolina. Correspondence with the Applicant should be directed to: Mr. John M. Jordan, P.O. Box 128, Saxapahaw, North Carolina 27340.

Project Description—The proposed project would consist of: (1) An existing reservoir with a surface area of 340 acres and a storage capacity of 2,500 acre-feet; (2) an existing dam with an arch-shaped overflow section approximately 200 feet long and 20 feet high, a non-flow section approximately 60 feet long and 30 feet high, and an abutment section near the middle of the dam approximately 20 feet long and 30 feet high; (3) a proposed 600 kW capacity turbine and generator unit to be installed immediately below and with an intake hole through the non-flow section of the dam and with a discharge tube that exists through a canal in a canal wall below the dam; (4) a proposed transmission line approximately one-quarter mile in length; and (5) appurtenant facilities. The average annual generation will be approximately 3.3 GWh. This application is filed pursuant to a preliminary permit held by Mr. Jordan for the Avalon Dam hydropower project.

Purpose of Project—All project energy produced will be sold to the Duke Power Company by the applicant.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Environmental Protection Act, and the National Environmental Policy Act. Any comments, protest, or petition to intervene must be filed on or before March 2, 1982. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb, Secretary.

[FR Doc. 81-37219 Filed 12-30-81; 8:45 am]
BILLING CODE 6717-01-M
statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competition Applications—Anyone desiring to file a competing application must submit to the Commission, on or before March 2, 1983, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than the time specified in 4.33(c). A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) (1980).

Comments, protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission’s rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in §1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission’s rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before February 9, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title “COMMENTS,” “PROTEST,” or “PETITION TO INTERVENE,” as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission’s regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RD at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice. Kenneth F. Plumb, Secretary.

PROJECT NO. 5726-000

Modesto Irrigation District; Application for Preliminary Permit
December 23, 1981.

Take notice that Modesto Irrigation District (Applicant) filed on December 4, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791f(a)–825(r)) for Project No. 5726 to be known as the Buchanan Dam Hydroelectric Project located at the Corps of Engineers’ (Corps) Buchanan Dam on the Chuckawilla River near the town of Madera in Madera County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to Mr. A. Lee DeLano, Modesto Irrigation District, 95350, Modesto, California.
Project Description—The proposed project would consist of a powerhouse containing generating units with a combined rated capacity of 3,000 kW, a transmission line connecting the powerhouse to the existing Pacific Gas and Electric Company's 12-kV line downstream of the powerhouse, and appurtenant facilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which it would conduct engineering, environmental, and economic feasibility studies as well as prepare an application for an FERC license. No new roads would be required to conduct these studies. The estimated cost for conducting these studies and preparing an application for an FERC license is $25,000.

Competing Applications—This application was filed as a competing application to Emergensys Systems, Inc.'s application for Project No. 5587 filed on October 30, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. [1981], as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.6 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before January 22, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[F.R. Doc. 81-2323 Filed 12-30-81; 8:45 a.m.]
BILLING CODE 6717-01-H

[Project No. 5727-000]
Modesto Irrigation District; Application for Preliminary Permit
December 23, 1981.

Take notice that Modesto Irrigation District (Applicant) filed on December 4, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825[f](j)) for Project No. 5727 to be known as the Hidden Dam Hydroelectric Project located at the existing outlet of the Corps of Engineers' (Corps) Hidden Dam on Fresno River near the town of Madera in Madera County, California. The application is on file with the Commission and is available for public inspection.

Correspondence with the Applicant should be directed to Mr. A. Lee DeLano, Modesto Irrigation District, 1231 11th Street, P.O. Box 4009, Modesto, California 95352.

Project Description—The proposed project would consist of a powerhouse containing generating units with a total rated capacity of 2,000 kW, a transmission line connecting the powerhouse to the existing Pacific Gas and Electric Company's 12-kV line downstream of the powerhouse, and appurtenant facilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 24-month period to prepare a definitive project report including preliminary designs, results of environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $252,000.

Competing Applications—This application was filed as a competing application to Emergensys Systems, Inc.'s application for Project No. 5587 filed on October 30, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. [1981], as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.6 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before January 22, 1982.
Puget Sound Power and Light Co.; Application for Preliminary Permit

December 23, 1981.

Take notice that Puget Sound Power and Light Company (Applicant) filed on November 24, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(f)) for Project No. 5681 to be known as the Twin Falls Project located on South Fork Snoqualmie River, in King County, near North Bend, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. F. T. Thomsen, Perkins, Cole, Stone, Olsen & Williams, 1900 Washington Building, Seattle, Washington 98101.

Project Description—The proposed project would consist of: (1) A 12-foot high concrete gravity diversion dam; (2) a 3,900-foot long steel penstock; (3) an 8,000-foot long canal; (4) a powerhouse with total capacity of 4,250 kW; (5) a 0.6-mile long, 115-kV transmission line from the powerhouse to an existing Portland General Electric transmission line. The Applicant estimates that the average annual energy production would be 10 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $160,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before March 1, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. If an agency does not file comments within the time set below, it will be presumed to have no comments. Comments, protests, or petitions to intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before January 22, 1982.

Filing and Service of Responsive Documents—Any filings must be in capital letters the title "COMMENTS," "PROTESTS," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice. Kenneth F. Plumb, Secretary.
filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. [1981], as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than April 30, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before March 1, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb, Secretary.

[FR Doc. 81-37288 Filed 12-30-81; 6:45 am]
BILLING CODE 6717-01-M

[Project Nos. 4337-000 and 4337-001]

Swift River Co. and EHC Hydro Associates; Surrender of Preliminary Permit and Application for Exemption for Small Hydroelectric Power Project Under 5 Mw Capacity

December 28, 1981.

Take notice that on November 23, 1981, Swift River Company and EHC Hydro Associates [Applicant] filed an application, under Section 408 of the Energy Security Act of 1980 (Act) [16 U.S.C. 2705, and 2708 as amended], for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project, Project No. 4337-001 would be located on Contoocook River in the Village of West Hopkinton, Merrimack County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Peter B. Clark, President, EHC Hydro Associates, 148 State Street, Boston, Massachusetts 02109.

Project Description—The proposed project would consist of: (1) An existing 14-foot high, 350-foot long rock-filled timber crib dam with reinforced concrete facing upstream and a partial concrete cap along with 3-foot high flashboards; (2) an existing 2 acre impoundment with a gross storage capacity of 20 acre-feet at elevation 380.0 feet m.s.l.; (3) an existing canal inlet structure; (4) an existing 400-foot long, 11-foot deep, 34-foot wide earth lined canal to be reconditioned; (5) two existing, 7-foot diameter, 200-foot long wood slave penstocks and one new 200-foot, 12-foot square concrete penstock; (8) an existing powerhouse containing two turbine-generators with a total rated capacity of 500 kW and a new addition containing a single 500 kW turbine generator; (7) an existing 500-foot long tailrace channel to be excavated to pass the additional flow from the new turbine-generator; (8) a 50-foot long transmission line; and (9) appurtenant facilities. Energy produced at the project would be sold to New Hampshire Public Service Company. Addition of a 500-foot long transmission line to the project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

Purpose of Exemption—An exemption, if issued, gives the Exemptee the priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applications that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New Hampshire Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate comments and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days for the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before February 8, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.0 or 1.10 (1980). In determining the appropriate action to
take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission’s rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before February 8, 1982.

**Filing and Service of Responsive Documents**—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission’s regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 2825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice. Kenneth F. Plumb, Secretary.

[Filing Doc 81-3722 Filed 12-30-81: 8:45 am]
BILLING CODE 6717-01-M

**ENVIRONMENTAL PROTECTION AGENCY**

**[ER-FRL 2019-6]**

**Availability of Environmental Impact Statements Filed**

 Responsible Agency: Office of Federal Activities, EPA.

 Information Contact: Ms. Kathi Wilson (202) 245-3008.

 EIS's Filed: December 21–24, 1981.

 Comment Due Dates: Drafts—February 15, 1982; Final—February 1, 1982.

 Corps of Engineers (COE): Draft Supplement—I-70 Construction in Glenwood Canyon, Garfield County, Colorado (EPA EIS #811032)

 COE: Final—Colorado River Diversions into Matagorda Bay, Matagorda County, Texas (EPA EIS #811028)

 COE: Final—Fort of Kalama Marine Industrial Park, Permit, Columbia, Cowlitz and Clark Counties, Washington (EPA EIS #811035)

 DOI: Bureau of Land Management (BLM): Final—Powder River Coal Development Leasing, Montana and Wyoming (EPA EIS #811033)

 DOI: Bureau of Land Management (BLM): Final—La Sal Shale Oil Pipeline, Colorado and Wyoming (EPA EIS #811034)

 DOI: Bureau of Reclamation (BLM); Final—Goshen Unit Lower Nibleima Division, Pick-Sloan Missouri Basin Program, Nebraska; this report is being issued as an appendix to final EIS #725367 (EPA EIS #811033)

 DOT: Federal Highway Administration (FHWA); Draft—Spring/Sandusky Interchange Area Improvements, I-670 and OH-515, Franklin County, Ohio; EXTENDED REVIEW 2/22/82 (EPA EIS #811031)

**Truckee-Carson Irrigation District; Application for Preliminary Permit**

December 23, 1981.

Take notice that Truckee-Carson Irrigation District (Applicant) filed on June 23, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 4947 to be known as the Lahontan Dam and V Canal Power Project located on Carson River, in Churchill County, near Fallon, Nevada. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Richard S. Lattin, Project Manager, Truckee-Carson Irrigation District, P.O. Box 1356, Fallon, Nevada 89406, with a copy to: Mr. Christopher D. Williams, McCarty, Noon & Williams, 490 L’Enfant Plaza East, Suite 3308, Washington, D.C. 20024.

**Project Description**—The proposed project would consist of: (1) Installing a new 1.84-MW unit in the existing U.S. Bureau of Reclamation’s (USBR) 2.4-MW Power Plant at the base of Lahontan Dam; (2) installing a new 0.5-MW unit in the existing Applicant’s 1.0-MW V Canal Power Plant located downstream from the Lahontan Dam; and (3) appurtenant facilities. The project will be located on lands administered by USBR.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 30-month preliminary permit to study the feasibility of constructing and operating the proposed project. No new road would be required to conduct the studies.

Competing Applications—This application was filed as a competing application to Energenics Systems, Inc.’s application for Project No. 3789 filed on November 28, 1980. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission’s regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission’s regulations (see: 10 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission’s rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before January 28, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission’s regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice. Kenneth F. Plumb, Secretary. [Filing Doc 81-3722 Filed 12-30-81: 8:45 am]
BILLING CODE 6717-01-M

[Project No. 4947-000]


**Recordkeeping Requirements**

**AGENCY:** General Services Administration

**ACTION:** Notice of recordkeeping requirements.

**SUMMARY:** This notice lists the GSA regulations that prescribe recordkeeping requirements and information collection requests that affect the public. Under the Paperwork Reduction Act of 1980, the Office of Management and Budget (OMB) is responsible for approving all of these actions and assigning a control number to them. By publishing this list, GSA intends to clarify the actions that have been approved by OMB and those that have been or will be submitted for approval.

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**FOR FURTHER INFORMATION CONTACT:**


**SUPPLEMENTARY INFORMATION:** The term "information collection" (abbreviated IC in this document) refers to a request by GSA for data that must be sent to GSA. The term "recordkeeping requirement" (abbreviated RR) refers to a GAS request for information that must be maintained and made available for inspection by GSA upon request, but the information need not necessarily be sent to GSA. For example, an IC request could require companies that wish to move freight for GSA to submit certain information before GSA can conduct business with those companies. In contrast, an RR might require a company doing business with GSA to maintain certain data, but those data are not required to be sent to GSA.

Information collections and/or recordkeeping requirements contained in the following regulations or GSA directives have been approved by the Office of Management and Budget under provisions of 44 U.S.C. Chapter 33 and have been assigned the OMB control number indicated:
In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in the following regulations or GSA directives have been or will be submitted for approval to the Office of Management and Budget. They are not effective until OMB approval has been obtained.

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Centers for Disease Control

1981 Annual Report; Availability of Filing; Safety and Occupational Health Study Section

Notice is hereby given that pursuant to Section 13 of Pub. L. 92-463 [5 U.S.C. Appendix I], the fiscal year 1981 annual report for the following Federal advisory committee utilized by the Centers for Disease Control has been filed with the Library of Congress:

- **Safety and Occupational Health Study Section**

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1028, Thomas Jefferson Building, Second Street and Independence Avenue, S.E., Washington, D.C. (telephone: 202/287-6310). Additionally, on weekdays between 9:00 a.m. and 4:30 p.m., copies will be available for inspection at the Department of Health and Human Services, Department Library, HH5 North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. (telephone: 202/245-6721).

Dated: December 13, 1981.

William H. Foege,
Director, Centers for Disease Control.

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**Immunization Practices Advisory Committee; Meeting**

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act [Pub. L. 92-463], the Centers for Disease Control announces the following Committee meeting:

- **Name:** Immunization Practices Advisory Committee.
- **Dates:** January 20–21, 1982.
- **Place:** Auditorium A, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.
- **Time:** 8:15 a.m.
- **Type of Meeting:** Open.

Contact Person: J. Michael Lane, M.D., Acting Executive Secretary of Committee, Building 1 Room 3007, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333, Telephone: 230-3771, Commercial: 404/594-3771.

Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents.

Agenda: The Committee will continue discussions of the recommendations for the use of hepatitis B vaccine, review the current influenza activity, including strains, vaccine production, status of Guillain-Barre studies, Reye syndrome, and a draft vaccine use recommendation; and consider other matters of relevancy among the Committee's objectives.

Agenda items are subject to change as priorities dictate.
The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: December 22, 1981.

William C. Watson, Jr.,
Acting Director, Centers for Disease Control.

[FR Doc. 81-37274 Filed 12-20-81; 8:45 am]
BILLING CODE 4160-86-M

Food and Drug Administration

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming National Consumer Exchange Meeting to be chaired by the Commissioner of Food and Drugs.

DATE: The meeting will be held at 3:30 p.m., Monday, January 11, 1982.

ADDRESS: The meeting will be held at the Hubert H. Humphrey Bldg., Auditorium, 200 Independence Ave., SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Alexander Grant, Associate Commissioner for Consumer Affairs (HFE-1), Food and Drug Administration, 5603 Fishers Lane, Rockville, MD 20857, (202) 326-3068.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to exchange information between FDA officials and consumer representatives, by providing an opportunity for consumer representatives to present their views directly to the Commissioner and to the top managers of FDA, by seeking solutions to any problems agreed on during this communication, and by giving the agency an opportunity to discuss and communicate vital health and policy issues to the concerned public. Proposed discussion at the meeting will focus on the issues of standards policy for class II medical devices and the Patient Package Insert (PPI) program for prescription drugs.

Dated: December 29, 1981.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-37275 Filed 12-29-81; 3:52 pm]
BILLING CODE 4160-01-M

Health Care Financing Administration

Medicare Program; Solicitation of Comments Related to a Study of Methods for Improving Coverage of Foot Care Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General Notice.

SUMMARY: Present Medicare law specifically excludes coverage of routine foot care. Section 958 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-493) requires that we conduct a study of the effects of this exclusion and of alternative approaches to improving coverage for specific types of foot conditions. We will submit recommendations concerning coverage changes to Congress, based on the results of the study.

This notice invites organizations and parties concerned with these services to submit material for consideration in the study.

DATES: To assure consideration, comments should be mailed by January 29, 1982.

ADDRESS: Address comments concerning the study: Alice M. Litwinowicz, Office of Research and Demonstrations, Health Care Financing Administration, Room 4439C Health and Human Services Building North, 530 Independence Avenue, SW., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Alice M. Litwinowicz, (202) 245-5209.

SUPPLEMENTARY INFORMATION: Section 1862(a)(13)(C) of the Social Security Act specifically excludes routine foot care from Medicare coverage. Therefore, Congress, in section 958 of Pub. L. 96-499, the Omnibus Reconciliation Act of 1980, mandated a comprehensive analysis of the cost effects of alternative approaches to improving coverage under Medicare for the treatment of various types of foot conditions. The law also requires the Secretary of Health and Human Services to submit a report to Congress on the study and recommend any legislative changes the Secretary finds desirable as a result of conducting the study.

HCFA will conduct this study, and will consider specific foot conditions, the effect on other pathology or disability of the patient, and the cost effects of alternative approaches to improving coverage for specific types of foot conditions. Cost-effectiveness assurances of quality and appropriateness of services, techniques for utilization and cost controls, and efficiency of administration will be important aspects of the study.

FURTHER INFORMATION, CONTACT: Mildred Corbin, Office of Research and Demonstrations, Health Care Financing Administration, Room 1362B, 530 Independence Avenue, SW., Washington, D.C. 20220.

[FR Doc. 81-37773 Filed 12-23-81; 8:45 am]
BILLING CODE 4120-03-M

Medicare Program; Solicitation of Comments Related to a Study of Methods for Improving Coverage of Registered Dietitians’ Services and for Respiratory Therapy Services Provided by Home Health Agencies

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice.

SUMMARY: Present Medicare law and regulations do not permit coverage of registered dietitians’ services or respiratory therapy services when the services are provided by a home health agency. Section 938 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-493) requires us to conduct studies of the circumstances and conditions under which these services should be covered as a home health benefit, and to submit recommendations concerning coverage changes to Congress based on the result of the studies.

This notice invites organizations and parties concerned with these services to submit material for consideration in the studies.

DATES: To assure consideration, comments on the studies should be mailed by January 29, 1982.

ADDRESS: Address comments concerning the studies to: Mildred Corbin, Office of Research and Demonstrations, Health Care Financing Administration, Room 1362B, 530 Independence Avenue, SW., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Mildred Corbin (301) 597-1457.

SUPPLEMENTARY INFORMATION: Medicare covers services of registered dietitians and of respiratory therapists when they are furnished by an intermediate care facility, a nursing facility, or a hospital outpatient department. They are also covered if they meet the criteria
for services furnished incident to the services of a physician (that is, they are provided under the physician's direct supervision and are included in the physician's bill for services.)

Under current Medicare law concerning home health coverage, Medicare does not cover home visits or direct counseling of patients in the home by a respiratory therapist or registered dietitian. However, home health agencies may be reimbursed for the salaries of these practitioners to provide consultation and general guidance to home health agency staff serving Medicare beneficiaries. Also, Medicare covers the rental or purchase of respiratory equipment for use in the home as durable medical equipment.

In section 958 of the Omnibus Reconciliation Act of 1980 (Pub. L. 98–499), Congress directed the Secretary of Health and Human Services to conduct studies of the circumstances and conditions under which services furnished with respect to respiratory therapy and services furnished by a registered dietitian should be covered under Medicare when provided by home health agencies. The law also requires the Secretary to submit a report to Congress on all the studies mandated by section 958 and recommend any legislative changes the Secretary finds desirable as a result of conducting the studies. We will submit separate reports on the two studies discussed in this notice.

HCFA will conduct separate studies of the two types of benefits, including the need for the services in relation to medical diagnoses; qualifications and supply of manpower; quality assurances; techniques for control of utilization; guidelines for determining charges and controlling costs; and equitable and efficient administration. We will pay particular attention to cost/benefit considerations.

This notice invites interested agencies, professional organizations and other parties to submit views, analyses and similar material for consideration in either study. We will consider all material mailed by January 29, 1982. (Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance and 13.774, Medicare—Supplementary Information)

Dated: December 10, 1981.
Carolyne K. Davis, Administrator, Health Care Financing Administration.

Office of Human Development Services

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part D of the statement of Organization, Functions, and Delegations Authority of the Department of Health and Human Services, Office of Human Development Services (OHDS) to remove the Regional Office for Native Americans from all regions except Region X. In Region X, there is no change in the Regional Office for Native Americans except that Native American functions in Region IX are transferred to Region X. Similar functions in Regions I through VIII are transferred to headquarters.

Part D, Chapter DD, Section DD.20 D., "The Regional Offices for Native Americans", as published in the Federal Register on September 29, 1980 (45 FR 64269) is to be deleted and replaced by the following:

D. The Regional Office for Native Americans (DDX) is in region X only and acts under the direct supervision of the Regional Administrator. Is responsible for the administration of those ANA grant programs delegated to the HDS Region X Office. Represents the interests of Native Americans served by that region. Serves as liaison with other Federal, State and local agencies that operate programs which serve Native Americans and with organized Native American groups. Disseminates information on Departmental services, benefits and eligibility criteria to Native Americans. Works to encourage the social and economic development of Native Americans. Identifies and seeks to address the specific needs of Native Americans. Encourages the work of the PA through appropriate programs authorized under the Native Americans Program Act of 1974. Provides guidance and technical assistance to financial management reporting, regulations, policies and procedures to ANA grantees. Stimulates and facilitates development of appropriate R&D projects.

Dated: December 23, 1981.
Richard S. Scheuker, The Secretary.

Public Health Service

Privacy Act System; New System of Records

AGENCY: Department of Health and Human Services; Public Health Service.

ACTION: Notification of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing this notice of a proposal to establish a new system of records: Health Professions Preparatory Scholarship Program for Indians and Health Professions Scholars Program Record System, HHS/HS/HHS, 09–35–0030. We are also including routine uses with this system of records. PHS invites interested persons to submit comments on the proposed routine uses on or before February 1, 1982.

DATES: PHS has sent a Report of a New System to the Congress and to the Office of Management and Budget (OMB) on December 10, 1981. PHS has requested that OMB grant a waiver of the usual requirement that a system of records not be put into effect until 60 days after the report is sent to OMB and the Congress. If this waiver request is granted, PHS will publish a notice to that effect in the Federal Register.

ADDRESS: Comments should be addressed to: Director, Office of Communication and Public Affairs, Health Services Administration, Parklawn Building, 5600 Fishers Lane, Room 14A–55, Rockville, Maryland 20857.

Comments received will be available for inspection in Room 14A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Business hours of this office are 8:30 A.M. to 5:00 P.M. weekdays.

FOR FURTHER INFORMATION CONTACT: Ann Barber, Acting HSA Privacy Act Coordinator, Parklawn Building, 5600 Fishers Lane, Room 14A–55, Rockville, Maryland 20857 (301) 443–2005. (This is not a toll-free number)

SUPPLEMENTARY INFORMATION: The Indian Health Service (IHS), Health Services Administration, proposes to establish a new system of records, the purposes of which are to select candidates for the IHS scholarship program, to monitor the scholarship-related activities of recipients, and to evaluate the effectiveness of the program. Scholarship-related activities are defined as enrollment and attendance in IHS-funded courses, the receipt by the student of a monthly stipend and the expenditure of funds by the student for the purchase of supplies (including books), equipment, tuition, fees and other reimbursable and justified expenses authorized by IHS.

This system of records will be used only by the components of IHS that are
involved in the administration, evaluation or planning of the scholarship grant program. The Human Resources Management Branch, Office of Program Support, IHS, is responsible for scholarship grant records in this system. This proposed new system permits the administration of the IHS scholarship program in accordance with the provisions of the Indian Health Care Improvement Act, 25 U.S.C. 1601 et. seq. These activities fall under the purview of the Privacy Act of 1974.

This system of records contains records of individuals who have applied for and have been approved to receive, are receiving, and have received scholarship grant funds provided by IHS for two purposes: compensatory education (section 103) and training in health professions where there are identified health manpower shortages (section 104).

Students apply directly to IHS for section 103 and 104 scholarship grants. IHS transmits scholarship grant approval or rejection notices directly to each applicant. Students accepted for funding under either program are assigned an IHS staff person to assist the student with oversight of his/her scholarship requirements. Area/Program Office Scholarship Coordinators may provide the student technical assistance with regard to the submission of expense vouchers in the event the student is unable to contact his/her monitor. In addition, an IHS Headquarters Branch Chief, for the health care discipline the scholarship grant recipient is being trained for, will assist with placement of the student to grant recipient is being trained for, will assist with placement of the student to health care discipline the scholarship recipient of a scholarship grant for which the data are collected. Accordingly, we are establishing four routine uses of information in this system. The relationship between each of these four routine uses to the purpose of the system follows.

The first routine use provides for disclosure: "To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual." This routine use would not violate the privacy of the subject individual and is compatible with the purpose of the system because such disclosure would be made only pursuant to a request initiated by the subject individual.

The second routine use of this system permits disclosure: "To authorized persons employed by a grantee institution (the institution which the recipient of a scholarship grant is attending) as needed for the administration of a scholarship grant award." This routine use is compatible with the system's purpose to monitor the scholarship-related activities of candidates selected. If authorized personnel at the grantee institution determine that the student is not complying with the terms of the scholarship agreement, they will notify authorized IHS personnel.

The third routine use of this system permits disclosure: "To other Federal agencies that also provide scholarship funding at the request of these Federal agencies in conjunction with a matching program conducted by these Federal agencies to detect or curb fraud and abuse in Federal scholarship programs, and to collect delinquent loans or benefit payments owed to the Federal Government." One purpose of this system of records is to document, monitor and evaluate scholarship grantee performance and expenditures. Thus the disclosure of names and Social Security Numbers of persons awarded scholarship grants by IHS to these Federal agencies reduces the chances of fraud or abuse. Relevant Federal agencies include but are not limited to the Bureau of Indian Affairs, Department of Interior; components of the Department of Education; and the Department of Defense.

The fourth routine use states that portions of the records contained in this system will be published in the Federal Register. Disclosures to the public of nonsensitive information in this system identified by individual are required by the terms of the final rules and regulations implementing the IHS scholarship grant program.

For the reasons stated above, IHS believes that the routine uses of this system of records are compatible with the purpose of this system of record.


Wilford J. Forbush,
Deputy Assistant Secretary for Health
Operations and Director, Office of
Management.

SYSTEM NAME:
Health Professions Preparatory Scholarship Program for Indians and
Health Professions Scholarship Program
Record System, HHS/IHS.

SECURITY CLASSIFICATION:
None.

SYSTEM LOCATION:
Human Resources Management Branch,
Indian Health Service, 5500 Fishers
Lane, Room 6A–23, Rockville,
Maryland 20857; and
Washington National Records Center,
4205 Suitland Road, Washington, D.C.
20410.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Persons who have applied for and have been approved to receive, persons who are receiving, and persons who have received scholarship grant funds since January 1978 from the Health Professions Preparatory Scholarship Program for Indians and/or Health Professions Scholarship Program.

Applicants for financial support awarded under the Health Professions Preparatory Scholarship Program for Indians must be American Indians or Alaska Natives. Even though there is no racial requirement for the Health Professions Scholarship Program, priority selection is accorded to American Indian and Alaskan Native applicants, as stated in the legislation establishing this program.

CATEGORIES OF RECORDS IN THE SYSTEM:
Records include grant applications of selected applicants only, and selection and performance records. In addition to the application forms for each of the two scholarship programs, these records also contain high school and college grade transcripts, evidence of acceptance in a school covered by the program, two letters of recommendation or faculty evaluation forms, documentation of Indian eligibility (BIA Certificate of State-Recognized Tribes Certification) for scholarship grant applicants who are claiming priority selection as American Indians or Alaskan Natives, verification
from a school official that the course is required to meet an educational deficiency and that the program represents a full course load (for Health Professions Preparatory Scholarship Program), signed contract (for Health Professions Scholarship Program), and a brief written explanation of the applicants' reasons for requesting the scholarship. Progress reports and vouchers of expenditures are included with the records after the scholarships have been awarded.

Information requested on a scholarship grant application form includes: Full name of applicant, mailing address, telephone number, place of birth, citizenship, school in which enrolled or accepted for enrollment as a full-time student, dates of attendance, expected date of graduation, length of program in years, tuition and fees charged, future specialty, present and previous residences (city, county, state), work experience, and career goals. In addition, the Social Security Number (SSN) is requested on the scholarship grant application (optional on the application but required prior to the award of a grant). IHS scholarship grant recipients have an active duty service obligation (25 U.S.C. 1613) and are entitled to employment in IHS during any nonacademic period of the year (25 U.S.C. 1614). In anticipation of these obligations and entitlements, the SSN is obtained from IHS scholarship grant recipients at the time of grant award for identification of "permanent" accounts for these individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 103 of the Indian Health Care Improvement Act, 25 U.S.C. 1613, Health Professions Preparatory Scholarship Program for Indians.

Section 104 of the Indian Health Care Improvement Act, 42 U.S.C. 294y-1, Indian Health Scholarship Program.

Executive Order 9387, dated November 22, 1943, authorizing Federal agencies to collect SSNs from Federal employees for identification of "permanent" accounts.

PURPOSE:

The purpose of this system of records is to select candidates for the Indian Health Service scholarship program, to monitor the scholarship-related activities of candidates selected, and to evaluate the effectiveness of the program. Scholarship-related activities are defined as enrollment and attendance in IHS-funded courses, the receipt by the student of a monthly stipend and the expenditure of funds by the student for the purchase of supplies (including books), equipment, tuition, fees and other reimbursable and justified expenses authorized by IHS.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records may be disclosed to a congressional office in response to an inquiry from that office made at the request of the subject individual.

2. Records may be disclosed to authorized persons employed by the grantee institution (the institution which the recipient of a scholarship grant is attending) as needed for the administration of a scholarship grant award.

3. Records may be disclosed to other Federal agencies that also provide scholarship funding at the request of the student for the purchase of supplies and the expenditure of funds for these individuals.

4. Name, tribal affiliation if applicable, and school of scholarship recipient will be published in the Federal Register as required by the terms of the legislation establishing the IHS scholarship grant program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in folders, ledgers, and on electronic word processing diskettes.

RETRIEVABILITY:

Records which identify individual persons are indexed by name or identification number of scholarship grant applicant or recipient.

SAFEGUARDS:

1. Paper records are stored in locked file cabinets. The record storage area is secured during off-duty hours. This area is not left unattended during office hours, including lunch hours. Records are not removed from the area in which they are maintained in the absence of proper charge-out procedures.

2. All IHS personnel who make use of records contained in this system are made aware of their responsibilities under the provisions of the Privacy Act and are required to maintain Privacy Act safeguards with respect to such records.

3. When copying records for authorized purposes, care is taken to ensure that any imperfect pages are not left in the reproduction room where they can be read, but are destroyed or obliterated.

4. Access is limited only to authorized personnel in the performance of their duties. Authorized personnel includes the system manager, his/her staff and staff of the Grants Management Office, IHS.

5. Word processing diskettes are stored in areas where fire and life safety codes are strictly enforced. Twenty-four hour, seven-day security guards perform random checks on the physical security of the data. Word processing diskettes are off-loaded and stored in locked cabinets when not in use. A data set name controls the release of data to only authorized users.


RETENTION AND DISPOSAL:

Records in this system are retained by IHS for one year after the final award payment has been made by IHS and are then retired to a Federal Records Center. Records are destroyed or burned by the Federal Records Center four years after they are received.

SYSTEM MANAGER AND ADDRESS:

Chief, Human Resources Management Branch, Indian Health Services, 5000 Fishers Lane, Room 6A-23, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

Requests by mail or in person: To substantiate the identity of subject individual seeking access to his/her scholarship grant application and/or performance record, the requester must provide his/her name, signature, and Grant Identification Number. To identify the record sought, the requester must provide dates of attendance, school(s) of attendance, and field of specialty or courses taken.

In addition, the requester is hereby informed that provision of the SSN may assist in the verification of the identity of the person as well as in the identification of his/her record. Provision of his/her SSN is voluntary, and the requester will not be refused access to his/her record for failure to disclose his/her SSN.
Office of the Secretary

Medicare Program; Premium Rate for the Uninsured Aged

AGENCY: Office of the Secretary (OS), HHS.

ACTION: General notice.

SUMMARY: This notice announces Medicare’s monthly hospital insurance premium for the uninsured aged for the 12 months beginning July 1, 1982. Section 1818(d)(2) of the Social Security Act requires the Secretary of HHS to publish, during the last quarter of each calendar year, the amount of the monthly hospital insurance program (Part A of Medicare) premium for voluntary enrollment for the 12-month period beginning with the following July 1.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Guy King, Acting Director, Office of Financial and Actuarial Analysis, 3-0-3 Operations Building, Baltimore, Maryland 21235, Telephone: (301) 594-2626.

SUPPLEMENTARY INFORMATION: Under the authority in section 1818(d)(2) of the Social Security Act (42 U.S.C. 1395i-2(d)(2)), I have determined that the monthly Medicare hospital insurance premium for the uninsured aged for the 12 months beginning July 1, 1982, is $113. Section 1818 of the Social Security Act provides for voluntary enrollment in the hospital insurance program (Part A of Medicare), subject to payment of a monthly premium, of certain persons age 65 and older who are uninsured for social security or railroad retirement benefits and do not otherwise meet the requirements for entitlement to hospital insurance. (Persons insured under the Social Security or Railroad Retirement Acts need not pay premiums for hospital insurance.)

Section 1818(d)(2) of the Act requires the Secretary to determine and publish, during the last quarter of each calendar year, the amount of the monthly Part A premium for voluntary enrollment for the 12-month period beginning with the following July 1. The formula specified in this section also requires that, for the period beginning July 1, 1982, the 1973 base year premium ($33) be multiplied by the ratio of (1) the 1982 inpatient hospital deductible to (2) the 1973 inpatient hospital deductible, rounded to the nearest multiple of $1, or if midway between multiples of $1, to the next higher multiple of $1.

Under section 1813(b)(2) of the Act, the 1982 inpatient hospital deductible was determined to be $260. (See 40 FR 47115, September 24, 1975.) The 1973 deductible was actuarially determined to be $76, although the 1973 deductible was actually promulgated to be only $72, to comply with a ruling of the Cost of Living Council. (See 37 FR 21452, October 11, 1972.) The monthly premium for the 12-month period beginning July 1, 1982 has been calculated using the $76 deductible for 1973, since this more closely satisfies the intent of the law. Thus the monthly hospital insurance premium is $33 x (260/76) = $112.69, which is rounded to $113.

Impact Analyses

The monthly hospital insurance premium for the uninsured aged for the 12-month period beginning July 1, 1982 will increase to $113. That amount is 27 percent higher than the $93 monthly premium amount for the previous 12-month period.

The estimated cost of this increase to the approximately 24,000 enrollees who do not meet the requirements for entitlement to hospital insurance will be about $7,000,000.

Because this notice merely announces an amount required by the formula specified in section 1818(d)(2) of the Act, and does not alter any regulation or policy, no analyses under Executive Order 12291 or the Regulatory Flexibility Act, Pub. L. 96-354, are required.

(Doc. No. 81-37220 Filed 12-30-81 8:45 am)

BILLING CODE 4120-03-M

Monthly Actuarial Rates and Monthly Premium Rate

AGENCY: Office of the Secretary (OS), HHS.

ACTION: General notice.

SUMMARY: This notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for the twelve months beginning July 1982. It also announces the monthly SMI premium rate to be paid by all enrollees during the twelve months beginning July 1982.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph N. Romano, Supervisory Actuary, Division of Medicare Cost Estimates, 3-0-3 Operations Building, Baltimore, Maryland 21235, Telephone: (301) 594-1023.

SUPPLEMENTARY INFORMATION: Each December, the Secretary of Health and Human Services is required by law to issue two notices relating to the Medicare Supplementary Medical Insurance (SMI) program.

One notice announces two amounts that, according to actuarial estimates, will equal, respectively, one-half the expected average monthly cost of SMI per aged enrollee (age 65 or over) and one-half the expected average monthly cost of SMI per disabled enrollee (under age 65) during the 12 months beginning the following July. These amounts are called “monthly actuarial rates”. The second notice announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the 12 months beginning the following July. (Although the costs to the program per disabled enrollee are higher than for the aged, the law provides that they pay the same premium amount.) The premium rate must be the lesser of the actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly title II social security benefits (effective the preceding June). The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal Government.

The notices of these amounts for the period July 1, 1982, through June 30, 1983, are as follows:

Dated: December 23, 1981.

Richard S. Schweiker,
Secretary.
Notice of Monthly Actuarial Rates

As required by sections 1395(c)(1) and (4) of the Social Security Act (42 U.S.C. 1395(c)(1) and (4)), as amended, I have determined that the actuarial rates applicable for the 12-month period beginning July 1, 1982, are $24.60 for enrollees age 65 and over, and $42.10 for disabled enrollees under age 65. The accompanying statement gives the actuarial assumptions and bases from which these rates are derived.

Notice of Monthly Premium Rate

As required by section 1395(c)(3) of the Social Security Act (42 U.S.C. 1395(c)(3)), as amended, I have determined that the basic premium amount will be $12.20 monthly during the period July 1, 1982 to June 30, 1983. The accompanying statement shows how this amount was derived.

Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Standard Monthly Premium Rate for the Supplementary Medical Insurance Program Beginning July 1982

1. Actuarial Status of the Supplementary Medical Insurance Trust Fund

The law requires that the SMI program be financed on an incurred basis. That is, program income during the 12-month period for which the actuarial rates are effective must be sufficient to pay for services furnished during that period (including associated administrative costs) even though payment for some of these services will not be made until after the close of the period. The portion of income required to cover benefits not paid until after the close of the 12-month period is added to the trust fund until needed. Thus, the assets in the trust fund at any time should be no less than benefit and administrative costs incurred but not yet paid.

Because the rates are established prospectively, they are subject to projection error. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets should be maintained at a level that is adequate to cover a moderate degree of projection error in addition to the amount of incurred but unpaid expenses. Table 1 summarizes the estimated status of the trust fund as of June 30 for each of the years 1980-82.

Using a combination of program data and data from external sources. The projection factors used are shown in table 3.

<table>
<thead>
<tr>
<th>12-month period ending</th>
<th>Assets</th>
<th>Liabilities</th>
<th>Assets less Liabilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 30, 1980</td>
<td>$4,658</td>
<td>$3,479</td>
<td>$1,179</td>
</tr>
<tr>
<td>1981</td>
<td>3,901</td>
<td>2,964</td>
<td>937</td>
</tr>
<tr>
<td>1982</td>
<td>5,594</td>
<td>4,251</td>
<td>1,343</td>
</tr>
</tbody>
</table>

2. Monthly Actuarial Rate for Enrollees Age 65 and Older

The monthly actuarial rate is one-half the monthly projected cost of benefits and administrative expenses for each enrollee age 65 and older, adjusted to allow for interest earnings on assets in the trust fund and a contingency margin. The contingency margin is an amount appropriate to provide for a moderate degree of projection error and to amortize unfunded liabilities.

The monthly actuarial rate for enrollees age 65 and older for the 12-month period ending June 30, 1983, was determined by projecting per-enrollee cost for the 12-month period ending June 30, 1980, by type of service. The projected costs for the 12-month periods ending June 30 of 1980-1983 are shown in Table 2. The values for the 12-month period ending June 30, 1980, were established from program data. Subsequent periods were projected

<table>
<thead>
<tr>
<th>12-MONTH Periods Ending June 30 of 1980-83</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
</tr>
<tr>
<td>65</td>
</tr>
<tr>
<td>65 and older</td>
</tr>
<tr>
<td>1980-83</td>
</tr>
<tr>
<td>1980-81</td>
</tr>
<tr>
<td>1981-82</td>
</tr>
<tr>
<td>1982-83</td>
</tr>
<tr>
<td>1983-84</td>
</tr>
</tbody>
</table>

Table 3.-Projection Factors, 1 12-Month Periods Ending June 30 of 1981-83

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Physicians' services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fees</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Utilization</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Radiation and pathology</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Outpatient hospital</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>and other institutions</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Home health agencies</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Group practice</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>and other plans</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Independent lab services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1 All values are per enrollee. Also, the values for 1981 and 1982 differ significantly from those contained in last year's notice due to an additional year's data which support the current values and due to the implementation of the provisions of the Omnibus Reconciliation Act, Pub. L. 98-40, and the 1981 Omnibus Budget Reconciliation Act, Pub. L. 99-33.

2 As recognized for payment under the program.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for the 12-month period ending June 30, 1983, is $24.27. The monthly actuarial rate of $24.60 provides an adjustment for interest earnings and $.40 for a contingency margin. This margin amortizes a small unfunded liability for the aged and provides a small contingency for projection error.

3. Monthly Actuarial Rate for Disabled Enrollees

Disabled enrollees are those persons enrolled in SMI because of entitlement to disability benefits for not less than 24...
months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly costs for disabled enrollees (other than those suffering from end-stage renal disease) in Table 3 are prepared in a fashion exactly parallel to projections for the aged, using appropriate actuarial assumptions. Costs for the end-stage renal disease program are projected using a different computer model because of the complex demographic problems involved. The combined results of all disabled enrollees are shown in Table 4.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for the 12-month period ending June 30, 1983 is $45.59. The monthly actuarial rate of $42.10 provides an adjustment for interest, earnings and $.01 for a contingency margin. This margin is small since there is already a more than moderate excess of assets over liabilities for the disabled.

### Table 4.—Derivation of Monthly Actuarial Rate for Disabled Enrollees 12-Month Periods Ending June 30 of 1980—1983—Continued

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Covered services at level recognized:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Physician's reasonable charges</td>
<td>$10.83</td>
<td>$12.54</td>
<td>$20.91</td>
<td>$20.79</td>
</tr>
<tr>
<td>Radiology and pathology</td>
<td>.83</td>
<td>1.01</td>
<td>1.20</td>
<td>1.26</td>
</tr>
<tr>
<td>Outpatient hospital and other institutions</td>
<td>15.22</td>
<td>17.80</td>
<td>20.52</td>
<td>23.41</td>
</tr>
<tr>
<td>Home health agencies</td>
<td>.20</td>
<td>.25</td>
<td>.29</td>
<td>.33</td>
</tr>
<tr>
<td>Group practice prepayment plans</td>
<td>.20</td>
<td>.25</td>
<td>.29</td>
<td>.33</td>
</tr>
<tr>
<td>Independent lab</td>
<td>.20</td>
<td>.25</td>
<td>.29</td>
<td>.33</td>
</tr>
<tr>
<td><strong>Monthly actuarial rate</strong></td>
<td>$25.00</td>
<td>$25.50</td>
<td>$25.93</td>
<td>$24.10</td>
</tr>
</tbody>
</table>

4. Sensitivity Testing

Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy of the rates announced here using alternative assumptions. The most unpredictable factors that contribute significantly to future costs are outpatient hospital costs, physician utilization (measured indirectly and reflecting the use of more visits per enrollee, the use of more expensive services, and other factors not explained by simple price per service increases), and increases in physician fees as constrained by the program's reasonable charge screens and economic index.

Two alternative sets of assumptions and the results of these assumptions are shown in Table 5. All assumptions not shown in Table 5 are the same as in Table 3.

Table 5 no longer analyzes the variability of the cost of home health agency services. Section 930 of Pub. L. 96-499 amended section 1862(a)(2)(A) of the Act to provide for unlimited home health visits under both hospital insurance and supplemental medical insurance, and amended section 1812(a)(3) to eliminate the requirement for a prior hospitalization for payment under hospital insurance. Also, section 1923(d) of the Act requires that services that could be paid under either hospital insurance or supplemental medical insurance are to be paid under hospital insurance. Therefore, virtually all home health services are now paid under the hospital insurance program. Consequently, alternative sets of assumptions are no longer provided for home health services in analyzing the adequacy of the rates announced.

Table 5 indicates that, under the assumptions used in preparing this report, the monthly actuarial rates will result in an excess of assets over liabilities of $1,553 million by the end of June 1983. This amount to 7.3 percent of the estimated total incurred expenditures for the following year.

Assumptions which are somewhat more pessimistic, and therefore which indicate the degree that assets can accommodate projection errors, produce a deficit of $867 million by the end of June 1983, which amounts to a deficit of 3.7 percent of the estimated total incurred expenditures for the following year. Under fairly optimistic assumptions, the monthly actuarial rates will result in an excess of $3,870 million, which amounts to 10.3 percent of the estimated total incurred expenditures for the following year.

### Table 5.—Projection Factors and the Actuarial Status of the SMI Trust Fund Under Alternative Sets of Assumptions, 12-Month Periods Ending June 30 of 1981-83

<table>
<thead>
<tr>
<th></th>
<th>This projection</th>
<th>Low cost projection</th>
<th>High cost projection</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Projection factors (in percent):</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Physicians' fees</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aged</td>
<td>7.8</td>
<td>10.5</td>
<td>9.9</td>
</tr>
<tr>
<td>Disabled</td>
<td>7.6</td>
<td>10.5</td>
<td>9.9</td>
</tr>
<tr>
<td>Utilization of physicians' services</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aged</td>
<td>7.0</td>
<td>7.9</td>
<td>6.9</td>
</tr>
<tr>
<td>Disabled</td>
<td>9.6</td>
<td>10.7</td>
<td>9.3</td>
</tr>
<tr>
<td>Outpatient hospital services per enrollee</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aged</td>
<td>22.0</td>
<td>20.1</td>
<td>20.1</td>
</tr>
<tr>
<td>Disabled</td>
<td>20.9</td>
<td>20.8</td>
<td>17.7</td>
</tr>
<tr>
<td><strong>Actuarial status (in millions):</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assets</td>
<td>$3,601</td>
<td>$5,564</td>
<td>$7,703</td>
</tr>
<tr>
<td>Liabilities</td>
<td>3,064</td>
<td>4,521</td>
<td>5,176</td>
</tr>
<tr>
<td>Assets less liabilities</td>
<td>-637</td>
<td>1,043</td>
<td>1,127</td>
</tr>
<tr>
<td><strong>Ratio of assets less liabilities to expenditures (in percent):</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.1</td>
<td>5.8</td>
<td>7.9</td>
</tr>
</tbody>
</table>

1. The values for 1981 and 1982 differ significantly from those contained in last year's notice due to an adjustment of last year's data which support the current values and due to the implementation of the provisions of Public Law 96-499 and Public Law 97-33.

As recognized for payment under the program.

Increase in the number of services received per enrollee and greater relative use of more expensive services.

4. Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.
5. Standard Premium Rate

The law provides that the standard monthly premium rate for both aged and disabled enrollees shall be the lesser of:
1. The monthly actuarial rate for enrollees age 65 and older; or
2. The current standard monthly premium, increased by the same percentage that the level of old-age, survivors, and disability insurance (OASDI) benefits has increased since the May preceding the announcement (and rounded to the nearer multiple of ten cents).

The standard monthly premium rate for the 12-month period ending with June 30, 1982 is $11.00. The OASDI benefit table increased 11.2 percent in June 1981. The $11.00 rate, increased by 11.2 percent and rounded to the nearer ten cent multiple, is $12.20. Since this is less than the aged actuarial rate, the standard premium rate will be $12.20 for the 12 months ending with June 1983.

Impact Analyses

The monthly SMI premium rate of $12.20 for all enrollees during the 12-month period beginning July 1, 1982 is 11.2 percent higher than the $11.00 monthly premium amount for the previous 12-month period.

The estimated cost of this increase to the approximately 28.6 million SMI enrollees will be about $410 million for the 12-month period beginning July 1, 1982.

Because this notice of the SMI premium rate announces an amount required by the formula specified in section 1839(o)(6) of the Act, and does not alter any regulation or policy, no analyses under Executive Order 12291 or the Regulatory Flexibility Act, Pub. L. 99-335, are required.

Soc. Sec. 1839(o)(3), (3), and (4), Social Security Act; 42 U.S.C. 1395(c)(2), (3), and (4)
(Catalog of Federal Domestic Assistance Program No. 15.774, Medicare-Secondary Medical Insurance)

Dated: December 23, 1981.
Richard S. Schweiker,
Secretary.

[FR Doc. 81-3753 Filed 12-30-81; 8:45 am]
BILLING CODE 4120-00-M

Office of Management and Budget

Approval Numbers for Certain Recordkeeping/Reporting Requirements in Regulations Containing Reporting Requirements Under the Radiation Control for Health and Safety Act of 1968

The following table displays the Office of Management and Budget (OMB) approval numbers for:

1. Recordkeeping requirements contained in regulations issued by the Department of Health and Human Services, and
2. Reporting requirements in those regulations for which there are no forms displaying an OMB approval number.
The Department has determined that publication of Table A assists potential respondents and carries out the intent of the public protection clause (Section 3912) of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) which states that *** no person shall be subject to any penalty for failing to maintain or provide any information *** if the information collection request was made after December 31, 1981, and does not display a current control number assigned by the Director.

Final regulations containing reporting and/or recordkeeping requirements issued by this Department in the future will normally cite the OMB number in the preamble. If the reporting and/or recordkeeping requirements have not been approved, the regulation will contain a statement that those requirements are not effective until OMB approval has been obtained.

FOR FURTHER INFORMATION CONTACT:

Dated: December 24, 1981.
Dale W. Sopper,
Assistant Secretary for Management and Budget.

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Table A—List of Regulations, United States Code, Code of Federal Regulations, or Federal Register Citations, and OMB Approval Numbers for Certain Recordkeeping and Reporting Requirements in Existing Regulations

<table>
<thead>
<tr>
<th>Title of regulation</th>
<th>Specific USC, CFR or FR citation</th>
<th>OMB approval number</th>
</tr>
</thead>
</table>

OFFICE OF THE SECRETARY
Assistant Secretary for Management and Budget

49 public welfare; part 65—Schedule A automatic data processing equipment and services—Conditions for Federal financial participation. 49 CFR 85.000

PUBLIC HEALTH SERVICE
Centers for Disease Control

42 public health part 71—Foreign quarantine requirements 42 CFR 71.140(b)(3)

42 public health part 71—Foreign quarantine 42 CFR 71.15

30 mineral resources; part 11—Respiratory protective devices tests for permeability; Fees (joint regulation with Department of Labor). 30 CFR 11.49

Food and Drug Administration

21 food and drugs; part 600—General biological products—general 21 CFR 600.12

21 food and drugs; part 600—Current good manufacturing practices for blood and blood components. 21 CFR 600.100 (b) and (c); 21 CFR 600.151 (a) and (b); 21 CFR 600.160; 21 CFR 600.160; 21 CFR 600.170; 21 CFR 600.170

21 food and drugs; part 610—General biological products standards 21 CFR 610.180

21 food and drugs; part 620—Additional standards for bacterial products 21 CFR 620.4(1); 21 CFR 620.4(2); 21 CFR 620.4(3); 21 CFR 620.4(4); 21 CFR 620.4(5); 21 CFR 620.4(6); 21 CFR 620.4(7); 21 CFR 620.4(8); 21 CFR 620.4(9)

21 food and drugs; part 640—Additional standards for human blood and blood components 21 CFR 640.5(3); 21 CFR 640.61

21 food and drugs; part 690—Radiobiological health regulations for the administration and enforcement of the Radiation Control for Health and Safety Act of 1968. 21 CFR 690.1

21 food and drugs; part 725—Current good manufacturing practices for medicated foods 21 CFR 725.102; 21 CFR 725.103; 21 CFR 725.115

21 food and drugs; part 911—New animal drugs for investigational use 21 CFR 911.1(3) (non-testing); 21 CFR 911.1(b) (clinical)

21 food and drugs; part 113—Thermally processed low-acid foods packaged in hermetically sealed containers 21 CFR 113.100

21 food and drugs; part 114—Flexible foods 21 CFR 114.100

21 food and drugs; part 115—Medical devices 21 CFR 115.321

21 food and drugs; part 116—Radiation emitting materials—general 21 CFR 116.121

21 food and drugs; part 128—Investigational device exemptions 21 CFR 128.100(1); 21 CFR 128.110

21 food and drugs; part 128—Investigational device exemptions 21 CFR 128.120; 21 CFR 128.140

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TABLE A—LIST OF REGULATIONS; UNITED STATES CODE, CODE OF FEDERAL REGULATIONS, OR FEDERAL REGISTER CITATIONS; AND OMB APPROVAL NUMBERS FOR CERTAIN RECORDKEEPING AND REPORTING REQUIREMENTS IN EXISTING REGULATIONS—Continued

<table>
<thead>
<tr>
<th>Title of regulation</th>
<th>Specific USC, CFR or FR citation</th>
<th>OMB approval number</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 food and drugs; part 813—Investigational exemptions for intracocular lenses</td>
<td>21 CFR 610.142; 21 CFR 610.100(a)(7)</td>
<td>0910-0007</td>
</tr>
<tr>
<td>21 food and drugs; part 820—Good manufacturing practice, medical devices</td>
<td>21 CFR 820.3; 21 CFR 820.160(a); 21 CFR 820.60 (a) and (b); 21 CFR 820.10(b); 21 CFR 820.11(a) and (b); 21 CFR 820.12(b); 21 CFR 820.123; 21 CFR 820.151; 21 CFR 820.152; 21 CFR 820.154; 21 CFR 820.156; 21 CFR 820.158; 21 CFR 820.198; 21 CFR 820.199(a)(1); 21 CFR 820.31(a)(3)</td>
<td>0910-0003</td>
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<tr>
<td>21 food and drugs; part 861—Procedures for performance standards development</td>
<td>21 CFR 637.21(2))</td>
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<td>21 food and drugs; part 890—Good laboratory practice for nonclinical laboratory studies</td>
<td>21 CFR 821.120(a); 21 CFR 821.116; 21 CFR 821.118(d)</td>
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<td>21 food and drugs; part 211—Current good manufacturing practice for finished pharmaceuticals</td>
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<td>21 food and drugs; part 291—Drugs used for treatment of narcotic addicts</td>
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<td>21 food and drugs; part 50—Protection of human subjects</td>
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<td>Health Resources Administration</td>
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<td>42 public health; part 123—Designation of State health planning and development agencies</td>
<td>42 CFR 123.25; 42 CFR 123.102; 42 CFR 123.104; 42 CFR 123.105; 42 CFR 123.107; 42 CFR 123.109; 42 CFR 123.109; 42 CFR 123.205</td>
<td>0915-0059</td>
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<td>42 public health; part 124—Subparts F and G—Requirement for provision of services to persons unable to pay and community service by assisted facilities</td>
<td>42 CFR 124.39; 42 CFR 124.510; 42 CFR 124.609</td>
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<td>42 public health; part 510—Subpart A—Grants for hemophilia treatment centers</td>
<td>42 CFR 510.113; 42 CFR 510.115</td>
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<td>42 public health; part 510—Grants for community health services</td>
<td>42 CFR 510.321; 42 CFR 510.403</td>
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<td>42 public health; part 510—Subpart A—Grants for home health services</td>
<td>42 CFR 510.60(20)</td>
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<td>Officer of Assistant Secretary for Health</td>
<td>42 CFR 110.100(a)(1)</td>
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<td>42 public health; part 110—Requirements for a health maintenance organization: Full and full-disclosure requirement.</td>
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<td>42 public health; part 110—Requirements for a HMO: Reporting and disclosure requirement</td>
<td>42 CFR 110.120</td>
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<td>42 public health; part 110—Qualification of health maintenance organizations: Application requirements.</td>
<td>42 CFR 110.140</td>
<td>0917-0003</td>
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<td>42 public health; part 150—Provision of sterilizations in federally assisted programs of the public health service</td>
<td>42 CFR 150.219</td>
<td>0917-0029</td>
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OFFICE OF HUMAN DEVELOPMENT SERVICES

45 public welfare; part 201—Grants to States for public assistance programs: Subpart A—Approval of State plans and amendments (title IV-A).

45 public welfare; part 1104—Program performance standards for operation of Head Start Programs by grantees and delegate agencies.

45 public welfare; part 1321—Grants to States and community programs for aging: subchapter C—The Administration on Aging, older Americans programs: subpart C through F.

45 public welfare; part 1321—Grants to States and community programs for aging: subchapter C—The Administration on Aging, older Americans programs: subpart E through F.

45 public welfare; part 1209—Grants to Indian tribes for social and nutritional services.

Social services block grants.

SOCIAL SECURITY ADMINISTRATION

20 employee benefits; part 405—Federal old age, survivors and disability insurance

20 employee benefits; part 416—Supplemental security income for the aged, blind, and disabled.

45 public welfare; part 233—Coverage and conditions of eligibility in financial assistance programs; monthly reporting.

45 public welfare; part 269—Low income energy assistance program; fiscal reports by States.

45 public welfare and health; part 425A—Reduction of disability benefits; part 418—Voluntary agreements for coverage of States and local employees; part 410—Definitions relating to employment.

Social Security Administration

Proposed Project Grants for Services in Refugee and Entrant High-Impact Areas and Availability of Funding for Entrant Projects; Availability of Funding

AGENCY: Office of Refugee Resettlement (ORR), SSA, HHS.

ACTION: Notice of proposed availability of funding for project grants for services in high-impact areas.

SUMMARY: This notice announces the proposed availability of funds and award procedures for project grants for services to refugees and Cuban and Haitian entrants (hereafter, "entrants") under the Refugee Resettlement Program (RRP) and the Cuban/Haitian Entrant Program (CHEP) in States and localities with high concentrations of refugees or entrants where specific needs exist for supplementation of currently available resources. In FY 1982, funds are expected to be available for project grants for Cuban and Haitian entrants only.

DATE: Comments on the requirements and procedures set forth in this notice will be considered if received by February 1, 1982.

ADDRESS: Address written comments, in duplicate; to: Mark Zecca, Office of Refugee Resettlement, Room 1229, Switzer Building, 330 C Street, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Mark Zecca, (202) 472-6510.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the proposed availability of funds for special project grants for services to refugees and/or Cuban and Haitian entrants in areas where, because of factor such as an unusually high concentration of refugees or entrants, there exists and can be demonstrated a specific need for supplementation of currently available resources for services to these populations.

The Department currently expects approximately $20,000,000 in fiscal year 1982 to be available for this purpose with respect to Cuban and Haitian entrants. No funds are currently available.
expected to be available with respect to refugees in fiscal year 1982. However, the Department proposes to make the requirements and procedures set forth in this proposal applicable to the refugee program as well as the entrant program if funds should become available in the future.

The purpose of the proposed grants is to provide additional services to entrants or refugees in areas where resources for these purposes have been unusually strained due to factors such as especially large concentrations of entrants or refugees. Funding of these special projects is intended to promote effective resettlement and provision of needed services to refugees while at the same time helping to offset extraordinary impacts or burdens on State and local resources.

Funds awarded will be generally related to the extent of the specific needs to be addressed and the degree of concentration and number of entrants/refugees in the geographic area to be served by a proposed project, as documented in applications.

II. Authorization

Refugee projects would be funded under the authority of section 412(c) of the Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980 (Pub. L. 96-212), 8 U.S.C. 1522(c). Entrant projects would be funded under this same authority as made applicable to the Cuban and Haitian entrant program by section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96-422).

III. Eligible Grantees

The Department proposes to limit eligible grantees to those agencies of State governments designated as responsible for the refugee program under 45 CFR 402.3. (Subgrants and subcontracts to other agencies would be permitted if set forth in detail in the application.)

In assessing the adequacy of a State agency's demonstration of need for supplementation of existing resources, the Director of ORR will take into consideration the ratio of entrants or refugees to the total population of the State. A ratio of 1:200 or greater will be considered strong evidence of need. Where a State agency can satisfactorily demonstrate a high level of concentration in one or more local areas within the State, even though the State's total entrant/refugee population ratio does not meet the above criterion, such concentration will also be considered strong evidence of need.

Applications submitted in response to this notice are not subject to review by the CGA or any other State and areawide clearinghouses under the procedures in Part I of Office of Management and Budget Circular No. A-95.

IV. Eligible Projects

An applying State agency would be required to set forth in detail: (1) The purpose of the project; (2) the local area(s) where the activities would be carried out; (3) the subgrantees or subcontracts (if any) which would carry out specific activities; and (4) the specific group(s) of entrants/refugees who would be served.

Explicit justification would be required in the application for each specific activity proposed for each specific local area to be served, together with detailed proposed budgets. The applicant would be required to justify in the application why additional Federal funds are needed beyond those currently available for refugee/entrant social services, and how the activities proposed in the application would supplement and be coordinated with ongoing activities under the State's plan for the refugee or entrant cash and medical assistance and social service programs.

Permissible activities would include the broad range allowed under section 412(c) of the INA, subject to the demonstration of need for a particular activity, as indicated above. Permissible activities could include adult English language training, employment services, emergency food and shelter, health services, certain types of educational services, relocation services to less impacted areas, and other types of services where specific needs for supplementation of State, local, or other resources for the provision of services to refugees or entrants could be documented.

V. Criteria for Evaluating Applications

An applying State agency must demonstrate a specific need for the supplementation of currently available resources for the provision of needed services to refugees or entrants in one or more local areas within the State. A ratio of 1:200 or greater will be considered strong evidence of such need.

The application must spell out clearly the relationship between the requested special project funds and the State's activities being carried out with other Federal refugee/entrant funds. Highest priority would be given to those service projects which are intended to result in early self-support of refugees and entrants, to meet urgent needs of individuals and families within the refugee or entrant populations, and to avoid major impacts or burdens on State or local resources which may result in an incapacity of those States or localities to serve refugees and entrants effectively and to promote their effective resettlement in, or integration with, American communities.

Project grant applications will be evaluated on the following criteria:

1. Documentation of high concentration of entrants or refugees.
2. Demonstration of special need for supplementation of other available resources in order to serve these populations.
3. Documentation of extraordinary impact on State or local resources meriting special project grant.
4. Adequacy of justification for each specific activity proposed for each specific local area.
5. Adequacy of description of how proposed activities would supplement and be coordinated with a State's plan for refugee or entrant cash and medical assistance and social service programs.
6. Extent to which activities would be targeted to specific areas of greatest refugee/entrant concentrations and needs.
7. Experience and qualifications of proposed subgrantees/subcontractors to carry out identified activities.
8. Reasonableness of estimated costs in relation to anticipated results.

VI. HHS Regulations That Apply

The following HHS regulations apply to grants under this Notice:

42 CFR Part 441, Subparts E and F Services: Requirements and limits applicable to specific services—Abortions and Sterilizations

45 CFR Part 16, Department grant appeals process

45 CFR Part 74, Administration of grants

45 CFR Part 75, Informal grant appeals procedures

45 CFR Part 80, Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare

42 CFR Part 441, Subparts E and F Services: Requirements and limits applicable to specific services—Abortions and Sterilizations

45 CFR Part 81, Practice and procedure for hearings under Part 80 of this title

45 CFR Part 84, Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

VII. Reporting and Recordkeeping

Section IV of this announcement establishes reporting and recordkeeping which require OMB review and...
DEPARTMENT OF THE INTERIOR

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Conoco Inc., Unit Operator of the Eugene Island Block 266 Federal Unit Agreement No. 14-08-0001-5614, submitted on December 22, 1981, a proposed annual plan of development and production describing the activities it proposes to conduct on the Eugene Island Block 266 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 228.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 23, 1981.

Lowell G. Hammons,
Conservation Manager, Gulf of Mexico OCS Region.

SUPPLEMENTARY INFORMATION: Revised 837-4720, Metairie, Louisiana Room 147. Open weekdays U.S. FOR FURTHER INFORMATION CONTACT: John A. Swahn, Commissioner, Social Security Administration.

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Conoco Inc., Unit Operator of the Eugene Island Block 266 Federal Unit Agreement No. 14-08-0001-5614, submitted on October 30, 1981, a proposed annual plan of development and production describing the activities it proposes to conduct on the Eugene Island Block 266 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

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Dated: December 23, 1981.

Lowell G. Hammons,
Conservation Manager, Gulf of Mexico OCS Region.

BILLING CODE 4310-31-M

Bureau of Land Management

[487-794]

Burley District Grazing Advisory Board Meeting

December 23, 1981.

In accordance with Pub. L. 82-463, the Federal Advisory Committee Act, and Pub. L. 94-579, the Federal Land Policy and Management Act, notice is hereby given that the Burley District Grazing Advisory Board will meet on February 10, 1982.

The meeting will begin at 9:00 a.m. in the Conference Room of Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho.

The agenda for the meeting will include: (1) Discussion of final allocation of Range Betterment Funds (8100) for fiscal year 1982 and use of these funds; (2) Review of progress of Bannock-Oneida grazing EIS including Range Use Agreements; (3) Discussion of Cassia Resource Management Plan Planning Criteria; (4) Discussion of Twin Falls Grazing EIS; (5) Any other business that may come before the Board.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 p.m. and 4:30 p.m. or they may file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, ID 83313, by February 5, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the district manager.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproductions (during regular business hours 7:45 a.m. to 4:30 p.m., Monday through Friday) within 30 days following the meeting.

Dated: December 24, 1981.

Nick James Cozakos,
District Manager.

BILLING CODE 4310-31-M
California Desert Conservation Area Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Publish proposed amendments to the California Desert Conservation Area Plan for public review and to obtain information and advice from the public on these proposed amendments [In accordance with Pub. L. 94-579, Section 601].

SUMMARY: The proposals concerned are as follows:

Amendment No. and Action and Location
3—(PU 54, Barstow RA)
   Portion of western edge of PU 54 should be changed from Class "L" to "M" (WSA 242).
4—(PU 55, Barstow RA)
   Change existing mining area from Class "L" to "M" (similar to Amendment #3).
5—(PU 52, Barstow RA)
   Rainbow Basin/Owl Canyon Area of ACEC #39. Change from "M" to "L".
6—(PU 35, Barstow RA)
   Change Silver Mountain Vicinity from "M" to "L". Because of intensive mining activity in the locality.
7—(PU 36, Barstow RA)
   Change Turtle Valley Area from "L" to "M" class to increase manageability.
8—(PU 41, Barstow RA)
   Change "Small Tract" Area immediately south of State Highway 247 in PU 41 from "M" to unclassified.
9—(PU 40, Barstow RA)
   Change an isolated tract of Class "M" land, adjacent to and northeast of Highway 247, to "unclassified" (same as land around it).
12—(PU 79, Needles RA)
   Reevaluate boundary of Sheephole Mountain Wilderness Area (WSA 305) to eliminate conflicting uses.
16—(PU 101, El Centro RA)
   Change the Hess Mining Area from "L" class to "M" class.
17—(PU 103, El Centro RA)
   Change area surrounding Glamis store from "C" to "I" class.
20—(PU 35, Barstow RA)
   Silver Mountain (vicinity) ACEC (#44) should be deleted or reduced in size.
21—(PU 28, Barstow RA)
   Harper Dry Lake ACEC (#27) reduce area from 1760 ac. to 480 ac.
22—(PU 32, Barstow RA)
   Goldstone ACEC #27—delete.
23—(PU 35, Barstow RA)
   Designate a new ACEC to protect habitat of Sclerocactus polyancistrus near Heideldorp.
24—(PU 98, Indio RA)
   Corn Springs ACEC (#56) should be reduced from 5508 ac. to 2720 ac.
25—(PU 90, Indio RA)
   Sidewinder Well ACEC (#54) delete.
26—(PU 97, Needles RA)
   Mountain Pass ACEC (#30) delete.
30—(PU 1, Ridgecrest RA)
   Deep Spring Allotment—increase AUMs (animal units months by 107).
31—(PU 10, Ridgecrest RA)
   Adjust boundary between Tunawee and Lacye Cactus—McCloud Grazing Allotments.
32—(PU 69, Needles RA)
   Jean Lake Allotment—increase AUMs from 251–290.
33—(PU 75 & 82—Needles RA)
   Lazy Daisy Allotment—change range type from ephemeral to ephemeral/perennial, amend boundaries of allotment. Reauthorize 3192 AUMs.
34—(Needles RA)
   Add new allotment, Chemehuervi, #61.
35—(Needles RA)
   Amend wording for ephemeral grazing regulations to distinguish between ephemeral use by sheep and cattle.
36—(Ridgecrest RA)
   Update Desert Plan to reflect federal bureau management at the Naval Weapons Center.
42—(Barstow RA) (PU 54)
   Designate a communication site in Class "L" Site limited to military use.
43—(Needs RA) (PU 40)
   California Desert Plan should recognize California Energy Commission decision to rank Ivanpah Site for Edison's Proposed Power Plant. BLM would initiate during EIS process.
44—(El Centro RA) (PU 103)
   Change the utility corridor map in the California Desert Plan to reflect change in location of the APS/SDGE Intertie Corridor (as recommended by BLM and California CUC).
45—(Edison in the Cal Coal electric generation proposal in the Ivanpah area and San Bernardino County "New Town" proposal are also scheduled. Agenda item requiring Council recommendation will be discussed and acted on following the public comment period. Interested persons may address the Council during the public comment period and/or file written statements for Council consideration. The meeting will be held at the Elks Lodge, 1000 Lilly Hill Drive, Needles, California, and will begin at 8:00 a.m., Friday, February 5, 1982, and is open to the public.
   Field trips are scheduled for Saturday, February 6, and Sunday, February 7, to allow the Council the opportunity to view the Parker 400 ORV race area and to tour parts of the East Mojave Scenic Area.

Further information may be obtained by writing Mr. Clayton A. Record, Jr., Chairman, California Desert District Advisory Council, c/o California Desert District Manager, Bureau of Land Management, 1955 Spruce Street, Riverside, California 92507.

Dated: December 23, 1981.
Gerald E. Hillier,
District Manager.

Montana; Supplement to Notice of Realty Action, Modified Competitive Sale of Public Land

December 18, 1981.

This notice is a supplement to the Notice of Realty Action published in the Federal Register on November 28, 1981 (46 FR 222, page 59694), to designate the date, time, location and bidding procedures for the sale. The original notice contains the legal description of the 13.39 acres of public land, the justification for the modified competitive sale, and the terms and conditions to be
Once the high bid is accepted, the full bid price is paid, and the citizenship or corporate qualifications are met, the title will be conveyed by a decision of Fee Simple Interest Conveyance. Once the pending BLM resurvey is approved and officially filed in this office, a patent will issue.

Further Information/Inquiries:
Detailed information concerning the sale, including the planning documents and environmental assessment, is available for review at the Miles City District Office, West of Miles City, P.O. Box 949, Miles City, Montana 59301.

Kannon Richards
Acting State Director.
[FR Doc. 81-37215 Filed 12-30-81; 8:45 am]
BILLING CODE 4310-50-M

[OR 6103]
Oregon: Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the Federal Register on October 8, 1970 (35 FR 15887), the public lands were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 29, 1964 (43 U.S.C. 1431-18) and the regulations in 43 CFR Part 2460.

The areas described in the Federal Register published on October 8, 1970 (35 FR 15887) aggregate approximately 12,175.62 acres in Morrow, Umatilla, and Union Counties, Oregon.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification as to the above described public lands is terminated upon publication of this notice in the Federal Register.

3. The land in the S1/2SW1/4 of Section 33, T. 1 S., R. 40 E., has been conveyed from United States ownership and is not open to operation of the public land laws generally, including the mining laws and mineral leasing laws.

4. The land in the S1/2SE1/4SW1/4 of Section 36, T. 6 S., R. 31 E., is included in a U.S. Forest Service administrative site withdrawal and remains withdrawn from operation of the public land laws generally, including the mining laws.

5. The land in the SE1/4SW1/4 of Section 1, T. 4 N., R. 37 E., is included in Public Water Reserve No. 107 and remains withdrawn from operation of the public land laws generally, including nonmetallic mineral location under the mining laws.

6. The lands in the SE1/4NW1/4 of Section 2, NW1/4SE1/4 of Section 13, NW1/4 of Section 24, T. 2 N., R. 40 E., are included in Powersite Reserve No. 170 and remain withdrawn from operation of the public land laws generally.

7. The lands in the SE1/4SW1/4 of Section 25, T. 3 S., R. 35 E.; NW1/4SE1/4 of Section 2, NE1/4NW1/4 and NE1/4SE1/4 of Section 13, T. 2 N., R. 40 E.; and SE1/4SW1/4 of Section 19, T. 1 N., R. 41 E., are included in Powersite Reserve No. 170, Powersite Reserve No. 593, and Powersite Classification No. 282. The lands have been and continue to be open to entry subject to Section 24 of the Federal Power Act of June 10, 1920 (16 U.S.C. 818).

8. At 10 a.m., on January 27, 1982, the lands described in paragraph 1, except as provided in paragraphs 2 to 7, inclusive, will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on January 27, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

9. The lands described in paragraph 1, except as provided in paragraphs 3 to 5, inclusive, have been and continue to be open to location under the United States mining laws and applications and offers under the mineral leasing laws. Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2055, Portland, Oregon 97208.

Dated: December 22, 1981.
William G. Leavell,
State Director.
[FR Doc. 81-3726 Filed 12-30-81; 8:45 am]
BILLING CODE 4310-54-M

Utah: Wilderness Appeal Dismissed on Wild Mountain Unit

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the appeal on UT-290-104 (Wild Mountain) has been dismissed by the Interior Board of Land Appeals (IBLA) and that the unit is dropped from further wilderness review. The restrictions imposed by section 603 of the Federal Land Policy and Management Act are no longer in effect.

On December 11, 1981, the IBLA dismissed an appeal filed April 6, 1981, by Colorado Open Space Council on the Wild Mountain Unit because the appellants failed to file "a statement of reasons" for the appeal.
FOR FURTHER INFORMATION CONTACT:
Kent Biddulph, Utah BLM State Office,
(801) 524-5326.
Date: December 21, 1981.
Dean Stepanek,
Acting State Director.
[FR Doc. 81-37212 Filed 12-30-81; 8:45 am]
BILLING CODE 4310-04-M

[OR 17434(WASH)]
Washington; Proposed Withdrawal and Reservation of Lands; Amendment
In a notice published in the Federal Register of June 29, 1977, FR Doc. 77-18434, Pages 32830-1, an allowance of 30 days was made for comments concerning the proposal by the Bureau of Reclamation to withdraw 144 acres of land for use in connection with proposed fish enhancement developments at Elkoe Dam in Okanogan County. An additional 60 days from the date of this publication is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.
Date: December 22, 1981.
Champ C. Vaughn,
Acting Chief, Branch of Lands and Minerals Operations.
[FR Doc. 81-37259 Filed 12-30-81; 8:45 am]
BILLING CODE 4310-04-M

[PHX 075454, etc.]
Arizona; Order Providing for Opening of Public Lands
December 22, 1981.
1. In exchanges of lands made under the provisions of section 8 of the Act of June 28, 1934 (49 Stat. 1272, amended, 43 U.S.C. 315g) the following lands have been reconveyed to the United States under the serial numbers listed below:
Gila and Salt River Meridian, Arizona

PHX 075454
T. 6 N., R. 16 W., Sec. 2, Lots 1, 3, 4.
T. 16 N., R. 18 W., Secs. 15 and 32; Sec. 20, W/4.
T. 23 N., R. 19 W., Secs. 2, Lots 1, 2, 3, 4.

PHX 075459
T. 17 N., R. 18 W., Secs. 2, 16, 32 and 36.

T. 17 N., R. 20 W., Sec. 2, Lots 1, 2, 3, S/4 N/4, S/4.
T. 17 N., R. 20 W., Secs. 10, 12 and 30.
T. 17 N., R. 21 W., Sec. 2, Lot 1, S/4 N/4, S/4.

PHX 075463
T. 23 N., R. 18 W., Secs. 16 and 32.
T. 12 N., R. 16 W., Sec. 36.
T. 15 N., R. 18 W., Sec. 16; Sec. 32, E/4; W/4.
T. 14 N., R. 15 W., Sec. 2.
T. 12 N., R. 17 W., Sec. 16, N/4.

PHX 075483
T. 13 N., R. 16 W., Sec. 32, N/4, N/4 SE/4, SE/4 SE/4.
T. 12 N., R. 16 W., Sec. 2, Lots 1, 3, 4, S/4.
T. 14 N., R. 12 W., Sec. 36, N/4, SW/4, W/4 SE/4.
T. 14 N., R. 13 W., Sec. 10, N/4, W/4 SW/4;
Sec. 32, N/4, W/4 SW/4.
Sec. 32, N/4, NW/4 SW/4.
T. 14 N., R. 14 W., Sec. 16, N/4, SW/4, W/4 SE/4, NE/4 SE/4;
Sec. 36, N/4, SW/4, W/4 SE/4, NE/4 SE/4.
T. 7 N., R. 11 W., Sec. 10 and 11.

PHX 075478
T. 14 N., R. 14 W., Sec. 2, Lots 2, 3, 4;
Sec. 18, Lots 3, 4.
T. 14 N., R. 13 W., Sec. 32, SE/4, E/4 SW/4.
T. 15 N., R. 12 W., Sec. 32, N/4 NE/4, SW/4 NE/4, NW/4.
T. 14 N., R. 15 W., Sec. 36, E/4 SE/4.

PHX 075486
T. 5 S., R. 27 E., Sec. 32.
T. 37 N., R. 10 W., Sec. 36.
T. 38 N., R. 10 W., Sec. 36, N/4 SE/4, N/4 SW/4, SW/4 SW/4.

PHX 080040
T. 18 N., R. 20 W., Sec. 16, SE/4.
T. 20 N., R. 16 W., Sec. 32, NE/4.
T. 38 N., R. 10 W., Sec. 32, SE/4 SW/4.

PHX 080217
T. 38 N., R. 10 W., Sec. 2, Lots 2, 3, 4, S/4 N/4;
Sec. 16, E/4.
T. 40 N., R. 11 W., Sec. 16, SE/4 NE/4, W/4 NE/4, E/4 SW/4,
NW/4, SE/4.

PHX 0800542
T. 39 N., R. 12 W., Sec. 32, SW/4.

T. 41 N., R. 5 W., Sec. 32, N/4.

PHX 0800547
T. 27 N., R. 20 W., Sec. 20, W/4 NW/4, NE/4 NW/4.

PHX 0800691
T. 38 N., R. 14 W., Secs. 16, 32 and 36.
T. 41 N., R. 5 W., Sec. 32.
T. 41 N., R. 6 W., Sec. 16.
T. 41 N., R. 12 W., Sec. 32.
T. 41 N., R. 16 W., Sec. 16.

PHX 081206
T. 13 N., R. 13 W., Sec. 2, N/4.
T. 13 N., R. 19 W., Sec. 2, N/4.

PHX 081226
T. 10 N., R. 18 W., Sec. 15, NW/4.

PHX 081229
T. 39 N., R. 10 W., Sec. 2.


PHX 081345
T. 40 N., R. 10 W., Sec. 32, N/4 NE/4.

PHX 081413
T. 13 N., R. 13 W., Sec. 1, Lot 1, N/4 SE/4 NE/4;
Secs. 25 and 35.

PHX 081480
T. 38 N., R. 12 W., Sec. 10.

PHX 081525
T. 13 N., R. 13 W., Sec. 11, S/4;
Secs. 13, 15 and 23.

PHX 081937
T. 17 N., R. 16 W., Sec. 16.
T. 17 N., R. 17 W., Sec. 2, Lots 1, 2, 3, SE/4 NW/4, S/4 NE/4.
T. 18 N., R. 17 W., Sec. 36, S/4 W/4, NW/4 SW/4.
T. 19 N., R. 16 W., Secs. 6, 16 and 18.
T. 20 N., R. 14 W., Sec 7, Lots 1, 2, 3, 4.
T. 20 N., R. 16 W., Sec. 32.
T. 20 N., R. 19 W., Sec. 2, N/4 N/4.
T. 20 N., R. 20 W., Sec. 16;
Sec. 32, excepting patented mining claims.

PHX 084872
T. 38 N., R. 10 W., Sec. 36.
3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open to operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.), and the mineral leasing laws. All valid applications received at or prior to February 15, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.


[FR Doc. 81-37222 Filed 12-30-81; 8:45 am]
BILLING CODE 4310-04-M

[OR 9141]
Oregon; Termination of Exchange Classification

1. By Order of the Oregon State Director, Bureau of Land Management, which was published in the Federal Register on January 4, 1973 (38 FR 810), the following described public land was classified for disposal through exchange pursuant to the Act of June 28, 1934, as amended (43 Stat. 1269; 43 U.S.C. 315g): Willamette Meridian T. 2 S., R. 7 E., Sec. 33, Lots 2, 3, 5 to 11, inclusive, 13, 18, 19, 21, 22, 25, 27 to 32, inclusive, 33, and 39. The area described contains 21,675 acres in Clackamas County.

2. The exchange authority cited has been repealed by Section 703 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1701). Accordingly, the classification is no longer applicable and is terminated upon publication of this notice in the Federal Register.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2985, Portland, Oregon 97208.

Dated: December 21, 1981.
Champ C. Vaughan, Jr., Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-37229 Filed 3-30-82; 8:45 am]
BILLING CODE 4310-04-M

Coal Leases; Colorado and Utah; Uinta-Southwestern Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Advance notice of intent to call for Expressions of Interest in coal leasing.

SUMMARY: The planning amendment for the North Fork Planning Unit Management Framework Plan, Colorado, for coal leasing has been protested by the Terror Creek Ditch and Reservoir Company and the Western Slope Energy Research Center, Inc. Consequently, to adhere to the existing coal activity planning schedule, the call for Expressions of Interest will be reduced to thirty days in length.

The purpose of this notice is to give parties, who may wish to express interest in areas found satisfactory for further consideration, an early opportunity to begin preparation of their Expression(s) of Interest. All parties should note that boundaries of study tracts may be adjusted as a portion of the protest process.

ADDRESSES: Requests for specific information and maps of areas acceptable for further consideration for coal leasing may be submitted in accordance of formal publication of calls for Expressions of Interest to the following:
Bureau of Land Management, Colorado State Office, 1037 20th Street, Denver CO 80202; Attention: Kenneth Smith
Bureau of Land Management, Montrose District Office, P.O. Box 1269, Montrose CO 81401; Attention: Lynn Lewis

FOR FURTHER INFORMATION CONTACT:
Kenneth P. Smith, Coal Program Specialist, (303) 837-3008
Lynn Lewis, Coal Coordinator, (303) 322-6380.

SUPPLEMENTARY INFORMATION: Lands found suitable for further leasing consideration prior to the protest consisted of two study areas found in the following townships:

Area 1—T. 13 S., R. 95 W., 6th P.M.
Area 2—T. 13 S., R. 91 W., 6th P.M.
T. 13 S., R. 92 W., 6th P.M.

Dated: December 16, 1981.

Bob Moore,
Associate State Director, Colorado.

[FR Doc. 81-37227 Filed 12-20-81; 8:45 am]
BILLING CODE 4310-04-M

Elko District, Nevada; Proposed Classification Decision; Correction

In FR Doc. 81-31277, filed October 27, 1981, and appearing on page 53221 of the issue for October 28, 1981, the following corrections should be made.

The legal citation for the Desert Land Act reads "(19 Stat. 377; 43 USC 231)", and should read "(19 Stat. 377; 43 USC 321-323 as amended)."

The legal description reads "T. 31 N., R. 59 E., Sec. 13 NE
1/4," and should read "T. 31 N., R. 69 E., Sec. 13 NW
1/4." Dated: December 18, 1981.

Marle N. Good,
Acting District Manager.

[FR Doc. 81-37240 Filed 12-20-81; 8:45 am]
BILLING CODE 4310-04-M

Oregon and Washington Wilderness Planning; Commencement or Continuation of Wilderness Studies in Lakeview, Burns, Vale, Prineville, Baker, Medford, Coos Bay, and Spokan Districts

In accordance with 43 CFR 1601.9(f) notice is hereby given of resource planning activity now underway.

The proposed action is the preparation of a series of wilderness Management Framework Plan (MFP) amendments in the Lakeview, Burns, Baker, Prineville, Coos Bay and Spokane Districts.

The purpose of the plan amendments and other on-going total-plan revisions is to determine the suitability or unsuitability for wilderness designation of 89 Wilderness Study Areas (WSAs) on Bureau of Land Management (BLM) managed public lands. The plan amendment and revision processes, together with a wilderness environmental impact statement (EIS) for all WSAs in Oregon, will result in preliminary suitability recommendations for the Oregon WSA's which will be forwarded to the BLM Director in late 1984. An environmental assessment of wilderness designation alternatives will be prepared to determine whether an EIS is required for the two WSAs in Washington. The preliminary suitability recommendations for the Washington WSA's will be submitted to the Director in 1983, unless an EIS is considered necessary. The Director will submit his recommendations to the Secretary of the Interior, who will make final recommendations to the President. The President will send them to Congress. Congress will make the final decision on which study areas or portions of study areas will be designated wilderness.

Where the studies are being conducted in MFP amendments, study areas not designated as wilderness by Congress will be managed according to land use decisions already present in the appropriate MFP. Conversely, on-going total-plan revisions will develop alternatives which provide management direction if individual WSAs are not designated as wilderness by Congress.

Specific management direction, including any constraints on existing uses, will be incorporated in wilderness management plans which will be prepared for each wilderness area after designation by Congress.

The 89 wilderness study areas are located in eight BLM Districts in Oregon and Washington. Specific information and locations of the WSAs is available in the March 1980 and November 1980 inventory reports and a June 1981 final report. The final report in 1981 wilderness status map. Copies of the map are available from the BLM, and the reports may be reviewed in the eight district offices listed in the title of this notice and in the BLM state office in Portland.

Plan revisions incorporating wilderness studies are now underway in the Vale and Medford Districts and in portions of the Lakeview, Burns and Prineville Districts. The start of those studies has been announced in previous Federal Register notices. The purpose of this notice is to announce the start of studies on the remaining WSAs. The plans to be amended for these new studies, the WSAs to be studied, and the Districts involved are as follows:

Lakeview District—High Desert MFP, Lake County, Oregon:

- Devils Garden Lava Bed, OR-1-2, 29,640 acres
- Squaw Ridge Lava Bed, OR-1-3, 28,820 acres
- Four Craters Lava Bed, OR-1-22, 12,120 acres
- Sand Dunes, OR-1-24, 15,820 acres
- Diablo Mountain, OR-1-58, 113,120 acres
- Lakeview District, Warner Lakes MFP, Lake and Harney Counties, Oregon:
  - Oregana Rim, OR-1-78, 22,800 acres
  - Abert Rim, OR-1-101, 22,440 acres
  - Monument Flat, OR-1-117(B), 16,660 acres
  - Guano Creek, OR-1-132, 10,560 acres
  - Spaulding Reservoir, OR-1-139(B), 65,720 acres
- Prineville District, John Day River MFP, Sherman, Gilliam and Wheeler Counties:
  - Thirtymile, OR-5-1, 7,560 acres
  - Lover John Day, OR-5-6, 15,370 acres
  - North Pole Ridge, OR-5-6, 3,005 acres
  - Spring Basin, OR-5-9, 5,082 acres
- Baker District, Baker MFP, and Wallowa Counties:
  - McGraw Creek, OR-6-1, 1,610 acres
  - Homestead, OR-6-2, 10,700 acres
  - Sheep Mountain, OR-6-3, 6,550 acres
- Baker District, Grande Ronde MFP, Wallowa County:
  - Cash Creek Ranch, OR-6-10, 2,035 acres
  - *includes 975 acres in Asotin County, Washington
- Coos Bay District, South Coast MFP, Curry County:
  - North Sisters Rocks, OR-12-8, approx. 3 acres
- Zwagg Island, OR-12-14, approx. 5 acres
- Spokane District, Upper Columbia MFP, Okanogan County:
  - Chapaka Mountain, OR-13-2, 5,520 acres
- Spokane District, San Juan MFP, San Juan County:
  - Little Petos, OR-13-24, approx. 15 acres.

On-going total plan revisions (for all resources including wilderness) have previously been announced in the Federal Register and other media. Details of the plan schedules and remaining opportunities for public involvement and comment may be obtained from the respective District Offices. The plan revision names, responsible Districts, original Federal Register Notice of Intent publication date and pertinent counties are as follows:

<table>
<thead>
<tr>
<th>Plan name</th>
<th>District</th>
<th>FR Notice</th>
<th>Counties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andrews</td>
<td>Burns</td>
<td>1/8/81</td>
<td>Harney and Malheur</td>
</tr>
<tr>
<td>Deweyore (amend.)</td>
<td>Bumns</td>
<td>1/8/81</td>
<td>Harney</td>
</tr>
<tr>
<td>John Day (amend.)</td>
<td></td>
<td>1/8/81</td>
<td>Grant and Harney</td>
</tr>
<tr>
<td>N. Malheur (amend.)</td>
<td>Vale</td>
<td>1/8/81</td>
<td>Harney and Malheur</td>
</tr>
<tr>
<td>S. Malheur (amend.)</td>
<td>Vale</td>
<td>1/8/81</td>
<td>Harney and Malheur</td>
</tr>
<tr>
<td>Brothers</td>
<td>Prineville</td>
<td>1/5/81</td>
<td>Dufchuts and Malheur</td>
</tr>
<tr>
<td>Jackson/Klamath</td>
<td>Medford</td>
<td>5/7/81</td>
<td>Jackson and Klamath</td>
</tr>
</tbody>
</table>

Dated: December 20, 1981.
In addition the Steelhead Falls WSA (OR–5–14) in Jefferson and Deschutes Counties will be studied in conjunction with the Ochoco National Forest during their evaluation of the adjacent Deschutes Canyon RARE II further planning area.

The schedule for the study of all WSA’s in Oregon and Washington and all other states was published in the Federal Register on November 18, 1981 (Vol. 46, No. 222, pp. 55790–55796).

A number of issues have been identified during the inventory stage of the Bureau’s wilderness review. Major issues vary between wilderness study areas depending on size, physical access, current or possible future commercial uses or values and potential management constraints. The issues applicable to all WSA’s are: Should all, or portions, of the WSA be recommended as suitable for designation by Congress as a wilderness area; is the WSA manageable (can BLM or some other Federal agency manage it); the wilderness character of the area over the long term; what commercial uses, if any, will be foregone or foreclosed if the area or a portion of it is designated wilderness; and what wilderness values will be lost or impaired if the area or a portion of it is not designated wilderness? In addition, eleven BLM study areas are adjacent to existing Forest Service or Fish and Wildlife Service designated or proposed wilderness areas. In these cases, if the BLM lands are designated wilderness by Congress, is any special management coordination required with the other agency? Are there special values in the study areas that require protection regardless of the outcome of the wilderness review/designation process?

There is also a concern that wilderness designation will eliminate or heavily restrict the use of motor vehicles for grazing management, recreational use, and mineral exploration. The potential for interference with, geothermal, oil and gas or locatable minerals exploration and production is also of economic concern.

In order to properly analyze and consider the issues, an interdisciplinary team will be used. Each District will use appropriate resource skills on the planning team including, as appropriate, wildlife biology, outdoor recreation planning, soil science, hydrology, range management, forestry, minerals and geology, lands, fire ecology, and economics.

The following planning criteria and quality standards for analysis and documentation will be used in the study process:

A. Evaluation of wilderness values;
B. Evaluation of Areas Manageability as Wilderness;
C. Energy and Critical Mineral Resource Values;
D. Impacts on Other Resources;
E. Impacts of Non-designation on Wilderness Values;
F. Public Comment;
G. Local Socio-economic Effects;
H. Consistency with Other Plans.

These criteria and standards will be used to determine the level of analysis required for each issue, and to assist in formulating alternatives, identifying the preferred alternative, and in estimating the effects of the alternatives.

During the study, various sectors of the public will be requested to provide data needed for the analysis. As the planning process proceeds, the public will be asked to become involved through open houses and public meetings. Future meeting dates, times, and locations will be announced in the Federal Register and media. The initial open house sessions to obtain public comment on the issues which should be considered in the studies being started at this time will be held at the following locations and times:

**Date, Time and Location (District Office Addresses)**

**January 25, 1:00-4:00 p.m. 7:00-9:00 p.m.**

- BLM Oregon State Office (basement conference room, 729 NE Oregon Street, Portland, Oregon 97203)
- Lakeview District Office, 100 S. 5th Street (P.O. Box 151), Lakeview, Oregon 97738
- January 26, 10:00 a.m.–4:00 p.m.—Coe’s Bay District Office, 333 S. 4th Street, Coos Bay, Oregon 97420
- January 27, 1:00-4:00 p.m.—Prineville District Office, 185 E 4th Street (P.O. Box 550), Prineville, Oregon 97754
- January 27, 10:00 a.m.–5:00 p.m.—Baker District Office, 1550 Dewey Ave. (P.O. Box 987), Baker, Oregon 97814
- January 27, 9:00 a.m.–4:00 p.m. and 7:00–9:00 p.m.—Spokane District Office, Easi 4217 Main Avenue, Spokane, Washington 99207.

We would appreciate your written or oral comments and suggestions on the proposed issues and planning criteria by February 28, 1982. Your comments should be as specific as possible and directed to the appropriate District Managers.

For further information contact the appropriate District Managers at the above addresses. Documents will be available for public review during normal working hours at the District Offices.

**Dated:** December 22, 1981.

William G. Leavell, State Director.

**BILING CODE 4510-64-M**

Prineville District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Prineville District Grazing Advisory Board will be held January 26, 1982. The meeting will begin at 1:30 p.m. in the conference room of the Bureau of Land Management office at 185 East 4th Street, P.O. Box 550, Prineville, Oregon 97754.

The agenda will include: (1) Expanded role of District Grazing Advisory Board, (2) Discussion of proposed rangeland management policies, including assignment of project maintenance responsibilities and criteria for characterizing allotments.

The meeting is open to the public. Anyone wishing to make oral or written statements to the board is requested to do so through the office of the District Manager, at the above named address, at least two days prior to the meeting date.

Summary minutes of the board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

**Dated:** December 17, 1981.

James L Hancock, Assistant District Manager.

**FLAG CODE 4310-44-M**

Salmon District Grazing Advisory Board Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

**DATE:** The meeting will be held at 10:00 a.m., Friday, February 19, 1982.

**ADDRESS:** The meeting will be held at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467.

**SUPPLEMENTARY INFORMATION:** This meeting is held in accordance with Public Laws 92-463 and 94-579. The purpose of the meeting will be to discuss...
(1) Range program; (2) Fiscal year 82 projects; (3) Assignment of Maintenance Responsibilities.

The meeting is open to the public. Anyone may make oral statements to the Board of file written statements for the Board’s consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467, by February 12, 1982.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection within 30 days following the meeting.

Dated: December 21, 1981.

Jerry W. Goodman,
Acting District Manager.

[FR Doc. 81-37235 Filed 12-30-81; 8:45 am]
BILLING CODE 4310-04-M

Wyoming; Final Land Use Planning Decision for Proposed Red Rim Coal Lease Tract

December 28, 1981.

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Final land use planning decision.

SUMMARY: A final land use planning decision has been approved for the proposed Red Rim coal lease tract in Carbon County by the Bureau of Land Management.

Maxwell T. Lierance, BLM State Director, said the planning decision was delayed a year to obtain more information from ongoing wildlife and reclamation studies on a critical antelope winter range that would be affected by the proposed coal development. If the Red Rim tract is leased, the information obtained from these continuing studies would be appropriately utilized to assure the overall and long-range environmental integrity of the area.

In making the final land use planning decision, BLM determined that stipulated methods of coal mining on the Red Rim coal tract would not have a significant long-term impact on resident wildlife species of high interest to the State of Wyoming. Federal lands within the Red Rim coal tract are, therefore, determined to be acceptable for further consideration for coal leasing with certain stipulations: (1) No surface occupancy will be allowed on certain designated lands from any points 500 feet southeast of the easternmost minable coal seam to the eastern tract boundary as follows:

T. 20 N., R. 69 W., 6th P.M., Sec. 8, 16;
T. 20 N., R. 69 W., 6th P.M., Sec. 54, 30, 34;
T. 19 N., R. 69 W., 6th P.M., Sec. 4, 8.

(2) The lessee shall be required to mitigate for antelope habitat loss, where applicable, and the resultant loss or displacement of antelope due to surface coal mining operations. The lessee shall also be required to develop a habitat recovery and replacement plan, in consultation with and submitted for approval to, the BLM authorized officer and the State of Wyoming.

“It is our view that the combined effects of the continuing study efforts and the conditioned planning decision will provide adequate protection for the most critical antelope winter range area, while allowing development of the coal resource,” Lierance added.

EFFECTIVE DATE: This land use planning decision is effective December 31, 1981. The matter is now under consideration at BLM’s Washington Office and pending the Department of the Interior’s decision on offering the Red Rim tract for lease.

FOR FURTHER INFORMATION CONTACT: David J. Walter, District Manager, Rawlins District Office, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301, 307-324-7171, extension 200, or FTS 328-3200.

Maxwell T. Lierance,
State Director.

[FR Doc. 81-37235 Filed 12-30-81; 8:45 am]
BILLING CODE 4310-04-M

INTERNATIONAL COMMUNICATION AGENCY

New Directions Advisory Committee, Meeting

The first meeting of the New Directions Advisory Committee will be on January 14, 1982 from 2:00 p.m. to 6:00 p.m. The meeting will be held in the Director’s Conference Room, Suite 700, 1750 Pennsylvania Avenue, N.W., Washington, D.C. The purpose of the meeting will be to discuss the organization of the committee and how it can be of assistance to the Agency. All persons interested in attending the meeting or obtaining more information should contact Mr. Robert Reilly at 632-6710.

Dated: December 24, 1981.

Jerry Imms,
Committee Management Officer.

[FR Doc. 81-37229 Filed 12-30-81; 8:45 am]
BILLING CODE 8230-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387 (Sub-No. 76)]

Farmrail Corp., Exemption for Contract Tariff ICC-FMRC-8000

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff filed may become effective on one day’s notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Donald Shaw or Jane Mackall (202) 275-7659.

SUPPLEMENTARY INFORMATION: Farmrail Corporation (FMRC) filed a petition on December 15, 1981, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract tariff—ICC-FMRC-8000, to become effective on one day’s notice. The tariff was originally issued November 5, 1981, and scheduled to become effective on December 20, 1981. However, on account of FMRC’s failure to complete its filing with summaries of its contracts, it was not possible to act on the request prior to this time. It effectively renewed its request and completed its contract tariff filing on the indicated December 15 date when it filed its contract summaries with the instant petition. Its tariff ICC-FMRC-8000, had previously been received.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 nor more than 60 days’ notice. There is no provision for waiving this requirement. Cf. former section 10725(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition is granted. FMRC is a new Class III switching carrier operating 35 miles of trackage between Clinton and Elk City, OK, over which route it switches traffic moving in interstate commerce. FMRC purchased this operation from the Trustee of the Chicago, Rock Island and Pacific Railroad Company. FMRC provides service to local industries, among others, who will guarantee a minimum annual traffic volume. It switches their traffic at a discount of 5 percent under its regular rates, as provided by Items 110 and 130 of its tariff ICC-FMRC-8000. So far, it has established contracts with 6
Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission’s rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 66771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 60109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant’s representative upon request and payment to applicant’s representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission’s policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional question) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission’s regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant’s other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper “under contract”.

Please direct status inquiries to the Ombudsman’s Office, (202) 275-7320.

Volume No. OPY-2-250

Decided: December 22, 1981.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier. Member Chandler not participating.

MC 2202 (Sub-675), filed December 9, 1981. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turley, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014, (301) 989-1410. Transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between Ontario, CA, on the one hand, and, on the other, points in the US.

Note.—Applicant seeks to tack this authority with existing authority.


MC 37563 (Sub-9), filed December 11, 1981. Applicant: TILLAMOOK PORTLAND AUTO FREIGHT, INC., 2703 Third St., Tillamook, OR 97141. Representative: John G. McLaughlin, 1600 One Main Place, 101 SW Main St., Portland, OR 97204, (503) 224-5535. Transporting general commodities (except classes A and B explosives), (I) over regular routes: between Tillamook and Lincoln County, OR, over U.S. Hwy 101, serving all intermediate points; and (II) over irregular routes: between points in Lincoln County, OR.

MC 107612 (Sub-83), filed November 27, 1981. Applicant: NOBLE GRAHAM TRANSPORT, INC., R.R. 1, Brimley, MI 49715. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701, (608) 255-8891. Transporting (1) lumber and wood products between points in the U.S. in and of MT, WY, CO, and NM, and (2) construction materials, (a) between points in MI, WI, MN, IL, IN, IA, and OH, and (b) between MI and WI, on the one hand, and, on the other, points in KY, TN, KS, NE and MO.

MC 125543 (Sub-15), filed December 7, 1981. Applicant: PERISHABLE SERVICES, INC., 770 North Springdale Rd., Waukesha, WI 53186. Representative: Richard A. Westley, 4509 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705-0086, (608) 238-3119. Transporting food and related products, between points in the U.S., under continuing contract(s) with Bonduel Pickling Company, Inc., of Bonduel, WI.
MC 138512 (Sub-43), filed December 11, 1981. Applicant: ROLAND'S TRANSPORTATION SERVICES, INC., d.b.a. WISCONSIN PROVISIONS EXPRESS, P.O. Box 658, Cudahy, WI 53110. Representative: Michael V. Kaney, P.O. Box 1000, 100 Waukegan Rd., Lake Bluff, IL 60044, (312) 295-5700. 

Transporting general commodities (except classes A and B explosives), between points in the U.S., under continuing contract(s) with PPG Industries, Inc., of Pittsburgh, PA.


Transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in OK, on the one hand, and, on the other, points in the U.S.


Transporting clay, concrete, glass or stone products, between points in Thomas County, GA; and Tippah County, MS, on the one hand, and, on the other, those in the U.S. in and east of MT, WY, CO, and NM.

MC 151239 (Sub-2), filed November 18, 1981. Applicant: BRINTON HAULAGE CO., INC., 300 Treble Cove Rd., Billerica, MA 01828. Representative: James R. Barrington [same address as applicant], (617) 667-6809. 

Transporting (1) lumber and building materials, between points in NC, SC, and VA, on the one hand, and, on the other, the points in the U.S.; (2) machinery, and (6) metal products, between points in NC, SC, and VA, on the one hand, and, on the other, points in the U.S. (except CT, MA, ME, NH, RI, and VT).

MC 155223 (Sub-4), filed December 1, 1981. Applicant: HIGHWAY EXPRESS, INC., 5742 W. Maryland, Glendale, AZ 85301. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602, (213) 945-5002. 

Transporting plastic and rubber products between points in the U.S. (except AK and HI), under continuing contract(s) with Stearle Medical Products, USA, Inc. of Tucson, AZ.

MC 155993 (Sub-1), filed December 10, 1981. Applicant: ISIS LEASING CORP., 5500 Stillwell, Kansas City, MO 64120. Representative: E. Wayne Farmer, City Center Square—27th Floor, P.O. Box 26010, Kansas City, MO 64196, (816) 474-6420. 

Transporting such commodities as are dealt in or used by brokerage, restaurant and food businesses, and hotels, between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, VA, WA, WV, WI, and WY.


Transporting lumber and lumber products, between points in the U.S., under continuing contract(s) with Louisiana Pacific Corp., of Red Bluff, CA.


Transporting food and related products, (1) between points in Jefferson, Dane, and Brown Counties, WI and Reno County, KS, on the one hand, and, on the other, the points in the U.S. (except AK and HI), (2) between Toledo, OH, on the one hand, and, on the other, the points in IN, KY, MI, PA, WV, and WI, and (3) between the facilities of (a) Vermont Meat Packers, Inc., (b) RuParl Food Service, and (c) Regau Foods a Division of Miner Foods Ltd., at points in the U.S., on the one hand, and, on the other, the points in the U.S. (except AK and HI).

MC 155930 (Sub-1), filed December 7, 1981. Applicant: BARRY LESMEISTER, 521 West Indians, Unit A, Bismarck, ND 58501. Representative: Charles E. Johnson, P.O. Box 2556, Bismarck, ND 58502, (701) 223-9300. 

Transporting general commodities (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Premium Beverages Inc., of Bismarck, ND.

MC 159412, filed November 24, 1981. Applicant: GRAD TRAVEL SYSTEMS, INC., 9 Dawson Avenue, West Orange, NJ 07082. Representative: Barry I. Cohen [same address as applicant], (201) 325-1306. 

As a broker at West Orange, NJ, in arranging for the transportation by motor vehicle, of passengers and their baggage, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in NY, NJ, CT, and PA, and extending to points in the U.S.


Food and related products, (1) between points in IL, IA, MN, MO and NE, on the one hand, and, on the other, points in the U.S. (2) between the facilities used by John Morrell & Co. at points in the U.S. on the one hand, and on the other, points in the U.S.

MC 146553 (Sub-20), filed November 30, 1981. Applicant: ADRIAN...
CARRIERS, INC., 1822 Rockingham Rd.,
Davenport, IA 52803. Representative:
James M. Hodge, 1000 United Central
Bank Bldg, Des Moines, IA 50309, 515-
243–6164. Transporting (1) such
commodities as are dealt in or used by
businesses engaged in the manufacture,
between points in Lee County, MI,
Calhoun County, AL, and Crook County,
WY, on the one hand, and, on the other,
points in IA and Rock Island County, IL,
(2) chemicals and related products,
between points in Rock Island County,
IL, on the one hand, and, on the other,
points in IA, IN, KY, MI, MN, MO, NE,
and WI, and (3) metal products,
between points in Scott County, IA, on
the one hand, and, on the other, those
points in the United States on and east
of a line beginning at the mouth of the
Mississippi River, and extending along
the Mississippi River to its junction with
the western boundary of Itasca County,
MN, thence northward along the
International Boundary line between the
western boundaries of Itasca and
Koochiching Counties, MN, to the
International Boundary line between the
United States and Canada.

MC 147913 (Sub-4), filed November 30,
1981. Applicant: T-LINE, INC., 350 First
St., S.W., New Brighton, MN 55112.
Representative: Robert L. Cope, 1730 M
St., NW, Suite 501, Washington, DC
20036, (202) 296–2906. Transporting
general commodities (except classes A
and B explosives), household goods as
defined by the Commission and
commodities in bulk), between points in
the U.S., (except AK and HI), under
continuing contract(s) with Commerce of
Minnesota, Inc., of Minneapolis,
MN.

Volume No. OPY–5–228

Decided: December 17, 1981.

By the Commission, Review Board Number
3, Members Krook, Joyce and Dowell.

MC 1759 (Sub-4), filed December 10,
1981. Applicant: FROEHLICH
TRANSPORTATION CO., INC., Federal
Road, Danbury, CT 06810. Representative:
Gerald A. Jorloff, 410 Asylum St.,
Hartford, CT 06103, 203–728–0700.
Transporting food and related products,
between points in MS, NH, VT, CT, MA,
RI, NY, NJ, and PA.

MC 2698 (Sub-5), filed December 11,
1981. Applicant: VANDALLA BUS
LINES, INC., 312 West Morris St.,
Caseyville, IL 62232. Representative: B.
W. LaTourette, Jr., 11 South Meramec,
Suite 1400, St. Louis, MO 63105, (314)
727–0777. Transporting passengers and
their baggage in the same vehicle with
passengers, in special and charter
operations beginning and ending at
points in MO and IL and extending to
points in the U.S.

MC 15558 (Sub-11), filed December 7,
1981. Applicant: WARWOOD
TRANSFER CO., 2233–41 Warwood
Ave., Wheeling, WV 26003.
Representative: James M. Burtch, 100
East Broad St., Suite 1690, Columbus,
OH 43219, (614) 228–1541. Transporting
general commodities (except classes A
and B explosives and household goods
as defined by the Commission) between
points in the U.S., under continuing
contract(s) with the Pillsbury Company,
of Minneapolis, MN.

MC 85578 (Sub-4), filed December 7,
1981. Applicant: W. M. BURNETT
TRUCK LINE, INC., P.O. Box 260,
Truckville, AL 35585. Representative:
Donald B. Spiegel, Jr., P.O. Box 2288,
Birmingham, AL 35201, 205–254–3699.
Part I Transporting (1) General
commodities (except classes A and B
explosives), between Birmingham, AL,
and points in Winston County, AL; (2)
lumber and wood products, between
points in Walker, Morgan and Winston
Counties, AL; (3) textile mill products
and machinery, between points in
Winston County, AL on the one hand,
and, on the other, points in Callman,
Morgan and Limestone Counties, AL; (4)
metal products (a) between points in
Winston and Fayette Counties, AL; and
(b) between points in Marshall County,
AL, on the one hand, and, on the other,
points in Winston County, AL. Part II:
over regular routes, transporting
general commodities (except classes A
and B explosives), (i) between Belmont,
MS and Haleyville, AL; (ii) between
Birmingham, MS and Haleyville, AL;
over MS Hwy 366 to the junction of
AL Hwy 172, then over AL Hwy 172 to
the junction of AL Hwy 5 to Haleyville,
and return; (b) from Belmont over MS Hwy
366 to the junction of AL Hwy 23, then
over AL Hwy 24 to the junction of US Hwy
43, then over US Hwy 43 to junction of
AL Hwy 5, then over AL Hwy 5 to
Haleyville, and return; (c) between
Belmont, MS and Florence, AL (a) from
Belmont over MS Hwy 366 to the
junction of AL Hwy 24, then over AL
Hwy 24 to the junction of US Hwy 43,
then over US Hwy 43 to Florence, and
return; (b) from Belmont over MS Hwy
366 to the junction of AL Hwy 23, then
over AL Hwy 24 to the junction of AL
Hwy 24, then over AL Hwy 24 to the
junction of US Hwy 427, then over AL
Hwy 247 to the junction of US Hwy 72,
then over US Hwy 44 to the end of the
route, then over US Hwy 72 and 43 to
Florence and return; (3) between junction
of AL Hwy 5 and 237, then over AL Hwy
237 to the junction of AL Hwy 5 to Haleyville
and return; (4) between Haleyville and
Florence, AL: (a) from Haleyville over
AL Hwy 5 to the junction of US Hwy 45,
then over US Hwy 43 to Florence, and
return; (b) from Haleyville over AL Hwy
5 to the junction of AL Hwy 172, then
over AL Hwy 172 to the junction of US
Hwy 43, then over US Hwy 43 to
Florence, and return; (5) serving all
intermediate points in connection with
Routes (i) through (4) above, and
serving all points in Lauderdale, Colbert,
Franklin and Lawrence Counties, AL.

Note: Applicant intends to serve the
applicants in Part II with existing
authority to be converted in Part I from a
Certificate of Registration in MC-53378 Sub 1.
Issued December 8, 1969 and Sub 5. Issued
October 24, 1973 to a Certificate of Public
Convenience and Necessity.

MC 1507023 (Sub-59), filed December
10, 1981. Applicant: ACME
TRANSPORTATION, INC., 2832 Giant
Road, San Pablo, CA 94804.
Representative: Thomas M. Loughran,
100 Bush St., San Francisco, CA 94104,
(415) 988–7278. Transporting
commodities in bulk, between points in
AZ, CA, CO, ID, MT, NV, NM, OR, UT,
WA, and WY.

MC 105378 (Sub-10), filed December 7,
1981. Applicant: SUN VALLEY BUS
LINES, INC., 600 East Jefferson St.,
Phoenix, AZ 85004. Representative: A.
Michael Bernstein, 2441 E. Thomas
Road, Phoenix, AZ 85014, (602) 284–4891.
To engage in operations as a broker at
Las Vegas, NV, in interstate or foreign
commerce, arranging for the
transportation of passengers and their
baggage in same vehicle with
passengers, between points in Clark
County, NV, on the one hand, and, on
the other, points in the U.S.

MC 133758 (Sub-1), filed December 7,
1981. Applicant: FRINCE BROS., INC.,
503 Fulton Street, Antigo, WI 54409.
Representative: James A. Spiegel, Olde
Towne Office Park, 6333 Odana Road,
Madison, WI 53719, (608) 273–1003.
Transporting (1) food and related
products, under continuing contract(s)
with (a) Reinerio Beverages, Inc.,
Lakeside Distributing Co., Inc., and
Doane Distributing, Inc., all of Ashland,
WI; (b) Eugene J. McKenna, d.b.a. Geno
McKenna & Sons, and Vavruska
Distributing Co., both of Antigo, WI; (c)
Bertagnoli Distributing Co., Inc., of
Huxley, WI; (d) Eagle River Distributing
Co., Inc., of Eagle River, WI; (e) H & H
Distributing Co., Inc., of Rhinelander,
WI, and (f) wood products, under
continuing contract(s) with Zelazoski
Wood Products, Inc., of Antigo, WI,
between points in the U.S.

MC 133758 (Sub-1), filed December 7,
1981. Applicant: PRINCE BROS., INC.,
503 Fulton Street, Antigo, WI 54409.
Representative: James A. Spiegel, Olde
Towne Office Park, 6333 Odana Road,
Madison, WI 53719, (608) 273–1003.
Transporting (1) food and related
products, under continuing contract(s)
with (a) Reinerio Beverages, Inc.,
Lakeside Distributing Co., Inc., and
Doane Distributing, Inc., all of Ashland,
WI; (b) Eugene J. McKenna, d.b.a. Geno
McKenna & Sons, and Vavruska
Distributing Co., both of Antigo, WI; (c)
Bertagnoli Distributing Co., Inc., of
Huxley, WI; (d) Eagle River Distributing
Co., Inc., of Eagle River, WI; (e) H & H
Distributing Co., Inc., of Rhinelander,
WI, and (f) wood products, under
continuing contract(s) with Zelazoski
Wood Products, Inc., of Antigo, WI,
between points in the U.S.

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Volume No. OPY–5–229
Decided: December 18, 1981.
By the Commission, Review Board 3, Members Krock, Joyce and Dowell.

Transporting lumber and lumber mill products, between points in Greene County, TN, and GA and SC, on the one hand, and, on the other, points in NC, OH, VA, TN, WV, KY, IN, and IL.

MC 139638 (Sub-11), filed December 7, 1981. Applicant: M. L. MONTGOMERY, INC., P.O. Box 629, Rocky Mount, VA 241551. Representative: D. R. Bueler, P.O. Box 482, Franklin, TN 37064, (615) 780–2510. Transporting lumber and lumber mill products, between points in Greene County, TN, and GA and SC, on the one hand, and, on the other, points in NC, OH, VA, TN, WV, KY, IN, and IL.

MC 151908 (Sub-2), filed December 2, 1981. Applicant: BARY, INC., 6001 Cirtenden Drive, P.O. Box 435564, Louisville, KY 40232. Representative: Jack L. Bary, 1303 Blackwood Court, Jeffersonville, IN 47130, (312) 28. Transporting (1) machinery and furniture and related products, under continuing contract(s) with Hart Fireplace Furnishings, Division of S & T Industries, Inc., of New Albany, IN, and (2) chemical and related products, under continuing contract(s) with Borden, Inc., of Columbus, OH, between points in the U.S.

MC 154408, filed December 11, 1981. Applicant: H. C. LOGGING, INC., P.O. Box 306, Carson, WA 98610. Representative: Otis D. Holwegner (same address as applicant), 609–427–5221. Transporting machinery, between points in Kittitas, Skamania, Cowitz, Yakima, and Clark Counties, WA, on the one hand, and, on the other, points in Multnomah, Marion, Lane, Hood River, Wasco Counties, and Eugene OR.

MC 156948, filed December 19, 1981. Applicant: RICHARD COOK, d/b/a, COOK'S BUS CO., P.O. Box 648, El Verano, CA 95433. Representative: Richard Cook (same address as applicant), 415–924–5454. Transporting passengers and baggage in the same vehicle with passengers in special and charter operations, between points in the U.S.

MC 157049 (Sub-1), filed December 10, 1981. Applicant: AMATO MOTORS, INC., 977 West Cermak Rd., Chicago, IL 60608. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, 312–782–8880. Transporting general commodities (except classes A and B explosives), between Chicago, IL, on the one hand, and, on the other, points in IA, IL, MI, WI, MO, OH, IN, and MN.

MC 158459, filed December 4, 1981. Applicant: R. B. R. TRUCKING, INC., 211 Kocher St., Rockton, IL 61072. Representative: Edward D. McNamare, Jr., 907 South Fourth St., 217–521–9476. Transporting such commodities as are dealt in, or used by, manufacturers or distributors of water conditioning equipment, between points in the U.S. under continuing contract(s) with Illinois Water Treatment Co. of Rockford, IL.

MC 159338 (Sub-8), filed December 15, 1981. Applicant: SEVERANCE TRUCKING CO., INC., Walnut Hill Park, Woburn, MA 01801. Representative: Mary E. Kelley, 22 Steams Ave., Medford, MA 02155, (617) 390–4090. Transporting general commodities (except classes A and B explosives), between points in MA, NH, and RI, on the one hand, and, on the other, points in VT and CT.

MC 157158 (Sub-5), filed September 9, 1981, previously noticed in FR issue of September 25, 1981. Applicant: TODD TRANSPORT COMPANY, INC., Secretary, MD 21694. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19013, (215) 385–5141. Transporting food and related products, between points in Shenandoah County, VA, on the one hand, and, on the other points in TX.

Note: Coincidental cancellation, at applicant's written request of Certificate No. 157158 Sub 5 in this proceeding served November 25, 1981. This republication corrects the commodity description.


MC 119099 (Sub-42), filed December 9, 1981. Applicant: JUENDLUND TRUCKING, INC., First Ave. N.E. and 8th St, Buffalo, MN 55315. Representative: Val M. Higgins, 1600 TCF Tower, 121 South 6th St., Minneapolis, MN 55402, 612–333–1341. Transporting lumber and wood products, forest products, and building materials, between points in MN, on the one hand, and, on the other, points in IL, IN, IA, MI, NE, WI, ND and SD.

MC 128539 (Sub-20), filed December 7, 1981. Applicant: EAGLE TRANSPORTATION CORPORATION, P.O. Box 4716, 3204 Sunset Ave., Rocky Mount, NC 27801. Representative: James F. King, Jr. (same address as applicant), (919) 446–4194. Transporting food and related products, between points in AL, FL, GA, KY, MD, NC, SC, TN, VA, WV, and DC.

MC 133858 (Sub-2), filed December 10, 1981. Applicant: THE COTTER GARAGE CORPORATION, 86 Granby St., Bloomfield, CT 06002. Representative: James T. Graham, One Constitution Plaza, Hartford, CT 06103, (203) 547–1120. Transporting passengers and their baggage and newspapers, in...
the same vehicle with passengers, (a) between Hartford, CT, and New York, NY, under continuing contract(s) with Aetna Life & Casualty Company, of Hartford, CT, and (b) between Hartford, East Hartford, and Farmington, CT, and New York, NY, under continuing contract(s) with United Technologies Corporation of Hartford, CT.

MC 134319 (Sub-17), filed December 14, 1981. Applicant: ERAFLAIDT TRANSPORT COMPANY, P.O. Box 1065, Dimmit, TX 79027. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408, (806) 733-9555. Transporting fertilizers and chemicals, between points in OK, TX, KS, MO, AR, NM, and CO.


MC 138438 (Sub-112), filed December 11, 1981. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740, (301) 739-4860. Transporting general commodities (except household goods and classes A and B explosives), between points in the U.S.

MC 143308 (Sub-1), filed December 4, 1981. Applicant: GENERAL TRUCKING SERVICE, INC., 3700 Park East Dr., Cleveland, OH 44122. Representative: J. A. Kundz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 599-5939. Transporting general commodities (except classes A and B explosives), between points in the U.S., under continuing contract(s) with SCM Corporation of Cleveland, OH.

MC 145669 (Sub-1), filed December 2, 1981. Applicant: PETROLEUM TANK LINE, 2600 Rice Ave., West Sacramento, CA 95691. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, (202) 833-6984. Transporting petroleum and petroleum products between points in CA, on the one hand, and, on the other, points in NV and OR.

MC 149296 (Sub-2), filed December 15, 1981. Applicant: THARP SALES & SERVICE, INC., 1204 Oklahoma Ave., Trenton, MO 64683. Representative: W. R. England, III, P.O. Box 456, Jefferson City, MO 65102, 314-935-7169. Transporting fertilizer and fertilizer ingredients, in bulk, between the facilities of Cheveron Chemical Co. at Fort Madison, IA, and Sugar Creek, MO, on the one hand, and, on the other, points in IA, MO, NE and KS.

MC 148988 (Sub-3), filed December 15, 1981. Applicant: MALM CO., INC., 903 Denver Park, Denver, CO 80216. Representative: Edward C. Hastings, 668 Sherman St., Denver, CO 80203, (303) 837-1204. Transporting food and related products between points in AR, AZ, CA, KS, NE, LA, MS, MO, OK, and TX, on the one hand, and, on the other, points in CO.

MC 148929 (Sub-5), filed December 14, 1981. Applicant: VANWORMER TRUCKING, INC., Star Route, Cranberry, PA 16319. Representative: Dwight K. Koernar, Jr., 110 North Second St., Clearfield, PA 16830, 814-765-9111. Transporting petroleum and petroleum products, containers, and such commodities as are dealt in or used by automotive supply and service centers, (a) between points in Allegheny, Butler, and Crawford Counties, PA, on the one hand, and, on the other, points in CT, RI, MA, VT, NH, ME, OH, PA, NY, IN, WV, WI, IL, KY, VA, MD, NC, DE, NJ, and DC, (b) between points in Erie County, NY, and Hancock Counties, WV; and Vennago, Warren, and McKean Counties, PA, on the one hand, and, on the other, points in RI, MA, VT, NH, and ME.

MC 149069 (Sub-3), filed December 14, 1981. Applicant: KEPEL CORPORATION, Route 1, Box 213, Staunton, VA 24401. Representative: H. Neil Garson, 3231 Old Lee Hwy., Fairfax, VA 22030, 703-691-0990. Transporting automotive tires and automotive tire parts, between points in Summit, Franklin, Hancock, and Trumbull Counties, OH; Coahoma County, MS; St. Louis County, MO; Miller County, AR and Union County, NJ, on the one hand, and, on the other, points in VA.

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MC 149199 (Sub-12), filed December 10, 1981. Applicant: FRONTIER EXPRESS, INCORPORATED, d.b.a. D & M TRANSPORTATION, 805 SW Second, Oklahoma City, OK 73107. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 3124, El Reno, OK 73036, (405) 282-1322. Transporting such commodities as are dealt in or used by manufacturers and distributors of mining and drilling equipment and supplies, between Los Angeles, CA, and points in Jefferson County, AL, Pima County, AZ, San Bernardino County, CA, and CO, Vanderburgh County, IN, St. Louis County, MN, Silver Bow County, MT, Kay County, OK, and Natrona County, WY, on the one hand, and, on the other, points in the U.S.

MC 151118 (Sub-15), filed December 15, 1981. Applicant: M.D.R. CARTAGE, INC., 616 West Johnson St., Jonesboro, AR 72401. Representative: Douglas G. Wynn, P.O. Box 1235, Greenville, MS 38701, (601) 335-3578. Transporting (1) metal products, and (2) machinery, between Chicago, IL, and points in Lawrence and Randolph Counties, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152439 (Sub-3), filed December 15, 1981. Applicant: WILLET INTERSTATE SYSTEM, INC., 3901 S. Ashland Ave., Chicago, IL 60609. Representative: Donald S. Mullins, 1033 Graceland Ave., DeKalb, IL 60115, (312) 298-1054. Transporting general commodities (except classes A and B explosives), between points in the U.S., under continuing contract(s) with W. W. Grainger, Inc., of Chicago, IL.

MC 154118 (Sub-1), filed December 14, 1981. Applicant: ANDERSON & JORGENSEN TRUCK LINE, INC., P.O. Box 6, Ennis, TX 75119. Representative: James W. Hightower, First Continental Bank Bldg., #301, 5801 Marvin D. Love Freeway, Dallas, TX 75227, 214-839-4108. Transporting chemicals and related products and machinery, between points in the U.S. under continuing contract(s) with Traffic Paint Mfg., Inc. of Hannibal, MO and Steuber Company, Inc. of Houston, TX.

MC 154328 filed December 14, 1981. Applicant: SMOKEY POINT DISTRIBUTING, INC., P.O. Box 169, 16128 67th Ave., NE, Arlington, WA 98223. Representative: Matt Berry, same address as applicant, (206) 435-5737. Transporting bedding, between points in the U.S. under continuing contract(s) with Easy Up Shelving, Inc., of Seattle, WA.

MC 156319 (Sub-1), filed December 15, 1981. Applicant: GALEN O. KING, d.b.a. G.O.K. TRUCKING, 4792 S. State Rte. 53, Tiffany, OH 44883. Representative: Richard H. Branden, 220 W. Bridge St., P.O. Box 57, Dublin, OH 43017, (614) 869-2531. Transporting rubber and plastic products between points in St. Joseph County, IN, on the one hand, and, on the other, points in MI, OH, PA, and KY.

MC 157439 (Sub-1), filed December 14, 1981. Applicant: STAN PHILLIPS, d.b.a. HEAVY COMPANY, 3423 No. 35th St., P.O. Box 5728, Lincoln, NE 68505. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475-
Transporting (1) those commodities which because of their size or weight require the use of special equipment, (2) building materials, (3) machinery, and (4) metal articles, between points in Lancaster County, NE, on the one hand, and, on the other, points in U.S. in and west of MI, OH, IN, IL, MO, AR, and LA.

MC 159559, filed December 4, 1981. Applicant: JOSEPH J. DOSTAL, d.b.a. ABRASIVE TRANSPORT, 675 Byron, Plymouth, MI 48170. Representative: Paul M. Ross, 3104 S. Cedar Street, Lansing, MI 48910, (517) 394-4222. Transporting metal products between points in the U.S. under continuing contract(s) with Plymouth Metal Abrasive Company, and Metal Tech Abrasive Company, both of Plymouth, MI.

MC 159589, filed December 7, 1981. Applicant: JOSEPH T. ROTA, d.b.a. MCDONALD TRANSPORTATION, 3008 Woodfield Ave., McDonald, Ohio 44437. Representative: Eugene A. Waszkiewicz, P.O. Box 6315, Pittsburgh, PA 15216, (412) 469-0933. Transporting (1) iron and steel articles, (2) machinery, and (3) steel mill products, between points in the U.S. under continuing contract(s) with McDonald Welding Machine Company, Inc., of McDonald, OH.


Agatha L. Mergenovich, Secretary.

[FR Doc. 81-37273 Filed 12-30-a1:8am]
BILLING CODE 7035-01-M

[Finance Docket No. 29805]

Rail Carriers; Norfolk and Western Railway Co.; Akron, Canton, and Youngstown Railroad Co.; Merger Into AC&Y Railroad, Inc., Exemption

December 24, 1981.

On December 18, 1981, the Norfolk and Western Railway Company (NW) notified the Commission that its wholly owned subsidiary, The Akron, Canton and Youngstown Railroad Company ( Akron), will merge into AC&Y Railroad, Inc. (AC&Y), a wholly owned subsidiary of NW. AC&Y will be the surviving company, and subsequently it will merge into NW, with NW the surviving company. The transactions are within a corporate family and come within the exemption described at 49 CFR 1111.5(c)(3). The mergers will not result in any change in service levels, operations, or the competitive balance with carriers outside the corporate family. The purpose of the mergers is corporate simplification.

As a condition to use of the exemption, any Akron and AC&Y employees affected by the merger shall be protected pursuant to New York Dock Ry.-Control-Brooklyn Eastern Dist., 360 I.C.C. 60 (1979), which will satisfy the statutory requirements of 49 U.S.C. 10509(g)(2).

By the Commission, Richard A. Kelly, Acting Director, Office of Proceedings.

Agatha L. Mergenovich, Secretary.

[FR Doc. 81-37273 Filed 12-30-a1:8am]
BILLING CODE 7035-01-M

[DOCKET NO. AB-1 (SUB-NO. 125)]

Rail Carriers; Chicago and North Western Transportation Company Abandonment—Between Dodge Street (Omaha) and Irvington, NE; Findings

The Commission has found that the public convenience and necessity permits Chicago and North Western Transportation Company to abandon its 4.1 miles of rail line between Dodge Street (Omaha) (milepost 6.0) and Irvington (milepost 10.1) in Douglas County, NE. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) It is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Richard Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich, Secretary.

[FR Doc. 81-37273 Filed 12-30-a1:8am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Modification to a Clean Air Act Consent Decree Involving Bethlehem Steel Corporation's Johnstown, Pennsylvania Steel Facility

In accordance with departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 15, 1981, a proposed modification to a Clean Air Act consent decree in United States of America and Commonwealth of
Pennsylvania Department of Environmental Resources v. Bethlehem Steel Corporation, No. 79-1223-C, was lodged with the United States District Court for the Western District of Pennsylvania. The proposed modification to the consent decree would allow Bethlehem Steel Corporation to operate its coke oven battery No. 18 until December 31, 1982, rather than requiring an earlier shutdown based on startup of the electric arc furnace shop. The modification requires Bethlehem to institute certain operating and maintenance procedures at the battery's pushing system in the interim to minimize excess emission.

The proposed consent decree may be examined at (1) the Office of the United States Attorney, Western District of Pennsylvania, United States Courthouse, 633 U.S. Post Office Courthouse, 7th Avenue and Grant Street, Pittsburgh, Pennsylvania 15219, (2) the Office of the Environmental Protection Agency, Region III, Office of Regional Counsel, 6th and Walnut Streets, Philadelphia 19106, and (3) the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20537, and must be filed no later than February 1, 1982.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and should refer to United States of America and Commonwealth of Pennsylvania, Department of Environmental Resources v. Bethlehem Steel Corporation, DOJ Reference #90-5-2-1-191.

Carol E. Dinkins,
Assistant Attorney General, Land and Natural Resources Division.

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; Aerojet Strategic Propulsion Co.

Pursuant to §1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 21, 1981, Eli Lilly and Co., Tippecanoe Lab., Box 685 Lilly Road, Lafayette, Indiana 47902, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of certain controlled substances listed below:

<table>
<thead>
<tr>
<th>Drug</th>
<th>Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Methadone (9250)</td>
<td>II</td>
</tr>
<tr>
<td>Methadone Intermediate (9254)</td>
<td>II</td>
</tr>
</tbody>
</table>

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than February 1, 1982.

Dated: December 22, 1981.

Francis M. Mullen, Jr.,
Acting Administrator, Drug Enforcement Administration.

NATIONAL SCIENCE FOUNDATION

Permits Issued Under Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.


SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357-7924.

Supplementary Information: On November 19, 1981, the National Science Foundation published a notice in the Federal Register of permit applications received. On December 22, 1981 a permit was issued to: Charles W. Potter, Charles E. Myers, Division of Polar Programs.

NATIONAL SCIENCE FOUNDATION

Manufacturers and Applicants: Application; Aerojet Strategic Propulsion Co., 3150 North Foothills Drive, Sacramento, California 95819.

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SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357-7924.

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Charles E. Myers, Division of Polar Programs.

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Extreme External Phenomena; Meeting

The ACRS Subcommittee on Extreme External Phenomena will hold a meeting on January 28 and 29, 1982, at the SHERATON INN INTERNATIONAL CONFERENCE CENTER, 11810 Sunrise Valley Drive, Reston, VA (Telephone: 703/680-9000). The Subcommittee will continue its review of the NRC research programs which deal with the seismic aspects of site safety. The discussions at this meeting are intended to examine the uncertainties associated with the determination of a design basis earthquake for a nuclear powerplant at
and Licensing Board for Commonwealth Edison Company, Dresden Nuclear Power Station, Unit 1, Docket No. 50-10-OLA, is hereby reconstituted by appointing the following Administrative Judge to the Board: Dr. Martin J. Steindler. Dr. David L. Hetrick was a member of this Board, but, because of a schedule conflict, is unable to continue to serve.

As reconstituted, the Board is comprised of the following Administrative Judges:

John H. Frye, Ill., Chairman;
Dr. Martin J. Steindler;
Dr. Robert L. Holton.

All Correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is:

Dr. Martin J. Steindler, Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Illinois 60439.

Issued at Bethesda, Maryland, this 26th day of January 1981.

B. Paul Cotter, Jr.,
Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

I, John C. Hoyle, Advisory Committee Management Officer.

Dated: December 24, 1981.

[FR Doc. 81-37294 Filed 12-30-81: 8:45 am]
BILLING CODE 7550-01-M

Georgia Power Company, et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. NPF-5, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Association of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin L. Hatch Nuclear Plant Unit No. 2 (the facility) located in Appling County, Georgia. The amendment is effective as of the date of issuance.

The amendment consists of temporary changes to the Technical Specifications. The limiting condition for operation on diesel generator operability is extended from 72 hours to 15 days starting at 9:00 AM EST on December 19, 1981 and expiring at 9:00 AM on January 3, 1982.

The application for 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 as required by the Act and the

Comission’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 determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 18, 1981, (2) Amendment No. 25 to License No. NPF-5, and (3) the Commission’s letter to Georgia Power Company dated December 18, 1981. All of these items are available for public inspection at the Commission’s Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. 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 Licensing.

Dated at Bethesda, Maryland, this 16th day of December 1981.

For the Nuclear Regulatory Commission.

John F. Stolz, Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 81-37295 Filed 12-30-81: 8:45 am]
BILLING CODE 7550-01-M

Mississippi Power and Light Co., et al.; Issuance of Amendment to Construction Permits

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Construction Permit CPPR-118 and Amendment No. 7 to Construction Permit CPPR-119, issued to Mississippi Power and Light Company, Middle South Energy, Inc. and South Mississippi Electric Power Association for the Grand Gulf Nuclear Station, Units 1 and 2 (the Facility), located in Claiborne County, Mississippi.

The amendments delete monitoring and capacity requirements for sediment retention basins from the Environmental
Protection Program Respecting Construction of Grand Gulf Nuclear Station, Units 1 and 2. Such monitoring and capacity requirements for the sediment retention basins are currently covered by a National Pollutant Discharge Elimination System permit for the facility which is unaffected by these Construction Permit Amendments. The amendments are effective as of the date of issuance.

The application for these amendments 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 as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the permit amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that, pursuant to 10 CFR 51.5(f)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments. For further details with respect to this action see (1) the application for amendment dated September 28, 1980 and supplemented by letters dated December 31, 1980 and August 31, 1981 (2) Amendment No. 7 to CPPR-119, (3) Amendment No. 7 to CPPR-119, and (4) the Commission's related letter evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at Hinds Junior College, Raymond, Mississippi. In addition, a copy of the above items (2), (3) and (4) may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 23rd day of December, 1981.

For the Nuclear Regulatory Commission.
Darrell G. Eisenhut,
Director, Division of Licensing, Office of Nuclear Reactor Regulation.

(Docket No. 50-537 (exemption request under 10 CFR 50.12))

Department of Energy, Project Management Corp. and Tennessee Valley Authority (Clinch River Breeder Reactor Plant); Memorandum and Order

Introduction

This Memorandum and Order establishes the Commission's procedures for considering the merits of the Department of Energy's (DOE's) request for an exemption from 10 CFR 50.10 pursuant to 10 CFR 50.12 in order to begin site preparation for the Clinch River Breeder Reactor. For the reasons discussed below, the Commission believes that an informal proceeding directed by the Commission itself is best suited for consideration of the merits of this exemption request.

Background

On November 30, 1981, DOE, for itself and on behalf of its co-applicants Project Management Corporation and the Tennessee Valley Authority, requested the Nuclear Regulatory Commission (NRC or Commission) to grant an exemption from 10 CFR 50.10 pursuant to 10 CFR 50.12 to conduct site preparation activities for the Clinch River Breeder Reactor (CRBR) prior to the issuance of a construction permit or limited work authorization. DOE's proposed site preparation activities include site clearing and grading; excavation and quarry operations; the construction of temporary construction related facilities, a barge facility, an access road and railroad spur; and the installation of services including power, water, sewerage and fire protection. None of the work appears to involve safety-related structures, systems, or components subject to the Commission's safety regulations in 10 CFR Part 50.

Among the reasons advanced by DOE in support of its request are the claims that: (1) Congress has expressed the intention that the CRBR project be completed expeditiously; (2) procedural delays will cause undue hardship in the form of another 1-2 years of delay and $120-240 millions of increased costs; and (3) the project is in an advanced stage of development and is ready to begin site preparation activities.

Views of the Parties

DOE requested that the Commission itself rule on this exemption request because it raises substantial national policy considerations that only the Commission can address. These include cited Presidential and Congressional mandates to construct the CRBR in a timely and expeditious manner, the implications of alleged increased costs, and the alleged adverse effects of delay on DOE's responsibility for developing the technology of the liquid metal fast breeder reactor (LMFBR).

DOE also contended that a hearing is not required on its exemption request. In its view, the Commission's requirements for a hearing prior to commencement of site preparation activities are not compelled by either the National Environmental Policy Act (NEPA) or the Atomic Energy Act of 1954, as amended. Moreover, DOE believes an informal proceeding will prove adequate for resolving any disputed matters. DOE is opposed to a referral of its request to an Atomic Safety and Licensing Board (Board) for adjudicatory hearings since, in DOE's view, such a referral only serves to further delay the project without providing the Commission with meaningful assistance in addressing the policy and other issues raised by the exemption request.

DOE's request was opposed by the Natural Resources Defense Council, Inc. and the Sierra Club, intervenors in the now suspended adjudicatory hearing on applicant's 1978 application for a construction permit. Intervenors agree that this request raises major issues of policy and law that should be decided in the first instance by the Commission itself based on oral argument and written comments. The issues identified by NRDC and the Sierra Club are: (1) The applicability of the exemption provisions in 10 CFR 50.12 to this unique project; (2) the existence of a Congressional mandate for expedition as argued by DOE; (3) the effect of granting the exemption on one of the CRBR's alleged purposes which is to demonstrate the licensability of breeder reactors; (4) the effect of an exemption on public confidence in CRBR; (5) the predetermination of intervenors' environmental contentions in the suspended proceedings; and (6) the completeness of the environmental record. NRDC and the Sierra Club believe that these are threshold issues that must be addressed by the Commission before it reaches the other merits of the exemption request. They contended that a consideration of these threshold issues will lead to denial of the exemption request. However if, contrary to their position, Commission consideration of these issues is not dispositive, then several factual issues require resolution before the exemptions can be granted. They believe that the Commission's practice has been to refer these kinds of factual issues to a Licensing Board for a formal
judicially hearing. They have conceded that neither the Atomic Energy Act nor NEPA requires such a hearing. Rather, the thrust of their argument appears to be that a formal hearing is required by Commission precedent. Moreover, they argue that a formal hearing is the most effective way to elucidate the facts bearing on the exemption request. Finally, they believe that any adjudicatory hearing should be conducted by the Board for the now suspended LWA proceeding. Because that Board is familiar with the details of CRBR, NRDC and the Sierra Club believe it could provide timely review.

On December 18, 1981, we provided the parties to the suspended permit proceeding an opportunity to address the appropriate procedures for NRC consideration of the merits of applicants' exemption request. Appearances were made by representatives of the applicants and NRDC and Sierra Club. Applicants presented a proposed procedure and schedule for direct Commission consideration of the exemption request. That procedure included an opportunity for comments by the public, responses to comments, and an oral presentation to the Commission on the merits of the exemption request. NRDC and the Sierra Club stated their arguments as summarized above, and urged the Commission to consider the so-called threshold issues under a procedure similar to that proposed by the applicants. They agreed that the applicants' proposed schedule not only was reasonable but could be compressed by several weeks, assuming that no formal adjudicatory hearings were to be held.

Procedures to be Followed

Following the oral presentations, the Commission met in public to decide how to proceed with consideration of the exemption request. The Commission believes, and applicants and NRDC and Sierra Club agree, that neither the Atomic Energy Act nor NEPA dictate the form of proceedings on exemption requests of the type requested here. There is also agreement on all sides that the request presents several major and novel policy and legal issues that are best resolved by the Commission itself as the highest policy-making entity within the agency. The dispute focuses on whether several of the policy and legal issues must be resolved at the outset against the grant of the exemption and, if not, whether resolution of residual factual issues should entail a formal adjudicatory hearing.

We decline to reach the merits of any of the policy or legal issues at this time, since further presentations will be required before there has been fair opportunity to present opposing views. We agree with NRDC and the Sierra Club that the exemption request may present issues of fact relating to matters such as the environmental impact of the proposed work and the cost-savings from granting of the exemption. However, we cannot agree that a formal adjudicatory hearing will prove to be the only way for adequate ventilation and resolution of these issues, or that formal adjudicatory hearings are dictated by past Commission practice. It is quite

Although intervenors acknowledge the Commission's discretion on the issue of a need for a hearing on an exemption request, their analysis of Commission decisions on exemption requests leads them to conclude that the Commission's practice has been to consider adjudicatory hearings necessary in every contested case. We believe that this conclusion does not adequately characterize Commission precedent.

Only 12 exemption requests have been considered by the Commission over the years, and in only two cases did the Commission hold a hearing. Although, however, both cases arose under unusual circumstances. In Carolina Power and Light Company (Shearon Harris Nuclear Power Plant, Units 1, 2, 3 and 4), 624 3 (1974) (Shearon Harris I), the Deputy Director for Reactor Projects, Directorate of Licensing had granted the applicant's request for an exemption without notice to the intervenors or an opportunity for a hearing. Upon learning of the grant of the exemption, an intervenor petitioned the Commission for a stay of that exemption. The Commission referred the stay request to the Board having jurisdiction over the construction permit proceeding, and also determined that "under the circumstances of this case" the Board should conduct a hearing on the merits of the exemption request. "Even though the rule as written does not require adversary hearings in connection with applications for these exemptions," Id. at 199, Thus, the Commission's initiation of a discretionary hearing in Shearon Harris I must be viewed as a response to the Director's previous failure to notify interested parties of the grant of an exemption. In Kansas City Gas and Electric Company, Kansas City Power and Light Company (Wolf Creek Generating Station, Unit No. 1), C.L.76-20, 4 NRC 719 (1976) (Wolf Creek II) the Commission granted an exemption request to the Licensing Board was considered without a hearing before it or a Board. Here again, the Commission's decision was based on the particular facts of the proceeding. The exemption request was not contested, and the proposed action was considered not to have any adverse environmental impacts. Id. at 450. In Washington, Public Power Supply System (WPPSS Nuclear Project Nos. 3 and 5), C.L.77-11, 6 NRC 540 (1977) (WPPSS) the Commission denied an exemption request without a hearing. In WPPSS, the Commission stated that it would not assume the function of an existing Board and scrutinize factual issues itself absent an opportunity to present opposing views. In either case, the Commission over the years, and in only two cases did the Commission hold a hearing. Though, however, both cases arose under unusual circumstances. In Carolina Power and Light Company (Shearon Harris Nuclear Power Plant, Units 1, 2, 3 and 4), C.L.77-10, 4 NRC 449 (1978) (River Bend) the Commission granted an exemption request without a hearing before it or a Board. Here again, the Commission's decision was based on the particular facts of the proceeding. The exemption request was not contested, and the proposed action was not considered not to have any adverse environmental impacts. Id. at 450.

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We decline to reach the merits of any of the policy or legal issues at this time, since further presentations will be required before there has been fair opportunity to present opposing views. We agree with NRDC and the Sierra Club that the exemption request may present issues of fact relating to matters such as the environmental impact of the proposed work and the cost-savings from granting of the exemption. However, we cannot agree that a formal adjudicatory hearing will prove to be the only way for adequate ventilation and resolution of these issues, or that formal adjudicatory hearings are dictated by past Commission practice. It is quite

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likely produce little additional benefit to the process and yet will likely cost a
great deal, both in elapsed time and
resources of the Commission and the
parties.
Accordingly, the Commission is
establishing the following procedures for
consideration of the merits of the
exemption request:
1. The request will be considered in
an informal proceeding involving
written comments and oral
presentations to the Commission itself.
This informal proceeding will be kept
separate from the suspended
construction permit proceedings.
2. The participants to this proceeding
will be the applicants, NRDC and the
Sierra Club, and any other interested
person who has filed written comments
in accordance with the schedule set out
below. The NRC staff will not
participate as a party to this proceeding.
3. Applicants shall, within one week
of the date of this Order, file 4 with the
Commission currently available
documentation supporting the factual
representations in its exemption request.
If this date cannot be met, then
Applicants shall advise when the
materials can be provided.
4. Applicants shall by January 18, 1982
file with the Commission answers to the
questions in Attachment A to this Order.
5. Applicants, NRDC and the Sierra
Club, and any other interested person
may file written comments with the
Commission in support of, or in
opposition to, the exemption request.
The comments may include answers to
the questions in Attachment A. Such
comments shall be filed with the
6. The Commission is requesting
government agencies [including the
Governor and the Attorney General of
the State of Tennessee] to file with the
Commission any comments they may
have on the request by January 18, 1982.
The remaining steps are set forth in the
attached schedule. A separate
statement by Commissioner Bradford is
attached. It is so ordered. 5

For the Commission.
Dated at Washington, D.C., this 24th day of
December 1981.
Samuel J. Chilk,
Secretary of the Commission.

Views of Commissioner Bradford

Past Commission practice has
invariably been to permit limited
comments of this sort to run as footnotes
in the Commission opinion for the
cvenience of the reader. The
Commission majority has decided, in the
Climax River proceeding, to
eclude uncongenial thought from its
order. With apologies to any who must
now find their mental and physical way
back into that document, I have the
following two comments:
(1) Page 8, Footnote 2 (to be read as a
last paragraph to that footnote):
"Commissioner Bradford notes that this
labored history amounts to exactly the
situation described in the first paragraph
as an erroneous intervenor view: The
NRC has never granted a contested
50.12 exemption without an adjudicatory
hearing." (2) Pages 8-9, (to be read as a
footnote to the sentence reading, "It is
not at all clear that few factual issues
will be presented here"); Commissioner
Bradford notes that an increase in
factual issues does not decrease the
need for an adjudicatory hearing.
Indeed, the discussion preceding this
sentence sails breathtakingly counter to
decades of administrative law, to say
nothing of centuries of development of
adjudicatory procedures as the best
available method for resolving contested
issues of material fact. He would keep
open the possibility of adjudicatory
hearings until the Commission has a
clearer appreciation of the possible role
of contested factual issues in
determining the outcome of the
proceeding.

Attachment A

1. Is there any indication in acts
providing for CRBRP authorizations or
appropriations or other applicable
statutes that NRC licensing of the
CRBRP could, or could not, include use
of 10 CFR 50.12 as proposed by the
applicants?
2. Is there any indication in the acts
providing for CRBRP authorizations or
appropriations, associated committee or
conference reports, or legislative history
that speaks to the licensing procedures
to be used by the NRC?
3. Under what conditions would grant
of an exemption be authorized by law?
Would grant of an exemption endanger
life or property or the common defense
and security? Would grant of this
exemption be in the public interest? If
not, why not? With regard to the public
interest criteria in 10 CFR 50.12(a) and
(b)(4), what interpretation and weight
should be given to Presidential and
Congressional statements pertaining to
the timing of construction of the CRBRP?
4. Is the available documentation
adequate for the Commission to base its
decision on the exemption request to
authorize site preparation activities?
The documentation includes the
applicant's Preliminary Safety Analysis
Report (PSAR), Environmental Report
(ER), Schedule for and Description of
Site Preparation Activities to be
conducted pursuant to 10 CFR 50.10(e)(1)
(received April 11, 1975), and Site
Preparation Activities Report (SPAR)
(November 30, 1981) as well as the
staff's Site Suitability Report (SSR) and
Final Environmental Statement (FES). 6
5. Identify areas, if any, in various
licensing documents (PSAR, ER, FES,
SSR, etc.) that need to be updated,
which would have a bearing on this
exemption decision.
6. What, if any, further exemptions
from regulatory requirements does the
applicant plan to request if this 10 CFR
50.12 request is granted? If this
exemption is granted, does the applicant
plan also to request a Limited Work
Authorization?
7. Provide the updated overall CRBRP
schedule, including (a) current estimate of
when applicant expects to request
resumption of ASLB proceeding, (b) key
milestones of constructing and licensing
the plant, (showing DOE assumptions
regarding dates for NRC licensing
action) and (c) current expected date of
operation. The schedule should indicate
points at which a negative NRC action
could adversely affect the overall
CRBRP schedule.
8. Identify and discuss any changes in
the project scope from the scope
originally evaluated (staff FES Chapter
4—Environmental Impacts due to
Construction) that may have contributed
to the changes in proposed site
preparation activities (page 3-1 of the
Site Preparation Activities Report,
November 1981), particularly the
substantial increase in the amount of
calvation.
9. (a) Provide the documentation
which forms the basis for projected cost
of delay and environmental impact
estimates referred to in the Site
Preparation Activities Report and
Secretary Edwards' letter (b) Demonstrate the validity of the cost
estimate.
10. Provide the documented basis,
criteria and the project scope to support
the cost estimates for redressing the site
should the project be terminated.
11. At the December 10th meeting, Mr.
Silverstrom stated that if the
Commission does not approve the
request, then the project will be dead in
the water in March.
(a) Please explain, including showing what
activities will be completed by

4 All dates in this schedule are dates by which the
Commission must receive filings or other
documents.
5 Commissioner Gilinsky did not participate in
this Memorandum and Order.
6 Such documentation will also include the DOE
documentations supplied in response to this Order
See, e.g., Order supra at 10.
March and what activities will be ready for the first time in March that were not previously ready.

(b) Why is March, 1982 to commence the site preparation activities so crucial to the whole project? Identify any special reasons (either of a technical or an economical nature) why this date is selected.

Attachment B

SCHEDULE

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<tr>
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<tr>
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<td>on the 50.12 request and providing specific questions to be answered.</td>
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<tr>
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<td>2. Due date for comments and answers to January 18. Questions.</td>
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<td>3. Due date for responses to comments and January 26. Answers.</td>
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<td>4. Commission staff report ... February 8.</td>
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<td>5. Notice of opportunity for oral presentation February 12. by applicants and commenters.</td>
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<td>6. Oral presentation ... February 15.</td>
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<td>7. Commission decision ... March 1.</td>
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<td>8. Commission Order announcing decision ... March 6.</td>
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</table>

1 An additional three weeks may be required from this point on if an additional set of questions are asked. There will be a two week period for responses to any additional questions to be followed by a one week period for replies to the responses.

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public-use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C., chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

- The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);
- The office of the agency issuing this form;
- The title of the form;
- The agency form number, if applicable;
- How often the form must be filled out;
- Who will be required or asked to report;
- The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected;
- Whether small businesses or organizations are affected;
- A description of the Federal budget functional category that covers the information collection;
- An estimate of the number of responses;
- An estimate of the total number of hours needed to fill out the form;
- An estimate of the cost to the Federal Government;
- An estimate of the cost to the public;
- The number of forms in the request for approval;
- An indication of whether section 3504(h) of Pub. L. 99-511 applies;
- The name and telephone number of the person or office responsible for OMB review; and
- An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been checked to make the publication of this notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 720 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

(Agency Clearance Officer—Edward Michals—202-377-3827)

New

- Bureau of the Census
  - Broadwoven Fabrics (Gray) Average Weight and Width Study
  - MC-22T supp
- Other—See SF83
- Businesses or other institutions
- Producers of gray broadwoven fabrics
  - SIC: 211, 222, 223
- Small businesses or organizations
- Other advancement and regulation of commerce: 390 responses; 1,170 hours; $25,000 Federal cost; 1 form; not applicable under 3504(h)
- Statistical policy branch, 202-395-7313

These data, which are collected and published every 5 years as part of the Census of Manufactures, provide conversion factors used by industry and Government analysts to monitor the continuing changes in the weight and width of fabric. These factors provide a means of comparing yardage output to pounds of fiber consumed.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703-697-1195

New

- Department of the Air Force
  - Visitor Registratory for Controlled/Restricted Areas
  - 1109
    - On occasion
    - Individuals or households
    - Individuals, contractors
  - Department of Defense—military:
    - 120,000 responses; 6,000 hours; $105,000 Federal cost; $105,000 public cost; 1 form; not applicable under 3504(h)
    - Edward C. Springer, 202-395-4814

The visitor registratory system supports the installation commanders in their protection of controlled/restricted
Federal Register / Vol. 46, No. 251 / Thursday, December 31, 1981 / Notices 63415

areas under the Internal Security Act of 1950.

• Department of the Air Force Contractor's Request for ADPS Output AFSC 13
  On occasion

Businesses or other institutions
Air Force contractors—defense
manufactures
SIC: Multiple
Small businesses or organizations
Department of Defense—military: 40
responses; 20 hours; $1,000 Federal
cost; $340 public cost; 1 form; not
applicable under 3504(h)

It is DOD and Air Force policy to provide contractors and defense manufacturers having a valid need for raw data tapes from certain Air Force data systems as established in APR 65–110 and AFM 66–1 and 490–1 subject to such considerations as security, proprietary agreements and fair-competition. AFSC/AFLC Regulation 178–6 sets forth procedures using AFLC/ AFSC Form 13 as the contractor’s request for such raw data tapes.

• Department of the Air Force Minor Motor Vehicle Accident Report 640
  On occasion

Individuals or households
Individuals involved in minor private
vehicle accidents
Department of Defense—military: 500
responses; 150 hours; $2,625 Federal
cost; $2,625 public cost; 1 form; not
applicable under 3504(h)

AF Form 840 is used to exchange
information between vehicle drivers
involved in an accident.

• Department of the Air Force
  Air Force Crime Prevention Program
  Field Interview 1669
  On occasion

Individuals or households
Suspicious persons
Department of Defense—military: 50,040
responses; 2,502 hours; $43,755 Federal
cost; $43,755 public cost; 1 form; not
applicable under 3504(h)

AF Form 841 is used to exchange
information between vehicle drivers
involved in an accident.

• Department of the Air Force
  Base Entry Authorization MAC 7, 127
  Nonrecurring

Individuals or households/businesses or
other institutions
Individuals, businesses, contractors
SIC: Multiple
Small businesses or organizations
Department of Defense—military: 18,000
responses; 2,988 hours; $630,000 Federal
cost; $340 public cost; 2 forms; not
applicable under 3504(h)

AF Form 840 supports grant entry to
AF employees and contractors to
controlled and restricted areas. AF
Form 2586 documents the individual's
authority and need to enter security
areas.

• Department of the Air Force
  Accident Information Exchange
  841
  On occasion

Individuals or households
Individuals involved in private vehicle
accident
Department of Defense—military: 203
responses; 34 hours; $560 Federal cost;
$595 public cost; 1 form; not
applicable under 3504(h)

AF Form 841 is used to exchange
information between vehicle drivers
involved in an accident.

• Department of the Air Force
  Temporary Vehicle/Visitor Installation
  Pass 75
  On occasion

Individuals or households
Individuals, contractors visiting AF
installations
Department of Defense—military:
100,000 responses; 5,000 hours;
$175,000 Federal cost; $87,500 public
cost; 1 form; not applicable under 3504
(h)

AF Form 75 supports base entry
requirements of AFR 125–37 and is used
to control personnel and vehicle access
to Air Force installations on a
temporary basis.

• Department of the Air Force
  Study of Air Force Family Life
  On occasion; other—See SF83

Individuals or households
Spouses and dependent adolescent
children of Air Force mbrs
Department of Defense—military: 11,380
responses; 5,000 hours; $106,778
Federal cost; $99,575 public cost; 1
form; not applicable under 3504(h)

A study of Air Force family life to
assess Air Force family needs, goals,
aspirations and attitudes. Study will
provide information in support of Air
Force family programs and specifically
base-level family support centers
(FSCS). This survey will provide the
basis of a needs assessment for FSC
programming and is an integral part of
the long-term FSC evaluation. State date
is September 1981.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Agency Clearance Office—Joseph
Strnad—202–245–7488

New

• Food and Drug Administration
  State Agency Opinion Survey
  Nonrecurring
  State or local governments
  State food and drug agencies
  SIC: 843
  Consumer and occupational health and
  safety: 300 responses; 300 hours;
The information to be obtained by this survey is needed to obtain State opinions on the Federal-State programs currently being administered by FDA. The responses will be used to assess existing programs and needs for future planning of more effective Federal-State cooperation.

- Department Management
  National Long-Term Care
  Demonstration Client Tracking Form, Contact Long and Employee Time Sheet
  OS-29-81
  On occasion; monthly; other—See SF 83
  State or local governments
  Staff of local health and social services agencies
  SIC: 832
  Public assistance and other income supplements: 60,800 responses; 1,401 hours; $10,507,086 Federal cost; 3 forms; not applicable under 3504(h)
  Gwendolyn Pla, 202-395-6880
  These forms are to be used for the national demonstration's client tracking and client management systems. These forms will be used as a management tool by the sites, and will be used by the evaluation contractor to monitor and track client status over time.

- Health Care Financing Administration Contractors’ Information Collection–Post Processing of Claims Data
  HCFA-9024
  On occasion
  Individuals or households/businesses or other institutions
  Providers, physicians, suppliers in medicare program
  SIC: 801, 804, 806, 808, 881
  Health: 2,100,000 responses; 700,000 hours; $9 Federal cost; $7,000,000 public cost; 1 form; not applicable under 3504(h)
  Richard Elsinger, 202-395-6880
  These intermediary and carrier forms gather data on claims which have been processed. Subject areas include review of medical records, PSRO/UR determinations, outstanding checks and deceased beneficiaries.

Extensions (Burden Change):

- Centers for Disease Control
  Second National Occupational Hazard Survey
  NIOSH (C) TF 2.82
  Nonrecurring
  Businesses or other institutions
  Small businesses or organizations
  Health: 1,665 responses; 6,600 hours;
  $1,500,000 Federal cost; $88,600 public cost; 5 forms; not applicable under 3504(h)
  Gwendolyn Pla, 202-395-6880
  The data from this study will be used to: (a) set priorities for research and enforcement activities, particularly in the development of health standards, (b) suggest industries or occupations where groups of exposed workers are likely to be found, (c) identify industry groups most likely to be affected when previously unknown health hazards associated with a particular substance are discovered.

Extensions (No Change):

- Social Security Administration
  Quarterly Report of Child Support Collections
  OCSE-34
  Quarterly
  State or local governments
  State agen. administering the child support enforcement, etc.
  SIC: 944
  Other income security: 216 responses; 216 hours; $1,608 Federal cost; 1 form; not applicable under 3504(h)
  Robert Neal, 202-395-6880
  This form provides quarterly totals of child support collections made under the child support enforcement program. These data are used to compute the cost effectiveness of the program and are reported to the Office of Family Assistance to decrease the quarterly grant award for the Aid to Families With Dependent Children Program.

- Social Security Administration
  Financial Status Report
  OCSE-41
  Quarterly
  State or local governments
  State agen. administering the child support enforcement, etc.
  SIC: 944
  Other income security: 216 responses; 216 hours; $1,608 Federal cost; 1 form; not applicable under 3504(h)
  Robert Neal, 202-395-6880
  This form provides quarterly information concerning the States' expenditures for the operation of the child support enforcement program under Title IV-D of the Social Security Act. The data are used to compute the portion of the funding to be provided by the Federal Government.

- Social Security Administration
  Quarterly Application for Grant Award
  OCSE-65
  Quarterly
  State or local governments
  State agen. administering the child supp enforcement program.
  SIC: 944
  Other income security: 216 responses; 180 hours; $1,608 Federal cost; 1 form; not applicable under 3504(h)
  Robert Neal, 202-395-6880
  This form constitutes a request for an advance of Federal funds for the upcoming fiscal quarter for the administration of the child support enforcement program. This also provides the required State certification that the State and local share of the funding is available.

DEPARTMENT OF LABOR
Agency Clearance Officer—Paul E. Larson—202-523-6331

New:
- Mine Safety and Health Administration
  Certification of electrical experience
  5000-32
  Other—See SF 83
  Businesses or other institutions
  Mine operators and personnel
  SIC: Multiple
  Small business or organizations
  Consumer and occupational health and safety: 5,000 responses; 1,250 hours; $31,200 Federal cost; 1 form; not applicable under 3504(h)
  Laverne V. Collins, 202-395-6880
  Title 30 CFR, sections 75.153 and 77.103 provide for the qualification of certain experienced individuals as mine electricians. Form 5000-32 records and reports this information.
- Mine Safety and Health Administration
  Filing of record of mine closure
  205
  Other—See SF 83
Businesses or other institutions
Underground coal mines
SIC: 111 121
Small business or organizations
Consumer and occupational health and safety: 540 responses; 1,080 hours; $24,300 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880
Within 60 days of the permanent closure or abandonment of a mine the operator must notify the Secretary of such closure. Authority established by P.L. 85–164.

- Mine Safety and Health Administration
Fire control and abandonment plans for refuse piles
215
Annually
Businesses or other institutions
Active coal mines
SIC: 111 121
Small businesses or organizations
Consumer and occupational health and safety: 50 responses; 120 hours; $75 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880
Requires operators to submit fire control and abandonment plans for refuse piles. The information is used to monitor safety, stability and pollution standards. Authority established by P.L. 95–164.

- Mine Safety and Health Administration
Test and examination of underground working environment
204 222R 227R 223R 228R 226R
On occasion
Businesses or other institutions
Active underground coal mines
SIC: 111 121
Small business or organizations
Consumer and occupational health and safety: $77,971 responses; 1,068,208 hours; $9,620 Federal cost; 6 forms; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880
All coal mine operators are to adopt and get approved a verification system and methane dust control plan. The information is used to monitor compliance. Authority is established by P.L. 95–164.

- Employment and Training Administration
State transmittal for application for alien employment
Certification
ETA-7147
On occasion
State or local governments
Local and State employment service offices
SIC: 944
Training and Employment: 45,003 responses; 517,500 hours; $5,690,000 Federal cost; 8 forms, not applicable under 3504(h)
Laverne V. Collins, 202–395–6880
The information on the ETA 7–147 is a description of the recruitment efforts of the employer who has submitted an application for labor certification (ETA 750) and of the Employment Service processing of the application. The ETA 7–147 is the method of transmitting the application and supporting documentation to the regional certifying officer for a determination.

Revisions
- Mine Safety and Health Administration
Training plan regulations
MSHA–500
Nonrecurring
Businesses or other institutions
Mine operators and personnel
SIC: Multiple
Small businesses or organizations
Consumer and occupational health and safety: 3,000 responses; 25,000 hours; $150,000 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880
Section 115(A) of the Federal Mine Safety and Health Act of 1977 states that “Each operator of a coal or other mine shall have a health and safety program which shall be approved by the Secretary.” Upon approval, these plans will be returned to the mine operator for the instruction of miners of new, newly employed, annual refresher, new task and hazard training.

- Occupational Safety and Health Administration
4-dimethylaminoazobenzene 29 CFR 1910.1015(G)(2)
OSH–223
On occasion, annually
Businesses or other institutions
Establishment where 4-dimethylaminoazobenzene is made
SIC: 261 268 269
Small businesses or organizations
Consumer and occupational health and safety: 20,000 responses; 10,000 hours; $500 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880
This regulation requires employers to maintain complete and accurate records of employee medical examinations conducted in connection with the standard and to forward them to the Director of NIOSH upon termination of the employee’s employment or in the event the employer ceases business without a successor. Such recordkeeping is useful to the employer, employee, physician and the Government in determining whether an employee’s exposure to this substance has effect upon his/her health.

DEPARTMENT OF TRANSPORTATION
Agency Clearance Officer—John Windsor—202–426–1887

New
- Federal Railroad Administration
Telephonic Report of Accidents/Incidents on occasion
Businesses or other institutions
Common carriers by rail engaged in interstate commerce
SIC: 401
Ground transportation: 1,530 responses; 255 hours; $4,517 Federal cost; 1 form; not applicable under 3504(b)
Donald Arbuckle, 202–395–7340
49 CFR 225.9, promulgated under U.S.C. 1654, requires notifying FRA by telephone of any accident involving death or injury of five or more persons so FRA may investigate promptly.

- Federal Railroad Administration
Movement for Repairs
On occasion
Businesses or other institutions
Common carriers by rail engaged in interstate commerce
SIC: 401 all
Ground transportation: 280,320 responses; 4,672 hours; $9 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340
49 CFR 229.3 promulgated under 45 U.S.C. 22–34 of the Locomotive Inspection Act to require railroads to inspect defective equipment and notify crews operating such equipment that it is safe to move it to a place where proper repair could be made.

- Urban Mass Transportation Administration
Section 10(b)(2) Elderly and Handicapped Financial Reporting
Semiannually
State or local governments
State mass transportation agencies
SIC: 411
Ground transportation: 100 responses; 200 hours; $1,000 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340
Financial Reporting is required by OMB circular 1–102 and UMTA Circular 5000.1A. Regional offices review it.

- Urban Mass Transportation Administration
Statement of Revenues and Expenses
Annually
SIC: 411
State or local governments/businesses or other institutions
Public and private mass transportation operators
SIC: 411
Ground transportation: 500 responses; 1,000 hours; $6,250 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

This information is submitted as part of an application for operating assistance, pursuant to requirements contained in section 5(e) and (f) of the UMTA Act.

* Urban Mass Transportation Administration
  Section 5 Urban Formula Financial Reporting
  Quarterly
  State or local governments/businesses or other institutions
  Public mass transportation agencies
  SIC: 411
  Ground transportation: 1,000 responses; 2,000 hours; $10,000 Federal cost; 1 form; not applicable under 3504(h)
  Wayne Leiss, 202-395-7340
  Financial reporting is required by OMB circ. A–102 and UMTA C 5000.1A. Regional offices review it.

• Urban Mass Transportation Administration
  Section 5 Urban Formula Financial Reporting
  Quarterly
  State or local governments/businesses or other institutions
  Public mass transportation agencies
  SIC: 411
  Ground transportation: 1,400 responses; 2,800 hours; $14,000 Federal cost; 1 form; not applicable under 3504(h)
  Wayne Leiss, 202-395-7340
  Financial reporting is required by OMB circ. A–102 and UMTA C 5000.1A. Regional offices review it.

• Urban Mass Transportation Administration
  Use of Project Facilities
  On occasion
  State or local governments
  Mass transit agencies
  SIC: 411
  Ground transportation: 750 responses; 63 hours; $625 Federal cost; 1 form; not applicable under 3504(h)
  Wayne Leiss 202-395-7340
  Sections 3(a)(3)(a) and 5(g)(2) of the UMTA Act require that UMTA applicants have satisfactory continuing control over the use of project facilities and equipment.

• Research and Special Programs Administration
  Welder Performance and Welding Procedures Records for Portable Tanks
  Annually
  Businesses or other institutions
  Manufacturers of portable tanks
  SIC: 371
  Other transportation: 250 responses; 1,500 hours; $50 Federal cost; 1 form; not applicable under 3504(h)
  Donald Arbuckle, 202-395-7340
  To verify that welder performance and welding procedures meet the standards set forth in the specifications for portable tanks.

• Urban Mass Transportation Administration
  Progress Reports
  Quarterly
  State or local governments/businesses or other institutions
  Public and private mass transportation agencies
  SIC: 411
  Ground transportation: 3,000 responses; 120,000 hours; $200,000 Federal cost; 2 forms; not applicable under 3504(h)
  Wayne Leiss, 202-395-7340
  Progress reports are submitted by OMB circ. A–102 and A–110 and UMTA circ. 5010.1. Reports are submitted quarterly by UMTA regional offices and describe current and proposed project activities.

DEPARTMENT OF THE TREASURY
Agency Clearance Officer—Ms. Joy Tucker—202-634-5394

Revisions

• Bureau of Alcohol, Tobacco and Firearms
  Liquor Bottle Manufacturers—record of Manufacture and Disposition
  ATF Rec 5540/2
  On occasion
  Businesses or other institutions
  Manufacturers of liquor bottles
  SIC: 322
  Small businesses or organizations
  Federal law enforcement activities: 362 responses; 191 hours; $100 Federal cost; 1 form; not applicable under 3504(h)
  Fay S. Iudicello, 202-395-3090
  Certify that revenue is not placed in jeopardy and protection thereof.

ENVIRONMENTAL PROTECTION AGENCY
(Agency Clearance Officer—Christine Scoby—202-382-2742)

Revisions

• Operation Record for Hazardous Waste Management Facilities
  On occasion
  Other—See SF83
  Businesses or other institutions/State or local governments
  Hazardous waste treatment, storage or disposal facilities
  SIC: Multiple
  Small businesses or organizations
  Pollution control and abatement: 3,327 responses; 241,355 hours; $9 Federal cost; 15 forms; not applicable under 3504(h)
  Edward H. Clarke, 202-395-7340
  Maintain operating record at the treatment storage or disposal facility which should include description of the waste management, type of waste, emergencies, inspections, and closure and post-closure estimates. The information will be used to ensure the safe operation of the facility.

FEDERAL COMMUNICATIONS COMMISSION
(Agency Clearance Officer—Richard D. Goodfriend—202-455-7313)

Extensions (Burden Change)

• Employment Inquiry
  65
  On occasion
  Individuals or households
  Persons given as reference on SF–171 of prospective, etc.
  Other advancement and regulation of commerce: 300 responses; 75 hours; $1,000 Federal cost; 1 form; not applicable under 3504(h)
  William T. Adams, 202-395-4814
  FCC Form 65 is used by the Personnel Division to gather data regarding prospective employees from present/former supervisors, co-workers or references. Data is necessary to determine candidates' qualifications and suitability for employment. This Is
publishes a list of the agency forms
hours needed to fill out the form,
functional category that covers the
organizations are affected,
respondent groups that are affected,
report,
applicable,
form,
whom a copy of the form and supporting-
following information:
\[\text{OMB No. 311001}\]
\[\text{Agency Forms Under Review}\]
\[\text{Background}\]
When executive departments and
agencies propose public use forms,
reporting or recordkeeping
requirements, the Office of Management
and Budget (OMB) reviews and acts on
those requirements under the Paperwork
Reduction Act (44 U.S.C. Chapter 35).
Departments and agencies use a number
of techniques including public hearings
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OMB approval. OMB in carrying out its
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considers comments on the forms and
recordkeeping requirements that will
affect the public.
List of Forms under Review
Every Monday and Thursday OMB
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was published. The list has all the
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grouped into new forms, revisions,
extensions (burden change), extensions
(no change), or reinstatements. The
agency clearance officer can tell you the
nature of any particular revision you are
interested in. Each entry contains the
following information:
The name and telephone number of
the agency clearance officer (from
whom a copy of the form and supporting
documents is available),
The office of the agency issuing this
form,
The title of the form,
The agency form number, if
applicable,
How often the form must be filled out,
Who will be required or asked to
report,
The standard industrial classification
(SIC) codes, referring to specific
respondent groups that are affected,
Whether small businesses or
organizations are affected,
A description of the Federal budget
functional category that covers the
information collection,
An estimate of the number of
responses,
An estimate of the total number of
hours needed to fill out the form,
An estimate of the cost to the Federal
Government,
An estimate of the cost to the public,
The number of forms in the request for
approval,
An indication of whether section
3504(h) of Pub. L. 98-511 applies,
The name and telephone number of the
person or office responsible for OMB
review, and
An abstract describing the need for
and uses of the information collection.
Reporting or recordkeeping
requirements that appear to raise no
significant issues are approved
promptly. Our usual practice is not to
take any action on proposed reporting
requirements until at least ten working
days after notice in the Federal Register,
but occasionally the public interest
requires more rapid action.
Comments and Questions
Copies of the proposed forms and
supporting documents may be obtained
from the agency clearance officer whose
name and telephone number appear
under the agency name. The agency
clearance officer will send you a copy of
the proposed form, the request for
clearance (SF83), supporting statement,
instructions, transmittal letters, and
other documents that are submitted to
OMB for review. If you experience
difficulty in obtaining the information
you need in reasonable time, please
advise the OMB reviewer to whom the
report is assigned. Comments and
questions about the items on this list
should be directed to the OMB reviewer
of office listed at the end of each entry.
If you anticipate commenting on a
form but find that time to prepare will
prevent you from submitting comments
promptly, you should advise the
reviewer of your intent as early as
possible.
The timing and format of this notice
have been changed to make the
publication of the notice predictable and
to give a clearer explanation of this
process to the public. If you have
comments and suggestions for further
improvements to this notice, please send
them to Jim J. Tozzi, Deputy
Administrator, Office of Information and
Regulatory Affairs, Office of
Management and Budget, 726 Jackson
Place, Northwest, Washington, D.C.
20503.

DEPARTMENT OF ENERGY
Agency Clearance Officer—John
Gross—202-633-9770
New
• Economic Regulatory Administration
Record retention and reporting
requirements pursuant to general
allocation and price rules
ERA-768R
Other—see SF83
Businesses or other institutions
Firms subject to recordkeeping/
reporting requirements
SIC: Multiple
Small businesses or organizations
Energy information, policy, and
regulation, 7,000 responses; 7,000
hours; 20 forms; not applicable under
3504(h)
Jefferson B. Hill, 202-395-7340
To maintain records sufficient to
demonstrate compliance with general
allocation and price rules.
• Economic Regulatory Administration
Standby crude oil allocation and
refining yield control program
ERA-768R
On occasion, monthly
Businesses or other institutions
Petroleum refiners
SIC: 231
Small businesses or organizations
Energy information, policy, and
regulation, 700 responses; 700 hours; 3
forms; not applicable under 3504(h)
Jefferson B. Hill, 202-395-7340
Standby authority for recordkeeping/
reporting requirements
• Departmental and Others
Federal loan guarantee for alternative
fuel demonstration facilities
FE-769R
Other—see SF83
Businesses or other institutions
Lenders and borrowers participating in
Federal loan guarantees
SIC: Multiple
Small businesses or organizations
Energy information, policy, and
regulation, 1,500 responses; 1,500
hours; 1 form; not applicable under
3504(h)
Jefferson B. Hill, 202-395-7340
To maintain records for audit and
performance of evaluation of essential
community development.
• Conservation and Solar Energy
Reporting requirements for energy
conservation
CE-780
On occasion
State or local governments/businesses
or other institutions
Participants in energy conservation
programs
SIC: Multiple
Energy information, policy, and
regulation, 208 responses; 208 hours; 4
forms; not applicable under 3504(h)
Jefferson B. Hill, 202-395-7340
Reporting/recordkeeping requirements
for various energy conservation
programs.
• Departmental and Others
Transmission of electric energy at an international boundary
EP-781
Annually
Businesses or other institutions
Electric utilities
SIC: 491
Small businesses or organizations
Energy information, policy, and regulation, 50 responses; 50 hours; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202-395-7340

Persons authorized to export electric energy or to construct, connect, operate or maintain facilities for the transmission of electric energy at an international boundary must report to DOE the gross amount of energy delivered, costs and revenues and other matters.

- Economic Regulatory Administration
  Regulatory reporting and recordkeeping requirements pursuant to 1 CFR 500, 501, 503, 504 and 515

ERA-329R
On occasion
Businesses or other institutions
Powerplants and major fuel burning installations
SIC: Multiple
Small businesses or organizations
Energy information, policy, and regulation, 1,500 responses; 4,500 hours; 5 forms; not applicable under 3504(h)
Jefferson B. Hill, 202-395-7340

Data are used to monitor compliance with provisions of the powerplant and Industrial Fuels Use Act (Pub. L. 45-621).

- Departmental and Others
  Patent/invention reporting/recordkeeping requirements
GC-768R
On occasion
Businesses or other institutions
Patent license recipients
SIC: Multiple
Small businesses or organizations
Energy information, policy, and regulation, 2,000 responses; 2,000 hours; 10 forms; not applicable under 3504(h)
Jefferson B. Hill, 202-395-7340

These data are collected in order to monitor compliance with DOE's patent regulations.

DEPARTMENT OF TRANSPORTATION
Agency Clearance Officer—John Windsor—202-428-1887

New
- Urban Mass Transportation Administration
Description of the public transportation system and urbanized area
On occasion
State or local governments
Mass transportation agencies
SIC: 411
Ground transportation, 300 responses; 300 hours; $7,500 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

Each recipient of UMTA assistance must have a "Description of the Transit System and Urbanized Area" on file with UMTA's regional office. This document must be incorporated by reference in each grant application and updated as needed.

- Urban Mass Transportation Administration
  Evaluation of flood hazards
On occasion
State or local governments
Mass transportation agencies
SIC: 411
Ground transportation, 75 responses; 5,000 hours; $25,000 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

For projects involving construction on a 100-year flood plain, applicants are required to furnish an engineering report containing an analysis of the flood hazards, methods to protect against them, and the basis for concluding that the construction as designed will not be hazardous.

FEDERAL MARITIME COMMISSION
Agency Clearance Officer—Ronald D. Murphy—202-523-5326

Extensions (burden change)
- Self-policing requirements for section 15 agreements
46 CFR 528
Semiannually
Businesses or other institutions
Steamship conferences in U.S. foreign and dom. offshore comm.
SIC: 441 442

Water transportation, 96 responses; 1,620 hours; $5,000 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

The Commission has a statutory responsibility to disapprove any agreement after notice and hearing, if it finds inadequate policing of the obligations under the agreement. The information provided under general order 7 allows the Commission to effectively evaluate the adequacy of the policing system employed by the parties to an agreement.

NATIONAL SCIENCE FOUNDATION
Agency Clearance Officer—Herman Fleming—202-357-7611

Extensions (burden change)
- Industrial panel on science and technology
On occasion
Businesses or other institutions
Science and technology-oriented companies
SIC: Multiple
Small businesses or organizations
General science and basic research, 700 responses; 700 hours; $3,000 Federal cost; form; $3,000 public cost; not applicable under 3504(h)
Anita T. Ducca, 202-395-7340

Science and technology information is collected from firms on the panel, frequently in response to requests from agencies such as the Office of Management and Budget and the Office of Science and Technology Policy. The data collected have not duplicated any other information, the usually qualitative information of the panel supplements the statistical data acquired elsewhere by the foundation. Information collection will begin in January and continue through December 1983.

NUCLEAR REGULATORY COMMISSION
Agency Clearance Officer—Stephen Scott—301-492-6585

New
- NRC 313T
Annually
Businesses or other institutions
NRC licensees
SIC: 483
Energy information, policy, and regulation, 160 responses; 830 hours; $73,130 Federal cost; 1 form; $53,160 public cost; not applicable under 3504(h)
Jefferson B. Hill, 202-395-7340

Section 53.4 of 10 CFR 35 requires that applications for specific licenses to possess and use byproduct material in all medical programs be filed on form NRC 313T.

Nathaniel Scurry,
Chief, Reports Management Branch.
SECURITIES AND EXCHANGE
COMMISSION

[Release No. 23383; 70-6681]

Alabama Power Co., et al; Proposed
Issuance of First Mortgage Bonds for
Sinking Fund

December 24, 1981.

In the matter of Alabama Power
Company, P.O. Box 2841, Birmingham,
Alabama 35231; Gulf Power Company,
P.O. Box 1151, Pensacola, Florida 32520;,
Georgia Power Company, P.O. Box 4545,
Atlanta, Georgia 30302; and Mississippi
Power Company, P.O. Box 4079,
Gulfport, Mississippi 33701.

Alabama Power Company
("Alabama"), Georgia Power Company
("Georgia"), Gulf Power Company
("Gulf") and Mississippi Power
Company ("Mississippi"), public utility
subsidiaries of The Southern Company,
a registered holding company, have filed
an application-declaration with this
Commission pursuant to Sections 6 and
7 of the Public Utility Holding Company
Act of 1935 ("Act") and Rule 50(a)(5)
promulgated thereunder.

Alabama, Georgia, Gulf and
Mississippi propose to issue, by
obtaining the authentication and
delivery by the respective trustees, First
Mortgage Bonds ("Bonds") of the series
set forth below. The Bonds will be
surrendered to the trustees under the
companies' respective indentures to
satisfy, in whole or in part, the sinking
fund (improvement fund) requirements
of the respective companies.

The Bonds will be issued on the basis
of the unfunded net property additions.
Under the indentures the Bonds may be
issued in principal amounts not
exceeding 60% of the amount of
unfunded net property additions. The
approximate amounts of such unfunded
net property additions available for the
issuance of the Bonds are as follows:

<table>
<thead>
<tr>
<th>Name of company</th>
<th>Amount</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>$23,842,000</td>
<td>21%</td>
</tr>
<tr>
<td>Georgia</td>
<td>$28,279,000</td>
<td>24%</td>
</tr>
<tr>
<td>Gulf</td>
<td>$6,658,000</td>
<td>6%</td>
</tr>
<tr>
<td>Mississippi</td>
<td>$2,902,000</td>
<td>1%</td>
</tr>
</tbody>
</table>

The Bonds will be issued in principal
amounts not exceeding 60% of the
unfunded net property additions. The
proceeds from the issuance of the Bonds
will be used to satisfy such requirements
or to purchase bonds to be used for such
purposes, while at the same time
reducing the principal amount of bonds
which they would otherwise issue under
the indenture at a later time by an equal
principal amount. The Bonds will not be
delivered by the respective companies
in such manner as to constitute them
obligations for the payment of money
and, therefore, they will not be included
on the books or in the published
statements as liabilities of the
respective companies.

The companies seek exceptions from
the competitive bidding requirements of
Rule 50 pursuant to subsection (a)(5)
thereof because the Bonds will never be
delivered by the companies in such
manner as to constitute obligations of
such companies for the payment of
money.

The application-declaration and any
amendments thereto are available for
public inspection through the
Commission's Office of Public
Reference. Interested persons wishing to
comment or request a hearing should
submit their views in writing to the
Secretary, Securities and Exchange
Commission, Washington, D.C. 20549,
and serve a copy on the
applicant-declarants at the addresses
specified above. Proof of service (by
affidavit or, in the case of an attorney at
law, by certificate) should be filed with
the request. Any request for a hearing
shall identify specifically the issues of
fact or law that are disputed. A person
who so requests will be notified of any
hearing, if ordered, and will receive a
copy of any notice of or order issued in
this matter. After said date, the
application-declaration, as filed or as it
may be amended, may be granted and
permitted to become effective.

For the Commission, by the Division of
Corporate Regulation, pursuant to delegated
authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-37230 Filed 12-20-81; 8:45 am]
BILLING CODE 8010-01-M

National Securities Clearing
Corporation ("NSCC"); Order
Approving Proposed Rule Change

December 24, 1981.

On September 21, 1981, NSCC filed
with the Commission pursuant to
Section 19(b)(3) of the Securities
(the "Act") and Rule 19b-4 thereunder, a
proposed rule change which provides for
the extension of time for executing buy-
in orders of balance orders on over-the-
counter securities when securities
subject to a buy-in notice are delayed in
transfer.

Notice of the proposed rule change
together with the terms of substance of
the proposed rule change was given by
publication of a Commission Release
18146, October 5, 1981) and by
publication in the Federal Register (46
FR 50182, October 9, 1981). No written
comments were received by the
Commission.

The Commission finds that the
proposed rule change is consistent with
the requirements of the Act and the
rules and regulations therunder
applicable to registered clearing
agencies and in particular, the
requirements of Section 17A of the Act.

It is therefore ordered, pursuant to
Section 19(b)(2) of the Act, that the
proposed rule change be approved.

For the Commission, by the Division of
Market Regulation pursuant to delegated
authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-37230 Filed 12-20-81; 8:45 am]
BILLING CODE 8010-01-M
Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

December 24, 1981.

On November 3, 1981, the Pacific Stock Exchange, Incorporated ("PSE") 618 South Spring Street, Los Angeles, California 90014, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which revises certain of its rules governing the establishment of joint accounts and the trading activity conducted by participants in joint accounts. Among other things, the rule change permits (1) the establishment of a joint account among more than two market makers, (2) restricts market makers to participation in no more than two joint accounts concurrently, (3) forbids any participant in a joint account from trading with the joint account directly or through another member, (4) prohibits the concurrent representation of the same order for a joint account by the participants in a joint account, and (5) for purposes of determining a joint account participant's compliance with position and exercise limits, aggregates positions or exercises in the joint account with all positions and exercises covering the same underlying security which any participant or member organization associated with a participant holds or controls, or is obligated in respect of.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 18254, November 12, 1981) and by publication in the Federal Register (46 FR 55990, November 18, 1981). No comments with respect to the proposed rule change were filed with the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-37731 Filed 12-20-81; 8:45 am]
BILLING CODE 9110-01-M

[Release No. 12120; 812-5002]
Advisors Cash Reserve Fund, Inc.; Filing of Application.

December 24, 1981.

In the matter of Advisors Cash Reserve Fund, Inc. ("Applicant"), a registered open-end, diversified, management investment company, filed an application on October 23, 1981, requesting an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit applicant to value its assets using the amortized cost method of valuation.

All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant's investment objectives are to seek as high a level of current income as is considered consistent with the preservation of capital and liquidity by investing in a variety of money market instruments, including securities issued or guaranteed by the United States Government or any of its agencies or instrumentalities, time accounts, banker's acceptances of large domestic, commercial and savings bank and savings and loan associations, short-term corporate debt including commercial paper and variable amount master demand notes, and repurchase agreements. Applicant states that its assets will be invested primarily in certificates of deposit of United States banks having total assets in excess of $500,000,000, except that it may invest in such certificates of smaller banks provided that such certificates qualify as deposits insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, and in commercial paper, including variable amount master notes, rated "A-1" or "A-2" by Standard & Poor's Corporation or "Prime 1" or "Prime 2" by Moody's Investor Service, Inc.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c-1 provides, in part, that no registered investment company or principal underwriter therefor is allowed to redeem or repurchase any redeemable security at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or on an order to purchase or to sell such security. Rule 2a-4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9/88, May 31, 1977).

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order of the Commission pursuant to section 6(c) of the Act, exempting it from the provisions of section 2(a)(41) and Rules 2a-4 and 22c-1 to the extent necessary to permit it to use the amortized cost method of valuation for all its portfolio...
securities. In support of its request, Applicant submits that many of its potential investors require an investment vehicle that offers a constant net asset value per share and a relatively smooth stream of investment income. Applicant states that use of the amortized cost method of valuation will permit it to provide investment vehicles with those features. In addition, Applicant represents that its board of directors has determined that, absent unusual circumstances, amortized cost will represent the fair value of its portfolio securities. Applicant maintains that the exemptions they request satisfy the exemptive standard set forth in section 6(c) of the Act. In addition, Applicant consents to the imposition of the following conditions to any order granting it the requested relief:

1. In supervising Applicant’s operations and delegating special responsibilities involving portfolio management to Applicant’s Investment adviser; the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant’s investment objectives, to stabilize Applicant’s net asset value per share as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds 1% of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated by it.

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.4

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures [and any modifications thereof] described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors’ considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the board of directors’ meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of “high quality” as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than January 15, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission’s own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority. George A. Fitzsimmons, Secretary.

[Release No. 18371; File Nos. SR-Amex-81-1; SR-CBOE-81-271]


I. Introduction


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1To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of their discretion to be appropriate indicators of value which may include, inter alia, (1) quotations or estimates of market values for like portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

4In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will report this to the Commission, as an amendment to Form N-1Q, in each quarterly report for the quarter following the disposition, to the extent reasonably practicable.

2To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of their discretion to be appropriate indicators of value which may include, inter alia, (1) quotations or estimates of market values for like portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.
changes to modify their rules to accommodate the listing and trading of standardized put and call options contracts on securities issued by the United States Department of the Treasury ("Treasury options").2 The exchange also revised the specific Treasury bond, note and bill options contracts in which they propose to commence options trading.2

Because of the significance of the proposals and the possible impact of Treasury options trading on related markets, public comment has been solicited extensively. To supplement the initial notification of notice of the filing of the individual proposals, the Commission on May 11, 1981, issued a release discussing various aspects of the proposals and inviting commentators to address a number of specific issues.3 In addition, letters were sent to the Commodity Futures Trading Commission ("CFTC"), the Federal Reserve Bank of New York ("FRB-NY"), the Federal Reserve ("FRB"), and the U.S. Department of the Treasury ("Treasury") specifically inviting the views of those agencies.4 In response, the Commission received 14 comment letters on the proposals, including letters from the foregoing governmental agencies,5 as well as from Amex, CBOE and the New York Stock Exchange, Inc. ("NYSE").6 Specific comments are discussed as appropriate in this order.7

II. Economic Basis

In their submissions, the exchanges have asserted that standardized, exchange-traded put and call options on Treasury securities would serve an important economic function. In particular, the exchanges believe that such options could be used by a wide range of individuals and businesses engaged in enterprises that are sensitive to changes in interest rates. Through the use of various options purchasing and writing strategies, such persons can hedge against the risks associated with adverse interest rate movements, and at the same time retain the opportunity to profit from favorable movements.

Treasury options also can be attractive for speculators. For example, option purchasers can profit from favorable movements in interest rates on a leveraged basis, while at the same time limiting their risk exposure to the amount of the premium paid. Of course, since options are wasting assets of limited duration the investor stands potentially to lose his entire investment in a short period of time. Accordingly, notwithstanding the limited risk features of options, the exchanges acknowledge that it is important that the risks of options trading are adequately disclosed to investors and that the sale of options to public customers be rigorously supervised. In this regard, as discussed in part IV, infra, the exchanges have proposed rules to govern the marketing of Treasury options by member organizations, including rules relating to the supervision of sales personnel, risk disclosure and suitability, which are designed to ensure that such trading occurs in a well-regulated order environment.

The exchanges also contend that trading standardized options in an exchange context offers other benefits. They assert that the intermediation of the Options Clearing Corporation ("OCC") virtually eliminates any credit risk which might otherwise be associated with over-the-counter trading in Treasury options. In addition, they indicate that standardization and centralization of trading would contribute to market liquidity and pricing efficiency.8 The FRB-NY and the FRB stated that properly regulated Treasury options markets could be expected to improve the efficiency and liquidity of the cash market for Treasury instruments, as well as serve as a useful adjunct to the trading activities of dealers in

1. Amex's Treasury options proposal initially was filed on March 4, 1981 and amended on July 13, 1981, November 12, 1981 and December 9, 1981. Notice of the initial filing and all but the latter set of amendments thereto was given by Securities Exchange Act Release Nos. 17032 (March 9, 1981), 17044 (July 16, 1981) (November 17, 1981) and by publication in the Federal Register (46 FR 17039 (March 20, 1981), 46 FR 17082 (July 21, 1981) and 46 FR 17785 (September 24, 1981). See File No. SR-Amex-81-1. The latter set of amendments relate to such matters as member firm supervision of accounts, position and exercise limits and reporting requirements. Since public comment on these matters already has been solicited extensively, the Commission believes there is good cause for approval prior to the thirtieth day after publication of notice thereof. See pp. 17--18, infra. CBOE's initial proposal to trade options on Treasury notes and bonds was filed April 17, 1981 and amended on August 8, 1981 and August 12, 1981. Notice of the foregoing amendments to the proposed rule change was given by Securities Exchange Act Release Nos. 17335 (November 21, 1980) and 18039 (August 27, 1981), and by publication in the Federal Register (46 FR 7012 (December 1, 1980) and 46 FR 42290 (August 20, 1981). See File No. SR-CBOE-80-6. The proposal was extended to include Treasury market basket Treasury bond options contracts by a filing submitted on August 21, 1981, on which notice was given by Securities Exchange Act Release Nos. 18090 (September 10, 1981) and 18959 (December 7, 1981), and by publication in the Federal Register (46 FR 47335 (September 25, 1981)). See File No. SR-CBOE-81-18. The proposal was expanded to include Treasury bill options contracts by a filing submitted on November 20, 1981, on which notice was given by Securities Exchange Act Release No. 19293 (November 20, 1981) and by publication in the Federal Register (46 FR 28682 (December 7, 1981)). See File No. SR-CBOE-81-25. The foregoing filings were consolidated in the subject proposed rule change submitted on December 6, 1981, which also includes certain amendments similar to the Amex most recent amendments. See File No. SR-CBOE-81-25. On this basis, the foregoing filings have been withdrawn. Since the latter filing merely consolidates prior filings that were published for public comment, and contains amendments with respect to matters already published for public comment, the Commission believes there is good cause for approval prior to the thirtieth day after publication of notice thereof. See pp. 17--18, infra.

2. The Commission also has addressed the Treasury options proposals in a related context. See Securities Exchange Act Release No. 16297 (December 2, 1981) and 16298 (December 9, 1981), where the Commission announced that it did not intend to limit trading of particular nonequity options to a single market.


4. Letters from Douglas Scarff, Director, Division of Market Regulation, SEC, to Stephen H. Axilrod, Director, and to G. Allen Director, Division of Monetary and Financial Policy, FRB; Peter D. Sternlight, Manager for Domestic Operations, System Open Market Account, FRB-NY; and Roger W. Meale, Assistant Secretary-Domestic Finance, Treasury, dated May 11, 1981.

5. Letters to Douglas Scarff, Director, Division of Market Regulation, SEC, from James A. Culver, Director, Division of Economics and Education, CFTC (August 24, 1981); Peter D. Sternlight, Senior Vice President, FRB-NY (August 6, 1981); Stephen H. Axilrod, Staff Director for Monetary and Financial Policy, FRB (September 18, 1981); and Roger W. Meale, Assistant Secretary (Domestic Finance), Treasury (June 22, 1981).

6. Letters to George A. Fitzsimmons, Secretary, SEC, from James E. Buckley, Secretary, NYSE (July 1, 1981); Nathan Most, Vice President, New Products Development, NYSE (July 9, 1981); and Walter E. Asch, chairman, CBOE (August 18, 1981).

7. The Commission has received five comment letters that raised questions relating to the applicability of the Commodity Exchange Act ("CEA") to the trading of the instruments contemplated by these proposals and to the Commission's jurisdiction over and authority to regulate that trading. See letter to Douglas Scarff, Director, Division of Market Regulation, from James A. Culver, Director, Division of Economics and Education, CFTC (August 24, 1981); and letters to George A. Fitzsimmons, Secretary, SEC, from Robert K. Wilthouse, President, Chicago Board of Trade ("CBOT") (June 30, 1981); Michael M. Frankhouser, Kirkland and Ellis, counsel for CBOE (September 1, 1981 and October 10, 1981); and Clayton Yeutiel, President, Chicago Mercantile Exchange (October 16, 1981).

8. See File No. SR-Board of Trade of the City of Chicago v. Securities and Exchange Commission, No. 81-1659 (7th Cir. 1981). The Commission believes that it has authority to approve proposed rule changes by national securities exchanges providing for the trading of options on government securities and to regulate their trading, and that nothing in the CEA restricts that authority. Moreover, Commission approval of rule changes providing for the trading of national securities exchanges on options on Treasury securities contemplated the issuance of jurisdictional issues related to the Commission and the CFTC, and announced in their joint press release on December 7, 1981.
government securities. The Treasury indicated that it did not believe that options trading on Treasury securities would have an adverse effect on its auction activities.10

III. Contract Design

To accommodate the trading of options on Treasury securities each exchange has submitted general enabling rules which authorize the listing of options on specific Treasury bonds, notes, and bills. In addition, the CBOE has proposed rules which would authorize it to list options on a "market basket" of Treasury bonds. Both Amex and CBOE have indicated, however, that they do not intend, at least initially, to commence options trading on the full range of Treasury instruments.11 Accordingly, both exchanges have set forth in their filings the terms of the specific options contracts in which they will begin trading.12

In designing the proposed options contracts the exchanges have sought to be responsive to the economic needs of the marketplace. For example, to accommodate the interests of both large-scale and smaller investors, the exchanges have proposed two sizes for Treasury options contracts: "standard-sized" contracts representing a principal amount of $100,000 for Treasury bonds and notes and $1 million for Treasury bills, and "mini-contracts" on each instrument with principal amounts that are one-fifth the standard size. The exchanges have proposed to introduce options series at three-month intervals with maturities ranging from one to fifteen months. Options series would expire on various quarterly cycles selected by the exchanges based on a correspondence to the Treasury auction cycle for the particular underlying instrument or the perceived interests of market participants. Initial options series in each expiration month would be introduced at or near the price of the underlying security; contracts with new exercise prices would be added generally in response to substantial price changes.13

With respect to matters of contract design and delivery specifications, so long as the Commission has no regulatory concerns it is not inclined to substitute its judgment for the business judgment of the self-regulatory organizations. Rather, in matters as such as these, the marketplace generally should be permitted to determine whether a particular contract meets the needs of market participants.14

8With respect to proper regulation of the Treasury options markets, the FRB-NY indicated that one objective of such regulation should be to discourage excessive or unbalanced trading or other disruptive activities. Toward this end, the FRB-NY emphasized the need for adequate margin requirements, reasonable mark-to-market position and exercise limits, marketwide surveillance and monitoring of developments by knowledgeable parties. Comment letter of the FRB-NY, at 4. These matters are addressed in parts III and VI infra.

9Comment letter of the Treasury, at 3.

10Amex initially has proposed to trade standard-sized and mini-contracts on 13-week Treasury bills and on 26-week Treasury bills. See Letter to Gene E. Carasick, Assistant Director, from Nathan Most, Vice President, New Products Development, Amex (December 11, 1981). CBOE initially proposes a standard-sized contract and a mini-contract on Treasury bonds. At the present time, CBOE does not contemplate trading a market basket Treasury bond contract. See Letter to Gene E. Carasick, Assistant Director, from Anne E. Rode, General Counsel, CBOE (November 4, 1981).

11The listing of any additional Treasury options classes, or any material change in the contract terms of an existing class, will constitute a proposed rule change under section 19(b)(1) of the Act and must be filed with the Commission for approval. Such rule changes are both material terms of the proposed contract, including identification of the specific Treasury security or securities underlying the contract, the contract size and the expiration cycle.

The Commission, however, does maintain a regulatory interest in certain other terms of the proposed Treasury options contracts. These include the qualification of underlying securities for options trading and the establishment of position and exercise limits. Each exchange proposes that in order to qualify for options listing an underlying issue of Treasury bonds or notes must have an initial public issuance of at least $1 billion.15 Because of the nature of the proposed 13-week and 26-week Treasury bill contracts, the deliverable supply of the underlying instrument depends on the size of the Treasury auctions that correspond to the date of exercise and, therefore, may vary from week to week.16 In the Commission's view, the proposed listing standards appear reasonably designed to ensure the existence of a deliverable supply which is sufficient to avert the possibility of market congestion.17

12For options on Treasury bonds and notes, options series would be introduced on a selected underlying instrument immediately after it is auctioned and the Treasury of Moviel of the instrument for options listing generally would not extend beyond 18 months; options series expiring thereafter would relate to a more recently auctioned Treasury security. For options on Treasury bonds and notes, both Amex and CBOE propose a March/June/September/December cycle. In contrast, the proposed Treasury bill options contract would not be based upon a particular underlying security. Rather, upon exercise of a Treasury bill options contract, delivery could be made with bills having a term to maturity specified by the contract, generally either 13 or 26 weeks. Each exchange has selected a March/June/September/December expiration cycle. See Amex Rules 901, 903, 916, and 917; CBOE Rules 210, 21.7, 21.8, 21.9.

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15Amex Rule 917; CBOE Rule 21.7, Interpretation .01. The amount of the initial public issuance is to be determined not by the principal amount of the issue actually sold, but by the portion of the issue sold other than to U.S. Government accounts and Federal Reserve Banks. The amount of the initial public issuance will be determined from information made publicly available by the U.S. Treasury. Continued approval for options trading would be revoked if an exchange determined that the principal amount of the underlying securities publicly outstanding had declined to less than $750 million. Upon such a determination, additional expiration months could not be opened with respect to the underlying security. Amex Rule 716, Commentary .06; CBOE Rule 21.7, Interpretation .02.

16According to the terms of the 13-week Treasury bill contract proposed by Amex, delivery could be made with 13-week bills issued pursuant to the Treasury auction corresponding to the week of exercise, or with 26-week or 52-week Treasury bills with 13 weeks remaining to maturation. Similar to the Amex proposal, the 26-week Treasury bill contract would permit delivery of newly-issued 26-week bills or previously issued 26-week bills with 26 weeks remaining to maturation. The 13- and 26-week Treasury bill contracts proposed by CBOE would supplement the deliverable supply by also permitting delivery of bills with a maturity of less than the nominal maturity, but would not recognize the higher market value of the shorter maturity instruments. Over the past year, the competitive bids accepted for the combined weekly 13- and 26-week bills auctions has ranged generally between $9 and $10 billion. The deliverable supply made available by the weekly 13- and 26-week bill auctions would be supplemented every fourth week with bills issued pursuant to the 52-week bill auction which over the past year has averaged approximately $4 billion. See Treasury Bulletin, Tables PDO-2 and PDO-3 (October 1981).

17Should congestion nevertheless occur, it should be noted that the Options Clearing Corporation ("OCC") will have authority to substitute delivery. In this regard, the OCC is expected in the near future to submit a proposed rule change relating to the requirements for new Treasury options contracts. The OCC will consider the clearance and settlement of Treasury options transactions and the processing and settlement of Treasury options exercises. This proposed rule
With respect to position and exercise limits, each of the exchanges has proposed rules that will prohibit any market participant from acquiring a position in Treasury bond or note options, or from acquiring securities-through-exception options over a period of five consecutive business days, in excess of 10 percent of the initial public issuance of the underlying security. For 13- and 26-week Treasury bill options each exchange has proposed position and exercise limits which, based on the average amount of the total competitive bids accepted by the Treasury at the weekly bill auctions over the past year, generally would range from 2 to 6 percent of the public issuance. In applying the position and exercise limit rules, all options relating to an underlying security must be taken into consideration irrespective of the exchange on which the position is acquired. Accordingly, options contracts traded on different exchanges with identical or substantially overlapping deliverable supplies must be aggregated. On the basis of the foregoing, the Commission believes that the proposed position and exercise limits generally would be sufficient to protect the options and related markets from disruptions caused either by congestion or manipulation. IV. Sales Practice Regulation

After conducting an extensive review of stock options sales practices during the Options Study, the Commission approved in early 1980 a package of rule changes submitted by several securities exchanges and the National Association of Securities Dealers in response to Options Study recommendations designed to enhance the quality of regulation governing securities firms doing a public options business. To govern the large number of member firms doing a public Treasury options business, Amex and CBOE each have proposed a regulatory structure that generally parallel that adopted for equity options.

In accordance with these rules, each member organization as a pre-condition to engaging in a Treasury options business would be required to develop and implement a written program for the review of customer accounts and orders under the supervision of a Senior Registered Options Principal ("SROP") who is a partner or officer of the member organization. Each organization also would be required to have a Compliance Registered Options Principal ("CROP") who would be responsible for ensuring compliance with the securities laws and applicable exchange rules. Direct supervision of registered representatives would be the responsibility of Registered Options Principals ("ROPs") whose functions would include approval of customer accounts for Treasury options trading and the approval and initialing of all orders for discretionary accounts. The principal supervisor of any member organization branch office with more than three registered representatives engaged in Treasury options trading would have to be an Options ROP.

The proposed rules governing supervision of Treasury options trading will enable member organizations presently engaged in an equity options business to utilize the same supervisory structure for Treasury options, provided that such personnel are Treasury-options qualified. Member organizations that choose to conduct their Treasury options business other than in conjunction with their equity options business would be required to implement a parallel supervisory structure. In order to allow such firms sufficient time to comply with this requirement, the effective date of the supervisory rules is being delayed until six months after the commencement on any exchange of trading in a debt options product other than GNMA options. In the interim, exchange rules will require adherence to the supervisory structure adopted by the CBOE and approved by the Commission with respect to GNMA options trading. In all other respects, the rules governing the marketing of Treasury options to public customers will be effective immediately.

To ensure that member firm personnel are properly qualified, each registered representative engaged in Treasury options trading could engage in a public Treasury options business only so long as the activities of the branch office are appropriately supervised by a ROP. Pursuant to the interim rules, supervision of non-member customer accounts and communications relating to GNMA or Treasury options would be the responsibility of one or more designated options principals who are either partners or officers of the member organization. The specific duties of designated options principals would include approval of customer accounts for GNMA and Treasury options trading, review of discretionary options accounts, and general supervision of member organization personnel engaged in GNMA options trading. Branch offices would not have to be staffed with a Treasury options qualified principal. See footnote to Amex Rule 920; CBOE Rule 21.10A. 27

Amex Rule 920(4) and CBOE Rule 0.6. A branch office with three or fewer registered representatives engaged in Treasury options trading could engage in a public Treasury options business only so long as the activities of the branch office are appropriately supervised by a ROP. 28

To accommodate mini-contracts the position and exercise limits for options on Treasury securities are denominated in terms of the corresponding principal amount of the underlying security. For Treasury bond and note options contracts, the exchanges propose a two-step formula for position and exercise limits: If the initial public issuance of the underlying security does not exceed $2 billion, position and exercise limits would be established at a principal amount of $100 million. If the initial public issuance was $2 billion or more the limits would be established at $200 million. Amex Rule 904 and 905; CBOE Rules 21.3 and 21.4.

Title 13, Section 7 of the OCC rules. It is anticipated that these restrictions also will be made applicable to Treasury options. In its comment letter, at 2, the FRB-NY expressed concern regarding the possibility of congestion caused by a collapse of the proposed expiration dates for the 13-week Treasury bill options contracts with the termination date for the 13-week Treasury bill futures contract traded on the Chicago Mercantile Exchange ("CME") which would result in identical delivery dates. To avoid coinciding settlement dates, the Commission understands that the OCC intends to seek authorization to select dates for the expiration of options contracts that occur other than in the week that the CME's futures contract is scheduled to terminate.

To accommodate mini-contracts the position and exercise limits for options on Treasury securities are denominated in terms of the corresponding principal amount of the underlying security. For Treasury bond and note options contracts, the exchanges propose a two-step formula for position and exercise limits: If the initial public issuance of the underlying security does not exceed $2 billion, position and exercise limits would be established at a principal amount of $100 million. If the initial public issuance was $2 billion or more the limits would be established at $200 million. Amex Rule 904 and 905; CBOE Rules 21.3 and 21.4.

The position and exercise limit rules finally proposed by the exchanges are lower than those originally under consideration and respond to the concerns of several commentators that the initial proposals, particularly as they related to exercise limits, were excessive. See comment letter of the FRB-NY, at 2, and comment letter of Merrill Lynch, at 3-4. In this regard, these commentators indicated that the regulatory concerns associated with large options positions might be solved, and the hedging needs of large institutions accommodated, by permitting the establishment of position limit levels that are higher than the limits imposed on exercised or by exempting covered positions from the position limit ceiling. The exchanges have not elected to pursue either of these courses at this time.


Amex Rule 920(4) and CBOE Rule 9.0(a). The SROP also would have responsibility to review the acceptance of discretionary accounts.

Amex Rule 920(4) and CBOE Rule 9.0(b).

Amex Rule 904 and CBOE Rule 9.10.
To provide customers with a description of Treasury options and an explanation of the special risks associated with Treasury options trading, exchange rules would require that prospectuses describing Treasury options, if customers be supplied with a copy of the Treasury options supplement to the OCC prospectus at or before the time their accounts are approved for Treasury options trading. This prospectus also would provide information concerning the rules applicable to Treasury options trading, including the margining of Treasury options positions, and the federal tax implications of Treasury options trading. The rules of the exchanges also would require that, before a member organization can accept a customer order to purchase or write a Treasury options contract, the customer's account must be specifically approved in writing for Treasury options trading by a ROP qualified to supervise the sale of Treasury options. In making recommendations to customers concerning the purchase or sale of Treasury options sales personnel would be subject to the same suitability rule applicable to equity options trading.

V. Floor Procedures

CBOE intends to trade Treasury options in the context of its competing market maker system. Treasury options would be traded in the same manner and under the same rules as the exchange's equity options, except that certain modifications previously adopted to accommodate GNMA options also would be extended to govern options in Treasury securities. In contrast, Amex contemplates trading options on Treasury securities in the context of a specialist system that utilizes supplemental market makers. This involves merely extending, with minor modifications, its current rules governing equity options. Each Treasury options contract would be assigned to a particular specialist whose responsibilities would be generally the same as those applicable to equity options specialists, including responsibility for administering a limit order book. The rules governing supplemental market makers, referred to as Registered Options Traders ("ROTIs"), generally mirror the current Amex rules governing the equity options trading of ROTIs.

The Commission has examined carefully the proposed rules governing trading activities in Treasury options on the floors of the respective exchanges, and has concluded that the proposed rules are consistent with the requirements of the Act and the rules thereunder, and, in particular, are in accordance with the maintenance of a fair and orderly market.

VI. Surveillance

Section 6(b)(5) of the Act requires an exchange to have rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade. Section 6(b)(1) of the Act requires that an exchange be organized and have the capacity to comply, and to enforce compliance by its members and associated persons, with the provisions of the Act, the rules thereunder, and the rules of the exchange. Accordingly, an exchange has an obligation to develop and administer a comprehensive surveillance program designed to detect manipulation and other improper trading activities.

With respect to intra-market surveillance, the exchanges' techniques for monitoring trading in Treasury options generally will be similar to the procedures currently utilized for options on equity securities. Due to the limited availability of timely and independently verifiable transaction, quotation and position information with regard to activities in related markets, however, the exchanges have indicated that inter-market surveillance techniques for options on Treasury securities will differ somewhat from those currently employed for equity options.

A principal purpose of inter-market surveillance is to protect the integrity of the options markets by maintaining a capacity to detect and deter the manipulation of options prices resulting from trading in a related market. In addition, as the FRB and FRB-NY emphasized in their comments, there is also a need for rigorous surveillance as a deterrent to the possible disruptive effect of Treasury options on the underlying cash market. To address

have imposed reporting and recordkeeping requirements which will enable the exchanges to identify situations potentially susceptible to manipulation, as well as rules enabling the exchanges to conduct effective surveillance to obtain access to the books and records maintained by corporate affiliates of Treasury options market makers relating to transactions in Government securities, Government securities options, futures on Government securities and options on such futures. The Commission believes that the data made available by these rules, if effectively utilized by the exchanges, will minimize the potential for manipulation.

In anticipation of GNMA options trading, the CBOE has made the necessary revisions to its surveillance modules to monitor options trading on debt securities and has submitted its updated surveillance manual for Commission review. Prior to the commencement of its Treasury options program, the Commission expects to review the manual developed by Amex outlining its surveillance procedures for Treasury options.

VII. Findings and Conclusion

Under section 19(b)(2) of the Act, the Commission must approve the foregoing rule changes if it determines that the proposed rule changes are consistent with the requirements of the Act and the rules thereunder applicable to national securities exchanges. The Commission has reviewed carefully the rules proposed by both Amex and CBOE to accommodate the listing and trading of options on U.S. Treasury securities and has concluded, for the reasons set forth above, that the rules provide for adequate and proper regulation of the proposed markets. Accordingly, the Commission finds that the proposed rule

42Each member organization will be required to file with the exchange reports of any member firm account or any customer account with an aggregate options position on the same side of the market with respect to any underlying Treasury security which is equal to or in excess of 20 percent of the applicable position limit. Amex Rule 950(k); CBOE Rule 21.31(3). In addition, market makers on the CBOE and specialists and supplemental market makers on Amex will be required to report to the exchange all accounts maintained for, and all transactions effected in such accounts with respect to options on Treasury securities. Treasury securities underlying such options, futures contracts which permit delivery of the underlying security, and any options on such futures contracts. These rules also would require registered Treasury options specialists and market makers to keep records, which would subject to exchange review, of other trading activity with respect to Treasury securities. Amex Rule 950(k) and 657; CBOE Rule 21.30 supplementing CBOE Rule 89.

43Amex Rule 937(c); CBOE Rule 21.30.
changes are consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, the requirements of Section 6 and the rules and regulations thereunder. Prior to the commencement of trading, however, the exchanges must secure Commission approval of their proposed margin rules. In addition, the OCC must submit for review the Treasury options prospectus and submit for approval proposed rule changes to accommodate Treasury options. The Commission finds good cause to approve the most recent amendments submitted by the Amex prior to the thirtieth day after publication of notice since the amendments relate to matters with respect to which public comments already have been solicited extensively. In addition, the Commission finds good cause to approve the CBOE rule change proposal to the thirtieth day after publication since it is primarily a consolidation of proposed rule changes previously published for comment and contains amendments relating to matters on which public comments already have been solicited extensively.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule changes, as amended, with the exception of those portions of the proposed rule changes concerning margin be, and hereby are, approved.

By the Commission.

George A. Fitzsimmons,
Secretary.

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29The proposed margin rules of Amex and CBOE are contained in their current Treasury options filings. See footnote 1, supra. The Commission has not fully completed its review of the margin proposals and accordingly, is not approving that aspect of the Amex’s and CBOE’s Treasury options filings at this time.

30The Commission also currently has pending a proposal by the NYSE to trade options on Treasury securities which is virtually identical in substance to the Amex and CBOE proposals. The NYSE’s proposal was filed on February 5, 1981 and amended on September 24, 1981. Notice of the proposal and the amendments was given by Securities Exchange Act Release Nos. 17031 (March 30, 1981), 48 FR 17039, and 18222 (October 20, 1981), 48 FR 55405. Additional comments was solicited by Securities Exchange Act Release No. 17756 (May 31, 1981), 48 FR 28253. The NYSE Board of Directors, however, has not yet approved a final set of amendments to the proposal which would be similar in nature to the final amendments filed by Amex and CBOE. The Commission expects that Board approval is anticipated in January 1982. The Commission expects to be able to approve the NYSE proposal shortly thereafter.

[Release No. 12119; 812-4951]

Crestline Investment Co., Inc. and Hickory Hill Furniture Co., Inc.; Filing of Application

December 31, 1981.

In the matter of Crestline Investment Company, Inc., Post Office Box 99, 215 Main Street, East, Valdese, N.C. 28690 and Hickory Hill Furniture Company, Inc., Post Office Box 1369, Hickory, N.C. 28601 (812-4951). Notice is hereby given that Crestline Investment Company, Inc. ("Crestline"), a registered, diversified, closed-end, management investment company, and Hickory Hill Furniture Company, Inc. ("Hickory Hill," together with Crestline, "Applicants"), filed an application on August 3, 1981, for an order of the Commission pursuant to section 17(b) of the Investment Company Act of 1940 ("Act"), granting an exemption from Section 17(a) of the Act to permit Hickory Hill to purchase a warrant and debenture from Crestline. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are, summarized below.

Applicants state that Crestline is a North Carolina corporation that invests primarily in long-term securities issued by state and municipal governments and also holds a small amount of short-term securities and a debenture and a warrant issued by Hickory Hill.

According to the application, Crestline had operated as a furniture manufacturer under the corporate name of Crestline Furniture Company, Inc., until March 1978, when Hickory Hill purchased all of its operating assets. According to the application, the purchase price included (a) $4,400,000 in cash, (b) the assumption of all of the liabilities of Crestline Furniture Company, Inc. and (c) a subordinated debenture (The "Debenture") issued by Hickory Hill in the principal amount of $750,000, due March 10, 1988, with interest payable at the rate of 10 percent per annum, with a detachable warrant (the "Warrant") for the purchase of securities of Hickory Hill.

According to the application, the Warrant entitled Crestline to acquire, upon the exercise of the Warrant, shares of Hickory Hill constituting a 22.5 percent ownership interest in Hickory Hill upon exercise of the Warrant, the Warrant also provided that a subsequent issuance of shares of Hickory Hill would give Crestline the right to acquire additional shares pursuant to the Warrant at an exercise price reflecting the terms on which such newly-issued shares were issued.

Applicants state that Hickory Hill did issue additional shares of Class B common stock (which were later redeemed) and issued shares of a new class of preferred stock having a $100, per share liquidation preference and a six dollars per share non-cumulative annual dividend preference (which preferred shares were also later redeemed). As a result of the issuance of these shares, Crestline became entitled, pursuant to the Warrant, to purchase 5,885 shares of Hickory Hill’s Class A common stock at $123.42 per share, 320 shares of Class B common stock at $92.47 per share and 1,234 shares of preferred stock at $100 per share. The Warrant was exercisable by Crestline within a 90 day period, ending no later than March 10, 1988, to be designated by Hickory Hill and it provided that the exercise price was payable either by certificated check or by surrender of the debenture, which would be valued for that purpose at its face amount.

Applicant states that as of January 31, 1981, the Debenture was valued by Crestline on its financial statements at $579,075. On February 27, 1981, Wachovia Bank Trust Company, N.A. ("Wachovia"), Crestline’s investment manager, in its analysis of the Hickory Hill offer for Crestline’s board of directors, valued the Debenture at $537,466. Although Crestline did not assign any value to the Warrant in its financial statements of January 31, 1981, Wachovia valued the Warrant at $253,617 as of February 27, 1981.

According to the application, in late January, 1981, Hickory Hill designated the 90 day exercise period as March 1, 1981 through May 30, 1981, and at the same time offered to repurchase the Warrant for $250,000 and contingent on Crestline’s acceptance of the offer to repurchase the Warrant, Hickory Hill also offered to purchase the Debenture for $650,000.

Applicants state that Crestline’s board of directors reviewed the various alternatives available to Crestline, which included (1) selling the Warrant and the Debenture for $900,000, (2) exercising the right to purchase all the securities available under the Warrant, or (3) purchasing only a portion of the securities available under the Warrant. According to the application, the board
of directors voted to recommend to shareholders that they approve the exercise of the Warrant to purchase 5,885 Class A securities and 320 Class B securities and to pay the exercise price of $752,778 by surrendering the Debenture and paying an additional $2,718 in cash. The board of directors also determined that if the shareholders rejected the board's proposal, Crestline would accept Hickory Hill's offer to repurchase both the Warrant and the Debenture for $800,000. At a special meeting held May 29, 1981, the shareholders rejected the board of director's recommendation, in effect voting to accept Hickory Hill's offer to purchase the Warrant and the Debenture.

Section 17[a] of the Act, in pertinent part, prohibits an affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from selling to or purchasing from any registered company any security or other property. Section 17[b] of the Act provides, in part, that the Commission, upon application, may exempt a transaction from the provisions of section 17[a] of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

Applicants represent that Lee Corson is a director of and owns more than 5 percent of the outstanding shares of Crestline and that he is president and chairman of the board of directors of Hickory Hill. He also indirectly controls a majority of the issued and outstanding securities of Corson Furniture Industries, Inc., which in turn owns 97 percent of the issued and outstanding securities of Hickory Hill. Because Hickory Hill is an affiliated person of Lee Corson, who is in turn an affiliated person of Crestline, section 17[a] of the Act would prohibit the proposed purchase of the Warrant and the Debenture from Crestline by Hickory Hill. In addition, the proposed purchase would also be prohibited by section 17[a] of the Act if Hickory Hill were deemed to be an affiliate of Crestline by reason of Crestline's ownership of the Warrant which entitles it to purchase in excess of 5 percent of the voting stock of Hickory Hill.

Applicants contend that either of the two courses of action considered by the shareholders would have been consistent with Crestline's policies, as stated in its registration statement. According to the application, the Debenture and Warrant were accepted by the Crestline shareholders as part of purchase price paid for the assets of Crestline Furniture Company, Inc., in 1978, and the possibility of eventually exercising the Warrant was contemplated when Crestline filed its registration statement. On the other hand, Applicants assert that the sale of the Warrant and Debenture for cash arguably would be more consistent with Crestline's general policy to date of investing in assets such as tax-exempt bonds than the acquisition of a more risky investment such as the stock of Hickory Hill. Applicants further state that the terms of the proposed transaction itself, as well as its approval by a vote of the Crestline shareholders, show that the proposed transaction is fair and does not involve overreaching by any party.

Notice is further given that any interested person may, not later than January 15, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on an application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit, in the case of an attorney-at-law, by certification) shall be filed contemporaneously with the request.

As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter order a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, Pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.
[FR Doc. 81-37183 Filed 12-30-81; 8:45 am] BILLING CODE 8010-01-M [Release No. 12124; (811-2791)]

Federated Money Market, Inc.; Filing of Application for an Order Pursuant to Section 8(f) of the Act Declaring That Applicant Has Ceased To Be an Investment Company

December 22, 1981.

Notice is hereby given that Federated Money Market, Inc. ("Applicant"), 421 Seventh Avenue, Pittsburgh, Pennsylvania 15219, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"). In accordance with the October 20, 1980, and amendments thereto on January 19, 1981, and November 27, 1981, for an order of the Commission pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, pursuant to a merger agreement approved by the stockholders, Applicant was merged on May 16, 1980, Into Money Market Management, Inc., an open-end, diversified, management investment company registered under the Act. Applicant represents that the merger was effected pursuant to Rule 17a-8 of the Act, in accordance with the laws of the State of Maryland and pursuant to the merger agreement, the Applicant's corporate status ceased as of May 16, 1980.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 18, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing).
upon the Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission’s own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons, Secretary.

[FR Doc. 81-37913 Filed 12-30-81; 8:45 am]
BILLING CODE 6010-01-M

[Release No. 12123; 812-4853]
Hartford Variable Annuity Life Insurance Co.; Filing of Application

December 21, 1981.

Notice is hereby given that Hartford Variable Annuity Life Insurance Company (“HVA”), Hartford Variable Annuity Life Insurance Company NQ Variable Account (“HVA-NQ-VA”), Hartford Variable Annuity Life Insurance Company QP Variable Account (“HVA-QP-VA”), Hartford Variable Annuity Life Insurance Company DC Variable Account-I (“DC-I”), Hartford Variable Annuity Life Insurance Company DC Variable Account-II (“DC-II”), Hartford Fund, Incorporated (“Hartford Fund”) and Hartford Variable Annuity Life Insurance Company Separate Account (“HVA Separate Account”) (hereafter collectively “Applicants”) (Hartford Plaza, Hartford, Connecticut 06115) filed an application on March 5, 1981, and amendments thereto on September 2, 1981 and December 21, 1981, pursuant to Section 17(b) of the Investment Company Act of 1940 (“Act”) for an order exempting Applicants from the provisions of Section 17(a) of the Act to the extent necessary to permit certain purchases and sales of assets and securities among the Applicants. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

HVA is a stock life insurance company organized under the laws of the State of Connecticut. HVA is a wholly-owned subsidiary of Hartford Life Insurance Company. Hartford Life Insurance Company is ultimately owned by Hartford Fire Insurance Company which, in turn, is a subsidiary of International Telephone and Telegraph Corporation. HVA Separate Account was organized on December 4, 1967, by duly adopted Resolution of the Board of Directors of HVA. HVA Separate Account is registered as an open-end diversified management investment company under the Act. While new contracts are no longer being offered and sold with respect to HVA Separate Account, contract owners of outstanding group contracts continue to make contributions under their contracts for both existing and new contract participants. In addition, there are individual contracts that have been issued and are outstanding under which additional contributions are being made.

Over the past several years, HVA has created a number of new separate accounts. These separate accounts have been organized as unit investment trust type investment companies. Money received as purchase payments under the variable annuity contracts issued with respect to these separate accounts is invested at the direction of the contract owner in the shares of Hartford Fund. Hartford Fund is an open-end, diversified management investment company which presently offers three classes or series of shares: a Bond Series, a Stock Series and a Money Market Series. Contract owners may designate which of these Series that he wishes his purchase payments invested in.

As noted, no new contracts are now being issued with respect to HVA Separate Account. Further, as a result of an exceptional offer of exchange between HVA Separate Account and HVA-QP-VA, DC-I and DC-II—the three other HVA separate accounts—a significant number of HVA Separate Account contract owners have already exchanged their contracts for HVA-QP-VA, DC-I and DC-II contracts. HVA-QP-VA is a separate account with respect to which contracts are issued in conjunction with tax-qualified pension and profit-sharing plans, tax-deferred annuity plans, deferred compensation plans for tax-exempt employer and state and local governments, IR-10 plans, and Individual Retirement Accounts. DC-I and DC-II are separate accounts with respect to which contracts are issued in conjunction with deferred compensation plans for tax-exempt employers, including state and other governmental employers. HVA-NQ-VA contracts will be issued in connection with non-tax qualified plans. Because of such exchanges and because of contract surrender and for other reasons, the amount of HVA Separate Account net assets has decreased. Applicants expect the decrease to continue because sales of contracts have ceased and because of the exchanges referred to above.

Because of the ever diminishing size of HVA Separate Account which results in increased expenses and increased difficulties in managing a shrinking portfolio, the HVA Separate Account Committee and HVA’s Board of Directors determined to terminate HVA Separate Account. In connection with their determination to terminate HVA Separate Account, the Separate Account Committee also considered the availability of an alternative and similar investment media in which the HVA Separate Account contract owners might continue to invest so that their respective investment potential would not be interrupted. The Committee determined that the Stock Series of Hartford Fund was an investment medium very similar in character to HVA Separate Account. The investment objective of the Stock Series is investment in equity-type securities with emphasis on obtaining long-term capital growth primarily through capital appreciation with income a secondary consideration. The investment objective of HVA Separate Account is that investments will be selected primarily for long-term accumulation of capital through appreciation and investment of income. Applicants assert that the investment policies and restrictions of the Hartford Fund Stock Series and HVA Separate Account while not identical are substantially similar.

The shares of Hartford Fund Stock Series now serve or will serve as one of the underlying investment media of HVA-QP-VA, DC-I, DC-II, and HVA-NQ-VA. It is proposed that the HVA Separate Account reserves relating to the tax-qualified contracts which were transferred to HVA-QP-VA; reserves relating to tax-exempt employer Deferred Compensation Plans which will be transferred to DC-I and DC-II; and reserves relating to the non-tax qualified contracts which will be transferred to HVA-NQ-VA, (a newly created separate account) as hereinafter described. The transfer will be accomplished on or before December 31, 1992. The actual date will depend on the availability of administrative capabilities to handle the transfer. Applicants submit that: (1) This restructuring will simplify the administration of the contracts by...
grouping reserves relating to similar types of contracts in the appropriate separate accounts; and (2) this restructuring proposal will be submitted to the HVA Separate Account contract owners for approval.

If the contract owners approve the proposal, HVA Separate Account assets will be exchanged for shares of Hartford Fund Stock Series. Such Hartford Fund Stock Series shares will then be transferred to the respective unit investment trust separate accounts—HVA-QP-VA, DC-I, DC II, and HVA-NQ-VA, as appropriate, in exchange for units of interest in such separate accounts. Applicants assert that the first such exchange will be on the basis of the market value of the HVA Separate Account portfolio assets (as adjusted by the liabilities relating to portfolio securities transactions existing at the time of the transaction) and the per share net asset value of the Stock Series shares and the second such exchange will be on the basis of the net asset value of the Stock Series shares and the Stock Series unit of interest values of HVA-QP-VA, DC-I, DC II, and HVA-NQ-VA (hereafter sometimes collectively referred to as the "Hartford Unit Trusts"). Applicants state that the costs of the merger will be borne by HVA.

Although owners of new contracts issued by HVA with respect to HVA-QP-VA, DC-I, DC II, and HVA-NQ-VA have the right to direct that their purchase payments may be invested in any of the Series shares of Hartford Fund or to exchange their investment in shares of one or more Series for shares of one or more other Series of Hartford Fund, HVA Separate Account contract owners will retain their existing contracts and will only be permitted to invest in shares of the Hartford Fund Stock Series as a consequence of this exchange.

HVA Separate Account contract owners will retain their existing contracts. Purchase payments under flexible payment Group and Individual Variable Annuity Contracts will continue to be subject to the same deductions and charges as those now being made under those contracts. The asset charge now being deducted for the provision of mortality and expense guarantees by HVA will be the same as is now being deducted.

Owners of HVA Separate Account contracts are now entitled to vote on changes in the Separate Account's investment objective and its fundamental policies and restrictions, approval of the investment advisory agreement, election of members of the Separate Account Committee and ratification of the selection of the Separate Account's independent public accountant. Because the contract reserves, as represented by shares of HFA-QP-VA, DC-I, DC II, or HVA-NQ-VA, as appropriate, a contract owner will be entitled to vote as to the matters described above as they relate to Hartford Fund Stock Series by instructing the entity performing the custodial functions on behalf of HVA-QP-VA, DC-I, DC II, and HVA-NQ-VA, as appropriate, to the manner in which the Hartford Fund Stock Series shares relating to the contract owner's stock are to be voted. Notice of shareholders' meetings, proxy materials and a form of instruction by means of which the contract owner can give such instructions with respect to the voting of Hartford Fund shares held for the contract owner will be provided to the contract owner.

Hartford Fund is a series fund and owners of contracts whose investments will be represented by shares of Hartford Fund Stock Series shall be entitled to give voting instructions to HVA upon changes in investment policies and restrictions and upon approval of an investment advisory agreement only with respect to the Stock Series and not with respect to any of the other Hartford Fund Series. Whether to all other matters relating to Hartford Fund, the contract owner shall be entitled to instruct HVA with respect to the voting of the shares attributable to his account as to matters submitted to the Hartford Fund shareholders, generally. Every participant under an HVA Separate Account contract who has a 100% vested interest under a Group Contract will receive proxy materials and a form of instruction by means of which the participant may instruct the contract owner with respect to the number of votes attributable to his individual participation under a contract.

HVA Separate Account contract owners will continue to have the right to invest a portion of their contract payments to purchase fixed dollar annuity benefits in accordance and subject to the terms and conditions of their contracts relating to the acquisition of fixed benefits.

Applicants submit that, as part of the proposed changes, immediately upon transfer of the reserves and liabilities of HVA Separate Account to HVA-QP-VA, DC-I, DC II, or HVA-NQ-VA, as appropriate, an application will be filed for an order of the Commission terminating the registration of HVA Separate Account as a registered investment company. In addition, Applicants state that appropriate steps will be taken under the insurance laws of the State of Connecticut to terminate the existence of HVA Separate Account.

Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such an affiliated person, acting as principal, knowingly to sell to or purchase from such investment company any security or other property. Applicants state that HVA Separate Account and Hartford Fund may each be deemed an affiliated person of the other (registered investment company) because the members of the HVA Separate Account Committee and the Hartford Fund Board of Directors are identical and because HVA provides administrative services to each. These factors may be said to render the two investment companies under common control. Applicants also state that the HVA Separate Account and the Hartford Unit Trusts might be deemed to be under common control and therefore affiliated persons of each other because HVA provides administrative services to HVA Separate Account as well being the depositor of the Hartford Unit Trusts. Applicants deny that any such common control exists.

As previously noted, the number of shares of Hartford Fund Stock Series to be issued to HVA Separate Account in exchange for the latter's assets will be determined by dividing the difference between (i) the value of all of the HVA Separate Account portfolio assets transferred to Hartford Fund (such value to be determined as of the close of business of the New York Stock Exchange on the date that the Plan of Reorganization under this Agreement is implemented and (ii) the amount of those liabilities relating to HVA Separate Account portfolio transactions assumed by the Fund. By (iii) the net asset value of a share of Hartford Stock Series determined as of the close of business on the date on which the proposed merger is consummated. Applicants contend that no sales of any securities received from HVA Separate Account by Hartford Fund Stock Series are contemplated.

Applicants assert that shortly prior to the effective date of the merger, the Hartford Fund Stock Series will declare and pay a dividend consisting of substantially all of such investment company's then undistributed net income and will also distribute such investment company's then realized but undistributed net capital gains. Such dividends and distributions will be automatically reinvested in additional
Hartford Fund Stock Series shares. Applicants state that on December 13, 1981, Hartford Fund Stock Series had total assets of $53,387,689 and net unrealized capital gains of $3,205,555. According to the application, the transfer of the HVA Separate Account assets to Hartford Fund Stock Series will be handled as a taxable transaction so that the existing unrealized capital gains will be realized and, therefore, no unrealized capital gains will exist with respect to the HVA Separate Account assets.

Applicants allege that the terms of the proposed merger including the consideration to be paid and received are reasonable and fair and do not involve overreaching on the part of any concerned person; the proposed transaction is consistent with the policy of each registered investment company as recited in its registration statement and reports filed under the Act and the merger proposal is consistent with the general purposes of the Act. Applicants, accordingly, request that the Commission enter an order pursuant to Section 17(b) exempting the proposed merger from the provisions of Section 17(a) to the extent that such an order is deemed necessary.

Notice is further given that any interested person may, not later than January 15, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued, as of course, following said date unless the Commission thereafter orders a hearing upon request or upon the Commission’s own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in the matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc No. 81-27420 Filed 12-30-81; 8:45 am]
BILLING CODE 6010-01-M

[File Nos. 2-51111 (22-11444) 2-38164]

International Harvester Co.; Application and Opportunity for Hearing

December 23, 1981.

Notice is hereby given that International Harvester Company (the “Company”) has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the “Act”) for a finding by the Securities and Exchange Commission that the successor trusteeship of Commerce Union Bank, One Commerce Place, Nashville, Tennessee 37219, under two existing indentures of the Company which are qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as trustee under either of such indentures.

I

The Company alleges that the Company has outstanding on the date hereof the following described securities issued under the following indenture between the Company and Harris Trust and Savings Bank (“Harris Trust”), which was qualified under the Act in connection with the registration under the Securities Act of 1933 of the securities issued thereunder, the file number of such Registration Statement being set forth in parentheses below: $150,000,000 9% Sinking Fund Debentures Due 2004, under Indenture dated as of June 15, 1974 between the Company and Harris Trust, Trustee (File No. 2-51111).

II

The Company also has issued the following described securities issued under the following indenture between the Company and Morgan Guaranty Trust Company of New York (“Morgan Guaranty”), which was qualified under the Trust Indenture Act of 1939 in connection with the registration under the Securities Act of 1933 of the securities issued thereunder, the file number of such Registration Statement being set forth in parentheses below: $105,000,000 8 1/2% Sinking Fund Debentures Due 1985, under Indenture dated as of September 1, 1970 between the Company and Morgan Guaranty, Trustee (File No. 2-38164 (of which approximately $90,617,000 is outstanding as of November 16, 1981).

On May 1, 1981, the Company appointed Commerce Union Bank as successor trustee under the above-described indenture following Morgan Guaranty’s resignation as trustee. Commerce Union Bank now serves as successor trustee under the above-described indenture.

III

1. As has been publicly reported, the Company and its subsidiary, International Harvester Credit Corporation (“IHCC”), are each negotiating for a new loan agreement to replace current short-term borrowings of the Company and IHCC. The indebtedness of the Company under its new loan agreement and certain other obligations of the Company will be secured. As a result of its anticipated role in the restructuring of the indebtedness of the Company or for other reasons, Harris Trust has notified the Company of its resignation as trustee under the indenture listed in Part I under which it serves as trustee, such resignation to become effective upon acceptance by the successor trustee of appointment under such indenture. The Company therefore intends to appoint Commerce Union Bank as successor trustee under such indenture.

2. Each of the indentures referred to in Parts I and II above contains the provisions required by section 310(b) of the Trust Indenture Act of 1939.

3. The securities issued under each of the indentures listed in Parts I and II above are wholly unsecured. All of such securities constitute senior indebtedness of the Company; the securities issued under each such indenture rank equally with the securities issued under each other such indenture.

4. Each of the indentures referred to in Parts I and II above provides that, with certain exceptions, the Company will not, and will not permit any Restricted Subsidiary to create or assume any mortgage, security interest, pledge or lien of or upon any Principal Property.

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1Section 1.01 of each of the indentures listed in Parts I and II defines the term “ Restricted Subsidiary” to mean "any Subsidiary (a) which owns or has a direct or indirect interest in, or (b) which leases, is used by, or is owned by another Subsidiary which leases, is used by, or is owned by a Subsidiary, or (c) with which or through which any such Subsidiary has been or is being used in connection with a manufacturing or production process, or for any other purpose, or (d) of which any other Subsidiary has a direct or indirect interest in or leases, or is used by, or is owned by, or (e) of which any other Subsidiary has a direct or indirect interest in or leases, or is used by, or is owned by, another Subsidiary which leases, is used by, or is owned by a Subsidiary, or (f) with which or through which any such Subsidiary has been or is being used in connection with a manufacturing or production process, or for any other purpose, or (g) of which any other Subsidiary has a direct or indirect interest in or leases, or is used by, or is owned by, or (h) of which any other Subsidiary has a direct or indirect interest in or leases, or is used by, or is owned by, another Subsidiary which leases, is used by, or is owned by a Subsidiary, or (i) with which or through which any such Subsidiary has been or is being used in connection with a manufacturing or production process, or for any other purpose, or (j) of which any other Subsidiary has a direct or indirect interest in or leases, or is used by, or is owned by, or (k) of which any other Subsidiary has a direct or indirect interest in or leases, or is used by, or is owned by, another Subsidiary which leases, is used by, or is owned by a Subsidiary, or (l) with which or through which any such Subsidiary has been or is being used in connection with a manufacturing or production process, or for any other purpose, or (m) of which any other Subsidiary has a direct or indirect interest in or leases, or is used by, or is owned by, or (n) of which any other Subsidiary has a direct or indirect interest in or leases, or is used by, or is owned by, another Subsidiary which leases, is used by, or is owned by a Subsidiary, or (o) with which or through which any such Subsidiary has been or is being used in connection with a manufacturing or production process, or for any other purpose, or (p) of which any other Subsidiary has a direct or indirect interest in or leases, or is used by, or is owned by, or (q) of which any other Subsidiary has a direct or indirect interest in or leases, or is used by, or is owned by, another Subsidiary which leases, is used by, or is owned by a Subsidiary, or (r) with which or through which any such Subsidiary has been or is being used in connection with a manufacturing or production process, or for any other purpose, or (s) of which any other Subsidiary has a direct or indirect interest in or leases, or is used by, or is owned by, or (t) of which any other Subsidiary has a direct or indirect interest in or leases, or is used by, or is owned by, another Subsidiary which leases, is used by, or is owned by a Subsidiary, or (u) with which or through which any such Subsidiary has been or is being used in connection with a manufacturing or production process, or for any other purpose, or (v) of which any other Subsidiary has a direct or indirect interest in or leases, or is used by, or is owned by, or
or shares of capital stock or indebtedness for borrowed money issued by any Restricted Subsidiary and owned by the Company or any Restricted Subsidiary, whether owned at the date of the indenture of thereafter acquired, without making effective provision, and the Company is such case will make or cause to be made effective provision, whereby the securities issued under the indenture shall be secured by such mortgage, security interest, pledge or lien equally and ratably with any and all other indebtedness or obligations thereby secured, so long as such indebtedness or obligations shall be so secured. Because the indebtedness of the Company under its loan agreement referred to in paragraph 1 above and certain other obligations of the Company will be secured, the securities outstanding under each of the indentures referred to in Parts I and II will, when the Company enters into the new loan agreement, become equally and ratably secured by any Collateral consisting of any Principal Property, or shares of capital stock of indebtedness for borrowed money issued by any Restricted Subsidiary and owned by the Company or any Restricted Subsidiary, and will remain so secured so long as any indebtedness of the Company under its new loan agreement or any such other obligation of the Company is secured such collateral; thereafter such securities will again become wholly unsecured.

5. At such time as the indebtedness of the Company under its new loan agreement and certain other obligations of the Company become secured by any collateral consisting of any Principal Property, or shares of capital stock or indebtedness for borrowed money issued by any Restricted Subsidiary and owned by the Company or any Restricted Subsidiary, the issue of securities outstanding under each of the indentures referred to in Parts I and II above will become and be secured by the same such collateral, equally and ratably with such indebtedness and other obligations, as well as with all other indebtedness of the Company to be secured by such collateral.

6. In order to secure the indebtedness and other obligations referred to in paragraph 5 above (the "Secured Obligations"), the Company expects to enter into an agreement (the "Trust Agreement") with Fidelity Union Bank to be appointed trustee with respect to the collateral (the "Trustee"). Under the terms of the Trust Agreement, if circumstances occur under which the Trustee takes action to realize on any collateral consisting of any Principal Property, or shares of capital stock or indebtedness for borrowed money issued by any Restricted Subsidiary and owned by the Company or any Restricted Subsidiary, all sums so realized will be held in trust by the Trustee and distributed, equally and ratably, to all holders of Secured Obligations (including for the purposes of any such distribution the trustee under each indenture of the Company under which Secured Obligations are outstanding). If the indebtedness outstanding under either of the indentures referred to in Parts I and II above is not paid when due, or if such indebtedness has been declared payable prior to its stated maturity pursuant to the terms of any such indenture, the trustee under such indenture will be entitled to give notice to the Trustee requiring the Trustee to take action to realize on the collateral.

7. The effect of the Trust Agreement will be to insure that if any holder or group of holders of Secured Obligations becomes entitled to cause the Trustee to realize on any collateral consisting of any Principal Property, or shares of capital stock or indebtedness for borrowed money issued by any Restricted Subsidiary and owned by the Company or any Restricted Subsidiary, all holders of Secured Obligations, including the indebtedness outstanding under each of the indentures listed in Parts I and II above, will benefit ratably.

8. For the foregoing reasons, the Company believes that serving as trustee under either of the indentures listed in Parts I and II above, and continuing such trusteeship during such time as the indebtedness outstanding under each such indenture is secured and thereafter, when such indebtedness again becomes wholly unsecured, should in no way inhibit, discourage or otherwise influence Commerce Union Bank's actions as trustee under the other such indenture. Consequently, its trusteeship under both such indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Commerce Union Bank from acting as trustee under either of such indentures.

The Company waives notice of hearing and waives hearing and waives any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to the application, which is a public document on file in the Office of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than January 17, 1982, request in writing that a hearing on such matter be held stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons.
Secretary.

[Release No. 18357; (SR-NASD-81-22)]

National Association of Securities Dealers, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

December 22, 1981.

The National Association of Securities Dealers, Inc. ("NASD") 1735 K Street, N.W., Washington, D.C. 20006, submitted on December 11, 1981, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to delete the monthly reporting requirement of certain uncovered short options positions by members.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change on or before January 20, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NASD-81-22.
Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room 1100 L Street, N.W., Washington, D.C.

Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of section 6 and the rules and regulations thereunder. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the two-year pilot program under Rule 103A expires on January 15, 1982, unless extended. The Commission believes that it Is appropriate to continue the program on a pilot basis.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-37197 Filed 12-30-81; 6:15 am]
BILLING CODE 6010-01-M

[Release No. 18357; (SR-NYSE-81-27)]

New York Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

December 21, 1981.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 16, 1981, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, filed with the Commission copies of a proposed rule change which would amend paragraph .40 of the NYSE's Rule 103A, the "sunset" provision, to extend the rule's effectiveness from January 15, 1982 to January 15, 1983. Rule 103A provides for the evaluation of specialist performance and establishes a non-disciplinary procedure for the reallocation of stocks due to substandard specialist performance. Interested persons are invited to submit written data, views and arguments concerning the proposed rule change on or before January 20, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-81-27.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the two-year pilot program under Rule 103A expires on January 15, 1982, unless extended. The Commission believes that it is appropriate to continue the program on a pilot basis. It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-37200 Filed 12-30-81; 6:15 am]
BILLING CODE 6010-01-M

[Release No. 18356; (SR-Phlx-81-21)]


December 21, 1981.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 16, 1981, the Philadelphia Stock Exchange, Inc. ("Phlx"), 1900 Market Street, Philadelphia, PA 19103, filed with the Commission a proposed rule change to adopt, on a temporary basis, Phlx Rule 933 concerning the sale and subordination of a membership subject to a lease agreement. Such a membership is considered under the lease agreement to be an asset of the member for purposes of Article XV of the Phlx by-laws. The proposed rule would provide the exchange with the right to sell the membership upon transfer or to resort to other forms of security for purposes of Article XV.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before January 20, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Phlx-81-21.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder.
statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule would put into place a necessary means to assure the financial responsibility of members with leased seats and to enforce a Phlx by-law relating to a contractual right to which members with leased seats have agreed. Accelerated approval also would avoid any delay in implementing this safeguard with respect to new members who utilize leased seats.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-3721 Filed 12-30-81; 8:45 a.m.]
BILLING CODE 6010-01-M

[Release No. 12126; 812-4973]

Scudder Government Money Fund; Filing of Application
December 22, 1981.

In the matter of Scudder Government Money Fund (formerly Scudder Cash Investment Trust II), 175 Federal Street, Boston, Massachusetts 02110 (812-4973).

Notice is hereby given that Scudder Government Money Fund ("Applicant") has filed an application on December 22, 1981, requesting approval of the proposed rule change to section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its portfolio securities according to the amortized cost valuation method, and from the provisions of section 10(b)(2) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a Massachusetts business trust organized on April 4, 1980. It is asserted that Applicant, originally named Scudder Cash Investment Trust II, was created as a "clone" of Scudder Cash Investment Trust ("SCIT"). The application states that, on August 4, 1980, all of the outstanding shares of Applicant, except those shares representing a portion of the initial capital supplied by Scudder, Stevens & Clark, Incorporated, an affiliate of Applicant's investment adviser, Scudder, Stevens & Clark ("SS & C"), were exchanged for shares of SCIT. Also on August 4, 1980, SCIT redeemed all of the shares of Applicant it then held, receiving therefore all of Applicant's assets except unamortized organization expenses.

The application states that on September 14, 1981, Applicant's Trustees and then sole shareholder approved various amendments to its Declaration of Trust, investment objectives and policies, and fundamental policies. Applicant asserts that its investment objectives are to provide safety and liquidity of capital and consistent therewith to provide current income. Applicant represents that it will limit its investments to securities issued or guaranteed by the U.S. Government and repurchase agreements with respect to such obligations. It is further asserted that all of the Fund's "Government Securities" (meaning, for the purposes of this application, securities issued or guaranteed as to principal or interest by the U.S. Government, its agencies or instrumentalities, and repurchase agreements with respect to such securities) will have a stated maturity date of not more than one year from the date of purchase, and that the average dollar-weighted maturity of the Fund's portfolio will vary up to a maximum of 120 days according to management's appraisal of money market conditions.

Applicant asserts that it intends to commence operations prior to the issuance of the requested order of exemption. Until such time as the order of exemption is granted, Applicant maintains that it will purchase only instruments having a maturity of sixty days or less, in order that it may use the amortized cost method of valuing its investments prior to such issuance.

The application states that Government Securities are generally offered on the basis of a quoted yield to maturity and the market price reflects an adjustment of the obligation's face value so that it will return the quoted rate to the purchaser. Applicant represents that it intends to declare its net income as a dividend to its shareholders on a daily basis and pay it monthly ("net income" for this purpose consisting of all interest income accrued on the portfolio assets of Applicant, less all expenses of Applicant). Applicant further asserts that if it values its securities on an amortized cost basis there will be no calculation of unrealized capital gains or losses and because it will declare a daily dividend equal to the daily net income, Applicant's per share net asset value will normally remain at a constant $1.00 amount.

As here pertinent, section 2(a)(41) of the Act defines value to mean (1) with respect to securities for which market quotations are readily available, the market value of such securities, (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefore issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at fair value as determined in good faith by the board of directors of the registered company.

Prior to the filing of this application, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" fund to value its portfolio instruments on an amortized cost basis (Investment
Company Act Release No. 9785, May 31, 1977. In view of the foregoing, Applicant requests an exemption from section 2(a)(45) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its portfolio securities at cost, adjusted for amortization of premium or accretion of discount, subject to the conditions enumerated below.

Applicant represents that it has been management's experience, in connection with other investment companies which it manages, that a significant portion of the investors who are likely to invest in a short-term governmental obligation investment company require a stable net asset value (preferably at $1.00 per share or sale, repurchase and redemption price, while at the same time providing shareholders with a steady flow of investment income through daily dividends which reflect Applicant's net income as earned.

The application states that the management of Applicant believes that with respect to Government Securities maturing in 120 days or less there is normally a modest discrepancy between market value and the amortized cost of such securities. Applicant asserts that it therefore believes that the valuation of its portfolio securities on the amortized cost basis will enable it to more effectively maintain its $1.00 price per share while providing shareholders with the opportunity to receive a flow of investment income less subject to fluctuation than under procedures where its daily dividend would be adjusted by all realized and unrealized gains and losses. Finally, Applicant asserts that its Trustees have determined in good faith that, in light of the characteristics of Applicant and, subject to compliance with certain conditions, as stated below, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects the fair value of such securities.

Applicant represents that if the requested exemptions are granted by the Commission, it agrees to adhere to the following conditions:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Trustees undertake—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Trustees shall be the following:

(a) Review by the Trustees, as they deem appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and maintenance of records of such review.\(^1\)

(b) In the event such deviation from the Applicant's $1.00 amortized cost price per share exceeds 1/4 of 1 percent, a requirement that the Trustees will promptly consider what action, if any, should be initiated by them.

(c) Where the Trustees believe that the extent of any deviation from the Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, they shall take such action as they deem appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption or shares in kind; the sale of portfolio securities prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.\(^2\)

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will include in the minutes of Trustees' meetings and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Trustees' considerations as set forth above. The documents preserved pursuant to this condition shall be set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission.

5. The Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Trustees determine present minimal credit risks, and which are of "high-quality," as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Trustees.

6. The Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(o) above was taken during the preceding fiscal quarter and if any such action was taken, will describe the nature and the circumstances of such action.

The application states that Applicant has entered into a contract with Scudder Fund Distributors, Inc. ("Distributors"). a wholly-owned subsidiary of SS & C and a registered broker-dealer under the Securities Exchange Act of 1934, subject to and in compliance with the applicable provisions of sections 16(b) and (c) of the Act, whereby Distributors will act as the principal underwriter of Applicant in the public offering of its shares of beneficial interest. Such underwriting contract provides, in substance, that no sales load (as defined in section 2(a)(35) of the Act) shall be charged to investors in connection with such distribution.

Applicant seeks an exemption pursuant to section 9(c) of the Act from section 10(b)(2) of the Act which provides in part that no registered investment company shall use as a principal underwriter of securities issued by it any director, officer, or employee of such registered company or any person of which any such director, officer, or employee is an interested person, unless a majority of the board of directors of such registered company shall be persons who are not such principal underwriters or interested

\(^1\) Applicant represents that to fulfill this condition, it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Trustees in the exercise of their discretion and believed by them to be appropriate indicators of value. In addition, Applicant states that the quotations or estimates utilized may include, inter alia, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of government securities published by reputable sources.

\(^2\) In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.
persons of any such principal underwriters.

Applicant represents that presently forty percent of its Trustees are interested persons of SS & C. It is asserted, nonetheless, that it is intended that Applicant and SS & C shall comply with all provisions of clauses (1) to (8), inclusive, of section 10(d) of the Act, insofar as those provisions are applicable to a registered investment company and its investment adviser. The application states that Applicant desires that it be permitted to have up to all but one of its Trustees interested persons of its principal underwriter. To that end, Applicant desires an appropriate exemption from section 10(b)(2).

Applicant asserts that it desires to establish a method for wide distribution of its shares and believes that this can best be accomplished through a principal underwriter. Applicant states that it does not want to charge a sales load. It is asserted that Applicant wishes to have the option to be a section 10(d) company and as such would be strictly limited as to sales expenses by section 10(d)(5) of the Act. Applicant represents that under these circumstances only SS & C or a company wholly-owned by SS & C or its partners could afford to undertake the expense of acting as principal underwriter. It is asserted that if the underwriting agreement were made directly between Applicant and SS & C, it is Applicant's understanding that under section 10(d) of the Act no change in the composition of its Trustees would be required notwithstanding the provisions of subsection (a) and subsection (b)(2) of section 10. Applicant maintains that SS & C, for reasons incident to the conduct of its own business, of which its relationship with Applicant is only a part, does not wish to become a principal underwriter.

Applicant anticipates that all of its Trustees who are interested persons of SS & C will also be interested persons of the underwriter, Distributors. Notwithstanding the provisions of section 10(d), it may be that the provisions of section 10(b)(2) would prevent Distributors from acting as principal underwriter of Applicant if less than a majority of the Trustees were interested persons of Distributors and of SS & C, and this application is filed in order that this obstacle may be removed by an exemption under section 6(c) of the Act. Applicant submits that the reasons for permitting an investment company which meets the requirements of section 10(d) to have only one director (trustee) completely independent of the investment adviser are equally persuasive for allowing it to have only one director (trustee) who is not an interested person of a principal underwriter which is wholly-owned by the investment adviser or its partners.

Section 6(c) of the Act provides, in part, that the Commission may upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any of the provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 15, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on an application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter order a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-3719 Filed 12-30-81; 8:45 am]
BILLING CODE 8010-01-M

[Release Nos. 33-6371; 34-18369; AS-393]
Form S-8—Requirements for Signatures and Accountants' Consents
AGENCY: Securities and Exchange Commission.
ACTION: Discussion of Requirements For Signatures and Accountants' Consents With Regard to Form S-8.
SUMMARY: The Securities and Exchange Commission today issued a release reminding issuers utilizing Form S-8 of the requirements of that form concerning: (1) The filing of written consents by experts (particularly accountants whose opinions are incorporated from Form 10-K); (2) the signatures of certain specified individuals; and (3) certain representations concerning the eligibility of the registrant to use Form S-8.
DATE: December 23, 1981.
FOR FURTHER INFORMATION CONTACT: Registrants should contact the Branch directly responsible for reviewing the documents they file with the Commission, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.
SUPPLEMENTARY INFORMATION: In an effort to reduce reporting burdens on registrants without reducing the quality of disclosure made to investors, and to reduce staff workload, the Commission in 1980 adopted two series of amendments to Form S-8 (17 CFR 239.16b), the form for registration under the Securities Act of 1933 [15 U.S.C. 77a et seq.] of securities to be offered to employees pursuant to certain plans. The first of these series of amendments was adopted on February 22, 1980 and provided a means whereby all filings on Form S-8 would become effective automatically without affirmative action on the part of the Commission or its staff. While this release did not alter the existing signature requirements of Form S-8, it did add the requirement for a certification by all signatories concerning the issuer's eligibility to use the form. On April 2, 1980, the Commission adopted the second series

12The instructions presently provide, as it did prior to February 22, 1980, that the registration statement shall be signed by the issuer (and where interests in the plan are being registered, by the plan), their respective principal executive officers, principal financial officers, controllers or principal accounting officers, and by at least the majority of the respective boards of directors or persons performing similar functions.
of amendments to Form S-8, which made the disclosure and updating features of Form S-8 (17 CFR 239.27) available to many issuers using Form S-8. More specifically, the amendments allowed updating of the Form S-8 to be accomplished by means of periodic reports, such as Forms 10-K, 11-K, 8-K and 10-Q filed under the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78a et seq.], thereby eliminating, in many instances, the necessity of filing a post-effective amendment. A critical element to a registrant’s ability to use Exchange Act reports is contained in Item 12 of Form S-8 (Incorporation of Certain Documents by Reference). If any accountant, engineer or other "expert" is named as having prepared or certified any part of the material incorporated by reference, Item 12 requires the written consent of such person to be included in the registration statement (or amendment thereto) unless an express consent to the incorporation by reference is contained in the material incorporated by reference.

In the February 1980 Release, the Commission announced that, while regular staff review of Form S-8’s is being eliminated, there will be monitoring of compliance with disclosure requirements, on an audit basis, both prior to and after such filings become effective. The staff of the Division of Corporation Finance has recently completed its first such monitoring effort. The results of such review show a failure of a significant number of registrants filing Form S-8’s to comply with the requirements of the form in three distinct areas: (1) Failure to supply the requisite signatures, such as those of officers and a majority of the board of directors; (2) failure to include, as part of the signature sections, the required certifications that the issuer meets all of the requirements for filing on Form S-8; and (3) failure, in subsequent years, to include the requisite written accountants’ consent in either an amendment to the registration statement or in the filing being incorporated by reference, such as in the Form 10-K. The Commission considers these to be serious deficiencies and reminds registrants of their statutory obligation to fully comply with the requirements of any form they utilize, whether or not staff review is accorded such forms. Moreover, the Commission notes that the viability of many of its new programs designed to reduce the burdens on registrants depends upon the careful and complete preparation of filed documents by such registrants and their counsel.

By the Commission.

George A. Fitzsimmons, Secretary.

December 23, 1981.

[FR Doc. 81-3729 Filed 12-30-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16370; File No. SR-MSRB-81-18]

Self-Regulatory Organizations; Proposed Rule Change by Municipal Securities Rulemaking Board Relating to Uniform Practice

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78o(b)(1), notice is hereby given that on December 17, 1981, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

(a) The Municipal Securities Rulemaking Board ("Board") is filing herewith an amendment (the “proposed amendment”) to the proposed rule change to rule G-12 relating to uniform practice contained in File No. SR-MSRB-81-18 (the “proposed rule change”). The proposed rule change, as modified by the proposed amendment, is as follows:

Rule G-12.1 Uniform Practice

(a) through (d) No change.

(e) Delivery of securities. The following provisions shall, unless otherwise agreed by the parties, govern the delivery of securities:

(i) No change.

(ii) Securities delivered. All securities delivered on a transaction shall be identical to the information set forth in subparagraph (E) of paragraph (c)(v) and, to the extent applicable, the information set forth in subparagraphs (A) and (C) of paragraph (c)(vi). All securities delivered shall also be identical to the "in whole" call provisions of such securities.

(iii) through (xvi) No change.

(f) through (i) No change.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) On November 4, 1981, the Board filed the proposed rule change, which incorporated into the "good delivery" section of the rule certain requirements governing the fungibility for delivery purposes of different issues of municipal securities. The proposed rule change specified that all securities delivered on a transaction had to be identical with respect to certain aspects of the securities description, including the "in whole" call provisions. The purpose of the proposed amendment is to expand this provision to require that the securities delivered must be identical with respect to any applicable call provision, including "in part" calls such as "sinking fund" provisions on extraordinary redemption features.

(b) The proposed amendment and the proposed rule change are adopted pursuant to section 19(b)(1)(C) of the Securities Exchange Act of 1934, as amended, which requires and empowers the Board to adopt rules designed * * * to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in clearing, settlement, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *. The Board believes that the proposed rule change will facilitate clearance and settlement of transactions and help to protect investors by clarifying the standards of good delivery to be used by the municipal securities industry and ensuring that the securities delivered are those contracted for. The Board also believes that the proposed rule change will further the development of automated and book-entry clearance systems for municipal securities transactions, consistent with the objectives of Section 17A of the Act.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Board believes that the proposed rule change will not impose any burden on competition, inasmuch as it explicitly provides in the rule for standards which are applicable to all inter-dealer deliveries of municipal securities, and which affect all municipal securities dealers equally. To the extent that the proposed rule change fosters the
development of more efficient mechanisms for the processing and clearance of municipal securities transactions, the Board is of the view that it will enhance competition between municipal securities brokers and dealers.

C. Self-Regulatory Organization’s Statement of Comments on the Proposed Rule Change Received from Members, Participants, or Others.

The Board neither solicited nor received comments on the proposed rule change from members, participants or others.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission’s Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 20, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 23, 1981.
George A. Fitzsimmons,
Secretary.

Privacy Act of 1974; Systems of Records; Annual Publication

Pursuant to 5 U.S.C. 552(a)(E)(4), the Securities and Exchange Commission hereby publishes its notice of the existence and character of the systems of records which it maintains under the Privacy Act of 1974. The last complete publication of the systems of records of the Securities and Exchange Commission can be found at 41 FR 41550 (September 22, 1976). Since that publication, the following additions and modifications to the systems of records maintained by the Securities and Exchange Commission have been published in the Federal Register:

Additional Systems of Records


Modifications to Existing Systems of Records

SEC-1 through 46 and 53 through 53, Published on July 14, 1977 (42 FR 36533).

SEC-42. Name-Relationship Index System—SEC. Published on May 19, 1978 (43 FR 21771).


SEC-40. Staff Time and Activity Tracking System (STATS)—SEC. Published on February 5, 1979 (44 FR 7002).

SEC-42. Name-Relationship Index System (NRS)—SEC. Published on April 15, 1981 (46 FR 22991).


SEC-42. Name-Relationship Index System (NRS)—SEC. Published on September 2, 1981 (46 FR 44112).

Privacy Act of 1974; Systems of Records; Annual Publication

Pursuant to 5 U.S.C. 552(a)(E)(4), the Securities and Exchange Commission hereby publishes its notice of the existence and character of the systems of records which it maintains under the Privacy Act of 1974. The last complete publication of the systems of records of the Securities and Exchange Commission can be found at 41 FR 41550 (September 22, 1976). Since that publication, the following additions and modifications to the systems of records maintained by the Securities and Exchange Commission have been published in the Federal Register:

Additional Systems of Records


Modifications to Existing Systems of Records

SEC-1 through 46 and 53 through 53, Published on July 14, 1977 (42 FR 36533).

SEC-42. Name-Relationship Index System—SEC. Published on May 19, 1978 (43 FR 21771).


SEC-40. Staff Time and Activity Tracking System (STATS)—SEC. Published on February 5, 1979 (44 FR 7002).

SEC-42. Name-Relationship Index System (NRS)—SEC. Published on April 15, 1981 (46 FR 22991).


SEC-42. Name-Relationship Index System (NRS)—SEC. Published on September 2, 1981 (46 FR 44112).

Act of 1933—SEC. Published on September 3, 1981 (46 FR 44328).

Members of the public may review all existing systems of records maintained by the Securities and Exchange Commission by referring to the September 22, 1976 annual publication found at 41 FR 41550 and to the additions and modifications found at the Federal Register citations set forth above. The systems of records maintained by the Securities and Exchange Commission are found in the latest compilation, “Privacy Act Issuances, 1960 Compilation,” at Volume V, page 482. The Federal Register and Privacy Act Issuances Compilation may be examined free of charge at Regional Depository Libraries and General Services Administration Federal Information Centers located throughout the country.

For further information contact: Ruth E. Eisenberg. (202) 272-2454.

Dated: December 23, 1981.

By the Commission.

George A. Fitzsimmons,
Secretary.

[Release No. 34-18373 File No. SR-DIC-81-6]

Depository Trust Co.; Self-Regulatory Organizations; Proposed Rule Change

Relating to the Inclusion of Trans Canada Options as a Pledgee in The Depository Trust Company. Comments requested on or before January 25, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 15, 1981, The Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change authorizes Trans Canada Options Inc. (“TCO”) to become a Pledgee in The Depository Trust Company (“DTCP”). The proposed rule change would enable a TCO Participant to satisfy its obligations to a TCO Clearing Member by effecting a book-entry movement of securities on deposit with DTC from the Participant’s
General or Interim account to the TCO Pledgee account.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change modifies the administration of DTC's options service to enable segregation of securities by book-entry with TCO, which is to become a Pledgee in the TCO system, to satisfy TCO requirements. Participant Operating Procedures are attached as Exhibit 2 to DTC's filing on form 19b-4A, File No. SR-DTC-81-6.

The proposed change carries out the purposes of Section 17A of the Securities Exchange Act of 1934 by enabling securities to be segregated by book-entry in connection with TCO requirements without physical movement of securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTCP perceives no impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change

Comments were not and are not to be solicited from Participants. All Participants have been notified of the proposed rule change by DTC Important Notice, a copy of which is attached (Exhibit 3).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before January 21, 1982.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 24, 1981.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 81-37302 Filed 12-30-81; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-18359; File No. SR-NSCC-81-17]
National Securities Clearing Corp.; Self-Regulatory Organizations; Proposed Rule Change
Relating to National Securities Clearing Corporation's ("NSCC") Signature Distribution Service.

Comments requested on or before January 21, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78o(b)(1), notice is hereby given that on December 8, 1981, NSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In response to the request of the Commission, NSCC is submitting the following information pertaining to its Signature Distribution Service:

(1) The procedures concerning NSCC’s Signature Distribution Service not described in Exhibit III to NSCC’s SR-NSCC-80-32 filing are contained in Exhibit 3A.

(2) Two documents filed separately.

(3) The service, which is a signature card distribution service rather than a signature guarantee program, will begin on January 4, 1982.

(4) NSCC Participants using the Signature Distribution Service will be charged the same fee as New York Stock Exchange, Inc. (“NYSE”) members using the NYSE’s Authorized Signature Service. The fee for this service is $125 for one authorized signature filed with NSCC and $75 each additional signature filed at the same time. The fee for additional copies of the signature cards is $80 for 100 cards.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The proposed rule change is to provide the Commission with the details of the implementation of the Signature Distribution Service.

(b) The proposed rule change is consistent with the provisions of the Securities Exchange Act of 1934, as amended, in that it facilitates the prompt and accurate clearance and settlement of securities transactions for which NSCC is responsible by providing a vehicle to assist Members in meeting turnaround times.
B] Self-Regulatory Organization's Statement on Burden on Competition

Inasmuch as the proposed rule change is administrative in nature, NSCC does not perceive it will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No comments on the proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before January 21, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 21, 1981,
Shirley E. Holis,
Assistant Secretary.

[Release No. 34-18375; File No. SR-SCCP 51-7]

Stock Clearing Corporation of Philadelphia; Self-Regulatory Organizations; Proposed Rule Change

Relating to Buy-In Rule With Extension Provisions of up to 14 days. Comments requested on or before January 21, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 2, 1981, Stock Clearing Corporation of Philadelphia filed with the Securities and Exchange Commission the proposed rule change as described in items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Stock Clearing Corporation of Philadelphia (SCCP) proposes to amend its Rule 14, Buy In, as follows:

Rule 14. Stock Clearing Corporation of Philadelphia (SCCP) or a participant of SCCP may demand delivery of [any clearing member] [each other of any security] which [such clearing member is failing to deliver to Stock Clearing Corporation] is not delivered on or after settlement date, and if such demand to deliver is not complied with, Stock Clearing Corporation or the participant shall have the right to buy in said security. [for the account of the clearing member.]

In the event Stock Clearing Corporation receives a notice of Intention to Buy-In in the form prescribed in the SCCP Procedures, SCCP will have the right to take a seven (7) calendar day extension due to transit or transfer. Upon request, SCCP will furnish certificates numbers to the originator of the buy-in. If the securities are in transfer and due from the transfer agent, and transfer is delayed, SCCP may take an additional seven (7) calendar days.

Should the buy-in received by SCCP be retransmitted to a member who is short the stock to SCCP, SCCP may grant an extension to the member. The member will be required to deliver the physical shares to SCCP in sufficient time prior to execution of the buy-in to permit SCCP to re-deliver the securities to the originator of the buy-in by the final execution date.

The remainder of Rule 34 (Sell Out) is unchanged.

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

SCCP's existing buy-in rule is limited to the execution of buy-ins against its participants which fail to deliver securities to SCCP. It does not address the situation of SCCP owing securities to its participants or to other clearing corporations through an interface. Since the continuous-net-settlement and depository book entry systems, along with stock loan, have virtually eliminated buy-ins for listed securities, the problems generally occur with Over-the-Counter (OTC) issues in which physical availability is sometimes limited.

Buy-in notices are often received by SCCP against positions that are still outstanding with selling brokers. Under the existing arrangement, SCCP has 24 hours to retransmit the buy-in to the selling participant, obtain the security, and transport it to the originator (most often a clearing corporation with which SCCP maintains an interface). If the security cannot be delivered in the allotted time, and an extension is not granted by the originator, then the selling participant and/or SCCP may suffer a financial loss.

The proposed Buy-In rule provides for an extension of the buy-in execution date for up to a maximum of 14 days. The extension of time would give SCCP and its participants the necessary time to make delivery of securities against buy-ins without incurring a loss. The proposed rule change is consistent with the requirements of
Section 17A(b)(3)(F) of the Securities Exchange Act of 1934 (the Act) in promoting the prompt and accurate clearance and settlement of securities transactions for which SCCP is responsible, and in fostering cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not perceive any impact on competition, negative or positive, resulting from the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change

Comments on the proposed rule change have been neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before February 4, 1982, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before January 21, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 24, 1981.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 81-37304 Filed 12-30-81; 8:45 am]
BILLING CODE 8010-01-M

<table>
<thead>
<tr>
<th>Requirement</th>
<th>CFR cite</th>
<th>Description</th>
<th>OMB No.</th>
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<tr>
<td>SBIC recordkeeping</td>
<td>13 CFR 107.1102</td>
<td>Requires small business investment companies to maintain general business books and records.</td>
<td>Proposed.</td>
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<tr>
<td>Nonbank lender</td>
<td>13 CFR 120.5(b)(9), (b)(f)</td>
<td>Requires nonbank lenders to maintain general business books and records.</td>
<td>Proposed.</td>
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<td>Civil Rights compliance</td>
<td>13 CFR 112.5(b), (c), (d)</td>
<td>Requires recipients of SBA assistance to keep records showing compliance with Civil Rights laws.</td>
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<tr>
<td>Civil Rights compliance</td>
<td>13 CFR 116.5(b), (c), (d)</td>
<td>Requires recipients of SBA assistance to keep records showing compliance with Civil Rights laws.</td>
<td>Proposed.</td>
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<tr>
<td>Tort claims</td>
<td>13 CFR 114.105</td>
<td>Requires parties who file tort claims with SBA to maintain certain records and documentation.</td>
<td>None.</td>
</tr>
<tr>
<td>Nonbank lender recordkeeping</td>
<td>13 CFR 120.6</td>
<td>Requires nonbank lenders to report various financial conditions, and litigation to SBA.</td>
<td>None.</td>
</tr>
</tbody>
</table>

Dated: December 24, 1981.
Donald R. Templeman,
Acting Administrator, SBA.

[FR Doc. 81-37304 Filed 12-30-81; 8:45 am]
BILLING CODE 8025-01-M
ACTION: Draft Advisory Circular and request for comments.

SUMMARY: This extension is provided to accommodate several requests received from commenters who will be unable to comply with the January 5, 1982, due date.

DATES: Commenters must identify file AC 25.1309-XX number and comments must be received on or before March 15, 1982.

ADDRESS: Send all comments on the draft Advisory Circular to: Federal Aviation Administration, Attention: Systems Branch (AWS-130), 800 Independence Avenue SW., Washington, D.C. 20591. Comments received on the draft Advisory Circular may be inspected at Room 335, FAA Headquarters Building (FOD-10A), 800 Independence Avenue SW., Washington, D.C. 20591, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:
Mr. Frank C. Rock, Chief Systems Branch, (AWS-130), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone (202) 426-8395.

SUPPLEMENTARY INFORMATION:
Comments Invited

All comments regarding the original draft of AC 25.1309-X were carefully reviewed. Following an evaluation of all comments, the circular was extensively revised. Due to the extensive revision of the draft AC 25.1309-X, it is being reissued as draft AC 25.1309-XX to invite comment before final publication. A copy of the draft advisory circular may be obtained by contacting the person identified under "For Further Information Contact."
Airplane functions may be divided in the following manner:

1. **Non-Essential.** Functions which could not significantly degrade the capability of the airplane or the ability of the flight crew to cope with adverse operating conditions if accomplished improperly or lost. Failure conditions which result in improper accomplishment or loss of non-essential functions may be probable.

2. **Essential.** Functions which would reduce the capability of the airplane or the ability of the flight crew to cope with adverse operating conditions if accomplished improperly or lost. Failure conditions which result in improper accomplishment or loss of essential functions must be improbable.

3. **Critical.** Functions which would prevent the continued safe flight and landing of the airplane if not properly accomplished. Failure conditions which result in improper accomplishment or loss of critical functions must be extremely improbable.

a. In order to show compliance with FAR 25.1309(b), FAR 25.1309(d) requires an analysis which should consider:

   1. Possible modes of failure, including malfunctions and damage from external sources.
   2. The probability of multiple failures and undetected failures.
   3. The resulting effects on the airplane and occupants, considering the stage of flight and operating conditions.
   4. The crew warning cues, corrective action required, and the capability of detecting faults.

   An analysis may be qualitative or quantitative and may range from a simple report which interprets test results or presents a comparison between two similar systems to a fault/failure analysis which may (or may not) include numerical probability data. An analysis may make use of previous service experience from comparable installations in other airplanes.

   The depth of this analysis will vary, depending on the design complexity and type of functions performed by the system being analyzed. Section 6 of this advisory circular provides an outline of various analytical techniques and guidelines for determining when each must be used.

b. **Terms.** For the purpose of conducting or evaluating an analysis, the following terms and numerical values should apply:

   a. **Component.** The term "component" is used in this advisory circular to denote any level of hardware assembly; i.e., system, subsystem, unit or part.
   b. **Continued Safe Flight and Landing.** This phrase is used in the regulations to require that an airplane be capable of continued controlled flight, possibly using emergency procedures and without exceptional pilot skill or strength, after any failure condition which has not been shown to be extremely improbable. There may be failure conditions which are not extremely improbable for which it is necessary to assure that continued safe flight and landing is possible. For these failure conditions, a flight demonstration by the applicant in an airplane or satisfactory flight simulator of the worst case failure conditions identified by the analysis may be necessary. After the demonstration of controlled flight for an indefinite period which is long enough to assure that all of the consequences of the failure condition have been experienced, the capability of accomplishing a safe landing on an airport must be demonstrated.
   c. **Deductive.** The term used to describe those analytical approaches involving the reasoning from a defined unwanted event or premise to the causative factors of that event or premise by means of a logical methodology (the "top-down" or "how could it happen" approach). A deductive approach will assume the system has failed in a certain way and attempt to determine what failure modes of components will contribute to this failure.
   d. **Error.** A mistake, which when present in a system design, causes the system to function in a manner different from what the user reasonably expects it to do.
   e. **Event.** An occurrence which causes a change of state.
   f. **Exposure Time.** The period (in clock time or cycles) during which a system, subsystem, unit or part is exposed to failure, measured from when it was last verified functioning to when it is verified again.
   g. **Failure.** The inability of a system, subsystem, unit or part to perform within previously specified limits. Note that some failures may have no effect on the capability of the airplane and therefore are not failure conditions.
   h. **Failure Analysis.** The logical, systematic examination of a system, subsystem, unit or part, to identify and analyze the probability, causes, and consequences of potential and real failures.

   i. **Failure Condition.** Any combination of events, faults, errors, or unexpected environmental conditions that result in a reduction in the capability of the airplane, a reduction in the ability of the crew to cope with adverse operating conditions, or which would prevent continued safe flight and landing.

j. **Failure Effect(s).** The consequence(s) of a failure mode on the system, subsystem, unit or part's operation, function, or status.

k. **Failure Mode.** The manner in which a system, subsystem, unit, part or function can fail.

l. **Fault.** An undesired anomaly in the functional operation of a system, subsystem, unit or part.

m. **Fault Tree.** A fault tree is a graphic representation of the various parallel and series combinations of subsystem and component failures which can result in a specified system fault. The fault tree, when fully developed, may be mathematically evaluated to establish the probability of the ultimate undesired event occurring as a function of the estimated probabilities of identifiable contributory events.

n. **Flight Time.** The time from the moment the aircraft first moves under its own power for the purpose of flight until the moment it comes to rest at the next point of landing.

o. **Frequency of Occurrence.** The probability expressed as a fraction from zero (event never occurs) to one (event always occurs), that a particular event will occur within a specified period.

   Three probability classifications are given below and are defined in quantitative as well as qualitative terms for use with the various types of analytical techniques listed in Section 6 of this advisory circular:

   1. **Probable.** A frequency of occurrence in an order of $1.0 \times 10^{-5}$ or greater per hour of flight time. Probable events may be expected during the operational life of each airplane.
   2. **Improbable.** A frequency of occurrence in the range from approximately $1.0 \times 10^{-5}$ to $1.0 \times 10^{-9}$ per hour of flight time. Improbable events are not expected to occur during the total operational life of a single airplane of a particular type, but are expected to occur during the total operational life of all airplanes of a particular type.
   3. **Extremely Improbable.** A frequency of occurrence on the order of $1.0 \times 10^{-9}$ or less per hour of flight time. Extremely improbable events are so unlikely that for the purpose of analysis they need not be considered, unless engineering judgment would require their consideration.

Notes—(a) If appropriate, the calculation of probabilities of failure conditions for systems which are used only at specific times during flight such as takeoff or landing should be done on an event basis; i.e., per takeoff or per landing. However, the quantitative analysis of equipment which is required for a particular type of flight condition for which the airplane is approved may not take credit.
for the fact that the flight condition does not always exist. For example, the analysis of airplanes approved for flight at night may not take credit for the fact that hours of darkness are only experienced 50 percent of the time. The probability of the existence of the particular flight condition for which the airplane is approved should be assumed to be one for purposes of quantitative analysis. (b) The three probability terms defined in paragraph 5 above are intended to relate to the effects on the airplane resulting from the loss of a function or functions. These terms do not define the reliability of specific components or systems. (c) The range of numerical values assigned to each of the terms is intended to minimize differences in the interpretation of what these terms mean when used in § 25.1309 of the Federal Aviation Regulations. It is important to realize that these terms and others such as “reliable,” “unlikely,” and “remote” are used throughout the Federal Aviation Regulations. In many cases, these other terms were used prior to Amendment 25-23. Careful judgment is necessary when using the intent of any regulation using such terms. In all cases, the effect of the given failure conditions should be considered.

p. Function. Each special purpose performed by a system, subsystem, unit or part.
q. Inductive. The term used to describe those analytical approaches involving the systematic evaluation of the defined parts or elements of a given system or subsystem to determine specific characteristics of interest (the “bottom-up,” or “what happens if” approach). An inductive approach will assume a component condition or initiating event and attempt to determine the corresponding effect on the overall system.

r. Latent Failure. A failure that is not inherently revealed at the time it occurs.
s. Qualitative. The term used to describe those analytical approaches which are oriented toward relative, nonmeasurable and subjective values.

l. Quantitative. The term used to describe those analytical approaches which are oriented toward the use of numbers or symbols used to express a measurable quantity.

u. Redundancy. The existence of more than one means of accomplishing a given function where all means must fail before there is an overall failure of the function.
v. Reliability. The probability that a system, subsystem, unit or part will perform its intended function for a specified interval under stated operational and environmental conditions.

6. Analytical Techniques. a. The first step in determining compliance with FAR 25.1309(b) is to determine the criticality of the system or installation to be certificated. This analysis may be conducted using service experience, engineering, or operational judgment, or by using a top-down deductive qualitative analysis which examines the system function performed by the system. The analysis should determine the criticality of each system function, i.e., either non-essential, essential, or critical. Each system function should be analyzed with respect to functions performed by other aircraft systems. This is necessary because the loss of different but related functions provided by separate systems may affect the criticality category assigned to a particular system.

This type of analysis, variously referred to as a preliminary hazard analysis, criticality categorization, or criticality assessment may contain a high level of detail in some cases, such as for an integrated electronic flight instrument system. However, many installations may only need an informal review of the system design by the applicant for the benefit of the FAA certification personnel to determine the criticality of the functions performed by the system. For example, passenger entertainment systems usually will be categorized as performing non-essential functions with little or no formal evaluation of the system design.

The purpose of the preliminary hazard analysis is to identify the critical and essential functions and the systems which must operate properly to accomplish these functions. Once the criticality of a system has been established, the additional analytical techniques which might be useful in determining compliance with FAR 25.1309(b) are more easily identified.

b. Analysis of systems which perform non-essential functions. Although a preliminary hazard analysis has been accomplished, and it has been determined that a particular system performs only non-essential functions, this is not sufficient for demonstrating compliance with the requirements of FAR 25.1309(b). It is also necessary to determine if failures of the system could adversely affect the accomplishment of any essential or critical function.

In general, the installation of a non-essential system should be accomplished in a manner which insures its independence and isolation from other systems in the airplane which perform critical or essential functions. If a review of the design based on good engineering judgment determines that system faults cannot affect essential or critical functions, then no further analysis is necessary. If the installation does not have satisfactory isolation from systems perform essential or critical functions, or if the system complexity is such that a design review alone cannot adequately establish that such isolation has been achieved, then the system may have to be analyzed using more rigorous methods. Note that some of which are described in paragraphs 6c and 6d, below.

Special care must be taken with systems that perform non-essential functions which provide information for use by the flight crew, such as engine performance data systems. Systems of this type, which are not required by regulation and also are non-essential, may have hazardous failure modes which provide misleading information to the flight crew without warning. These systems may have to be analyzed as a system which performs an essential function.

Typically, systems such as galleys, position lights, public address systems, and interior cabin lights, to name a few, should be certificated based on a design review alone without the need of a formal failure analysis. Note that some systems required by regulation may be found to perform non-essential functions using the criteria of this advisory circular.

c. Analysis of systems which perform essential functions. The analysis necessary for systems which perform essential functions, as determined from the preliminary hazard analysis, is a variable controlled by the dependence of other systems on the system under analysis. If there is little or no interdependence, it is only necessary to show that the failure of the system to satisfactorily perform its function is improbable. Satisfactory service history of the equipment under analysis or similar units will be acceptable for showing compliance. Compliance may also be shown by a quantitative reliability analysis using MIL-STD-217C or component failure rate data gathered by the equipment manufacturer. For quantitative analysis, improbable is taken to be in range from $1.0 \times 10^{-8}$ to $1.0 \times 10^{-6}$ occurrences per hour of flight time. An acceptable frequency of occurrence should be agreed upon with the FAA for a particular system.

Many units which perform essential functions have dual or greater redundancy. It is essential that redundant systems meet the required frequency of occurrence criteria. For example, if the criteria for a dual redundant system is a frequency of occurrence of $1 \times 10^{-4}$ per hour of flight, then the acceptable frequency of occurrence for each system should be $1 \times 10^{-3}$ or less. If redundancy exists and there is some evidence to indicate satisfactory reliability of the components of the system, no further
analysis is necessary. An example of an essential system which would not require additional analysis is a dual compass system whose components have demonstrated acceptable reliability. For complex systems, failure modes and effects analysis may be necessary to verify that the redundancy actually exists, and to show that the failure modes of the system do not have an adverse effect on other essential or critical functions. A complete quantitative safety analysis will not usually be necessary.

If failure modes are found to exist which can adversely affect essential or critical functions, these failure modes should be shown to be improbable or extremely improbable, as appropriate, using the safety analysis technique described by paragraph 6d below. However, single failure modes will not usually be accepted as being extremely improbable.

d. Analysis for systems which perform critical functions. A quantitative safety analysis will generally be necessary for each critical function identified by the preliminary hazard analysis. Inability to satisfactorily perform critical functions should be extremely improbable. For purposes of quantitative analysis, extremely improbable is taken to mean frequencies of occurrence on the order of $1.0 \times 10^{-25}$ per hour of flight and less. This safety analysis may consist of the following:

1. **Fault Tree.** A top down deductive analysis identifying the conditions necessary to cause the loss of the critical function.

2. **Failure Modes and Effects Analysis.** An inductive bottom up analysis which determines what happens to the system upon single failures of its individual components. These failure modes are used as the bottom level events of the fault tree.

3. **Reliability Study.** Determines the probability of the single faults used as bottom level events of the fault tree from component failure rate data and exposure times to both active and latent failures. The probability of all event conditions in the fault tree will then be calculated from this data. The fact that maintenance of flight crew checks will be performed throughout the life of the system is relevant to quantitative analysis. When exposure times relevant to failure probability calculations are affected by flight crew checks or inspection intervals, these time intervals should be clearly specified in appropriate documents.

The U.S. Nuclear Regulatory Commission published NUREG-0492 in January 1981 titled "Fault Tree Handbook." This document describes in detail the procedures necessary to construct a fault tree and analyze the reliability of a complex system in a qualitative manner. The format of quantitative analyses which use NUREG-0492 as a guide will be acceptable to the FAA. Copies of this document can be obtained from the National Technical Information Service, or from:


The most often encountered difficulty with quantitative analyses presented to the FAA has been the improper treatment of events which are not mutually independent. The probability of occurrence of two events which are mutually independent may be multiplied to obtain the probability that both events occur using the formula:

$$P(A \text{ and } B) = P(A)P(B).$$

This multiplication will produce an incorrect solution if A and B are not mutually independent. Often a quantitative analysis will be defective because a single failure will be included as a primary event at more than one location and then improperly combined with itself in computing the probability of the top event of a fault tree. This problem and others which are typically encountered in a quantitative analysis based on a fault tree are clearly explained in NUREG-0492.

For very simple installations, it may be possible to successfully analyze a critical function without using the detailed formal procedures outlined above. In general, the simultaneous failure of two reliable independent systems, each of which has dual redundancy, is expected to be extremely improbable. However, the difficulty is to establish that the two systems are actually independent. Systems may have common failure modes such as loss of electrical power or cooling air which would cause their simultaneous failure.

Some systems which perform critical functions that have been identified on various transport category airplanes are listed below. This list is only to provide a guide as to the types of functions which may be critical. Each airplane model must be examined to determine what functions are critical.

Examples of systems which perform critical functions:

1. The primary flight control system.
2. Hydraulic power for airplanes with powered flight control systems and no manual revision.
3. Secondary flight control systems if failure of these systems can result in uncontrolled flight.
4. Engine control system elements that affect all engines simultaneously.
5. Critical digital systems which are used separately, but which have identical firmware/software, where a common design error could lead to simultaneous failure conditions.
6. For airplanes certificated for flight in IFR conditions, the total systems and displays which provide the flight crew with any of the following:
   - (a) Attitude Information
   - (b) Altitude Information
   - (c) Airspeed Information

The analytical techniques outlined in this section have been used successfully in determining compliance with the requirements of FAR 25.1309(b). Other comparable techniques exist and may be proposed by an applicant for use in any certification program. However, these methods should be proposed to the FAA certificating office early in the program. Early agreement between the applicant and the Federal Aviation Administration should be reached on the methods of analysis to be used, identification of critical functions, and assumptions to be used in the acceptance of the proposed analysis.

The analysis should be clearly documented. All assumptions, sources of reliability data, failure rates, system functional type (critical, non-essential, essential), etc. should be concisely documented for ease of review. To the extent feasible, the analysis should be self-contained.

7. **Recommendation.** The purpose and intent of this advisory circular is to provide guidance. Terms and methods of analysis which may be utilized in demonstrating compliance with FAR §25.1309 are included. If additional explanation or discussion is desired, contact the Office of Airworthiness, Aircraft Engineering Division, Systems Branch, AWS-130, 800 Independence Avenue SW., Washington, D.C. 20591, or phone 202-426-8395.

[FR Doc. 84-3741 Filed 12-30-84; 0:45 am]

BILLING CODE 4910-13-M
DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular, Public Debt Series—No. 39-81]

Interest Rate on Notes of Series K–1985

December 23, 1981.

The Secretary announced on December 22, 1981, that the interest rate on the notes designated Series K–1985, described in Department Circular—Public Debt Series—No. 39–81 dated December 10, 1981, will be 14-⅝ percent. Interest on the notes will be payable at the rate of 14-⅝ percent per annum.

Paul H. Taylor,
Fiscal Assistant Secretary.

Supplement Statement

The announcement set forth above does not meet the Department’s criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81–3725 Filed 12–30–81; 8:45 am]
BILLING CODE 4810–40–M
CONTENTS

1. Docket No. 81-31: "50 Mile Container Rules"—Consideration of draft report.
   CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.
   [S-1940-81 Filed 12-29-81: 2:52 pm]
   BILLING CODE 6720-01-M

3. INTERNATIONAL TRADE COMMISSION
   [USITC SE-81-41A]
   CHANGES IN THE MEETING: Emergency action to close a portion of the meeting originally announced as open to the public.
   Pursuant to the specific exemptions of 5 U.S.C. 552b(e)(3). (10) and 17 CFR 201.37(b), the Commissioners will hold a closed meeting to consider the items listed for the closed meeting.
   BILLING CODE 1505-01-M

1. COMMODITY FUTURES TRADING COMMISSION

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.
STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.
MATTERS TO BE CONSIDERED: Portions open to the public:
2. Agreement No. 2744-46: Modification of the Atlantic & Gulf/West Coast of South America Conference Agreement to limit membership to vessel operating common carriers.
3. Agreement No. 10424: Establishment of the United States Atlantic & Gulf/Jamaica and Hispaniola Conference Agreement.
5. Report on terminal handling charges of conferences serving the U.S. East and Gulf Coast trades.

Portion closed to the public:

2. Consideration of whether to Issue a Rules—Consideration of draft report.
   CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.
   [S-1945-81 Filed 12-29-81: 11:32 am]
   BILLING CODE 7020-02-M

4. 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 January 4, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, January 5, 1982, at 10:00 a.m.

An open meeting will be held on Thursday, January 7, 1982, 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. 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(e)(3), 17 CFR 201.37(b), and 17 CFR 201.37(c).

Chairman Shad and Commissioners Loomis, Evans, Thomas, and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Thursday, January 5, 1982, at 10:00 a.m., will be:

Formal orders of investigation.
Settlement of administrative proceeding of an enforcement nature.
Dismissal of injunctive action.
Institution of injunctive actions.
Regulatory matter bearing enforcement implications.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Freedom of Information Act appeal.

The subject matter of the open meeting scheduled for Thursday, January 7, 1982, at 10:00 a.m., will be:

1. Consideration of whether to grant the request of Stradley, Ronon, Stevens & Young, Inc., for a waiver of imputed disqualification pursuant to Rule 8(d) of the Commission's Conduct Regulation. For further information, please contact Myrna Siegel at (202) 272-2430.
2. Consideration of whether to issue a release rescinding Rule 15b22-1 under the Securities Exchange Act of 1934. For further information, please contact Thomas G. Lovett at (202) 272-2415.
3. Consideration of whether to (i) adopt amendments to Rule 11Aa2-1 ("Rule") under the Securities Exchange Act, including both technical amendments and amendments that would increase the number of securities eligible for national market system ("NMS") designation; and (ii) postpone the effective date of the Rule so that the designation of the first NMS securities will become effective March 1, 1982, rather than February 1, 1982. For further information, please contact William W. Uchimoto at (202) 272-2006.
4. Consideration of whether to adopt an amendment to Securities Exchange Act Rule 15b-9 (the self-underwriting rule for SBED broker-dealers) that provides a conditional
exception to that rule for SECO broker-dealers that limit their business to participating in the offer and sale of securities issued by an affiliate that is not a broker-dealer. For further information, please contact Colleen Curran Harvey at (202) 272-2826.

3. Consideration of whether to adopt certain proposed amendments to Rule 465 under the Securities Act of 1933 regarding automatic effectiveness of post-effective amendments filed by certain investment companies which would facilitate the process by which open-end management investment companies may send prospectuses in lieu of otherwise required annual reports to shareholders. For further information, please contact Susan P. Hart at (202) 272-2098.

4. Consideration of whether to publish for comment (1) Rule 466 under the Securities Act of 1933 providing for automatic effectiveness of post-effective amendments filed by insurance company separate accounts; (2) an amendment to Rule 463 under the 1933 Act permitting registrants to designate an effective date for post-effective amendments filed pursuant to paragraph (b); and (3) related amendments to registration statement forms under the 1933 Act and 1940 Act. For further information, please contact Susan P. Hart at (202) 272-2098.

5. Consideration of whether to propose a revision of Article 6 of Regulation S-X which is applicable to financial statements filed by registered investment companies. The revisions to Article 6 being considered are intended to (1) eliminate rules which are duplicative of generally accepted accounting principles, (2) effect changes which recognize current industry practices, and (3) integrate and simplify the rules to improve financial reporting. The Commission will also consider similar revisions to financial statement requirements for employee stock purchase, savings and similar plans. For further information, please contact Clarence M. Staubs at (202) 272-2133.

6. Consideration of whether to propose revisions in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272-2092.

December 28, 1981.
Part II

Office of the Federal Register

Incorporations by Reference; Approval in Titles 7 through 16 and Corrections to Title 46

Title 7 Chapters I and IX—Agricultural Marketing Service, Department of Agriculture
Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture
Chapter XVII—Rural Electrification Administration, Department of Agriculture

Title 9 Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture
Chapter III—Food Safety and Inspection Service, Department of Agriculture

Title 10 Chapter I—Nuclear Regulatory Commission
Chapter II—Department of Energy

Title 12 Chapter VIII—National Credit Union Administration

Title 13 Chapter I—Small Business Administration

Title 14 Chapter I—Federal Aviation Administration, Department of Transportation

Title 16 Chapter II—Consumer Product Safety Commission

Title 46 Subchapters D, H, O, Q, R, T, U, and V—Coast Guard, Department of Transportation
OFFICE OF THE FEDERAL REGISTER

1 CFR Part 51 and CFR Titles 7, 9, 10, 12, 13, 14, 16, and 46

Approval of Incorporations by Reference

AGENCY: Office of the Federal Register.

ACTION: Approval of incorporations by reference and corrections.

SUMMARY: The Office of the Federal Register publishes a document listing materials that have been approved by the Director for incorporation by reference. The document also corrects a previously published listing. These references appear in Titles 7 through 16 and 46 of the Code of Federal Regulations (CFR). This document is published to inform the public of materials that have been approved for incorporation and have the same legal status as if they were published in full text in the Federal Register.

EFFECTIVE DATE: The Director approves the following incorporations by reference for one year effective January 1, 1982, unless otherwise noted.

ADDRESSES: For specific addresses where materials are available, see table. Materials are also on file at the Office of the Federal Register, 1100 L Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joan F. Montgomery, (202) 523-4534.

SUPPLEMENTARY INFORMATION:

Background. Each agency that wishes material incorporated by reference to remain effective must annually submit to the Director a list of that material and the date of its last revision (1 CFR 51.13). The materials included on the table below are incorporated by reference under 5 U.S.C. 552(a) and 1 CFR Part 51. These procedures provide that material approved for incorporation by reference by the Director of the Federal Register has the same legal status as if it were published in full text in the Federal Register.

Availability. Before an agency may incorporate by reference any material, it must make the material reasonably available to the class of persons affected by it. Agencies have listed addresses where you can obtain each item included in the table. The materials approved for incorporation by reference are also available for inspection and copying at the Office of the Federal Register, Room 5401, 1100 L St., NW, Washington, DC, phone (202) 523-5840.

Amendments. If the agency wishes to amend material before the annual approval expires, the agency shall publish a notice which announces the amendment and states where the material may be obtained. The agency shall also assure that the material and its amendments are available to the public and on file at the Office of the Federal Register. Unless the agency follows these procedures, the amendments are not approved.

Quarterly Publication. The titles of the CFR are generally revised according to the following schedule:

Table 1 through Title 16—as of January 1
Title 17 through Title 27—as of April 1
Title 28 through Title 41—as of July 1
Title 42 through Title 50—as of October 1

Every quarter, the Office of the Federal Register publishes a document on incorporation by reference. This quarterly document contains the following information on incorporation by reference. First, it contains a table of materials in the applicable titles that have been reapproved for incorporation by reference under 1 CFR 51.13. Second, the document contains a listing of any materials which were granted extensions under 1 CFR 51.13 review in the last quarter and have since received final approval by the Director of the Federal Register. And third, the document may contain corrections to previously published incorporation by reference approval documents.

Material which is approved in a timely fashion during the quarterly review process is also listed in the appropriate Code of Federal Regulations volume(s).

How the Table is Arranged. The table is arranged first by headings indicating the CFR title and chapter and the name of the agency incorporating the material. Under each of these headings are listed the name of the standards producing organization, a description of the material being incorporated and where it is available, and the CFR part or section where the material is referenced.

Problems. If you have any problems obtaining the material, notify the agency. If you find the material is not available, notify the Director of the Federal Register (NARS), Washington, DC 20408 or call (202) 523-4534.

John E. Byrne,
Director of the Federal Register.

46 CFR Ch. I—COAST GUARD, DOT—CORRECTION

In FR Doc. 81-27948, appearing at page 63478 in the Federal Register on Wednesday, September 30, 1981, make the following changes:

1. On page 63478, 63479, 63487, and 63488, the entry beneath Underwriters Laboratories which presently reads “UL 19–Woven-Jacketed Rubber Lined Fire Hose, 1971” should be changed to read “UL 19–Woven-Jacketed Rubber Lined Fire Hose, 1978” wherever it appears.

2. On page 63488, the entry beneath American National Standards Institute which presently reads “ANSI B16.5–1979–Steel Pipe Flanges and Pipe Fittings” should be changed to read “ANSI B16.5–1977–Steel Pipe Flanges and Pipe Fittings”.

3. On page 63483:

a. The entry beneath Naval Publications Forms Center which reads “L–P–406 Plastic, organic, General Specification (Test Methods), B, Amdt. 1...161.010–1” should be removed.

b. In the entry beneath Naval Publications Forms Center which presently reads “QQ–B–611–Brass, Commercial: Bars, plates, rods shapes, Sheets and Strip, A, and Amdt. 4”, the reference to Amdt. 4 should be removed.

c. Before the final entry on the page, the following entry should be added: “No. 370–Instrumental Photometric Measurements of Reflective Materials and Retrospective Devices, 1977...164.018–3”.

4. On page 63481, the entry beneath Underwriters Laboratories which presently reads “UL 19B–Class H Fuses, 1973” should be changed to read “UL 19B–Class H Fuses, 1981”.

5. On page 63483, beneath 40 CFR Subchapter V, American National Standards Institute, add the following entry after the existing entry: “ANSI/ASME PVHO 1 Safety Standard for Pressure Vessels for Human Occupancy, 1981...197.204; 197.205; 197.300; 197.320”.
Agriculture Department

Agricultural Marketing Service, Department of Agriculture

American Society for Testing and Materials
1916 Race St., Philadelphia, PA 19103

ASTM D 584-72 Standard Method of Test for Wool Content of Raw Wool


ASTM D 2280-78 Standards for Appearance Grade Yarn on Bobbins.

Association of Official Seed Analysts
Secretary Treasurer, AOSA, c/o U.S. Department of Agriculture, Seed Standardization Branch, Rm. 213, Bldg. 306, Agricultural Research Center, Beltsville, MD 20705


Federal-State Inspection Service

Oregon Department of Agriculture, Agriculture Bldg., Salem, OR 97310.


Oregon Grade Standards for Filberts (Hazelnut) Kernels (July 20, 1978, Edition)...

Munsell Color Company

2411 North Calvert St., Baltimore, MD 21218

USDA Walnut Color Chart: (Shelled Walnuts), (Walnuts in the Shell)...

Federal Register

Agriculture Department
Regulatory Support Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, USDA, Room 635, Federal Bldg., Hyattsville, MD 20782


Japanese Beetle Program Manual—APHIS M-301-48 (June 1978)...


Rural Electrification Administration

RURAL ELECTRIFICATION ADMINISTRATION, DEPARTMENT OF AGRICULTURE

Copies of Appendix A Bulletins will be available upon request in person or by mail to the Management Service Division, Room 4024-S, Washington, D.C. 20250.

Rural Electrification Administration

7 CFR CHAPTER I AND IX (PARTS 0 TO 45, 46 TO 51, 53 TO 203, AND 900 TO 999)

AGRICULTURAL MARKETING SERVICE, DEPARTMENT OF AGRICULTURE

7 CFR

Agriculture Department

Regulatory Support Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, USDA, Room 635, Federal Bldg., Hyattsville, MD 20782


Japanese Beetle Program Manual—APHIS M-301-48 (June 1978)...


Rural Electrification Administration
7 CFR CHAPTER XVII (PARTS 1700 TO 1799)—Continued
RURAL ELECTRIFICATION ADMINISTRATION, DEPARTMENT OF AGRICULTURE—Continued

345-22 REA Specification for Voice Frequency Loading Coils (PE-28) 7/78
Part 1701

Part 1701

345-25 REA Specification for Deadend-Clevis Assembly for use with Open Wire Telephone Conductors (PE-36) 12/82
Part 1701

345-27 REA Specification for D-66/PE-68 Junction Impedance Condensers (PE-31) 2/74
Part 1701

345-30 REA Specification for Ringing Generator Equipment (PE-40) 2/71, with all supplements to 2/73.
Part 1701

345-38 REA Specification for Wood Crossarms Brace (PE-59) 11/66
Part 1701

345-42 REA Specification for Low Loss Buried Distribution Wire (PE-54) 3/71
Part 1701

345-46 REA Specification for Clamps to Support Figure 8 Distribution Wire (PE-49) 7/68
Part 1701

345-50 REA Specification for Truck Carrier Systems (PE-60) 9/80
Part 1701

345-51 REA Specification for Crystalline Polyethylene/Ethylene Copolymer Raw Material (PE-210) 4/67
Part 1701

345-52 REA Specification for Service Entrance and Station Protector Installations 1/80
Part 1701

345-53 REA Specification for Encapsulations, Splice Closure, and Pressure Blocks (PE-70) 3/71
Part 1701

345-54 REA Specification for Telephone Cable Splicing Connectors (PE-52) 12/71
Part 1701

345-55 REA Specification for Central Office Loop Extenders & Loop Extender voice Frequency Repeater Combinations (PE-61) 12/73.
Part 1701

Part 1701

345-58 REA Specification for Inside Wiring Cable (PE-71) 3/71, with all supplements to 3/78.
Part 1701

345-60 REA Specification for Coaxial Drop Cable for ETV and Other Wide Band Applications (PE-75) 10/69.
Part 1701

345-61 REA Specification for Switchboard Cable (PE-72) 3/71, with all supplements to 3/78.
Part 1701

345-63 REA Standard PC-4 for Acceptance Tests and Measurements of Telephone Plant 6/76
Part 1701

345-64 REA Specification for Ringers (PE-47) 4/77
Part 1701

345-65 REA Specification for Cable Shield Bonding Connectors (PE-53) 6/78.
Part 1701

Part 1701

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Part 1701

345-70 REA Specification for Filled Buried Wire (PE-56) 8/74, with all supplements to 8/78.
Part 1701

345-71 REA Specification for Filled Splice Cases (PE-73) 3/77
Part 1701

345-75 REA Specification for Electronic Trunk Circuits (PE-65) 1/77
Part 1701

345-77 REA Specification for Serving Area Interface Housings (PE-79) 1/78
Part 1701

345-78 REA Specification for Carbon Arrester Assemblies for Use in Protectors (PE-78) 2/80 with all supplements to 7/80.
Part 1701

345-80 REA Specification for Flat Oval Telephone Cords (PE-75) 7/78
Part 1701

Part 1701

345-84 REA Specification for Expanded Dielectric Coaxial cable (PE-64) 9/80.
Part 1701

NOTE: The following publications are approved for incorporation by reference until Mar. 1, 1982

1-1 General Funds 12/77 with all supplements to 3/79.
Part 1701

2-1 Guiding Statement of REA Policy Concerning Its Relationship with Borrowers 8/69.
Part 1701

5-1 Joint Use of REA Borrowers' Facilities by Electric and Telephone Systems 3/54 with all supplements to 2/72.
Part 1701

Part 1701

20-3 Obtaining Adequate Right-of-Way and Submission of Title Evidence by Electric Borrowers 7/76 with all supplements to 10/78.
Part 1701

20-5 Extensions of Payments of Principal and Interest 5/72
Part 1701

20-6 Loans for Generation and Transmission 5/69.
Part 1701

20-8 Purchase of Real Estate by Electric Borrowers 7/83
Part 1701

20-9 Notes, Interest Computation, Payments, and Loan Account Statements 10/76 with all supplements to 1/78.
Part 1701

20-14 Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act 2/71 with all supplements to 8/76.
Part 1701

20-18 Equal Employment Opportunity in Construction Financed with REA Loans 7/70
Part 1701

20-19 Non-discrimination Among Beneficiaries of REA Programs 7/78.
Part 1701

20-20 Deferral of Principal Repayments for Investment in Supplemental Lending Institutions 1/71.
Part 1701

20-21 Environmental Policies and Procedures 1/80.
Part 1701

Part 1701

Part 1701

24-1 Electric Loan Policy for Section 5 Loans 3/69.
Part 1701

20-1 Budgetary Control and Advance of Loan Funds 5/71 with all supplements to 10/79.
Part 1701

40-1 Payments to Architects, Engineers, Contractors, and Suppliers 3/69.
Part 1701

40-2 Insurance Coverage for Borrower's Contractors, Engineers, and Architects and Bond Requirements for Borrowers' Contractors 6/76 with all supplements to 6/78.
Part 1701

40-5 Common Use of Poles for Distribution and Transmission Lines 1/70.
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- Uniform methods & Rules-Bovine Tuberculosis Eradication (March 1980 Edition)...
- **World Health Organization**
- World Health Organization, Distribution and Sales Service, 1211 Geneva 27, Switzerland
- United Nations Book Shop, New York, NY 10017
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Agriculture Department
Food Safety and Inspection Service, Meat and Poultry Inspection Program, 14th and Independence Ave., SW.; Washington, DC 20250

Diagram 1 of the Meat Denaturing Guide (MP Form 81).......................................................................................................................... 325.13
Copies of MP Form 81 may also be obtained without charge, by writing to the Food Safety and Inspection Service, USDA, Compliance Program, Evaluation and Enforcement Division, Washington, DC 20250

Association of Official Analytical Chemists
1111 N. 19th St., Suite 210, Arlington, VA 22209

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Each of the following documents is available for inspection at the Nuclear Regulatory Commission's Library, 7920 Norfolk Ave., Bethesda, MD. The individual documents are available through the sources listed below.

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335 E. 45th St., New York, NY 10017


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1430 Broadway, New York, NY 10018

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American Nuclear Society
555 North Kensington Ave., La Grange Park, IL 60525


American Society of Mechanical Engineers
United Engineering Center, 345 East 47th St., New York, NY 10017

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1916 Race St., Philadelphia, PA 19103

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Commerce Department, National Technical Information Service
5285 Port Royal Road, Springfield, VA 22161
Baker-Just, Studies of Metal Water Reactions at High Temperatures, III. Experimental and Theoretical Studies of the

Federal Specifications
Naval Publications and Forms Center, 5801 Tabor Road, Philadelphia, PA 19120

General Electric Company
Nuclear Energy Business Group, Technical Support Services, MC-211, 175 Curtner Ave., San Jose, CA 95125
Loss-of-Coolant Accident and Emergency Core Cooling Models for General Electric Boiling Water Reactors, General

Institute of Electrical and Electronic Engineers
United Engineering Center, 345 East 47th St., New York, NY 10017
IEEE-279 Criteria for Protection Systems for Nuclear Generating Stations, dated August 30, 1968 and June 3, 1971

International Atomic Energy Agency
Available from: Assistant Director for Export/Import and International Safeguards, Office of International Programs,
Nuclear Regulatory Commission, Washington, DC 20555
IAEA INFCIRC/225 Rev. 1, The Physical Protection of Nuclear Material

National Rifle Association
Competitions & Training Division, 1600 Rhode Island Ave., NW., Washington, D.C. 20036
NRA Target Manufacturers Index, December 1976

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Office of Nuclear Regulatory Research, Washington, D.C. 20555

NOTE: The following publication is approved for incorporation by reference until Apr. 1, 1982.


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DEPARTMENT OF ENERGY

Part 420 State energy conservation plans
American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc.
345 East 47th St., New York, NY 10017

Part 430 Energy conservation program for consumer products
Air-Conditioning and Refrigeration Institute
1815 N. Fort Myer Drive, Arlington, VA 22209
ARI 210-79 Standard for Unitary Air Conditioning Equipment
ARI 240-77 Standard for Air-Source Unitary Heat Pump Equipment
ARI 260-74 Standard for Central Forced-Air Electric Heating Equipment
ARI 320-76 Standard for Water Source Heat Pumps
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American National Standards Institute
1430 Broadway, New York, NY 10018
ANSI B38.1-1970 Method of testing for Household Refrigerators, Combination Refrigerator Freezers and Household
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ANSI Z21.10.1-1976 Gas Water Heaters


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345 East 47th St., New York, NY 10017
ASHRAE Standard 16-69 Method of Testing for Rating Room Air Conditioners

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ASTM D 399-78 Standard Specification for Fuel Oils

Association of Home Appliance Manufacturers
20 N. Wacker Dr., Chicago, IL 60606
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35 Russo Place, Berkeley Heights, NJ 07922
Testing and Rating Standards for Cast Iron and Steel Heating Boilers, January 1977

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207 East Ohio St., Chicago, IL 60611
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Part 436—Federal energy management and planning programs

American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.
345 East 47th St., New York, NY 10017

Standard 93-77 Methods of Testing to Determine the Thermal Performance of Solar Collectors

Part 440—Weatherization assistance for low-income persons

American National Standards Institute
1430 Broadway, New York, NY 10018

ANSI A134.3-1972 Voluntary Specifications for Aluminum Combination Storm Windows for External Application

Part 440, Appendix A

American Society for Testing and Materials
1916 Race Street, Philadelphia, PA 19103

ASTM C208-72 Insulating Board (Cellulosic Fiber), Structural & Decorative

Part 440, Appendix A

ASTM C516-67 Vermiculite Loose Fill Insulation

Part 440, Appendix A

ASTM C534-70 Performed Flexible Elastomeric Cellular Thermal Insulation In Sheet & Tublar Form

Part 440, Appendix A

ASTM C549-73 Perlite Loose Fill Insulation

Part 440, Appendix A

ASTM C592-73 Cellular Glass Block & Pipe Thermal Insulation

Part 440, Appendix A

ASTM C579-69 Preformed, Block Type Cellular Polystyrene Thermal Insulation

Part 440, Appendix A

ASTM C591-69 Rigid Preformed Cellular Urethane Thermal Insulation

Part 440, Appendix A

ASTM C612-70 Mineral Fiber Block & Board Thermal Insulation

Part 440, Appendix A

ASTM C665-70 Mineral Fiber Blanket Thermal Insulation & Wood Frame & Light Construction Buildings

Part 440, Appendix A

ASTM C726-72 Mineral Fiber Roof Insulation Board

Part 440, Appendix A

ASTM C739-73 (Loose Fill) Cellulosic Fiber, Wood Base) Loose Fill Thermal Insulation

Part 440, Appendix A

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Naval Publication and Forms Center, 5801 Tabor Ave., Philadelphia, PA 19120

F.S. HH-I-615C Insulation Thermal (Loose Fill for Pneumatic or Poured Application): (Cellulosic or Wood Fiber)

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F.S. HH-I-521E Insulation Blankets, Thermal (Mineral Fiber for Ambient Temperatures)

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F.S. HH-I-524B Insulation Board, Thermal (Polystyrene)

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F.S. HH-I-529B Insulation Board, Thermal (Mineral Aggregate)

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F.S. HH-I-530A Insulation Board, Thermal (Urethane)

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F.S. HH-I-551E Insulation Block & Boards, Thermal (Cellular Glass)

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F.S. HH-I-556B Insulation, Blocks, Boards, Blankets, Felts, Sleeveing (Pipe & Tube Covering), & Pipe Fitting Covering, Thermal (Mineral Fiber Industrial Type [1-9-73]).

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ASTM C 797-75 Standard Recommended Practices and Terminology for Use of Oil- and Resin-Based Putty and Glazing Compounds 456.816
ASTM C 804-75 Standard Recommended Practices for Use of Solvent Release Type Spalants 456.816
ASTM C 834-76 Specification for Latex Sealing Compounds 456.812
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ASTM E 136-79 Behavior of Materials in a Vertical Tube Furnace at 750° C 456.804; 456.805; 456.806; 456.805; 456.806
ASTM E 283-73 Standard Test Method for Rate of Air Leakage Through Exterior Windows, Curtain Walls and Doors 456.813
ASTM E 396-76 Standard Test Method for Dew/Frost Point of Sealed Insulating Glass Units in Vertical Position 456.802; 456.813
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ASTM G 1-72 (1979) Standard Recommended Practice for Preparing, Cleaning, and Evaluating Corrosion Test Specimens

Building Officials and Code Administrators, International Inc.
17320 S. Halsted St., Homewood, IL 60430
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Commerce Department, National Bureau of Standards
Washington, DC 20234

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Federal Publication and Forms Center, 5801 Tabor Ave., Philadelphia, PA 19120

HH-I-915D (6/76) Insulation, Thermal (loose-fill for Pneumatic or Pressed Application): Cellulosic or Wood Fiber 456.803; 456.804; 456.805

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HH-I-430A (1971 and Interim Amendment 3, 5/76) Insulation, Board, Thermal (Polystyrene and Polysiocyanurate) 456.809


HH-I-374B (1974 and Interim Amendment 1, 9/76) Insulation, Thermal (Perlite) 456.807


Housing and Urban Development Department

Office of Technical and Credit Standards, Room 615B, 451 Seventh St., SW., Washington, DC 20410

HUD Intermediate MPS Supplement 456.702; 456.703; 456.704


Use of Material Bulletin No. 59a (July 16, 1974) Labels Identifying Independent Certification of Wood Windows 456.813

National Fire Protection Administration

470 Atlantic Ave., Boston, MA 02210


10 CFR CHAPTER II (PARTS 420 TO 699)—Continued
DEPARTMENT OF ENERGY—Continued

NFPA-211-1977 National Fire Code Standard for Chimneys, Fireplaces, and Vents ................................................................. 458.005; 458.006; 458.007; 458.009; 458.012

Sandra Laboratory
Environmental Research Division–5333, Albuquerque, NM 87185

Underwriters Laboratories Inc.
Publication Stock, 333 Pfingston Road, Northbrook, IL 60062

Part 474 Electronic and Hybrid Vehicle research, development, and demonstration program; equivalent petroleum based fuel economy calculation
Society of Automotive Engineers
400 Commonwealth Dr., Warrendale, PA 15096
SAE J227a, as revised Feb. 1976, Electric Vehicle Test Procedure ........................................................................................................... 474.3

Part 475 Electric and hybrid vehicle research, development, and demonstration project
Society of Automotive Engineers
400 Commonwealth Dr., Warrendale, PA 15096
SAE J227a, as revised Feb. 1976, Electric Vehicle Test Procedure ........................................................................................................... 475.3; 475.10; 475.11

12 CFR CHAPTER VII (PARTS 700 TO 799)
NATIONAL CREDIT UNION ADMINISTRATION
National Credit Union Administration
1776 G St., NW., Washington, D.C. 20458
NOTE: The following publications are approved for incorporation by reference until July 1, 1982.
NCUA 8001–Federal Credit Union Bylaws (August 1972 & December 1977, July 1978, and August 1980 changes) .................. 701.2(d)(2)
NCUA 8009–Data Processing Guidelines for Federal Credit Unions (September 1972) .................................................. 701.2(d)(3)
These documents are also available from:
NCUA Region I
441 Stuart St., 6th Floor, Boston, MA 02116
NCUA Region II
New Federal Building, 228 Walnut St., Box 928, Harrisburg, PA 17108
NCUA Region III
1385 Peachtree St., N.E., Suite 500, Atlanta, GA 30309
NCUA Region IV
Federal Office Building, Room 704, 234 N. Summit St., Toledo, OH 43604
NCUA Region V
515 Congress Ave., Suite 1400, Austin, TX 78701
NCUA Region VI
Two Embarcadero Center, Suite 1830, San Francisco, CA 94111

13 CFR CHAPTER I (PARTS 100 TO 199)
SMALL BUSINESS ADMINISTRATION
American National Standards Institute
1430 Broadway, New York, NY 10018
ANSI A117.3–1980 American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped. 119.3-3(c)

14 CFR CHAPTER I (PARTS 1 TO 59)
FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION
American National Standards Institute
1430 Broadway, New York, NY 10018
IEC Publication No. 179 Precision Sound Level Meters, (1973) ........................................................................................................................ 93.3-3(c)
Part 936, Appendix A, Section A36.3 ........................................................................................................................... 118.3-3(c)
Part 936, Appendix A, Sec. A36.3 ........................................................................................................................... 118.3-3(c)
Federal Aviation Administration
600 Independence Ave., SW., Washington, DC 20590
14 CFR CHAPTER 1 (PARTS 1 TO 69)—Continued

FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION—Continued

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Society of Automotive Engineers, Inc.
400 Commonwealth Dr., Warrenton, PA 15996

Society of Automotive Engineers, Inc.
400 Commonwealth Dr., Warrenton, PA 15996


U.S. Government Printing Office
Superintendent of Documents, Washington, D.C. 20402


Military Handbook MIL-HDBK-17A Plastics for Aerospace Vehicles (January, 1971)

Military Handbook MIL-HDBK-23A Structural Sandwich Composites (December 30, 1953)

14 CFR CHAPTER 1 (PARTS 60 TO 199)

FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Part 150, AIRPORT DESIGN STANDARDS

American National Standards Institute
1430 Broadway, New York, NY 10018

International Electrotechnical Commission Publication No. 179, Precision Sound Level Meters

Federal Aviation Administration
National Flight Data Center, 800 Independence Ave. SW., Washington, D.C. 20599

Federal Aviation Administration Advisory Circulars:

Copies of FAA Advisory Circulars are available from the addresses listed at the end of this table.

150/5700-12 Electron Navigational Aids Approved for Funding Under the Airport Development Aid Program (ADAP) (1976).
150/5190-3A Model Airport Hazard Zoning Ordinance (1972).
150/5210-7A Aircraft Fire and Rescue Communications (1972).
150/5210-10 Aircraft Fire and Rescue Equipment Building Guide (1967).
150/5300-4B Utility Airports—Air Access to National Transportation (Through change 1, 1976).
150/5320-6B Airport Pavement Design and Evaluation (Through change 1, 1974).
150/5325-4 Runway Length Requirements for Airport Design (1977).
150/5325-6A Airport Design Standards—Effect and Treatment of Jet Blast (1972).
150/5330-2 Airport Aprons (1965).
150/5335-3 Airport Design Standards—Airports Served by Air Carriers— Bridges and Tunnels on Airports (1971).
150/5335-4 Airport Design Standards—Airports Served by Air Carriers—Runway Geometries (Through change 1, 1978).
150/5340-1D Marking of Paved Areas on Airports (1973).
150/5340-5A Specified Circle Airport Marker System (1971) ................................................................. 152.11
150/5340-5B Airport 51-foot Tubular Beacon Tower (1974) ................................................................. 152.11
150/5340-14B Economy Approach Lighting Aids (Through change 2, 1973) ............................... 152.11
150/5340-17A Spot Power for Non-FAA Airport Lighting System (1971) ......................................... 152.11
150/5340-18 Taxiway Guidance Sign System (1968) ................................................................. 152.11
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150/5340-21 Airport Miscellaneous Lighting Visual Aids (1971) ................................................................. 152.11
150/5340-32A Supplemental Wind Cones (1975) ................................................................................ 152.11
150/5340-26 Runway and Taxiway Edge Lighting System (1975) ................................................................. 152.11
150/5345-16 Visual Approach Slope Indicator (VASI) Systems (Through change 1, 1977) .... 152.11
150/5345-1E Approved Airport Lighting Equipment (Through change 1, 1977) ............................. 152.11
150/5345-2 Specifications for L-616 Obstruction Light (through change 1, 1973) ................................. 152.11
150/5345-3C Specification for L-821 Panels for Remote Control of Airport Lighting (1977) .... 152.11
150/5345-4 Specification for L-829 Internally Lighted Airport Taxi Guidance Sign (Through change 1, 1979) .... 152.11
150/5345-5 Specification for L-847 Circuit Selector Switch, 5000 Volt 20 Ampere (1983) .... 152.11
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150/5345-10C Specification for L-828 Constant Current Regulators (1971) ........................................ 152.11
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150/5345-16 Specification for L-811 Static Indoor Type Constant Current Regulator Assembly; 4 KW; With Brightness Control and Runway Selection for Direct Operation (Through change 1, 1975).
150/5345-21 Specification for L-813 Static Indoor Type Constant Current Regulator Assembly; 4 KW and 7 1/2 KW; for Remote Operation of Taxiway Lights (1984).
150/5345-26A Specification for L-682 Plug and Receptacle, Cable Connectors (Through change 1, 1971) ................................................................. 152.11
150/5345-29C Specification for L-851 Visual Approach Slope Indicators and Accessories (1977) .... 152.11
150/5345-39 Specification for L-808 Lighted Wind Tee (1965) ................................................................. 152.11
150/5345-39A FAA Specification for L-853, Runway and Taxiway Retroreflective Markers (1971) .... 152.11
150/5345-43B FAA/DOD Specification L-858, High Intensity Obstruction Lighting Systems (1973) .... 152.11
150/5345-44A FAA Specification for L-858 Retroreflective Taxiway Guidance Sign (1971) ................................................................. 152.11
150/5345-48 Lightweight Approach Light Structure (1973) ................................................................. 152.11
150/5345-48B Specification for Semiflush Airport Lights (Through change 1, 1979) .... 152.11
150/5345-48 Specification for Runway and Taxiway Edge Lights (Through change 1, 1979) .... 152.11
150/5350-9 Planning and Design Considerations for Airport Terminal Building Development (1976).
150/5347-7 Airport Construction Controls to Prevent Air Water Pollution (1971).
150/5345-9-9 Slip-Form Paving—Portland Cement Concrete (1973) ................................................................. 152.11
150/5345-10 Standards for Specifying Construction of Airports (1974) ........................................ 152.11
150/5347-11 Use of Nondestructive Testing Devices in the Evaluation of Airport Pavements (1976) .... 152.11
150/5345-1A Hellport Design Guide (1980) ................................................................. 152.11
3B Estimated Airplane Noise Levels in A-Weighted Decibels (1961) ................................................................. 158.40
Standard Instrument Approach Procedures (SIAPS)................................................................. Part 97

Technical Standard Orders:

TSO-C10b, Aircraft Altimeter, Pressure, Activated, Sensitive Type (Sept. 1, 1959).......................... 91.38; 127.103
TSO-C74, Airborne ATC Transponder Equipment (Feb. 20, 1973)................................................... 91.24; 127.345;
127.123; 135.145
TSO-C28, Automatic Pressure Altitude Digitizer Equipment (Feb. 10, 1967)...................................... 91.38; 127.103
TSO-C91, Emergency Locator Transmitters (Oct. 21, 1971)............................................................. 91.52; 127.339;
127.353; 135.167
TSO-92B, Ground Proximity Warning–Clede Slope Deviation Alerting Equipment (Aug. 10, 1976)...... 121.359


International Civil Aviation Organization

Attention: Distribution Officer, P.O. Box 400, Succursale: Place de l'Aviation Internationale, 1000 Sherbrooke St. West,
Montreal, Quebec, Canada, H3A 2R2

through Amendment 20 (Aug. 1976)............................................................................................... 91.1 and 133.3(b)

Pratt & Whitney Aircraft Co.,
400 East Main St., East Hartford, CT 06108
Engineering Change No. 197707

Service Bulletin 2417......................................................................................................................... Part 91, SFAR 27,
Sec. 14(b).

Service Bulletin 2531......................................................................................................................... Part 91, SFAR 27,
Sec. 14(b).

Radio Technical Commission for Aeronautics (RTCA)

2000 K St., NW, Washington, D.C. 20006

 Receivers............................................................................................................................................ 91. Appendix A,
Para 3(e)
American Association of Textile Chemists' and Colorists (AATCC)
P. O. Box 12215, Research Triangle Park, NC 27709
AATCC Test Method 124–1969, Appearance of Durable Press Fabrics After Repeated Home Laundering.......................... 1015.4(a)[4]; 1016.6(c)[4]; 1632.5(b)[1]

American National Standards Institute
1430 Broadway, New York, NY 10018
ANSI C65.1-1964 American Standard for Temperature Measurement Thermocouples, approved June 9, 1964.......................... 1505.6(g)[6]
ANSI C101.1-1971 American National Standard for Leakage Current for Appliances.................................................. 1505.6(o)[3][iv]
ANSI Z53.1-1971 Safety Color Code for Marking Physical Hazards ................................................................. 1402.4(a)[1][i]
ANSI Z97.1-1972 or 1975 Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings.. 1201.7(b)[1]

American Society for Testing and Materials
1916 Race St., Philadelphia, PA 19103
ASTM D 790-71 Standard Method of Test for Flexural Properties of Plastics, October 29, 1971.......................... 1201.4(a)[1][iii][A]
ASTM D 1535-66 Specifying Color by the Munsell System ......................................................................................... 1402.4(a)[3][i]
ASTM D 2588-70 Standard Recommended Practice for Operating Xenon-Arc Type (Water Cooled) Light- and Water Exposure Apparatus for Exposure of Plastics, Procedure B, June 12, 1970.............. 1201.4(b)[3][ii]
ASTM G 35-70 Standard Recommended Practice for Light- and Water Exposure Apparatus (Xenon-Arc Type) for Exposure of Nonmetallic Materials, April 13, 1970.............................. 1201.4(b)[3][ii]

National Fire Protection Association
Batterymarch Park, Quincy, MA 02269
NFPA No. 70-1971, 1971 National Electrical Code, Article 400, Flexible Cords and Cables, pp. 70–184 through 70–194................. 1505.6(b)[2]
Part III

Department of Commerce

Office of the Secretary

Privacy Act of 1974; Amendment to Appendices; Annual Publication
PART 4b—PRIVACY ACT

The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date do not apply since these revisions of Appendices A and B pertain solely to internal agency management. This regulation is not significant under Executive Order 12291, "Federal Regulations." Accordingly, Appendices A and B to Part 4b of Title 15 of the Code of Federal Regulations are revised to read as follows:

Appendix A—Officials To Receive Inquiries, Requests for Access and Requests for Correction or Amendment 1


1 National Oceanic and Atmospheric Administration subject to determination of responsibilities noted below.

2 If the location of the records within the Department is unknown, address the inquiry to the Privacy Officer for the Office of the Secretary.

The Maritime Administration, formerly a component of the Department of Commerce, is now part of the Department of Transportation, and its Privacy Act records are controlled by the Department of Transportation. Accordingly, the reference to the Maritime Administration Privacy Appeals Officer is deleted in Appendix B. In Appendix B, "Officials to Receive Appeals from Adverse Determination on Correction or Amendment," the reference to the Maritime Administration Privacy Appeals Officer is deleted for the reasons given above.

Inquiry to the Office of the Secretary: All NOAA except NOAA Corps—Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Blvd., Rockville, Maryland 20852

NOAA Corps—Director, National Oceanic and Atmospheric Administration Corps, 6010 Executive Boulevard, Rockville, Maryland 20852

Requests:

All NOAA including NOAA Corps—Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852

National Telecommunication & Information Administration—Director of Administration, National Telecommunications & Information Service, U.S. Department of Commerce, Washington, D.C. 20504

National Technical Information Service—Associate Director for Financial and Administrative Management, National Technical Information Service, Springfield, Virginia 22161


United States Travel Service—Director, Office of Management and Administration, United States Travel Service, Main Commerce Building, Washington, D.C. 20230

Appendix B—Officials To Receive Appeals From Adverse Determination on Correction or Amendment

Administration Building, Washington, D.C. 20234

National Oceanic and Atmospheric Administration—Administrator, National Oceanic and Atmospheric Administration, Main Commerce Building, Washington, D.C. 20230

National Telecommunications & Information Administration—Assistant Secretary for Communications and Information, 1800 G Street, N.W., Washington, D.C. 20504

National Technical Information Service—Director, National Technical Information Service, Springfield, Virginia 22161


United States Travel Service—Assistant Secretary for Tourism, Main Commerce Building, Washington, D.C. 20230


Dated: November 18, 1981.

Arlene Triplet, Assistant Secretary for Administration.

[FR Doc. 81-37280 Filed 12-30-81; 8:45 am]

BILLING CODE 3510-CW-4
DEPARTMENT OF COMMERCE

Privacy Act Issuances; Annual
Publication of Systems of Records

AGENCY: Office of the Secretary of
Commerce.

ACTION: Annual notice of systems of
records; proposal to revise three existing
systems and to establish a new system.

SUMMARY: Federal agencies are required
by the Privacy Act of 1974 to give notice of
certain records they maintain. The
purpose of this document is to fulfill the
annual notice requirement by:

(a) Listing all the Privacy Act systems of
records maintained by the
Department of Commerce; and

(b) Publishing the full text of all
Privacy Act systems of records.

This document also contains a
proposal to establish a new system of
records COMMERCE/DEPT-11,
Candidates for Membership, Members,
and Former Members of Department of
Commerce Advisory Committees and a
proposal to revise three existing
systems: COMMERCE/DEPT-1,
Attendance, Leave and Payroll Records of Employees and Certain Other Persons; COMMERCE/DEPT-18, Employee Personnel Files Not Covered By Notices of Other Agencies; and NTIS-1, Individuals Interested in NTIS Publications, Shipped Order Addresses, Customer Account Records, and Subscriber Files.

DATES: This document fulfills the annual
notice requirements of the Privacy Act.
Comments on the proposal to establish
the new system of records and to amend
the NTIS-1 system are due March 1, 1982.
Comments on the revision of
COMMERCE/DEPT-1 and
COMMERCE/DEPT-18 systems are due
February 1, 1982. New System Reports
for the new COMMERCE/DEPT-11
system and the amended NTIS-1
system, were submitted to the Congress
and to the Office of Management and
Budget simultaneously with the
publication of this notice. The new
system COMMERCE/DEPT-11 and
the amended NTIS-1 will become effective
60 days from the date of the new System
Report, and proposed revisions of
DEPT-1 and DEPT-18, 30 days from the
date of this publication, unless the
Department notifies the contrary.

FOR FURTHER INFORMATION CONTACT:
Marilyn S. McLennan, Office of
Commerce, Office of Organization &
Management Systems, Washington, D.C.
20230, telephone 202-377-4217.

SUPPLEMENTARY INFORMATION:

Explanation of Annual Notice Document

To make it easier for the public to
understand the Commerce Department's
Privacy Act Implementation, several
appendices have been included in this
notice which explain revisions and
changes to these systems:

1. Add a system of records entitled
COMMERCE/DEPT-11, Candidates for Membership, Members, and Former Members of Department of Commerce Advisory Committees.

The proposed new system describes
records maintained on persons
recommended for membership, members, and former members of the
Department's advisory committees. The
purpose of the system is to enable the
Department to more effectively select
qualified candidates for membership on
these advisory committees and fill
vacant memberships in a timely manner.
Advisory committees are established to
obtain advice or recommendations for
the Department from members of the
public who have expertise in certain
topics or represent various points of
view on matters of policy.

As required by the Privacy Act, the
Department of Commerce has
simultaneously submitted a New System
Report to the Congress and the Office of
Management and Budget. This system of
records will become effective 60 days
from the date of the New Systems
Report unless the Department notifies the
contrary.

The proposed new system is as
follows:

COMMERCE/DEPT-11
System Name:
Candidates for Membership, Members,
and Former Members of Department of Commerce
Advisory Committees.

Appendices A and B to the Department
Rules at 15 CFR PART 4b. Information
about the systems and rules is available
by writing or telephoning Marilyn S.
McLennan, Office of Organization and
Management Systems, U.S. Department of
Commerce, Washington, D.C. 20230,
telephone (202) 377-4217.

(5 U.S.C. 552a.)

DATED: November 13, 1981.
Arlene Triplett,
Assistant Secretary for Administration.

Appendix I—Proposed Changes to
Commerce Department Systems of
Records for Which Public Comment Is Invited

Simultaneous with the republication of
Commerce Department systems of
records, the Department submitted to
the Federal Register, a proposed new
system of records, and a proposed
revision of three existing systems of
records. These proposed revisions are
listed below to help the reader in
identifying the material on which public
comment is invited. These revisions have
been incorporated in the text of the
republised systems.

1. Add a system of records entitled
COMMERCE/DEPT-11, Candidates for Membership, Members, and Former Members of Department of Commerce
Advisory Committees.

The proposed new system describes
records maintained on persons
recommended for membership, members, and former members of the
Department's advisory committees. The
purpose of the system is to enable the
Department to more effectively select
qualified candidates for membership on
these advisory committees and fill
vacant memberships in a timely manner.
Advisory committees are established to
obtain advice or recommendations for
the Department from members of the
public who have expertise in certain
topics or represent various points of
view on matters of policy.

As required by the Privacy Act, the
Department of Commerce has
simultaneously submitted a New System
Report to the Congress and the Office of
Management and Budget. This system of
records will become effective 60 days
from the date of the New Systems
Report unless the Department notifies the
contrary.

The proposed new system is as
follows:

COMMERCE/DEPT-11
System Name:
Candidates for Membership, Members,
and Former Members of Department of Commerce
Advisory Committees.

Appendices A and B to the Department
Rules at 15 CFR PART 4b. Information
about the systems and rules is available
by writing or telephoning Marilyn S.
McLennan, Office of Organization and
Management Systems, U.S. Department of
Commerce, Washington, D.C. 20230,
telephone (202) 377-4217.

(5 U.S.C. 552a.)

DATED: November 13, 1981.
Arlene Triplett,
Assistant Secretary for Administration.
Notification Procedure:

Record access procedures:

Concluding record procedures:

Authority for maintenance of the system:

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

See general routine uses 1, 2, 3, 5, and 9 of the Prefatory statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper hard copy, diskettes for use on word processing equipment.

Retrievability:

Data is filed by committee. An alphabetical card file index of candidates, members, and former members’ names is used to retrieve data. This index is also on diskette to retrieve information on word processing equipment.

Safeguards:

Records are located in a locked office.

Paper records and diskettes are in locked file cabinets. Access to data on the word processor is by password.

Retention and disposal:

Records will be maintained indefinitely.

System manager(s) and address:

Confidential Assistant, Office of the Secretary, Room 7166, U.S. Department of Commerce, Washington, D.C. 20230.

Notice Procedure:

Information may be obtained from:


Record access procedures:

Requests from individuals should be addressed to: the address listed in the notification section above.

Contesting records procedures:

The Department’s rules for access, for contesting contents, and appealing initial determinations by the individual appear in 15 CFR Part 4b. Use the address given in the notification section above.

Record source categories:

Individual candidate or member, persons recommending candidates and those authorized by the individual to provide information.

2. Revise COMMERCE/DEPT-1, Attendance, Leave, and Payroll Records of Employees and Certain Other Persons, to include:

(a) Type of account information (checking or savings) that employees are required to supply when requesting direct deposits of pay to financial institutions. This change is to comply with a Treasury Department memorandum of July 29, 1978, concerning electronic fund transfers.

(b) Revision is also made to the routine uses paragraph of the system to allow allotment of pay for the purposes of making alimony and child support payments. This change is required by 5 CFR 550.371.

A minor revision is also made to the reference to the Treasury Statement of General Routine Uses; the reference to routine use concerning disclosure of medical records to an employee’s physician is deleted since the files do not contain medical information. The new text is shown as solid capitals.

(a) Categories of records in the system: Name, date of birth, social security number and employee number, service computation date, grade, step, and salary, organization (code) retirement or FICA data as applicable; Federal, state and local tax deductions, as appropriate; IRS tax lien data; Federal, state and local tax deductions; regular and optional Government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number; TYPE OF ACCOUNT; leave status and leave data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, absence without leave, and without pay); time and attendance records, including number of regular, overtime, holiday, Sunday, and other hours worked; pay period number and ending date; cost of living allowances; mailing address; owner and/or beneficiary of bonds, marital status and number of dependents; and “Notification of Personnel Action”. The individual records listed herein are included only as pertinent or applicable to the individual employee.

(b) Routine uses of records maintained in the system, including categories of users and the purpose of such uses: Transmittal of data to U.S. Treasury and employee-designated financial institutions to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings bonds, allotments, ALMONY, CHILD SUPPORT, and other authorized purposes.

3. Revise the categories of records and routine use sections of the COMMERCE/DEPT-18 system, Employees Personnel Files Not Covered by Notices of Other Agencies.

In the categories of records paragraph the changes are to show Department of State and the Department of Labor as agencies which influence personnel management in the Department. The Department of State is added as a result of the Foreign Service Act of 1989 which makes the Commerce Department an agency with responsibilities for Foreign Service Personnel. The Department of Labor is added because its systems do not cover the preliminary files on work-related injuries and illness claims prepared and maintained by the Commerce Department before submission to the Department of Labor. The proposed change to the routine use paragraph provides for submission of information to the Department of State as a result of the Foreign Service Act of 1980 and 1989 Department of Commerce compliance with State Department regulations concerning Foreign Service Personnel and submission of work-related injury or illness claims to the Department of Labor. A reference to retirement records is added for the purpose of clarity.

The categories of records section would read (new text in solid capitals):

Categories of records in the system:

All personnel records in the Department which are subject to the Privacy Act but are not covered in the notices of systems of records published by OTHER AGENCIES WITH INFLUENCE UPON PERSONNEL MANAGEMENT IN THE DEPARTMENT, SUCH AS THE OFFICE OF PERSONNEL MANAGEMENT, MERIT SYSTEMS PROTECTION BOARD, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, DEPARTMENT OF STATE, OR DEPARTMENT OF LABOR. The records of this system may include, but are not limited to: Employee Development; Incentive Awards; Employee Relations; Grievance Records; Medical; WORK-RELATED INJURY OR ILLNESS.
The data can also be obtained at in-house computer terminals used by those whose official NTIS duties require access. Also see general routine uses #4, #5, and #9 and #13 of the Prefatory statement.

Although this change may not technically warrant a new systems report as defined by the Office of Management and Budget Circular No. A-108, it was felt that because the change reflects an increased access to the records a report should be submitted simultaneously with the republication of Commerce Department systems of records. The revised system of records will become effective 60 days from the date of the new system report unless the Department advises to the contrary.

Minor changes are also made to the categories of individuals sections to improve clarity, to the routine use section to delete inappropriate routine uses, and to the systems location and system manager's sections to reflect a reorganization.

Appendix II—Changes to Department of Commerce Systems of Records Not Requiring Public Comment.

(1) The Maritime Administration, pursuant to the Maritime Act of 1981 (Pub. L. 97-31), has been transferred to the Department of Transportation. Control of the Privacy Act records of the Maritime Administration which were referenced in the December 12, 1980 republication are no longer Department of Commerce systems of records.

(2) Changes have been made to the routine use sections of most systems of records. Request Records have been revised pursuant to the Prefatory Statement of General Routine Uses are now made to the specific numbered paragraphs of the Prefatory Statement which relate to the types of information in the system. In no instance has the application of the General Routine Uses been expanded. The changes are made only to clarify which uses are applicable to the records in the system.

(3) Minor changes are made throughout the document to reflect changes in position titles, addresses, and to update or correct executive order and statutory authority citations.

(4) To clarify responsibility for systems management, the Office of Information Management (OIM) has been deleted as a systems location for Commerce/DEPT-17, Records of Cash Receipts.

This office is a service organization which maintains automated records. It acts on the instructions of the system manager in performing records maintenance functions. Its deletion as a systems location does not affect the ability of the public to have access to the records as OIM has not been reclassified as a system manager nor as a place for the public to obtain notification information. Its location is the same as the location for manual records—the Main Commerce Building, 14th and Constitution Avenue, Washington, D.C. 20230.

(5) Commerce/DEPT-5 system, Freedom of Information and Privacy Act Request Records have been revised by expanding coverage to the Economic Development Administration. Request records in this Department component are now retrievable by name.

(6) The Commerce/DEPT-11 system, Work Schedule Study Interview Records, is deleted as all individually identifiable records have been destroyed. Raw data which does not contain any individual identifiers has been donated by the study contractor to the Radcliffe College in Cambridge, Massachusetts. The number, Commerce/DEPT-11, is reassigned to a proposed new system, Candidates for Membership, Members, and Former Members of Department of Commerce Advisory Committees.

(7) Commerce/DEPT-13 system, Investigative and Security Records, revision has been made to the categories of individuals sections of the system to indicate that only records prior to May 9, 1980 are maintained for principal officers and some employees of organizations, firms, or institutions which received or applied for grants, loans, or loan guarantees from the Department. Prior to that date the Office of Investigations and Security had performed name checks on these individuals. This function was transferred to the Office of the Inspector General as part of that office's responsibility under the Inspector General Act of 1978, for promoting economy and efficiency in the Department's programs and preventing and detecting fraud and abuse. The existing system Commerce/DEPT-12, Investigative and Inspection Records contains language which covers this category of individuals.

(8) The storage section of Commerce/DEPT-16 system, Property Accountability Files, has been revised to add reference to machine-readable
records which was omitted in last year's republication. The change was noticed in 44 FR 76865, and a New System Report was submitted to Congress and the Office of Management and Budget.  

(9) The categories of individuals section of COMMERCE/CENSUS—3 system, Individual and Household Statistical Surveys and Special Studies. Records is revised for clarification.  

(10) COMMERCE/ITA-5 system, Executive Reserve Personnel Folders, is revised to show the use of word processing equipment to store and retrieve information.  

(11) Revisions are made to the system, COMMERCE/ITA—6, Foreign Service Officers Evaluations, to clarify the categories of individuals, routine uses, and retention and disposal sections of this system, and to reflect increased Department responsibilities concerning Foreign Service personnel as a result of the Foreign Service Act of 1980.  

(12) The storage section of the COMMERCE/NBS—4 system, Employees External Radiation Exposure Records, is revised. The Health Physics Branch of the Occupational Health and Safety Division of the National Bureau of Standards is planning to use the existing minicomputer capabilities in the Branch to maintain current records of employees who may be exposed to radiation on the job. This plan concerns only the Health Physics Branch Records. The minicomputer does not have a telecommunications capability which could increase the risk of unauthorized access. The minicomputer is not connected to terminals in other components of NBS, the Department, or other agencies. Access to the computer is by password and is restricted to personnel of the Health Physics Branch. This change to automated storage does not meet the criteria for submission of a New Systems Report.  

(13) COMMERCE/NOAA—11, NOAA Mailing Lists, has been revised by adding the National Earth Satellite Service as a systems location.  

(14) COMMERCE/NOAA—12, Marine Mammals, Endangered and Threatened Species, Permits and Exemptions, Applicants, has been revised to indicate that permit or exemption numbers are used to retrieve information.  

(15) The storage section of COMMERCE/NTIA—1 system, Radio Spectrum Management Career Development Program, is revised to delete a reference to machine-readable magnetic discs.  

(16) In the COMMERCE/NTIS—2 system, Employee Daily Time and Productivity Records, revision is made deleting routine uses. Use of the records is limited to internal financial accounting purposes.  

(17) Revision is made to COMMERCE/PAT-TM—7 system, Patent Application Files to clarify the routine use section: no changes of substance are made.  

(18) COMMERCE/PAT-TM—9 system, Patent Assignment Records has been revised to show patent number as an item used to retrieve a record.  

Appendix III—Changes to Systems of Records Noticed in the Federal Register Since December 12, 1989 and Prior to the Date of This Notice and Federal Register Citation of Previously Issued Rules and Systems  


2. The Department last published its systems notices and revisions to Appendices to its Privacy Act rules, 15 CFR Part 4b, December 12, 1989, 45 FR 82101–82149. Department of Commerce Privacy rules may be found in 15 CFR Part 4b.  

Systems of Records  

The identification of the unit or units within the Department to which the particular system of records pertains appears as "COMMERCE/" followed by a designating abbreviation. The abbreviations and their meanings are as follows:  

CENSUS—Bureau of the Census  

DEPT—Overall Department of Commerce (or at least multiple operating units presently, and a potential for more)  

ITA—International Trade Administration  

IATC—Interagency Auditor Training Center  

MBDA—Minority Business Development Agency  

NBS—National Bureau of Standards  

NOAA—National Oceanic and Atmospheric Administration  

NTIA—National Telecommunications and Information Administration  

NTIS—National Technical Information Service  

PAT-TM—Patent and Trademark Office  

WBO—Interagency Task Force on Women Business Owners  

Other abbreviations appearing in the notices are as follows:  

ARC—The Appalachian Regional Commission  

BEA—Bureau of Economic Analysis  

BIE—Bureau of Industrial Economics  

EDA—Economic Development Administration  

Office of Federal Cochairmen—Office(s) of Federal Cochairmen of the Regional Action Planning Commissions and The Appalachian Regional Commission  

RAPCS—Regional Action Planning Commissions  

USTS—United States Travel Service  

Prefatory Statement of General Routine Uses  

The following routine uses apply to, and are incorporated by reference into, each system of records set forth below.  

1. In the event that a system or records maintained by the Department to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or contract, or rule, regulation, or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation, or order issued pursuant thereto, or protecting the interest of the Department.  

2. A record from this system of records may be disclosed, as a routine use, to a Federal, state, local or international agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Department decision concerning the assignment, hiring or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.  

3. A record from this system of records may be disclosed, as a routine use, to a Federal, state, local or international agency, in response to its request, in connection with the assignment, hiring or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.  

4. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to
opposing counsel in the course of settlement negotiations.

5. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

6. A record in this system of records which contains medical information may be disclosed, as a routine use, to the medical advisor of any individual submitting a request for access to the record under the Act and 15 CFR Part 4b, if, in the sole judgment of the Department, disclosure could have an adverse effect upon the individual, under the provision of 5 U.S.C. 552a(f)(3) and implementing regulations at 15 CFR 4b.6.

7. (Deleted; Reserved)

8. A record in this system of records may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

9. A record in this system of records may be disclosed, as a routine use, to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

10. A record in this system of records may be disclosed, as a routine use, to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

11. (Deleted; Reserved)

12. A record in this system may be transferred, as a routine use, to the Office of Personnel Management for personnel research purposes; as a data source for management information; for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained; or for related manpower studies.

13. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2905. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e. GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

National Defense and Foreign Policy Exemption

Some systems of records under the Act which are maintained by the Department contain, from time-to-time, material subject to the specific exemption authorized by 5 U.S.C. 552a(k)(1), relating to national defense and foreign policy materials. The systems of records noticed below, and also listed in 15 CFR 4b.14(a) of the regulations published in the Federal Register, which are subject to this determination of specific exemption under 5 U.S.C. 552a(k)(1) are:

- COMMERCE/ITA-1
- COMMERCE/ITA-2
- COMMERCE/NOAA-5
- COMMERCE/PAT-TM-4
- COMMERCE/PAT-TM-6
- COMMERCE/PAT-TM-8
- COMMERCE/PAT-TM-9
- COMMERCE/DEPT-12
- COMMERCE/DEPT-13
- COMMERCE/DEPT-14

The Department hereby asserts a claim to exemption of such materials wherever they might appear in such systems of records, or any systems of records, present or in the future. The materials would be exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4), (G), (H), and (I) and (f). The reason therefore is to protect the material required by Executive Order to be kept secret in the interest of the national defense and foreign policy.

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DEPT—1 Attendance, Leave, and Payroll Records of Employees and Certain Other Persons

DEPT—2 Accounts Receivable

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DEPT—4 Congressional Files

DEPT—5 Freedom of Information and Privacy Request Records

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DEPT—7 Employee Accident Reports

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DEPT—15 Private Legislation Claimants-Central Legislative Files

DEPT—16 Property Accountability Files

DEPT—17 Records of Cash Receipts

DEPT—18 Employee Personnel Files

Not Covered by Notices of Other Agencies

DEPT—19 Department Mailing Lists

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CENSUS—1 Agriculture Census Records for 1969 (partial), 1974, 1978

CENSUS—2 Employee Productivity Measurement Records

CENSUS—3 Individual and Household Statistical Surveys and Special Studies Records

CENSUS—4 Minority-Owned Business Enterprises Survey Records

CENSUS—5 Population and Housing census Records of the 1960 and Subsequent Censuses

CENSUS—6 Population Census Personal Service Records for 1900 and All Subsequent Decennial Censuses

CENSUS—7 Special Censuses of Population Conducted for State and Local Government

ITA—1 Individuals Identified in Export Transactions

ITA—2 Individuals Involved in International Business Trade Complaints

ITA—3 Mission Directors/Seminar Chairmen/Industry Technical Representatives

ITA—4 Membership Information:

District Export Councils

ITA—5 National Defense Executive Reserve Personnel Folders

ITA—6 Foreign Service Officer Evaluations

ITA—7—1 Auditor Trainee Registrants

MBDA—1 Descriptive Data Questionnaire

NBS—1 NBS Guest Workers

NBS—2 Inventors of Energy-Related Processes and Devices

NBS—3 Research Associates

NBS—4 Employees External Radiation Exposure Records

NBS—5 Nuclear Reactor Operator Licensees File

NBS—6 Participants in Experiments, Studies, and Surveys

NBS—7 NBS Emergency Locator System

NOAA—1 Applicants for the NOAA Corps
COMMERCE/DEPT-1

SYSTEM NAME:
Attendance, Leave, and Payroll Records of Employees and Certain Other Persons—COMMERCE/DEPT-1

SYSTEM LOCATION:
c. For employees of NOAA: National Oceanic and Atmospheric Administration, Office of Finance, Personal Service Accounting Division, 11420 Rockville Pike, Rockville, Maryland 20852.
e. For employees of CENSUS: Finance Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the following Census Regional Offices: 1205 Peachtree Street, NE, Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 55 East Jackson Boulevard, Chicago, Illinois 60604; 1100 Commerce Street, Dallas, Texas 75242; 573 Union Boulevard (P.O. Box 25207), Denver, Colorado 80225; 231 W. Lafayette, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 64101; 11777 San Vicente Boulevard, Los Angeles, California 90049; 26 Federal Plaza, New York City, New York 10278; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

- All Commerce Department employees and certain other persons as categorized by organizational component in a. through f. above.

APPLICATIONS FOR INFORMATION:

No application required. All records listed herein are included only as pertinent or applicable to the individual employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

- Title 5 U.S.C., Title 31 U.S.C. 66a, 492,
- Title 44 U.S.C. 3101, 3309.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

- Transmittal of data to U.S. Treasury and employee-designated financial institutions to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings bonds, allotments, alimony, child support, and other authorized purposes.
- Reporting: tax withholding to Internal Revenue Service and appropriate State and local taxing authorities; FICA deductions to the Social Security Administration; dues deductions to labor unions; withholdings for health and life insurance to the insurance carriers and the U.S. Office of Personnel Management; charity contribution deductions to agents of charitable institutions; annual W-2 statements to taxing authorities and the individual; wage, employment, and separation information to state unemployment compensation agencies, to the Department of Labor to determine eligibility for unemployment.
compensation, and to housing authorities for low-cost housing applications; and NOAA Corps data to U.S. Office of Personnel Management for preparation of statistical materials.

Also, see routine use paragraphs 1–5 and 8–13 of Preatory Statement:

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Both manual and machine-readable.

RETRIEVABILITY:
By name and/or employee or social security number.

SAFEGUARDS:
Physical, technical and administrative security is maintained, with all storage equipment and/or rooms locked when not in use. Admission, when open, is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records.

RETENTION AND DISPOSAL:
Retained on site until after GAO audit, then disposed of, or transferred either to Federal Records Storage Centers in accordance with the fiscal records program approval by GAO, as appropriate, or general Record Schedules of GSA.

SYSTEM MANAGER(S) AND ADDRESS:
For records at location c.: Chief,
Personnel Service Accounting Division, Office of Finance, National Oceanic and Atmospheric Administration, 601 Executive Boulevard, Rockville, Maryland 20852.
For records at location e.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the Director of the particular Regional Office listed above.

NOTIFICATION PROCEDURE:
For BIE records at location a., information may be obtained from:
Administrative Office, BIE, Room 4845, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.
For ITA records at location a., information may be obtained from:
For EDA records at location a., information may be obtained from:
For MBDA records at location a., information may be obtained from:
For USTS records at location a., information may be obtained from:
Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and
For all other records at location a., information may be obtained from:
For NBS and NTIS records at location b., information may be obtained from:
For NTIA records at location b., information may be obtained from:
Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;
For records at location c., information may be obtained from:
Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 601 Executive Boulevard, Rockville, Maryland 20852.
For records at location d., information may be obtained from:
Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231; and
For records at location e., information may be obtained from:
Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.
Requester should provide name, social security number, and time or organization unit of employment pursuant to the inquiry provisions of the Department’s Rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

RECORD SOURCE CATEGORIES:
Subject individuals, those authorized by the individual to furnish information, supervisors, timekeepers, official personnel records, and IRS.

COMMERCE/DEPT.-2

SYSTEM NAME:
Accounts Receivable—COMMERCE/DEPT.-2.

SYSTEM LOCATION:
c. For NOAA: Office of Finance, National Oceanic and Atmospheric Administration, 11420 Rockville Pike, Rockville, Maryland 20852.
g. For EDA: Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Debtors owing money to organizational components identified in a through g including employees, former employees, business firms, general public, and institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:
Name and address; amount owed, and service, overpayment or other accounting therefor, invoice number, if any.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Billing debtors, reporting delinquent debts to credit bureaus, reporting to Office of Personnel Management for liquidating debts from retirement and other benefits, and routine uses 1–5 and 8–13 of the Preamble Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Both manual and machine-readable records.

RETRIEVABILITY:
By name, and invoice number as appropriate.

SAFEGUARDS:
Physical security, handling by authorized personnel only.

RETENTION AND DISPOSAL:
Retained until payment is received and account is audited, then disposed of in accordance with Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:
For records at location c.: Director, Office of Finance, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852.
For records at location e.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.
For records at location f.: Chief, Accounting Division, National Technical Information Service, Springfield, Virginia 22161.
For records at location g.: Chief, Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

NOTIFICATION PROCEDURE:
For BIE records at location a., information may be obtained from: Administrative Officer, BIE, Room 4945, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individual, those authorized by the individual to furnish information, contracting officer as appropriate, accounting records.

COMMERCE/DEPT-3

SYSTEM NAME:
Conflict of Interest Records, Appointed Officials—COMMERCE/DEPT-3.

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Individuals, past and present, appointed by the President to Commerce Department offices and other senior level officers of the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:
Statements of personal and family shareholdings and other interests in business enterprises; copies of blind trust and other agreements pertaining to such interests; correspondence as to insulation of control of such interests; opinions of counsel; and confirmation materials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs of Preamble Statement, except paragraphs 6, 8, and 10.

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 name.

SAFEGUARDS:
Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:
Disposed of 2 years after separation of employee.
CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Members of Congress.

CATEGORIES OF RECORDS IN THE SYSTEM:
Biographical information from sources such as the Congressional Quarterly, Almanac of American Politics, Congressional Directory, biographies provided by Members' Office, extracts from the Congressional Record, and correspondence between the Members and the Department.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs 1-5, 8, 10, and 12 of Preparatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
Storage:
Maintained in paper form only.

RETRIEVABILITY:
Indexed by name of Member or State or Congressional District.

SAFEGUARDS:
Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 5 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Published Congressional reference materials and the Member, himself or herself.

COMMERCE/DEPT-5.

SYSTEM NAME:
Freedom of Information and Privacy Request Records—COMMERCE/DEPT-5.

SYSTEM LOCATION:
d. For FOIA request records of NOAA: Freedom of Information Request Control Desk, National Oceanic and Atmospheric Administration, 6100 Executive Boulevard, Rockville, Md. 20852.
e. For FOIA request records of NTIA: Freedom of Information Request Control Desk, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Individuals who have requested records under the Freedom of Information and/or Privacy Acts contained in files maintained by the organizational units shown in the System Location paragraph above.

CATEGORIES OF RECORDS IN THE SYSTEM:
Incoming requests; correspondence developed during processing of requests; initial and final determination letters.
records summarizing pertinent facts about requests and action taken; copy or
description of records released; description of records denied (copies of
records denied are not kept with these files).

AUTHORITY FOR MAINTENANCE OF THE
SYSTEM:
552a and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN
THE SYSTEM, INCLUDING CATEGORIES OF
USERS AND THE PURPOSES OF SUCH USES:
Used by Department management and
legal personnel to assure that each
request receives an appropriate reply and to compile data for the required
annual reports on activities under the
Acts. General routine uses of the 1–5, 9,
12, and 13 of the Prefatory Statement
also apply.

POLICIES AND PRACTICES FOR STORING,
RETRIEVING, ACCESSING, RETAINING, AND
DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
At all locations: Paper records in file
folders or loose-leaf binders.

RETRIEVABILITY:
At location b: By control number
assigned to each request based on date
of receipt.
At all other locations: Alphabetically
by name of requester.

SAFEGUARDS:
At all locations: Privacy Act request
records are stored in file cabinets in
secured premises with access limited to
those whose official duties require
access. Freedom of Information request
records are generally available to the
public.

RETENTION AND DISPOSAL:
Records are disposed of in accordance
with the appropriate records disposition
authorization approved by the Archivist
of the United States.

SYSTEM MANAGER(S) AND ADDRESS:
For records at location a: Associate
Director for Administration, Bureau of
the Census.
For records at location b: Privacy Act
Officer, ITA.
For records at location c: Director,
Office of Public Affairs, EDA.
For records at location d: Assistant
administrator for Management and
Budget, NOAA.
For records at location e: Director,
Office of Administration, NTIA.
For records at location f: Director,
Office of Organization and Management
Systems, U.S. Department of Commerce.

For each system manager, use the
same address as shown for that unit in
the System Location section above.

NOTIFICATION PROCEDURE:
For records at locations a, b, c, d, e,
and f: Same individual and address for
each as shown in System Manager
section above.

For records at location a: Privacy
Officer, NTIA, same address as shown
in System Manager section above.

Requestor should provide name and
address pursuant to the inquiry
provisions of the Department’s rules

RECORD ACCESS PROCEDURES:
Requests from individuals should be
addressed to same address as stated in
the Notification section above.

CONTESTING RECORD PROCEDURES:
The Department’s rules for access, for
contesting contents, and appealing
initial determinations by the individual
concerned appear in 15 CFR Part 4b. Use
above address.

RECORD SOURCE CATEGORIES:
The individual making the request,
and records derived from the processing
of Freedom of Information and Privacy
Act requests.

COMMERCE/DEPT-5.

SYSTEM NAME:
Visitor Logs and Permits for Facilities
Under Department Control—
COMMERCE/DEPT-5.

SYSTEM LOCATION:
National Bureau of Standards:
Security Office, Administration Building,
Washington, D.C. 20234; and Physical
Security Office, Radio Building, NBS,
Boulder, Colorado 80302.

CATEGORIES OF INDIVIDUALS COVERED BY THE
SYSTEM:
Non-Federal visitors, Federal
personnel entering facilities after duty
hours, and employees seeking parking
and firearm permits.

COMMERCE/DEPT-7.

SYSTEM NAME:
Employee Accident Reports—
COMMERCE/DEPT-7.

SYSTEM LOCATION:
a. For employees of Departmental
Offices, BEA, BIE, and USTS: Office of
Administrative Services, U.S.
Department of Commerce, Washington,
D.C. 20230.


g. For employees of NTIS: Facilities Management Division, National Technical Information Service, Springfield, Va. 22161.


i. For employees of CENSUS: Administrative Service Division, Bureau of the Census, Building 4, Washington, D.C. 20233.

j. For employees of NTIA: Office of Administrative, National Telecommunications and Information Administration, 1800 G Street, NW., Washington, D.C. 20504.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Department employees as categorized by organization component in a through j above, who have sustained occupational injury/illness or who have been involved in a motor vehicle accident while on official Government business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; address; home telephone number; date and place of birth; sex; social security number; occupation; grade; location and description of accident or injury; driving permit or license data; physical condition at time of incident; insurance information; vehicle ownership and licensing data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:


ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine use paragraphs of Prefatory Statement. Also, accident reports involving Government vehicles are disclosed to the General Services Administration, the custodian of Government vehicles; accident information may also be disclosed to insurance carriers during resolution of claims.

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 name.

SAFEGUARDS:

Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Disposed after 5 years.

SYSTEM MANAGER(S) AND ADDRESS:


For records at location b: Director, Office of Administrative Support, International Trade Administration, Washington, D.C. 20230.

For records at location c: Chief, Office Service Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.


For records at location e: Safety and Health Manager, Supply and Plant Building, NBS, Washington, D.C. 20234.

For records at location f: Safety Engineer, Office of Administrative Operations, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

For records at location g: Chief, Facilities Management Division, National Technical Information Service, Springfield, Va. 22161.


For records at location i: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location j: Safety Officer, Office of Administration, National Telecommunications and Information Administration, 1800 G Street, NW., U.S. Department of Commerce, Washington, D.C. 20504.

NOTIFICATION PROCEDURE:

For all Departmental office records at location a, information may be obtained from: Deputy Director of Administration Room 3102, U.S. Department of Commerce, Washington, D.C. 20230;

For ITA records at location b., information may be obtained from: Director, Office of Administration, United States Travel Service, Washington, D.C. 20230;

For BIE records at location c., information may be obtained from: Director, Office of Administration, the custodian of Government vehicles; accident information may also be disclosed to insurance carriers during resolution of claims.

USERS AND THE PURPOSES OF SUCH USES:

For employees of:

c. EDA

d. MBDA

e. NBS

Records are located in lockable metal record cabinets with access limited to those whose official duties require access.

RETRIEVABILITY:

Disposed after 5 years.

SYSTEM MANAGER(S) AND ADDRESS:


For records at location e: information may be obtained from: Deputy Director of Administration Room 3102, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location f: information may be obtained from: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, Rockville, Md. 20852;

For records at location g: information may be obtained from: Associate Director for Financial and Administrative Management, National Technical Information Service, Springfield, VA.

22161;
For records at location b., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20234.

For records at location c., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location d., information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, 1800 G Street, NW., U.S. Department of Commerce, Washington D.C. 20594.

Requester should provide name and approximate date of accident pursuant to the inquiry provisions of the Department’s rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:
The Department’s rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

RECORD SOURCE CATEGORIES:
Subject individual, those authorized by the individual to furnish information; others involved in accident; witnesses; employee’s supervisor; and, the safety officer.

COMMERCE/DEPT-8.

SYSTEM NAME:

SYSTEM LOCATION:
e. For employees of NOAA: Office of Administrative Operations, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.
g. For employees of CENSUS: Administrative Service Division, Bureau of the Census, Federal Building 5, Washington, D.C. 20233; and the following Census Regional Offices: 1305 Peachtree Street, NE., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 220 South Tryon Street, Charlotte, North Carolina 28202; 55 East Jackson Boulevard, Chicago, Illinois 60604; 1100 Commerce Street, Dallas, Texas 75242; 575 Union Boulevard (P.O. Box 25207), Denver, Colorado 80225; 231 W. Lafayette, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 64101; 1177 San Vicente Boulevard, Los Angeles, California 90049; 28 Federal Plaza, New York City, New York 10278; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
All Department employees as categorized by organizational components in a through g above, who are seeking or holding a Federal vehicle operator permit.

CATEGORIES OF RECORDS IN THE SYSTEM:
Name; position title; date and place of birth; physical characteristics; social security number, summary driving record, including all arrests, traffic citations and accidents for the past five years; hearing and visual acuity examination report; road test results; medical history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs 1-6 and 9-13 in the Prefatory Statement. Also, information is transmitted to the Department of Transportation with request for suitability check.

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 name.

SAFEGUARDS:
Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:
Disposed of when re-issued at the end of three years or upon employee’s termination of employment.

SYSTEM MANAGER(S) AND ADDRESS:

For records at location b.: Director, Office of Administrative Support, International Trade Administration, Washington, D.C. 20230.

For records at location c.: Chief, Office Service Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.


For records at location e.: Motor Fleet Manager, Office of Administrative Operations, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.


For records at location g.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

NOTIFICATION PROCEDURE:
For BBE records at location a., information may be obtained from: Chief, Management and Organization Branch, BBE, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For BIE records at location a., information may be obtained from: Administrative Officer, BIE, Room 4614, 14th & Constitution Avenue, N.W., Washington, D.C. 20230;

For MBDA records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230;

For NTIA records at location a., information may be obtained from:

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Privacy Act Officer, Office of Management and Systems, International Trade Administration, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c., information may be obtained from: Director, Office of Public Affairs, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location d., information may be obtained from: Deputy Director of Administration, Room A1195, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

For records at location e:, information may be obtained from: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852.

For records at location f, information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location g, information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Requester should provide name, organizational unit, and approximate date of employment pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individual, those authorized by the individual to furnish information, motor vehicle departments in individual's state, and National Driver Register of the Department of Transportation.

COMMERCE/DEPT-9

SYSTEM NAME:

Travel Records (Domestic and Foreign) of Employees and Certain Other Persons—COMMERCE/DEPT-9.

SYSTEM LOCATION:

a. For employees of Departmental Offices, BEA, BIE, ITA, MBDA, USTS, Offices of Federal Cochairmen, and, RAPCs; members of DOC Advisory Committees; employees and certain other persons associated with ARC; and private citizens invited to visit the Department:


b. For employees of NBS and NTIA:


c. For employees of NOAA:

Chief, Travel and Transportation Management Branch, Property and Logistics Support Division, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852 and the following Field Finance Offices:

Research Building 3, 3100 Marine Street, Boulder, Colo. 80302; Room 1760, 601 E. 12th Street, Kansas City, Mo. 64106; 75 Virginia Beach Drive, Building 2, Miami, Fla. 33149; and, North Bethesda Office Center, 11420 Rockville Pike, Rockville, Maryland 20852.

d. For employees of PAT-TM:

Office of General Services, U.S. Patent and Trademark Office, 20504; Research Building 3, 3100 Marine Street, Boulder, Colo. 80302; Room 1760, 601 E. 12th Street, Kansas City, Mo. 64106; 75 Virginia Beach Drive, Building 2, Miami, Fla. 33149; and, North Bethesda Office Center, 11420 Rockville Pike, Rockville, Maryland 20852.

e. For employees of CENSUS: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and the following Regional Offices for intermittent CENSUS employees: 1385 Peachtree Street, N.E., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 55 East Jackson Boulevard, Chicago, Illinois 60604; 1100 Commerce Street, Dallas, Texas 75242; 575 Union Boulevard (P.O. Box 25207), Denver, Colorado 80201; 231 W. Lafayette, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 64101; 11777 San Vicente Boulevard, Los Angeles, California 90049; 26 Federal Plaza, New York City, New York 10278; 600 Arch Street, Philadelphia, Pennsylvania 19106; and

1700 Westlake Avenue, Seattle, Washington 98109.


CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, Advisory Committee Members, State Representatives of ARC, and official guests of the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, social security number; destination, itinerary, mode and purpose of travel; dates; expenses including amounts advanced (if any), amounts claimed, and amounts reimbursed; travel orders, travel vouchers, receipts, and passport record card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; and Federal Claim Collection Act of 1966.

ROUTINEUSES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Transmittal to U.S. Treasury for payment, to State Department for passports, and see paragraphs 1-5 and 9-13 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:


RETRIEVABILITY:

Filed by name, social security number, or travel order number.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Retained according to GSA Federal Travel Regulations, and then disposed of according to unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:


For records at location b. Comptroller, Office of the Comptroller, National
For records at location a. information may be obtained from: Office of Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852 and the Chief of the particular Field Finance Office listed above.

For records at location d. information can be obtained from: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location e. information can be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20230.

For records at location f. information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location g. information can be obtained from: Associate Director for Management and Organization, MBDA, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location h. information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location i. information may be obtained from: MBDA, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location j. information can be obtained from: Deputy Director of Administration, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

For records at location k. information may be obtained from: Director, Office of Administration, NTIA, U.S. Department of Commerce, Washington, D.C. 20504.
RETENTION AND DISPOSAL:
Records are disposed in accord with the appropriate records disposition schedule approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:
For records at location a: Director, Executive Secretariat, Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.
For records at location b: Chief, Executive Secretariat, EDA, Room 7227, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.
For records at location c: Chief, MBDA Secretariat, Room 5083, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.
For records at location d: Director, Executive Secretariat, Office of Administrator, National Oceanic and Atmospheric Administration, Washington, D.C. 20230.
For records at location e: Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, 20230.

NOTIFICATION PROCEDURE:
For records at location a, information may be obtained from Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.
For records at location b, information may be obtained from Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.
For records at location c, information may be obtained from Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230.
For records at location d, information may be obtained from the Assistant Administrator for Management and Budget, NOAA, 6110 Executive Boulevard, Rockville, Maryland 20852.
For records at location e, information may be obtained from Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. All requests for information should provide the correspondent's name as included in original correspondence, or provide any items listed under the retrievability section above pursuant to the inquiry provisions of the Department's rules that appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Request for access and disclosures should be addressed to the same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and for appealing initial determination by the individual concerned appear in 15 CFR Part 4b. Requests for correction should be addressed to manager as shown above.

RECORD SOURCE CATEGORIES:
The correspondent, referral source, Department employees involved in processing the correspondence, and other individuals, as required to prepare an appropriate response.

COMMERCE/DEPT-11
SYSTEM NAME:
Candidates for Membership, Members, and Former Members of Department of Commerce Advisory Committees.
SYSTEM LOCATION:
CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Individuals recommended for membership on advisory committees, current members and former members of advisory committees.
CATEGORIES OF RECORDS IN THE SYSTEM:
Resume information: name, home address, business address, educational and employment histories, awards and honors received, age, date of birth, and other biographical information; records of appointment, expiration of the appointment, and correspondence including letters of recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See general routine uses 1, 2, 3, 5, and 9 of the Prefatory statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Paper hard copy, diskettes for use on word processing equipment.

RETRIEVABILITY:
Data is filed by committee. An alphabetical card file index of candidates, members, and former members' names is used to retrieve data. This index is also on diskette to retrieve information on word processing equipment.

SAFEGUARDS:
Records are located in a locked office. Paper records and diskettes are in locked file cabinets. Access to data on the word processor is by password.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to the address listed in the notification section above.

CONTESTING RECORDS PROCEDURES:
The Department's rules for access, for contesting contents, and for appealing initial determinations by the individual appear in 15 CFR Part 4b. Use the address given in the notification section above.

RECORD SOURCE CATEGORIES:
Individual candidate or member, persons recommending candidates and those authorized by the individual to provide information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine use for law enforcement purposes will include disclosure to the appropriate agency, whether Federal, State, local, foreign, or international, charged with the responsibility for investigating or prosecuting a violation of any law, rule, regulation or order or of enforcing or implementing any law, rule, regulation or order. Routine use for law enforcement purposes will also include disclosure to individuals or to agencies, whether Federal, State, local, foreign or international, when necessary to further the ends of an investigation. See routine use paragraphs 1-5 and 8-13 in Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Paper records in file folders; and automated storage media.

RETRIEVABILITY:
Indices are alphabetical, cross referenced to file number.

SAFEGUARDS:
Locked cabinets in secured rooms or in guarded building, and used only by authorized screened personnel.

RETAIEN AND DISPOSAL:
When cases are closed records are disposed of in accordance with the unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

NOTIFICATION PROCEDURE:
Information may be obtained from: Assistant Inspector General for Investigations, Office of the Inspector General, 1325 G Street, N.W., Room 1060, Washington, D.C. 20230. Requester should provide name and association with the Department, if any, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individuals: Office of Personnel Management, FBI and other Federal, state, local, foreign and international agencies; individuals and organizations that have pertinent knowledge about the subject; and those authorized by the individual to furnish information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:
Under 5 U.S.C. 552a(j)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. The Inspector General Act of 1978, Public Law 95-462, mandates the Inspector General to recommend policies for, and to conduct, supervise and coordinate activities in the Department and between the Department and other Federal, State and local governmental agencies with respect to all matters relating to the prevention and detection of fraud in programs and operations administered or financed by the Department, and to the identification and prosecution of participants in such fraud. Under the Act, whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law the Inspector General must report the matter expeditiously to the Attorney General. In addition to these principal functions pertaining to the enforcement of criminal laws, the Inspector General may receive and investigate complaints on information from various sources concerning the possible existence of activities constituting violations of law, rules or regulations, or mismanagement, gross waste of funds, abuses of authority or substantial and specific danger to the public health and safety.

The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

5. U.S.C. 552a(c)(3) and (4)
5. U.S.C. 552a(d)
5. U.S.C. 552a(e)(1) and (3)
5. U.S.C. 552a(e)(4), (11), and (1)
5. U.S.C. 552a(e)(5) and (6)
5. U.S.C. 552a(f)
5. U.S.C. 552a(g)

And that the exemption under 5 U.S.C. 552a(j)(2) is held to be invalid, then the exemptions under 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5) are...
Provisions of the Privacy Act of 1974 from which exemptions are claimed are as follows:

- 5 U.S.C. 552a(c)(3)
- 5 U.S.C. 552a(d)
- 5 U.S.C. 552a(e)(1)
- 5 U.S.C. 552a(e)(4)(G), (H), and (I)
- 5 U.S.C. 552a(f)

Reasons for exemptions:

1. In the performance of its functions, the agency must be able to maintain in its records only information which relates to the investigative file pertaining to such individual.
2. The application of this provision could alert the individual named in a record to the existence of records in each system of records.
3. The application of this provision could disclose investigative techniques and procedures.
4. The application of this provision could disclose investigative techniques and procedures.
5. The application of this provision could disclose investigative techniques and procedures.

6. 5 U.S.C. 552a(j)(1) requires each agency to maintain in its records only information which relates to the investigative file pertaining to such individual.
7. The application of this provision could disclose investigative techniques and procedures.
8. The application of this provision could disclose investigative techniques and procedures.
9. The application of this provision could disclose investigative techniques and procedures.
10. The application of this provision could disclose investigative techniques and procedures.
11. The application of this provision could disclose investigative techniques and procedures.
12. The application of this provision could disclose investigative techniques and procedures.

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undercover activities requiring disclosure of undercover agents' identity and impairing their safety, as well as impairing the successful conclusion of the investigation.

(iii) Individuals may be contacted during preliminary information-gathering in investigations before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

7) 5 U.S.C. 552a(e)(5) requires that records be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about an individual. Since the law defines "maintain" to include the collection of information complying with this provision would prevent the collection of any data not shown to be relevant and complete at the moment of its collection. Input information into the course of an investigation it is not possible to determine this prior to collection of the information. Facts are first gathered and placed into a logical order which objectively proves or disproves criminal behavior on the part of the suspect. Material which may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. These restrictions in this provision could interfere with the preparation of a complete investigative report.

8) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record of such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The notice requirement of this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

Reasons for exemptions under 5 U.S.C. 552a(k)(5):

1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation. The application of this provision could hinder or adversely affect any present or subsequent investigations.

2) 5 U.S.C. 552a(d), (e)(4) and (f), and (i) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; and the agency procedures relating to access to records and the context of information contained in such records. This system is exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to such individual or to grant access to an investigative file containing such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed: a. Because it is not possible to detect relevance or necessity of specific information in the early stages of an investigation involving national security matters. b. Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established. c. In any investigation the Inspector General may obtain information concerning the violators of laws other than those within the scope of his jurisdiction. In the interests of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law. d. In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

Reasons for exemptions under 5 U.S.C. 552a(k)(5):

1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation might provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

2) 5 U.S.C. 552a(d), (e)(4) and (f), and (i) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; and the agency procedures relating to access to records and the context of information contained in such records. This system is exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to such individual or to grant access to an investigative file containing such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed: a. Because it is not possible to detect relevance or necessity of specific information in the early stages of an investigation involving national security matters. b. Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established. c. In any investigation the Inspector General may obtain information concerning the violators of laws other than those within the scope of his jurisdiction. In the interests of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law. d. In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

The application of this provision could hinder or adversely affect any present or subsequent investigations.

The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation might provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation might provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation might provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation might provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.
that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed:

a. Because it is not possible to detect relevance or necessity of specific information in the early stages of an investigation.

b. Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established.

c. In any investigation the Inspector General may obtain information concerning the violations of laws other than those within the scope of his jurisdiction. In the interest of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

d. In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

COMMERCe/DEPT-13
SYSTEM NAME: Investigative and Security Records—COMMERCe/DEPT-13:


CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Nominees, members, and former members of public advisory committees, trade missions, and export councils; employees, former employees, and prospective employees; research associates; and guest workers.

Employees of contractors used, or which may be used, by the Department on national security classified projects. Principal officers of some contractors used, or which may be used by the Department. Principal officers and some employees of organizations, firms, or institutions which were recipients or beneficiaries, or prospective recipients or beneficiaries, of grants, loans, or loan guarantee programs of the Department prior to May 9, 1980.

CATEGORIES OF RECORDS IN THE SYSTEM:
Name; address; date and place of birth; Social Security Number; citizenship; physical characteristics; employment and military service history; credit references and credit records; education; medical history; arrest records; Federal employee relatives; dates and purpose of visits to foreign countries; passport numbers; names of spouses, relatives, references, and personal associates; activities; and security, and suitability materials. This system does not include records of EEO investigations. Such records are covered in a government-wide system noticed by the then Office of Personnel Management and now the responsibility of the Equal Employment Opportunity Commission. For assistance contact the Privacy Officer for the Office of the Secretary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
Information concerning nominees, members and former members of public advisory committees may be disclosed: (a) to OMB in connection with its committee management responsibilities; (b) to other Federal agencies which have joint responsibility for advisory committees or which receive or utilize advice of the committees; and (c) to a Federal, state or local agency, private organization or individual as necessary to obtain information in connection with a decision concerning appointment or reappointment of an individual to committee membership.

Information concerning (1) nominees, members, and former members of trade missions and export councils; (2) current employees, former employees, and prospective employees; (3) research associates; (4) guest workers; (5) employees of contractors used, or which may be used, by the Department on national security classified projects; (6) principal officers of some contractors used, or which may be used by the Department; and (7) principal officers and some employees of organizations, firms or institutions which are recipients or beneficiaries or prospective recipients or beneficiaries of grants, loans, guarantee or other assistance programs of the Department—may be disclosed to a private organization or individual as necessary to obtain information in connection with a decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. See routine use paragraphs in Prefatory Statement.

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 name.

SAFEGUARDS:
Locked cabinets in secure rooms in guarded buildings, and used only by authorized screened personnel.

RETENTION AND DISPOSAL:
When cases are closed, records are disposed of in accordance with the unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:
Director, Office of Investigations and Security, OS, Main Commerce Building, Washington, D.C. 20230.

NOTIFICATION PROCEDURE:
Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and association with the Department, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURE:
Requests from individuals should be addressed to: same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individuals; OPM, FBI and other Federal, state, and local agencies; individuals and organizations that have pertinent knowledge about the subject; and, those authorized by the individual to furnish information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:
Pursuant to 5 U.S.C. 552a(k)(1), (k)(2) and (k)(5), all information and material
in the record which meets the criteria of these subsections are exempted from the notice, access, and contest requirements under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (J), and (L) of the agency regulations because of the necessity to exempt this information and material in order to accomplish this law enforcement function of the agency, to prevent disclosure of classified information as required by Executive Order 12056, to assure the protection of the President, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of information, and to avoid endangering these sources and law enforcement personnel.

COMMERCE/DEPT-14

SYSTEM NAME:
Litigation, Claims, and Administrative Proceeding Records—COMMERCE/DEPT-14.

SYSTEM LOCATION:

a. For matters involving CENSUS: Office of the Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233. Some records may be duplicated in the offices of Census Bureau division chiefs. A complete address list of division chiefs is available upon request from the individual designated in the Notification section below.


e. For matters including NOAA—see location 1.


g. For matters involving NITIA: Office of the Chief Counsel, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504; or Office of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.


i. For all other matters: Office of the General Counsel, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Some of the records at location a through h may be duplicated at location i. Also, the records at locations a through h may be duplicated in part or in whole in other Department of Commerce systems of records, or in Government-wide systems, at other locations. For assistance in this regard, information may be obtained from the individual identified in the appropriate Notification procedure section below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals the subject of any litigation in which the Department is involved; individuals who make administrative claims or appeals against the Department; individuals the subject of claims and administrative actions brought by the Department. Individuals cited for violation of traffic and grounds regulations. Individuals who may have provided statements or other evidence with respect to any of the above. "Department" means the U.S. Department of Commerce or any component thereof, or any officer or employee thereof.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, social security account numbers, statements of claims and analyses thereof, investigatory reports, opinions of law, and pleadings, motions, depositions, rulings, opinions, citation particulars (description of vehicle, date of birth, physical characteristics, driving permit or license data, vehicle license data, etc.), and other litigation and claims documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:


ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine use paragraphs of the Preatory Statement.

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 name.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in metal file cabinets in the offices of Census Bureau division chiefs and in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are disposed of according to unit’s Record Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

For records at location a: Associate Director for Administration Bureau of the Census, Federal Building 3, Washington, D.C. 20233.


For records at location c: Chief Counsel, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.


For records at location e: Associate Director for Financial and Administrative Management, National Technical Information Service, Springfield, Va. 22161.
For records at location g.: Chief Counsel and Director of Administration (for their respective portions), National Telecommunications and Information Administration, U.S. Department of Commerce, 1800 C Street, N.W., Washington, D.C. 20504.


For records at location i.: General Counsel, U.S. Department of Commerce, Washington, D.C. 20230.

NOTIFICATION PROCEDURE:

For records at location a.: information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location b., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c.: information may be obtained from: Director, Office of Organization and Management Systems, ITA, Room 5102, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location d.: information may be obtained from: Deputy Director of Administration, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

For records at location e.: information may be obtained from: Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.

For records at location f.: information may be obtained from: Associate Director for Financial and Administrative Management, National Technical Information Service, Springfield, Va., 22161.

For records at location g.: information may be obtained from: Privacy Act Office, Office of Management and Systems, ITA, Room 5102, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location h.: information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location i.: information may be obtained from: Assistant General Counsel, Legislation, U.S. Department of Commerce, Washington, D.C. 20230.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to: same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject claimant or plaintiff; those authorized by the foregoing to furnish information; and, whatever sources pertinent to the nature of the case.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. § 552a (k)(1), (k)(2) and (k)(5), all investigatory material and material subject to the provisions of 5 U.S.C. § 552(b)(1) in the record which meets the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. § 552a (c)[3], (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to prevent disclosure of classified information as required by Executive Order 12056 in the interest of the national defense and foreign policy and in order for the Department's legal staff to properly perform its functions.

COMMERCE/DEPT-15

SYSTEM NAME:

Private Legislation Claimants-Central Legislative Files—COMMERCE/DEPT-15.

SYSTEM LOCATION:


CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual claimants against the government seeking remedy through private relief bills in patent, contract, employee compensation, and other similar areas which involve the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Draft and formal relief bills, statements, and information as to the basis and validity of the claim; and correspondence with the claimant and the sponsor of the legislation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:


ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine use paragraphs of the Prefatory Statement.

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 name.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained according to the Office's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:


NOTIFICATION PROCEDURE:

Information may be obtained from: Director, Office of Organization and Management Systems, OS, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name, social security number, date of claim, and name of bill, if any, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject claimant and those authorized by the claimant to furnish information; records of units of the Department primarily involved in the transaction; service or application on which the claim is founded; and the sponsoring Member of Congress.
COMMERCE/DEPT-16

SYSTEM NAME:

Property Accountability Files—COMMERCE/DEPT-16.

SYSTEM LOCATION:

a. For all libraries of the Department.
   b. For employees of CENSUS: Administrative Service Division, Bureau of the Census, Federal Building 4, Washington, D.C. 20233, and the following Census Regional Offices: 1985 Peachtree Street, NE., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 55 East Jackson Boulevard, Chicago, Illinois 60604; 1100 Commerce Street, Dallas, Texas 75242; 900 Post Office Square, Los Angeles, California 90017; 10278; 600 Massachusetts Avenue NW., Washington, D.C. 20001; 26 Federal Plaza, New York City, New York 10007; 80225; 231 W. Lafayette, Boulder, Colorado 80302.
   e. For NTIA: Office of Administration, National Telecommunications and Information Administration, 1800 G Street, NW., Washington, D.C. 20554.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, general public, institutions, and anyone who charges out or signs for books or other materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; telephone number; title of book; identification of property or equipment; home and business address; employee ID number; position; job title; grade; organization; explanations for items not accounted for; correspondence; clearances; and, key number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:


ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine use paragraphs 1-5 and 9-13 of Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper copy in file folders and trays and machine-readable media.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Records are located in lockable metal file cabinets, or lockable desks, or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

RETRIVAL AND DISPOSAL:

Retained until property is accounted for, then disposed of in accordance with unit's Record Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

For records at location a.: The head of the respective library.
For records at location b.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the Director of the particular Regional Office listed above.
For records at location c.: Security Officer, National Bureau of Standards, Administration Building, Washington, D.C. 20234.
For records at location e.: Director of Administration, National Telecommunications and Information Administration, U.S. Department of Commerce, 1800 G Street, NW., Washington, D.C. 20554.

SYSTEM NAME:

Records of Cash Receipts—COMMERCE/DEPT-17.

SYSTEM LOCATION:

   b. For NTIS: Accounting Division, National Technical Information Service, Springfield, Virginia 22161.
   e. For NTIA: Office of Administration, National Telecommunications and
Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.
For records at location c., information may be obtained from: Director, Office of Personnel, National Technical Information Service, Springfield, Virginia 22161.
For records at location d., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.
For records at location e., information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

For records at location f., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.
Requester should provide name, address, date of receipt, and check number or case number pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURE:
Requests from individuals should be addressed to: same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Employees Personnel Files Not Covered By Notices of Other Agencies—COMMERCE/DEPT-18

SYSTEM NAME:

Employees Personnel Files Not Covered By Notices of Other Agencies—COMMERCE/DEPT-18

SYSTEM LOCATION:
a. For all Departmental employees:
Departmental Office of Personnel, Room 5001, U.S. Department of Commerce, Washington, D.C. 20230 (for automated records and for selected records relating to Senior Executive Service and Departmental Honor Awards).
e. For employees of NBS: Office of Personnel, National Bureau of Standards, Administration Building, Room A123, Washington, D.C. 20230;
f. For employees of NOAA: Office of Personnel, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852;
b. To disclose information to any source from which additional information is requested in the course of processing a grievance to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

c. To disclose information to officials of the Office of Personnel Management, Merit Systems Protection Board, including the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, or the Equal Employment Opportunity Commission, the Department of State, or the Department of Labor when requested in performance of their authorized duties.

d. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

e. To provide information to officials or labor organizations reorganized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

f. See routine uses paragraphs in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:


RETRIEVABILITY:

Filed by name and/or social security number.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Retained according to Unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

For records at location a.: Director, Office of Personnel, Room 5001, U.S. Department of Commerce, Washington, D.C. 20230.


For records at location d.: Director, Office of Personnel, International Trade Administration, U.S. Department of Commerce; Room 3512, Washington, D.C. 20230.

For records at location e.: Chief Personnel Division, National Bureau of Standards, Administration Building, Room A123, Washington, D.C. 20234.

For records at location f.: Director, Office of Personnel, National Oceanic and Atmospheric Administration, NBOC2, Rockville, Maryland 20852.


For records at location h.: Personnel Management Division, Economic Development Administration, Room 7089, Washington, D.C. 20233; and

For records at location i.: Employee’s supervisor(s).

NOTIFICATION PROCEDURE:

For BEA records at locations a. and b., information may be obtained from: Chief, Management and Organization Branch, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230.

For BIE records at locations a. and b., information may be obtained from: Administrative Officer, BIE, Room 4845, 19th & Constitution Avenue, N.W., Washington, D.C. 20230.

For NTIA records at locations a. and b., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20540.

For NTIS records at locations a. and b., information may be obtained from: Privacy Officer, NTIS, U.S. Department of Commerce, Washington, D.C. 20230.

For MBDA records at locations a. and b., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230.

For USTS records at locations a. and b., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230.

For all other records at locations a. and b., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location c., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location d., information may be obtained from: Privacy Act Officer, Office of Management and
SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
- At location a.: 1. Persons employed in the Suitland Federal Center who have voluntarily submitted an application to be included in the carpool locator system and be listed as a possible carpool member, and 2. Subscribers to Bureau of the Census publications. At location b.: Subscribers to MBDA publications and/or representatives of the media who receive MBDA material at their home addresses. At location c.: Former employees of the Patent and Trademark Office who have requested that their names be included on a newsletter mailing list. At location d.: Individuals who have voluntarily submitted an application to be included in the carpool locator system and to be listed as a potential carpool member. At location e.: Individuals who communicated with the 1978 White House Conference on Balanced National Growth and Economic Development, including individuals who received Conference literature.

CATEGORIES OF RECORDS IN THE SYSTEM:
- At location a.: 1. Carpool records include name, address, work week, hours of work, work location, work phone number, willingness to join in a carpool, willingness to participate as a driver or rider in a carpool, and zip code. 2. Subscriber lists include name and home address. At location b.: Name and home address. At location c.: Name and home address. At location d.: Carpool locator records include applicant's name, home address, zip code, work hours, work location, office telephone number. At location e.: Name, home and/or business address; home and/or business telephone number; place of employment or interest group; type of organization; nature of relationship to the Conference (participant, guest, observer, etc.); source of name; and subject area(s) of interest.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
- For all locations, see general routine uses 4, 5, 9, 10, 12, and 13 of the Prefatory Statement.
- For records at location a.: Carpool records are disseminated to other persons working at the Suitland Federal Center who have voluntarily listed themselves to form carpools; home address is suppressed. For records at location d.: Carpool locator records are disseminated to individuals working at or near the NBS site, who request information on carpools. (Home addresses are withheld.) For records at location e.: Information may be provided Federal, State, local or international agencies in response to a written request indicating likelihood that individuals on the mailing list would benefit by or be interested in material to be sent by the requesting agency.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
- STORAGE:
  - Paper copy in file folders, computer tape, mailing labels.
  - For records at location e.: Index cards and computer print-outs.

RETRIEVABILITY:
- Alphabetically by name, and for records at location a., by zip code.
- For records at location e.: Alphabetically, by name, by geographical area (state, city), by type of organization with which affiliated if any, by nature of relationship to the Conference, by source of name, and by subject area(s) of interest.

SAFEGUARDS:
- Records are located in locked cabinets or in secured rooms or premises with access limited to those whose official duties require access.
RETENTION AND DISPOSAL:
Records are retained in accordance with each unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:
- For records at location a.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.
- For records at location b.: Chief of Information, Office of Public Affairs, MBDA, Washington, D.C. 20230.
- For records at location c.: Director, Office of General Services, U.S. Patent and Trademark Office, Washington, D.C. 20231.
- For records at location d.: Chief, Facilities Services Division, National Bureau of Standards, Administration Building, Room A705, Washington, D.C. 20234.
- For records at location e.: Director, Office of Administrative Services, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

NOTIFICATION PROCEDURE:
- For records at location a.: Information may be obtained from: Associate Director for Administration, Federal Building 3, Bureau of the Census, Washington, D.C. 20233.
- For records at location c.: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.
- For records at location d.: Information may be obtained from Deputy Director of Administration, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requests should provide applicant's name and address in accord with the inquiry provisions of the Department's rules that appear in 15 CFR Part 4b.
- For records at location e.: Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: Same address of the desired location as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

RECORD SOURCE CATEGORIES:
Subject individuals, and those authorized by subject individual.
For records at location e.: Subject individual; those authorized by the individual to furnish information; public reference sources (press articles, Who's Who, etc.); government, private, and public interest organizations.

COMMERCE/DEPT-20
SYSTEM NAME:
Biographical Files—COMMERCE/DEPT-20.
SYSTEM LOCATION:
b. For Secretarial Officers and senior-level officials included in Biographical Resumes of Key Officials: Offices of the Director of Personnel, and Assistant Secretary for Administration; all Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.
g. For members of the Advisory Board to the U.S. Merchant Marine Academy: Office of Assistant Secretary for Maritime Affairs, U.S. Department of Commerce, Washington, D.C. 20230.
h. For employees of NBS and for participants in the Commerce Science and Technology Fellowship Program: Public Information Division, Administration Building, National Bureau of Standards, Washington, D.C. 20234.
j. For members of the National Advisory Committee on Oceans and Atmosphere: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, N.W. (PG #1, Room 438), Washington, D.C. 20235.
k. For employees of NOAA: NOAA headquarters locations: Office of Public Affairs, National Oceanic and Atmospheric Administration, 11420 Rockville Pike, Rockville, Maryland 20852, and/or NOAA field installations, the principal addresses of which are:
NOAA's National Ocean Survey, 6001 Executive Boulevard, Rockville, Maryland 20850.
NOAA's National Weather Service, 8060 13th Street, Silver Spring, Maryland 20910.
NOAA's Office of Sea Grant, 5010 Executive Boulevard, Rockville, Maryland 20852.
NOAA's Environmental Research Laboratories, 3100 Marine Street, RB3, Boulder, Colorado 80302, and Environmental Research Laboratories at 9 locations in the United States.
A complete list of all field installations is available upon request from individual designated in Notification section below.
n. For employees of the Office of Science and Technology and Productivity, Technology and Innovation and organizational components reporting to the Assistant Secretary; for members of the Commerce Technical Advisory Board and its subcommittees; and for participants in the Commerce Science and Tech-Productivity, Technology and Innovation, U.S. Department of Commerce, Washington, D.C. 20230.
The information in this system may be duplicated in other Privacy Act systems of the Commerce Department, in the systems maintained by the Office of Personnel Management, or in the immediate office of the individual to whom the biographical record pertains.
For assistance in this regard, contact the Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Present and former Department personnel, and members of advisory committees.

CATEGORIES OF RECORDS IN THE SYSTEM:
Biographical information which typically includes date and place of birth; education; military service; present position; employment history; field of research; publications; inventions and patents; awards and honors; memberships and affiliations; present and past residences; telephone number; names, ages, and addresses of family members; hobbies and outside interests; and photograph of individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
Distributed to the press, other government agencies, and the general public for use in connection with written articles, oral interviews, speaking engagements, retirement and obituary notices, and other purposes of public information.

POLICIES AND PRACTICES FOR STORING, RETRIEVALING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Paper records in file folders or notebooks.

RETRIEVABILITY:
By name alphabetically or by position or work unit.

SAFEGUARDS:
Records are located in locked metal file cabinets or locked rooms during non-business hours.

RETENTION AND DISPOSAL:
Records retention and disposal is in accord with each operating unit’s Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:
For records at location a.: Information Assistant, Office of Communications.
For records at location b.: Director of Personnel, U.S. Department of Commerce.
For records at location c.: Director, Bureau of the Census.

For records at location d.: Director, Office of Public Affairs, International Trade Administration.
For records at location e.: Director, Office of Public Affairs, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.
For records at location f.: Chief, Public Information Division, National Bureau of Standards.
For records at location g.: Chief, Program Information Office, National Bureau of Standards.
For records at location h.: Executive Director, National Advisory Committee on Oceans and Atmosphere.
For records at location i.: Director, Office of Public Affairs, National Oceanic and Atmospheric Administration.
For records at location j.: Information Officer, Minority Business Development Agency.
For records at location k.: Director, Office of Information Services, Patent and Trademark Office.
For records at location l.: Special Assistant to the Assistant Secretary for Productivity, Technology, and Innovation, Office of Productivity, Technology, and Innovation, U.S. Department of Commerce.
For records at location m.: Director of Congressional and Public Affairs, National Telecommunications and Information Administration.
For each system manager, use same address as shown in applicable System Location section above.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:
The Department’s rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

RECORD SOURCE CATEGORIES:
All locations, subject individuals. Also, for records at locations b. and f, the individual’s Official Personnel File; for records at location i., supervisors of subject individuals; for records at locations h. and l., personnel offices; and for records at locations f., g., and l., other sources such as news releases, articles and publications relating to the subject individual.

COMMERCE/CENSUS-1 SYSTEM NAME:
Agriculture Census Records for 1974 and 1979—COMMERCE/CENSUS-1

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Farmer operators.

CATEGORIES OF RECORDS IN THE SYSTEM:
Age, race, residence, ethnic groups, off-farm employment, income.
AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

RTUNE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
These data maintained by the Bureau of the Census are used solely for statistical purposes and are confidential under 13 U.S.C. 8 and 9. Publications of the Bureau do not contain data that could identify any particular establishment or individual.

POLICIES AND PRACTICES FOR STORING, RETRIEving, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
STORAGE:
Magnetic tape, microform, paper hard copy.

RETRIEVABILITY:
Retrieved by unique serial identification numbers internal to the Bureau.

SAFEGUARDS:
All employees are subject to the restrictions, penalties, and prohibitions of Title 13, U.S.C. Employees are also regularly advised of the regulations issued pursuant to Title 13, governing the confidentiality of the data.

REtenTION AND DISPOSAL:
Retention and disposal practices are in accordance with approved General Services Administration schedules. Generally, records are retained for periods of 5 to 11 years, unless a longer period is necessary for statistical purposes or for permanent archival retention.

SYSTEM MANAGER(S) AND ADDRESS:
Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:
Pursuant to 5 U.S.C., 552 a(k)(4), this record is exempt from the notification, access and contest requirements of the agency procedures (under 5 U.S.C. 552a(e)(3), (d), (e)(1), (e)(4)(G), (H), and (l), and (f)). This exemption is applicable as the data are maintained by the Bureau of the Census solely as statistical records as required under Title 13 U.S.C. and are not used in whole or in part in making any determination about an identifiable individual; This exemption is made in accordance with agency rules published in 15 CFR Part 4b.

COMMERCE/CENSUS-2

SYSTEM NAME:
Employee Productivity Measurement Records—COMMERCE/CENSUS-2.

SYSTEM LOCATION:
Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and Bureau of the Census, 1201 East 10th Street, Jeffersonville, Indiana 47103 and Bureau of the Census, Personal Census Service Branch, Pittsburgh, Kansas 66782. Also at the following Census Regional Offices: 1365 Peachtree Street NE, Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 S. Tryon Street, Charlotte, North Carolina 28202; 55 E. Jackson Boulevard, Suite 1304, Chicago, Illinois 60604; 1100 Commerce Street, Dallas, Texas 75242; 575 Union Boulevard, P.O. Box 25307, Denver, Colorado 80225; 231 W. Lafayette, RM 565, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 11777 San Vicente Boulevard, Los Angeles, California 90049; 20 Federal Plaza, New York, New York 10278; 600 Arch Street, Philadelphia, Pennsylvania 19106; 1700 Westlake Avenue, Seattle, Washington, 98109. Also at the following processing offices: Bureau of the Census, Laguna Niguel Processing Office, Chet Holifeld Building, 24000 Avila Road, Laguna Niguel, California 92677 and Bureau of the Census, New Orleans Processing Office, Michoud Assembly Facility, Building 350–2W, 13800 Old Gentilly Road, New Orleans, Louisiana 70129.

CATEGORIES OF INdividuals Covered by the System:
Census employees.

CATEGORIES OF RECORDS IN THE SYSTEM:
Name, employee number, rate of pay, supervisor, organization unit, location, type of work performed, time work accomplished, work units processed, production standard and percent performance, number and types of errors and error rates, work units accepted and rejected, and similar information on employee and work group productivity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
5 U.S.C. 301.

Routines USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs 1–5 and 8–13 in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEving, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
STORAGE:
Magnetic tape, paper copy, microform.

RETRIEVABILITY:
Retrieved by name or employee number and/or program or interviewer code.

SAFEGUARDS:
Tape under ADP security, sensitive material is held in locked file cabinets.

REtenTION AND DISPOSAL:
Records retained for 5 years.

SYSTEM MANAGER(S) AND ADDRESS:
Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

NOTIFICATION PROCEDURE:
Information may be obtained from: same address as stated in the system manager section above. Requester should provide name, employee number and/or program or interviewer code, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individuals, timekeepers, supervisors, managers, and those authorized by the individuals to furnish information.

COMMERCE/CENSUS-3

SYSTEM NAME:
Individual and Household Statistical Surveys and Special Studies Records—COMMERCE/CENSUS-3.

SYSTEM LOCATION:
Categories of Individuals Covered by the System:

Individuals designated for statistical sample surveys and special studies.

Categories of Records in the System:

Age, sex, race, education, marital status, residence, family income, birth expectations, employment, ethnic origin, relationship to head of household, mobility status, and similar social, economic, and demographic characteristics of individuals.

Authority for Maintenance of the System:


Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

(1) Identifiable data from records not protected by Title 13 U.S.C. 9, received from State and local units of government responsible for administering Comprehensive Employment and Training Act funds and from individual respondents pursuant to the Longitudinal Manpower Survey, authorized by 29 U.S.C. 881(c) and 883, may be furnished to the Social Security Administration solely for the purpose of obtaining further identifiable data for statistical use in the Survey. The data provided are: social security number, name, month and year of birth, race, and sex. No determinations affecting individual respondents are made as a result of this routine use. (2) Publications resulting from the use of the records in this system do not contain data that could identify any particular establishment or individual.

Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System:

Storage:

Paper copy, punch card, magnetic tape, and microfilm.

Retrievability:

Unique serial identification numbers internal to the Bureau of the Census.

Safeguards:

All employees are subject to the restrictions, penalties, and prohibitions of Title 13 U.S.C. Employees are also regularly advised of the regulations issued pursuant to Title 13, U.S.C. governing the confidentiality of the data.

Retention and Disposal:

Retention and disposal practices are in accordance with approved GSA schedules. Generally, records are retained for periods of 5 to 7 years, unless a longer period is necessary for statistical purposes or for permanent archival retention.

System Name:

COMMERCE/CENSUS-4

System Location:


Categories of Individuals Covered by the System:

Female and minority persons who are sole proprietors, partners, or shareholders of small business corporations.

Categories of Records in the System:

Name, social security number, sex, race, whether Spanish surname, receipts of business, geographic area, legal form of business. Name and social security number are deleted from partners and stockholders once other data are coded. Data include number, geographic dispersion, and economic characteristics of minority business enterprises.

Authority for Maintenance of the System:


Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

These data maintained by the Bureau of the Census are used solely for statistical purposes. Publications do not contain data that could identify any particular establishment or individual.

Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System:

Storage:

Paper copy and magnetic tape.

Retrievability:

Filed by name and social security number.

Safeguards:

All employees are subject to the restrictions, penalties, and prohibitions of Title 13, U.S.C. Employees are also regularly advised of the regulations issued pursuant to Title 13, U.S.C. governing the confidentiality of the data.

Retention and Disposal:

Records are retained in accordance with the unit's Records Control Schedule.

System Manager(s) and Address:

Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

Systems Exempted from Certain Provisions of the Act:

Pursuant to 5 U.S.C. 552a(k)(4), this record is exempted from the notification, access and contest requirements of the agency procedures (under 5 U.S.C. 552a[c][3], [d], [e][1], [e][4][G], [H], and [I], and [f]). This exemption is applicable as the data are maintained by the Bureau of the Census solely as statistical records as required under Title 13 U.S.C. and are not used in whole or in part in making any determination about an identifiable individual. This exemption is made in accordance to agency rules published in the rules section of this Federal Register.

Commerce/Census-5

System Name:


System Location:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons counted during the Censuses of Population and Housing taken in 1960 and later.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain population information on age; sex; race or color; marital status and family relationships; citizenship and ethnic origin; education and veteran status, income, occupation and employment; and housing information on occupancy, vacancy, utilization, plumbing, structural and financial characteristics and equipment, fuels and appliances, and similar social, economic, and demographic characteristics.

AUTHORIZED FOR MAINTENANCE OF THE SYSTEM:


ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are maintained and used solely for statistical purposes and are confidential under 13 U.S.C. 8 and 9. Publications do not contain data that could identify any particular establishment or individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microform, paper copy, magnetic tape, punch cards.

RETRIEVABILITY:

Information is retrieved by the use of unique serial identification numbers internal to the Bureau of the Census.

SAFEGUARDS:

All employees are subject to the restrictions, penalties, and prohibitions of Title 13, U.S.C. Employees are also regularly advised of the regulations issued pursuant to Title 13, U.S.C. governing the confidentiality of the data.

RETENTION AND DISPOSAL:

Records are retained in accordance with the unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(4), this record is exempt from the notification access and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is applicable as data are maintained by the Bureau of the Census solely as statistical records as required by Title 13, U.S.C. and are not used in whole or in part in making any determination about an identifiable individual.
POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Magnetic tape, paper copy.

RETRIEVABILITY:
Records are retrieved by name and address.

SAFEGUARDS:
All employees are subject to the restrictions, penalties, and prohibitions of Title 13, U.S.C. Employees are also regularly advised of the regulations governing the confidentiality of the data.

RETENTION AND DISPOSAL:
Tapes retained for 90 days after processing, then erased, paper copy is retained for 2 years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:
Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:
Pursuant to 5 U.S.C. 552(a)(k)(4) this record is exempt from the notification access and consent requirements of the agency procedures (under 5 U.S.C. 552(a)(c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f)). This exemption is applicable as the data are maintained by the Bureau of the Census solely as statistical records as required under Title 13 U.S.C. and are not used in whole or in part in making any determination about an identifiable individual. This exemption is made in accordance to provisions of the Department's rules published in the rules section of this Federal Register.

COMMERCE/ITA-1

SYSTEM NAME:
Individuals Identified in Export Transactions—COMMERCE/ITA-1.

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
a. Individuals involved in export transactions. Information is maintained on domestic and foreign companies and business officials, and includes U.S. citizens involved with or working for firms abroad. b. Individuals identified in an export administration compliance proceeding or Investigation. Individuals alleged to have violated the Export Administration regulations; established violators of the regulations; certain other individuals identified by the FBI or other investigating agency or individual in the investigative process such as those involved in organized crime; and individuals who have received warning letters.

CATEGORIES OF RECORDS IN THE SYSTEM:
Reports and cables from U.S. foreign service posts. Reports from F.B.I., other law enforcement or investigative agencies, investigators, or informants; investigative and intelligence data; documented violations; warning letters. Includes any information on alleged or proven violators of the Export Administration Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs 1-5 and 8-13 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Paper records in file folders.

RETRIEVABILITY:
Information filed by case or subject file. All names are cross-referenced by name card file.

SAFEGUARDS:
Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:
Retained for a reasonable period of time. Disposition is recorded.

SYSTEM MANAGER(S) AND ADDRESS:
Director, Compliance Division, Office of Export Administration ITA, U.S. Department of Commerce, Washington, D.C. 20230.

NOTIFICATION PROCEDURE:
Information may be obtained from: Privacy Officer, Office of Management and Systems, ITA, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name, address, and case or subject, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Individual exporters, those authorized by the individual exporters to furnish information, trade sources, investigative agencies, intelligence, investigative and other personnel of the Office of Export Administration, informants, CIA, FBI, Justice Department, Defense Department, Energy Department, and State Department.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:
Pursuant to 5 U.S.C. 552a[(f)[2], all information about an individual in the record which meets the criteria stated in 5 U.S.C. 552a[(f)[2] are exempted from the notice, access and contest requirements of the agency regulations and from all parts of 5 U.S.C. 552a except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6)(E), (F)(7), (9), (10), and (11), and (i), and pursuant to 5 U.S.C. 552a[(k)[1] and (k)[2] on condition that the 5 U.S.C. 552a[(f)[2] exemption is held to be invalid, all investigatory material in the record which meets the criteria stated in 5 U.S.C. 552a[(k)[1] and (k)[2] are exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to accomplish this law enforcement function of the agency, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel. Section 12(c) of the Export Administration Act of 1979 also protects certain of this information and material related to export licenses from disclosure.

COMMERCE/ITA-2

SYSTEM NAME:
Individuals Involved in International Business Trade Complaints—COMMERCE/ITA-2.
STORAGE:
within their area of jurisdiction in an
Information is released to other,
information to check the credibility of
foreign firms
supplied to the foreign governments and
foreign firms involved in the dispute
reliability
on the disputants in order to check

SYSTEM:
AUTHORITY FOR MAINTENANCE OF
other parties to the transaction, and
references, information obtained from
third party information (bank
documentation, record of the handling
CATEGORIES OF RECORDS IN THE SYSTEM:
complaints through U.S.-Embassies.

SYSTEM:
Ave., NW., Washington,
14th St. and Constitution
Assistance,
IT A, U.S.
D.C. 20230.
SYSTEM MANAGER(S) AND ADDRESS:
NAME:
Mission Directors/Seminar
Chairpersons/Industry Technical
Representatives—COMMERCE/ITA-3.
SYSTEM LOCATION:
Office of Export Promotion, IT A, 14th
St. and Constitution Ave. NW., U.S.
Department of Commerce, Washington,
D.C. 20230.
CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Individuals who are Directors of
Department of Commerce U.S. Trade
Missions, Chairpersons of U.S.
Government Seminar Missions, and
Industry Technical Representatives of
Department of Commerce Catalog
Exhibitions and Video/Catalog
Exhibitions.
CATEGORIES OF RECORDS IN THE SYSTEM:
Home address, date and place of
birth, photographs, brief career history,
citizenship, and passport numbers.
NOTIFICATION PROCEDURE:
Information may be obtained from:
Privacy Act Officer, Office of
Management and Systems, IT A, Room
3102, U.S. Department of Commerce,
Washington, D.C. 20230. Requester
should provide name of individual and
name of American party to the dispute
pursuant to the inquiry provisions of the
Department’s rules which appear in 15
CFR part 4b.
RECORD ACCESS PROCEDURES:
Requests from individuals should be
addressed to: same address as stated in
the notification section above.
CONTESTING RECORD PROCEDURES:
The Department’s rules for access, for
contesting contents, and appealing
initial determinations by the individual
concerned appear in 15 CFR Part 4b. Use
above address.
RECORD SOURCE CATEGORIES:
Subject individual, those authorized
by the individual to furnish information,
the complainant, banks, commercial
contracts, and other parties to the
transaction.
SYSTEMS EXEMPTED FROM CERTAIN
PROVISIONS OF THE ACT:
Pursuant to 5 U.S.C. 552a(k)(1),
material which is classified is exempted
from 5 U.S.C. 552a(c)(3), (d), (e)(1),
(e)(4)(C), (H), and (I), and (l), to prevent
disclosures detrimental to national
defense or foreign policy.
COMMERCE/ITA-3
SYSTEM NAME:
Mission Directors/Seminar
Chairpersons/Industry Technical
Representatives—COMMERCE/ITA-3.
SYSTEM LOCATION:
Office of Export Promotion, IT A, 14th
St. and Constitution Ave. NW., U.S.
Department of Commerce, Washington,
D.C. 20230.
CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Individuals who are Directors of
Department of Commerce U.S. Trade
Missions, Chairpersons of U.S.
Government Seminar Missions, and
Industry Technical Representatives of
Department of Commerce Catalog
Exhibitions and Video/Catalog
Exhibitions.
CATEGORIES OF RECORDS IN THE SYSTEM:
Home address, date and place of
birth, photographs, brief career history,
citizenship, and passport numbers.
AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
Delegation of Authority, dated June
25, 1962 from United States Information
Agency under Section 5(e) of Executive
Order 11054 of June 25, 1962, as
amended by Executive Order 11360 of
November 6, 1967, insofar as said
delegation pertains to U.S. Participation
in trade missions abroad under the
Mutual Educational and Cultural
Exchange Act of 1961, as amended (22
U.S.C. 2451 et seq.).
ROUTINE USES OF RECORDS MAINTAINED IN
THE SYSTEM, INCLUDING CATEGORIES OF
USERS AND THE PURPOSES OF SUCH USES:
General routine uses 1–5, 9 and 13
apply.
POLICIES AND PRACTICES FOR STORING,
RETRIEVING, ACCESSING, RETAINING, AND
DISPOSING OF RECORDS IN THE SYSTEM:
SAFEGUARDS:
Records are locked in lockable file
 cabinets or in metal file cabinets in
secured rooms or premises with access
limited to those whose official duties
require access.
RETENTION AND DISPOSAL:
File is retained for three years and
then destroyed.
SYSTEM MANAGER(S) AND ADDRESS:
Director, Special Promotions Division,
Office of Export Promotion, IT A, U.S.
Department of Commerce, Washington,
D.C. 20230.
NOTIFICATION PROCEDURE:
Information may be obtained from:
Privacy Act Officer, Office of
Management and Systems, IT A, Room
3102, U.S. Department of Commerce,
Washington, D.C. 20230. Requester
should provide name and location of
trade mission and individual’s name
pursuant to the inquiry provisions of the
Department’s Rules which appear in 15
CFR part 4b.
RECORD ACCESS PROCEDURES:
Requests from individuals should be
addressed to: same address as stated in
the notification section above.
CONTESTING RECORD PROCEDURES:
The Department’s rules for access, for
contesting contents, and appealing
initial determinations by the individual

SYSTEM LOCATION:
Office of Export Marketing
Assistance, IT A, U.S. Department of
CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Individuals filing trade complaints
(business disputes) against foreign firms,
or against whom foreign firms file
complaints through U.S. Embassies.
CATEGORIES OF RECORDS IN THE SYSTEM:
Complaint and supporting
documentation, record of the handling
and disposition of the complaint, and
third party information (bank
references, information obtained from
other parties to the transaction, and
commercial contacts of the individual).
AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
ROUTINE USES OF RECORDS MAINTAINED IN
THE SYSTEM, INCLUDING CATEGORIES OF
USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs 1–5, 9
and 13 of the Prefatory Statement. Also
foreign governments obtain information
on the disputants in order to check
reliability of the firms involved, and
foreign firms involved in the dispute
obtain information. This information is
supplied to the foreign governments and
foreign firms through the Department
of State. The Department of State also uses
information to check the credibility of
the foreign firms involved in a dispute.
Information is released to other
executive branch agencies, e.g., SBA,
USDA, when a party to the dispute falls
within their area of jurisdiction in an
attempt to solve the dispute.
POLICIES AND PRACTICES FOR STORING,
RETRIEVING, ACCESSING, RETAINING, AND
DISPOSING OF RECORDS IN THE SYSTEM:
SAFEGUARDS:
Metal cabinets with bar and
combination lock.
RETENTION AND DISPOSAL:
Permanent.
SYSTEM MANAGER(S) AND ADDRESS:
Director, Office of Export Marketing
Assistance, IT A, U.S. Department of
RETRIEVABILITY:
Name of American party to the
dispute.
POLICIES AND PRACTICES FOR STORING,
RETRIEVING, ACCESSING, RETAINING, AND
DISPOSING OF RECORDS IN THE SYSTEM:
SAFEGUARDS:
Metal cabinets with bar and
combination lock.
RETENTION AND DISPOSAL:
Permanent.
SYSTEM MANAGER(S) AND ADDRESS:
Director, Office of Export Marketing
Assistance, IT A, U.S. Department of
System Name: Membership Information: District Export Councils—COMMERCE/ITA-4.


Categories of Individuals Covered by the System: Present, former and potential members of the District Export Councils.

Categories of Records in the System: Personal information such as photographs, press releases and resumes are maintained on some members.


Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses: See routine use paragraphs 1-5 and 9, 12, and 13 of Prefatory Statement.

Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System:

Storage: Paper forms, index cards, word processor diskettes, and magnetic tape.

Retrievability: Paper forms and index cards are filed alphabetically by individual's name. Data on magnetic tape is retrieved by serial number. Data on word processor diskettes also retrieved alphabetically by individual's name.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or premises with access limited to those whose official duties require access.

Retention and Disposal: Retained until two years after individual's resignation or death and then discarded.


Record Access Procedures: Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting Record Procedures: The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Categories of Records in the System:


Categories of Individuals Covered by the System: Individuals from the business community selected to assume responsibility for industrial production, construction, and distribution in the event of national emergencies.

Categories of Records in the System:

Name; home address; photograph; brief career history; names of close relatives; marital status; previous government experience; previous residences; current and recent past employment and approximate earnings; citizenship; social security number; business and residence telephone numbers; security clearance; statement of understanding; request for appointment; secrecy agreement; sex; date and place of birth; military and civil defense obligations; education; and professional and other memberships.


Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

See routine use paragraphs 1-5, 9, 12, and 13 of Prefatory Statement. Transferring data to the Federal Emergency Management Agency pursuant to E.O. 11179.

Policies and Practices for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System:

Storage: Paper records in file folders.

Retrievability: Filed by council and name of individual.

Safeguards: Records are located in lockable metal file cabinets or in metal cabinets in secured rooms or premises with access limited to those whose official duties require access.

Retention and Disposal: Retained for active councils. Retired when councils terminate or when individuals leave councils.

System Manager(s) and Address: Deputy Assistant Secretary for the U.S. Commercial Service, ITA, U.S. Department of Commerce, Washington, D.C. 20230.
Subject individual and those
retirement, resignation, or death of the
D.C. 20230.

STORAGE:

DISPOSING OF RECORDS IN THE SYSTEM:

RETRIEVING, ACCESSING, RETAINING, AND
DISPOSING OF RECORDS IN THE SYSTEM:

RECORD SOURCE CATEGORIES:
Subject individual and those
authorized by the individual to furnish
information.

COMMERCE/ITA-6.

SYSTEM NAME:
Foreign Service Officer Evaluations—
COMMERCE/ITA-6.

SYSTEM LOCATION:
Foreign Commerce Service, ITA, U.S.
Department of Commerce, 14th and
Constitution Ave., N.W., Washington,
D.C. 20230.

CATEGORIES OF INDIVIDUALS COVERED BY THE
SYSTEM:
Members of the Foreign Commercial
Service of the United States and Foreign
Service Officers of the United States
(State Department) serving abroad in
commercial and/or economic positions
or serving domestically in the United
States Government.

CATEGORIES OF RECORDS IN THE SYSTEM:
(1) Memorandums, cables, letters and
other documents used in the preparation
of Foreign Service Commercial Officer
Evaluation Reports; and (2) other
documents relating to officer
performance.

AUTHORITY FOR MAINTENANCE OF THE
SYSTEM:
Foreign Service Act of 1980 (P.L. 96–
465)

ROUTINE USES OF RECORDS MAINTAINED IN
THE SYSTEM, INCLUDING CATEGORIES OF
USERS AND THE PURPOSES OF SUCH USES:
A record in this system may be
disclosed as a routine use to the
Department of State in connection with
the evaluation of the performance of a
Foreign Service Officer. See also paragraphs 1–5 of the Prefatory
Statement.

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 individual FSO's name.

SAFEGUARDS:
Records are located in lockable metal
file cabinets in premises with access
limited to those whose official duties
require access.

RETENTION AND DISPOSAL:
Documents relating to officer
performance are retained until
retirement, resignation, or death of the
individual and then retired or destroyed,
as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:
Director General of the Foreign
Commercial Service, ITA, U.S.
Department of Commerce, Washington,
D.C. 20230.

NOTIFICATION PROCEDURE:
Information may be obtained from:
Privacy Act Officer, Office of
Management and Systems, ITA. Room
3102, U.S. Department of Commerce,
Washington, D.C. 20230. Requester
should provide his name pursuant to the
notification provisions of the Department's rules

RECORD ACCESS PROCEDURES:
Requests from individuals should be
addressed to: same address as stated in
the notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for
contesting contents, and appealing
initial determinations by the individual
concerned appear in 15 CFR Part 4b. Use
above address.

RECORD SOURCE CATEGORIES:
Subject individual, and
supervisors of those individuals.

COMMERCE/IATC-1.

SYSTEM NAME:
Auditor Trainee Registrants—
COMMERCE/IATC-1.

SYSTEM LOCATION:
Office of Administrative Services,
Records Management Division, U.S.
Department of Commerce, Washington,
D.C. 20230.

CATEGORIES OF INDIVIDUALS COVERED BY THE
SYSTEM:
Individuals who had registered as an
enrollee at the Intergency Auditor
Training Center.

CATEGORIES OF RECORDS IN THE SYSTEM:
Name; date of birth; social security
number; phone; address; occupation;
position; grade level; and education.

AUTHORITY FOR MAINTENANCE OF THE
SYSTEM:
Government Employees Training Act
of 1985; Executive Order 11349, April 20,
1976; and Intergovernmental

ROUTINE USES OF RECORDS MAINTAINED IN
THE SYSTEM, INCLUDING CATEGORIES OF
USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs 1–5 and 9–
13 of Prefatory Statement.

POLICIES AND PRACTICES FOR STORING,
RETRIEVING, ACCESSING, RETAINING, AND
DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Paper records in file folders.

RETRIEVABILITY:
Indexed by name and year of
attendance.

SAFEGUARDS:
Records are located in secured
premises with access limited to those
whose official duties require access.

RETENTION AND DISPOSAL:
Records will be disposed of in
accordance with the Office's Records
Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:
Director, Office of Administrative
Services, U.S. Department of Commerce,
Washington, D.C. 20230.

NOTIFICATION PROCEDURE:
Information may be obtained from:
address same as above. Requester
should provide name and dates of
attendance pursuant to the inquiry
provisions of the Department's rules

RECORD ACCESS PROCEDURES:
Requests from individuals should be
addressed to: Director, Office of
Organization and Management Systems,
OS, Department of Commerce,
Washington, D.C. 20230.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for
contesting contents, and appealing
initial determinations by the individual
concerned appear in 15 CFR Part 4b. Use
above address.

RECORD SOURCE CATEGORIES:
Subject individuals and those
authorized by the individual to furnish
information.

COMMERCE/MBDA-1

SYSTEM NAME:
Descriptive Data Questionnaire—
COMMERCE/MBDA-1

SYSTEM LOCATION:
James H. Lowry and Associates, Suite
1340, 303 East Wacker Drive, Chicago,
Illinois 60601.

CATEGORIES OF INDIVIDUALS COVERED BY THE
SYSTEM:
Students and business managers and
entrepreneurs surveyed on a voluntary
basis as part of the study of business
management development needs of minorities.

CATEGORIES OF RECORDS IN THE SYSTEM:
- Age, sex, ethnic origin, education, company data, assessment of career and goals, organizational affiliation(s), personal performance evaluation, opinions of career opportunities/impediments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
Executive Order 11625.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
The James H. Lowry Associates, specifically the Project Manager and an administrative staffer, will use this information to identify those areas which MBDA’s business management development program should address.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
- Paper copy in file folders for 60 days; then converted to magnetic tape.

RETRIEVABILITY:
- By site code.

SAFEGUARDS:
- Records are located in company vault with access limited to those whose official duties require access. Only two James H. Lowry and Associates employees will have access.

RETENTION AND DISPOSAL:
Survey information will be destroyed September 30, 1982.

SYSTEM LOCATION:

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:
The Department’s rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
- Subject individual and those authorized by the individual to furnish information.

COMMERCE/NBS-1:
NAME:
- NBS Guest Workers—COMMERCE/NBS-1

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
- Guest workers pursuing individual scientific or technical projects.

CATEGORIES OF RECORDS IN THE SYSTEM:
- Agreement between NBS and guest worker; name; citizenship; social security number; supervisor; arrival and departure dates; date of security assurance; conditions; and facilities to be made available.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs 1–10 and 13 in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
- Paper records in file folders.

RETRIEVABILITY:
- Filed alphabetically by name.

SAFEGUARDS:
- Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:
The records are disposed of after 5 years after guest worker terminates.

SYSTEM LOCATION:

SYSTEM NAME:
Inventors of Energy-Related Processes and Devices—COMMERCE/NBS-2

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
- Inventors submitting ideas for evaluation by NBS.

CATEGORIES OF RECORDS IN THE SYSTEM:
- Name, address, and telephone number of the persons submitting ideas or inventions for evaluation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
88 Stat. 1894.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
In addition to the routine use paragraphs 1–10 and 13 in the Prefatory Statement, the information is used in correspondence with the inventor or person submitting the invention for evaluation and submitter-designated interested third parties. In the evaluation of technical and commercial feasibility, in reports to the Department of Energy, and in development of statistical and analytical data.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

RETRIEVABILITY:
- Filed alphabetically by name.
SAFEGUARDS:
Records are located in lockable metal file cabinets; access to all files is restricted to those persons requiring access for evaluation or administrative purposes and who have permission pursuant to a written contract or agreement with NBS, or have written authorization of the legal advisor; an exception to this would be a valid request made under the Freedom of Information Act for information that is not 1) a trade secret or 2) commercial or financial information that is privileged or confidential and therefore falling within the exemption set out in the Act, 5 U.S.C. 552(b)(4).

RETENTION AND DISPOSAL:
Currently all records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

NOTIFICATION PROCEDURE:
Information may be obtained from: Deputy Director of Administration, Room 1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and additional factual data, as appropriate, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individuals and those authorized by the individual to furnish information.

COMMERCE/NBS-3

SYSTEM NAME:

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Research Associates.

CATEGORIES OF RECORDS IN THE SYSTEM:
Personal history statement, conflict of interest statement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs 1-5, 9, and 13 of the Prefatory Statement.

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 name.

SAFEGUARDS:
Records are located in lockable file cabinets with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:
Records are transferred from an active to terminated section of the files at conclusion of individual's service as a research associate and are retained in accordance with the unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

NOTIFICATION PROCEDURE:
Information may be obtained from: Deputy Director of Administration, Room 1105, Administration Bldg., National Bureau of Standards, Washington, D.C. 20234. Requester should provide name and approximate date of affiliation, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Employees External Radiation Exposure Records—COMMERCE/NBS-4.

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Individuals working with radioactive materials and machines who may be exposed to ionizing radiation.

CATEGORIES OF RECORDS IN THE SYSTEM:
Name, social security number, date of birth, organizational unit, and amount of radiation received.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs 1, 3, 4, 5, 6, and 9 in the Prefatory Statement. Also, film from badges is sent monthly to the U.S. Army for determination of amount of radiation exposure. Information involving exposure levels, incidents, and amounts of overexposure is required to be submitted to the Nuclear Regulatory Commission. In the event of serious overexposure, information would be disclosed to the Bethesda (Maryland) Naval Medical Center, employee's family physician, and other appropriate medical authorities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Paper records in file folders, film, and/or machine-readable.

RETRIEVABILITY:
Filed alphabetically by name.

SAFEGUARDS:
Manual records are located in lockable metal file cabinets with access limited to those whose official duties require access. Machine-readable records are accessible only with terminals under the administrative control of the Health Physics Unit of the
RECORD SOURCE CATEGORIES:

Subject individual, licensed physician, employees of the Reactor Radiation Division, and those authorized by the subject individual to supply information.

COMMERCE/NBS-6

SYSTEM NAME:

Participants in Experiments, Studies, and Surveys.—COMMERCE/NBS-6.

SYSTEM LOCATION:

Portions of the system may be located with contractors involved in the experiments, studies, or surveys, or in any one of the following locations:


For those portions located with contractors, a complete list of contractors and addresses is available from the Deputy Director for Information Systems, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have voluntarily applied to serve or who have served as participants in socio-economic, technical, or psychological experiments, studies and surveys undertaken in furtherance of authorized research activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, age, birth data, place of birth, sex, race, home address and telephone number, business address and telephone number, education, income, occupation, family size and composition, patterns of product use, drug sensitivity data, medical, dental and physical history information, and such other information as is necessary, to be determined by the subject matter and purpose of the experiment, study or survey, including data derived from participants' responses during the course of the authorized research.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

RECORD ACCESS PROCEDURES:
Information in the system may, on occasion, be disclosed to Federal agencies and other outside organizations which have sponsored the research in connection with which the data were obtained. General routine use paragraphs 5, 9, and 13 of the Prefatory Statement also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVAL, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Paper records in file folders, electromagnetic storage material and microform.

RETRIEVABILITY:
Filed alphabetically by name, or control number or other code identifier.

SAFEGUARDS:
During business hours the records at NBS sites are maintained in a secured building with access limited to those whose official duties require access; during non-business hours, the records are in secured rooms with access controlled by security guards. Any records maintained by contractors will be maintained in similar fashion in accordance with contractual specifications.

RECORD SOURCE CATEGORIES:
Subject individuals and those authorized by the individual to furnish information.

COMMERCE/NBS-7
SYSTEM NAME:
NBS Emergency Locator System—COMMERCE/NBS-7

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
NBS employees and other individuals utilizing NBS facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:
Names and home telephone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
Home telephone numbers will be used by the Department of Commerce staff to contact NBS employees or individuals using NBS facilities in the case of an emergency (e.g., fire, explosion, power outage, heavy snow). Those contacted will typically be scientists or engineers whose experiments might be affected by such an emergency or other employees who will be required to deal with the emergency.

POLICIES AND PRACTICES FOR STORING, RETRIEVAL, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

RETRIEVABILITY:
Building and room number; organizational code.

SAFEGUARDS:
Paper records will be kept in lockable file cabinets with limited access; machine-readable records will have limited access with security key required.

RECORD SOURCE CATEGORIES:
Subject individuals and those authorized by the individual to furnish information.

COMMERCE/NOAA-1
SYSTEM NAME:
Applicants for the NOAA Corps—Commerce/NOAA-1.

SYSTEM LOCATION:
Office of the Director, NOAA Corps, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Applicants for appointment in the NOAA Corps.

CATEGORIES OF RECORDS IN THE SYSTEM:
Name, social security number, letters of reference, physical examinations, college transcripts, statements of prior military service, recruiting officer's appraisal, personal resumes, and similar data necessary to be considered for a commission in the NOAA Corps.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
33 U.S.C. 853i; 853j; 853j-1; 853t; 854; 854n-7.
ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine use paragraphs of Prefatory Statement. General routine use #12 does not apply. Also to respond to the applicant, Members of Congress, or others with a valid interest who may inquire as to the status of the application or who may request reconsideration of a rejected application.

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 name.

SAFEGUARDS:

- Records are maintained in secured room. Access only on the authority of the Director, NOAA Corps or the Chief/Deputy Chief, Commissioned Personnel Division.

RETENTION AND DISPOSAL:

Destroyed after approximately six months if rejected, unless applicant indicates a desire for reconsideration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NOAA Corps, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852.

NOTIFICATION PROCEDURE:

Information may be obtained from: Assistant Administrator for Management and Budget, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name, address, social security number, and date of birth, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individuals, personal references, the NOAA Corps officer who recruited the individual, and those authorized by the individual to furnish information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5) is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(5), (d), (e)(1), (e)(4)(G), (H), and (I)) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine applicant's suitability for employment in the NOAA Corps.

COMMERCE/NOAA-2

SYSTEM NAME:

Commissioned Officers Official Travel Orders Folders—COMMERCE/NOAA-2.

SYSTEM AND LOCATION:

Office of the Director, NOAA Corps, National Oceanic and Atmospheric Administration, Rockville, Maryland 20852.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commissioned officers of the NOAA Corps (active, retired, and deceased) and former officers separated within previous six months.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, grade, social security number, estimated travel cost, dates of transfer, assignment locations, and type of duty.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:


ROUTE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine use paragraphs of the Prefatory Statement. General Routine uses #6 and #12 do not apply. Also the record is sent to the organization to which officer is assigned such as branches of the U.S. Military service, branches of foreign military services, World Weather Organization, etc., to authorize travel and travel allowances and to effect assignments and assignment changes for commissioned officers.

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 name.

SAFEGUARDS:

Records are maintained in a locked space. Access only on the authority of the Director, NOAA Corps, or the Chief/Deputy Chief, Commissioned Personnel Division.

RETENTION AND DISPOSAL:

Copied as separate file on all active duty officers. Incorporated into the Official Personnel File of retired and deceased officers and retained. Incorporated into the Official Personnel File of separated officers and after six months transferred to the National Personnel Records Center, St. Louis, Missouri 63118.

SYSTEM MANAGER(S) AND ADDRESS:

Director, NOAA Corps, see above address.

NOTIFICATION PROCEDURE:

Information may be obtained from: Assistant Administrator for Management and Budget, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide full name, social security number, date of birth, and dates of service, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individual's Official Personnel Record and from the approved recommendations of the Officer Assignment Board.

COMMERCE/NOAA-3

SYSTEM NAME:

Commissioned Officer Official Personnel Folders—COMMERCE/NOAA-3.

SYSTEM LOCATION:

Office of the Director, NOAA Corps (NC), National Oceanic and Atmospheric Administration, Rockville, Maryland 20852.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commissioned Officers of the NOAA Corps (active, retired, and deceased) and former commissioned officers separated within previous six months.
CATEGORIES OF RECORDS IN THE SYSTEM:
Name, social security number; selective service number; promotion history; history of assignments; performance evaluations; date of birth; education; prior employment history; prior uniformed service; pay and allowance data; relatives; references; commendations; discipline; insurance; medical evaluations; and similar personal information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs of the Prefatory Statement. Users are: Selective Service System, Veterans Administration, Federal Housing Administration, Social Security Administration, Public Health Service, Department of Defense elements, Taxing authorities (Federal, State and local), unemployment compensation authorities, and the organization to which officer is assigned such as branches of U.S. Military Service, branches of foreign military services, World Weather Organizations, etc. Selected information is disseminated to determine eligibility for retention, promotion, retirement, separation, and other personnel actions; physical fitness; entitlement to pay and various allowances; report taxes withheld; entitlement to social security benefits, Veterans benefits, unemployment compensation, waivers for repayment of student loans, death benefits, survivor benefits, and FHA in-service-loans; assignments; and selective service status.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
STORAGE:
Paper records in file folders, (selected data elements in this system are duplicated on word processing equipment for ease of retrieval).

RETRIEVABILITY:
Filed alphabetically by name.

SAFEGUARDS:
Records are maintained in secured area. Access only on the authority of the Director, NOAA Corps or the Chief/Deputy Chief, Commissioned Personnel Division.

RETENTION AND DISPOSAL:
Records retained indefinitely on active, retired, and deceased officers; discharged officer's records are retained for approximately 6 months, then transferred to the National Personnel Records Center St. Louis, Missouri 63118.

SYSTEM MANAGER(S) AND ADDRESS:
Director, NOAA Corps, see above address.

NOTIFICATION PROCEDURE:
Information may be obtained from: Assistant Administrator for Management and Budget, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name, address, social security number, and date of birth pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individuals concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individual, official correspondence and forms generated by routine personnel actions, previous employers, prior military service, Selective Service System, Federal Housing Administration, Social Security Administration, and similar sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:
Pursuant to 5 U.S.C. 552a(k)(6), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(6), is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f)) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine employee's suitability for employment in the NOAA Corps.

COMMERCE/NOAA–4
SYSTEM NAME:

SYSTEM LOCATION:
Office of the Director, NOAA Corps, NOAA, Rockville, Md. 20852.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Commissioned officers of the NOAA Corps who are entitled to retired pay, and the survivors of deceased active duty and retired officers who are entitled to a survivor's annuity.

CATEGORIES OF RECORDS IN THE SYSTEM:
Name, social security number; amount of gross retired pay or survival annuity; amount of federal income tax withheld; amount of VA reduction; amount of survivor benefit cost deducted; miscellaneous deductions; and net retired pay or annuity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
STORAGE:
Manual, flat-paper computer print-out.

RETRIEVABILITY:
Filed by month and year.

SAFEGUARDS:
Records are maintained in a secured area. Access only by authority of the Director, NOAA Corps or the Chief, Program Planning, Liaison and Training Division.

RETENTION AND DISPOSAL:
Retained 3 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:
Director, NOAA Corps, see above address.

NOTIFICATION PROCEDURE:
Information may be obtained from: Assistant Administrator for Management and Budget, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide full name, grade, social security number and branch of service pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.
Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department’s rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Information is a print-out from the computerized retired pay system maintained by the Commanding Officer, U.S. Navy Finance Center, 240 East Ninth Street, Cleveland, Ohio 44199, who maintains, under contract, the pay accounts of retired NOAA Corps officers and their annuitants.

COMMERCE/NOAA-5
SYSTEM NAME:
Fisheries Law Enforcement Case Files—COMMERCE/NOAA-5
CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Violators and alleged violators of the criminal and/or civil provisions of certain laws (listed in the Authority section of this notice) and the regulations issued thereunder, within the responsibility of the Secretary of Commerce.

CATEGORIES OF RECORDS IN THE SYSTEM:
1. Information compiled for the purpose of identifying individual criminal and/or civil offenders and alleged offenders and consisting of identifying data and notations of arrests, the nature and disposition of criminal or civil charges, sentencing, confinement, release, parole and probation status, and fines and penalties assessed;
2. Information compiled for the purpose of a criminal or civil investigation, including reports of informants and investigators, and associated with an identifiable individual;
3. Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal and civil laws from arrest or indictment through release from supervision, and the imposition of civil sanctions through administrative and/or judicial process; and
4. Investigatory material compiled for law enforcement purposes other than the material covered above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs 1-5, 8-10, and 13 of the Prefatory Statement. Also, information is given to the Marine Mammal Commission for their use in making recommendations on the issuance of permits and the award of grants under the Marine Mammal Protection Act of 1972.

POLICIES AND PRACTICES FOR STORING, RETRIEVAL, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
STORAGE:
Both manual and machine-readable, and computer output records in file folders.

RETRIEVABILITY:
Filed alphabetically by individual’s name and is also given an identifying case number at its initiation.

SAFEGUARDS:
Employees are informed of the Departmental rule of conduct regarding unauthorized disclosure of information contained in official records. All Special Agents receive a security clearance, granted by the Department of Commerce, after an investigation. The files of the Law Enforcement Division which relate to information concerning an identifiable individual are maintained in locked, metal file cabinets. Automated records are maintained in premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:
All records of this Division are subject to the retention and disposal procedures set forth in NOAA Directives Manual 62-10, et seq.

SYSTEM MANAGER(S) AND ADDRESS:

NOTIFICATION PROCEDURE:
Information may be obtained from: Assistant Administrator for Management and Budget, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name, address, and case number pursuant to the inquiry provisions of the Department’s rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department’s rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individual and those authorized by the individual to furnish information: NMFS Investigators; Federal and state law enforcement personnel; foreign governments; special interest organizations, members of the general public, and all information sources that are open to the public-at-large.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:
Pursuant to 5 U.S.C. 552a(j)(2), all information about an individual in the record which meets the criteria stated in 5 U.S.C. 552a(j)(2) are exempted from the notice, access and contest requirements of the agency regulations and from all parts of 5 U.S.C. 552a except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (8), (10), and (11), and (i), and pursuant to 5 U.S.C. 552a(k)(2), on condition that the 5 U.S.C. 552a(j)(2) exemption is held to be invalid, all investigatory material in the record which meet the criteria stated in 5 U.S.C. 552a(k)(2) are exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations because of the necessity to exempt this information and material in order to accomplish this law enforcement function of the agency, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources,
to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel. In addition, pursuant to 5 U.S.C. 552a(k)(1), all materials qualifying for this exemption are exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (f)(1), and (f) in order to prevent disclosure of classified information as required by Executive Order 12335 in the interest of the national defense and foreign policy.

**COMMERCE/NOAA-6**

**SYSTEM NAME:**
Fishermen's Statistical Data—
COMMERCE/NOAA-6.

**SYSTEM LOCATION:**
Data Management and Information Systems Division, NMFS, NOAA, U.S. Department of Commerce, 3300 Whitehaven Street, NW., Washington, D.C. 20235; and the following field locations of the National Marine Fisheries Services:

- Northeast Fisheries Center, Woods Hole, Massachusetts 02543
- Southeast Fisheries Center, 75 Virginia Beach Drive, Miami, Florida 33149
- Southwest Fisheries Center, P.O. Box 271, LaJolla, California 92038
- Northwest and Alaska Fisheries Center, 2725 Montlake Boulevard, East, Seattle, Washington 98112
- Northeast Regional Office, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930
- Southeast Regional Office, 9450 Gandy Boulevard, St. Petersburg, Florida 33702
- Southwest Regional Office, 300 South Ferry Street, Terminal Island, California 90712
- Northwest Regional Office, 1700 Westlake Avenue, North, Seattle, Washington 98105
- Alaska Regional Office, P.O. Box 1668, Juneau, Alaska 99802

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**
Marine recreational and commercial fishermen, owners/operators of registered/documentated boats and vessels.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

a. Marine recreational fishermen catches by species, length, weight, area of capture, disposition of catch, and expenses and other trip records.
b. Fishery Management Plan data consist of such data as: Individual's name, address, telephone number, sex, age group, and income group, obtained in fishing censuses. Other data contain boat and vessel registration information, including owner and operator, vessel characteristics, gear types, and area fished.

**AUTHORIZED FOR MAINTENANCE OF THE SYSTEM:**

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**
a. See routine use paragraphs 1-5, 9, and 12 of the Prefatory Statement.
b. Data in the system are required for the development and monitoring of fishery management plans.

**SAFEGUARDS:**
Personnel indoctrination and screening; secured offices; and entrance into the computer system to obtain individual records would require detailed knowledge of in-house ADP procedures by a skilled computer programmer.

**RECORD SOURCE CATEGORIES:**
Subject Individuals.

**COMMERCE/NOAA-7**

**SYSTEM NAME:**
Guest Workers at National Geophysical and Solar-Terrestrial Data Center—COMMERCE/NOAA-7.

**SYSTEM LOCATION:**
National Geophysical and Solar-Terrestrial Data Center, EDS/NOAA, RB3, Room A123, Boulder, Colorado 80302.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**
People that are visiting NGSDC as Guest Workers to use the data files.

**RETRIEVABILITY:**
Filed alphabetically by name.

**SAFEGUARDS:**
Records are located in metal file cabinets which are locked after hours. Access is limited to those whose official duties require access.

**RECORD ACCESS PROCEDURES:**
Requests from individuals should be addressed to: same address as stated in the notification section above.

**CONTESTING RECORD PROCEDURES:**
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

**RECORD SOURCE CATEGORIES:**
Subject Individuals.
CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing
initial determinations by the individual concerned appear in 15 CFR Part 4b. Use
above address.

RECORD SOURCE CATEGORIES:
Subject individual and those authorized by the individual to furnish
information.

COMMERCE/NOAA-8
SYSTEM NAME:
Individuals Engaged in Weather Modification Activities—COMMERCE/NOAA-8.
SYSTEM LOCATION:
Assistant Administrator for Research and Development. NOAA, U.S.
Department of Commerce, 6010 Executive Blvd., Rockville, Md. 20852.
CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Individuals and associations involved in weather-modification operations.
CATEGORIES OF RECORDS IN THE SYSTEM:
Individual's name and address; type of weather modification activity; location and duration of project; and:
- equipment used.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs in the Prefatory Statement. Also information is
made available to anyone who so requests.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Paper records in file folders.

RETRIEVABILITY:
Indexed by name of principal scientist.

SAFEGUARDS:
Records are located in lockable metal file cabinets or in metal file cabinets in
secured rooms. Requests for access to secured rooms must be made through
appropriate channels.

RETENTION AND DISPOSAL:
Records maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:
Director, GATE Project Office, 6010 Executive Blvd., Rockville, Md. 20852.

NOTIFICATION PROCEDURE:
Information may be obtained from the Assistant Administrator for
Management and Budget, 6010 Executive Boulevard, Rockville, Maryland 20852:
Requester should provide—name, address, date(s) of project etc., pursuant

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to same address as stated in
the notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing
initial determinations by the individual concerned appear in 15 CFR Part 4b. Use
above address.

RECORD SOURCE CATEGORIES:
Subject individual and those authorized by the foregoing to furnish information.

COMMERCE/NOAA-9
SYSTEM NAME:
Scientist-Researchers in GATE (Global Atmospheric Research Program:
Atlantic Tropical Experiment) - COMMERCE/NOAA-9.
SYSTEM LOCATION:
Assistant Administrator for Research and Development. NOAA, 6010
Executive Boulevard, Rockville, Maryland 20852.
CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Research meteorologists and ocean, scientists participating in the Global
Atmospheric Research Program: Atlantic Tropical Experiment (GATE).
CATEGORIES OF RECORDS IN THE SYSTEM:
Names of individual scientists; their research institutions and research programs; and their addresses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
Ministerial requirement necessitated by NOAA's appointment, as lead agency for the U.S. participating in "GATE";

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See routine use paragraphs 1-5, 9, 12, and 13 of the Prefatory Statement. Data is also used to summarize and evaluate the U.S. GATE Research Program for the World Meteorological Organization in cooperation into the International summary.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Paper records in file folders.

RETRIEVABILITY:
Indexed by name of principal scientist.

SAFEGUARDS:
Records are located in lockable metal file cabinets or in metal file cabinets in
secured rooms. Requests for access to secured rooms must be made through
appropriate channels.

RETENTION AND DISPOSAL:
Records maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:
Director, NOAA Diving Program File, COMMERCE/NOAA-10.

SYSTEM LOCATION:
a. NOAA Diving Office, 11400 Rockville Pike, Rockville, Maryland 20852.
b. For Atlantic Marine Center personnel, duplicate records are maintained at the Atlantic Climate
Marine Center, 439 West York Street, Norfolk, Virginia 23510.
c. For Pacific Marine Center personnel, duplicate records are maintained at the Pacific Marine Center,

**RECORD ACCESS PROCEDURES:**
Requests from individuals should be addressed to: same address as stated in the notification section above.

**CONTESTING RECORD PROCEDURES:**
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

**RECORD SOURCE CATEGORIES:**
- Subject individual, the Unit Diving Officer, training officers and NOAA Diving Medical Review Board.

**COMMERCE/NOAA-11**

**SYSTEM NAME:**
NOAA Mailing Lists—COMMERCE/NOAA-11

**SYSTEM LOCATION:**
Mailing lists are maintained at numerous NOAA installations throughout the United States. Addresses of major installations where there are mailing lists are:
- Office of Publications, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.
- Headquarters:
  - Assistant Administrator for Management and Budget, 6010 Executive Boulevard, Rockville, Maryland 20852.
  - Director, Office of Finance, North Bethesda Office Center, 11430 Rockville Pike, Rockville, Maryland 20852.
  - Assistant Administrator for Fisheries:
    - Assistant Administrator for Fisheries, Office of Fisheries, 3300 Whitley Street, NW., Washington, D.C. 20235.
    - Director, Northwest Region, National Marine Fisheries Service, NOAA, 1700 Westlake Avenue North, Seattle, Washington, 98109.
    - Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Florida 33702.
    - Director, Northeast Region, National Marine Fisheries Service, NOAA, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.
    - Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731.
    - Director, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 1668, Juneau, Alaska 99802.

**SYSTEM LOCATION:**


Director, Northeast Fisheries Center, NOAA, Woods Hole, Massachusetts 02543.

Director, Southwest Fisheries Center, NOAA, P.O. Box 271, LaJolla, California 92038.

Director, Charleston Laboratory, NOAA, P.O. Box 12507, Charleston, S.C. 29412.

Director, Southeast Fisheries Center, NOAA, 75 Virginia Beach Drive, Miami, Florida 33149.

Director, Beaufort Laboratory, NOAA, P.O. Box 570, Beaufort, North Carolina 28516.

National Ocean Survey:
- Director, National Ocean Survey, 6001 Executive Boulevard, Rockville, Maryland 20852.
- Chief, Distribution Division, NOAA, Riverdale Building, 6501 Lafayette Avenue, Riverdale, Maryland 20840.

Environmental Data and Information Service:
- Director, Environmental Data and Information Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235.
- Director, National Climatic Center, Environmental Data and Information Service, Federal Building, Ashville, North Carolina 28801.

Director, National Geophysical and Solar Terrestrial Center, Research Building 3, NOAA, 3100 Marine Street, Boulder, Colorado 80302.

National Earth Satellite Service:

A roster of each mailing list covered by the Privacy Act and its specific location is maintained by the system manager, address below.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**
- Recipients of NOAA publications and/or other publicly available programmatic information.

**CATEGORIES OF RECORDS IN THE SYSTEM:**
- All of the lists contain names and addresses. Some of the lists contain telephone numbers, subscription information, addressee’s product and its country of origin.
AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs numbered 4, 5, and 9–10 in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Manual and machine readable.

RETRIEVABILITY:
Alphabetically by name.

SAFEGUARDS:
Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:
Records are retained indefinitely; however, individuals are advised of the existence of the mailing list annually and at their request, names will be deleted or addresses corrected.

SYSTEM MANAGER(S) AND ADDRESS:
Assistant Administrator for Management and Budget, 6010 Executive Boulevard, Rockville, Maryland, 20852.

NOTIFICATION PROCEDURE:
Information may be obtained from Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland, 20852; Requester should provide name and address pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to same address as stated in the notification procedure section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individually

COMMERCE/NOAA–12:

SYSTEM NAME:
Marine Mammals, Endangered and Threatened Species, Permits and Applications—COMMERC/NOAA–12

SYSTEM LOCATION:

Duplicate portions of the system may be located in the Regional Offices of the National Marine Fisheries Service at Federal Buildings in Elm Street Gloucester, Massachusetts 01930, Duval Building, 9450 Candy Boulevard, St. Petersburg, Florida 33702, 300 South Ferry Street, Terminal Island, California 90731, Lake Union Building, 1700 Westlake Avenue North, Seattle, Washington 98109, P.O. Box 1668, Juneau, Alaska 99801.

CATEGORIES TO INDIVIDUALS COVERED BY THE SYSTEM:
Applicants for permits to take, import, transport or sell, in interstate or foreign, commerce endangered species or marine mammals either for scientific research or public display purposes, for enhancement of propagation or enhancement of survival. Applicants for exemptions from the provisions of the Marine Mammal Protection Act of 1972, on the basis of undue economic hardship. Applicants for permit to engage in activities involving threatened species.

CATEGORIES OF RECORDS IN THE SYSTEM:
Name and address: professional or business affiliation; educational and professional background; other qualifications of the individual; the activities conducted by the individual as authorized by exemption or by permit; and economic and financial information indicating the degree of anticipated economic hardship.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine use paragraphs 1–5 and 9–13 of the Prefatory Statement. Information from the application is published in the Federal Register and made available to the public to comply with the statutes under which the application is made.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Both manual and machine-readable, and computer output records in file folders.

RETRIEVABILITY:
Filed by file number and cross-referenced alphabetically by applicant names and permit or exemption number.

SAFEGUARDS:
Records are located in cabinets with full public access upon request.

RETENTION AND DISPOSAL:
Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

NOTIFICATION PROCEDURE:
Information may be obtained from the Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland, 20852; Requester should provide name and address pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to same address as stated in the notification procedure section above.

CONTESTING RECORD PROCEDURES:
The rules for access, for contesting contents, and appealing initial determination by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individually

COMMERCE/NOAA–13:

SYSTEM NAME:
Personnel, Payroll, Travel, and Attendance Records of the Regional

SYSTEM LOCATION:
New England Fishery Management Council, Office of the Executive Director, Suntaga Office Park, Five Broadway—Route One, Saugus, Massachusetts 01906.
Mid-Atlantic Fishery Management Council, Office of the Executive Director, Federal Building, Room 2115, North and New Streets, Dover, Delaware 19901.
South Atlantic Fishery Management Council, Office of the Executive Director, Southpark Building, Suite 303, 3 Southpark Circle, Charleston, South Carolina 29407.
Caribbean Fishery Management Council, Office of the Executive Director, Suite 806, Banco de Ponce Building, (Postal Address), P.O. Box 1001, Hato Rey, Puerto Rico.
Gulf of Mexico Fishery Management Council, Office fo the Executive Director, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.
Pacific Fishery Management Council, Office of the Executive Director, 528 S.W. Mill Street, Portland, Oregon 97201.
North Pacific Fishery Management Council, Office of the Executive Director, Suite 32, 333 West Fourth Avenue, (Postal Address), P.O. Box 3136DT, Anchorage, Alaska 99501.
Western Pacific Fishery Management Council, Office of the Executive Director, Room 1506, 1164 Bishop Street, Honolulu, Hawaii 96813.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Members of each Regional Fishery Management Council, members of each Council's Scientific and Statistical Committee, members of each Council's Advisory Panel; each Council’s staff.

CATEGORIES OF RECORDS IN THE SYSTEM:
a. Personnel information including but not limited to name, birthdate, social security number, employment history, education and training, personnel actions and performance appraisals, records relating to life insurance, health benefits, and designation of beneficiary, medical records.
b. Payroll information including but not limited to marital status, mailing address, number of dependents, allotments and deductions for income tax withholding, savings bonds, charity contributions, and insurance premiums.
c. Travel orders and vouchers including data such as destination, itinerary, mode and purpose of travel, expense incurred.
d. Time and attendance data including number of regular, overtime holiday, Sunday, and other hours worked; number of hours on leave (sick, annual, holiday, etc.).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
These records are used as indicated below:
a. See routine use paragraphs in Prefatory Statement 1-5, 8, 12 and 13 in Prefatory Statement.
b. When an individual to whom a record pertains dies, information in the individual’s record may be disclosed to the person appointed as representative of the estate, to the person designated by the representative, or to a designated beneficiary. When a representative of the estate has not been appointed, the next of kin may be recognized as the representative of the estate.
c. Information may be disclosed to authorize payroll deductions for allotments, savings bonds, charitable contributions, union dues, health benefits and life insurance; collect indebtedness for overpayment of salary and unpaid internal revenue taxes; pay income tax obligations to the Internal Revenue Service and state and local tax authorities, as appropriate; authorize mailing or holding salary checks or savings bonds; authorize issuing of salary checks by the Treasury Department; obtain reimbursement of travel expenses for official business; report gross wages and separation information for unemployment compensation; pay any uncollected compensation due a deceased employee; and provide for a summary of employees payroll data and retirement contributions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
STORAGE:
Paper records in file folders and magnetic storage media.

RETRIEVABILITY:
Alphabetically by name, or by social security number.

SAFEGUARDS:
Physical, technical, and administrative security is maintained, with all storage equipment and/or rooms locked when not in use. Admittance is restricted to authorized personnel only. All payroll personnel, computer operators and programmers are instructed and cautioned on the confidentiality of the records.

RETENTION AND DISPOSAL:
Retained on site until after GAO audit, then either disposed of or transferred to Federal Records Storage Centers in accordance with the fiscal records program approval by GAO, as appropriate, or General Record Schedules of GSA.

SYSTEM MANAGER(S) AND ADDRESS:
The Executive Director of each Council; address as shown under system location above.

NOTIFICATION PROCEDURE:
Information may be obtained from:
The Executive Director of the appropriate Regional Fishery Management Council or the Assistant Administrator for Management and Budget, NOAA, 4010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name and other identifying information pursuant to the inquiry provisions of the Department’s rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department’s rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individuals, those authorized by the individual to furnish information; employee's supervisor; timekeepers.

COMMERCE/NTIA-1

SYSTEM NAME:

SYSTEM LOCATION:
National Telecommunications and Information Administration, 1325 G Street, N.W., Washington, D.C. 20555 (paper); and 179 Admiral Cochrane Drive, Annapolis, Maryland 21401 (magnetic disc).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Applicants for spectrum management career training; persons trained or training in the program; persons
employed in the Federal spectrum management field, or seeking employment therein, who register with the program.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

- Employee Career Appraisals
- Career Program Qualification Records
- Supplements thereto
- Career Plans
- Personal Qualification Statements
- Federal Employment Application

These records contain information about an individual and his skills and qualifications for training which typically includes, but is not limited to, name, address, date of birth, Social Security Account Number, education, military experience, present position, employment history, performance evaluations, and career goals.

**SAFEGUARDS:**

- **STORAGE:**
  - Records are located in lockable metal file cabinets with access limited to those whose official duties require access.
  - Records are updated regularly and maintained indefinitely.

- **RETRIEVABILITY:**
  - Records are stored alphabetically by name.

- **RECORD ACCESS PROCEDURES:**
  - Requests from individuals should be addressed to: Same address as stated in the Notification section above.

- **RECORD SOURCE CATEGORIES:**
  - Applicants for spectrum management careers: trainees in the program; instructors and other officials conducting the program; Federal government employees in the spectrum management field; and persons desiring such employment, who register with the program, their supervisors; and other officials of the agencies that employ them.

- **COMMERCE/NTIS-1:**
  - **SYSTEM NAME:**
    - Individuals interested in NTIS publications, shipped order addresses, or customer account records
    - **SUBSYSTEMS:**
    - Customer-Account Records
    - Subscriber Files

- **RECORD ACCESS PROCEDURES:**
  - Requests from individuals should be addressed to: Same address as stated in the Notification section above.

- **RECORD SOURCE CATEGORIES:**
  - Applicants for spectrum management careers: trainees in the program; instructors and other officials conducting the program; Federal government employees in the spectrum management field; and persons desiring such employment, who register with the program, their supervisors; and other officials of the agencies that employ them.

- **SYSTEM MANAGER(S) AND ADDRESS:**
  - Chief, (Automated Data Processing Division) OFFICE OF COMPUTER AND COMMUNICATION SERVICES, NTIS, 5285 Port Royal Road, Springfield, Va. 22161.

- **NOTIFICATION PROCEDURE:**
  - Information may be obtained from: Associate Director for Financial and Administrative Management, NTIS, (Silos Building), Springfield, Va. 22161. Requesters should provide name and address in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.
SAFEGUARDS
Communications Services with access Office of Computer and security number.

THE SYSTEM, INCLUDING CATEGORIES OF disc files.

DISPOSING OF RECORDS IN THE SYSTEM:
RETRIEVING, ACCESSING, RETAINING, AND POLICIES or parties outside the disclosed as a routine use to individuals

SYSTEM MANAGER(s) and ADDRESS:
Chief, Reports and Analysis Division, National Technical Information Service, Springfield, Va. 22161.

RECORD SOURCE CATEGORIES:
Subject individuals and NTIS transaction files.

COMMERCE/NTIS-2

SYSTEM NAME:

SYSTEM LOCATION:
Reports and Analysis Division, National Technical Information Service, Springfield, Va. 22161, and individual NTIS supervisors and managers with respect to employees supervised and programs managed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Current and former NTIS employees.

CATEGORIES OF RECORDS IN THE SYSTEM:
Name; social security number, organization unit; duty hours and work units processed by day and accounting project; time in duty status; time on leave; work volumes completed by individuals and by worker unit.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
Records in this system are not disclosed as a routine use to individuals or parties outside the U.S. Department of Commerce.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
STORAGE:
Paper records in file folders and magnetic tape storage media.

RETRIEVABILITY:
Filed alphabetically by name or registration number.

SAFEGUARDS:
Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

RETENTION AND DISPOSAL:
Records retention and disposal is in accordance with the unit's Records Control Schedule.

SYSTEM MANAGER(s) and ADDRESS:

NOTIFICATION PROCEDURE:
Information may be obtained from Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name, address, and date of application, if known, pursuant to the inquiry provisions of the Department's rules which appear in 35 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to same address as stated in the notification section above.
CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b.

RECORD SOURCE CATEGORIES:
Subject individual, references, and those authorized by the individual to furnish information.

COMMERCE/PAT-TM-2
SYSTEM NAME:

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Attorneys and agents registered to practice before the Patent and Trademark Office—patent cases; and disbarred or suspended attorneys, and agents.

CATEGORIES OF RECORDS IN THE SYSTEM:
Complaints and information obtained during investigations and quasi-judicial disciplinary proceedings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
35 U.S.C. 1, 6, and 32

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See Prefatory Statement of General Routine Uses #1-5, #8-10 and #13.

Also, dissemination of information concerning the complaint, investigation, or disciplinary proceeding by the Solicitor's staff, to the complainant; to; persons who can reasonably be expected to provide information needed in connection with the complaint, investigation, or disciplinary proceeding; and, upon inquiry, to state bars and courts.

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 name.

SAFEGUARDS:
Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

RECORD SOURCE CATEGORIES:
Subject individual; clients of same, registered attorneys and agents; witnesses in disciplinary proceedings; court opinions; and those authorized by the individual to furnish information.

COMMERCE/PAT-TM-3
SYSTEM NAME:
Employee Production Records—COMMERCE/PAT-TM-3

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Employees of the Patent and Trademark Office.

CATEGORIES OF RECORDS IN THE SYSTEM:
Employee name and number, position and grade; level; time in duty status, time of leave, duty hours distributed by task, receipt date of oldest item in processing queue, beginning and ending balances of work in process, work volumes compiled by organization and in some organizations by individuals, and comparative data on current production compared with earlier periods.

RECORD ACCESS PROCEDURE:
Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b.

RECORD SOURCE CATEGORIES:
Subject individual, those authorized by the individual to furnish information, and the individual's supervisors.
SAFEGUARDS:

Employee Inventions, Office of the
Control Schedule.

RETENTION AND DISPOSAL:

Records are maintained in areas
accessible only to authorized personnel
who are properly screened, cleared, and
trained.

RECORDS IN THE SYSTEM:

Government employees who are
inventors or nongovernment employees
who are joint inventors together with a
government employee inventor.

CATEGORIES OF RECORDS IN THE SYSTEM:

Invention rights questionnaires
including information as to the
inventor's employment status and his
official duties and responsibilities at the
time the invention was made, title
determinations, appeals to the
Commissioner, and petitions for
reconsideration.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:


ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See prefatory Statement of General Routine Uses #1-5 and #8-13. Also, information is transferred to various Government departments and agencies in connection with determinations made as to respective property rights (or the methods of protection thereof) of Government employees and such departments and agencies in and to Inventions made by such employees.

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 name and case number.

SAFEGUARDS:

Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

RECORDS IN THE SYSTEM:

Persons other than registered attorneys or agents who have offered or rendered, for payment, various services to inventors, patent applicants and patentees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Government employees who are inventors or nongovernment employees who are joint inventors together with a government employee inventor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Inventors or nongovernment employees who are joint inventors together with a government employee inventor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:


ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Providing notice to patent applicants, by Solicitor's staff, regarding whether or not the persons from whom assistance was received are registered to practice before the Office. Used by Solicitor's Staff for investigative purposes. Also, see prefatory Statement of General Routine Uses #1-5, #8-10 and #13.

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 name.

SAFEGUARDS:

Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

RECORDS IN THE SYSTEM:

Government employees who are inventors or nongovernment employees who are joint inventors together with a government employee inventor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Inventors or nongovernment employees who are joint inventors together with a government employee inventor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:


ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Providing notice to patent applicants, by Solicitor's staff, regarding whether or not the persons from whom assistance was received are registered to practice before the Office. Used by Solicitor's Staff for investigative purposes. Also, see prefatory Statement of General Routine Uses #1-5, #8-10 and #13.

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 name.

SAFEGUARDS:

Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.
CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Patent applicants who have received and paid for services by the individuals on whom the records are maintained.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:
Pursuant to 5 U.S.C. 552a(k)(2), all investigatory materials in the record which meet the criteria in 5 U.S.C. 552a(k)(2) are exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e), (1), (e)(4)(G), (H), and (I), and (f)), of the agency regulations because of the necessity to exempt this information and material in order to accomplish the law enforcement function of the agency, to prevent subjects of investigations from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of sources, to maintain access to sources of information, and to avoid endangering these sources and law enforcement personnel.

COMMERCE/PAT-TM-6

SYSTEM NAME:

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Applicants for patent and patentees who become involved in a conflict involving the question of priority of invention.

CATEGORIES OF RECORDS IN THE SYSTEM:
All records relating to the declaration, conduct, and termination of interference proceedings, including, but not limited to: preliminary statements, motions, testimony, and settlement agreements. The data contained in the records may include information relating to the applicant's or patentee's name, age, citizenship, residence, educational and work background, physical and mental health, activities relating to conception and reduction to practice of the contested subject matter, and other matters which may arise during the conduct of the interference proceeding or in connection with any agreements made by the parties relative to the interference proceeding.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
35 U.S.C. 1, 6, 23, 24, and 135.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
Records relating to interferences which involve a patent are open to public inspection after an award of priority by the Board of Patent Interferences as to all parties, or, if none, after termination of the interference. Records relating to interferences which do not involve a patent are open to public inspection after the interference has terminated and one of the applications involved has issued a patent. Otherwise, information concerning these records is provided outside the Office only upon authorization of the applicants or owners of the applications or patents involved, or when necessary to carry out the provisions of any act of Congress or in such special circumstances as may be determined by the Commissioner. Copies of settlement agreements filed under 35 USC 135(c) are kept separate from other interference records if the party filing them so requests, and are made available, as provided in the statute, only to Government agencies on written request or to any person on a showing of good cause. Also see routine use paragraphs of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVAL, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Paper records in file folders.

RETRIEVABILITY:
Filed by Interference Number, cross-indexed to the names of the parties.

SAFEGUARDS:
Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:
Records retention and disposal is in accordance with the unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Applicants for patent and patentees, the patent attorneys or agents authorized by such persons to represent them, those authorized by the applicant to furnish information, and witnesses and other parties involved in the taking of testimony.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:
Pursuant to 5 U.S.C. 552a(k)(1), Patent Interference Proceedings records which relate to applications subject to a secrecy order pursuant to 35 U.S.C. 181 or are otherwise subject to security classification pursuant to E.O. 12005 or the Atomic Energy Act of 1954, are exempted from the notification, access, and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules, which appear in 15 CFR Part 4b.

COMMERCE-PAT-TM-7

SYSTEM NAME:
Patent Application Files—COMMERCE/PAT-TM-7 (Note: This notice is broken down, where indicated, into three subsystems relating to the status of the files: a. Pending; b. Abandoned; and c. Patented.)

SYSTEM LOCATION:
POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

All three subsystems are also subject to the routine use paragraphs No. 1-5 and No. 8-13 of the Prefatory Statement.

STORAGE:

Paper records in file folders, microfilm and magnetic storage media.

RETRIEVABILITY:

Subsystems a. and b. filed by serial number, cross-indexed to name of applicant. Subsystem c. filed by patent number, cross-indexed to name of applicant.

SAFEGUARDS:

Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

RETENTION AND DISPOSAL:

Records retention and disposal is in accordance with the unit’s Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:


NOTIFICATION PROCEDURE:

Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name of applicant or patentee and Serial Number or Patent Number, if known, pursuant to the inquiry provisions of the Department’s rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Department’s rules for access, for contesting contents, and appealing initial determinations by the individual concerned appears in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

The inventors or other persons who submit applications for patent and the patent attorneys or agents authorized by such inventor or other persons to represent them.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)[1], Patent Applications, to the extent that they are subject to a secrecy order pursuant to 35 U.S.C. section 181 or are otherwise subject to security classification pursuant to E.O. 12065 or the Atomic Energy Act of 1954 are exempted from the notification, access and content requirements of the agency procedures (under 5 U.S.C. 552a[1][3], [6], [e][1], [e][4][G], [H], and [I], and [J]). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules which appear in 15 CFR Part 4b.

COMMERCE/PAT-TM-8

SYSTEM NAME:


SYSTEM LOCATION:


CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants including inventors, legal representatives for deceased or incapacitated inventors, and other persons authorized by law to make applications for patent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

35 U.S.C. 1, 6, and 115; 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Information concerning these records is provided outside the Office only upon authorization of the applicant or owner of the application or when necessary to carry out the provisions of any act of Congress or in such special circumstances as may be determined by the Commissioner, e.g. files referred for secrecy order determination under 35 U.S.C. 181. b. Same as a., except where application is referred to in a U.S. Patent, in which case the record is open to public inspection. c. Records are open to public inspection.

b. Same as a., except where application is referred to in a U.S. Patent, in which case the record is open to public inspection. c. Records are open to public inspection.
POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Paper records in file folders.

RETRIEVABILITY:
Filed by application serial number, cross-indexed to name of applicant.

SAFEGUARDS:
Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained, and stored in a locked vault.

RETENTION AND DISPOSAL:
Records retention and disposal is in accordance with the unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

NOTIFICATION PROCEDURE:
Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requester should provide name and social security or Patent Number, if known, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURE:
The Department's rules for access for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject applicants or their representatives and authorized representatives of the Department of Energy, the Secretary of Defense, and the Chief Officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:
Pursuant to 5 U.S.C. 552a(k)(1), these records, since they relate to determinations pertinent to secrecy orders pursuant to 35 U.S.C. 181 or to security classification pursuant to E.O. 12065 or the Atomic Energy Act of 1954 are exempted from the notification, access, and contest requirements of the agency procedures (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance to agency rules which appear in 15 CFR Part 4b.

COMMERCE/PAT-TM-9

SYSTEM NAME:

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Persons who have given or received property rights under an application for patent or a patent by means of a written instrument recorded in the Patent and Trademark Office. Deceased or incapacitated inventors and their legal representatives.

CATEGORIES OF RECORDS IN THE SYSTEM:
Assignments, grants, mortgages, liens, encumbrances, licenses, and other instruments affecting title. Letters testamentary and other court certificates and orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
35 U.S.C. 1, 6, and 261, and E.O. 9424.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See Preliminary Statement of General Routine Uses #1-5 and #8-13. Statement. Records open to the public are searched by users for the purpose of determining ownership for other property rights with respect to patents and trademarks. On the separate Government Register, records categorized as "Public" are available for public inspection; those records categorized as "Departmental" are used by duly authorized employees of Government agencies; and those records designated as "Secret" are disclosed only to persons having written authority from the head of the agency submitting the record. Assignment records relating to pending patent applications are maintained in confidence in accordance with 5 U.S.C. 122.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Paper files, microfilm reels, index card files and magnetic storage media.

RETRIEVABILITY:
Filed by inventor's name, application serial number, assignee's name, assignor's name, and patent number.

SAFEGUARDS:
Buildings employ security guards. Records subject to confidentiality requirements are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Records in the Secret Portion of the Government Register are, additionally, stored in a locked vault. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunication system (hardware and software) are utilized.

RETENTION AND DISPOSAL:
Records retention and disposal is in accordance with the unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

NOTIFICATION PROCEDURE:
Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Requesters should provide assignee's or assignor's name(s) and application serial number, if known, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURE:
Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department's rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Persons who have submitted written instruments to the Patent and Trademark Office for recording.
SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 35 U.S.C. 552a(k)[1], assignment records which are designated as "Secret" and maintained in the Government Register pursuant to E.O. 8424 are exempted from the notification, access, and contest requirements of the agency procedures, (under 5 U.S.C. 552a[c][3], [d], [e][1], [e][4][C], [H], and [I], and [f]). This exemption is made to prevent disclosure of information which might be detrimental to national security and in accordance with agency rules which appear in 15 CFR Part 4b.

COMMERCE/PAT-TM-10

SYSTEM NAME:

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Registered patent attorneys and agents and other members of the public who maintain deposit accounts to pay the cost of services rendered by the Patent and Trademark Office.

CATEGORIES OF RECORDS IN THE SYSTEM:
Name, address, account number, and financial transactions with the Office.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:
35 U.S.C. 1, 6, and 41.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See Prefatory Statement of General Routine Uses #1-5, #9-10, and #13.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
STORAGE:
Microfilm and magnetic storage media.

RETRIEVABILITY:
Filed by name, account number.

SAFEGUARDS:
Buildings employ security guards.

SYSTEM NAME:

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Employers and former employees who have testified in person or through deposition in court actions in regard to duties performed while employed by the Patent and Trademark Office, or who have been interviewed to determine whether such testimony will be taken.

CATEGORIES OF RECORDS IN THE SYSTEM:
Name, address, employment status, education, work experience, and other matters which might be raised in the course of a deposition or other testimony.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See Prefatory Statement of General Routine Uses #1-5 and #9-13.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
Buildings employ security guards.

STORAGE:
Paper copy.

RETRIEVABILITY:
Filed alphabetically by name.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
In accordance with agency procedures which appear in 15 CFR Part 4b.

SYSTEM NAME:
SAFEGUARDS:
Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

RETENTION AND DISPOSAL:
Records retention and disposal is in accordance with the unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

NOTIFICATION PROCEDURE:
Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

RECORD SOURCE CATEGORIES:
Subject individuals or their duly appointed representatives.

COMMERCe/PAT-TM-14

SYSTEM NAME:

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Federal employees other than employees of the Patent and Trademark Office; employees and other representatives of commercial firms offering patent search services to the public; registered agents before the Patent and Trademark Office; and any

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department’s rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individuals and those authorized by the individual to furnish information.

COMMERce/PAT-TM-13

SYSTEM NAME:

SYSTEM LOCATION:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Petitioners for license to file a patent application in any foreign country.

RECORD SOURCE CATEGORIES:
Subject individuals or their duly appointed representatives.

COMMERCe/PAT-TM-13

SYSTEM NAME:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See Prefatory Statement of General Routine Uses #4-5, #9-10 and #13.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
On magnetic tape and computer printout.

RETRIEVABILITY:
Subscriber’s name and account number.

SAFEGUARDS:
Maintained in areas accessible only to authorized personnel in building protected by security guards nonbusiness hours.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department’s rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individuals or those authorized by the individual to furnish information.

COMMERCe/PAT-TM-13

SYSTEM NAME:

35 U.S.C. 1, 6, and 164.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See Prefatory Statement of General Routine Uses #1-5, #6-10 and #13.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Paper copy and magnetic storage media.

RETRIEVABILITY:
By number assigned called P number and by serial number related to P number when additional matter is submitted in connection with a corresponding U.S. application, cross-indexed to petitioner’s name.

AUTHORIZED FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See Prefatory Statement of General Routine Uses #4-5, #9-10 and #13.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
On magnetic tape and computer printout.

RETRIEVABILITY:
Subscriber’s name and account number.

SAFEGUARDS:
Maintained in areas accessible only to authorized personnel in building protected by security guards nonbusiness hours.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department’s rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individuals or those authorized by the individual to furnish information.

COMMERCe/PAT-TM-13

SYSTEM NAME:


ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
See Prefatory Statement of General Routine Uses #4-5, #9-10 and #13.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
On magnetic tape and computer printout.

RETRIEVABILITY:
Subscriber’s name and account number.

SAFEGUARDS:
Maintained in areas accessible only to authorized personnel in building protected by security guards nonbusiness hours.

RECORD ACCESS PROCEDURES:
Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:
The Department’s rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:
Subject individuals or those authorized by the individual to furnish information.
member of the general public who uses the search room.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name: home address; business firm or other organizations with which affiliated, as appropriate; user pass number; registration number, if a registered agent before the Patent and Trademark Office; violations of regulations governing use of the search room; and the signature of recipients of user passes, indicating that the recipient has read the regulations governing the use of the search room.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Alphabetically by name and sequentially by user pass number.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Retained pursuant to Records Control Schedule, with periodic updating or posting of information, when appropriate and necessary.

SYSTEM MANAGER(S) AND ADDRESS:

Reader Aids

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations
CFR Unit 523-3419
General information, index, and finding aids 523-5227
Incorporation by reference 523-4534
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Federal Register

Corrections 523-5237
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Presidential Documents

Executive orders and proclamations 523-5233
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Privacy Act Compilation 523-3517

United States Government Manual 523-5230

SERVICES

Agency services 523-3408
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Dial-a-Reg Chicago, Ill. 312-663-5864
Los Angeles, Calif. 213-686-6694
Washington, D.C. 202-523-5022

Magnetic tapes of FR issues and CFR volumes (GPO) 275-2867

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Executive Orders:

Presidential Directives:

No. 73-10 (Amended by
January 2, 1973

No. 82-2 (of November 58481
1981)

No. 82-5 (of December 58481
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Precipitations:

4334 (Terminated In part by Proc. 4599)
4463 (Terminated In part by Proc. 4599)
4466 (Terminated In part by Proc. 4599)
4539 (Terminated In part by Proc. 4599)
4931 (Terminated In part by Proc. 4599)
4720 (Terminated In part by Proc. 4599)
4885 (Terminated In part by Proc. 4599)
4886 (Terminated In part by Proc. 4599)

Executive Orders:

July 2, 1910 (Repealed in part by PLO 6017)
May 27, 1913 (Revoked by PLO 6097)
April 17, 1923 (Revoked by PLO 6097)
February 7, 1933 (Revoked by PLO 6097)

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK.

The following agencies have agreed to publish all documents on two assigned days of the week. This is a voluntary program. (See OFR Notice 41 FR 32914, August 6, 1976.)

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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing December 30, 1981