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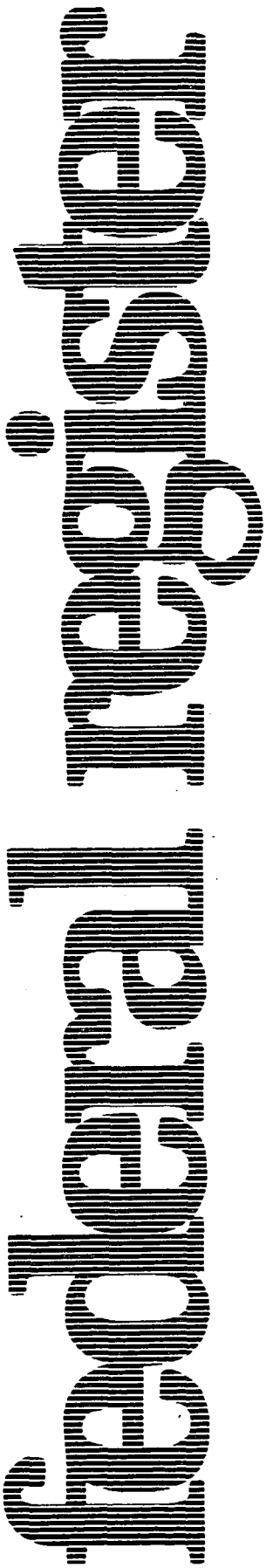

Monday
November 10, 1986

Briefings on How To Use the Federal Register—
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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

WHEN: November 18 at 9:30 a.m.

WHERE: National Archives Theater, 8th and Pennsylvania Avenue NW., Washington, DC

RESERVATIONS: Laurice Clark, 202-523-3419.

NEW YORK, NY

WHEN: December 5 at 10:00 a.m.,

WHERE: Room 305A, 26 Federal Plaza, New York, NY

RESERVATIONS: Arlene Shapiro or Stephen Colon, New York Federal Information Center, 212-264-4810.

PITTSBURGH, PA

WHEN: December 8 at 1:30 p.m.,

WHERE: Room 2212, William S. Moorehead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA

RESERVATIONS: Kenneth Jones or Lydia Shaw
Pittsburgh. 412-644-INFO
Philadelphia 215-597-1707 1709

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Separate Parts In This Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 51, No. 217
Monday, November 10, 1986

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Change in Minimum Size Requirement for Dancy Tangerines

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action will increase the minimum size requirement for Dancy tangerines from size 210 (2$^{9}/_{16}$ inches) to size 176 (2$^{8}/_{16}$ inches) shipped from the production area to any point in the continental United States, Canada, or Mexico. Smaller tangerines generally tend to be less flavorful than larger tangerines and are discounted when shipped in volume with larger sizes. This can have a price depressing effect on larger, more flavorful tangerines. This action is expected to result in the smaller Dancy tangerines being left on the trees longer to be shipped later in the season after they have attained further size and improved flavor.

EFFECTIVE DATE: November 4, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; telephone: (202) 447-5697.

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

Pursuant to requirement set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (the Act, 7 U.S.C. 601-674), and rules promulgated thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 95 handlers of Florida citrus subject to regulation under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida. In addition, there are approximately 15,000 producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers may be classified as small entities.

This final rule will increase the minimum size requirement for Dancy tangerines which may be shipped from the production area from size 210 (2$^{9}/_{16}$ inches) to size 176 (2$^{8}/_{16}$ inches).

Smaller tangerines are often not as flavorful as larger sizes early in the season and generally do not provide the same level of consumer satisfaction. In addition, when ample supplies of larger sizes of tangerines are available for shipment, disposition of the smaller sizes can be accomplished only at a substantial price discount. This tends to depress the market for all sizes and adversely impacts grower returns. This action is expected to result in Dancy tangerines being left on the trees longer to attain further growth and improved flavor in the interest of producers and consumers.

In 1986-87, fresh Dancy tangerine shipments are expected to total 500,000 boxes, compared with 446,000 boxes in 1985-86, and 380,000 boxes in 1984-85. Only about 56 percent of the Dancy tangerine crop was shipped fresh in 1985-86; most of the balance was shipped for processing. These percentages are based on the portion of the crop that attained size 210 and larger during the marketing season. The Florida Citrus Administrative Committee estimated that about 7 percent of the 1986-87 season fresh Dancy tangerine shipments would be size 210's in the absence of this final rule. Size 210 Dancy tangerines comprised about 7.3 percent of the fresh shipments in 1985-86, 8.1 percent in 1984-85, and 5.9 percent in 1983-84. Hence, the size 210's generally account for a relatively small proportion of total fresh Dancy tangerine shipments.

Furthermore, while the regulation will not permit shipment of size 210 Dancy tangerines outside the production area to any point in the continental United States, Canada, or Mexico, not all of the 210's will be subject to regulations. For example, shipments within the production area or to charitable institutions, relief agencies, commercial processors, and certain gift packages and minimum quantities as well as shipments for animal feed will not be subject to this regulation.

This final rule will not impose any significant additional costs on growers or handlers. Any additional costs to handlers and growers of implementing this regulation will be offset by the benefits derived from improved returns to growers and handlers in the production area while at the same time providing fresh markets with a ready supply of slightly larger, more flavorful Dancy tangerines.

This action is being issued under the marketing agreement and Order No. 905 (7 CFR Part 905), both as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Act. These actions were recommended unanimously by the Citrus Administrative Committee. The committee works with USDA in administering the marketing agreement and order program.

Notice of the proposed rulemaking was published in the **Federal Register** on October 20, 1986 (51 FR 37191). The comment period ended on October 30, 1986; no comments were received. The final rule is the same as the proposed rule except that the effective date is November 4, 1986, instead of October 31, 1986. The later effective date reflects the date of issuance for the final rule.

The handling regulation for all citrus, including Dancy tangerines, covered under this marketing order is included in Florida Citrus Regulation 6. Florida Citrus Regulation 6 (7 CFR 905.306) was issued on a continuing basis (46 FR 60170; December 8, 1981) subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. Florida Citrus Regulation 6 was last amended for Dancy tangerines effective January 9, 1984 (49 FR 1467; January 12, 1984). Section 905.306(a) provides that no handler shall ship between the production area and any point outside that area in the continental United States, Canada, or Mexico, certain varieties of citrus unless the variety meets the applicable minimum grade and size requirements. For Dancy tangerines shipped on or after August 20, 1984, the minimum grade was U.S. No. 1 and the minimum size was size 210 (2 $^{9}/_{16}$ inches).

The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida oranges, grapefruit, tangerines, and tangelos. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

This action will increase the minimum size requirement of Florida Dancy tangerines from size 210 (2 $^{9}/_{16}$ inches) to size 176 (2 $^{6}/_{16}$ inches). The amendment of the minimum size requirement reflects the committee's and the Department's appraisal of the need to increase the size requirement applicable to domestic shipments of Dancy tangerines. This action recognizes the current supply and demand for such fruit and is necessary to prevent smaller, less flavorful tangerines from entering fresh markets.

This action will prevent the shipment of small size tangerines early in the season which can have a price depressing effect on larger, more flavorful tangerines. Smaller tangerines tend to be less flavorful than larger tangerines and generally do not provide the same level of consumer satisfaction. Ample supplies of larger size Dancy tangerines are expected to be available to meet market needs this year. Total Florida tangerine production is expected to increase over last year's level by 10 percent and fresh shipments, estimated at 1.2 million boxes, are expected to increase by nearly 14 percent. In addition, competing specialty citrus varieties from Florida, including Temples, tangelos, and K-early citrus are also expected to show an increase in production with fresh shipments estimated to increase about 13 percent. When heavy volumes of small tangerines are shipped with larger sizes in years of ample supply, the small sizes are discounted in the marketplace and this tends to depress the market for all sizes.

In addition, per capita fresh citrus consumption declined slightly during last year. It is anticipated that there will be an increase in per capita consumption during the 1986–87 season primarily due to increased citrus production.

This action is expected to result in Dancy tangerines being left on the trees longer to attain further growth and improved flavor. The smaller Dancy tangerines will mature but need to be left on the tree longer to develop acceptable flavor.

The rule will also delete obsolete dates and references to minimum diameter and grade for Dancy tangerines which appear in Table I of § 905.306(a).

Based on the recommendation and information submitted by the Citrus Adminstrative Committee, and upon other available information, it is hereby found that regulation of Florida Dancy tangerines, as hereinafter provided, will tend to effectuate the declared policy of the Act.

It is hereby further found that good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because: (1) Shipments of the 1986–87 Dancy tangerine crop already have begun; (2) to maximize benefits to handlers, producers, and consumers, this action should apply to as many 1986–87 crop shipments as possible; and (3) no useful purpose would be served by delaying the effective date of this action.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

1. The authority citation for 7 CFR Part 905 continues to read as follows:

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

2. The provisions of § 905.306 would be amended by revising the following entry in paragraph (a), Table I, applicable to domestic shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6, Amendment 40.

(a) * * *

TABLE I

Variety	Regulation Period	Minimum grade	Diameter (inches)
(1)	(2)	(3)	(4)
* * * * *	* * *	* * *	
Tangerines: Dancy.	On or after November 4, 1986	U.S. No. 1	2 $^{9}/_{16}$
* * * * *	* * *	* * *	

* * * * *

Dated: November 4, 1986.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–25390 Filed 11–7–86; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1097

Milk in the Memphis, Tennessee Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends, for the months of October through December 1986, the pool supply plant provisions of the Memphis, Tennessee milk order. The suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that has been asked to furnish supplemental milk to meet the increasing fluid milk needs of distributing plants that are regulated under the Memphis order. The supply that Mid-Am has available to meet such needs is milk received at the cooperative's supply balancing plants which handle the reserve milk supplies associated with distributing plants regulated under the Southwest Plains order. Because the individual-handler pool Memphis order provides a low minimum shipping level to qualify pool supply plants, shipments from the cooperative's balancing plants would subject them to regulation under that order. This would result in a reduction of returns to Mid-Am's producers and disrupt their normal association with the Southwest Plains order. This action will allow the reserve milk supplies and the supplemental shipments for fluid uses to

continue to be regulated under the Southwest Plains order during the three-month period.

EFFECTIVE DATE: November 10, 1986 for the months of October through December, 1986.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued October 21, 1986; published October 24, 1986 (51 FR 37733).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action tends to ensure that dairy farmers will continue to have their milk regulated and priced under the order covering the market which is the primary outlet for their milk 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. 601-674), and of the order regulating the handling of milk in Memphis, Tennessee marketing area.

Notice of the proposed rulemaking was published in the **Federal Register** on October 24, 1986 (51 FR 37733) concerning a proposed suspension of certain provisions of the order. Interested persons were given an opportunity to file written data, views, and arguments thereon. No views opposing the proposal were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of October through December 1986 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1097.7, paragraph (b) in its entirety.

Statement of Consideration

This action makes inoperative, for the months of October-December 1986, that portion of the order's fluid milk plant definition which provides for a pool supply plant. The order currently regulates a plant that ships in excess of 70,000 pounds of milk (about two loads) per month to pool distributing plants.

The suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that in mid-September began to furnish supplemental milk to meet the fluid milk needs of bottling plants that are regulated under the Memphis order. The additional milk for Memphis bottling plants is necessary because of the increased Class I sales by such plants as a result of the recent closing of bottling plants located at Springfield, Missouri, and Paragould, Arkansas. Greater supplemental shipments will be necessary during the months of October-December because of the normal seasonal decrease in milk production in such months and further reductions this year as a result of the whole-herd buyout program.

The most feasible milk supply that Mid-Am has available to supply the fluid needs of Memphis handlers is associated with the cooperative's reserve processing (balancing) plants that are located in southwestern Missouri and regulated under the Southwest Plains order. However, since the individual-handler pool Memphis order provides a low minimum shipping standard for pool supply plants, shipments from Mid-Am's balancing plants would result in the regulation of such plants under the Memphis order. If this were to occur, the Memphis order individual-plant price to producers supplying the balancing plants would be significantly below the Southwest Plains marketwide blend price, thereby reducing the returns to Mid-Am's dairy farmers. Furthermore, if dairy farmers lose their association with the Southwest Plains market during any month of the September-November period, they may not be producers under the Southwest Plains order during the months of February-July 1987.

Two of Mid-Am's plants that are pooled as balancing plants under the Southwest Plains order almost became regulated under the Memphis order on the basis of shipments during the latter half of September. As the cooperative continues to supply Memphis handlers with increased supplemental shipments to meet fluid milk needs, the balancing plants would likely become regulated under the Memphis order during the months of October-December 1986. The suspension will allow the southwest Missouri balancing plants and the milk of dairy farmers associated with such plants to continue to be regulated under the Southwest Plains order and facilitate the shipment of the market's reserve milk supplies to fluid milk plants in Memphis.

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) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing in that it will ensure that dairy farmers will continue to have their milk regulated and priced under the order covering the market which is the primary outlet for their milk and thereby receive the benefits that accrue from such pooling and pricing;

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

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this proposal to suspend. No comments in opposition to the proposal were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1097

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of § 1097.7 of the Memphis, Tennessee order are hereby suspended for the months of October-December 1986 as follows:

PART 1097—MILK IN THE MEMPHIS, TENNESSEE MARKETING AREA

1. The authority citation for 7 CFR Part 1097 continues to read as follows:

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

§ 1097.7 [Suspended in part]

2. In 7 CFR Part 1097, paragraph (b) of § 1097.7 is suspended in its entirety.

Signed at Washington, DC, on: November 6, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 86-25481 Filed 11-7-86; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1900, 1941, 1943, 1945, 1955, 1962, 1965, and 1980

Controlled Substances Production Control; Section 1764 of the "Food Security Act of 1985"

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule with request for comments.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to prohibit assistance to applicants/borrowers who have been convicted under Federal or State laws of planting, cultivating, growing, producing, harvesting, or storing a controlled substance after December 23, 1985. This action is being taken to implement section 1764 of the Food Security Act of 1985 (Pub. L. 99–198). The intended effect is to prohibit assistance to applicant/borrowers who have been convicted under Federal or State laws of planting, cultivating, growing, producing, harvesting, or storing a controlled substance after December 23, 1985.

DATES: Final rule effective November 10, 1986. Comments must be submitted on or before December 10, 1986.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250. All written comments will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: James A. Flickinger, Special Assistant to the Assistant Administrator, Farmer Programs, Farmers Home Administration, USDA, Room 5019, South Agriculture Building, Washington, DC 20250, Telephone: (202) 447–4671.

SUPPLEMENTARY INFORMATION:

Classification

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

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Emergency Loans, Farm Operating Loans, and Farm Ownership Loans are excluded with the exception of nonfarm enterprise activity from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loan Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940–J.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.416—Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Discussion of the Major Issues of the Final Rule

The provisions of section 1764 of the Food Security Act of 1985 (the Act) (Pub. L. 99–198) require FmHA to implement regulations regarding penalties relating to the production of controlled substances. The intended effect is to penalize those who have been convicted of producing, harvesting or storing controlled substances.

The term controlled substance is further identified in 21 CFR Part 1308. FmHA is issuing to its field offices the applicable schedules of 21 CFR Part 1308 as Exhibit C to Subpart A of Part 1941 of this chapter (available in any FmHA Office).

As provided in the Act FmHA amends its Farmer Program regulations so that if an individual or an entity's member has been convicted after December 23, 1985, under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year, such an individual or the entity itself shall be ineligible for Farmer Program loans and certain servicing actions for that year and the four succeeding crop years. Applicants will attest on the applicable FmHA form that as individuals or that its members, if an entity, have not been convicted of such a crime after December 23, 1985. A decision to reject an application because of such conviction is not appealable because it is required by statute. Further details are in the regulations.

Section 1764 of the Act required that regulations implementing its provisions be issued not later than 180 days after the date that the Food Security Act of 1985 was enacted. The date of enactment was December 23, 1985. FmHA did not meet this deadline due to the need to issue regulations implementing other provisions of the Act in as timely a fashion as possible to cover the Spring lending season. Although the deadline was not met, FmHA is still compelled to make a good faith effort to issue regulations as soon as it can to implement section 1764. That is why the action being taken is a final rule and why it is being implemented immediately. However, the fact that the deadline in section 1764 was missed should not have an adverse impact on anyone because the effect of the regulations will not affect, for example, anyone whose loan has already been closed or even approved but not yet closed and because the final rule only contains what is required by section 1764. The assistance denied to anyone convicted of planting, cultivating, growing, producing, harvesting, or storing a controlled substance after December 23, 1985, includes an insured or guaranteed loan, a subordination, a transfer and assumption, and a credit sale of inventory property. To approve an insured or guaranteed loan to anyone so convicted would be a clear violation of section 1764. To grant a subordination request so that a borrower may obtain additional financing is the equivalent of FmHA extending credit itself because FmHA would then take a lien position junior to what it had, and that is why subordinations are considered prohibited assistance. Transfers and assumptions are included because loan assistance continues, although to a new borrower. Credit sales are included because they are extensions of financial assistance to buyers in FmHA inventory property. Even though this is a final rule, FmHA is providing a 30-day comment period because this is a new area for FmHA and comments from the public could be insightful. The comments will be considered and changes to the final rule may or may not be made, depending on the substance of the comments received. It is the policy of this Department that rules relating to public property, grants, benefits or contracts shall be published for comment

notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. It is found upon good cause that notice and other public procedure with respect to this final rule action are impractical, and good cause is found for making this final rule effective less than 30 days after publication in the **Federal Register.**

List of Subjects

7 CFR Part 1900

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

7 CFR Part 1941

Crops, Livestock, Loan programs—Agriculture.

7 CFR Part 1943

Credit, Loan programs—Agriculture, Water resources.

7 CFR Part 1945

Agriculture, Disaster assistance.

7 CFR Part 1955

Government acquired property, Sale of Government acquired property, Surplus Government property.

7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—Agriculture, Rural areas.

7 CFR Part 1965

Foreclosure, Loan programs—Agriculture, Rural areas.

7 CFR Part 1980

Agriculture, Loan programs—Agriculture.

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

PART 1900—GENERAL

1. The authority citation for Part 1900 continues to read as follows:

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

Subpart B—Farmers Home Administration Appeal Procedure

2. Section 1900.53 is amended by adding paragraph (a)(17) to read as follows:

§ 1900.53 Decisions which are not appealable.

(a) * * *

(17) Denial of assistance (including a subordination request or transfer and assumption) because of a conviction under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance. "Controlled substance" is defined in Exhibit C to Subpart A of Part 1941 of this chapter (available in any FmHA office).

* * * * *

PART 1941—OPERATING LOANS

3. The authority citation for Part 1941 continues to read as follows:

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

Subpart A—Operating Loan Policies, Procedures, and Authorizations

4. Section 1941.12 is amended by adding an introductory paragraph to read as follows:

§ 1941.12 Eligibility requirements.

In accordance with the Food Security Act of 1985 (Pub. L. 99–198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C to this subpart and is available in any FmHA office, for the definition of "controlled substance") prior to loan approval in any crop year, the individual or entity shall be ineligible for a loan for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 410–1, "Application for FmHA Services," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for this reason is not appealable. In addition, the following requirements must be met:

* * * * *

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

5. The authority citation for Part 1943 continues to read as follows:

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

Subpart A—Insured Farm Ownership Loan Policies, Procedures and Authorizations

6. Section 1943.12 is amended by adding an introductory paragraph to read as follows:

§ 1943.12 Farm ownership loan eligibility requirements.

In accordance with the Food Security Act of 1985 (Pub. L. 99–198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C to Subpart A or Part 1941 of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to loan approval in any crop year, the individual or entity shall be ineligible for a loan for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 410–1, "Application for FmHA Services," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for this reason is not appealable. In addition, the following requirements must be met:

* * * * *

Subpart B—Insured Soil and Water Loan Policies, Procedures and Authorizations

7. Section 1943.62 is amended by adding an introductory paragraph to read as follows:

§ 1943.62 Soil and Water Loan eligibility requirements.

In accordance with the "Food Security Act of 1985" (Pub. L. 99–198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C to Subpart A of Part 1941 of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to loan approval in any crop year, the individual or entity shall be ineligible for a loan for the crop year in which the individual or member, stockholder, partner, or a joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 410–1, "Application for FmHA Services," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for this reason is not appealable. In addition, the following requirements must be met:

* * * * *

PART 1945—EMERGENCY

8. The authority citation for Part 1945 continues to read as follows:

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

Subpart D—Emergency Loan Policies, Procedures, and Authorizations

9. Section 1945.162 is amended by adding an introductory paragraph to read as follows:

§ 1945.162 Eligibility requirements.

In accordance with the "Food Security Act of 1985" (Pub. L. 99-198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C to Subpart A of Part 1941 of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to loan approval in any crop year, the individual or entity shall be ineligible for a loan for the crop year, in which the individual or member, stockholder, or partner of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 410-1, "Application for FmHA Services," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for this reason is not appealable. In addition, the following requirements must be met:

* * * * *

PART 1955—PROPERTY MANAGEMENT

10. The authority citation for Part 1955 continues to read as follows:

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

Subpart C—Disposal of Inventory Property

11. Section 1955.105 is amended by adding a paragraph heading to the existing text, designating it as paragraph (a), and adding a new paragraph (b) to read as follows:

§ 1955.105 Real property affected (CONACT).

(a) *Loan types.* * * *

(b) *Controlled substance conviction.* In accordance with the "Food Security Act of 1985" (Pub. L. 99-198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C to Subpart A of Part 1941 of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to a credit sale approval in any crop year, the individual or entity shall be ineligible for a credit sale for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 410-1, "Application for FmHA Services," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject a credit sale for this reason is not appealable.

PART 1962—PERSONAL PROPERTY

12. The authority citation for Part 1962 continues to read as follows:

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

Subpart A—Servicing and Liquidation of Chattel Security

13. Section 1962.30 is amended by adding paragraphs (b)(7) and (d)(3) to read as follows:

§ 1962.30 Subordination and waiver of FmHA liens on chattel security.

* * * * *

(b) * * *

(7) In accordance with the Food Security Act of 1985 (Pub. L. 99-198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C of Subpart A of Part 1941 of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to the issuance of the subordination in any crop year the individual or entity shall be ineligible for a subordination for the crop year, in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 410-1, "Application for FmHA Services," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject a subordination request for this reason is not appealable.

* * * * *

(d) * * *

(3) Items 1, 22, 23 and 24 will be completed on Form FmHA 410-1.

* * * * *

14. Section 1962.34 is amended by revising the introductory paragraph to read as follows:

§ 1962.34 Transfer of chattel security and EO property and assumption of debts.

Chattel and EO property may be transferred to eligible or ineligible transferees who agree to assume the outstanding loan, subject to the provisions set out in this section. A transfer and assumption may also be made when one or more of the borrowers or the former spouse and co-obligor of a divorced borrower withdraws from the operation or dies. The transfer of accounts secured by real estate or both real estate and chattels will be processed under Subpart A of Part 1965 of this chapter. The transferor (borrower) must be sent Form FmHA 1924-14, "Notice—Farmer Program Borrower Servicing Options Including Deferral and Borrower Responsibilities," as soon as the borrower contacts the County Supervisor inquiring about a transfer. In accordance with the Food Security Act of 1985 (Pub. L. 99-198) after December 23, 1985, if a loan is being transferred and assumed by an eligible or ineligible transferee, and if an individual or any member, stockholder, partner, or joint operator of an entity transferee is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C of Subpart A of Part 1941of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to the approval of the transfer and assumption in any crop year, the individual or entity shall be ineligible for a transfer and assumption of a loan for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Transferee applicants will attest on Form FmHA 410-1, "Application for FmHA Services," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for transfer and assumption for this reason is not appealable.

* * * * *

PART 1965—REAL PROPERTY

15. The authority citation for Part 1965 continues to read as follows:

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

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only cases.

16. Section 1965.12 is amended by revising the introductory paragraph to read as follows:

§ 1965.12 Subordination of FmHA mortgage to permit refinancing, extension, increase in amount of existing prior lien, to permit a new prior lien, or to permit reamortization.

See § 1965.34(e) of this subpart for requirements concerning subordinations of non-program (NP) loans. In accordance with the Food Security Act of 1985 (Pub. L. 99–198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C to Subpart A of Part 1941 of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to the issuance of the subordination in any crop year, the individual or entity shall be ineligible for a subordination for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants for subordinations will attest on Form FmHA 465–1, "Application for Partial Release, Subordination, or Consent," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for subordination for this reason is not appealable.

* * * * *

17. Section 1965.27 is amended by revising the introductory paragraph and the introductory paragraph of paragraph (b) to read as follows:

§ 1965.27 Transfer of real estate security.

When the mortgage requires the consent of the FmHA to any proposed sale or other transfer of real estate security, the borrower should be reminded that before firm agreements have been reached with a purchaser of all or a portion of the security, the borrower and purchaser should contact the County Supervisor concerning the proposed sale. Farmer program loan borrowers must be sent Form FmHA 1924–14 within 3 working days after the borrower contacts the County Supervisor inquiring about a transfer. If a proposed sale would not result in the FmHA accounts being paid in full at the time of sale the County Supervisor should explain thoroughly the requirements of this section and §§ 1965.13 or 1965.26 of this subpart, as appropriate. When the transferor is receiving a substantial down payment for the sale of the property, the purchaser must be required to contact other sources of credit in an effort to secure a loan for repayment of the FmHA loan(s) in full. If an NP loan is involved, § 1965.34 of this subpart also applies. When real estate security, mortgage requires FmHA consent to the sale and the transaction cannot be approved under the appropriate sections of this subpart, the account will be liquidated as required in § 1965.26 of this subpart, or will be handled in accordance with § 1965.27(g) of this subpart. In accordance with the Food Security Act of 1985 (Pub. L. 99–198) after December 23, 1985, if a loan is being transferred and assumed by an eligible or ineligible transferee, and if an individual or any member, stockholder, partner, or joint operator of an entity transferee is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C to Subpart A of Part 1941 of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to the approval of the transfer and assumption in any crop year, the individual or entity shall be ineligible for a transfer and assumption of a loan for the crop year in which the individual, or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Transferee applicants will attest on Form FmHA 410–1, "Application for FmHA Services," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for transfer and assumption for this reason is not appealable.

* * * * *

(b) *General policies.* The following general policies will be applicable when an FmHA borrower transfers, or proposes to transfer, real estate which is security for an FmHA loan(s). The loan account(s) will be assumed by use of Form FmHA 1965–13, "Assumption Agreement for Farmer Program Loans," or Form FmHA 1965–15, "Assumption Agreement Single Family Housing Loan(s)."

* * * * *

PART 1980—GENERAL

18. The authority citation for Part 1980 continues to read as follows:

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

Subpart B—Farmer Program Loans

19. Section 1980.123 is amended by redesignating paragraphs (c) through (o) as (d) through (p) and adding a new paragraph (c) to read as follows:

§ 1980.123 Transfer and assumption of Farmer Program loans.

* * * * *

(c) In accordance with the Food Security Act of 1985 (Pub. L. 99–198) after December 23, 1985, if an individual transferee or any member, stockholder, partner, or joint operator of an entity transferee is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C to Subpart A of Part 1941 of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to the approval of the transfer and assumption in any crop year, the individual or entity shall be ineligible for a transfer and assumption for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 449–6, "Application for Guaranteed loan," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for transfer and assumption for this reason is not appealable.

* * * * *

20. Section 1980.175 is amended by adding an introductory paragraph (b) to read as follows:

§ 1980.175 Operating loans.

* * * * *

(b) *Loan eligibility requirements.* In accordance with the Food Security Act of 1985 (Pub. L. 99–198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C of Subpart A of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to the issuance of the loan note guarantee or the contract of guarantee in any crop year, the individual or entity shall be ineligible for a guranteed loan for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and

the four succeeding crop years. Applicants will attest on Form FmHA 449–6, "Application for Guaranteed Loan," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for this reason is not appealable. In addition, the following requirements must be met:

* * * * *

21. Section 1980.180 is amended by adding an introductory paragraph (c) to read as follows:

§ 1980.180 Farm ownership loans.

* * * * *

(c) *Farm ownership loan eligibility requirements.* In accordance with the Food Security Act of 1985 (Pub. L. 99–198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C to Subpart A of Part 1941 of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to the issuance of the loan note guarantee or the contract of guarantee in any crop year, the individual or entity shall be ineligible for a guaranteed loan for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 449–6, "Application for Guaranteed Loan," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for this reason is not appealable. In addition, the following requirements must be met:

* * * * *

22. Section 1980.185 is amended by adding an introductory paragraph to (c) to read as follows:

§ 1980.185 Soil and Water loans.

* * * * *

(c) *Soil and Water Loan eligibility requirements.* In accordance with the Food Security Act of 1985 (Pub. L. 99–198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR Part 1308, which is Exhibit C to Subpart A of Part 1941 of this chapter and is available in any FmHA office, for the definition of "controlled substance") prior to the issuance of the loan note guarantee or the contract of guarantee is any crop year, the individual or entity shall be ineligible for a guaranteed loan for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 449–6, "Application for Guaranteed Loan," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. A decision to reject an application for this reason is not appealable. In addition, the following requirements must be met:

* * * * *

Dated: September 29, 1986.

Kathleen W. Lawrence,

Under Secretary for Small Community and Rural Development.

[FR Doc. 86–25328 Filed 11–7–86; 8:45 am]

BILLING CODE 3410–07–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Dkt. C–3201]

Max Factor & Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Stamford, Conn. Cosmetics company to make promotional allowances available on proportionally equal terms to all of its customers, and in particular, to make alternatives, such as handbills or other in-store promotional activities, available to customers for whom its basic promotional plans are not usable or economically feasible. Respondent is required to notify all its customers that the promotional payments and alternatives are available.

DATE: Complaint and Order issued October 15, 1986.[1]

FOR FURTHER INFORMATION CONTACT: Paul W. Turley, Director, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Los Angeles, CA 90024. (213) 209–7890.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th St. and Pa. Ave. NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On Friday, March 21, 1986, there was published in the **Federal Register**, 51 FR 9836, a proposed consent agreement with analysis In the Matter of Max Factor & Co., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No Comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.15 Business status, advantages, or connections; § 13.15–5 Advertising and promotional services; § 13–20 Business methods and policies; § 13.160 Promotional sales plans. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures.

List of Subjects in 16 CFR Part 13

Cosmetics, Promotional allowances, Trade practices.

(Sec. 6, 38 Stat. 712; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 2, 49 Stat. 1526; 15 U.S.C. 45, 13)

Emily H. Rock,

Secretary.

[FR Doc. 86–25338 Filed 11–7–86; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 13

[Dkt. No. 9201]

Electronic Systems International, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In Settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Norcross, Ga. Manufacturer and marketer of "SavIt" duty cyclers to cease making unsubstantiated representations as to the efficiency of its products or services. Additionally, respondents are required to request all dealers of its products to refrain from making the challenged claims and to

recall all promotional material that does not conform to the proposed order.

DATE: Complaint issued Nov. 1, 1985. Order issued October 30, 1986*.

FOR FURTHER INFORMATION CONTACT: FTC/B-407, Michael Dershowitz, Washington, DC 20580. (202) 376-8720.

SUPPLEMENTARY INFORMATION: On Wednesday, Aug. 20, 1986, there was published in the **Federal Register**, 51 FR 29664, a proposed consent agreement with analysis In the Matter of Electronic Systems International, Inc., a corporation, and Gene B. Patterson, individually and as an officer of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions of objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form comtemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist as set forth in the proposed consent agreement, in disposition of this processing.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows; Subpart—Advertising Falsely of Misleadingly: § 13.10 advertising falsely or misleadingly; § 13.170 Qualities or properties of product or service; 13.170-34 Economizing or saving; § 13.190 Result; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-45 Maintain records; § 13.533-45(a) Advertising substantiation. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Duty cyclers, Energy savings, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 86-25337 Filed 11-7-86; 8:45 am]

BILLING CODE 6750-01-M

* Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th St. & Pa. Ave., NW., Washington, DC 20580.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6673, 34-23767, 35-24230, 39-2048, IC-15392, and IA-1046]

Revision of Fee Schedule for Records Services

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rule amendments.

SUMMARY: The Securities and Exchange Commission is revising § 200.80e Appendix E, which sets forth the schedule for fees for records services and designates the service contractor to provide copies of public documents filed with the Commission. The revisions reflect increases in the rates charged to the public by Bechtel Information Services ("Bechtel"), 15740 Shady Grove Road, Gaithersburg, Maryland 20877, pursuant to the terms of Bechtel's contract with the Commission. In addition, the Commission is revising its schedule of charges for information requested under the Freedom of Information Act ("FOIA"). These revisions will bring these fees more into conformance with current costs for responding to requests for records services.

EFFECTIVE DATE: November 10, 1986.

FOR FURTHER INFORMATION CONTACT: Cecelia A. Charles, Acting Director, Office of Consumer Affairs and Information Services, 202-272-7440; Jeanne Carter, Edgar Counsel, Executive Director's Office, 202-272-3557.

SUPPLEMENTARY INFORMATION: On May 20, 1985, the Commission awarded a contract for microfilm production and dissemination of the Commission's public documents to Bechtel Information Services. Pursuant to the terms of the Commission's contract with Bechtel, prices may be revised annually consistent with annual increases in the contractor's costs of production as demonstrated by submission to the Commission of annual audited statements of contractor costs and contingent upon prior approval by the Commission. As a result of increased costs of production the Commission is permitting Bechtel to raise the rates it charges.

In addition, the Commission is revising its schedule of charges for attestation services and searching for information requested under the Freedom of Information Act. The Commission has not increased its charges under FOIA in a number of years. The staff search rate is out of date. It is based on the salary of a GS-10, step one, as of 1965, when the rate was last set. The staff specialists responsible for performing most searches are either GS-9 or GS-11 personnel involved in processing FOIA requests. Additional searching is performed by professional staff in the operating divisions. The Commission is therefore instituting an updated two-tier fee based on the hourly rates for staff at GS-9 and GS-12 grade levels. In addition, the Commission is increasing the charge to produce an attestation with the Commission seal to more accurately reflect the actual cost of performing the service.

In a recent study conducted by *Access Reports/Freedom of Information* newsletter, the Commission ranked near the bottom of the list of Federal agencies in terms of the percentage of actual FOIA costs recovered. According to the study, the Commission currently recovers only 0.5 percent of its actual FOIA costs. In contrast, the Federal Reserve Board recovers 50 percent of its costs, the Environmental Protection Agency recovers 22 percent, and the Office of Personnel Management recovers 13.3 percent.

The specific changes to § 200.80e are as follows:

a. The paragraph captioned *"Searching and attestation services"* is amended to include two separate rates for searches based upon the level of the employee conducting the search. Also, the hourly search rates have been increased from $2.50 per half hour to $5.00 per half hour for a GS 9-11 employee and $7.50 per half hour for a GS-12 or above employee conducting the search. In addition, the cost of attestation has increased to $4.00. Finally, the street address of the Securities and Exchange Commission has been added.

b. The paragraph captioned *"Regular service"* is amended to reflect an earlier increase in the cost for paper to paper or microfiche to paper copying, shipped within seven calendar days to $0.20 per page.

c. A new paragraph captioned *"Freedom of Information Act Requests"* has been added.

d. The paragraph captioned *"Watching service"* is amended by changing the shipping time of hard copies of customer-specified originals from 4 p.m. on the day following contractor receipt of original to within one working day of contractor receipt of original. The price of a paper copy will be based on the response time of the contractor. Microfiche service is now referred to in the paragraph and will

cost $5.00 per fiche. A sentence has been added to the paragraph regarding additional charges for the watching service.

e. The paragraph captioned *"Public reference copying facilities"* reflects that customer operated paper-to-paper and fiche-to-paper copiers will now cost $0.17 per page unless the copying machine is coin operated. In that case, the per page cost will increase to $0.20. On-site demand service is raised to $0.30 per page. Reference has been added for contractor copying on a first come, first served basis at a cost of $0.23 per page.

The Commission finds, in accordance with the Administrative Procedure Act [5 U.S.C. 553(b)(3)(A)], that this revision relates solely to agency organization, procedures, or practices. It is therefore not subject to the provisions of the Administrative Procedure Act, requiring notice and opportunity for comment. Accordingly, it is effective upon publication in the **Federal Register.**

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of Information, Privacy, Securities.

Statutory Basis

The Commission amends § 200.80e of Title 17, Chapter II, of the Code of Federal Regulations pursuant to the Securities Exchange Act of 1934 and particularly section 23(a) thereof, 15 U.S.C. 78w(a).

Text of Amendments

Title 17, Chapter II of the CFR is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for Part 200 Subpart D continues to read as follows:

Authority: 80 Stat. 383, as amended, 31 Stat. 54, secs. 19, 23, 48 Stat. 85, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 5 U.S.C. 552, 15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11, * * *.

2. Section 200.80e is amended by revising the paragraphs captioned "Searching and attestation services", "Regular service", "Watching service", and "Public reference copying facilities", and by adding a new paragraph captioned "Freedom of Information Act requests." The paragraphs captioned "Facsimile copies of documents", "Priority service", and "Subscription services and microfiche copies" are unchanged. § 200.80e is revised to read as follows:

§ 200.80e Appendix E—Schedule of fees for records services.

Searching and attestation services. Locating and making available records requested for inspection or copying (including over-head costs):

First one-half hour—No Fee; each additional one-half hour or fraction thereof—GS 9–11 employee conducting search: $5.00; GS 12 or above employee conducting search: $7.50.

Attestation with Commission Seal (in addition to other fees, if any): $4.00.

Payment for the above services must be made by check or money order payable to: "Treasury of the United States." Address mailed payments to:

Comptroller, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

Facsimile copies of documents—Facsimiles of public documents filed with the Commission and retained as hard copy records or as microfiche are provided by a service contractor at rates established by a contract between the contractor and the Commission. All requests for regular service facsimile copies should be directed to the Public Reference Branch, Securities and Exchange Commission, Washington, DC 20549. Requests for priority services may be directed to the service contractor, or to the Public Reference Branch. Requests for watching services should be directed to the service contractor. Cost estimates with respect to any regular or priority copying job will be supplied upon request by the Public Reference Branch.

Copies will be sent directly to the purchaser by the service contractor unless attestation is requested. The purchaser will be billed by the contractor for the costs of the copies plus postage or other delivery charges, if any. Payment of all copying charges must be made to the contractor, not to the SEC, in the manner specified on the contractor's invoice. The purchaser will be billed separately by the Commission for searching and attestation charges, if any, at the rates noted above.

Paper-to-paper facsimile copies may range from 8½" x 11" to 14" in size, regardless of the size of the original, and are subject to 25% reduction to accommodate oversized originals if the resulting copies remain legible. If two or more facsimile copies must be made from oversize originals, the customer will match and join the copies and be billed for them at the unit page charge for each copy produced. If facsimile copies are to be certified by the SEC, the copies will have a left margin at least 1 inch. Fiche-to-paper blowback copies will be 8½" x 11", including clear 6-point bold type characters if the original paper that was filmed was itself legible.

The following type of dissemination services are available. The stated time for delivery in each case begins to run only after receipt of the material by the contractor; if files cannot immediately be made available by the Commission, the time of shipment will be affected. The contractor maintains files of most materials.

Regular service. Hard (facsimile) copies of original hard copies, or from microfiche accessible to the contractor, will be shipped within seven calendar days after order and material are received by the contractor—each page—$0.20. (Delivery costs and applicable sales taxes are additional).

Freedom of Information Act Requests. Hard (facsimile) copies of original hard copies, will be shipped within seven calendar days after order and material are received by the contractor—each page—$0.15. (Delivery costs and applicable sales taxes are additional). This service is available only for documents not available in the Commission's Public Reference Room or through the contractor's dissemination services.

Priority Service. Hard (facsimile) copies of originals or microfiche or other hard copies received by the Contractor by the close of the business day will be shipped by the close of business of the following day exclusive of weekends and holidays—each page—$0.30. (Delivery costs and sales tax, where applicable, are additional).

Watching service. Hard (facsimile) whole copies of customer-specified original or originals will be shipped within one working day of contractor receipt of original (customer advance order), exclusive of weekends or holidays—each page—$0.30, microfiche service—$5.00 per fiche. Additional charges for the watching service have been added and are available from the contractor. (Delivery costs and applicable sales taxes are additional).

Public reference copying facilities. In addition to the demand order facsimile copying services described above, the service contractor maintains customer operated paper-to-paper and fiche-to-paper copiers in the public reference rooms of the Commission in Washington, DC, New York and Chicago. These machines can be used to make immediate copies of material for inspection in those offices at a cost of $0.17 per page. Coin operated self-service machines will cost $0.20 per page. (Sales taxes, when applicable, are additional.) The service contractor will also make paper copies on a highspeed fiche-to-paper copier from fiche retrieved by customers from film located in the Washington, DC reference room. The onsite service is intended to provide to the extent possible 5-minutes demand service. The cost is $0.30 per page, plus applicable sales taxes. In addition, copying by the contractor in the reference rooms on a first come, first served basis is provided for $0.23 per page, plus applicable sales taxes.

Subscription services and microfiche copies. The contractor offers certain paper or 24x microfiche subscription services pursuant to the contract. The microfiche copies (24X reduction, 60 frames, titled and indexed) and paper copies are offered through a variety of subscription and demand order services. The cost of subscription services varies according to the types of service and volume. Packages currently on microfiche and on paper include registration statements and prospectuses under the Securities Act of 1933, registration and listing applications under the Securities Exchange Act of 1934, annual reports to shareholders, definitive proxies and information statements, tender offers and acquisition reports, and filings on Forms 6-K,

8-K, 10K, 10-Q, 20-F, and N-SAR, under the Securities Exchange Act of 1934 and the Investment Company Act of 1940. Subscriptions may be for specified documents or in various combinations and groupings and may be specified either by company name or by major stock exchanges.

The contractor supplying these services will supply information and price lists upon request. Please address requests for information and all orders for subscription services, priority and watching services, and microfiche copies to: Bechtel Information Services, 15740 Shady Grove Road, Gaithersburg, MD 20877-1454 (Telephone: toll free 1-800-231-DATA or [301] 258-4300).

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

November 3, 1986.

[FR Doc. 86-25398 Filed 11-7-86; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Part 202

[Release Nos. 33-6674; 34-23776; 35-24231; IC-15395; IA-1048]

Remittance of Fees to Lockbox

AGENCY: Securities and Exchange Commission.

ACTION: Readoption of temporary rule.

SUMMARY: The Commission has readopted for ten months a temporary rule, adopted in June 1984, which permits filing and other fees to be remitted to a U.S. Treasury designated lockbox depository located in Pittsburgh, Pennsylvania. This action will permit registrants to continue to use the procedures specified by the temporary rule pending the Commission's consideration of whether to adopt proposed amendments to the rule that were published in the **Federal Register** in February, 1986.

EFFECTIVE DATE: November 10, 1986 to September 1, 1987.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Jackson, Special Counsel, (202-272-2700), Office of the Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: In Securities Act Release No. 6540, dated June 27, 1984 [49 FR 27306], the Commission adopted a temporary amendment to § 202.3a, to permit filing fees to be remitted to a lockbox depository. Under these amendments, filers may continue to transmit fees along with filings or may transmit required fees to a lockbox depository in Pittsburgh, Pennsylvania either by mail or wire transfer. When the temporary amendments were adopted, the Commission stated that it would consider whether to eliminate payment of fees directly to the Commission and instead mandate payment of fees to a lockbox.

On February 13, 1986, the Commission issued a release that proposed the permanent adoption of § 202.3a as well as amendments which would change its provisions from permissive to mandatory. The Commission also issued a notice, on January 30, 1986, of the extension of the temporary rule to November 1, 1986. Pending its consideration of the staff's recommendation concerning the proposed changes, the Commission has determined that temporary § 202.3a should be readopted for an additional ten months (to September 1, 1987).

Administrative Procedure Act

The Commission finds, in accordance with the Administrative Procedure Act, 5 U.S.C. 553(b)(A), that temporary rule 202.3a relates solely to agency organization, procedure or practice and, therefore, advance notice and opportunity for comment is unnecessary in connection with this action.

List of Subjects in 17 CFR Part 202

Administrative practice and procedure, Investigations, Securities.

Text of Amendment

Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 202—INFORMAL AND OTHER PROCEDURES

1. The authority citation for part 202 continues to read as follows:

Authority: 65 Stat. 290, 31 U.S.C. 483a; 48 Stat. 74, 15 U.S.C. 77f.(b) and 77f.(c), as amended; 48 Stat. 881, 15 U.S.C. 78ee, as amended.

2. Section 202.3a is added as follows:

§ 202.3a Instructions for filing fees.

Payment of fees required by the following rules shall be made according to the directions listed in this part: § 230.111 (17 CFR 230.111), § 240.0-9 (17 CFR 240.0-9), § 250.107 (17 CFR 250.107), § 270.0-8 (17 CFR 270.0-8) and § 275-203-3(b) (17 CFR 275.203-3(b)). Effective August 15, 1984, all such fees may be transmitted to a U.S. Treasury designated lockbox in Pittsburgh, Pennsylvania, by either mail or wire transfer; or may be transmitted directly to the Commission at 450 Fifth Street NW., Washington, DC 20549. If a filer selects the lockbox method of transmitting fees, payments in the form of personal check, money order, certified check, cashier's check, or wire transfer will be considered received by the Commission at the time of their receipt by the lockbox depository. Personal checks will continue to be unacceptable for filings under the Securities Act of 1933. The following instructions are for lockbox transmittals only.

(a) *Mail.* Fees transmitted by mail must be addressed to the Securities and Exchange Commission, Post Office Box 360055M, Pittsburgh, PA 15251. Checks and money orders are to be made payable to the Securities and Exchange Commission. Checks must contain the following information for each individual filing (preferably on the front of the check): Filing company's name, IRS identification number, form type, amendment (if applicable), and Commission file number, if known. Filers should include the specific payment being sent for each filing if a check contains payments for multiple filings. Each response should be clearly labeled to indicate the data element to which it refers, *e.g.*, "IRS #: 53-0040540."

(b) *Wire.* Filers who wish to wire filing fee payments to the lockbox must contact their respective banks to determine the specific procedures utilized by each bank for wire transfer of funds. In addition, filers must inform their banks that the wire is to be sent to the Mellon Bank, American Banker's Association number *043000261,* that the Securities and Exchange Commission account number at Mellon is *910-8739,* and that the Commission is the recipient. The wire transfer must contain the following data elements (clearly identified) for each individual filing: filing company's name, dollar amount, IRS identification number, form type, amendment (if applicable), and Commission file number, if known. Filers should include the specific payment being sent for each filing if a wire transfer contains payments for multiple filings. Wire transfers will be accepted from 9 a.m. to 3 p.m. weekdays (excluding holidays).

By the Commission.

Dated: November 5, 1986.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-25476 Filed 11-7-86; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 240

[Rel. No. 34-23677; File No. S7-5-86]

Depository Shipment Control List Transfer Instructions; Definition of Item

Correction

In FR Doc. 86-23089 beginning on page 36547 in the issue of Tuesday, October 14, 1986, make the following correction:

On page 36547, first column, in the **SUPPLEMENTARY INFORMATION,** fourth line, "14Ad-1" should read "17Ad-1".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 103

[T.D. 86-196]

Exchange of Information With Foreign Agencies

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide the Commissioner of Customs or his designee with authority to authorize officers of the Customs Service to exchange information with foreign customs and law enforcement agencies pursuant to bilateral and multilateral obligations or whenever such exchanges are necessary to assist in U.S. investigations or judicial and quasi-judicial proceedings. This amendment is necessary to implement a section of the recently enacted Anti-Drug Abuse Act of 1986, Pub. L. 99-570.

EFFECTIVE DATE: November 10, 1986.

FOR FURTHER INFORMATION CONTACT: Doris Robinson, Regulations Control and Disclosure Law Division (202-566-8681).

SUPPLEMENTARY INFORMATION:

Background

On October 27, 1986, the President signed into law the "Anti-Drug Abuse Act of 1986" (Pub. L. 99-570), ("the Act") which provides for a wide range of programs and measures to enhance efforts to counteract the problem of drug abuse in the U.S. Among these measures are several dealing with increased enforcement of drug laws and interdiction of drug trafficking.

In particular, titles I through III of the new law relate to drug law enforcement measures. Titles II and III address the significant changes made to the customs laws, including other laws enforced by the Customs Service.

One such change, contained in section 3127 of the Act, amends the Tariff Act of 1930 (19 U.S.C. 1201 *et seq.*), by adding a new section 628 (19 U.S.C. 1628), providing for the exchange of information or documents with foreign customs and law enforcement agencies. Pursuant to new section 628, the exchange is allowed if the Secretary of the Treasury reasonably believes the exchange of information is necessary to:

(1) Ensure compliance with any law or regulation enforced or administered by the Customs Service;

(2) Administer or enforce multilateral or bilateral agreements to which the U.S. is a party;

(3) Assist in investigative, judicial and quasi-judicial proceedings in the U.S.; and

(4) An action comparable to any of those described in paragraphs (1) through (3) undertaken by a foreign customs or law enforcement agency, or in relation to a proceeding in a foreign country.

The information may be provided to the foreign customs or law enforcement agencies only if the Secretary of the Treasury obtains assurances from these agencies that such information will be held in confidence and used only for the law enforcement purposes for which it was provided. No information may be provided to any foreign customs or law enforcement agency that has violated any of these assurances.

Part 103, Customs Regulations (19 CFR Part 103), concerns the availability of information provided the public under the Freedom of Information Act, as amended (5 U.S.C. 552). This part supplements regulations of the Department of the Treasury contained in 31 CFR Part 1, concerning public access to records, provides procedures by which the public may obtain access to records maintained by Customs, and includes provisions governing the release of certain information to the press and the giving of testimony or the production of Customs Service documents in court proceedings.

To implement section 3127 of the Anti-Drug Abuse Act of 1986, a new § 103.18, Customs Regulations (19 CFR 103.18), is being added to Part 103, to provide for the exchange of information between the Customs Service and foreign customs or law enforcement agencies. This new § 103.18 tracks the language of section 3127, but delegates the authority to authorize the exchange of information to the Commissioner of Customs or his designee. Accordingly, it conforms the regulations to the new law.

Inapplicability of Public Notice and Delayed Effective Date Provisions

Inasmuch as this amendment involves a foreign affairs function of the U.S., implements a statutory requirement, and involves a matter in which the public is not directly involved, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary, and pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Executive Order 12291

Because this document involves a foreign affairs function it is not subject to E.O. 12291.

Regulatory Flexibility Act

This document is not subject to the provisions of sections 603 and 604 of Title 5, United States Code, as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act." That Act does not apply to any regulation, such as this, for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, Office of Regulations and Rulings, S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 103

Freedom of information.

Amendment to the Regulations

Part 103, Customs Regulations (19 CFR Part 103), is amended as set forth below.

PART 103—AVAILABILITY OF INFORMATION

1. The authority citation for Part 103 is revised to read as follows:

Authority: 5 U.S.C. 301, 552; 19 U.S.C. 66, 1624, 31 U.S.C. 9701, Pub. L. 99-570.

2. Part 103 is further amended by adding a new § 103.18, to read as follows:

§ 103.18 Release of information to foreign agencies.

(a) The Commissioner or his designee may authorize Customs officers to exchange information or documents with foreign customs and law enforcement agencies if the Commissioner or his designee reasonably believes the exchange of information is necessary to—

(1) ensure compliance with any law or regulation enforced or administered by Customs;

(2) administer or enforce multilateral or bilateral agreements to which the U.S. is a party;

(3) assist in investigative, judicial and quasi-judicial proceedings in the U.S.; and

(4) an action comparable to any of those described in paragraphs (a) (1) through (3) of this section undertaken by a foreign customs or law enforcement agency, or in relation to a proceeding in a foreign country.

(b)(1) Information may be provided to foreign customs and law enforcement agencies under paragraph (a) of this section only if the Commissioner or his designee obtains assurances from such agencies that such information will be held in confidence and used only for the law enforcement purposes for which such information is provided to such agencies by the Commissioner or his designee.

(2) No information may be provided under paragraph (a) of this section to any foreign customs or law enforcement agency that has violated any assurances described in paragraph (b)(1) of this section.

William von Raab,

Commissioner of Customs.

Approved: November 5, 1986.

Francis A. Keating,

Assistant Secretary of the Treasury.

[FR Doc. 86-25486 Filed 11-7-86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

Approval of the Abandoned Mine Land Reclamation Plan for the State of Louisiana Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: On February 3, 1986, the State of Louisiana submitted to OSMRE its proposed Abandoned Mine Land Reclamation (AMLR) plan under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). After opportunity for public comment and review of the plan submission, the Assistant Secretary for Land and Minerals Management of the Department of the Interior has determined that the Louisiana Abandoned Mine Land Reclamation Plan meets the requirements of SMCRA and the Secretary's regulations. Accordingly, the Assistant Secretary is approving the Louisiana plan.

EFFECTIVE DATE: This rule is effective December 10, 1986.

ADDRESSES: Copies of the full text of the proposed Louisiana plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 333 W. Fourth Street, Room 3432, Tulsa, OK 74103

State of Louisiana, Department of Natural Resources, Office of Conservation, 625 North 4th Street, Baton Rouge, LA 70804

Office of Surface Mining Reclamation and Enforcement, Administrative Record, 1100 L Street, NW., Rm 5315, Washington, DC 20240

FOR FURTHER INFORMATION CONTACT: Charles V. Smith, Program Manager, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Washington, DC 20240, telephone (202) 343-3376.

SUPPLEMENTARY INFORMATION:

General Background of the Abandoned Mine Land Reclamation Program

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining.

This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Department a State reclamation plan demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Department may approve the plan once the State has an approved regulatory program under Title V of SMCRA. If the Department determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Department shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 43 FR 49932 through 49947, October 25, 1978). Under those regulations, the Director of the Office of Surface Mining Reclamation and Enforcement is required to review the plan and solicit and consider comments. If the State plan is disapproved, the State may modify and resubmit the plan at any time.

Upon approval of the State reclamation plan, the State may submit to the Office on an annual basis, a grant application for funds to be expended in that State on specific reclamation projects which are necessary to implement the State reclamation plan as approved. Such annual requests are reviewed and approved by OSMRE in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSMRE has established Subchapter T to 30 CFR Chapter VII. Subchapter T consists of Parts 900 through 950. Provisions relating to Louisiana are found in 30 CFR Part 918.

Background on the Louisiana Abandoned Mine Plan Submission

On August 2, 1984, a cooperative agreement between the Louisiana Department of Natural Resources and the Office of Surface Mining Reclamation and Enforcement was approved. The purpose of this agreement was to assure that information required for the preparation of the Louisiana Abandoned Mine Reclamation plan would be assembled.

On February 3, 1986, the State of Louisiana submitted to OSMRE its proposed AML reclamation plan. After a series of interagency discussions, notice of receipt of the submission initiating the plan review was published on April 4, 1986 (51 FR 11586). The announcement requested public comments until May 5, 1986. Eight comments were received.

A public hearing on the plan was held by the Louisiana Department of Natural Resources (DNR) on June 13, 1986. A State comment period was held open until June 20, 1986. No comments were received from the general public.

Subsequent to the hearing, OSMRE representatives met with DNR officials to discuss amendments and modifications to the plan. DNR submitted AML plan amendments to OSMRE on July 7, 1986.

The completed plan is available for review during regular business hours at all locations listed above in "ADDRESSES."

The administrative record on the Louisiana plan is available for review during regular business hours at the OSMRE administrative record office listed above under "ADDRESSES."

Assistant Secretary's Findings

1. In accordance with section 405 of SMCRA the Assistant Secretary finds that Louisiana has submitted a plan for reclamation of abandoned mines and has the ability and necessary legislation to implement the provisions of Title IV of SMCRA.

2. The Assistant Secretary has determined, pursuant to 30 CFR 884.14, that: (a) The Louisiana Department of Natural Resources has the policies and administrative structure necessary to carry out the plan;

(b) the plan meets all the requirements of 30 CFR Chapter VII, Subchapter R;

(c) the State has an approved regulatory program, and

(d) the plan is in compliance with all applicable State and Federal laws and regulations.

3. The Assistant Secretary has solicited and considered the view of Federal agencies having an interest in the plan as required by 30 CFR 884.13(a)(2). These agencies include: The U.S. Department of the Interior, Geological Survey (USGS), U.S. Department of the Interior, Fish and Wildlife Service (FWS), U.S. Department of the Interior, Bureau of Mines (BOM), U.S. Department of Agriculture, Forest Service (FS), Soil Conservation Service (SCS), Department of Energy (DOE), Federal Regional Council (FRC), and the Environmental Protection Agency (EPA).

Disposition of Comments

The following comments received on the Louisiana plan during the public comment period were considered in the Assistant Secretary's evaluation of the Louisiana plan as indicated:

(1) The FWS commented that a biological opinion under section 7(a) of the Endangered Species Act on the Proposed State AML program is needed for the Louisiana AML program as addressed under Part B(3)(a) of the 1983 Memorandum of Understanding between FWS and OSMRE. This opinion is being prepared by the FWS. OSMRE and the State agree that a biological opinion is appropriate.

(2) The FWS recommended that a provision should be made in the plan for periodic updating of the list of endangered and threatened species. OSMRE agrees with this recommendation. The State has amended the plan to include such a provision.

(3) The FWS recommended that provisions be made in the plan to verify the presence/absence of listed species within any area which could be affected by an AML project. OSMRE agrees with this recommendation. The State has included such a provision in the plan.

(4) The SCS commented that in § 884.13, the plan should clarify the fact that priorities for reclamation apply to both coal and non-coal projects. OSMRE agrees with this comment. The State has clarified the reclamation priorities accordingly.

(5) The SCS commented that the plan should include a statement that the State will coordinate its reclamation activity with the SCS as well as other Federal agencies. OSMRE agrees with this comment. The State has modified its plan accordingly.

(6) The EPA commented that reclamation activity could impact certain waters that are within the jurisdiction of section 404 of the Clean Water Act. If so, a permit may be required from the U.S. Army Corps of Engineers. Early coordination should be made with the Corps of Engineers to alleviate unnecessary delays. In the event an environmental impact statement or environmental assessment is needed, documentation of impacts on wetlands within the Corps' jurisdiction should be made. OSMRE agrees that such a statement in the plan would avoid possible confusion over jurisdiction in the future. The State has amended the plan accordingly.

(7) The EPA commented that the plan should ensure that any abandoned mine reclamation activity will fully comply with the permitting and environmental review requirements established under sections 402 and 306 of the Clean Water Act. Any discharges into waters of the United States may require a National Pollutant Discharge Elimination System (NPDES) permit. Therefore, early coordination should be afforded to EPA. OSMRE agrees with this comment. The State has amended the plan accordingly.

(8) The Advisory Council on Historic Preservation commented that little information is presented in the plan concerning the treatment of historic properties for achieving compliance with section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR Part 800). OSMRE agrees with the comment. The State has added a discussion to the plan on how compliance with 36 CFR Part 800 will be accommodated.

Additional Findings

The Office of Surface Mining Reclamation and Enforcement has examined this rulemaking under section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

(1) Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; and

(2) Approval will not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and OSMRE has determined that the rule will not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determined that the Louisiana Abandoned Mine Land Reclamation plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation program. Therefore, under the Department of Interior Manual (DM) 516.2.3(A)(10), the Assistant Secretary's decision on the Louisiana plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSMRE in conjunction with the implementation of Title IV. Also an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine lands reclamation projects under 30 CFR Part 886.

List of Subjects in 30 CFR Part 918

Coal mining, Reclamation, Surface mining, Underground mining, Reclamation plan.

Dated: November 3, 1986.

J. Steven Griles,

Assistant Secretary, Land and Minerals Management.

Therefore, Part 918 is amended as follows:

PART 918—LOUISIANA

1. The authority citation for Part 918 is revised to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.)

2. Section 918.20 is added to read as follows:

§ 918.20 Approval of Louisiana Abandoned Mine Land Reclamation Plan.

The Louisiana plan, as submitted and revised, is approved. Copies of the approved program are available at the following locations:

Office of Surface Mining Reclamation and Enforcement, Tulsa Field Office, 333 W. Fourth Street, Room 3432, Tulsa, OK 74103

State of Louisiana, Department of Natural Resouces, Office of Conservation, 625 North 4th Street, Baton Rouge, LA 70804

[FR Doc. 86–25226 Filed 11–7–86; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 948

Extension of Deadlines for the West Virginia Permanent Regulatory Program

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of a request from the State of West Virginia to extend the deadlines for submission of a number of required amendments to its permanent regulatory program (hereinafter referred to as the West Virginia program). Accordingly, West Virginia will now have until April 15, 1987 to submit the required statutory amendments and materials satisfying the remaining conditions of program approval.

EFFECTIVE DATE: November 10, 1986.

FOR FURTHER INFORMATION CONTACT: James C. Blankenship Jr., Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

On March 3, 1980, West Virginia submitted its proposed permanent regulatory program, which the Secretary of the Interior disapproved on October 22, 1980, following a review in accordance with the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and 30 CFR Part 732 (45 FR 69249–69271). On December 19, 1980, West Virginia resubmitted its proposed program, which the Secretary approved on January 21, 1981. Information concerning the general background of the permanent program submission, as well as the Secretary's findings, the disposition of comments and an explanation of the initial conditions of approval of the West Virginia program can be found in the January 21, 1981 **Federal Register** (46 FR 5915–5956). Subsequent actions concerning proposed amendments and the conditions of approval are codified at 30 CFR 948.11, 948.12, 948.13, 948.15 and 948.16.

II. Submission of Extension Request

The July 11, 1985 **Federal Register** contained two notices announcing the approval, with certain exceptions, of two sets of program amendments submitted by West Virginia (50 FR 28316 through 28342). In his decision concerning the West Virginia Energy Act, the Director required that, no later than March 15, 1986, West Virginia submit copies of statutory revisions to correct or otherwise eliminate nine grammatical, codification and reference citation errors, as listed at 30 CFR 948.16(c).

In his decision concerning the second amendment package, which contained revised regulations and associated materials, the Secretary removed nine conditions of program approval and revised the six remaining conditions as codified at 30 CFR 948.11(a) (1), (8), (19), (38), (39) and (41). As revised, the conditions require that, by January 11, 1986, West Virginia submit additional proposed amendments to correct deficiencies concerning stability analyses for coal mine waste piles, inspection requirements for coal mine waste piles, inspection requirements for coal mine waste disposal areas, compliance information requirements for permit applications, critical habitats of threatened and endangered species with respect to coal exploration permit applications, revegetation success standards and evaluation techniques, and the issuance of show cause orders for patterns of violations.

By letter of November 5, 1985, West Virginia submitted draft proposed changes designed to address these conditions and required amendments as well as certain provisions of the amendments originally found inconsistent with Federal requirements (Administrative Record No. WV 705). By letter of December 10, 1985, OSMRE notified the State that, while the proposed changes themselves appeared to be acceptable, additional materials were needed to fully satisfy all outstanding concerns (Administrative Record No. WV 706). On February 10, 1986, West Virginia notified OSMRE that because of legislative scheduling problems, it would be unable to meet the January 11, 1986 deadline for addressing the conditions and that it would probably be unable to meet the March 15, 1986 deadline for the required statutory amendments (Administrative Record No. WV 707). The letter further stated that, if the legislature failed to act on the proposed regulatory changes, emergency regulations would be filed to address the conditions.

On March 15, 1986, the 1986 session of the legislature adjourned without acting upon the proposed amendments. On May 27, 1986, OSMRE requested that the State proceed with promulgation of energency regulations and supply a new schedule for final resolution of all requirements. On June 30, 1986, West Virginia responded that the legislature had revised the procedures and restricted the circumstances under which emergency regulations could be filed, and that it did not believe the current situation justified an emergency filing (Administrative Record No. WV 709). Furthermore, the letter stated a desire to address those issues as part of the regulatory reform review process, rather than submitting them to the legislature as an amendment package separate from the changes which will be needed as a result of that process. To provide adequate time for preparation and consideration by the 1987 session of the legislature, West Virginia requested that the submission deadlines for both the conditions and the required amendments be extended until April 15, 1987.

III. Public Comment

The Secretary solicited public comment and provided opportunity for a public hearing on the proposed extensions in the September 11, 1986 **Federal Register** (51 FR 32338–32339). Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were also solicited from various Federal agencies. The comment period closed on October 14, 1986 without receipt of any comments. Since no one requested an

opportunity to testify at a public hearing, no hearing was held.

IV. Secretary's Determination

In consideration of the legislative schedule and the State requirement for legislative approval of all permanent regulations, and in the interest of consolidation of the rulemaking process, as discussed in the section of this notice entitled "Submission of Extension Request," the Secretary has determined that an extension of the deadlines for submission of materials satisfying the remaining conditions of program approval and the required statutory amendments is warranted. Therefore, he is extending the submission deadlines until April 15, 1987.

V. Additional Determinations

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: November 3, 1986.

J. Steven Griles,

Assistant Secretary, Land and Minerals Management.

PART 948—WEST VIRGINIA

30 CFR Part 948 is amended as follows:

1. The authority citation for Part 948 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

§948.11 [Amended]

2. In § 948.11, paragraphs (a)(1), (a)(8), (a)(19), (a)(38), (a)(39) and (a)(41), remove the date "January 11, 1986" and add, in its place, "April 15, 1987."

§ 948.16 [Amended]

3. In § 948.16, paragraph (c) introductory text, remove the date "March 15, 1986" and add, in its place, "April 15, 1987."

[FR Doc. 86–25227 Filed 11–7–86; 8:45 am]
BILLING CODE 4310–05–M

POSTAL SERVICE

39 CFR Parts 221, 222, 223, and 244

Miscellaneous Organizational Changes

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The primary purposes of this final rule are to reflect (1) the creation of a new senior level position at Headquarters, that of Associate Postmaster General, and (2) a realigned management structure at Headquarters and in the field aimed at putting decisionmaking and management expertise closer to the mailing public. Certain minor and editorial changes are also made to the regulations.

EFFECTIVE DATE: December 10, 1986.

FOR FURTHER INFORMATION CONTACT: Fred J. Hintenach (202) 268–4179.

SUPPLEMENTARY INFORMATION:

List of Subjects in 39 CFR Parts 221, 222, 223, and 244

Organization and functions (Government agencies), Authority delegations (Government agencies), Postal Service.

PART 221—GENERAL PRINCIPLES OF ORGANIZATION

1. The authority citation for Part 221 is revised to read as follows:

Authority: 39 U.S.C. 201, 202, 203, 204, 206, 401(2), 402, 403, 404.

2. In § 221.2, paragraph (a) is revised to read as follows:

§ 221.2 Board of Governors of the Postal Service.

(a) The Board of Governors directs the exercise of the powers of the Postal Service; reviews the practices and policies of the Postal Service; and directs and controls its expenditures.

* * * * *

3. In paragraph (c) of § 221.3, strike out "agency" and insert "agent" in lieu thereof, and revise paragraph (a) to read as follows:

§ 221.3 Postmaster General.

(a) The Postmaster General (PMG) is the chief executive officer of the Postal Service and is responsible for its overall operation. The PMG is named and can be removed by a majority of the nine Governors.

* * * * *

4. Redesignate §§ 221.5, 221.6, and 221.7 as §§ 221.6, 221.7 and 221.8, respectively; add new § 221.5 and revise redesignated §§ 221.6, 221.7 and 221.8 to read as follows:

§ 221.5 Associate Postmaster General.

(a) The Associate Postmaster General is appointed and can be removed by the Postmaster General.

(b) The Associate Postmaster General is required to perform all tasks as assigned by the Postmaster General.

§ 221.6 Groups and departments.

(a) Postal Service Headquarters is divided into six major groups: Human Resources, Finance and Planning, Facilities and Supply, Management Information and Research Technology, Operations Support, and Marketing and Communications. Each group is headed by a Senior Assistant Postmaster General (SAPMG). The SAPMG for Finance and Planning reports directly to the Postmaster General. The SAPMG for Operations Support reports directly to the Deputy Postmaster General. The SAPMGs for Facilities and Supply, Management Information and Research Technology, Human Resources, and Marketing and Communications report directly to the Associate Postmaster General. The SAPMGs are responsible for the following activities within their assigned areas:

(1) Program planning, direction, and review;

(2) Establishment of policies, procedures, and standards; and

(3) Operational determinations not within the full jurisdiction of field officers.

(b) Groups are divided into departments or offices headed by either Assistant Postmasters General (APMGs) or Directors. The heads of these departments and offices report to and are responsible for assisting the SAPMGs in carrying out their assigned activities.

(c) Certain other Headquarters units report directly to the Postmaster General. These include the Law Department, headed by the General Counsel, and the Inspection Service Department, headed by the Chief Postal Inspector. The Executive Assistant to the Postmaster General also reports directly to the Postmaster General.

(d)(1) The Corporate Executive Committee is composed of the Postmaster General, the Deputy Postmaster General, and the Associate Postmaster General. Its purpose is to assist the Postmaster General in establishing management policy and objectives and approving major plans, programs and budgets.

(2) The Corporate Program Committee is composed of the Senior Assistant Postmasters General and the General Counsel. Its purpose is to consider capital investments and other budgetary items, to review program proposals going to the Corporate Executive Committee and program status reports from four Program Area Committees.

(e) Statements of the functions of the various groups, departments, and offices can be found in Part 224 of this chapter.

§ 221.7 Postal Regions.

(a) There are five Postal Regions. Each region is headed by a Regional Postmaster General (RPMG) who reports to the Deputy Postmaster General, and has overall responsibility for operational activities (except those reserved to Headquarters) of the Postal Service within the region.

(b) Each RPMG's office includes five functions—Operations Support, Marketing and Communications, Finance, Planning, and Human Resources. Each regional function is headed by a Regional Director who reports to the RPMG.

(c)(1) Postal regions are composed of field divisions headed by field division general managers/postmasters whose organizational units are in turn composed of management sectional centers (MSCs) headed by MSC managers or MSC managers/postmasters, large independent post offices headed by postmasters, and bulk mail centers (BMCs) headed by BMC managers.

(2) Each field division general manager/postmaster reports to the RPMG, and has line responsibility for postal operations (except those reserved to Headquarters and regions) in the division area, the MSCs, independent post offices, and BMCs within the division area.

(3) Each MSC manager/postmaster reports to a field division general manager/postmaster, and has line responsibility for postal operations (except those reserved to Headquarters and regions) within the MSC area.

(4) Each BMC manager reports to a field division general manager/postmaster, and has line responsibility for postal operations (except those reserved to Headquarters and regions) within the BMC.

(5) The Airport Mail Facilities at JFK New York and O'Hare Field, Chicago, are headed by operations managers who report to their field division general managers/postmasters.

§ 221.8 Officers.

(a) Officers serve at the pleasure of the Postmaster General. The following officers are appointed by the Postmaster General:

(1) Associate Postmaster General;

(2) Senior Assistant Postmasters General;

(3) Assistant Postmasters General;

(4) The General Counsel and Deputy General Counsel;

(5) The Consumer Advocate;

(6) The Chief Postal Inspector;

(7) The Judicial Officer;

(8) The Executive Assistant to the Postmaster General;

(9) The Treasurer; and

(10) The Regional Postmasters General.

(b) The number of SAPMGs and APMGs is set by resolution of the Board of Governors.

PART 222—DELEGATIONS OF AUTHORITY

5. The authority citation for Part 222 is revised to read as follows:

Authority: 39 U.S.C. 203, 204, 401(2), 402, 403, 404, 409.

6. In § 222.1, revise paragraphs (a), (c), and the first sentence of (e) to read as follows:

§ 222.1 Authority for delegation.

(a) The Postmaster General is empowered to authorize any employee or agent of the Service to exercise any function vested in the Postal Service, in the PMG, or in any other Postal Service employee.

* * * * *

(c) When, by reason of absence, disability, or vacancy in office, neither the Postmaster General nor the Deputy Postmaster General can act as Postmaster General, the first available official on the following list will do so:

(1) Associate Postmaster General;

(2) Senior Assistant Postmaster General, Operations Support.

* * * * *

(e) The Associate Postmaster General; the SAPMGs; the General Counsel; the Chief Postal Inspector; and the Executive Assistant to the Postmaster General, act for the Postmaster General on assigned matters. * * *

* * * * *

§ 222.2 [Amended]

7. In § 222.2, in paragraph (a) and in the second sentence of paragraph (b), strike out "shall" and insert "must" in lieu thereof.

8. Section 222.3 is revised to read as follows:

§ 222.3 Contents of delegations.

(a) Delegations of authority shall ordinarily be made by position title rather than by name of the individual involved. An officer or executive acting in the absence of a principal has the principal's full authority.

(b) When authority is delegated to an officer, the officers above that officer shall have the same authority. Delegated authority shall not extend to aides except when an aide serves on an acting basis (see paragraph (a) of this section) or unless the aide is specifically authorized by the superior to exercise such authority.

(c) A delegation must agree with the law and regulations under which it is made and contain such specific limiting conditions as may be appropriate.

9. Section 222.4 is revised to read as follows:

§ 222.4 Redelegation.

(a) Except as otherwise prohibited by law, or by a regulation that expressly prohibits redelegation, or by the terms of the delegation:

(1) Heads of groups, departments, or offices at Headquarters are authorized to redelegate any authority vested in them.

(2) Regional Postmasters General or heads of regional departments are authorized to redelegate any authority vested in them subject to the condition that redelegation to members of a regional staff must be consistent with the then current regional organizational structure.

(3) Field division general managers/postmasters are authorized to redelegate, subject to or within guidelines issued by the RPMG, any authority vested in them, provided that

the redelegation is consistent with the current organizational structure.

(4) Postal data center (PDC) directors are authorized to redelegate any authority vested in them.

(5) Heads of MSCs and other field installations are authorized to redelegate to members of their respective staffs any authority vested in them.

10. In § 222.5, in the introductory text of paragraph (a) strike out "administer oaths" and insert "administer oaths of office for employment" in lieu thereof; in paragraph (a)(1) strike out "Employee and Labor Relations" and insert "Human Resources" in lieu thereof; in paragraph (a)(7) strike out "PMS—16 and above and PES positions" and insert "EAS–16 and above," in lieu thereof; in paragraph (b) strike out "Employee and Labor Relations" and insert "Human Resources" in lieu thereof; and revise paragraph (c) to read as follows:

§ 222.5 [Amended]

* * * * *

(c) *Transfers of accountability.* In addition to other personnel authorized under this section, associate office coordinators at field divisions, and postal system examiners at MSCs may administer oaths of office for employment at any post office in conjunction with transfers of accountability.

11. In § 222.6, paragraph (c) is designated as introductory text and revised to read as follows:

§ 222.6 [Amended]

* * * * *

(c) *Postmasters' authority.* Postmasters are required, empowered, and authorized, when requested, to administer oaths with a like force and effect as officials having a seal, as follows:

12. Section 244.1(a)(1) through (a) (4) and 244.1(b) and (c) are redesignated §§ 222.6(c)(1) through (c)(4) and 222.6(d) and (e) respectively.

§ 222.7 [Amended]

13. In § 222.7, in paragraphs (a)(3), (c)(2), and (c)(3) strike out "Finance" and insert "Finance and Planning" in lieu thereof.

§ 222.8 [Amended]

14. In § 222.8, in paragraph (a)(3) strike out "Finance, or his designee" and insert "Finance and Planning, or designee" in lieu thereof, and in paragraph (c)(3) strike out "or his designees" and insert "or designees" in lieu thereof.

15. In § 222.9, revise the heading, the introductory text of paragraph (a), and paragraph (b) to read as follows:

§ 222.9 Delegation of authority to the Senior Assistant Postmaster General, Finance and Planning.

(a) *Delegation.* The Senior Assistant Postmaster General, Finance and Planning, may take final action on:

* * * * *

(b) *Redelegation.* The Senior Assistant Postmaster General, Finance and Planning, is authorized to redelegate all or part of the authority vested by paragraph (a) of this section to such other officers or executives as deemed appropriate.

§ 222.10 [Amended]

16. In § 222.10, in the heading and in the body of the regulation strike out "Director, Office of International Postal Affairs" and insert "APMG, International Postal Affairs Department" in lieu thereof.

PART 223—RELATIONSHIPS AND CHANNELS OF COMMUNICATION

17. The authority citation for Part 223 is added to read as follows, and the authority citations following the sections in Part 223 are removed as follows:

Authority: 39 U.S.C. 203, 204, 401(2), 402, 403, 404.

18. In § 223.1, in paragraph (a) strike out "Employee and Labor Relations" wherever appearing, and "Finance Group", and insert "Human Resources" and "Information Resource Management Department" respectively in lieu thereof; remove paragraph (d) and redesignate paragraph (e) as paragraph (d); in the heading of paragraphs (c) and redesignated (d) strike out "District Offices" and insert "Field Divisions" in lieu thereof; in paragraphs (c) and redesignated (d) strike out "District Managers" and insert "field division general managers/postmasters" in lieu thereof; and revise paragraph (b) to read as follows:

§ 223.1 [Amended]

* * * * *

(b) *Between Postal Region Offices and Field Divisions.* The Regional Postmaster General shall provide guidance and direction to the respective field division general managers/postmasters within the region with the assistance of Regional Directors and their staffs in their areas of specialization.

* * * * *

19. In § 223.2, in paragraph (a)(1) strike out "Employee and Labor Relations" the second time it appears and insert "Human Resources" in lieu thereof; in paragraph (a)(2) strike out "Information Resource Management Department" and insert "APMG, Information Resource Management Department" in lieu thereof; in paragraph (a)(4) strike out the comma after "Law Department" and insert "and" in lieu thereof, and strike out ", and Public and Employee Communications Department"; in paragraph (c) strike out "Finance Group" wherever appearing and insert "Finance and Planning Group" in lieu thereof; and revise paragraph (b) to read as follow:

§ 223.2 [Amended]

* * * * *

(b) *Regional Offices and Installations.* The regular channels of communication are:

(1) Associate office postmasters, to and from MSC managers or MSC managers/postmasters.

(2) MSC managers or MSC managers/postmasters, to and from field division general managers/postmasters.

(3) BMC managers, to and from field division general managers/postmasters.

(4) Field division general managers/postmasters, to and from their Regional Postmasters General.

(5) Heads of other postal installations, to and from their designated superiors as appropriate.

* * * * *

PART 244—[REMOVED]

20. Part 244 is removed.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

FR Doc. 86–25318 Filed 11–7–86; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-3106-2]

Approval and Promulgation of Implementation Plans; Insular Territory of the Commonwealth of the Northern Mariana Islands; Lead Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The Insular Territory of the Commonwealth of the Northern Mariana Islands (CNMI) has submitted their

Territorial Implementation Plan for lead (Pb). This plan consists of a negative declaration and new source review (NSR) rules. It provides for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for Pb. Today's notice approves the negative declaration portion of the plan, as authorized by the Clean Air Act. EPA will solicit public comment on the NSR portion of the submittal in a separate **Federal Register** action.

DATES: This action is effective January 9, 1987, unless notice is received by December 10, 1986, that someone wishes to submit adverse or critical comments.

ADDRESSES: Comments should be sent to: Kevin Golden, Chief, Technical Evaluation Section, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of the negative declaration and supporting documentation are available for public inspection during normal business hours at the EPA Region 9 office (address below) and at the following location:

Commonwealth of the Northern Mariana Islands, Department of Public Health and Environmental Services, Division of Environmental Quality, Dr. Torres Hospital, Saipan, Mariana Islands 96950.

EPA Library, Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Kevin Golden, telephone: (415) 974–7640, FTS: 454–7640.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1978 (43 FR 46256) EPA promulgated National Ambient Air Quality Standards (NAAQS) for Pb. On December 15, 1982 the Governor CNMI submitted their Territorial Implementation Plan for Pb as required by section 110 of the Clean Air Act.

Discussion

CNMI has no significant stationary sources of Pb. Automobiles are the major contributors to Pb emissions, estimated at 1.16 tons/year in 1982 on Saipan. In such areas, Federal regulations that limit the Pb content of gasoline have resulted, and will continue to result, in attainment and maintenance of the NAAQS for Pb.

The Territorial Implementation Plan consists of a negative declaration and a NSR provision for Pb. The NSR portion of the plan will be the subject of a separate **Federal Register** proposal. The negative declaration was submitted based upon the fact that CNMI has no Pb polluting industries and a minimal amount of automobile generated Pb emissions. The above implementation plan elements, though minimal, satisfy the applicable requirements of 40 CFR Part 51 for Pb. Although the NSR rules were adopted with proper public hearing, CNMI failed to hold a public hearing on the negative declaration. EPA does not regard this failure as so material in these unique circumstances as to warrant disapproval of the plan. Judging from the substantive merits and simplicity of the plan, disapproval solely on the basis of this failure would have no significant or practical value. The failure is *de minimis*.

EPA Action

EPA is taking final action under section 110 of the Clean Air Act to approve the negative declaration for Pb as part of the Territorial Implementation Plan for CNMI.

Direct Final

EPA's approval of the negative declaration for Pb is being done without prior proposal because the action is not considered to be controversial. The public should be advised that this action will be effective 60 days from the date this approval is published in the **Federal Register**. However, if notice is received by EPA within 30 days indicating that someone wishes to submit adverse or critical comments, this approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Regulatory Process

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 9, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

Under 5 U.S.C. section 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities [46 FR 8709].

List of Subjects in 40 CFR Part 52

Air pollution control, Lead.

Dated: October 5, 1986.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. 40 CFR Part 52 is amended by adding Subpart FFF consisting of § 52.2900 to read as follows:

Subpart FFF—Commonwealth of the Northern Mariana Islands

§ 52.2900 Negative declaration.

(a) Air Pollution Implementation Plan for the Commonwealth of the Northern Mariana Islands.

(1) Letter of December 15, 1982, from the Governor to EPA, which is a negative declaration indicating no major lead sources and continued attainment and maintenance of the National Standards for lead.

[FR Doc. 86–25106 Filed 11–7–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Parts 52 and 62

[A–1–FRL–3107–7]

Approval and Promulgation of Implementation Plans; Massachusetts; Correction Notice; Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Certification of No Designated Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is codifying the certification that no sulfuric acid plants that emit sulfuric acid mist are located in the Commonwealth of Massachusetts. Additionally, a correction is being made to Table 52.1167, "EPA-approved Massachusetts Rules and Regulations." The intended effect of this action is to codify this information in 40 CFR Part 62 and 40 CFR Part 52.

EFFECTIVE DATE: This action will be effective January 9, 1987, unless notice is received by December 10, 1986 that adverse or critical comments will be submitted.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2313, JFK Federal Building, Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public

inspection during normal business hours at the Environmental Protection Agency, Room 2313, JFK Federal Bldg., Boston, MA 02203; and Department of Environmental Quality Engineering, Division of Air Quality Control, One Winter Street, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Lorenzo Thantu (617) 223–4880; FTS 223–4880.

SUPPLEMENTARY INFORMATION:

Certification of No Designated Facilities

Pursuant to section 111(d) of the Clean Air Act, EPA promulgated regulations at 40 CFR Part 60, Subpart B, which require states to submit plans to control emissions of "designated pollutants" from "designated facilities." In the event that a state does not have a particular "designated facility" located within its boundaries, EPA requires that a negative declaration be submitted.

On February 18, 1986, the Commonwealth of Massachusetts submitted a negative declaration letter to the EPA which certified that with the shutdown of Monsanto's Industrial Chemicals Company's sulfuric acid unit in Everett, Massachusetts there are no existing sulfuric acid production plants within its boundaries subject to the requirements of 40 CFR Part 60, Subpart B. By submitting this negative declaration letter, the Commonwealth of Massachusetts has fulfilled its responsibility for submitting state plans as required by 40 CFR 60.23.

The Administrator is approving this negative declaration under 40 CFR Part 62, Subpart W since the submittal meets the requirements of section 111(d) of the Clean Air Act and 40 CFR Part 60, Subpart 8, "Adoption and Submittal of State Plans for Designated Facilities."

Final Action

EPA is codifying a certification that no sulfuric acid plants are located in the Commonwealth of Massachusetts at 40 CFR 62.5351.

EPA is codifying this information without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective December 10, 1986.

Correction to 40 CFR 52.1167, Table of EPA Approved Massachusetts Rules and Regulations

On September 25, 1985, an addition to the Table of EPA-Approved Massachusetts Rules and Regulations found at 40 CFR 52.1167 was to be codified. That codification was done incorrectly as an amendment replacing the entire Table rather than as an addition to that Table. The addition to the Table found at 40 CFR 52.1167 should be codified as follows:

Under 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 1986. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects

40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, and Reporting and Recordkeeping requirements.

40 CFR Part 62

Air pollution control, Administrative practice and procedure and Reporting and Recordkeeping requirements.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Massachusetts was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: October 17, 1986.

Lee M. Thomas,

Administrator.

PART 62—[AMENDED]

Part 62 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart W—Massachusetts

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Subpart W is amended by adding § 62.5351 as follows:

Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Plants

§ 62.5351 Identification of Plan—Negative Declaration.

On February 18, 1986, the Commonwealth of Massachusetts submitted a letter certifying that there are no existing sulfuric acid plants in the Commonwealth of Massachusetts.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

§ 52.1167 [Amended]

2. Section 52.1167 is amended to add the following entries to the table of EPA-Approved Rules and Regulations.

TABLE 52.1167—EPA APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/ unapproved sections
•	•	•	•	•	•	
310 CMR 7.00	Definitions	Feb. 14, 1985	Sept. 25, 1985	50 FR 38804	64	Motor vehicle fuel.
•	•	•	•	•	•	
310 CMR 7.02(12) (c) and (d)	Gasoline Tank Trucks	Feb. 14, 1985 and May 22, 1985.	Sept. 25, 1985	50 FR 38804	64	Tank trucks.
•	•	•	•	•	•	

[FR Doc. 86–25343 Filed 11–7–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 62

[A-6-FRL-3107-4]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Arkansas; Compliance Schedules for Total Reduced Sulfur From Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves the Compliance Schedule portion of the Arkansas plan for controlling total reduced sulfur (TRS) emissions from existing kraft pulp mills which was submitted by the Governor on November 25, 1985. On September 12, 1984, EPA approved Arkansas' plan for controlling TRS from existing kraft pulp mills. As part of the plan the state agreed to submit the Compliance Schedules, in accordance with 40 CFR 60.24, for each of the seven affected mills, after public hearings were held as prescribed in § 60.23. The schedules specify final compliance dates and enforceable increments to be as expeditiously as practicable but not more than six years from approval of the state regulations; i.e., October 12, 1990.

EFFECTIVE DATE: This action will be effective on January 9, 1987 unless notice is received by December 10, 1986 that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments on this action should be addressed to Thomas H. Diggs of the EPA Region 6, Air Programs Branch, SIP/New Source Section (address below). Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-AN), 1201 Elm Street, Dallas, Texas 75270

Arkansas Department of Pollution Control and Ecology, Division of Air Pollution Control, 8001 National Drive, Little Rock, Arkansas 72209

FOR FURTHER INFORMATION CONTACT: Gregg C. Guthrie, Air Programs Branch, EPA Region 6, 1201 Elm Street, Dallas, Texas 75270, telephone (214) 767-1597, or (FTS) 729-1597. Reference Docket File Number AR-86-3.

SUPPLEMENTARY INFORMATION: On September 12, 1984, EPA approved (effective October 12, 1984) Arkansas' plan for controlling TRS emissions from existing kraft pulp mills pursuant to section 111(d) of the Clean Air Act (See 49 FR 35771). On November 25, 1985, the Governor of Arkansas, after adequate notice and public hearings, submitted the Compliance Schedules for the state's plan for controlling TRS emissions from the seven affected kraft pulp mills.

The Arkansas plan for controlling TRS emissions requires kraft pulp mills to comply with the emission limits as expeditiously as practicable, but not more than six years from approval of the state regulations; i.e., October 12, 1990, as discussed in the Evaluation Report for the February 28, 1983, State 111(d) Plan submittal.[1] The mills were required to submit proposed compliance schedules to the Arkansas Department of Pollution Control and Ecology (ADCPE) for review. The schedules are required to include increments of progress, a description of control technology, and compliance test methods and test frequency for each emission source.

The ADPCE approved each schedule between the dates of July 29, 1985, and September 25, 1985. The State adopted the schedules to establish final compliance dates and enforceable increments of progress for TRS from the pulp paper industry.

EPA reviewed each schedule and developed an evaluation report,[2] which is based on the requirements of § 111(d) of the Clean Air Act of 1977, as amended and 40 CFR Part 60 Subpart B. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 Office and the other addresses above.

Table 1 summarizes the final compliance dates of the applicable equipment for each of the seven affected mills.

[1] EPA Review of Arkansas' 111(d) plan for the Control of Total Reduced Sulfur from Kraft Pulp Mills and Addendum to EPA Review of Arkansas 111(d) Plan for Total Reduced Sulfur.

TABLE 1.—FINAL COMPLIANCE CERTIFICATION DATES

	Recovery furnace	Digester system	Multiple-effect evaporator system	Lime kiln	Black liquor oxidation system	Smelt dissolving tank
Arkansas Kraft Corp., Morrilton	Oct. 31, 1985	Dec. 31, 1989	In compliance	Dec. 31, 1989	N/A	Oct. 31, 1985.
Georgia Pacific Corp., Crossett	New source standard	Dec. 31, 1987	New source standard	New source standard	New source standard	New source standard.
International Paper Co., Camden	Sept. 30, 1988	July 30, 1988	July 30, 1988	July 30, 1988	N/A	July 30, 1988.
International Paper Co., Pine Bluff	Oct. 31, 1988	Oct. 31, 1988	Oct. 31, 1988	Oct. 31, 1988	Oct. 31, 1988 if needed	Jan. 31, 1986 or Dec. 31, 1987.
Nekoosa Paper Inc., Ashdown	July 31, 1990	July 31, 1987	July 31, 1987	New source standard	Dec. 30, 1988	In compliance.
Potlatch Corp., McGehee	In compliance	In compliance	In compliance	In compliance	N/A	June 30, 1990.
Weyerhaeuser Paper Co., Pine Bluff	June 30, 1986	Feb. 28, 1989	Feb. 28, 1989	Feb. 28, 1989	N/A	Sept. 30, 1988 or June 30, 1986.

Final Action

By this notice, EPA is approving the Arkansas Compliance Schedule for the Control of TRS emissions from kraft pulp mills as meeting the requirements of section 111(d) of the Clean Air Act and of 40 CFR Part 60 Subpart B.

EPA has reviewed this addition to the Arkansas Plan for controlling TRS emission from kraft pulp mills and is approving it as submitted. This action is taken without prior proposal because the change is non-controversial and EPA anticipates no adverse comments on it. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days of publication 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 subsequent notice will withdraw the final action and will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 9, 1986. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2).).

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Sulfur, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements, Phosphate, Aluminum, Fertilizers, Paper and paper products industry, Sulfuric oxides, Sulfuric acid plant.

Dated: October 17, 1986.

Lee M. Thomas,

Administrator.

PART 62—[AMENDED]

Part 62 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart E—Arkansas

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S. 7401–7642

2. In Subpart E—Arkansas, a new § 62.866 is added to read as follows:

§ 62.866 Compliance schedule.

The Compliance Schedules were submitted on December 16, 1985, by the Governor to control total reduced Sulfur emissions from the seven kraft pulp mills identified in § 62.865(a). The schedules specify final compliance dates and enforceable increments to be as expeditiously as practicable but not more than six years from approval of the state regulations; i.e., October 12, 1990.

[FR Doc. 86-25344 Filed 11-7-86; 8:45 am]

BILLING CODE 6560-50-M

[2] EPA Evaluation Report for the Compliance Schedules for the Control of Total Reduce Sulfur Emissions from Kraft Pulp Mills.

40 CFR Part 81

[A-6-FRL-3107-5]

Designation of Areas for Air Quality Planning Purposes; State of Texas; Nueces and San Patricio Counties for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves the Texas Air Control Board (TACB) January 27, 1986, request to redesignate the ozone (O_3) nonattainment area of Nueces County and the unclassifiable area of San Patricio County to attainment. On April 18, 1986, the TACB submitted additional information to their request. EPA is also amending the Texas O_3 chart by adding one Air Quality Control Region (AQCR) numbered 218. AQCR 218 was inadvertently not included in the latest publication of Title 40 CFR. Therefore, EPA is requesting this AQCR be

included in the next publication of Title 40 CFR.

EFFECTIVE DATE: This action will be effective on January 9, 1987, unless notice is received by December 10, 1986 that someone wishes to submit adverse or critical comments.

ADDRESSES: Notice for comments may be submitted to Thomas H. Diggs at the EPA Region 6 Office address listed below.

Copies of the documents relevant to this action are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Public Information Reference Unit, EPA Library Rm. 2404, 401 M Street SW., Washington, DC 20460

U.S. Environmental Protection Agency Region 6, Library, 1201 Elm Street, Dallas, Texas 75270

Texas Air Control Board, 6330 Hwy. 290 East, Austin, Texas 78723

FOR FURTHER INFORMATION CONTACT: Gregg C. Guthrie, SIP New Source Section, Air, Pesticides and Toxics Division, Environmental Protection Agency Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1597 or (FTS) 729-1597. Reference Docket No. TX-86-02.

SUPPLEMENTARY INFORMATION: On January 27, 1986, pursuant to section 107(d)(5) of the Clean Air Act (CAA), the TACB submitted a request to redesignate the O_3 nonattainment area of Nueces County and the unclassifiable area of San Patricio County to attainment. On April 18, 1986, the TACB submitted additional information to their request. EPA reviewed the request and developed an evaluation report,[1] which is available for inspection during normal business hours at the EPA Region 6 office and the other addresses listed above.

The request satisfies all of the necessary criteria for redesignations. For nonattainment areas, this data includes the most recent three years of quality assured representative ambient air quality data showing no violations (two exceedances in any one year constitute a violation) and evidence of an implemented control strategy that EPA has fully approved. For unclassifiable areas, the requirement is one year of monitoring data showing no violations.

Nueces County has two continuous O_3 monitors. Site 25 has had one exceedance of the O_3 standard in the last 3 years. Site 25 was established in June 1981, and is located at the Corpus Christi State School on Airport Road. Site 26 has had no exceedances since it was established in June 1984. The redesignation is based on the three years of data from Site 25.

The TACB submitted the Texas State Implementation Plan (SIP) on March 30, 1979. The SIP was approved by the EPA on March 25, 1980. The SIP contained a control strategy for Nueces County that has been implemented and continues to be in effect.

For the 1979 SIP a design value, based on O_3 measurements for 1975 through 1978, for Nueces County was calculated at 0.14 ppm using the Empirical Frequency Distribution method. This method was described in the January 1979 EPA document, "Guideline for Interpretation of Ozone Air Quality Standards." The State used the design value in the modified version of the linear rollback technique to determine the percent emission reduction required in order to demonstrate attainment. Values of 0.10 ppm and 0.06 ppm were chosen to represent the present level of transported ozone, and the future level of transported ozone, respectively. The required percentage of emission reduction to show attainment for Nueces County was less than one percent.

Reductions from Stationary Sources were achieved through TACB Regulation V entitled, "Control of Air Pollution from Volatile Organic Compounds". Mobile source emission reductions were achieved through the Federal Motor Vehicle Control Program (FMVCP). Anticipated emission reduction from the FMVCP and the application of Reasonably Available Control Technology (RACT) were calculated at 35.0% for Nueces County in the 1979 Texas SIP.

To redesignate San Patricio County from unclassifiable to attainment does not involve any regulatory change. The formal table containing the designation status is not changed since the attainment and unclassifiable designations are combined for ozone. Only one year of data showing no more than one exceedance per year is required to redesignate from unclassifiable to attainment. The data has been presented and is satisfactory and complete.

Final Action

Based upon EPA's review of the State's request, EPA is redesignating Nueces and San Patricio Counties to attainment for O_3. This action is taken without prior proposal because the changes are non-controversial and EPA anticipates no adverse comments on them. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days of publication 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 subsequent notice will withdraw the final action and will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 9, 1987. This action may not be challenged later in a proceeding to enforce its requirements. (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas

Dated: October 17, 1986.

Lee M. Thomas,

Administrator.

40 CFR Part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. In § 81.344 the attainment status designation table for Texas—Ozone (O_3) is amended by revising the entry AQCR 214 and adding AQCR 218 to read as follows:

§ 81.344 Texas.

* * * * *

OZONE

[Texas—(O_3)]

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * *		
AQCR 214:		
Nueces County		X
Victoria County	[1] X	
Remainder of AQCR		X

[1] EPA Review of Texas' Request to Redesignate Nueces and San Patricio Counties to atttainment for O_3.

OZONE—Continued

[Texas—(O_3)]

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
AQCR 218:		
Ector County	X	
Remainder of AQCR	X	

[1] EPA designation replaces State designation.

[FR Doc. 86-25345 Filed 11-7-86; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-40

[FPMR Temp. Reg. A-30]

Use of Contract Airline/Rail Passenger Service Between Selected Cities/Airports

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation prescribes policies and procedures governing the use of U.S. certified carriers which are under contract with the General Services Administration (GSA) to furnish Federal employees and other persons authorized to travel at Government expense with scheduled airline/rail passenger service between selected cities/airports.

DATES: Effective date: October 1, 1986.

Expiration date: September 30, 1987, unless sooner revised or suspended.

FOR FURTHER INFORMATION CONTACT: Charles T. Angelo, Director, Travel and Transportation Management Division (FTS/ (703) 557-1261).

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12551 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-40

Freight, Government property management, Moving of household goods, Office relocations, Transportation.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of the Subchapter A to read as follows:

Federal Property Management Regulations, Temporary Regulation A-30

September 23, 1986.

To: Heads of Federal agencies

Subject: Use of contract airline/rail passenger service between selected cities/airports.

1. *Purpose.* This regulation prescribes policies and procedures governing the use of U.S. certificated carriers in furnishing Government employees and other persons authorized to travel at Government expense with scheduled airline/rail passenger service between selected U.S. and international cities/airports at reduced fares.

2. *Effective date.* This regulation is effective October 1, 1986.

3. *Expiration date.* This regulation expires September 30, 1987, unless sooner revised or superseded.

4. *Background.* The General Services Administration (GSA) has entered into new contracts with U.S. certificated carriers to furnish airline/rail passenger transportation for official Government travel between selected U.S. and international cities/airports at reduced rates. In some cases, the contracts apply to individual airports in cities served by more than one airport. Pub. L. 99-272 amended section 306(f) of the Rail Passenger Service Act (45 U.S.C. 546(f)) to allow the National Railroad Passenger Corporation (AMTRAK) to "participate in the contract air program . . . where service provided by the Corporation is competitive as to rates and total trip times." The policies and procedures, which are subject to change with each contract cycle, have been set out as an attachment to this regulation. GSA will issue revisions to these policies and procedures as supplements to this regulation by transmitting replacement pages to the attachment.

5. *Applicability.* This regulation is mandatory only to the extent provided in the attachment; services may be offered to other persons at the option of carriers under contract.

6. *Comments.* Comments or recommendations concerning this regulation and its provisions may be submitted to the General Services Administration, FBT, Washington, DC 20406.

7. *Effect on other directives.* This regulation cancels FPMR Temporary Regulation A-22 and supplements thereto.

T.C. Golden,

Administrator of General Services.

Attachment A

1. *General.* This regulation prescribes policies and procedures governing the use of U.S. certificated carriers which are under contract with GSA to furnish Federal employees and other persons authorized to travel at Government expense with scheduled airline/rail passenger service between selected U.S. and international cities/airports at reduced fares. The carriers under contract (hereafter referred to as contractors), the contract fares, and the selected city and airport pairs to which the contract fares apply are not identified in this regulation, but are contained in the Federal Travel Directory, a monthly publication to be used in conjuction with this regulation. Noncontract carriers may be used between the selected cities/airports under conditions specified in par. 9.

2. *Federal Travel Directory.* The Federal Travel Directory (FTD) is published monthly by GSA and the Department of Defense to provide up-to-date information to Federal travelers on fares, schedules, and coverage of individual cities/airports. Government employees should order copies of the FTD through their appropriate headquarters administrative offices. The FTD is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; for ordering information, telephone the Central Order Desk on (202) 783-3238 and ask for the Federal Travel Directory, GPO Stock Number 722-008-00000-3.

3. *Applicability.*

a. This regulation is mandatory for all executive agencies (except the Department of Defense (DOD)) and other Federal agencies subject to the authority of the Administrator of General Services pursuant to the Federal Property and Administrative Services Act of 1949, as amended, and 5 U.S.C. 5701 and 5721, et seq. (Uniformed members and civilian employees of DOD are subject to the procedures established in the Military Traffic Management Regulation AR 55-355/ NAVSUPINST 4600.70/MCO P4600.14A/ DLAR 4500.3.)

b. The following persons are exempt from the mandatory use of this

regulation; however, they are authorized to obtain services under this regulation at the option of the contractors when seating space is available:

(1) Uniformed members of the Public Health Service, the National Oceanic and Atmospheric Administration, and the U.S. Coast Guard;

(2) Members and employees of the U.S. Congress;

(3) Employees of the judicial branch of the Government;

(4) Employees of the U.S. Postal Service;

(5) Foreign service officers;

(6) Cost-reimbursable contractors working for the Government; and

(7) Employees of any agency having independent statutory authority to prescribe travel allowances and who are not subject to the provisions of 5 U.S.C. 5701 through 5709.

4. *Alternate use of noncontract rail or bus service.* Notwithstanding the provisions of this regulation, noncontract rail or bus service may be used when the agency determines that these modes are advantageous to the Government (cost, energy, and other factors considered) and compatible with the requirements of the travel mission. (See ch. 1–2.2c(1)(b)(iii), Federal Travel Regulations.)

5. *Responsibility of contractors.*

a. Contractors are not required to furnish services if, at the time of the request for service, the scheduled carrier's conveyance is fully loaded; nor shall contractors be required to furnish any additional aircraft or railcars to satisfy the transportation requirement. Contractors will provide the official Government traveler with services that are the same as those provided to their commercial passengers in scheduled jet or rail coach service, subject to the rules and procedures published in tariffs filed with the Airline Tariff Publishing Company or contained in the contractors' contracts of carriage.

b. In describing unrestricted contract fares, contractors will use the designator "YCA." The contractors will describe restricted contract fares by using a three-letter designator in which the last two characters will always consist of the letters "CA" (e.g., *QCA).*

c. Contractors will issue prepaid tickets at no charge to Federal agencies when such tickets are requested by the Government in accordance with the provisions of par. 6. This service, commonly known as prepaid ticket advice (PTA), includes notification between carriers' offices by electronic means or mail that a requestor in one location has purchased and requested issuance of prepaid transportation tickets to a person in another location. Generally, this service is used for Federal travelers who are located in remote areas or at long distances from airports or rail terminals and do not have immediate access to a ticket issuing facility.

6. *Procedures for obtaining service.*

a. Except as provided in subpars. b, c, and g of this paragraph, contract airline/rail passenger service shall be ordered by the issuance of a U.S. Government Transportation Request (GTR) (Standard Form 1169), either directly to contractors or indirectly to Traffic Management Centers (TMCs) established by GSA as provided in FPMR Temporary Regulation A–24. (See par. 7 on the use of TMCs.)

b. Agencies and departments participating in GSA's travel and transportation expense payment system are authorized to use GSA contractor-issued charge cards to the extent provided in FPMR Temporary Regulation A–25 and supplements. These charge cards may be presented to contractors, TMCs, airline and AMTRAK ticket counters, or agency travel officers, as appropriate and in accordance with agency policies and procedures implementing the charge card program.

c. In limited circumstances when a traveler uses cash to procure service under FPMR 101–41.203–2, the traveler shall be prepared to authenticate the trip as official travel. When cash is used, the contractors listed in the FTD have the option of furnishing services at either the contract or noncontract fare. If only one contract is awarded for a city/airport pair and the contractor does not provide a contract fare with the use of cash, the traveler shall procure service from a carrier offering the lowest fare. If more than one carrier has been awarded a contract for a city/airport pair, the traveler shall observe the order of contractor succession in selecting a contractor which provides a contract fare with the use of cash; if none of the contractors provides a contract fare with the use of cash, the traveler shall procure service from the carrier offering the lowest fare and which will accept cash. Cash or personal credit cards shall not be used to circumvent the Government's contracts.

d. When a reservation for contract service is requested, the fare basis shall be identified as "YCA" (unrestricted) or "CA" (restricted), as appropriate, and the contractor's ticket agent shall be instructed to apply the appropriate fare basis and contract fare. Agencies using teletype ticketing equipment shall examine airline tickets to determine if the tickets contain the correct fare or whether they should be canceled and new tickets issued. Tickets picked up at the airline ticket office shall be verified to ensure that the proper fare is shown on the ticket.

e. Contract fares apply only for the city-airport pairs named in the FTD, and are not applicable to or from intermediate points. However, the contract fares are applicable in conjunction with other published fares or other contract fares. Contract fares shall not be used for personal travel taken in connection with official travel.

f. When a city/airport pair published in the FTD indicates that only one contract is awarded and the contractor subsequently offers a fare lower than its contract fare for the same service, the ordering agency may elect to use the lower fare if it is compatible with the agency's travel requirements. Promotional, restricted, and those special fares offered by the contractor and applicable only to Government employees on official travel (commonly known as status fares) may be used if the traveler can meet the qualifying restrictions to obtain such fares.

g. When the FTD indicates that separate contract fares apply for specific airports in selected cities served by more than one airport, travelers may (without further justification) use the airport which best meets their needs.

h. Cost-reimbursable contractors, traveling in performance of a Government contract and with proper identification from the contracting agency, are authorized to obtain contract fares if the contractor agrees to the arrangement. Cost-reimbursable contractors may obtain the GSA contract fares through the use of a GTR, contract number, cash, or a personal credit card. The FTD identifies the contractors which agree to furnish transportation services to cost-reimbursable contractors at the GSA contract fares when documentation and payment conditions noted in the FTD are met.

7. *Use of Traffic Management Centers (TMCs).* TMCs are commercial travel offices operated by travel agents under contract with GSA or by a Scheduled Airlines Traffic Office (SATO) under contract with GSA. These travel agents and SATOs are responsible for providing and arranging all travel services required by the participating agencies.

a. When GTRs are used, the TMCs are assigned GTR numbers by each participating agency and these GTR numbers shall be shown on all transportation tickets issued.

b. When GSA contractor-issued charge cards or Government Travel

System (GTS) accounts are used, travel management services will be furnished as provided in FPMR Temporary Regulation A-25. (See the FTD for the location of TMCs.)

8. *Progressive airline awards for the same city/airport pair.* When progressive awards are made for the same city/airport pair, the contractors are listed in the FTD in priority order from the contractor (primary) offering the lower YCA fare to the contractor (secondary) offering the next higher YCA fare. Except as otherwise provided in this paragraph, agencies shall obtain contract services in the order of contractor priority specified in the FTD.

a. Where the contractor offers both a YCA fare and a restricted fare (e.g., QCA) for the same city/airport pair, the FTD lists both fares and describes the qualifying conditions for obtaining the restricted fare. The availability of a lower restricted fare by a secondary contractor does not remove the Government's obligation to request service from the primary contractor. Agencies may use the secondary contractor's restricted fare only if the exceptions noted in subpar. b of this paragraph indicate that the use of the secondary contractor is justified. For example, if the primary contractor listed in the FTD offers a YCA fare of $90 and the secondary contractor offers a YCA fare of $100 and an QCA fare of $80, the QCA fare of $80 may be used only if the primary contractor with the lower YCA fare of $90 is displaced for reasons noted in subpar. b of this paragraph.

b. The secondary contractor may be used when:

(1) Seating space or the scheduled flight of the primary contractor is not available in time to accomplish the purpose of the travel, or the scheduled flight would require the traveler to incur unnecessary overnight lodging expense;

(2) The primary contractor's flight schedule for the travel involved is inconsistent with the Government's policy of scheduling travel to the maximum extent practicable during normal working hours (for further information, see the Federal Personnel Manual, Supplement 990-2); or

(3) Based on a cost comparison, the primary contractor's fare, when added to such factors as ground transportation, lost productive time, allowable overtime, and additional overnight lodging expense, would result in higher costs to the Government than the costs resulting from the use of the secondary contractor.

c. When a contractor offers a commercial fare lower than its Government contract fare, the ordering agency may use the lower fare provided the qualifications for obtaining the lower fare are compatible with the agency's travel requirements and provided a cost comparison of total costs prescribed in subpar. b(3) of this paragraph justifies a change in the order of contractor succession. By offering the general public a fare lower than its contract fare, the contractor assumes the status of a noncontract carrier and the provisions of par. 9 apply.

9. *Use of noncontract carriers for listed city/airport pairs.*

a. Heads of agencies are authorized to approve the use of noncontract carriers for city/airport pairs listed in the FTD when their use is justified under the conditions specified in subpar. b of this paragraph. This authority may be delegated provided appropriate guidelines in the form of regulations or other written instructions are furnished the designee. Redelegations of authority shall be limited. Delegation and redelegation of authority shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances requiring the use of noncontract carriers. Justification for the use of noncontract carriers will be authorized on individual travel orders (if known before travel begins) or approved on vouchers (if not known before travel begins).

b. Use of noncontract carriers for city/airport pairs listed in the FTD is justified when:

(1) Seating space or the scheduled service of the contractor is not available in time to accomplish the purpose of the travel, or the scheduled service would require the traveler to incur overnight lodging expense;

(2) The contractor's schedule for the travel involved is inconsistent with the Government's policy of scheduling travel to the maximum extent practicable during normal working hours; or

(3) Based on a cost comparison (see note),

(a) A restricted or unrestricted coach fare available to the general public is lower than the contract fare or other fare offered by the contract carrier, all other cost factors being equal; or

(b) Use of a noncontract coach fare available to the general public would, when added to such factors as ground transportation, lost productive time, allowable overtime, and additional overnight lodging expense, result in lower costs to the Government than the costs that would accrue if comparable cost factors were added to the contract fare.

Note. When making cost comparisons:

a. YDG, MDG, or other fares restricted to Government employees shall not be used;

b. Promotional/restricted fares offered by noncontract carriers to the general public may be used provided:

(1) The traveler can meet all qualifying restrictions associated with such fares, and

(2) The service provided by the noncontract carrier is equal to or better than that of the contractor with respect to enroute trip times;

c. Agencies should take into account any penalty fee a carrier may impose when reservations for promotional/restricted fares and canceled or changed; and

d. The traveler and/or the traveler's agency, at the time reservations are made or travel is performed (whichever occurs first), shall demonstrate conclusively that the contractor did not offer the same fare cited in the cost comparison. Justification for using the noncontract carrier shall be shown on the travel authorization or travel voucher, as provided in subpar. 9a.

10. *Traveler liability.* In the absence of specific authorization or approval stated on or attached to the travel authorization or travel voucher, the traveler shall be responsible for any difference in cost that may result from the traveler's unauthorized use of noncontract service or the failure to observe the order of contractor succession. The traveler's indebtedness to the Government shall be the difference between the price of the service used and the lowest contract fare applicable to the travel involved.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2910

[AA-320-06-4211-02-2410; Circular No. 2590]

Airport Leasing Procedures; Amendments

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: The final rulemaking makes a number of amendments to the existing regulations which change the terms for annual rental, provide for an application filing fee which more accurately reflects current administrative costs for the processing of applications, and revise

the procedures in the regulations to streamline them and make them more efficient. The final rulemaking also amends existing regulations at 43 CFR Subpart 2911 to remove provisions relating to withdrawal of public lands for beacon lights and air navigation facilities which were repealed by the Federal Land Policy and Management Act of 1976.

EFFECTIVE DATE: December 10, 1986.

ADDRESS: Inquiries or suggestions should be sent to: Director (320), Bureau of Land Management, Room 3642, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Gary L. Rowe, (202) 343–8693;

Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: A proposed rulemaking amending the existing regulations on airport leases was published in the **Federal Register** on August 20, 1985 (50 FR 33578), with a 60-day comment period. Comments were received from nine sources, six from Federal agencies, one from a State, one from the private sector and one from the environmental sector.

Most of the comments were directed to specific provisions of the proposed rulemaking. Those sections and the action taken on the comments are discussed in this preamble. Only those sections that were the subject of comments are discussed. Some of the comments were concerned with procedural processes that are more properly the subject of inclusion in the Bureau of Land Management's Manual and directive system. After this rulemaking becomes final, a manual addressing these issues will be prepared and published.

Nearly all of the comments pointed out the typographical error in § 2911.0–3 of the proposed rulemaking. As suggested in the comments, the date of the Act has been changed from 1982 to 1928 by the final rulemaking. The final rulemaking also amended all of the other sections where the citation for the Act of May 24, 1928 appears.

Several comments were directed to § 2911.0–5 of the proposed rulemaking. One comment, which has been adopted by the final rulemaking, pointed out that the term "Secretary" is not used in the regulation and the definition should be deleted.

A few of the comments recommended that the definition of the term "applicant" as it appeared in the proposed rulemaking be amended for clarification. After careful review of the comments on this term, the final rulemaking has amended the term.

One of the comments recommended that 2911.0–8 of the proposed rulemaking be amended to remove public lands designated as wilderness study areas from the lands that are available for leasing for an airport. This recommendation has not been adopted by the final rulemaking because at the time of the filing of an application for airport rental, the authorized officer can use existing authority to determine if the lands applied for should be protected and the lease denied because of their status as wilderness study area lands.

One of the comments questioned the need for the heading of § 2911.1 of the proposed rulemaking, and recommended that § 2911.1 be deleted. The final rulemaking has adopted this recommendation, deleting § 2911.1 and renumbering § 2911.1–1 as § 2911.1.

Section 2911.1–1 of the proposed rulemaking, which has been renumbered § 2911.1 by this final rulemaking, was the subject of numerous comments, several of which have been adopted by the final rulemaking. A comment suggested that the final rulemaking insert immediately after the phrase "Bureau of Land Management" the phrase "District office having jurisdiction over the lands under lease" in renumbered § 2911.1(b). This clarifying amendment has been adopted by the final rulemaking. Another comment on this section suggested that renumbered § 2911.1(c) be amended to make it clear that the rental must be paid on "or before" the due date. This suggestion also has been adopted by the final rulemaking. Another comment suggested that for clarity, the final rulemaking rewrite renumbered § 2911.1(e). After careful review of the language of the section in the proposed rulemaking and the recommendations contained in the comments, the section has been rewritten by the final rulemaking.

Several comments were received on §§ 2911.2, 2911.2–1, 2911.2–2, 2911.2–3 and 2911.2–4 of the proposed rulemaking. A couple of the comments recommended that the heading of § 2911.2–1 of the proposed rulemaking be changed to read "preapplication activity" and that reference to the term "proposal" be removed from §§ 2911.2–1 and 2911.2–2 of the proposed rulemaking. These changes would make the procedures in the airport lease regulations consistent with other regulations that cover applications for the disposal of the public lands. The final rulemaking has adopted the recommendations and §§ 2911.2–1 and 2911.2–2 have been rewritten to make them similar to those in other land disposal regulations. Another change recommended by the comments and adopted by the final rulemaking is the addition of language that specifies the type of land description that is required in an application for lands for airport rental. As recommended in a comment, the final rulemaking has amended § 2911.2–2 of the proposed rulemaking to remove the phrase "recordation and service fee" and replace it with the phrase "filing fee" which is a more accurate description of the fee paid with the application and makes this regulation consistent with other regulations requiring the payment of a filing fee. The final rulemaking also makes this change in § 2911.2–3 of the proposed rulemaking.

Finally, the final rulemaking has adopted a recommendation contained in the comments that language be added to § 2911.2–2 of the proposed rulemaking covering the action to be taken if the granting of the airport lease results in the cancellation of a grazing permit or lease or a reduction in grazing acreage.

Section 2911.2–3 of the proposed rulemaking was the subject of several comments which recommended changes. One comment pointed out that the proposed rulemaking was not specific as to the publication that would begin the running of the 45-day comment period. In response to this comment, the final rulemaking provides that the comment period shall begin with the publication of the notice of realty action in the **Federal Register.** A couple of comments made the point that the proposed rulemaking did not specifically provide that statutory requirements, such as compliance with the provisions of the National Environmental Policy Act of 1969, be met prior to the issuance of an airport lease. The final rulemaking has added language to § 2911.2–3 of the proposed rulemaking that clarifies that an airport lease will not be issued until the authorized officer has received the filing fee and that all statutory and regulatory requirements have been fulfilled.

Several of the comments pointed out that the notice of realty action provided in the proposed rulemaking did not segregate the lands covered by an airport lease application for entry under the public lands laws, including the mining laws, and recommended that the final rulemaking provide for segregation. The final rulemaking has adopted these recommendations and has added a paragraph (b) to § 2911.2–3 of the proposed rulemaking which provides for segregation of the public lands upon the publication of the notice of realty action.

Editorial and grammatical changes as needed also have been made.

The principal author of this final rulemaking is Gary Rowe, Division of Lands, Bureau of Land Management, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

This final rulemaking will have no significant impact on an applicant for an airport lease on public lands, whether the applicant is large or small.

The final rulemaking contains no information collection requirements requiring the approval of the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 43 CFR Part 2910

Airports, Alaska, Mines, Public lands, Recreation areas, Waste treatment and disposal.

Under the authority of the Act of May 24, 1928, as amended (49 U.S.C. Appendix, 211–213) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 2910, Group 2900, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

J. Steven Griles,

Assistant Secretary of the Interior.

October 21, 1986.

PART 2910—[AMENDED]

1. Part 2910 is amended by adding an authority citation to read:

Authority: 49 U.S.C. Appendix, 211–213, 43 U.S.C. 869 et seq. 48 U.S.C 360, 361.

2. Part 2910 is amended by revising Subpart 2911 to read:

Subpart 2911—Airport

Sec.

Authority: 49 U.S.C. 211; 43 U.S.C. 1701 et seq.

Subpart 2911—Airport

§ 2911.0–1 Purpose.

This subpart sets forth procedures for issuance of airport leases on the public lands.

§ 2911.0–3 Authority.

The Act of May 24, 1928, as amended (49 U.S.C. Appendix, 211–213), authorizes the Secretary of the Interior to lease for use as a public airport, any contiguous unreserved and unappropriated public lands not to exceed 2,560 acres in area.

§ 2911.0–5 Definitions.

As used in this subpart, the term:

(a) "Act" means the Act of May 24, 1928, as amended (49 U.S.C. Appendix, 211–213).

(b) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this subpart.

(c) "Administrator" means the Administrator of the Federal Aviation Administration.

(d) "Applicant" means any individual who is a citizen of the United States; a group or association of citizens of the United States; any corporation, organized under the laws of the United States or of any State, authorized to conduct business in the State in which the land involved is located; or a State or political subdivisions or instrumentality thereof, including counties and municipalities; who submits an application for an airport lease under this subpart.

(e) "Public airport" means an airport open to use by all persons without prior permission of the airport lessee or operator, and without restrictions within the physical capacities of its available facilities.

§ 2911.0–8 Lands available for leasing.

Any contiguous unreserved and unappropriated public lands, surveyed or unsurveyed, not exceeding 2,560 acres in area, may be leased under the provisions of the Act, subject to valid existing rights under the public land laws.

§ 2911.1 Terms and conditions.

(a) The lessee shall, within 1 year from the date of issuance of the lease, equip the airport as required by the Administrator and file a report thereof in the Bureau of Land Management District office having jurisdiction over the lands under lease.

(b) At any time during the term of the lease, the Administrator may have an inspection made of the airport, and if the the airport does not comply with the ratings set by the Federal Aviation Administration, the Administrator shall submit a written statement describing the deficiencies to the Bureau of Land Management District office having jurisdiction over the lands under lease for appropriate action.

(c) The authorized officer may cancel, in whole or in part, a lease issued under the Act for any of the following reasons: Lessee failure to use the leased premises or any part thereof for a period of at least 6 months; use of the property or any part thereof for a purpose other than the authorized use; failure to pay the annual rental in full on or before the date due; failure to maintain the premises according to the ratings set by the Federal Aviation Administration; failure to comply with the regulations in this part or the terms of the lease.

(d) Leases under the Act shall be for a period not to exceed 20 years and may be renewed for like periods.

(e) Annual rental for leases to any citizen of the United States, any group or association of citizens, or any corporation organized under the laws of the United States or any State shall be at appraised fair market rental, with a minimum annual rental payment of $100. State or political subdivisions thereof, including counties and municipalities, shall pay to the lessor an annual rental calculated at the appraised fair market value of the rental of the property less 50%, with a minimum annual rental payment of $100. In fixing the rentals, consideration shall be given to all pertinent facts and circumstances, including use of the airport by government departments and agencies. Rental of each lease shall be reconsidered and revised at 5-year intervals to reflect current appraised fair market value. The first annual rental payment shall be made prior to issuance of the lease. All subsequent payments shall be paid on or before the anniversary date of issuance of the lease.

(f) The lessee shall agree that all departments and agencies of the United States operating aircraft shall have free and unrestricted use of the airport and, with the approval of the authorized officer, such departments or agencies shall have the right to erect and install therein such structures and improvements as are deemed advisable by the heads of such departments and agencies. Whenever the President may deem it necessary for military purposes, the Secretary of the Army may assume full control of the airport.

(g) The lessee shall submit to the Administrator for approval regulations governing operations of the airport.

§ 2911.2 Procedures.

§ 2911.2-1 Preapplication activity.

Persons seeking to lease public lands under this subpart shall first consult with the authorized officer in the District or Resource Area Office in which the lands are located. Such consultation is necessary to determine land availability and conformity of proposed use with approved land use plans, explain associated statutory and regulatory requirements, familiarize the potential applicant with respective management responsibilities, set forth the application processing procedures for the proposed action, and identify potential conflicts. Upon completion of the consultation, persons seeking to lease public lands for a public airport may submit an application for consideration by the authorized officer.

§ 2911.2-2 Applications.

(a) Each application shall clearly describe the lands applied for by legal subdivisions and/or by metes and bounds and contain a plan of development and use signed by the applicant or by a duly authorized agent or officer of the applicant. When required by the authorized officer, the application shall include copies of the appropriate State, county, or municipal airport licenses or permits, as well as such additional States and local clearances as may be required.

(b) Each application shall be accompanied by a non-refundable filing fee of $100. Each applicant shall also be required to pay the cost of publication of a Notice of Reality Action in the **Federal Register** and a newspaper of general circulation in the area in which the lands are located.

(c) If approval of an application results in cancellation of a grazing permit of lease or a reduction in grazing acreage, the provisions of § 4110.4-2 of this title shall apply.

§ 2911.2-3 Report by Administrator; Notice of Realty Action.

(a) Upon receipt of the application, the authorized officer shall send 1 copy to the Administrator for a determination concerning what fuel facilities, lights, and other furnishings are necessary to meet the rating set by that agency. After receiving the report of the Administrator, and before making a determination to issue a lease, the authorized officer shall publish a Notice of Realty Action in the **Federal Register** and in a newspaper of general circulation in the area of the lands to be leased. The notice shall provide 45 days from the date of publication in the **Federal Register** for comments by the public. Comments shall be sent to the office issuing the notice. The notice shall not be published until the authorized officer has received the filing fee from the applicant and is satisfied that all statutory and regulatory requirements have been met.

(b) The notice of realty action may segregate the lands or interests in lands to be conveyed to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect of the notice of realty action shall terminate either upon issuance of a document of conveyance of 1 year from the date of publication in the **Federal Register**, whichever occurs first.

§ 2911.2-4 Executive of lease.

Upon receipt the payments required by § 2911.2-2(b) of this title and not less than 45 days following the publications required by § 2911.2-4 of this title, the authorized officer shall make a decision on the application and, if the application is approved, issue the lease.

[FR Doc. 86-25222 Filed 11-7-86; 8:45 am]
BILLING CODE 4310-84-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 61095-6195]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

Correction

In FR Doc. 86-23877 beginning on page 37408 in the issue of Wednesday, October 22, 1986, make the following corrections: On page 37409, in the third column, in the second paragraph, in the first line, insert "proceed" after "BSAI"; in the fifteenth line, "groundfishing" should read "groundfish fishing".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 51, No. 217
Monday, November 10, 1986

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-ASW-33]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Model SA315, SE3160, SA316, and SA319 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD) which imposes a finite service life for certain original and repaired main gearbox support "A" frame assemblies installed on Aerospatiale Model SA315, SE3160, SA316, and SA319 series helicopters. This proposed amendment is needed to remove the finite life for certain "A" frames when used on a Model SE3160 helicopter for the reason that these "A" frames have been determined to have an unlimited service life when used on Model SE3160 helicopters.

DATE: Comments must be received on or before December 8, 1986.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: FAA, Southwest Region, Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, Texas 76106, or delivered in duplicate to the above address, Room 158, Building 3B.

Comments delivered must be marked: Docket No. 83-ASW-33.

Comments may be inspected at Room 158, Building 3B, between the hours of 8 a.m. and 4:30 p.m. weekdays, except Federal holidays.

The applicable service information may be obtained from Aerospatiale Helicopter Corporation, 2710 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support. These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: John Varoli, Manager, Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium APO New York 09667, or James H. Major, Rotorcraft Standards Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-5117.

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 83-ASW-33." The postcard will be date/time stamped and returned to the commenter.

This notice proposes to amend Amendment 39-4787 (49 FR 2239), AD 84-01-03, which currently imposes a finite service life for certain original and repaired main gearbox support "A" frame assemblies and requires replacement of certain affected assemblies within 50 hours' time in service for Aerospatiale Model SA315, SA316, and SA319 series helicopters. The service life varies from 1,600 to 11,000 hours. The AD requires compliance with Aerospatiale service bulletins. The AD presently contains an incorporation by reference statement.

After issuing Amendment 39-4787, the FAA determined that the finite service life for certain "A" frame assemblies used on Model SE3160 helicopters may be increased from 11,000 hours to unlimited hours' time in service. Aerospatiale Alouette Service Bulletin (SB) No. 01.49, Revision 1, contains this information. Therefore, the FAA proposes to amend Amendment 39-4787 by incorporating by reference the information in SB No. 01.49, Revision 1, dated May 30, 1986. An unlimited service life for certain specific "A" frames when used on the Model SE 3160 helicopters is proposed. The FAA also found an editorial error in the service bulletin and AD concerning a model designation. These refer to SA316 series; the correct designations are the SE3160 and SA316 series. In addition, the applicability statement and paragraph (b) would be changed to add or correct the Model to SE3160.

The FAA has determined that this proposed regulation only involves one helicopter model of which fourteen are registered in the United States, and it relieves a requirement for this model. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291, and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects 14 CFR Part 39

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

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By amending Amendment 39-4787 (49 FR 2239), AD 84-01-03, as follows:

a. Revise the applicability statement by adding "SE3160" between SA315 and SA316.

b. Revise paragraph (b) and its note paragraph to read as follows:

* * * * *

(b) For Models SE3160, SA316, and SA319 series helicopters, comply with Alouette SB No. 01.49, Revision 1, dated May 30, 1986, within 50 hours' time in service after the effective date of this AD amendment. This bulletin establishes a finite service life for certain identified original and repaired "A" frame assemblies for these helicopters and permits only one-time replacement/repair of an eye end-fitting on each "A" frame assembly. Replacing a repair eye end-fitting with another repair eye end-fitting is prohibited.

Note.—Revision A of the service bulletin establishes for the Model SE3160 an 11,000-hour service life limit for certain original and repaired "A" frames and a 5,500-hour service life limit for certain other original and repaired "A" frames. Revision 1, dated May 30, 1986, instituted on Model SE3160 helicopters an unlimited service life for original "A" frames whose serial number is preceded by letters other than "RO". (Frames with RO serial numbers retain the 11,000-hour and 5,500-hour service life). For Model SE3160 helicopters, a repair eye end-fitting is limited to 5,500 hours service life.

For the Models SA316B and C and SA319B helicopters, the service bulletin, Revision A and 1, retains the present 3,200 or 1,600-hour service life limit for certain original and repaired "A" frames and eye end-fittings and establishes a 1,600-hour service life for certain other original and repair eye end-fittings.

* * * * *

Issued in Fort Worth, Texas, on October 23, 1986.

C.R. Melugin, Jr.

Director, Southwest Region.

[FR Doc. 86-25303 Filed 11-7-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AWA-40]

Proposed Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to Notice of Proposed Rulemaking and extension of comment period.

SUMMARY: This notice announces extension of the comment period on an NPRM which proposes to establish an Airport Radar Service Area at Shreveport Regional Airport, LA, as published in the **Federal Register** on October 1, 1986 (51 FR 35140). Also, the date and name of the hotel of the informal airspace meeting are changed.

DATES: Comments must be received on or before February 13, 1987; Informal Airspace Meeting will be held January 14, 1987.

ADDRESSES: Send comments on the proposal in triplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-204], Airspace Docket No. 86-AWA-40, 800 Independence Avenue, SW., Washington, DC 20591.

Informal Airspace Meeting beginning at 7:00 p.m. will be held at: Chez Vous Motor Inn (formerly Quality Inn), 5215 Monkhouse Drive, Shreveport, LA

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert G. Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9253.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWA-40." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the 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's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

List of Subjects in 14 CFR Part 71

Aviation safety, Airport Radar Service Areas.

Extension of Comment Period

The comment period for Airspace Docket No. 86-AWA-40 as it applies to Shreveport Regional Airport, LA, is extended to close on February 13, 1987.

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

Issued in Washington, DC, on October 31, 1986.

Harold H. Downey,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-25304 Filed 11-7-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Territorial and International Affairs

15 CFR Part 303

[Docket No. 61090-6190]

Proposed Limit on Duty-Free Insular Watches in Calendar Year 1987

AGENCIES: Import Administration, International Trade Administration, Department of Commerce; Office of Territorial and International Affairs, Department of the Interior.

ACTION: Proposed rule and request for comments.

SUMMARY: This action invites the comments of interested persons on a proposal to establish the total quantity of duty-free insular watches and watch movements for 1987 at 6,000,000 units and to divide this amount among the three insular possessions of the United States and the Northern Mariana Islands. We propose to do this by amending § 303.14(e), which now permits a total of 6,500,000 units distributed among the three insular possessions and the Northern Mariana Islands.

DATE: Comments must be received on or before December 26, 1986.

ADDRESS: Address written comments to Frank Creel, Director, Statutory Import Programs Staff, Room 1523, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, Program Assistant, Statutory Import Programs Staff, Room 1523, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230.; (202) 377-1660

SUPPLEMENTARY INFORMATION: The insular possessions watch industry provision in section 210 of Pub. L. 97-446 (96 Stat. 2331) (1983) (19 U.S.C. 1202 note) requires the Secretary of Commerce and the Secretary of the Interior, acting jointly, to establish a limit on the the quantity of watches and watch movements which may be entered free of duty during each calendar year. The law also requires the Secretaries to establish the shares of this limited quantity which may be entered from the Virgin Islands, Guam, American Samoa and the Northern Mariana Islands. Regulations on the establishment of these quantities and shares are contained in §§ 303.3 and 303.4 of title 19, Code of Federal Regulations (19 CFR 303.3 and 303.4).

The Departments propose to establish for calendar year 1987 a total quantity and respective territorial shares as shown in the following table;

Virgin Islands	4,000,000
Guam	1,000,000
American Samoa	500,000
Northern Mariana Islands	500,000
Total	6,000,000

Compared with the total quantity established for 1986 (51 FR 14980; April 22, 1986), this amount would be a decrease of 500,000 units. The proposed Virgin Islands territorial shares would be decreased by 500,000 units. The proposed shares for Guam, American Samoa, and the Northern Mariana Islands would not change.

Our reasons for proposing these amounts are as follows:

(1) There are no producers in American Samoa and the Northern Mariana Islands. This proposal would establish these territories' shares at the minimum required by the statute.

(2) There is only one producer in Guam, and the amount we propose is consistent with the needs of the existing producer and with the existing set-aside of 500,000 units for possible allocation to new firms in Guam.

(3) We expect total Virgin Islands shipments in 1987 to be between 3 and 3.5 million units. The amount we propose is consistent with the acticipated needs of the existing producers along with a set-aside of 500,000 units for possible allocation to new firms in the Virgin Islands.

Classification: Executive Order 12291

In accordance with Executive Order 12291 (46 FR 13193, February 19, 1981), the Department of Commerce and the Interior have determined that this rule does not constitute a "major rule" as defned by section 1(b) of the Order. It is not likely to result in:

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

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Therefore, preparation of a Regulatory Impact Analysis is not required.

This regulation was submitted to the Office of Management and Budget for review, as required by Executive Order 12291.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the General Counsel of the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities. Fewer than ten entities are directly affected by this action. The commercial benefits of the program governed by these regulations, for entities both directly and indirectly affected, are less than $10 million per year.

Paperwork Reduction Act

This rule does not contain information collection requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 15 CFR Part 303

Imports, Customs duties and inspection, Watches and jewelry, Marketing quotas, Administrative practice and procedure, Reporting and recordkeeping requirements, American Samoa, Guam, Virgin Islands, Northern Mariana Islands.

PART 303—[AMENDED]

For reasons set forth above, we propose to amend Part 303 as follows:

1. The authority citation for Part 303 continues to read as follows:

Authority: Pub. L. 97-446, 96 Stat. 2329, 2331 (19 U.S.C. 1202 note); Pub. L. 94-241, 90 Stat. 263 (48 U.S.C. 1681 note).

2. Section 303.14 is amended by revising paragraph (e) to read as follows:

§ 303.14 Allocation factors and miscellaneous provisions.

* * * * *

(e) *Territorial shares.* The shares of the total duty exemption are 4,000,000 for the Virgin Islands, 1,000,000 for Guam, 500,000 American Samoa, and 500,000 for the Northern Mariana Islands.

Dated: November 3, 1986.

Joseph A. Spetrini,

Acting Deputy to the Deputy Assistant Secretary for Import Administration.

Richard T. Montoya,

Assistant Secretary for Territorial and International Affairs.

[FR Doc. 86-25384 Filed 11-7-86; 8:45 am]

BILLING CODE 3510-DS; 4310-10-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Temporary Licenses for Guaranteed Introducing Broker Applicants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend Part 3 of its regulations to authorize the National Futures Association ("NFA") to issue temporary licenses to apparently qualified applicants for registration with the Commission as an introducing broker, on essentially the same terms that temporary licenses currently may be issued to applicants for registration as an associated person of a Commission registrant. This authority would be limited to those introducing broker applicants guaranteed by a futures commission merchant ("FCM") pursuant to Commission rule 1.10(j), 17 CFR 1.10(j) (1986).

DATE: Comments must be submitted on or before December 10, 1986.

ADDRESS: Comments should be submitted to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Michael A. Watkins, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: By letter dated August 28, 1986, the National Futures Association has submitted for approval, pursuant to section 17(j) of the Commodity Exchange Act ("Act"), proposed amendments to NFA Bylaw 305, Schedule A, Section I which, if approved, would authorize NFA to issue temporary licenses to apparently qualified applicants for registration with the Commission as an introducing broker. This authority would extend only to introducing broker applicants guaranteed by an FCM pursuant to Commission rule 1.10(j), 17 CFR 1.10(j) (1986).[1] The proposed amendments provide that a temporary license may be issued to an applicant for registration as a guaranteed introducing broker on essentially the same terms that a temporary license currently may be issued to an applicant for registration as an associated person ("AP") of a Commission registrant.[2]

As originally proposed by NFA, the amendments did not require an FCM to perform a preliminary background investigation of a guaranteed introducing broker applicant, nor explicitly require an FCM to supervise directly such person. By letter dated February 10, 1986, the Division requested from NFA additional information to determine whether authorizing temporary licenses for qualified applicants for registration as a guaranteed introducing broker would be consistent with Commission policy in this regard as set forth in 49 FR 8208, 8209 (March 5, 1984).[3] In this connection, the Division requested NFA to consider whether NFA would be prepared to adopt rules to require an FCM to perform preliminary fitness examinations of introducing broker applicants to be guaranteed by it and to require an FCM to supervise directly such guaranteed introducing brokers. In addition, the Division asked that NFA address why the benefits that may be achieved by extending temporary licensing to guaranteed introducing broker applicants outweight the potential disruptions to both customers and employees of the introducing broker that may result from the termination of an ongoing business.

In its response dated April 23, 1986, NFA replied that a rule requiring FCMs to conduct a preliminary fitness investigation is unnecessary. Under both Commission and NFA rules, an FCM is liable for the conduct of an introducing broker which it guarantees.[4] Therefore, as a matter of sound business practice, NFA believed that FCMs would conduct such fitness examinations.

With respect to direct supervision, NFA stated that the rule to which the Division referred is already in place. Because a guaranteed introducing broker is an agent of its guarantor FCM, NFA Compliance Rule 2–9, which requires each NFA member to supervise diligently its agents, currently requires an FCM to supervise the conduct of its guaranteed introducing brokers.[5]

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[1] NFA originally submitted amendments to provide for temporary licensing of guaranteed introducing brokers by letter dated December 3, 1985. As discussed below, following an exchange of correspondence between the staff of the Division of Trading and Markets ("Division") and NFA, these amendments were withdrawn.

[2] A copy of the proposed amendments may be obtained from the Commission's Office of the Secretariat at the address stated above.

[3] The Division's letter to NFA dated February 10, 1986 states, in pertinent part:

[W]hen the Commission adopted its temporary license regulations, it determined to limit its authority in this regard to applicants for registration as an associated person. Specifically, the Commission stated:

[T] granting of a temporary license is particularly appropriate for an applicant for registration as an AP because such an applicant must be sponsored by another registrant which must conduct a preliminary fitness check of the applicant and must directly supervise the applicant's conduct.

49 FR 8209 (March 5, 1984).

With respect to other categories of registrant, the Commission stated:

In contrast, other registrants are not subject to such scrutiny or direct supervision. In addition, the Commission is concerned that if a temporary license were granted to applicants other than APs, the applicant would be able to commence business, hire employees and, in the case of an FCM, accept customer funds subject to a subsequent determination by either the Commission or the NFA to deny registration. The Commission, therefore, concludes that the potential disruptions to both customers and employees which might result from interrupting an ongoing business outweigh the benefits which might be achieved by extending the applicability of the temporary licensing provisions to such applicants.

Id.

[4] Specifically, NFA's letter to the Division dated April 23, 1986 states:

[A] guarantee agreement entered into by an FCM and an IB is analogous to AP sponsorship. The purpose of a guarantee agreement is to enable the IB to meet the alternative adjusted net capital requirement and to protect the customers of the IB. A guarantee agreement provides that the FCM which is a party thereto guarantees performance by the IB of, and becomes jointly and severally liable for, all obligations of the IB . . . with respect to the solicitation of and transactions involving all customer and option customer accounts of the IB entered into on or after the effective date of the agreement.

Given the potential liability for damages of an FCM that is party to a guarantee agreement . . . it can be reasonably expected that an FCM will subject its potential guaranteed IBs to a close preliminary background examination. . . . [T]he preliminary background examination that would be conducted by an FCM would at least equal the scope of the preliminary background check that is required of registrants that sponsor applicants for registration as APs under current Commission regulations.

The motivation to make a thorough background check is further strengthened by the fact that NFA Compliance Rule 2-23 makes the liability of the guarantor Member FCM clear in a disciplinary context: "Any Member FCM which enters into a guarantee agreement, pursuant to CFTC Regulation 1.10(j), with a Member IB, shall be jointly and severally subject to discipline under NFA Compliance Rules for acts and omissions of the Member IB which violate NFA requirements occurring during the term of the guarantee agreement". . . . [Therefore, t]he [guarantor] FCM has no safe harbor to avoid either civil or disciplinary liability for the acts of its guaranteed IBs.

[5] NFA's letter to the Division dated April 23, 1986 further states:

NFA believes that a guarantor FCM would supervise the activities of its guaranteed IBs given the potential liability of the FCM under the guarantee agreement. NFA Compliance Rule 2-9, however, makes this duty of a guarantor FCM explicit[:] . . . "Each Member shall diligently supervise its employees and agents in the conduct of their commodity futures activities for or on behalf of the Member."

Finally, NFA asserted that the termination of a temporary license of an introducing broker would be no more disruptive to customers and employees than a decision by an FCM to close a branch office. In particular, the customer accounts solicited by the introducing broker would continue to be serviced by the FCM. This contrasts with the burden placed on introducing broker applicants that must invest substantial time, money and effort to establish a business plan prior to filing an application and thereafter be subject to a minimum period of eight to ten weeks of forced idleness pending registration.

By letter dated May 14, 1986, the Division informed NFA that the Division had considered the information furnished by NFA in its April 23, 1986 letter and was satisfied that NFA Compliance Rule 2-9 would ensure the direct supervision by its guarantor FCM of an introducing broker that has received a temporary license. Further, the benefits to be derived from temporary licensing of guaranteed introducing brokers are not outweighed by the potential disruptions to customers and employees of a guaranteed introducing broker whose temporary license is terminated.[6] However, the Division stated that the requirement that a guarantor FCM conduct a preliminary background investigation of an introducing broker applicant should be established by rule and that NFA should not rely solely upon the business judgment of its member FCMs. A regulatory requirement, in the Division's view, would ensure that such background investigations are undertaken, since failure to do so may result in an NFA disciplinary action. At the same time, based upon NFA's own analysis, the requirement that such an investigation be conducted should not impose any additional burden upon guarantor FCMs.

Further, the Division requested that NFA consider amending its proposal to require that, as a condition of issuing a temporary license to an applicant for registration as a guaranteed introducing broker, NFA also receive from the applicant's guarantor FCM a certification to the effect that, with respect to the introducing broker applicant and any principals thereof, (1) the FCM has verified the information on the Forms 8-R filed with NFA which relate to the education and employment history of the applicant, if appropriate, and its principals, and (2) to the best of the FCM's knowledge, information and belief, all of the publicly available information supplied by the applicant and its principals on the Form 7-R and Forms 8-R, as appropriate, is accurate and complete. The rule amendments submitted by NFA contain these requirements.

The Commission has reviewed the proposed rule amendment and NFA's response to the Division's request for additional information and is satisfied that the amendments are consistent with the bases for issuing temporary licenses as adopted by the Commission. Therefore, the Commission is prepared to approve NFA's proposed amendments and, in that connection, is proposing amendments to its own rules governing the issuance of temporary licenses.[7] The Commission notes that section 17(j) of the Act generally provides that any amendment to the rules and regulations of a registered futures association must be consistent with and not otherwise in violation of the Act or Commission regulations promulgated thereunder.[8] Therefore, since the Commission's rules currently permit the issuance of temporary licenses for associated person applicants only,[9] these rules must be amended in order to authorize NFA to issue temporary license to introducing broker applicants.

In addition, the NFA amendments provide that a guarantee agreement will become effective upon the issuance of a temporary license to an introducing broker applicant, in conflict with the provisions of Commission rule. 1.10(j)(3), which provide that the guarantee agreement will become effective upon registration being granted.[10] Therefore, the Commission's own rules in this regard must be amended before the proposed rules submitted by NFA can be approved by the Commission.[11]

As noted above, the Commission is proposing to authorize temporary licenses for apparently qualified applicants for registration as an introducing broker on essentially the same terms as those governing the issuance of temporary licenses to associated persons. Thus, proposed rule 3.44(a) provides that the Form 7-R submitted by the applicant and the Forms 8-R submitted on behalf of the applicant, if a sole proprietor, and the principals (including the branch office managers) of the applicant each must not contain any "Yes" answers to the Disciplinary History portion of the application indicating that the person maybe subject to a statutory disqualification from registration. Fingerprint cards on behalf of each individual, except a principal with a current application on file, must accompany the Form 8-R.

In addition, the applicant must submit a properly completed guarantee agreement in accordance with the provisions of Commission rule 1.10(j) and a certification by the FCM that has guaranteed the applicant that (1) the FCM has verified the information on each Form 8-R with respect to the education and employment history of the individual on whose behalf the Form 8-R is filed and (2) to the best of the FCM's knowledge, information and belief, all of the publicly available information supplied on each application form is accurate and complete.

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[6] In this connection, the Division emphasized that, if any employee of a guaranteed introducing broker is acting in the capacity of an associated person pursuant to a temporary license, that temporary license would terminate upon the termination of the temporary license of its sponsor. *See* Commission rule 3.42(a)(2), 17 CFR 3.42(a)(2) (1986). Furthermore, such employee would not be entitled to use the special registration procedures in Commission rules 3.12(d) and 3.16(d), 17 CFR 3.12(d) and 3.16(d) (1986).

[7] Since the rules the Commission is proposing would permit the implementation of NFA rules that have been thoroughly considered by NFA's futures commission merchant and introducing broker advisory committees, the Commission has concluded that a twenty-one day comment period is reasonable.

Moreover, because the proposed rules essentially relieve a restriction, the Commission may determine that the amendments may take effect on less than thirty days notice. *See* section 4(c) of the Administrative Procedure Act, 5 U.S.C. 553(d).

[8] 7 U.S.C. 21(j) (1982).

[9] *See* Commission rules 3.40-3.43, 17 CFR 3.40-3.43 (1986).

[10] Commission rule 1.10(j)(3), 17 CFR 1.10(j)(3) (1986), provides in pertinent part:

A guarantee agreement filed in connection with an application for initial registration as an introducing broker in accordance with the provisions of § 3.15(a) of this chapter shall become effective upon the granting of registration to the introducing broker. A guarantee agreement filed other than in connection with an application for initial registration as an introducing broker shall become effective as of the date agreed to by the parties.

[11] Moreover, because the Act provides that registration is with the Commission, the Commission believes it is essential that the minimum substantive requirements for registration or, in this instance, for the issuance of a temporary license to a qualified applicant, should be established by the Commission and set forth in the Commission's regulations. Maintenance of the Commission's own rules in this regard will facilitate Commission review of NFA registration rules in determining whether such rules are inconsistent with the Act and will also provide the most appropriate vehicle for amending the requirements for registration if the Commission determines to do so.

In this connection, however,the Commission's position is not that NFA's registration rules are required to conform to the Commission's rules in every respect. To the contrary, NFA has the authority under section 8a(10) of the Act to supplement those rules with additional procedural or substantive requirements, *e.g.*, proficiency testing, provided such requirements are not inconsistent with the Act or any rule, regulation or order of the Commission thereunder.

Proposed rule 3.44(b) makes clear that, notwithstanding the provisions of Commission rule 1.10(j), the effective date of a guarantee agreement is the date a temporary license is granted, not the date registration is granted. Further, at the request of NFA, the proposed rule also provides that the failure of an applicant to respond to a request for additional information with respect to an application or to resubmit a fingerprint card will be considered a withdrawal of the application, and the temporary license will terminate. Proposed § 3.44(c).

Proposed rule 3.45 confirms that an introducing broker applicant that receives a temporary license is subject to all of the provisions of the Act and rules and regulations thereunder applicable to a registered introducing broker, including reparations under section 14 of the Act. The rule further provides that a guaranteed introducing broker that has received a temporary license may terminate the agreement and enter into a guarantee agreement with a new FCM by providing written notice to NFA at least ten days before the agreement is terminated. A copy of the new guarantee agreement must be submitted at the same time.

As with a temporary license for an associated person, the rules provide that a guaranteed introducing broker's temporary license will terminate five days after service of notice that the applicant may be found subject to a statutory disqualification from registration. In addition, a temporary license will terminate upon the termination of the applicant's guarantee agreement, unless a new agreement is filed in accordance with proposed rule 3.45. As noted above, a temporary license will also terminate if the applicant fails to respond to an NFA request for additional information or a fingerprint card. Proposed § 3.46. Upon termination, of course, the applicant may no longer act in any capacity requiring registration as an introducing broker.

Finally, proposed rule 3.47 provides that a temporary license will become a registration upon the earlier of a determination by NFA that the applicant is qualified for registration or the expiration of six months from the date of its issuance. Receipt of a temporary license, however, confers no right to such registration.

Related Matters

A. Paperwork Reduction Act

The Commission has submitted to the Director of the Office of Management and Budget ("OMB"), pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), an explanation and details of the information collection and recordkeeping requirements which would be necessary to implement these proposals. Any person wishing to comment on the information collection requirements should contact Katie Lewin, Office of Management and Budget, Room 3235, NEOB, Washington, DC 20503. Telephone: (202) 395-7231. Copies of the information collection submission to OMB are available from Joseph G. Salazar, Commodity Futures Trading Commission Clearance Officer, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-9735.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et. seq.*, requires that agencies, in proposing rules, consider the impact of these rules on small businesses. The direct impact of the proposed amendments to Part 3 of its regulations affect FCMs and introducing brokers. In this connection, the Commission has previously determined that futures commission merchants should not be considered small entities for purposes of the RFA. Specifically, the Commission found that with respect to FCMs, based upon the fiduciary nature of FCM/customer relationships, as well as the requirement that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of a small entity.[12] Accordingly, the requirements of the RFA do not apply to FCMs. Moreover, when the Commission first adopted rules governing introducing brokers, it stated that it would "evaluate within the context of a particular rule proposal whether all or some introducing brokers should be considered to be small entities and, if so, to analyze the economic impact on introducing brokers of any such rule at the time." [13] In this connection, the Commission notes that the requirements set forth in the proposed rules impose no additional requirements on applicants for registration as an introducing broker. Thus, if adopted, this proposal would not have a significant economic impact on guaranteed introducing brokers. Therefore, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Nonetheless, the Commission specifically requests comment on the impact the proposed rule may have on small entities.

[12] *See* 47 FR 18618, 18619 (April 30, 1982).

[13] *See* 48 FR 35248, 35276 (August 3, 1983).

List of Subjects in 17 CFR Part 3

Registration requirements, Conditional registration, Temporary licenses, Statutory disqualifications, Authority delegations, Fingerprinting, Associated persons, Floor brokers, Introducing brokers, Commodity trading advisors, Commodity pool operators, Futures commission merchants, Leverage transaction merchants, Petitions for review.

In consideration of the foregoing, the Commission hereby proposes to amend Part 3 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

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

Authority: Secs. 2(a)(1), 4, 4b, 4c, 4d, 4e, 4f, 4g, 4h, 4i, 4k, 4m, 4n, 4o, 4p, 6, 8, 8a, 14, 15, 17 and 19 of the Commodity Exchange Act, 7 U.S.C. 2 and 4, 6, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a and 13b, 12, 12a, 18, 19, 21 and 23 (1982).

2. Sections 3.44–3.47 are proposed to be added to Subpart B to read as follows:

Subpart B—Temporary Licenses

* * * * *

§ 3.44 Temporary licensing of applicants for guaranteed introducing broker registration.

(a) Notwithstanding any other provisions of these regulations, and pursuant to the terms and conditions of this subpart, the National Futures Association may grant a temporary license to any applicant for registration as an introducing broker upon the contemporaneous filing with the National Futures Association of:

(1) A properly completed guarantee agreement (Form 1-FR Part B) from a futures commission merchant which is eligible to enter into such an agreement pursuant to § 1.10(j)(2) of this chapter;

(2) A Form 7-R properly completed in accordance with the instructions thereto, the Disciplinary History portion of which contains no "Yes" answers indicating that the applicant may be subject to a statutory disqualification under section 8a(2) through 8a(4) of the Act;

(3) A Form 8-R for the applicant, if a sole proprietor, and each principal (including each branch office manager) thereof, properly completed in accordance with the instructions thereto, the Disciplinary History portion of which contains no "Yes" answers

indicating that the applicant may be subject to a statutory disqualification under sections 8a(2) through 8a(4) of the Act;

(4) A signed and dated certification from the futures commission merchant that has executed the guarantee agreement required by paragraph (a)(1) of this section, signed by an appropriate person as defined in § 1.10(j)(1) of this chapter, stating that:

(i) The futures commission merchant has verified the information on the Forms 8–R filed pursuant to paragraph (a)(3) of this section which relate the education and employment history of the applicant's principals (including each branch office manager) thereof during the preceding five years; and

(ii) To the best of the futures commission merchant's knowledge, information, and belief, all of the publicly available information supplied by the applicant and its principals and each branch office manager of the applicant on the Form 7–R and Form 8–R, as appropriate, is accurate and complete; and

(5) The fingerprints of the applicant, if a sole proprietor, and of each principal (including each branch office manager) thereof on fingerprint cards provided by the National Futures Association for that purpose: *Provided*, That a principal who has a current Form 8–R or Form 94 on file with the Commission or the National Futures Association is not required to submit a fingerprint card if the principal is not otherwise required to be registered as an associated person of the applicant.

(b) Notwithstanding the provisions of § 1.10(j) of this chapter, the effective date of a guarantee agreement filed in accordance with paragraph (a)(1) of this section is the date upon which the temporary license is granted by the National Futures Association.

(c) An applicant that fails to respond timely to a request by the National Futures Association for clarification or explanation of any information set forth in the application of the applicant or any principal (including any branch office manager) thereof or for the resubmission of a fingerprint card will be deemed to have withdrawn its registration application and the temporary license issued to such applicant and any associated person thereof shall terminate immediately.

§ 3.45 Restrictions upon activities.

(a) Subject to the provisions of § 3.46 of this subpart and all of the obligations imposed on such registrants under the Act (in particular, section 14 thereof) and the rules, regulations and orders thereunder, an applicant for registration as an introducing broker who has received written notification that a temporary license has been granted may act in the capacity of a guaranteed introducing broker.

(b) An applicant for registration as an introducing broker who has received a temporary license may be guaranteed by a futures commission merchant other than the futures commission merchant which provided the initial guarantee agreement described in § 3.44(a)(1) of this subpart: *Provided*, That, at least 10 days prior to the effective date of the termination of the existing guarantee agreement in accordance with the provisions of § 1.10(j)(4)(ii) or (j)(5) of this chapter, or such other period of time as the National Futures Association may allow for good cause shown, the applicant files with the National Futures Association (1) written notice of such termination and (2) a new guaranteed agreement with another futures commission merchant effective the day following the last effective date of the existing guarantee agreement.

§ 3.46 Termination.

(a) A temporary license shall terminate:

(1) Five days after service upon the applicant of a notice by the National Futures Association that the applicant for registration may be found subject to a statutory disqualification from registration; or

(2) Immediately upon termination of the applicant's guarantee agreement in accordance with § 1.10(j)(4)(ii) or (j)(5) of this chapter, unless a new guarantee agreement is filed in accordance with § 3.45(b) of this subpart; or

(3) Upon failure of an applicant to respond timely to a request by the National Futures Association for clarification of information set forth in the application of the applicant or any principal (including any branch office manager) thereof or for the resubmission of a fingerprint card pursuant to § 3.44(c) of this subpart.

(b) Upon termination, the applicant may not engage in any activity which requires registration as an introducing broker.

§ 3.47 Relationship to registration.

(a) A temporary license shall not be deemed to be a registration or to confer any right to such registration.

(b) Unless a temporary license has terminated, a temporary license shall become a registration upon the earlier of:

(1) A determination by the National Futures Association that the applicant is qualified for registration as an introducing broker; or

(2) The expiration of six months from the date of its issuance.

§§ 3.48 and 3.49 [Reserved]

Issued in Washington, DC on November 4, 1986, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–25322 Filed 11–7–86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 150

[Docket No. 86N–0019]

Fruit Jelly and Fruit Preserves and Jams; Termination of Consideration of Codex Standard

Correction

In FR Doc. 86–24395 beginning on page 39546 in the issue of Wednesday, October 29, 1986, make the following corrections:

On page 39546, in the second column, the second line from the bottom should read, "the U.S. standards of identity and establishing U.S. standards of quality and fill of". On the same page, in the third column, in the second complete paragraph, in the second line, "all" should read "at", in the third line, "no" should read "not", and in the ninth line, "40" should read "401".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. 86–17]

Design Standards for Highways; Standard Specifications for Highway Signs, Luminaires and Traffic Signals

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Highway Administration (FHWA) is proposing to adopt for application on Federal-aid projects revised specifications for structural supports for highway signs, luminaires and traffic signals. Current specifications are contained in the publication entitled "Standard Specifications For Structural Supports For Highway Signs, Luminaires and

Traffic Signals, AASHTO 1975," which is incorporated by reference in 23 CFR Part 625. The American Association of State Highway and Transportation Officials (AASHTO) has approved a 1985 edition of this publication. The FHWA is not soliciting comments on whether the 1985 edition (Revised Specifications) should be adopted in whole or in part and/or modified in any way for use on Federal-aid projects.

DATE: Comments must be received on or before May 11, 1987.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 86–17, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street SW., Washington, DC. 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m. ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: James H. Hatton, Highway Engineer, Office of Engineering (202) 366–1329, or Michael Laska, Office of Chief Counsel (202) 366–1383. Office hours are from 9:00 a.m. to 5:30 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The standards, policies, and standard specifications that have been approved by the FHWA for application on all Federal-aid highway projects have been incorporated by reference in 23 CFR 625.4. One of the documents incorporated by reference in this section is the publication entitled "Standard Specifications For Structural Supports For Highway Signs, Luminaires, and Traffic Signals, AASHTO 1975." In May 1985 AASHTO approved a new edition (Revised Specifications). Many of the standards, policies, and standard specifications approved by the FHWA and incorporated by reference in 23 CFR 625 were developed and issued by AASHTO. Revisions made to such documents must be independently reviewed and adopted by the FHWA, as appropriate, for use on Federal-aid projects. The publications issued by AASHTO significantly influence the highway design policies of State and local transportation agencies. Because it is to the advantage of all parties concerned to have a single and uniform policy on design criteria regardless of funding source (i.e., Federal, State, or local), the AASHTO has submitted copies of the Revised Specifications to the FHWA with a request that FHWA take whatever action it deems necessary to have the document approved for use on Federal-aid projects.

The primary reasons for development of the Revised Specifications by AASHTO and subsequent adoption for application by FHWA include: to incorporate the latest available research findings on design concepts; to include the latest design, materials, and safety guidelines for the construction of structural supports; and to provide a more definitive and complete document on structural support construction.

Summary of Revised Specifications

The Revised Specifications are divided into sections which address: general features of design; application and consideration of loads; method of analysis; steel, aluminum, and prestressed concrete design, including corresponding allowable unit stress; criteria to determine acceptability of breakaway supports; foundations and their design criteria; details of design; use of timber; and an accompanying commentary covering each section. The significant changes are discussed in detail below.

Section 1. The 1975 edition referred to the need to shield overhead sign supports when placed within 30 feet of the edge of the traveled way. The 1985 edition clarifies that these supports should be shielded wherever warranted. Also, the horizontal clearance from the rail to the face of the support has been clarified to demonstrate that this distance is measured from the back of the rail to the face of the supports.

Section 2. Wind drag coefficients for hexdecagonal, square and diamond shapes have been added in an attempt to more accurately apply expected wind load forces on structural supports. Information from wind tunnel tests suggests these drag coefficients should now be used in designing structural supports. This should result in a design procedure that incorporates the latest research findings.

Section 3. New requirements are established regarding telescopic field splices for high level lighting supports. Also, changes in the requirements for the use of anchor bolts include: optional use of cut or rolled threads; sizing of bolts due to combined loading of shear and tension; and increases in the allowable unit stresses. These changes should permit the structural designer more flexibility in specifying hardware and will give the industry more flexibility in supplying that hardware. Research indicates that the use of anchor bolts of design yield strengths approximately equal to or less than that used for the vertical support should result in the fatigue strength of anchor bolts still not being less than the fatigure strength of the pole.

Section 4. New requirements have been added regarding: width to thickness ratios of compression elements, penetration criteria for longitudinal seam welds, and silicon content of structural steel to be galvanized. These changes have been included to ensure that the structure is as safe, reliable, and economical as possible.

Section 5. The allowable unit stresses for aluminum alloy members have been increased. The stresses allowed are now in conformance with building type structures rather that those for bridge type structures. This will result in more consistency between the factors of safety of aluminum structures and steel structures.

Section 6. Changes in the design of prestressed concrete materials include: a new equation for allowable stresses under severe corrosive exposure conditions, such as coastal areas; a revised ultimate strength design procedure; and recommendations on the use of epoxy coated reinforcement. These changes are expected to merely extend the life expectancy of prestressed concrete materials.

Section 7. There are two substantive changes to the breakaway support criteria. One is a lowering of the weight of the crash test vehicle from 2,250 pounds to 1,800 pounds and a corresponding change in acceptance criterion. The move to an 1,800-pound vehicle was in recognition that the 2,250-pound vehicle is no longer representative of the small car in today's vehicle fleet. Satisfactory dynamic performance under the 1975 specifications was indicated when the maximum change in momentum for the 2,250-pound vehicle was 1,100-pound-seconds when striking a breakaway support at speeds from 20 m.p.h. to 60 m.p.h. This implied a change-of-velocity limit of 15.7 feet/second. The new edition has a change-of-velocity limit of 15.0 feet/second for an 1,800-pound vehicle. Although the change-of-velocity criterion has not been significantly reduced, reducing the weight of the test vehicle to 1,800 pounds makes the criterion more demanding. (The change in velocity for an 1,800-pound vehicle should be expected to be greater than it would be for a 2,250-pound vehicle in activating the same breakaway support.) Through a mathematical analysis one can infer that breakaway hardware just meeting the 1975 implicit change-of-velocity criterion of 15.7 feet/second will likely produce a change in velocity of 19.7 feet/second in the lighter test vehicle required under the new specification. Since the new limit is 15.0

feet/second, it is expected that some currently accepted breakaway hardware may not meet a 15.0 feet/second criterion with the 1,800-pound vehicle.

A second substantive change to this section is the introduction of a 4-inch maximum stub height criterion—the height to be measured above an imaginary 60-inch chord connecting points on the ground either side of a breakaway support. This clearance requirement is intended to ensure design and installation practices that will avoid unsafe vehicle undercarriage snagging. The 4 inches was obtained from examining the clearance heights of light vehicles. The 60-inch dimension is the typical track width of small vehicles in today's fleet.

Section 8. There are no significant changes to this section from the 1975 edition.

Section 9. Suggested deflection criteria for cantilever supports has been added to aid those wishing to control deflection for esthetic purposes. Under the new AASHTO specifications, supports for small roadside signs would be exempt from the minimum thickness requirement for steel support. Experience has indicated that small roadside sign supports not meeting the minimum thickness requirements in the 1975 edition have sufficient durability and that they may have safety advantages.

The FHWA, through this notice of proposed rulemaking, is requesting comments on specific elements of the criteria contained in the Revised Specifications, as well as the effect of such criteria on the Federal-aid highway program. The FHWA will concurrently review the proposed revisions. Based on this review and on a careful analysis of the public comments received, a final rule will be issued adopting all or part of the Revised Specifications. If, at the time of issuance of the final rule, the Revised Specifications contain material not acceptable to the FHWA, such material will be noted and excluded and, as required, alternative criteria will be adopted for use on Federal-aid projects. Copies of the Revised Specifications may be purchased from the AASHTO, 444 North Capitol Street NW., Suite 225, Washington, DC 20590. Also, the Revised Specifications will be placed in FHWA Docket 86-17 and will be available for inspection at the times and address provided under the heading "Address."

To assist in determining whether currently accepted hardware meets the Revised Specifications, FHWA has agreed to conduct limited testing *of previously accepted luminaire hardware.* Tests with an 1,800-pound vehicle and impacts at 20 m.p.h. and 60 m.p.h. will be sponsored by FHWA, provided suppliers submit the hardware free-of-charge. When testing is completed, a supplemental Notice will be published summarizing the test results and requesting public comment thereto.

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. The FHWA has also determined that the expected impact of these proposed revisions will not be significant. This determination is based on the fact that, although the Revised Specifications contain standards which in some cases have been clarified, modified, or revised, the basic structural support design criteria will remain essentially the same. As has been stated in this preamble, the Revised Specifications have been prepared to reflect the latest findings regarding materials, safety practices, and construction methods. The manufacturers of structural support materials may be minimally affected by the Revised Specifications. Based on information available at this time, the FHWA hereby certifies that this proposed action, if promulgated, will not have a significant economic impact on a substantial number of small entities. For a more complete discussion of potential impacts, please refer to the draft Regulatory Evaluation which has been prepared and is available for inspection and copying in the public docket at the times and address provided under the heading "Address."

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—transportation, Highways and roads, Incorporation by reference, Reporting requirements.

In consideration of the foregoing, the Federal Highway Administration proposes to amend Chapter 1 of Title 23, Code of Federal Regulations, Part 625 as set forth below.

Issued on: October 31, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

The FHWA proposes to amend 23 CFR Part 625 as follows:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The authority citation for Part 625 continues to read as follows:

Authority: 23 U.S.C. 109, 315, and 402; 49 CFR 1.48(b).

2. In § 625.4, paragraph (b)(5) is revised to read as follows:

§ 625.4 Standards, policies, and standard specifications.

* * * * *

(b) * * *

(5) Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals, AASHTO 1985.(3)

* * * * *

[FR Doc. 86-25327 Filed 11-7-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250 and 256

Outer Continental Shelf; Oil, Gas and Sulphur Operations

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: This notice reopens the comment period for the notice of proposed rulemaking concerning the consolidation of Minerals Management Service's (MMS) rules governing oil, gas, and sulphur operations in the Outer Continental Shelf (OCS). The reopening permits submission of comments which were not submitted during the original comment period.

DATES: Comments must be hand-delivered or postmarked no later than November 25, 1986.

ADDRESSES: Written comments must be mailed or hand-delivered to the Department of the Interior; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646, Room 6A110; Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: John V. Mirabella, Telephone: (703) 648-7816.

SUPPLEMENTARY INFORMATION: On March 18, 1986, MMS published a notice

of proposed rulemaking in the **Federal Register** (51 FR 9316) to consolidate into one document the currently multitiered rules that govern oil, gas, and sulphur operations in the OCS. The proposed rule restructures MMS's requirements currently contained in regulations at 30 CFR Parts 250 and 256 and OCS Orders for each of the four OCS Regions. The comment period was originally open through June 16, 1986, and was subsequently extended through September 15, 1986. The MMS has received numerous comments in response to this proposed rule including several letters which were received after the closing date of the comment period. In view of the importance of the proposed rule changes, MMS wishes to be able to consider comments received from as many interested parties as possible. However, MMS recognizes that other parties may have reviewed the proposed rule and possibly even prepared comments but did not submit them on the assumption that they would not have arrived before the close of the comment period. To provide all parties with an equal opportunity to comment on the proposed rule, MMS is reopening the comment period and will consider all those received to date as well as any additional comments submitted by November 25, 1986. Comments previously submitted to MMS will be considered and should not be resubmitted. Persons choosing to submit comments at this time should ensure that the comments are received or postmarked by the date specified above.

Dated: November 3, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86-25329 Filed 11-7-86; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 166

[DoD Directive 7700.15]

Reporting Procedures on Defense Related Employment

ACTION: Proposed rule.

SUMMARY: This part is designed to establish criteria and procedures for reports required of certain former and retired military officers, former civilian officers and employees of the Department of Defense presently employed by defense contractor, and former officers and employees of defense contractors presently employed by the Department of Defense. It is being formulated to implement 10 U.S.C. 2397 which has come into effect since the last DoD Directive 7700.15 was issued on October 30, 1970 and amended most recently on June 14, 1986.

DATE: Comments due by December 10, 1986.

ADDRESS: Comments should be submitted to the Department of Defense Office of General Counsel, Office of Legal Counsel, Pentagon, Washington, DC 20301-1600.

FOR FURTHER INFORMATION CONTACT: David W. Ream or Captain Randi E. DuFresne, Department of Defense, Office of General Counsel, Office of Legal Counsel, Pentagon, Washington, DC 20301-1600. Telephone 202/695-3272.

SUPPLEMENTARY INFORMATION: DoD Directive 7700.15 was issued on October 30, 1970 (32 CFR Part 166) and amended most recently on June 14, 1986. Since that time, 10 U.S.C. 2387 has been passed and many suggestions for more efficient construction of DD Form 1878 have been offered by processors of the form. The new law changes the requirement, previously imposed and the suggestions expose weaknesses in the old form that need improvement. This area of standards of conduct is dynamic and constantly evolving thereby requiring that at current set of guidelines be provided to DoD personnel concerning the responsibilities related to their employment.

List of Subjects in 32 CFR Part 166

Conflict of interests, Defense Department Government employee, Government procurement, Reporting and recordkeeping requirements.

Accordingly, 32 CFR Part 166 is proposed to be revised as follows:

PART 166—REPORTING PROCEDURES ON DEFENSE RELATED EMPLOYMENT

Sec.

Authority: Sec. 410, 83 Stat. 210; 50 U.S.C. 1436.

§ 166.1 Reissuance and purpose.

(a) This part establishes criteria and procedures for reports required of certain former and retired military officers and former civilian officers and employees of the Department of Defense presently employed by defense contractors, and former officers and employees of defense contractors presently employed by the Department of Defense.

(b) This part establishes monitoring and enforcement procedures and assigns responsibilities.

(c) This part reissues 32 CFR Part 166 to implement 10 U.S.C. 2397.

§ 166.2 Applicability and scope.

The provisions of this part apply to all DoD personnel and to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD components"), including nonappropriated fund activities. It also applies to certain former officers and employees of DoD components.

§ 166.3 Definitions.

Contract. Agreement between any component of the Department of Defense and a business entity or individual for the acquisition by the Department of goods, services, or both. Only contracts (including the net amount of modifications to, and the exercise of options under, the contract) that involve at least $25,000 are included.

Defense Contractor. Any individual, firm, corporation, partnership, association, or other legal entity that enters into a contract directly with the Department of Defense to furnish services, supplies, or both, including construction, to the Department of Defense. Subcontractors are excluded, as are subsidiaries unless they are separate legal entities that contract directly with the Department of Defense in their own names.

Employment (and all variations). Used in a broad sense to include services performed as a consultant or otherwise, part-time or full-time, either for a defense contractor or a DoD Component.

Former Military Officer. Reserve officers not on active duty are included in the meaning of this phrase.

Retired Military Officer. Any officer entitled to receive military retired pay, even though such pay may be waived.

§ 166.4 Policy.

(a) Pursuant to statute a reporting requirement is imposed on two classes of individuals:

(1) Each person who has left service or employment with a DoD Component, who:

(i) Is a retired military officer or former military officer who served on active duty at least 10 years and who held, for any period during that service, the pay grade of 0–4 or above, or a former civilian officer or employee whose pay rate at any time during the three year period prior to the end of DoD service or employment was equal to or greater than the minimum GS–13 rate at that time;

(ii) Within the two year period following service or employment with a DoD Component, is employed by a defense contractor who, during the year preceding employment, was awarded $10,000,000 or more in DoD contracts; and

(iii) Is employed by the defense contractor at a pay rate of $25,000 per year or more.

(2) Each civilian officer and employee of a DoD Component who:

(i) Is employed at a pay rate equal to or greater than the minimum GS–13 rate;

(ii) Within the two year period prior to the effective date of service or employment with the DoD Component, was employed by a defense contractor who, during either year, was awarded $10,000,000 or more in DoD contracts; and

(iii) Was employed by that contractor at a pay rate of $25,000 per year or more at any time during employment,

(b) Each reporting individual shall provide, in the prescribed form, detailed information on the nature of the duties performed during the prior fiscal year for DoD Components and for defense contractors, including statements describing any disqualification action taken by the individual concerning defense contractors. Reports shall be submitted to the individual's present or former DoD Component in accordance with DoD Component procedures. See § 166.8 for the proper form.

(c) Current DoD officers and employees shall file a report within 30 days after entering service or employment with any DoD Component. Former DoD officers and employees shall file an initial report within 90 days after the date on which the individual began employment with the defense contractor. Former DoD officers and employees shall file subsequent reports each time, during the two year period after service or employment with the DoD Component ended, that the person's duties with the defense contractor significantly change or the person begins employment with another defense contractor. Such subsequent reports shall be filed within 30 days after the date of the change.

(d) The reports shall be used by the Department of Defense to educate personnel on standards of conduct, to monitor compliance with pre-departure disqualification rules, to identify potential violators of post government service employment restrictions, and for other appropriate purposes.

(e) An administrative penalty of up to $10,000 is available to enforce compliance with the reporting requirement of this Directive. Imposition of the penalty shall follow appropriate due process procedures, including a hearing for any person charged with violation who requests a hearing.

§ 166.5 Responsibilities.

(a) The *Head of Each DoD Component* shall:

(1) Identify a Designated Agency Ethics Official (DAEO) pursuant to DoD Directive 5500.7,[1] "Standards of Conduct" and

(2) Delegate to the DAEO authority to administer the provisions of this part as part of the DoD Component's ethics program.

(3) Promulgate regulations implementing the requirements of the statute and this part.

(b) The *Designated Agency Ethics Official* shall:

(1) Educate present DoD Component members regarding reporting requirements;

(2) Take aggressive action to obtain reports from former component members; this shall include mailing annual reminders to last known address of each former official;

(3) Review individual reports to ensure completeness;

(4) Evaluate information regarding possible violations of this part, impose appropriate penalties, and make determinations in writing in accordance with applicable due process procedures;

(5) Ensure that a list of individuals who report during the prior fiscal year and a copy of each report are provided to the DoD General Counsel no later than February 28 of each year.

(c) The *Assistant Secretary of Defense (Comptroller)* shall prepare an annual report listing the defense contractors that have been awarded $10,000,000 or more in DoD contracts during the fiscal year and publish the report in the **Federal Register** not later than December 15 after the end of the fiscal year. Persons subject to the filing requirement may rely upon the annual report to identify those contractors whose employees and former employees are subject to the provisions of this part.

(d) The *DoD General Counsel* shall:

(1) Receive the lists and copies of individual reports from each DoD Component and compile the information,

(2) No later than April 1 of each year, prepare a list of individuals who filed reports for the preceding fiscal year, listed by groups under the names of the appropriate DoD Component, and submit it to the President of the Senate and to the Speaker of the House of Representatives,

(3) Maintain copies of the lists and individual reports and make them available to the public for inspection during regular working hours.

(4) Provide legal guidance and assistance to the DAEO for DoD, and to the legal counsel for the DAEOs of all DoD components.

§ 166.6 Procedures.

(a) DoD Components shall establish administrative procedures for submission, review and approval of individual reports and for compiling and submission of the information to the DoD General Counsel who shall establish administrative procedures for receipt, compilation, and submission to Congress, of the reported information. See § 166.5.

(b) DoD Components shall establish procedures to evaluate information regarding possible violations of this Directive and to impose appropriate penalties. DoD Components shall establish procedures for holding requested hearings.

(c) Suspected violators shall be reported to the DAEO of the DoD Component of which the suspected individual is a former or present member. DoD personnel shall cooperate with official investigations of possible violations.

§ 166.7 Other Reporting Requirements.

(a) The reports prescribed by this part are in addition to the reports required from retired regular officers (DD Form 1357) and tbe financial disclosure reports required of certain civilian employees and active duty military officers (DD Form 1555 and Standard Form 278). See DoD Directive 5500.7.

(b) The reporting requirement set out in this part has been assigned Report Control Symbol _____.

BILLING CODE 3810-01-M

[1] Copies may be obtained, if needed from the U.S. Naval Publications and Form Center, Attn: Code 301, 5801 Tabor Avenue, Philadelphia, PA 19120.

§166.8-

REPORT OF DoD AND DEFENSE RELATED EMPLOYMENT AS REQUIRED BY 10 U.S.C. §2397

OMB Approval No. _____

IF ADDITIONAL SPACE IS REQUIRED USE BLANK SHEETS OF PAPER REFERENCING ITEM NUMBERS BELOW

1. NAME (Last - First - MI)

2. SOCIAL SECURITY NO. ___-___-____

3. HOME ADDRESS
a. Telephone area code ___-___
b. Street
c. City
d. State
e. Zip Code

4.a. IS THIS AN INITIAL REPORT ☐ YES ☐ NO

b. IF THIS IS NOT AN INITIAL REPORT: Check one
☐ THIS SUBSEQUENT REPORT DUE TO CHANGE IN DUTIES
☐ THIS SUBSEQUENT REPORT DUE TO CHANGE IN EMPLOYER

PART I

FORMER OFFICER OR EMPLOYEE OF DoD NOW EMPLOYED BY CONTRACTOR ONLY

5. RETIRED MILITARY - O4 or above ☐ YES ☐ NO Grade ___
FORMER MILITARY - O4 or above ☐ YES ☐ NO Grade ___
RETIRED CIVILIAN paid as GS/13 or above ☐ YES ☐ NO Grade ___
FORMER CIVILIAN paid as GS/13 or above ☐ YES ☐ NO Grade ___

6. (day / month / year)
a. DATE OF TERMINATION OF DoD SERVICE OF EMPLOYMENT
b. DATE OF EMPLOYMENT WITH DEFENSE CONTRACTOR

7. IS YOUR ANNUAL SALARY WITH DEFENSE CONTRACTOR $25,000 OR ABOVE? ☐ YES ☐ NO amount $

8. NAME OF DEFENSE CONTRACTOR EMPLOYER

9. WORK ADDRESS
a. Telephone area code ___-___
b. Street
c. City
d. State
e. Zip Code

10. CONTRACTOR POSITION
a. ☐ Administrator ☐ Researcher ☐ Contract Officer ☐ Manager ☐ Consultant ☐ Other

b. Specific Title(s)

c. **YOU MUST PROVIDE A DETAILED DESCRIPTION OF YOUR DUTIES ON A SEPARATE SHEET.** Include specifics on contracts or actions related to duties held in **ALL** former DoD positions that are reported in #11, below. See instructions.

11. FORMER DoD POSITION
a. ☐ Administrator ☐ Researcher ☐ Contract Officer ☐ Manager ☐ Consultant ☐ Other

b. Specific Title and Organization

c. **YOU MUST PROVIDE A DETAILED DESCRIPTION OF YOUR DUTIES ON A SEPARATE SHEET.** Report information requested in #11 a., b. and c. for each former DoD position held within 2 years prior contractor position. See instructions.

DD FORM 1787 (Draft)

12. DESCRIBE ANY DoD DISQUALIFICATION ACTIONS
Within Two Years Prior To Contractor Employment

PART II
FORMER EMPLOYEES OF CONTRACTORS NOW DoD OFFICERS OR EMPLOYEES ONLY

13. | | day | month | year |
|---|---|---|---|
a. DATE OF TERMINATION WITH DEFENSE CONTRACTOR | | | |
b. DATE OF EMPLOYMENT OR SERVICE WITH DoD | | | |

14. IS YOUR ANNUAL SALARY WITH DoD AT A RATE EQUAL TO OR ABOVE GS/13? ☐ YES ☐ NO amount $

15. NAME OF DoD ORGANIZATION(S) by which employed within last two years

16. WORK ADDRESS b. Street
a. Telephone area code - c. City d. State e. Zip Code

17. CURRENT DoD POSITION
a. ☐ Administrator ☐ Researcher ☐ Contract Officer ☐ Manager ☐ Consultant ☐ Other

b. Specific Title(s)

c. **YOU MUST PROVIDE A DETAILED DESCRIPTION OF YOUR DUTIES ON A SEPARATE SHEET.** Include specifics on contracts or actions related to duties held in **ALL** contractor positions that are reported in #18, below. See instructions.

18. CONTRACTOR POSITION
a. ☐ Administrator ☐ Researcher ☐ Contract Officer ☐ Manager ☐ Consultant ☐ Other

b. Specific Title(s)

c. **YOU MUST PROVIDE A DETAILED DESCRIPTION OF YOUR DUTIES ON A SEPARATE SHEET.** Report information requested in #18 a., b. and c. for each contractor position held within 2 years prior your current position. See instructions

PART III
ALL FILERS CERTIFY

19. I CERTIFY THAT THE ABOVE INFORMATION IN TRUE, COMPLETE, AND CORRECT TO THE BEST OF MY KNOWLEDGE. I ALSO CERTIFY I HAVE READ AND UNDERSTAND DoD DIRECTIVE 7700.15 OR IMPLEMENTING REGULATIONS AND I WILL FILE A NEW REPORT OF DoD AND DEFENSE RELATED EMPLOYMENT WITHIN 30 DAYS AFTER THE INFORMATION IN THIS REPORT HAS CEASED TO BE ACCURATE.

SIGNATURE	DATE

PRIVACY ACT STATEMENT

This information in this report is required by 10 U.S.C. §2397. Each report will be reviewed by Department of Defense officials to determine compliance with the intent of the Act. Information derived from the reports, including names of reporting individuals nd their current and former employers, shall be provided annually to the Congress. The reports themselves shall be available for review by members of the public and may otherwise be made available as authorized by law.

DD FORM 1787 (Draft)

BILLING CODE 3810-01-C

Knowing or willful failure to file or report information required to be reported by this law, or falsification of information, may subject you to administrative penalty of up to $10,000 pursuant to regulations promulgated by the Secretary of Defense. Knowing or willful falsification of information required to be filed may also subject you to criminal prosecution under 18 U.S.C. § 1001, leading to a fine of not more than $10,000 or imprisonment for not more than five years or both.

Instructions

The following categories of individuals must file this report:

Category I

Each person who has left service or employment with a DoD Component, who:

a. is a retired military officer or former military officer who served on active duty at least 10 years and who held, for any period during that service, the grade of O–4 or above, or a former civilian officer or employee whose pay at any time during the three year period prior to the end of DoD service or employment was equal to or greater than the minimum rate for a GS–13 at that time;

b. within the two year period following service of employment with a DoD Component, is employed by a defense contractor who, during the year preceding employment, was awarded $10,000,000 or more in DoD contracts; and

c. is employed by the defense contractor at a pay rate of $25,000 per year or more.

Category II

Each civilian officer and employee of a DoD Component who:

a. is employed at a pay rate equal to or greater than the minimum rate for GS–13;

b. within the two year period prior to the beginning of service or employment with the DoD Component, was employed by a defense contractor who, during either year, was awarded $10,000,000 or more in DoD contracts; and

c. was employed by that contractor at a pay rate of $25,000 per year or more at any time during employment.

Reports shall be submitted to the individual's present or former DoD Component in accordance with DoD Component procedures. Current DoD officers and employees shall file a report within 30 days after entering employment or service with any DoD Component. Former DoD officers and employees shall file an initial report within 90 days after the date on which the individual began employment with the defense contractor. Former DoD officers and employees shall file subsequent reports each time, during the two year period after service or employment with the DoD Component ended, that the person's duties with the defense contractor significantly change or the person begins employment with another defense contractor. Such reports shall be filed within 30 days after the date of the change.

1. through 3. Provide the appropriate information.

4. Check "yes" if this is the first DD Form 1787 you have filed ever and go on to item #5. Check "no" if you have filed a DD Form 1787 in the past and answer #4.b. and 4.c. (be sure to provide the filing dates for all prior reports).

Part I. This part only applies to individuals in category I, above.

5. Check the box(es) which indicates your status and include the highest grade or rank you held prior to leaving your DoD position. Keep in mind that the requirement to file DD Form 1787 is imposed on former and retired civilian employees who have been paid at a rate equal to or greater than the minimum rate *at the time* for a GS–13 *at any time during the three year period prior to termination* from the last DoD position.

6. Provide the requested dates. If you are no longer employed by the defense contractor, provide the date of termination on a separate sheet referencing this item number.

7. Indicate whether your annual salary with the defense contractor is above $25,000 by checking "yes" or "no." The law also requires you to provide the actual amount of your annual salary.

8. and 9. Provide the appropriate information for your defense contractor employer.

10. Indicate your position with the defense contractor by checking the box(es) next to the title that best describes your position. Also provide your specific title(s). YOU ARE REQUIRED TO PROVIDE A DETAILED DESCRIPTION OF YOUR SPECIFIC DUTIES ON A SEPARATE SHEET OF PAPER REFERENCING THIS ITEM NUMBER. YOU MUST PROVIDE THE NAMES AND DETAILS FOR ALL CONTRACTS AND ACTIONS THAT RELATE IN ANY WAY TO YOUR DUTIES IN ALL FORMER DoD POSITIONS HELD WITHIN THE TWO YEARS PRIOR TO THE BEGINNING OF YOUR EMPLOYMENT WITH THE DEFENSE CONTRACTOR. ALL THESE FORMER DoD POSITIONS MUST BE REPORTED IN ITEM #11. For a two year period following the termination of your last position with a DoD Component, you are required to file a new DD Form 1787 each time your duties with the defense contractor change significantly and each time you become employed by a new defense contractor.

11. Indicate your former DoD position by checking the box(es) next to the title that best describes your position. Also provide your specific title(s). YOU ARE REQUIRED TO PROVIDE A DETAILED DESCRIPTION OF YOUR SPECIFIC DUTIES ON A SEPARATE SHEET OF PAPER REFERENCING THIS ITEM NUMBER. YOU MUST PROVIDE THE NAMES AND DETAILS FOR ALL CONTRACTS AND ACTIONS THAT RELATE IN ANY WAY TO YOUR POSITION WITH THE DEFENSE CONTRACTOR REPORTED IN ITEM #10. If you held more than one DoD position during the two years prior to the beginning of your employment with the defense contractor, provide all the information requested in #11 a., b. and c. for each DoD position on a separate sheet of paper referencing this item number.

12. If there were any DoD disqualification actions related to you during the two years prior to your defense contractor employment, describe the actions in detail.

Part II. This part only applies to individuals in category II, above.

13. Provide the appropriate information.

14. Indicate whether your annual salary with the DoD Component is equal to or above the minimum rate for a GS–13 by checking "yes" or "no." The law also requires you to provide the actual amount of your annual salary.

15. and 16. Provide the appropriate information for your DoD Component organization.

17. Indicate your DoD position by checking the box(es) next to the title that best describes your position. Also provide your specific title(s) and include your organization code letters. YOU ARE REQUIRED TO PROVIDE A DETAILED DESCRIPTION OF YOUR SPECIFIC DUTIES ON A SEPARATE SHEET OF PAPER REFERENCING THIS ITEM NUMBER. YOU MUST PROVIDE THE NAMES AND DETAILS FOR ALL CONTRACTS AND ACTIONS THAT RELATE IN ANY WAY TO YOUR DUTIES IN ALL FORMER DEFENSE CONTRACTOR POSITIONS HELD WITHIN THE TWO YEARS PRIOR TO THE BEGINNING OF YOUR SERVICE OR EMPLOYMENT WITH THE DoD COMPONENT. ALL THESE FORMER DEFENSE CONTRACTOR POSITIONS MUST BE REPORTED IN ITEM #18.

18. Indicate your former position with the defense contractor by checking the box(es) next to the title that best describes your position. Also provide your specific title(s). YOU ARE REQUIRED TO INCLUDE A DETAILED DESCRIPTION OF YOUR SPECIFIC DUTIES ON A SEPARATE SHEET OF PAPER REFERENCING THIS ITEM NUMBER. YOU MUST INCLUDE NAMES AND DETAILS FOR ALL CONTRACTS AND ACTIONS THAT RELATE IN ANY WAY TO YOUR DUTIES WITH YOUR DoD COMPONENT REPORTED IN ITEM #17. If you have been employed by more than one defense contractor during the two years prior to the beginning of your service or employment with the DoD Component, provide all information requested in item #18 a., b. and c. for each defense contractor position on a separate sheet of paper referencing this item number.

Part III. All filers must certify this report by signing and dating.

You will need to use separate sheets of paper. Please be careful to reference each item number carefully.

§ 166.9 Department of defense contractors receiving negotiated contract awards of $10 million or more.

Fiscal Year 1985:

3 A Industries, Inc.
A & S Tribal Industries
A A I Corp.
A C S Construction Co. of Miss.
A L M, Inc.
A M General Corp.
A R C Corp.
A T & T Information Systems
A T & T Technologies, Inc.
A V W Electronic Systems, Inc.
Abbott Products, Inc.
Abex Corp.
Accent General, Inc.
Accudyne Corp.

Action Mfg. Co.
Accurex Corp.
Addsco Industries, Inc.
Advance Computer Communications
Advanced Marine Enterprises
Advanced Technology, Inc.
Aero Corp.
Aerojet General Corp.
Aerojet Strategic Propulsion
Aerojet Tactical Systems
Aerojet Techsystems
Aeroquip Corp.
Aerospace Corp., The
Aerospace Technologies, Inc.
Alascom, Inc.
All Bann Enterprises, Inc.
Allen Corp. of America
Alliance Properties, Inc.
Allied Signal Corp.
Allis Chalmers Distribution Svc.
Altama Delta Corp.
Alvarado Construction, Inc.
Amber Refining, Inc.
Amerada Hess Corp.
American Airlines, Inc.
American Automar, Inc.
American Cyanamid Co., Inc.
American Development Corp.
American Electronic Laboratories, Inc.
American Express Co.
American Management Systems, Inc.
American President Lines, Ltd.
American Satellite Co.
American Systems Corp.
American Telephone & Telegraph Co.
American Trans Air, Inc.
Amertex Enterprises, Ltd.
Ametek, Inc.
Amex Systems, Inc.
Amoco Corp.
Ampex Corp.
Amron Corp.
Amstar Technical Products Co.
Analysis & Technology, Inc.
Analytic Sciences Corp., The
Analytic Services, Inc.
Analytical Systems Engnr. Corp.
Analytics, Inc.
Anderson, Arthur & Co.
Arcwel Corp.
Argosystems, Inc.
Arinc Research Corp.
Arkla, Inc.
Arrow Airways, Inc.
Aryana Corp.
Ashland Oil, Inc.
Assurance Technology Corp.
Astronautics Corp. of America
Atlantic Dry Dock Corp.
Atlantic Marine, Inc.
Atlantic Research Corp.
Atlantic Richfield Co.
Atlas Processing Co.
Austin Co., The
Automated Data Management, Inc
Automated Machine Products, Inc.
Automated Sciences Group, Inc.
Automation Industries, Inc.
Avco Corp.
Avondale Shipyards, Inc.
Aydin Corp.
Ayer N W, Inc.
B B N Communications Corp.
B D M Corp.
B D M International, Inc.
B E I Electronics, Inc.
B P North America Petroleum, Inc.
B S I Corp.
Ball Corp.
Baltimore Gas & Electric Co.
Barnes & Reinecke, Inc. (Del.)
Bataco Industries, Inc.
Bates, Ted Worldwide, Inc.
Bath Iron Works Corp.
Battelle Memorial Institute
Bay City Marine, Inc.
Bay Tankers, Inc.
Beacon Oil Co.
Beech Aerospace Services, Inc.
Beech Aircraft Corp.
Bell Aerospace Textron
Bell Helicopter—Boeing, JV
Bell Helicopter Textron, Inc.
Bell Telephone Labs, Inc.
Belleville Shoe Mfg. Co.
Bendix Corp., The
Bendix Field Engineering Corp.
Beretta USA Corp.
Beta Systems Velco Filter
Betac Corp.
Bethlehem Steel Corp.
Blue Cross & Blue Shield of RI
Blue Cross of Washington & Alaska, Inc.
Bodenhamer Building Corp.
Boeing Aerospace Co.
Boeing Co., The
Boeing Computer Services
Boeing Technical Operations
Bolt Beranek & Newman, Inc.
Booz Allen & Hamilton, Inc.
Borg Warner Corp.
Brunswick Corp.
Bulova Systems & Instruments Corp.
Bunker Ramo Corp.
Burnside Ott Aviation Training Center
Burroughs Corp.
Butler Associates, Inc.
Butt & Head, Inc.
C 3, Inc.
C A S, Inc.
C Construction Co., Inc.
C D I Marine Co.
C F M International, Inc
C F S Air Cargo
CACI, Inc.
CACI, Inc. Federal
Caddell Construction Co., Inc.
Cadillac Gage Co.
Calcasieu Refining Co., Inc.
California Microwave, Inc.
California Pacific Associates
Calspan Corp.
Caltex Oil Products Co.
Caltex Petroleum Corp.
Campbell Soup Co.
Carbon Hill Mfg. Co.
Carnation Co.
Carnegie Mellon University
Carolina Power & Light Co.
Case, J I Co.
Caterpillar Tractor Co.
Cates Construction, Inc.
Central Gulf Lines, Inc.
Century Brass Products, Inc.
Cerberonics, Inc.
Cessna Aircraft Co., Inc.
Chamberlain Mfg. Corp.
Chaparral Industries, Inc.
Charles Stark Draper Laboratories, Inc.
Chevron U S A, Inc.
Chromalloy American Corp.
Chrysler Corp.
Cincinnati Electronics Corp.
Cleveland Pneumatic Co.
Coastal Dry Dock & Repair Corp.
Coastal Industries, Inc.
Coastal Refining & Marketing
Cobro Corp.
Coca Cola Co.
Colt Industries, Inc.
Columbia Research Corp.
Comarco, Inc.
Command Control & Communications Corp.
Communication Mfg. Co.
Comptek Research, Inc.
Computer Sciences Corp.
Computervision Corp.
Comsat General Corp.
Conner Brothers Construction Co.
Conoco, Inc.
Container Research Corp.
Contel Page Systems, Inc.
Continental Maritime San Diego
Control Data Corp.
Cornell University
Coronado Technology, Inc.
Crane Co.
Cray Research, Inc.
Cubic Corp.
Cummins Engine Co., Inc.
Curtiss Wright Corp.
Dart & Kraft, Inc.
Dart Industries, Inc.
Dataproducts New England, Inc.
Dawson Construction Co., Inc.
Day & Zimmerman, Inc.
Day & Zimmerman, Inc. & Basil, FE JV
Dayron Corp.
Defense Research, Inc.
Del Mfg. Co., Inc.
Del Monte Corp.
Delta Industries, Inc.
Designers & Planners, Inc.
Developmental Sciences, Inc.
Devils Lake Sioux Mfg. Corp.
Dewey Electronics Corp.
Diagnostic Retrieval Systems, Inc.
Diamond Shamrock Chemicals Co.
Digital Equipment Corp.
Dresser Industries, Inc.
Dual Motors, Inc.
Dun & Bradstreet Corp.
Dynalectron Corp.
Dynamac Corp.
Dynamic Industries Corp.
Dynamic Systems, Inc.
Dynamics Corp. of America
Dynamics Research Corp.
E Systems, Inc.
E G & G Washington Analytical Services Center
E S L, Inc.
Eagle Technology, Inc.
Eastman Kodak Co.
Eaton Corp.
Edcar Industries, Inc.
Edo Corp.
Educational Computer Corp.
El Paso Electric Co.
Electro Methods, Inc.
Electronic Data Systems Corp.
Electrospace Systems, Inc.
Emco, Inc.
Emerson Electric Co.
Engineered Air Systems, Inc.
Engineering Research, Inc.

Enginetics Corp.
Environmental Elements Corp.
Environmental Research Institute, Michigan
Essex Corp.
Evaluation Research Corp.
Evergreen Intl. Airlines
Ex-Cell-O Corp.
Exxon Co. U.S.A.
Exxon Corp.
F M C Corp.
F N Mfg., Inc.
Fairchild Industries, Inc.
Fairchild Weston Systems, Inc.
Falcon Systems, Inc.
Farmers Union Central
Farrell Lines, Inc.
Federal Cartridge Corp.
Federal Data Corp.
Federal Data System Corp.
Federal Electric Corp.
Figgie International, Inc.
Flight Systems, Inc.
Florida Power & Light Co.
Flow General, Inc.
Flying Tiger Line, Inc., The
Ford Aerospace & Communications
Four Phase Systems, Inc.
Freedom Industries, Inc.
G & M Oil Co., Inc.
G K S, Inc.
G T E Communications Systems Corp.
G T E Products Corp., Del.
G T E Service Corp.
G T E Sylvania, Inc.
Garrett Corp., The
Gary Refining Co.
Gates Learjet Corp.
Gayston Corp.
General Defense Corp.
General Dynamics Corp.
General Dynamics Land Systems
General Electric Co.
General Foods Corp.
General Instrument Corp., Del.
General Motors Corp.
General Research Corp.
General Ship Corp.
General Signal Corp.
Gentex Corp.
Geodynamics Corp.
Georgia Tech Research Corp.
Getty Oil Co.
Giant Industries, Inc.
Gladieux Refinery, Inc.
Global Associates, A Joint Venture
Golden Mfg. Co., Inc.
Goodrich, B F Co., The
Goodyear Aerospace Corp.
Goodyear Tire & Rubber Co.
Goolsby Building Corp.
Gortons of Gloucester
Gould Defense Systems, Inc.
Gould, Inc.
Greenhut Construction Co., Inc.
Grey Advertising, Inc.
Grumman Aerospace Corp.
Gulf & Western Industries, Inc.
Gulf Refining & Marketing
Gulf Stream America Corp.
Gulf Tool Corp.
H & H Meat Products, Inc.
H L J Construction & Mgt. Group
H R B Singer, Inc.
H R Textron, Inc.
Halter Marine, Inc.
Hamilton Technology, Inc.
Harley Davidson Motor Co., Inc.
Harris Corp.
Harsco Corp.
Hawaiian Electric Co., Inc.
Hawaiian Independent Refinery
Hawaiian Telephone Co.
Hayes International Corp.
Hazeltine Corp.
Heckethorn Mfg. Co.
Hensel Phelps Construction Co.
Hercules, Inc.
Hess Oil Virgin Island Corp.
Hewlett Packard Co.
Hollingsworth, John R. Co.
Holmes & Narver, Inc.
Holmes & Narver Services Co., Inc.
Holston Defense Corp.
Honeycomb Co. of America
Honeywell, Inc.
Honeywell Information Systems
Horizons Technology, Inc.
Howell Corp.
Howmet Turbine Components Corp.
Hudson Institute, Inc.
Hughes Aircraft Co.
Hughes Communication Services
Hunt Oil Co.
Hycor, Inc.
Hydraulics International, Inc.
Hyster Co.
I C I Americas, Inc.
I I T Research Institute
I T T Avionics & Westinghouse JV
I T T Corp.
Inco, Inc.
Industrial Acoustics Co.
Informatics General Corp.
Information Spectrum, Inc.
Ingersoll Rand Co.
Institute for Defense Analyses
Integrated Systems Analysts
Intercontinental Mfg. Co., Inc.
Interlisearch
Intermetrics, Inc.
Intermountain Construction Co.
Intermouth International Oil, Inc.
International Business Machines
International Terminal Operating Co.
Interstate Electronics Corp.
Irvin Industries, Inc.
Israel Aircraft Industries
Itek Corp.
Jacksonville Shipyards, Inc.
Jaycor
Jersey Central Power & Light Co.
Johns Hopkins University
Jones Group, Inc., The
Jowett, Inc.
JR Son, Inc.
Jungclaus Campbell Co., Inc.
K D I Precision Products, Inc.
Kaiser Aerospace & Electronics Co.
Kaiser, Henry J., Co.
Kaman Aerospace Corp.
Kaman Sciences Corp.
Kansas Power & Light Co., Inc.
Keco Industries, Inc.
Kemenash, D. & Associates, Inc.
Kenco Refining Inc.
Kern Oil and Refining Co.
Key Airlines, Inc.
Kidde, Inc.
Kisco Co., Inc.
Koch Fuels, Inc.
Kollmorgen Corp.
Kvass Construction Co., Inc.
L S I Avionic Systems Corp.
L T V Aerospace & Defense Co.
L T V Corporation, The
Laguna Industries, Inc.
Laketon Refining Corp.
Landoll Corp.
Lanson Industries, Inc.
Lear Siegler, Inc.
Lewis Management Services Co.
Libby Corp.
Lite Industries, Inc.
Little, Arthur D., Inc.
Litton Industries, Inc.
Litton Systems, Inc.
Lockheed Corp.
Lockheed Electronics Co., Inc.
Lockheed Missiles & Space Co., Inc.
Lockheed Shipbuilding & Construction
Lockley Mfg. Co., Inc.
Loggins Meat Co.
Logicon, Inc.
Logistics Management Institute
Loral Electro Optical Sys.
Loral Electronics Corp.
Louis J. Sportswear, Inc.
Louisville Gas & Electric Co., Inc.
Lucas Industries, Inc.
Lundy Electronics & Systems, Inc.
Lykes Bros. Steamship Co., Inc.
M/A Com, Inc.
M/A Com Linkabit Corp.
Mac H B, Inc.
Magnavox Advance Products System Co.
Magnavox Government & Industrial Electronics Co.
Maitland Bros., Co.
Management & Technical Services Co.
Mantech International Corp.
Mapco, Inc.
Mapco Petroleum, Inc.
Mar, Inc.
Maremont Corp.
Marine Transport Lines, Inc.
Marinette Marine Corp.
Marquardt Co., Inc.
Martin Marietta Corp.
Martin Marietta, Diehl Co's., Thorn & Thomson, JV
Martin Marietta Ordnance System
Marvin Engineering Co., Inc.
Mason & Hanger Silas Mason Co., Inc.
Mason Chamberlain, Inc.
Massachusetts Institute of Technology
Maxima Corp., The
Maxwell Laboratories, Inc.
McCarty Corp., The
McDonnell Douglas Corp.
McDonnell Douglas Helicopter
McLaughlin Research Corp.
McMullen, John J. Associates, Inc.
McRae Industries, Inc.
Merck & Co., Inc.
Metal Trades, Inc.
Metro Machine Corp.
Michael Industries, Inc.
Michelson Organization
Microwave Laboratories, Inc.
Midland Ross Corp.
Milcom Systems Corp.
Miltope Corp.
Mine Safety Appliances Co.
Minnesota Mining & Mfg. Co.
Minowitz Mfg. Co., Inc.
Mission Research Corp.

Mit Con, Inc.
Mitre Corp., The
Mitsui & Co. USA, Inc.
Mobil Oil Corp.
Moog, Inc.
Morton Thiokol, Inc.
Moss Point Marine, Inc.
Motorola, Inc.
Murdock Engineering Co., Texas
N C R Corp.
N I Industries, Inc.
N I West, Inc.
N L Industries, Inc.
Nabisco Brands, Inc.
National Airlines, Inc., Del.
National Power Corp.
National Steel & Shipbuilding Co.
National Systems Management
Navajo Refining Co.
Needham, Inc.
Nero & Associates, Inc.
New Mexico State University
Newberg Brinderson, A Joint Venture
Newhall Refining Co., Inc.
Newport News Shipbuilding & Dry Dock Co.
Nichols Research Corp., Inc.
Nordam
Norden Systems, Inc.
Norfolk Shipbuilding & Dry Dock Corp.
North American Philips Corp.
North Atlantic Industries, Inc.
Northern Telecom, Inc., Del.
Northrop Corp.
Northrop Services, Inc.
Northrop Worldwide Aircraft Services, Inc.
Northwest Airlines, Inc.
Northwest Marine Iron Works
Nuclear Metals, Inc.
O A O Corp.
O R I, Inc.
Ocean Technology, Inc.
Ogden Bulk Transport, Inc.
Olin Corp.
Omni Spectra, Inc.
Optic Electronic Corp.
Oshkosh Truck Corp.
P P G Industries, Inc.
P R B Associates, Inc.
P S I Mobile Products, Inc.
Paccar, Inc.
Pacer Systems, Inc.
Pacific Construction
Pacific Refining Co.
Pacific Sierra Research Corp.
Pan American World Airways, Inc.
Pan American World Services, Inc.
Papago Chemicals, Inc.
Parker Hannifin Corp.
Parsons, Ralph M. Co., The
Pennsylvania Shipbuilding Co.
Pennsylvania State University
Perceptronics, Inc.
Percor, Inc.
Perkin Elmer Corp., The
Peterson Builders, Inc.
Phibro Salomon, Inc.
Philip Morris, Inc.
Philips Electronic Instruments
Phillips Petroleum Co.
Physics International Co.
Picker International, Inc.
Planning Research Corp.
Pneumo Corp.
Polorn Products-Bloomsberg, Inc.
Potomac Electric Power Co.
Power Conversion, Inc.
Presearch, Inc.
Pride Refining, Inc.
Procter & Gamble Co., The
Propper International, Inc.
Prudential Lines, Inc.
Public Service Co. of New Mexico
Puerto Rico Sun Oil Company, Inc.
Purdy Corp.
Purvis Systems, Inc.
Q E D Systems, Inc.
Quality Apparel Co.
Questech, Inc.
Quintron Systems, Inc.
R & D Associates
R C A Corp.
R C A Global Communications
R F Products, Inc.
R G I, Inc.
R M I, Inc., Advance Marine
Radian Corp.
Rand Corp., The
Rantoul, Village of
Raymond Brown Root-Mowlin
Raymond Engineering, Inc.
Raytheon Co.
Raytheon Service Co.
Refinery Associates, Inc.
Reflectone, Inc.
Remington Arms Co., Inc.
Resource Consultants, Inc.
Rexon Technology Corp.
Reynolds, R J Industries, Inc.
Reynolds, R J Tobacco Co.
Roberts, J R Corp.
Rockwell International Corp.
Roebbelen Engineering
Rohr Industries, Inc.
Rolls-Royce, Inc.
Rolm Corp.
Rosemount, Inc.
Rosenblatt, M & Son, Inc.
Ryan & Associates, Inc.
Ryan Walsh Stevedoring Co.
S Cubed
S C I Systems, Inc.
S K F Industries, Inc.
S M S Data Products Group, Inc.
S R I International
Saft America, Inc.
Sage Systems, Inc.
San Antonio, City of
Sanders Associates, Inc.
Santa Barbara Research Center
Sargent Fletcher Co.
Sargent Industries of Del., Inc.
Scallop Corp.
Scanoil International S A Inc.
Schafer, W J Associates, Inc.
Science Applications Intnl., Inc.
Scientific Atlanta, Inc.
Scientific Support Systems
Sea Land Service, Inc.
Sea Mobility, Inc.
Selma Apparel Corp.
Semcor Corp.
Serv Air, Inc.
Service Engineering Co.
Shell Oil Co.
Sheller Globe Corp.
Siemens Capital Corp.
Sierra Research Corp.
Simmonds Precision Products
Simplex Wire & Cable Co.
Sinclair Marketing, Inc.
Singer Co., The
Sippican, Inc.
Smith Industries
Softech, Inc.
Sohio Supply Co.
Solar Turbines, Inc.
Soltek of San Diego
Sonicraft, Inc.
Sooner Defense of Florida, Inc.
South Carolina Electric & Gas Co.
South Central Bell Telephone Co.
Southeast Machine Co.
Southern Air Transport, Inc.
Southern Dredging Co., Inc.
Southern Union Co.
Southwest Marine, Inc.
Southwest Research Institute
Southwestern Bell Telephone Co.
Space Communication Co.
Space Data Corp.
Sparta, Inc.
Sparton Corp.
Spears Associates, Inc.
Sperry Corp.
Standard Container Co.
Standard Mfg. Co.
Stanford, Leland Jr., University
Stanford Telephone, Inc.
Stearns, Roger, Inc.
Steuart Petroleum Co.
Stewart Warner Corp.
Sun Chemical Corp.
Sun Refining & Marketing Co.
Sundstrand Corp.
Sundland Refining Corp.
Superior Engineers Electronic Co.
Support Systems Associates, Inc.
Supreme Beef Processors, Inc.
Survival Technology, Inc.
Sverdrup Technology, Inc.
Swedlow, Inc.
Swift & Co.
Sygnetron Protection Systems
Syscon Corp.
System Development Corp.
Systematics General Corp.
Systems & Applied Sciences Corp.
Systems Management American, Inc.
Systems Research Laboratories, Inc.
T & G Construction Co., Inc.
T R W, Inc.
T S C Corp.
T W Oil (Houston), Inc.
Taurio Corp.
Techdyn Systems Corp.
Technology Applications, Inc.
Tektronix, Inc.
Teledyne, Inc.
Teledyne Industries, Inc.
Teledyne Microwave
Telephonics Corp.
Telos Computing, Inc.
Tempo, Inc.
Tetra Tech., Inc.
Texaco, Inc.
Texas Instruments, Inc.
Texas Power & Light Co.
Texas, State of
Therm, Inc.
Thompson, J. Walter Co.
Tilley Construction & Engineers
Todd Pacific Shipyards Corp.
Todd Shipyards Corp.
Tracor Aerospace Austin, Inc.
Tracor, Inc.
Tracor Marine, Inc.

Tracor MBA
Tradax Petroleum America, Inc.
Trans World Airlines, Inc.
Transamerica Airlines, Inc.
Transamerica Delaval, Inc.
Treadwell Corp.
Trepte Construction Co.
Tri-Ex Tower Corp
Triad Microsystems, Inc.
Triple A Machine Shop, Inc.
Turbo Compressor Technologies
Turtle Mountain Mfg. Co.
U S Oil & Refining Co.
U T L Corp.
Ultrasystems, Inc.
Unidynamics Corp.
Unified Industries, Inc.
Union Carbide Corp.
Union Oil Co. of California
Uniroyal, Inc.
United Airlines Aircrew Training
United Chem Con Corp.
United States Lines, Inc.
United Technologies Corp.
United Technologs Auto Holdings
United Telecontrol Elect., Inc.
Universal Energy Systems, Inc.
Universal Hydraulics, Inc.
Universal Maritime Service
University of California
University of Dayton
University of Illinois
University of Maryland, Inc.
University of New Mexico, The
University of Southern California
University of Texas System
Usibelli Coal Mine, Inc.
Utah Power & Light Co.
Utah State University
V S E Corp.
Valleydale Packers, Inc.
Valmac Industries, Inc.
Varian Associates, Inc.
Varo, Inc.
Veda, Inc.
Verac, Inc.
Vessel Charters, Inc.
Vickers, Inc.
Vitro Corp.
Voest Alpine Trading USA Corp.
W F Industries
Walters E & Co., Inc.
Wang Laboratories, Inc.
Wardoco, Inc.
Washington, University of
Watkins Johnson Co.
Wedtech Corp.
Wellco Enterprises, Inc.
West Systems
Western Gear Corp.
Western Research Corp.
Western Trading Co.
Western Union International
Western Union Telegraph Co.
Westinghouse Electric Corp.
White Engines, Inc.
Whittaker Corp.
Williams International Corp.
Williams Steel Industries, Inc.
Wilson Machine Co.
Winfield Mfg. Co., Inc.
Wisconsin Physicians Service Insurance
Wolf, L Co.
Woods Hole Oceanographic Institute
Woodward Governor Co.
World Airways, Inc.
Wyoming Refining Co.
Xerox Corp.
Zantop International Airlines, Inc.
Zenith Electronics Corp.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 5, 1986.

[FR Doc. 86-24877 Filed 11-7-86; 8:45 am]

BILLING CODE 3810-01-M

32 CFR Part 231a

[DoD Instruction 1000.10]

Procedures Governing Credit Unions on DoD Installations

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This amendment proposes to modify procedures for lease of land to credit unions that construct buildings on DoD installations. The present § 231a.5(j)(3) (51 FR 6535) provides that once leases expire and title to leasehold improvements passes to the Government, credit unions that meet the membership criterion shall be accorded free rent, utilities and services. This proposed amendment permits DoD Components to negotiate for (1) extension of leases prior to expiration and (2) credit union payment of rent, maintenance, utilities and services once title to leasehold improvements passes to the Government.

DATE: Written comments must be received by December 10, 1986.

ADDRESS: Directorate for Banking, Office of the Deputy Assistant Secretary of Defense (Management Systems), The Pentagon, Room 1A658, Washington, DC 20301-1100.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald L. Adolphi, 202-697-8281.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 231a

Credit unions, Defense credit unions.

PART 231a—[AMENDED]

Accordingly, 32 CFR Part 231a is proposed to be amended as follows:

1. The authority citation for Part 231a continues to read as follows:

Authority: 10 U.S.C. 136.

2. Section 231a.5(j) is revised to read as follows:

§231a.5 [Amended]

* * * * *

(j) Leases of Government land.

(1)-(2) [Reserved]

(3) Subject to the Secretarial determination required by 10 U.S.C. 2667, the terms of an existing real estate lease may be extended, prior to the expiration of the lease, at fair market rental value. In consideration for this extension, the credit union shall agree to continue maintaining the premises and paying for utilities and services furnished in accordance with DoD Directive 4000.6.

(4) When, under the terms of a lease, title to improvements passes to the Government, and the credit union expresses an interest in continued occupancy, arrangements shall be made by lease for such occupancy. The lease may require the credit union to (1) pay fair market rental value for land underlying the improvements and (2) maintain the premises and pay for utilities and services furnished in accordance with DoD Directive 4000.6.

* * * * *

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 5, 1986.

[FR Doc. 86-25336 Filed 11-7-86; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A3-FRL-3098-6; Docket No. AM022DE]

Approval and Promulgation of Implementation Plans; Approval of Revisions to the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency is proposing approval of revisions to the Delaware Regulations Governing the Control of Air Pollution, Regulation No. XXIV, Control of Volatile Organic Compound Emissions, Section 9 Surface Coating Operations. The headings in Table I and I(a) are amended by deleting the word "yearly" from "yearly average." Both automobile assembly plants, Chrysler Corporation in Newark and General Motors Corporation in Wilmington, will be affected by this revision. In addition, two new Reasonably Available Control Technology (RACT) standards are proposed for the zinc-rich primer and urethane chip-resistant primer. These standards of 4.0 and 4.5 lbs. VOC/gallon less water, respectively, will pertain only to Chrysler Corporation in Newark at the present time.

The Environmental Protection Agency is reproposing these revisions to the Delaware Regulations Governing the Control of Air Pollution because the proposed **Federal Register** notice which was published on July 17, 1986 contained several errors. EPA is now withdrawing the July 17, 1986 **Federal Register** notice and republishing the proposed notice in its entirety today.

DATE: Comments must be submitted on or before December 10, 1986.

ADDRESSES: Copies of these amendments and the accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs Branch, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Esther Steinberg (3AM11)

Delaware Department of Natural Resources and Environmental Control, Air Resources Section, 89 Kings Highway, P.O. Box 1401, Dover, DE 19901

All comments on the proposed revision submitted within 30 days of this Notice will be considered and should be addressed to Mr. David L. Arnold, Chief, DELMARVA/DC Section at the above Region III address. Please reference the EPA docket number found in the heading of this Notice.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia H. Stahl, (215) 597–9337, at the Region III address above. The commercial and FTS numbers are the same.

SUPPLEMENTARY INFORMATION: On December 18, 1985, the State of Delaware submitted a request to amend Regulation No. XXIV, Control of Volatile Organic Compound Emissions, section 9, Surface Coating Operations. This amendment proposes revisions to Tables I and I(a) by deleting the word "yearly" from the headings "yearly average" in both tables. The deletion of "yearly" removes the current confusion associated with these tables since the footnotes to these tables clearly limit the compliance determination for automobile and light duty truck coatings to the arithmetic average of all colors at any time. This revision will affect the two automobile assembly plants in Delaware, Chrysler Corporation in Newark and General Motors in Wilmington. The use of averaging only pertains to automobile and light duty truck coatings as footnoted in Tables I and I(a). Automobile and light duty truck coatings may be averaged within a category but not across categories. Both EPA and Delaware agree that all other surface coatings in these tables must comply individually with the applicable standard.

In addition, two new standards under enamel coatings in Table I are proposed. The proposed standard for zinc-rich primer is 4.0 lbs. VOC/gallon less water. The proposed standard for urethane chip-resistant primer is 4.5 lbs. VOC/gallon less water. The final compliance date for both standards is December 31, 1985. The urethane chip-resistant primer is defined as a coating baked at or below 250° F and is applied, while wet and without individual bake curing, after the primer and immediately before the topcoat. Neither of these coatings were considered at the time of the development of EPA's Control Technology Guidelines (CTG) for Automobile and Light Duty Truck Surface Coating Operations. EPA has determined that these standards now represent Reasonably Available Control Technology (RACT) for these two coatings. The technical support document contains detailed information regarding the development of these RACT standards. The increase in VOC emissions allowed by these RACT limits are not expected to adversely impact the EPA approved demonstration of attainment for Delaware. These emissions will be subtracted from Delaware's growth allowance. Currently, only Chrysler Corporation in Newark will be affected by the adoption of the standards for zinc-rich primer and urethane chip-resistant primer. The General Motors Wilmington Plant is not using a zinc-rich primer at this time and the definition of the urethane chip-resistant primer here restricts the application of this standard to Chrysler's current type of operation.

The proposed changes will affect Tables I and I(a). The word "YEARLY" is deleted from the table heading, "YEARLY AVERAGE" in both Tables I and I(a). The two new standards for zinc rich primer and urethane chip-resistant primer are added under the enamel coatings category below the standard for final repair primer. A footnote (5) will be added for the urethane chip-resistant primer and will read:

> This coating is baked at or below 250° F and is applied, while wet and without individual bake curing, after the primer and immediately before the topcoat.

Conclusion

EPA's decision to propose approval to delete the word "yearly" from the headings in Tables I and I(a) and adopt new RACT standards for zinc-rich primer and urethane chip-resistant primer is based on a determination that these revisions are consistent with current EPA policy and that they comply with the Clean Air Act.

The public is invited to submit comments to the EPA Region III address above on whether or not the proposed revisions should be approved.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. section 605(b), the Regional Administrator has certified that the proposed revisions will not have a significant economic impact on a substantial number of small entities. *See* 46 FR 8709, January 27, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control.

Authority: 42 U.S.C. 7401–7642

Dated: October 9, 1986.

James M. Seif,

Regional Administrator.

[FR Doc. 86–25347 Filed 11–7–86; 8:45 am]

BILLING CODE 6560–50–M

Notices

Federal Register
Vol. 51, No. 217
Monday, November 10, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of International Cooperation and Development

Agribusiness Promotion Council; Meeting

Notice is hereby given that the Committee on Transportation and Infrastructure of USDA's Agribusiness Promotion Council, advisory group to the Secretary of Agriculture on matters pertaining to the Caribbean Basin, will meet on November 18, 1986 from 5:00 to 7:00 p.m., at the Hyatt Regency Hotel in Miami, Florida. The Committee meeting will be held in conjunction with the Caribbean/Central American Action's (C/CAA) 10th Anniversary Miami Conference on the Caribbean. The agenda will consist of discussions regarding transportation difficulties and concerns as they relate to the Caribbean Basin and Central American countries. The status of the recommendations made at January's meeting in Washington, DC. will be also be addressed. The meeting will be open to the public. Written statements may be submitted to Joan S. Wallace, Administrator, USDA/OICD Room 3047—South Building, Washington, DC 20250–4300, until November 10, 1986.

Richard E. Lyng,

Secretary.

November 4, 1986.

[FR Doc. 86–25391 Filed 11–7–86; 8:45 am]

BILLING CODE 3410–DP–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

ATBCB Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 10:00 to 12 noon, on Wednesday, November 19, 1986, to take place in Department of Transportation (DOT) Conference Room 2230, 400 Seventh Street, SW., Washington, DC.

Items on the Agenda

FY 1986 Annual Report to the President and Congress; proposed preamble and MGRAD provisions for detectable warnings; and proposed preamble and MGRAD provisions for leased facilities.

DATE: Wednesday, November 19, 1986—10:00–12 noon.

ADDRESS: Department of Transportation Conference Room 2230, 400 Seventh Street, SW., Washington, DC.

Committees of the ATBCB will meet on Monday afternoon and all day Tuesday, November 17 and 18, 1986. The Research Committee will meet in DOT Conference Room 3200. All other committees will meet in DOT Conference Room 2230, 400 Seventh Street, SW.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Special Assistant for External Affairs (202) 245–1591 (voice or TDD).

Margaret Milner,

Executive Director.

[FR Doc. 86–25323 Filed 11–7–86; 8:45 am]

BILLING CODE 6820–BP–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Travel and Tourism Administration
Title: Survey of International Air Travelers
Form No.: Agency: N/A; OMB: 0605–0007
Type of request: Revision of a currently approved collection
Burden: 165,600 respondents; 24,840 reporting hours
Needs and Uses: This survey provides consumer marketing data on international travelers to and from the United States which allows USTTA to identify and analyze specific foreign travel markets.
Affected public: Individuals
Frequency: On occasion
Respondent's obligation: Voluntary
OMB desk officer: Sheri Fox, 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: November 5, 1986.

Ed Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86–25379 Filed 11–7–86; 8:45 am]

BILLING CODE 3510–CW–M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration
Title: National Estuarine Reserve Research System
Form No.: Agency: N/A; OMB: 0648–0121
Type of request: Extension of the expiration date of a currently approved collection
Burden: 99 respondents; 12,567 reporting hours
Needs and uses: The Coastal Zone Management Act of 1972, as amended, authorizes the Secretary of Commerce to make grants to coastal states to acquire, develop, or operate National Estuarine Research Reserves (previously called Estuarine Sanctuaries). Applications are required for the National Oceanic and Atmospheric Administration to

determine if the proposal for funding meets the standards of the law.
Affected public: States
Frequency: On occasion; quarterly; semiannually; and annually
Respondent's obligation: Required to obtain or retain a benefit
OMB desk officer: Sheri Fox, 395–3785
Agency: National Oceanic and Atmospheric Administration
Title: Issuance of Certificates to U.S. Fishermen from the Republic of Colombia
Form No.: Agency: N/A; OMB: 0648–0142
Type of request: Extension of the expiration date of a currently approved collection
Burden: 25 respondents; 8 reporting hours
Needs and uses: In 1972 the U.S. and the Republic of Colombia entered into a treaty which provides certain fishing rights to nationals and vessels of the U.S. The information collected from U.S. fishermen by the National Marine Fisheries Service is provided to Colombia. The Colombian government uses the information to issue certificates to fish in designated areas of the Caribbean Sea under their jurisdiction.
Affected public: Businesses or other for profit institutions; small businesses or organizations
Frequency: Annually
Respondent's obligation: Required to obtain or retain a benefit
OMB desk officer: Sheri Fox, 395–3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: November 5, 1986.

Ed Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86–25380 Filed 11–7–86; 8:45 am]
BILLING CODE 3510-CW-M

[Docket Nos. 5661–01; 5661–02]

Kurt Behrens; Delta-Avia Fluggerate GmbH, Respondents; Order Vacating Temporary Denial Order

By Order of February 1, 1985, 50 F.R. 5288 (February 7, 1985), two respondents and seven related parties have been temporarily denied U.S. export privileges. This temporary denial order of February 1, 1985 was issued pursuant to the authority of § 388.19 of the Export Administration Regulations (currently codified at 15 CFR Parts 368–399 (1986)).

The two respondents denied U.S. export privileges by the temporary denial order are the following:

Kurt Behrens, Elisabethbrunnen 5, 5442 Mendig, Federal Republic of Germany

Delta-Avia Fluggerate GmbH, with addresses at Heliport, D–5405 Ochtendung, Federal Republic of Germany

and

Flugplatz, D–5406 Winningen, Federal Republic of Germany

The seven related parties who are now denied U.S. export privileges by this temporary denial order are the following:[1]

Arnold A. Semler, Inc., 11347 Vanowen Street, North Hollywood, California 91605

Associated Industries, 11347 Vanowen Street, North Hollywood, California 91605

and

6855 Tujunga Avenue, North Hollywood, California 91605

Associated Air Services, 16700 Roscoe Boulevard, Van Nuys, California 91406

Arnold A. Semler, 12049 Iredell, Studio City, California 91604

Ronald H. Semler, General Manager, Associated Industries, 6855 Tujunga Avenue, North Hollywood, California 91605

Monte Barry Semler, Director, International Marketing, Associated Industries, 6855 Tujunga Avenue, North Hollywood, California 91605

Spedition Killewald Expotrans GmbH, Heidestrasse 16–22, 1000 Berlin 21, Federal Republic of Germany

The U.S. Department of Commerce has moved to vacate this temporary denial order. Based on this motion and on the record of this proceeding, the motion is granted.

Accordingly, it is hereby ordered that, effective immediately, the temporary denial order of February 1, 1985 is vacated.

A copy of the instant Order shall be served on each of the above-named two respondents and on each of the above-named seven related parties, and shall be published in the **Federal Register.**

Dated: November 5, 1986.

Thomas W. Hoya,

Administrative Law Judge.

[FR Doc. 86–25358 Filed 11–7–86; 8:45 am]
BILLING CODE 3510-BP-M

[1] The temporary denial order was modified for related parties on two occasions. First, on June 28, 1985 it was modified to delete National Helicopter Service and Engineering Company as as related party (50 F.R. 24001, July 9, 1985). Second, on August 29, 1985 it was modified to provide that Arnold A. Semler, Inc., Associated Industries, Arnold A. Semler, Ronald H. Semler, and Monte Barry Semler were denied U.S.-export privileges only as to U.S.-origin helicopters, helicopter parts, and specially-designed accessories for helicopters. These related parties were also authorized to apply, on a case-by-case basis, for authorization to engage in export-related transactions involving Hughes/Schweizer model 300C helicopters, 300C helicopter parts, and specially-designed accessories for model 300C helicopters (50 F.R. 36128, September 5, 1985).

International Trade Administration

[A–351–603]

Final Determination of Sales at Less Than Fair Value; Brass Sheet and Strip From Brazil

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined the brass sheet and strip from Brazil are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to continue to suspend liquidation of all entries of brass sheet and strip from Brazil that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: November 10, 1986.

FOR FURTHER INFORMATION CONTACT: Jess Bratton or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–3963 or 377–5288.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that brass sheet and strip from Brazil are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)). We made fair value comparisons on sales of the class or kind or merchandise to the United

States by the sole respondent during the period of investigation, October 1, 1985 through March 31, 1986. Comparisons were based on United States price and foreign market value, furnished by petitioners. We have found the average margin for the company investigated to be 40.62 percent, *ad valorem.*

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation—Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL–CIO), Mechanic Educational Society of America (Local 56), and United Steelworkers of America (AFL/CIO–CLC). The petition was filed on behalf of the U.S. industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on March 31, 1986 (51 FR 11774, April 7, 1986), and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of brass sheet and strip from Brazil materially injure a U.S. industry (USITC Pub. No. 1837).

On April 18, 1986, we presented an antidumping duty questionnaire to Eluma Corporation (Eluma), which accounts for virtually all exports of the subject merchandise to the United States. We requested a response in 30 days. On May 19, 1986, at the request of Eluma, we granted a 14-day extension of the due date for the questionnaire response. We received a response on June 5. On June 26, we requested additional information from Eluma. We received supplemental responses on July 10, August 4, and August 15, 1986.

On August 18, 1986, we made an affirmative preliminary determination (August 22, 1986, 51 FR 30092).

On September 11, 1986, Eluma requested that the final determination be postponed until 135 days after the preliminary determination and that verification of the questionnaire response also be postponed. On October 3, 1986, counsel for Eluma wrote to notify us that Eluma was not prepared to participate in a verification of its response and was, therefore, withdrawing its request for a postponement of the final determination.

As required by the Act, we afforded interested parties an opportunity to submit oral and written comments. No request for a hearing was made.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently provided for under the *Tariff Schedules of the United States Annotated, (TSUSA)* item numbers 612.3960, 612.3982, and 612.3986.

The chemical composition of the products under investigation is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical composition are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price, based on the best information available, with the foreign market value, also based on the best information available. We used the best information available as required by section 776(b) of the Act, because we did not receive a verifiable response.

United States Price.

We calculated the purchase price of brass and strip on the basis of the best information available which is the ex-factory prices provided by petitioners. These prices were based on actual sales or offers made by a Brazilian producer and on monthly average unit values derived from the Bureau of Census import statistics. Petitioners arrived at ex-factory prices by deducting, where appropriate, estimated charges for ocean freight, insurance, and U.S. inland freight.

Foreign Market Value

We calculated the foreign market value of brass sheet and strip on the basis of the best information available which is the ex-factory prices furnished by petitioners. These prices were based on a Brazilian producer's ex-factory prices in the home market. After having reviewed the petition, we determined that it contained sufficient information on which to make a circumstance of sale adjustment for credit expenses. Accordingly, we made an adjustment for difference in circumstance of sales for credit expenses pursuant to § 353.15 of our regulations.

Verification

Respondent did not permit the verification of its response as required by section 776(a) of the Act.

Petitioners' Comments

Comment No. 1: Petitioners argue that, in the absence of a verifiable response, the final determination in this case must be based upon the best information otherwise available. The petitioners recommend that the data contained in their petition be used for this purpose, as was done in the preliminary determination, and that the preliminary rate of 42.25 percent be adopted as the final weighted-average margin of dumping as well.

DOC Response: We agree that the data contained in the petition should be used as the best information available. A review of the petition, however, reveals that it contains sufficient information on which to make a circumstance of sale adjustment. (See "Foreign Market Value" section of this notice.)

Comment No. 2: Petitioners argue that the Department erred when, after the preliminary determination, it directed the United States Customs Service to reduce the bond requirement for antidumping duties by the amount of the *de minimis* export subsidy preliminarily found in the companion countervailing duty investigation of brass sheet and strip from Brazil since there was no bonding requirement for the export subsidy in that case. Petitioners request that this error be rectified and not be repeated after the final determination.

DOC Position: The export subsidy found in the final determination of the countervailing duty investigation of brass sheet and strip from Brazil, issued concurrently herewith, is not *de minimis.* Therefore, we must direct the United States Customs Service to reduce the bond requirement for antidumping duties by this amount. (See the "Suspension of Liquidation" section of this notice.)

Suspension of Liquidation

In accordance with section 735(d) of the Act, we are directing the U.S.

Customs Service to continue to suspend liquidation of all entries of brass sheet and strip from Brazil that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.** The United States Customs Service shall require a cash deposit or the posting of a bond on all such entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which was 40.62 percent of the entered value of the merchandise. The suspension of liquidation will remain in effect until further notice.

Article VI.5 of the General Agreement on Tariffs and Trade provides that "[n]o product shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties on the portion of the margin attributable to export subsidies. In the final countervailing duty determination on brass sheet and strip from Brazil, issued concurrently herewith, we have found export subsidies. Since dumping cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to require a cash deposit or bond for that amount. Thus, the amount of the export subsidies will be subtracted for deposit or bonding purposes from the dumping margins.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten to injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on brass sheet and strip from Brazil entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

November 3, 1986.

[FR Doc. 86-25386 Filed 11-7-86; 8:45 am]
BILLING CODE 3510-DS-M

[A-580-603]

Final Determination of Sales at Less Than Fair Value; Brass Sheet and Strip From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that brass sheet and strip from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to continue to suspend liquidation of all entries of brass sheet and strip from the Republic of Korea that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: November 10, 1986.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-5404 or 377-3965.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that brass sheet and strip from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(d) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b). We made fair value comparisons on sales of the class or kind of merchandise to the United States by the sole respondent during the period of investigation, October 1, 1985 through March 31, 1986. Comparisons were based on United States price and foreign market value, based on home market prices. We have found the weighted-average margin for the company investigated to be 7.17 percent, *ad valorem.*

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation—Brass Group, and Revere Copper Products, Inc., domestic manufactures of brass sheet and strip, and by the International Union—Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL/CIO-CLC). The petition was filed on behalf of the U.S. industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on March 31, 1986 (51 FR 11775, April 7, 1986), and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of brass sheet and strip from the Republic of Korea materially injure a U.S. industry (USITC Pub. No. 1837).

On April 18, 1986, we presented an antidumping duty questionnaire to Poongsan Metal Corporation (PMC), which accounts for at least 60 percent of exports of the subject merchandise to the United States. We requested a response in 30 days. On May 19, 1986, at the request of PMC, we granted an extension of the due date for the questionnaire response until June 9, 1986. We received a response on June 9. On July 1, 1986, we requested additional information from PMC. We received supplemental information on July 14, 1986.

On August 18, 1986, we made an affirmative preliminary determination (August 22, 1986, 51 FR 30086).

As required by the Act, we afforded interested parties an opportunity to submit oral and written comments. None of the parties requested a hearing. However, they did submit written briefs addressing the issues in this investigation.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently provided for under the *Tariff Schedules of the United States Annotated, (TSUSA)* item numbers 612.3960, 612.3982, and 612.3986.

The chemical composition of the products under investigation is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical composition are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Fair Value Comparison

In order to determine whether sales of the subject merchandise to the United States were made at less than fair value, we compared the United States purchase price with the foreign market value, based on home market prices.

For this merchandise, there are two types of sales: tolled and non-tolled. In tolled sales, the brass mill's customer provides the mill with the copper and/or zinc, or scrap, purchased from another source, which the mill converts into brass sheet or strip. The mill charges its customer only for the value of the conversion. In non-tolled sales, the brass mill produces brass sheet and strip from its own stocks of copper and zinc.

We have decided that the most accurate comparison is, when possible, to compare tolled sales to tolled sales and non-tolled sales to non-tolled sales. This type of "apples-to-apples" comparison achieves the most accurate results. If we were to compare the prices of tolled to non-tolled sales, extensive adjustments would have to be made. For example, if the U.S. transaction is a non-tolled sale, we would have to adjust home market prices for tolled sales so that they would reflect in addition the cost of the metal inputs. In the opposite situation, home market prices for non-tolled sales would somehow have to be adjusted downward.

These adjustments would present a serious administrative burden and raise methodological issues. Moreover, the tolling charge appears to be directly dependent on the quality of the metal inputs. Thus, to make the adjustment would require us to examine each transaction to determine the quality of the inputs. On methodological grounds, such adjustments raise the issue of how to allocate profit between the material inputs and processing activities when adding or subtracting material costs.

Accordingly, since there were no tolled sales in the United States, we did not ask the respondent to provide information on home market tolled sales. Therefore, we compared prices of non-tolled sales in the United States to non-tolled sales in the home market.

United States Price

As provided for in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price, since the merchandise was sold to unrelated purchasers prior to inportation into the United States. We calculated the purchase price based on the c.i.f., packed price to unrelated purchasers in the United States.

We made deductions, where appropriate, for foreign inland freight and insurance, brokerage in the Republic of Korea and the United States, ocean freight, marine insurance, bank charges, and U.S. inland freight. We added duty drawback to the United States price.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on c. & f. packed home market prices. We made deductions, where appropriate, for inland freight. We made adjustments for differences in circumstances of sale for credit expenses, advertising and warranty costs pursuant to § 353.15 of our regulations. We subtracted home packing cost and added U.S. packing cost.

We established separate categories of "such or similar" merchandise, pursuant to section 771(16)(C) of the Act, on the basis of form of material (sheets or strips). In order to select the most similar products within a "such or similar" category, we grouped the merchandise on the basis of grade (chemical composition), dimensions, and special finishes. We also compared merchandise that is sold to the United States in coil form with the merchandise that is sold in the home market in coil form. Similarily, we compared U.S. sales of cut-to-length merchandise with home market sales of cut-to-length merchandise.

Where there were no identical products in the home market with which to compare products to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. These adjustments were based on differences in the costs of materials, direct labor and directly related factory overhead.

Certain claims were disallowed in calculating foreign market value. PMC claimed an adjustment in the home market for a handling fee paid to a related company. Because of their relationship, we consider the claimed expenses to be indirect selling expenses of PMC and we did not adjust for it.

The petitioners requested that we made an adjustment for U.S. warehousing expenses. We found that these expenses were indirect in nature and, accordingly, we did not make an adjustment.

Currency Conversion

In calculating foreign market value, we made currency conversions from Korean won to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York.

Verification

As provided in section 776(a) of the Act, we verified all information provided by the respondent, using standard verification procedures, including examination of accounting records and original source documents containing relevant information on selected sales.

Petitioners' Comments

Comment #1: Petitioners contend that the Department should have requested information from the other Korean producer of brass sheet and strip. Also, the Department should have included all of Poongsan's U.S. sales transactions in its analysis. The Department cannot justify sampling the U.S. sales transactions in this investigation in light of the requirements of section 620 of the Trade and Tariff Act of 1984.

DOC Response: We disagree. There is no requirement that the Department examine all relevant exporters or sales. The Department's regulations merely require that we examine at least 60 percent of the imports in question, 19 CFR 353.38, and we have done so in this proceeding. In this investigation, Poongsan represented over 97 percent of all imports of brass sheet and strip. Thus, there is no need to examine all the

exporters. Secondly, we do not view allowing the respondent not to report exporter's sales price and other small sales for certain alloys as sampling. We disregarded these sales for reasons of administrative convenience, having concluded that these few sales would not add to the accuracy of our analysis.

Comment #2: Alloy 85/15 (85 percent copper and 15 percent zinc) sold in the United States is not sold in the home market. The Department should, for comparison purposes, use the 90/10 alloy in the home market which is most like, in terms of alloy content and from a technical standpoint, the product sold in the United States, instead of alloy 70/30 which was used in the preliminary determination.

DOC Response: We disagree. In accordance with the statute, we have decided that alloy 70/30 is "similar" merchandise to alloy 85/15. The content of zinc and copper in the alloys is not determinative by itself of whether one alloy is more similar to another. Also, 90/10 alloy produced by Poongsan is not more like 85/15 than 70/30 from a technical standpoint. Rather, 70/30 and 90/10 produced by Poongsan are equally similar to 85/15 from a technical standpoint.

Moreover, Poongsan's production runs for 85/15 are closer in size to those of 70/30 than to 90/10. The larger production runs of the 70/30 are more appropriate than smaller runs of 90/10, which would show higher costs in part because of the small size of the runs rather than solely because of the differences in the physical characteristics of the merchandise itself.

Comment #3: The respondent's gauge groupings are too broad and do not accurately reflect the physical differences in merchandise or the manufacturing costs associated with producing the merchandise. Therefore, petitioners urge the Department to use petitioners' gauge cost data as the best information available.

DOC Response: We disagree. The overwhelming majority of sales by Poongsan are of the smaller gauge groupings. These smaller gauge groupings, as delineated by Poongsan, are comparable to those suggested by the petitioners. The larger gauges represent few sales by Poongsan; moreover, Poongsan's gauge groupings appear to reflect accurately the costs and associated physical differences of the merchandise.

Comment #4: The Department should not allow Poongsan's duty drawback claim since it has failed to demonstrate that the amount of the duty drawback refund is tied directly to payment of import duties on inputs contained in the merchandise. In addition, Poongsan has failed to show that it used only imported dutiable inputs. Finally, Poongsan has not accounted for wastage and domestically-sourced scrap in the production process in calculating its claim.

DOC Response: We disagree. Poongsan established a sufficient link between the import duties paid and the refund granted. *Huff Corp.* v. *United States* 632 F. Supp. 50 (C.I.T., 1986). We thoroughly verified Poongsan's duty drawback claim and found no discrepancies. No domestic scrap is used in the manufacture of the product—only imported dutiable inputs are utilized. Wastage is provided for in the computation of duty drawback. Therefore, we used Poongsan's figure in our analysis.

Comment #5: Poongsan's claimed physical difference in merchandise adjustment for material costs may not be net of all duties. If not, then they should be deducted before making any comparisons.

DOC Response: We disagree. At verification we found that Poongsan's journals, invoices and records detailed the costs of the materials exclusive of duties. In accordance with our practice, we added the Korean import duty into the cost of the product before calculating the proper adjustment for physical differences in the merchandise.

Comment #6. The Department should deny Poongsan's home market warranty expense claim because it could not substantiate the fabrication costs associated with remaking returned merchandise.

DOC Response: We disagree. However, since we could not directly verify the fabrication expense associated with warranty costs, we have used the best information available instead. We subtracted materials cost, which was verified, and our statutory minimum 10 percent for selling, general and administrative expenses and eight percent for profit. We considered the remainder as the fabrication cost and used it in our calculation of the home market warranty costs.

Comment #7: The Department should reject Poongsan's home market advertising expense claim to the extent that it is based on advertising of a general nature.

DOC Response: We disagree. An exception to the "directly related" requirement exists for advertising expenditures. Advertising expenses which are deductible from foreign market value may be of a fixed or variable nature and may be institutional in nature or tied to the specific product, but they must be expenses which are undertaken on behalf of the ultimate customer. We verified that certain advertising expenses met these criteria. Therefore, we have allowed those expenses.

Comment #8: The Department should make a circumstance of sale adjustment for U.S. warehousing expenses on a sale-by-sale basis instead of averaging the costs over all sales.

DOC Response: We disagree. The warehousing of merchandise was not done under contractual obligation to the purchasers but merely to position the merchandise for immediate delivery into the U.S. market. Therefore, we do not consider it to be a direct selling expense and have not made any adjustment for it.

Comment #9: Petitioners believe that all U.S. inland freight charges may not be included in the data submitted by Poongsan. Specifically, they question whether inland freight charges from the U.S. port to the warehouse and from the warehouse to the customer have been included. If not, the Department should use the best information available in calculating this adjustment.

DOC Response: We verified that all U.S. inland freight charges are included in the response. In a number of instances, U.S. inland freight is included in the ocean freight charge.

Comment #10: In calculating the credit expense on U.S. sales, the Department should use Poongsan's interest rate in Korea, not the rate obtained by Pan Metal in the United States, and that rate should only cover the period of investigation. Since Poongsan appears to be financing these sales, its interest rate is the appropriate one to use.

DOC Response: We agree. When making comparisons based on purchase price, it is generally our policy to use the home market interest rate to compute the U.S. credit expense and then only for the period of investigation.

Comment #11: The Department should be certain that all short-term loans in the home market are included in the home market interest rate, especially any loans denominated in U.S. dollars.

DOC Response: The average short-term interest rate used by the Department in its calculations included all of Poongsan's short-term debt that was outstanding during the period of investigation.

Comment #12: Poongsan's average turnover ratio of accounts receivable should be based only on the products under investigation and should not include other items, particularly if they enjoyed a longer payment period.

DOC Response: The average turnover ratio may include some products other than brass sheet and strip. However, given the manner in which payment records were maintained, there was no way of determining the payment periods attributable to individual products nor was there any way to exclude payment records relating to products other than brass sheet and strip.

Comment No. 13: The Department should adjust downward the age of Poongsan's accounts receivable to account for the average time between reciept of payment and payment of taxes.

DOC Response: We agree. This is the methodology used by the respondent and we accepted it.

Comment No. 14: The Department should deny the commission paid by Poongsan to a related company to cover its expenses for document handling charges because it is merely an intracompany transfer of funds. If the Department does allow it, then it should be offset by U.S. indirect selling expenses in accordance with § 353.15(c) of the Commerce regulations.

DOC Response: We agree. The Department generally has not permitted circumstance of sale adjustments for such things as handling fees paid to related parties. The Department generally permits adjustments for commissions directly related to specific sales only when the sales are made at arm's-length and deemed to be a direct selling expense. In this situation, we found that this was neither an arm's length transaction nor a direct selling expense.

Comment No. 15: The Department should deduct the fee paid by Poongsan for its export licenses from the U.S. sales price.

DOC Response: We disagree. Poongsan did not pay any fee for its export licenses.

Comment No. 16: Poongsan, in its revised computer printout, has failed to include document handling charges paid to U.S. banks. The Department should include these charges in its analysis.

DOC Response: We disagree. Poongsan provided all data concerning bank charges and we included them in our analysis.

Comment No. 17: Poongsan has failed on a number of U.S. sales to provide brokerage charges and to submit full U.S. inland freight expenses. If this information is not provided, the Department should use the best information available.

DOC Response: We disagree. Poongsan has reported and we have verified all data.

Respondent's Comments

Comment No. 1: Korean won is the appropriate currency for reporting home market sales to original equipment manufacturers because PMC actually received won. To the extent these values are denominated in U.S. dollars, it is solely for the administrative convenience of the purchasers.

DOC Response: We disagree. The documentation reviewed at verification clearly shows that the sales in question were made in U.S. dollars. Merely because Poongsan chose to convert the dollars to won does not alter this fact.

Comment No. 2: Home market warranty costs are properly calculated and should be used by the Department in its analysis. The Department should deduct the fabrication cost and selling, general and administrative expenses as the warranty cost.

DOC Response: We disagree. We have allowed a home market warranty expense but in the absence of verified data, we have subtracted from the selling price of the brass sheet and strip the statutory minimum 10 percent selling, general and administrative expense and eight percent profit in addition to the actual material cost to arrive at a figure for fabrication expense.

Comment No. 3: The Department's verification report states the incorrect U.S. interest rate. Respondent contends that a slightly lower rate, as shown in the verification exhibits, was the number actually verified and should be used. Also, the interest rate should not be calculated solely for the period of investigation but should include the later period in which payments by U.S. cutomers were made.

DOC Response: The Department has not used the U.S. interest expense of Pan Metal. Rather, we have followed our normal practice in purchase price situations and used Poongsan's average home market interest expense for short-term loans outstanding during the period of investigation.

Comment No. 4: The Department correctly used alloy 70/30 sold in the home market as the basis for difference in merchandise adjustments regarding U.S. sales of alloy 85/15. Petitioners wrongly assert that the annealing processes of 70/30 and 90/10 are different, when, in fact, they are the same. The only manufacturing difference between 70/30 and 90/10 is in the relative content of copper and zinc. One is not different than the other from a technical standpoint. In addition, the costs for 90/10 are distorted by the very small volume produced and short production runs, whereas the production runs of 70/30 and 85/15 are more similar and less distortive.

DOC Response: We agree. See our response to Petitioners' *Comment No. 2.*

Comment No. 5: Subsequent to verification, respondent has discovered that one U.S. transaction was incorrectly included in the sales list. Respondent contends that the size of this item does not fall within the scope of investigation and, therefore, should not be included in the Department's calculations.

DOC Response: We disagree. We have included it in our calculations because it does fall within the scope of the investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of brass sheet and strip from the Republic of Korea that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.** The United States Customs Service shall require a cash deposit or the posting of a bond on all such entries to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, as shown in the table below. The suspension of liquidation will remain in effect until further notice. The margins are follows:

Manufacturer/seller/exporter	Weighted average margin percentage
Poongsan Metal Corporation	7.17
All others	7.17

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not dislose such information either publicly or under an administrative protective order, without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on brass sheet and strip from the Republic of Korea entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1763d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

November 3, 1986.

[FR Doc. 86-25385 Filed 11-7-86; 8:45 am]

BILLING CODE 3510-05-M

[C-351-604]

Final Affirmative Countervailing Duty Determination; Brass Sheet and Strip From Brazil

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of brass sheet and strip. The estimated net subsidy is 6.13 percent *ad valorem.* However, consistent with our policy of taking into account program-wide changes that occur before our preliminary determination, we are adjusting the cash deposit rate to reflect changes in the Preferential Working Capital Financing for Exports program. We have notified the U.S. International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to suspend liquidation of all entries of brass sheet and strip from Brazil that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond equal to 3.47 percent *ad valorem.*

EFFECTIVE DATE: November 10, 1986.

FOR FURTHER INFORMATION CONTACT: Thomas Bombelles, Bradford Ward or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3174, 377-2239 or 377-2438.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of brass sheet and strip. For purposes of this investigation, the following programs are found to confer subsidies:

- Preferential Working Capital Financing for Exports;
- Income Tax Exemption for Export Earnings;
- Export Financing Under the CIC-CREGE 14-11 Circular; and
- Import Duty Exemption Under Decree-Law 1189 of 1979.

We determine the estimated net subsidy to be 6.13 percent *ad valorem,* and the cash deposit rate to be 3.47 percent *ad valorem,* for all manufacturers, producers, or exporters of brass sheet and strip from Brazil.

Case History

On March 10, 1986, we received a petition in proper form from American Brass, Bridgeport Brass Corporation, Chase Brass & Copper Company, Hussey Copper Ltd., the Miller Company, Olin Corporation-Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and from the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and the United Steelworkers of America (AFL-CIO/CLC), filed on behalf of the United States industry producing brass sheet and strip.

In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Brazil of brass sheet and strip, directly or indirectly, receive subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a United States industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on March 31, 1986, we initated such an investigation (51 FR 11776, April 7, 1986). We stated that we expected to issue a preliminary determination by June 3, 1986.

Since Brazil is entitled to an injury determination under section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Brazil materially injure, or threaten material injury to, a United States industry. Therefore, we notified the ITC of our initiation. On April 24, 1986, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of brass sheet and strip (51 FR 16235, May 1, 1986).

On April 9, 1986, we presented a questionaire to the Government of Brazil in Washington, DC, concerning the petitioner's allegations, and we requested a response by May 9, 1986. On April 30, 1986, upon request of respondent, we granted additional time to submit a response. On May 16, 1986, we received a response to our questionaire.

We received information on two producers and exporters in Brazil of brass sheet and strip that exported to the United States during the review period. These are Laminacao Nacional de Metais S.A. (Laminacao) and Eluma S.A. Industria e Comercio (Eluma). Based on information obtained at verification, Laminacao and Eluma account for substantially all exports of brass sheet and strip to the United States.

We issued a negative preliminary determination on June 3, 1986 (51 FR 20864, June 9, 1986).

On June 6, 1986, petitioners filed a request for extension of the deadline of the final determination in this investigation to correspond with the date of the final determination in the antidumping duty investigation of the same products from Brazil. Pursuant to section 705(a)(1) of the Act, as amended by section 606 of the Trade and Tariff Act of 1984, on July 3, 1986, we granted an extension of the deadline date for the final determination to coincide with the deadline for the final determination in the antidumping duty investigation of the same products from Brazil (51 FR 25380, July 14, 1986). We verified the questionaire response in Brazil from June 23 through June 27, 1986. Petitioners and respondents submitted briefs on September 26 and October 3, 1986, addressing the issues arising in this investigation.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass

sheet and strip, currently provided for under the *Tariff Schedules of the United States Annotated* (TSUSA) item numbers 612.3960, 612.3982, and 612.3986. The chemical compositions of the products under investigation are currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering Systems (U.N.S.) C20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order" (49 FR 18006, April 26, 1984).

For purposes of this final determination, the period for which we are measuring subsidies ("the review period") is calendar year 1985. Based upon our analysis of the petition, the responses to our questionnaire, our verification, and the comments filed by the parties, we determine the following:

I. Programs Determined to Constitute Subsidies

We determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil of brass sheet and strip under the following programs:

A. *Preferential Working Capital Financing for Exports.* The Carteria do Comercio Exterior (Foreign Trade Department or CACEX) of the Banco do Brasil administers a program of short-term working capital financing for the purchase of inputs. These working capital loans were originally authorized by Resolution 674. On January 1, 1984, Resolution 674 was superseded by Resolution 882, which was itself substantially amended by Resolution 950 on August 21, 1984 and by Resolution 1009 in May 1985.

Eligibility for this type of financing is determined on the basis of past export performance or an acceptable export plan. The amount of available financing is calculated by making a series of adjustments to the dollar value of exports. During the review period, the maximum level of eligibility for such financing was 20 percent of the adjusted value of exports.

Following approval by CACEX of their applications, participants in the program receive certificates representing portions of the total dollar amount for which they are eligible. The certificates are presented to banks in return for cruzeiros at the exchange rate in effect on the date of presentation. Certificates must be used within 12 months of the date of issue and loans incurred as a result of their use must be repaid within 18 months of that date. Use of a certificate establishes a loan obligation with a term of up to one year (360 days).

The interest rate ceiling was raised from 40 to 60 percent on loans obtained under Resolution 674 on June 11, 1983. This interest rate is well below our commercial benchmark rate for short-term loans in Brazil, which is the short-term discount rate for accounts receivable in Brazil, published in *Analise/Business Trends* magazine. On January 1, 1984, Resolution 882 changed the payment date for both the principal and interest to the expiration date of the loan.

On August 21, 1984, Resolution 950 made this working capital financing available from commercial banks at prevailing market rates, with interest calculated at the time of repayment. Under Resolution 950, the Banco do Brasil paid the lending institution an equalization fee of up to 10 percent of the interest (after monetary correction). Resolution 950 was amended by Resolution 1009 in May 1985 and the equalization fee was increased to 15 percent of the interest (after monetary correction). Therefore, if the interest rate charged to the borrower is less than full monetary correction plus 15 percent, the Banco do Brasil pays the lending bank the difference, up to 15 percent. The lending bank passes the 15 percent equalization fee on to the borrower in the form of a reduction in the interest due. Receipt of the equalization fee by the borrower reduces the interest rate on these working capital loans below the commercial rate of interest. Resolution 950/1009 loans are also exempt from the Imposto sobre Operacoes Financieras (Tax on Financial Operations or IOF), a tax charged on all domestic financial transactions in Brazil.

Since receipt of working-capital financing under Resolution 674/950/1009 is contingent on export performance, and provides funds to borrowers at preferential rates, we determine that this program confers an export subsidy.

During the review period, one exporter of brass sheet and strip repaid loans on the criteria set forth in Resolution 674. To determine the *ad valorem* subsidy bestowed by this program during the review period, we compared the interest paid by the respondent during the review period to what would have been paid under the benchmark. We allocated the benefit over total exports of the two brass sheet and strip producers, which resulted in an estimated net subsidy of 5.40 percent *ad valorem.*

During the review period, this same exporter received new loans under this program whose terms were set by Resolution 950/1009. Interest on these loans were payable after the review period. It is the Department's policy to take into account program-wide changes in calculating a duty deposit rate when complete information on that program is available, in order to reflect the most current rate of subsidization. Therefore, we have calculated a subsidy rate for duty deposit purposes based on the interest rate rebate provided for under Resolution 950/1009. See "Certain Carbon Steel Products from Brazil: Final Affirmative Countervailing Duty Determination" (49 FR 17988, April 26, 1984).

At verification, we found that the company that had received Resolution 674/950/1009 loans used the maximum amount of financing for which it is eligible. Therefore, in order to calculate the benefit for duty deposit purposes, we multiplied the value of this company's 1985 exports by the 20 percent eligibility rate and the sum of the equalization fee and the IOF. We then allocated the benefit over the total value of all 1985 exports, resulting in an estimated net subsidy of 2.74 percent *ad valorem* for duty deposit purposes.

B. *Income Tax Exemption for Export Earnings.* Under Decree-Laws 1158 and 1721, Brazilian exporters are eligible for an exemption from income tax on the portion of profits attributable to export revenue. Because this exemption is tied to exports and is not available for domestic sales, we determine that it constitutes an export subsidy.

Both of the respondent companies used this exemption on their corporate income tax forms filed in 1985. The companies determined their net taxable income and deducted the exemption for export earnings from that income to lower their tax liability. They then used losses carried forward from previous years to offset further tax liability. Because both companies used the income tax exemption for export earnings to reduce their taxable income, as reported on their tax returns filed during the review period, we determined that both companies received a countervailable benefit.

In order to calculate the benefit from this program, we multiplied the value of the reduction in taxable income through use of the exemption by the nominal corporate income tax rate of 35 percent.

We allocated that benefit over the total value of all exports, resulting in an estimated net subsidy of 0.64 percent *ad valorem.*

C. *Export Financing Under the CIC-CREGE 14–11 Circular.* Under its CIC-CREGE 14–11 Circular (14–11), the Banco do Brasil authorizes 180- and 360-day cruzeiro loans for export financing, on the condition that companies applying for these loans negotiate fixed-level exchange contracts with the bank. Companies obtaining a 360-day loan must negotiate exchange contracts with the bank in an amount equal to twice the value of the loan. Companies obtaining a 180-day loan must negotiate an exchange contract equal to the amount of the loan. Loans under this program are also exempt from the IOF.

One company received one 14–11 loan on which interest was paid during the review period. We compared the interest charged on the 14–11 loan to our short-term loan benchmark for Brazil, *i.e.,* the nominal discount rate on accounts receivable. This comparison shows that the rate on the 14–11 loan is below the benchmark. Because 14–11 loans are available only to exporters and since the interest charged is less than the benchmark, we determine that the 14–11 loan constitutes an export subsidy.

In order to calculate the benefit from this program, we multiplied the principal of the 14–11 loan by the difference between our benchmark rate and the interest rate charged on the 14–11 loan, adjusted by the value of the IOF exemption. We allocated that benefit over the total value of all exports, resulting in an estimated net subsidy of 0.02 percent *ad valorem.*

D. *Import Duty Exemption Under Decree-Law 1189 of 1979.* At verification, we discovered that one of the companies under investigation had imported spare parts for machinery and certain other equipment free of the normal import duty. This duty exemption was granted under a provision of Decree-Law 1189 of 1979, which allows for the duty-free importation of certain merchandise which will be used in the production of export goods. Decree-Law 1189 has since been repealed, but one of the respondents had a certain value of unexpired eligibility which it used during the review period.

Because the exemption from import duty is contingent upon export production, we determine that this program constitutes an export subsidy. In order to calculate the benefit, we divided the total value of import duties not paid by the total value of all 1985 exports, resulting in an estimated net subsidy of 0.07 percent *ad valorem.*

II. Program Determined not to Constitute a Subsidy

We determine that subsidies are not being provided to manufacturers, producers, or exporters in Brazil of brass sheet and strip under the following program:

A. *Regional Bank Financing.* Petitioners alleged that the Government of Brazil provides financing on terms inconsistent with commercial considerations to the brass sheet and strip industry through regional development banks, such as the Banco do Desenvolimento de Espirito Santo (Development Band of Espirito Santo or BANDES). According to information gathered at verification, neither company had BANDES loans.

However, also at verification, we discovered that one of the companies under investigation had a loan from the Banco Do Desenvolvimento de Estado de Sao Paulo (the Development Bank of the State of Sao Paulo, or BADESP). This was a loan for a pollution control project for which the funds came partly from the World Bank and partly from BADESP.

We verified that these loans are made to all types of companies in the state of Sao Paulo to control air, water and/or solid waste pollution. Because such financing is not limited to a specific enterprise or industry, or group of enterprises or industries, we determine that this loan does not constitute a subsidy.

III. Programs Determined Not to be Used

We determine that manufacturers, producers, or exporters in Brazil of brass sheet and strip did not use the following programs which were listed in our notice of "Initiation of Countervailing Duty Investigation: Brass Sheet and Strip from Brazil" (51 FR 11776, April 7, 1986):

A. *Resolution 330 of the Banco Central do Brasil.* Resolution 330 provides financing for up to 80 percent of the value of the merchandise placed in a specified bonded warehouse and destined for export. We verified that neither of the respondents received benefits under this program during the review period.

B. *The BEFIEX Program.* The Comissao para a Consessao de Beneficios Fiscais a Programas Especiais de Exportacao (Commission for the Granting of Fiscal Benefits to Special Export Programs or BEFIEX) grants at least three categories of benefits to Brazilian exporters:

- First, under Decree-Law 77.065, BEFIEX may reduce by 70 to 90 percent import duties and the Imposto sobre Produtos Industrializados (Tax on Industrial Products or IPI) on the importation of machinery, equipment, apparatus, instruments, accessories and tools necessary for special export programs approved by the Ministry of Industry and Trade, and may reduce by 50 percent import duties and the IPI tax on imports of components, raw materials and intermediary products;
- Second, under article 13 of Decree No. 72.1219, BEFIEX may extend the carry-forward period for tax losses from four to six years; and
- Third, under Article 14 of the same decree, BEFIEX may allow special amortization of pre-operational expenses related to approved products.

We verified that neither of the respondents used this program during the review period.

C. *The CIEX Program.* Decree-Law 1428 authorized the Comissao para Incentivos a Exportacao (Commission for Export Incentives or CIEX) to reduce import taxes and the IPI tax up to ten percent on certain equipment for use in export production.

We verified that neither of the respondents used this program during the review period.

D. *Accelerated Depreciation for Brazilian-Made Capital Equipment.* Pursuant to Decree-Law 1137, any company which purchases Brazilian-made capital equipment and has an expansion project approved by the Conselho do Desenvolvimento Industrial (Industrial Development Council or CDI) may depreciate this equipment at twice the rate normally permitted under Brazilian tax laws.

We verified that neither of the respondents used this program during the review period.

E. *Incentives for Trading Companies.* Under Resolution 643 of the Banco Central do Brasil, trading companies can obtain export financing similar to that obtained by manufacturers under Resolution 950.

We verified that neither of the respondents used this program during the review period.

F. *The PROEX Program.* Short-term credits for exports are available under the Programa de Financiamento a Producao para a Exportacao (Export Production Financing Program or PROEX), a loan program operated by Banco Nacional do Desenvolvimento Economico e Social (National Bank of Economic and Social Development or BNDES).

We verified that neither of the respondents used this program during the review period.

G. *Resolutions 68 and 509 (FINEX) Financing.* Resolutions 68 and 509 of the Conselho Nacional Do Comercio Exterior (National Foreign Trade Council or CONCEX) provide that CACEX may draw upon the resources of the Fundo de Financiamento a Exportacao (Export Financing Fund or FINEX) to extent dollar-denominated loans to both exporters and United States buyers of Brazilian goods. Financing is granted on a transaction-by-transaction basis.

We verified that neither of the respondents used this program during the review period.

H. *Loans Through the Apoio o Desenvolvimento Technologica a Empresa Nacional (ADTEN).* Petitioners allege that the Government of Brazil maintains, through the Financiadora de Estudos Projectos (Financing of Research Projects or FINEP), a loan program, ADTEN (Support of the Technological Development of National Enterprises), the provides long-term loans on terms inconsistent with commercial considerations to encourage the growth of industries and development of technology.

We verified that neither of the respondents used this program during the review period.

I. *Exemption of IPI Tax and Customs Duties on Imported Equipment (CDI).* Under Decree-Law 1428, the Conselho do Desenvolvimento Industrial (Industrial Development Council or CDI) provides for the exemption of 80 to 100 percent of the customs duties and 80 to 100 percent of the IPI tax on certain imported machinery for projects approved by the CDI. The recipient must demonstrate that the machinery or equipment for which an exemption is sought was not available from a Brazilian producer. The investment project must deemed to be feasible and the recipient must demonstrate that there is a need for added capacity in Brazil.

We verified that neither of the respondents used this program during the review period.

IV. Program Determined To Have Been Terminated

IPI Export Credit Premium

Until recently, Brazilian exporters of manufactured products were eligible for a tax credit on the IPI. The IPI export credit premium, a cash reimbursement paid to the exporter upon the export of otherwise taxable industrial products, was found to constitute a subsidy in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the Government of Brazil reinstated it on April 1, 1981.

Subsequent to April 1, 1981, the credit premium was gradually phased out in accordance with Brazil's commitment pursuant to Article 14 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs, and Trade ("the Subsidies Code"). Under the terms of "Portaria" (Notice) of the Ministry of Finance No. 176 of September 12, 1984, the credit premium was eliminated effective May 1, 1985. We verified that the companies under investigation received no IPI export credit premiums after that date.

Accordingly, we determine that this program has been terminated and no benefits under the program are accruing to current exports of brass sheet and strip to the United States.

V. Program Determined Not To Exist

Preferential Pricing for Electricity

Petitioners alleged that the Government of Brazil provides electricity at preferential prices to manufacturers, producers, and exporters of brass sheet and strip in Brazil. According to information gathered at verification, the brass sheet and strip producers under investigation paid normal published rates for all electricity consumed and we found no evidence of the existence of any schedule of preferential electricity rates.

Petitioners' Comments

Comment 1: Citing to the Court of International Trade's decision in *Carlisle Tire & Rubber Co. v. United States* (Ct. Int'l Trade, 1986), petitioners assert that if the final determination were to yield an *ad volorem* subsidy amount of less than 0.50 percent, and were the amount considered *de minimis*, then the Department would be required to explain why it had reached this conclusion. Petitioners also request that, if the final determination in this investigation is affirmative, the Department suspend liquidation retroactive to the publication of the preliminary determination.

DOC Position: Since the *ad valorem* subsidy rate is greater than 0.50 percent, the issue of whether a rate of less than 0.50 percent would be *de minimis* in this case is moot. Further the Department does not believe that it has the authority to suspend liquidation retroactively under these circumstances, nor have petitioners cited any statutory provision which might confer such authority.

Comment 2: Petitioners argue that the Department improperly deducted the preliminary countervailing duty subsidy amount for the antidumping duty margain for purposes of the bonding requirements after the preliminary determination, even though the countervailing duty rate was *de minimis* and no bonding was required.

DOC Position: This issue is addressed in the comment section of the final determination in the antidumping duty investigation of brass sheet and strip from Brazil published concurrently with this notice.

Comment 3: Petitioners argue that the companies' use of the income tax exemption for export earnings resulted in a countervailable benefit. Petitioners contend that the benefit to the companies is the value of the exemption claimed multiplied by the corporate tax rate of 35 percent instead of an effective tax rate of 25.9 percent.

DOC Position: We agree. See our response to Respondents' Comment 6, *Infra*.

Comment 4: Petitioners argue that the Department should find the loan issued pursuant to the Banco do Brasil's CIC–CREGE 14–11 circular to be countervailable in our final determination. Petitioners further contend that the Department should calculate the benefit by multiplying the interest rate differential (the difference between the CIC–CREGE interest rate and the sum of the benchmark and the 1.5 percent of IOF tax on financial transactions) by the loan amount and duration of the loan.

DOC Position: We agree that this loan is countervailable. For discussion of our subsidy calculation, see "Export Financing Under the CIC–CREGE 14–11 Circular," *supra*.

Comment 5: Petitioners argue that the loans issued to the respondent companies by the Banco Nacional de Habitacao (National Housing Bank or BNH) are countervailable domestic subsidies because they are targeted to the "industry that produces construction materials" and because such loans are provided on terms inconsistent with commercial considerations. Petitioners contend that the loans should be countervailed by allocating the benefit over the total sales of Eluma's non-ferrous sector.

DOC Position: We disagree. BNH financing is extended not only to companies directly involved in construction but also to firms which manufacture, transport and supply any type of construction material. Thus,

eligible firms are members of a wide variety of industries involved in wide-ranging economic activities.

Therefore, these loans are not provided to "a specific enterprise or industry, or group of enterprises or industries" under the countervailing duty law. Accordingly, we do not find that BNH loans are countervailable and, therefore, need not address whether the loans are provided on terms inconsistent with commercial considerations.

Comment 6: Petitioners argue that the respondent companies apparently adjust their sales revenues for inflation thereby artificially diluting the impact of the countervailable subsidies they receive.

DOC Position: Petitioners have misinterpreted our verification reports. Respondents' export sales are adjusted for an exchange gain resulting from the lag in fixing the dollar-cruzeiro exchange rate between the date of export and the date of receipt of funds. Continued devaluation of the Brazilian cruzeiro against the dollar increases the number of cruzeiros per dollar between the date of export and the date the exchange contract is concluded. This is standard accounting practice for foreign exchange transactions. Respondents' domestic sales are not adjusted in this manner nor are they adjusted for inflation.

Comment 7: Petitioners argue that the loan to one respondent for pollution control should be countervailed, at least to the extent that the funds are provided from BADESP monies. Petitioners contend that these loans are not generally available within the state of Sao Paulo.

DOC Position: We disagree. We verified that pollution control loans under this program are not limited to a specific enterprise or industry, or group thereof. Therefore, these loans are not countervailable. See also our discussion under "Regional Bank Financing," *supra*.

Comment 8: Petitioners argue that the Department improperly limited its verification of alleged subsidization of capital equipment to the review period and did not inquire as to whether benefits were received on capital equipment purchased before that time. Petitioners also contend that, because verification was not conducted at the companies' facilities, the Department was prevented from identifying foreign equipment and verifying whether all normal import charges were paid.

DOC Position: The programs referred to by petitioners are those providing an exemption or reduction in import duties and/or taxes on imported capital equipment. Consistent with our policy, we have only investigated whether benefits were provided in the review period because these are recurring benefits. Recipients of duty and tax reductions or exemptions under BEFIEX, CIEX, and CDI could anticipate receiving the benefits year after year. Therefore, we allocate benefits under programs like these to the year of receipt with the result that there is no need to investigate or verify possible benefits received in years preceding the review period. For a discussion of our treatment of recurring benefits see "Final Affirmative Countervailing Duty Determination: Live Swine and Fresh, Chilled and Frozen Pork Products from Canada" (50 FR 25097, 25099, June 17, 1985).

With regard to petitioners' argument concerning verification at company facilities, we obtained sufficient documentation at verification to establish that no import charges and/or taxes were exempted for imports of equipment under the BEFIEX, CIEX, or CDI program.

Comment 9: Petitioners argue that the Department should countervail the benefit received by the respondent companies under the IPI export credit premium. Petitioners contend that despite the Department's policy reasons for not countervailing a programwide change, the respondents did in fact receive a competitive advantage for one-third of the review period.

DOC Position: We disagree. The IPI export credit premium was terminated effective May 1, 1985 and neither company receive benefits under this program after April 1985. When a subsidy program is terminated prior to our initiation, and companies may no longer received benefits as of the date of the termination, we do not include the value of the benefits received under such terminated programs from our subsidy calculations because any entries potentially subject to duties are not benefitting from the program. Also, such treatment encourages the termination of subsidy programs by countries subject to investigation.

Comment 10: Petitioners argue that the Department should subtract the value of the IPI export credit premium received during the review period from export and total sales before calculating the subsidy rates in this investigation.

DOC Position: We agree. Consistent with our practice in past Brazilian countervailing duty investigations, we have deducted the value of the IPI export credit premium from sales values in calculating our subsidy rate.

Comment 11: Petitioners argue that the respondents might be subsidized through duty suspension and excessive allowance or rebates of import duties on imported raw materials.

DOC Position: This allegation was not submitted to the Department until approximately three months after our verification of the questionnaire response and one month before our final determination was due. Accordingly, we were unable to verify the existence of such potential subsidization for this final determination. However, petitioners may resubmit this allegation during any administrative review under section 751 of the Act that may be requested.

Comment 12: Petitioners argue that the Department's "program-wide change" policy should not prevent us from calculating the benefit from the loans under the Resolution 674 program according to their actual interest rates rather than using the 15 percent interest rate differential of the Resolution 950/1009 program. Petitioners also contend that the Department should include the value of the IOF tax in calculating the benefit from these loans.

DOC Position: Since we verified that Resolution 674/950/1009 loans were used during the review period, we have calculated a subsidy rate measuring the benefit received during the review period from these loans. However, as we have done in past Brazilian countervailing duty investigations, we have taken into account the program-wide change in this program and set the duty deposit rate on the basis of the Resolution 950/1009 program. Both calculations included the amount of the IOF exemption in valuing the subsidy. See "Final Affirmative Countervailing Duty Determination: Certain Heavy Iron Construction Castings from Brazil" (51 FR 9491, March 19, 1986).

Respondents' Comments

Comment 1: Respondents argue that the Department correctly calculated the benefit from the loans under Resolution 674/950/1009 in our preliminary determination except insofar as the value of the IOF tax was included in the amount of interest savings. Respondents contend that if the IOF tax were applicable to these working capital loans, it would be an indirect tax on exports not countervailable under the General Agreement on Tariffs and Trade.

DOC Position: We disagree that the value of the IOF tax exemption should not be included in our benefit calculation. Since all domestic financing transactions are subject to the IOF tax, it is appropriate that we reflect the exemption of Resolution 674 and 950 loans from the IOF as part of the subsidy in order to measure the full benefit provided under this program.

Moreover, we do not view the IOF as a tax on the production or distribution of the product. See also our discussion under "Preferential Working Capital Financing for Exports," *supra.*

Comment 2: Respondents argue that the Department appropriately used an "historic" utilization rate in calculating the benefit from loans issued under the Resolution 950 export financing program instead of an unverified potential maximum eligibility in the preliminary determination. Respondents further argue that the Department should not use short-term commercial rates as its benchmark for calculating the benefit from the Resolution 950 export financing program as suggested by petitioners. Respondents contend that the 15 percent equalization fee is the maximum benefit the borrower can receive, making the stated interest rate on the loan irrelevant.

DOC Position: At verification we saw that the one company which used this program borrowed the maximum amount for which it was eligible. Therefore, in this case, the "historic" utilization is the same as the maximum eligibility rate established in Resolution 950 (*i.e.*, 20 percent of the adjusted value of exports). As we have in prior Brazilian countervailing duty investigations, we have calculated the duty deposit rate on the basis of the 15 percent interest equalization fee, plus the one and one-half percent IOF tax exemption.

Comment 3: Respondents argue that loans issued pursuant to the Banco do Brasil's CIC-CREGE 14–11 circular do not constitute a government program and, therefore, cannot confer a subsidy on exports of the subject merchandise. Respondents contend that the Banco do Brasil receives no financial support from the Government of Brazil and operates the program consistently with commercial considerations. Respondents further argue that the Department incorrectly valued the subsidy in the preliminary determination by including the IOF tax, and by using an average annual interest rate, based on a monthly compounded rate.

DOC Position: We disagree. Our determination that the CIC-CREGE 14–11 program provides countervailable benefits is based on (1) the fact that under Brazilian law the Banco do Brasil, which administers this program, acts as the Government of Brazil's financial agent, and (2) respondents' failure to demonstrate that the program does not provide preferential loans to exporters. Furthermore, we consider that it is appropriate to include the IOF tax in our benchmark since the IOF tax is imposed on all domestic financial transactions. With respect to the benchmark, consistent with our past methodology and the "Subsidies Appendix," we used an average annual benchmark rate against which to compare the interest rate on this loan.

Comment 4: Respondents assert that the Department correctly concluded in the preliminary determination that there is no countervailable benefit from the income tax exemption for export earnings because (a) the previous years' tax losses of the companies were not generated by this exemption, (b) the companies did not use this exemption to reduce their tax liability, and (c) no cash savings accrued to the companies during the review period.

DOC Position: We disagree. The fact that the respondent companies did not pay any corporate income taxes in 1985 is irrelevant. The income tax exemption for export earnings was used to reduce taxable income before any tax liability was calculated. Therefore, use of the exemption benefitted exports during the review period.

Further, the effect of a loss carry-forward provision is also irrelevant in determining the benefit since the companies opted to use the countervailable program, rather than a generally available loss carry-forward program, to reduce taxable income. Lastly, countervailable benefits are not limited to cash savings. See section 771(5) of the Act. See also our discussion under "Income Tax Exemption for Export Earnings," *supra.*

Comment 5: Respondents argue that the carry forward of tax losses for four years is generally available and therefore not countervailable.

DOC Position: We agree. We are not countervailing the use of the loss carry-forward provisions of the Brazilian tax law.

Comment 6: Respondents argue that, if the Department finds the income tax exemption for export earnings to be countervailable, we should calculate the benefit using the effective corporate tax rate of 25.9 percent instead of the stated rate of 35 percent. Respondents contend that all Brazilian companies with taxable income may invest in corporate funds as allowed by Brazilian law, effectively reducing their income tax rate. Respondents further argue the Department should use total sales as the denominator in calculating any benefits instead of export sales.

DOC Position: We disagree. The respondent companies paid no taxes during the review period, and, therefore, did not take advantage of those elements of the tax system which allow the effective rate to differ from the nominal tax rate. Whether the companies would have invested in funds to reduce their effective tax rate if they had had any tax liability is entirely speculative. Therefore, we used the nominal tax rate of 35 percent in our calculation of the benefit from this program.

With regard to allocating the tax benefits over total sales, as we have stated in prior Brazilian determinations, when a firm must report to be eligible for benefits under a subsidy program, and when the amount of the benefit received is tied directly or indirectly to the firm's level of exports, that program confers an export subsidy. Therefore, the Department will continue to allocate the benefits under this program over export revenues instead of total revenues.

Comment 7: Respondents argue that the loans from the BNH are not countervailable because they are not limited to a specific enterprise or industry or group of enterprises or industries, and are made on terms consistent with commercial considerations.

DOC Position: We agree that the BNH loans held by respondents are not limited to a specific enterprise or industry, or group thereof. See our response to Petitioners' Comment 5, *supra.*

Comment 8: Respondents argue that the Department correctly issued a negative preliminary determination in this investigation based on a finding of a *de minimis* subsidy despite petitioners' arguments citing *Carlisle Tire & Rubber Co. v. United States.*

DOC Position: As noted in our response to Petitioners' Comment 1, *supra,* this issue is moot.

Comment 9: Respondents argue that the Department has no authority to suspend liquidation retroactively to the publication date of its preliminary determination, as suggested by petitioners.

DOC Position: We agree that the Department has no authority under these circumstances to suspend liquidation retroactively.

Comment 10: Respondents argue that the adjustments made to the companies' export sales receipts are proper and in accord with accepted accounting principles. The adjustments are made to account for the difference between the nominal amount of the sale and the actual amount of cruzerios received as a result of the lag in fixing the foreign currency-cruzerio exchange rate.

DOC Position: We agree. See our response to Petitioners' Comment 6, *supra.*

Comment 11: Respondents argue that the regional development bank loan held by one respondent is not countervailable because it was given under a pollution control project whch is not limited to a specific enterprise or industry or group of enterprises or industries.

DOC Position: We agree that the loan supplied by BADESP is not countervailable. See our response to Petitioners' Comment 7 supra, and our determination on this program under "Program Determined Not to Constitute a Subsidy," *supra.*

Comment 12: Respondents argue that the Department has verified that no imports of capital equipment received a partial or full exemption of the IPI tax and import duties. Respondents also contend that any alleged exemptions from import taxes or duties in years prior to the period of investigation are irrelevant to this investigation according to the Department's current practice.

DOC Position: We verified that no benefits under any of the import duty exemption programs were received by the companies under investigation during the review period except as discussed under "Import Duty Exemption Under Decree-Law 1189 of 1979," *supra.*

Comment 13: Respondents argue that the Department has verified that the IPI export credit premium was eliminated effective May 1, 1985, and that the companies under investigation did not receive funds under this program beyond the cessation date of the program. Therefore, respondents contend that the IPI export credit premium is properly not countervailable.

DOC Position: We agree. See our response to Petitioners' Comment 12 and our discussion under "Program Determined to Have Been Terminated," *supra.*

Comment 14: Respondents argue that the duty-suspension program or rebates on the import of raw matrials are not countervailable. Respondents contend that petitioners' allegations that raw material imports are either not physically incorporated or benefit from excessive rebates of import charges are unsupported by the record. Furthermore, respondents argue that petitioners' new allegations concerning duty drawback and other programs are untimely and improper as they have not been filed with the International Trade Commission as required by 19 CFR 355.26(e).

DOC Position: Petitioners' allegations were untimely and could not be considered for the purpose of this final determination. See our response to Petitioners' Comment 11, *supra.*

Verification

In accordance with section 776(a) of the Act, we verified the informaton used in making our final determination. During verification, we followed standard verification procedures, including meeting with government officials, inspection of documents and ledgers, and tracing the information in the responses to source documents, accounting ledgers, and financial statements.

Suspension of Liquidation

In accordance with section 705(c)(1)(B) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from Brazil which are entered, or wthdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond equal to 3.47 percent *ad valorem* for each entry of this merchandise.

ITC Notification

In accordance with section 705(c) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC 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.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 75 days after the date of this determination. If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the supension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury exists, we will issue a contervailing duty order, directing Customs officers to assess a countervailing duty on all entries of brass sheet and strip from Brazil entered, or withdrawn from warehouse, for consumption as described in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

November 3, 1986.

[FR Doc. 86-25388 Filed 11-7-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-427-603]

Extension of the Deadline Date for the Final Countervailing Duty Determination; Brass Sheet and Strip From France

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have extended the deadline date for the final determination in the countervailing duty investigation of brass sheet and strip from France to correspond to the date of the final determination in the antidumping duty investigation of the same products from France. The final determination will be made no later than January 5, 1987.

EFFECTIVE DATE: November 10, 1986.

FOR FURTHER INFORMATION CONTACT: Mary Martin or Barbara Tillman, (202-377-2830 or 377-2438), Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On March 10, 1986, we received antidumping and countervailing duty petitions filed by American Brass, Bridgeport Brass Corporation, Chase Brass and Copper Company, Hussey Copper Ltd., the Miller Company, Olin Corporation-Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and the International Association of Machinists and Aerospace Workers, the International Union, Allied Industrial Workers of America (AFL-CIO), the Mechanics Educational Society of America (Local 56), and the United Steelworkers of America (AFL-CIO/CLC) (petitioners), on brass sheet and strip from Brazil and France. We also received antidumping petitions against the same products from Brazil, France, Canada, Italy, the Federal Republic of Germany, Sweden, and the Republic of Korea.

In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the

antidumping petitions alleged that imports of brass sheet and strip are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act) and that these imports materially injure, or threaten material injury to, a U.S. industry.

In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the countervailing duty petitions alleged that manufacturers, producers, or exporters of brass sheet and strip directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

On March 31, 1986, we initiated a countervailing duty investigation to determine whether certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in France of brass sheet and strip (51 FR 11778, April 7, 1986).

On April 24, 1986, the U.S. International Trade Commission (ITC) determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of brass sheet and strip from France. We made a preliminary affirmative countervailing duty determination on June 3, 1986 (51 FR 20867, June 9, 1986).

Based upon the request of the petitioners, we extended the deadline dates for the final determination in the countervailing duty investigations of brass sheet and strip from Brazil and France to correspond to the date of the final determinations in the antidumping duty investigations of the same products pursuant to section 705(a)(1) of the Act, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98-573) (51 FR 25379, July 14, 1986).

On September 16, 1986, Trefimetaux S.A., respondent in the antidumping and countervailing duty investigations of brass sheet and strip from France, requested a postponement of the final antidumping duty determination until not later than the 135th day after publication of our preliminary determination, pursuant to section 735(a)(2)(A) of the Act.

On October 23, 1986, we postponed the date of the antidumping duty determination until not later than January 5, 1987. In a letter dated October 27, 1986, counsel for petitioners expressed opposition to the extension of the countervailing duty investigation of brass sheet and strip from France to correspond with the extended final determination deadline in the antidumping duty investigation of the same products from France. In past cases, once petitioners invoked section 606, this election has applied for the balance of the countervailing duty investigation, regardless of subsequent extensions in the applicable antidumping determination[s]. See *Postponement of Final Antidumping Duty Determination and Countervailing Duty Determination: Offshore Platform Jackets and Piles from the Republic of Korea* (50 FR 52823, December 26, 1985); *Postponement of Final Countervailing and Antidumping Duty Determinations: Oil Country Tubular Goods from Israel* (51 FR 36442, October 10, 1986). Similarly, in this case, since petitioners unconditionally elected to exercise their option to invoke the procedures of section 606 we have determined that that election should apply to the balance of the investigation. Accordingly, we are extending the date of the final countervailing duty determination in brass sheet and strip from France until not later than January 5, 1987.

The ITC is being advised of this postponement, in accordance with section 705(d) of the Act. This notice is published pursuant to section 705(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

November 3, 1986.

[FR Doc. 86-25389 Filed 11-7-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Zone Management Programs and Estuarine Sanctuaries State Programs; Alaska; Extension of Comment Period

AGENCY: Extension of comment period on Bristol Bay Coastal Management Program Environmental Assessment.

Location: Bristol Bay, Alaska.

Notice of the availability and provision for a 30-day comment period on the above noted Environmental Assessment appeared in the **Federal Register** on October 16, 1986, 51 FR 36836. In response to a request to extend the comment period, the Office of Ocean and Coastal Resource Management hereby provides notice that the comment period has been extended 10 days. Please submit any written comments by November 28, 1986 to:

Peter L. Tweedt, Director, Office of Ocean and Coastal Resource Management, 1825 Connecticut Avenue, NW., Washington, DC 20235, (202) 673-5111.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration.

Dated: October 4, 1986.

James P. Blizzard,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 86-25333 Filed 11-7-86; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request Public Comment on Bilateral Textile Consultations With the Government of Japan to Review Trade in Categories 335, 612pt., 666pt., and 645/646

November 5, 1986.

On September 30, 1986, the Government of the United States, under Article 3 of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, as further extended by Protocol dated July 31, 1986, requested consultations with the Government of Japan with respect to women's, girls' and infants' cotton coats in Category 335, lightweight polyester filament fabric in Category 612 pt. (only TSUSA numbers 338.5010, .5011, .5012, .5013, .5014, .5015, .5016, .5017, .5018, .5019, .5020, and .5021, man-made fiber blankets in Category 666pt. (only TSUSA numbers 363.2562, 363.8506, and 363.8509), and man-made fiber sweaters in Category 645/646, produced or manufactured in Japan.

The purpose of this notice is to advise the public that, if no solution is agreed upon consultations between the two governments, the Committee for the implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the foregoing categories, produced or manufactured in Japan and exported to the United States during the twelve-month period which began on September 30, 1986 and extends through September 29, 1987 at levels of 105,247 dozen (Category 335), 100,000,000 square yards (Category 612 pt.), 540,832 pounds (Category 666 pt.) and 141,393 dozen (Category 645/646).

Summary market statements concerning these categories follow this notice.

Anyone wishing to comment or provide data for information regarding the treatment of these categories, under Article 3 of the MFA, or to comment on domestic production or availability of textile products included in the categories, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Japan Market Statement

Category 335—Womens, Girls' and Infants' Cotton Coats

September 1986.

Summary and Conclusions

U.S. imports of Category 335 from Japan were 77,803 dozen during the first seven months of 1986, approximately 26 percent above the 61,889 dozen imported during the same period of 1985.

The U.S. market for Category 335 has been disrupted by imports. The sharp and substantial increase in imports from Japan is contributing to this disruption.

U.S. Production and Market Share

U.S. production of women's, girls' and infants' cotton coats declined by nearly 28 percent from 661 thousand dozen in 1983 to 477 thousand dozen in 1985. The U.S. manufacturers' share of this market declined from 29 percent in 1983 to 19 percent in 1985.

U.S. Imports and Import Penetration

U.S. imports of Category 335 increased 24 percent from 1.6 million dozen in 1983 to 2.0 million dozen in 1985. Imports are up 18 percent through the first seven months of 1986 compared to the same period a year ago. The ratio of imports to domestic production rose from 247 percent in 1983 to 423 percent in 1985.

Duty-Paid Value and U.S. Producer Price

Approximately 67 percent of Category 335 imports from Japan during the first seven months of 1986 entered under three TSUSA Numbers: 384.3753—women's cotton corduroy suit-type coats and jackets, not knit, not ornamented; 384.3769—women's cotton corduroy coats and jackets other than suit-type, not knit, not ornamented, and 384.3777—women's other cotton coats not knit, not ornamented. These coats entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable coats.

Japan Market Statement

Category 612 Pt.—Woven Lightweight Polyester Filament Fabrics

September 1986.

Summary and Conclusion

U.S. imports of Category 612 Pt.—lightweight polyester filament fabric—from Japan during the year ending July 1986 were 187 million square yards up 25 percent from the 150 million square yards imported a year earlier. Imports during the first seven months of 1986 reached 114 million square yards, 20 percent above the January–July 1985 level. Japan is the largest supplier of Category 612 Pt.—lightweight polyester filament fabric—accounting for 59 percent of 1986 imports.

The U.S. market for polyester lightweight filament fabric has been disrupted by imports. Japan's position as the major supplier of these fabrics makes it a major contributor to the U.S. market disruption.

Production and Market Share

U.S. production of lightweight polyester filament fabrics dropped 7 percent from 1,048 million square yards in 1984 to 975 million square yards in 1985. The U.S. producers' share of the lightweight polyester filament fabric market dropped to 77 percent in 1985.

Imports and Import Penetration

U.S imports of Category 612 Pt.—lightweight polyester filament fabrics—from all sources increased in 1985 to a record level 297 million square yards. Imports for the first seven months of 1986 were up 11 percent over the comparable period in 1985. The ratio of imports to domestic production increased from 26 percent in 1984 to 31 percent in 1985.

Duty Paid Values and U.S. Producers' Prices

The duty-paid landed values of Category 612—lightweight polyester filament fabrics—from Japan are below the U.S. producers prices for comparable fabrics. Approximately 47 percent of Japan's trade of lightweight polyester filament fabrics during January–July 1986 were non-textured, finished fabrics imported under TSUSA numbers 338.5915 and 338.5917.

Japan Market Statement

Category 666—Man-Made Fiber Blankets, Including Nonwovens

September 1986.

Summary and Conclusion

U.S. imports of Category 666—man-made fiber blankets—from Japan amounted to 571 thousand pounds during the year ending July 1986, up 94 percent from a year earlier. Imports in 1985 were 479 thousand pounds, two and a half times the amount imported in 1984.

The U.S. market for man-made fiber blankets is being disrupted by imports and imports from Japan contributed to the market disruption. Continuation of the growth of imports from Japan would further the disruption.

Production and Market Share

U.S. production of man-made fiber blankets experienced a substantial decline in 1985. Man-made fiber blanket production dropped from 50 million pounds in 1984 to 38 million pounds in 1985, a 24 percent decline.

The market for man-made fiber blankets increased four percent in 1985 over its 1984 level. However, there was a distinct drop in the U.S. producers' share of the market. In 1984 the domestic producers provided 99 percent of the market; in 1985, they provided only 73 percent.

Import and Import Penetration

U.S. imports of Category 666—man-made fiber blankets—from all sources increased 34-fold in 1985 to a record level 14.5 million pounds. The ratio of imports to domestic production increased from less than one percent in 1984 to 38 percent in 1985.

Duty Paid Values and U.S. Producers Price

The duty-paid landed values of Category 666—man-made fiber blankets—from Japan are below the U.S. producers prices for comparable blankets. Approximately 65 percent of Japan's Category 666—man-made fiber blankets—during January–July 1986 were imported under TSUSA number 363.2562.

Japan Market Statement

Category 645/646—Man-Made Fiber Sweaters

September 1986.

Summary and Conclusions

U.S. imports of Category 645/646 from Japan were 156,895 dozen during the year ending July 1986, compared to the 151,178 dozen imported a year earlier. During the first seven months of 1986, man-made fiber sweater imports from Japan were 90,969 dozen compared to 89,485 dozen imported during the same period of 1985.

The U.S. market from Category 645/646 has been disrupted by imports and imports from Japan are contributing to this disruption.

U.S. Production and Market Share

U.S. production of man-made fiber sweaters declined 18 percent between 1983 and 1985 to 5,947 thousand dozen. The U.S. producers' share of this market declined from 40 percent in 1983 to 33 percent in 1985.

U.S. Imports and Import Penetration

U.S. imports of Category 645/646 grew from 10,775 thousand dozen in 1983 to 12,167 thousand dozen in 1985, a 13 percent increase. Year ending July 1986 imports of Category 645/646 reached 12,525 thousand dozen, 13 percent higher than the level imported during the year ending July 1985.

Category 645/646 imports are up five percent through the first seven months of 1986. The ratio of imports to domestic produciton increased from 149 percent in 1983 to 205 percent in 1985.

Duty-Paid Value and U.S. Producers' Price

Approximately 84 percent of Category 645/646 imports from Japan during the first seven months of 1986 entered under three TSUSA Nos.: 384.8069—infant boys', over 24 months, man-made fiber knit sweaters, not ornamented; TSUSA No. 384.8071—other infants' man-made fiber knit sweaters, not ornamented; and TSUSA No. 384.8073—women's and girls' man-made fiber knit sweaters, not ornamented. These sweaters entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable sweaters.

[FR Doc. 86-25378 Filed 11-7-86; 8:45 am]

BILLING CODE 3510-DR-M

Increasing the Import Limit for Certain Cotton, Wool and Man-Made Fiber Apparel Products Produced or Manufactured in the Republic of Korea

November 5, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 10, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On December 23, 1985 a notice was published in the **Federal Register** (50 FR 52356) announcing establishment of limits for certain specified categories of cotton, wool, and man-made fiber textile products, including Categories 359 pt. (cotton vests in TSUSA numbers 381.0258, 381.0554, 381.3949, 381.5800, 381.5920, 381.0451, 384.0648, 384.0650, 384.0651, 384.3449, 384.3450, 384.4300, 384.4421, and 384.4422), 442 (wool skirts), 459-W (woven headwear in TSUSA numbers 702.7500 and 702.8000), 636 (man-made fiber dresses), 641 (women's, girls' and infants' blouses and shirts, not knit, of man-made fibers), 642 (skirts and culottes of man-made fibers), and 659-C (coveralls in TSUSA numbers 381.3325, 381.9805, 384.2205, 384.2530, 384.8606, 384.8607 and 384.9310), produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 1, 1982, as amended, between the Governments of the United States and the Republic of Korea, and at the request of the Government of the Republic of Korea, swing is being applied to the limits for Categories 442, 459-W, 636, 641, 642 and 659-C, increasing them for the current agreement year. The limit for Category 359-V is being reduced to 1,171,316 pounds to account for the increases applied to the other categories. In the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to adjust the designated limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textiles Agreements.

Committee for the Implementation of Textile Agreements

November 5, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 18, 1985, which directed you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

Effective on November 10, 1986, the directive of December 18, 1985 is hereby further amended to adjust the import restraint limits for the following categories:[1]

Category	Adjusted 12-mo limit [1]
359-V [2]	1,171,316 pounds.
442	46,527 dozen.
459-W [3]	195,228 pounds.
636	230,454 dozen.
641	1,076,227 dozen.
642	83,765 dozen.
659-C [4]	596,654 pounds.

[1] The bilateral agreement, as amended, provides, among other things, that: (1) During any agreement year specific limits or sublimits may be exceeded by certain designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more other specific limits; (2) under specified conditions specific limits and sublimits may be adjusted for carryforward not to exceed 10 percent; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1985.

[2] In Category 359, only TSUSA numbers 381.0258, 381.0554, 381.3949, 381.5800, 381.5920, 381.0451, 384.0648, 384.0650, 384.0651, 384.3449, 384.3450, 384.4300, 384.4421, and 384.4422.

[3] In Category 459, only TSUSA numbers 702.7500, 702.8000.

[4] In Category 659, only TSUSA numbers 381.3325, 381.9805, 384.2205, 384.2530, 384.8606, 384.8607 and 384.9310.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-25359 Filed 11-7-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Ada Board Environment Panel; Meeting

ACTION: Notice of meeting.

SUMMARY: A meeting of the Ada Board Environment Panel will be held Tuesday, 18 November 1986 from 5:00 p.m. to 9:00 p.m. at the Marriott Hotel in Charleston, West Virginia.

FOR FURTHER INFORMATION CONTACT: Dr. Erhard Ploedereder, Tartan Laboratories, 477 Melwood Avenue, Pittsburgh, PA 15213, (412) 621-2210.

Patricia H. Means,

Office of the Secretary of Defense, Federal Register Liaison Office, Department of Defense.

November 5, 1986.

[FR Doc. 86-25335 Filed 11-7-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Procurement and Assistance Management Directorate; Restriction of Eligibility for Grant Award; Tennessee State University

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b) it has renewed on a restricted eligibility basis its grant to Tennessee State University for continued effort in measuring the impact of special building procedures on energy conservation. The renewal is for

a one-year period and is in the amount of $200,000.

Procurement Request No. 05-86CE27438.001

Project Scope: The Tennessee State University was awarded the grant on September 14, 1984, and has been performing the defined effort since September 16, 1984; therefore, renewal of the grant is based on Tennessee State University having access to the established unique data source and its established analytical procedure to collect, analyze, and evaluate the energy usage data. Eligibility for continuation of the grant effort is, therefore, restricted to the Tennessee State University.

FOR FURTHER INFORMATION CONTACT: Frederick H. Abel, CE-13, Office of Buildings and Community Systems, U.S. Department of Energy, 1000 Independence Avenue, SW., Forrestal Building, Washington, DC 20585, Telephone Number: (202) 252-3495.

Issued in Oak Ridge, Tennessee, September 15, 1986.

Peter D. Dayton,

Director, Procurement and Contracts Division.

[FR Doc. 86-25354 Filed 11-7-86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 86-49-NG]

CEPEX, Inc.; Order Approving Blanket Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of order approving a blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting blanket authorization to CEPEX, Inc. (CEPEX), to import Canadian natural gas on a short-term basis. The order issued in ERA Docket No. 86-49-NG authorizes CEPEX to import up to 50 MMcf per day of Canadian natural gas over a two-year term beginning on the date of first delivery of the import.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 31, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-25355 Filed 11-7-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-C&E-86-55; OFP Case No. 66021-9327-20,21-24]

Order Granting Power Resources, Inc. Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order granting exemption.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or the "Act"), to Power Resources, Inc. of Houston, Texas ("Petitioner"). The permanent cogeneration exemption permits the use of natural gas as the primary energy source, for the proposed cogeneration facility to be located at Big Springs, Texas. The final exemption order and detailed information are provided herein.

DATE: The order shall take effect on January 9, 1987.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-093, Washington, DC 20585, Telephone (202) 252-4708

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252-6749

SUPPLEMENTARY INFORMATION: The facility for which Power Resources, Inc. is requesting a permanent exemption will be a topping-cycle facility, construction of which is scheduled to commence in late 1986. The primary energy source of the facility will be natural gas and refinery off-gas. The facility's two combustion turbine generators and steam turbine generator (and fourth turbine used to produce shaft power) will have a combined maximum net output of 12.8 MW during the final stage of project development. All of the electrical output of the facility will be sold to Texas Utilities Electric Company.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on September 19, 1986, (51 FR 19387), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing.

The comment period closed on November 3, 1986; no comments were received and no hearing was requested.

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that the petitioner has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to Power Resources, Inc., to permit the use of natural gas as the primary energy source for its cogeneration facility.

Pursuant to section 702(c) of the Act of 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on November 4, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-25356 Filed 11-7-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER87-48-000 et al.]

Dayton Power & Light Co. et al.; Electric Rate and Corporate Regulation Filings

November 4, 1986.

Take notice that the following filings have been made with the Commission:

1. Dayton Power & Light Co.

[Docket No. ER87-48-000]

Take notice that on October 27, 1986, The Dayton Power & Light Company (DP&L) tendered for filing an executed Purchase and Resale Agreement (Agreement) between DP&L and the City of Celina (Celina), Ohio.

The proposed Agreement allows Celina to purchase energy requirements from third parties who will use existing Interconnection Agreement Rate schedules to deliver the energy requirements to DP&L for delivery to Celina.

Comment date: November 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa Power & Light Co.

[Docket No. ER87-49-000]

Take notice that on October 27, 1986, Iowa Power & Light Company (Iowa Power) tendered for filing a Notice of Cancellation of a Letter Agreement (Agreement) between Iowa Power and Union Electric Company (Union Electric) designated as Iowa Power and Light Company Supplement No. 7 to Rate Schedule FPC No. 35.

Iowa Power states that the Agreement expired on its own terms on August 30, 1986; that the Notice of Cancellation was mailed to Union Electric, the only purchaser from Iowa Power under the Agreement; and that the filing was mailed to Union Electric and the Iowa State Utilities Board.

Iowa Power requests an effective date of August 30, 1986 and therefore requests a waiver of the Commission's notice requirements.

Comment date: November 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Co.

[Docket No. ER86-107-004]

Take notice that on October 20, 1986 Pacific Gas and Electric Company (PGandE) tendered for filing proposed changes to Rate Schedule FERC No. 84, FERC No. R-2, FERC No. 90, FERC No. 89, and FERC No. R-1. These changes are to certain rates, terms, and conditions concerning those services rendered by PGandE under the settlement agreements between PGandE and Northern California Power agency (NCPA), CPNational Corporation (CPN), Resort Improvement District No. 1 (RID#1), Shasta Dam Area Public Utility District (Shasta), and City of Redding (Redding), (Settlement Agreements). These Settlement Agreement were part of the settlement agreements approved by the Federal Energy Regulatory Commission (FERC) on June 19, 1986 in Docket Nos. ER86-107-001 and ER86-107-002.

The Settlement Agreement with each customer embodies the agreement between PGandE and the customer on the procedure and mechanism designed to recover amounts due PGandE as result of rate changes based on certain California Public Utilities Commission (CPUC) and FERC decisions.

As a result of certain CPUC decisions, PGandE proposes to refund $41,433, $387, $209 and $136,120 for the calendar year 1985 to CPN, RID#1, Shasta, and NCPA respectively. PGandE also proposes to adjust the rates for CPN, RID#1, Redding, and Shasta which were accepted in Docket Nos. ER86-107-001 and ER86-107-002 to reflect CPUC decisions for 1985 Attrition, 1986 Attrition, Humboldt Bay Retirement, and Helms Pumped Storage Plant costs.

PGandE also includes proposed changes to the Fuel Cost Adjustment (FCA). The proposed changes allow for a calculation of the FCA in months when no energy has been purchased during a prior 12 month period. The changes will be reflected in Part VIII of the Settlement Agreements with CPN, RID#1, and Shasta; Part VI of the Settlement Agreement with Redding; and Part V of the Settlement Agreement with NCPA.

The proposed changes to the rates, terms and conditions in the Settlement Agreements also include revisions for the Diablo Canyon Unit Nos. 1 and 2 in Part VI of the Settlement Agreement with Redding.

Using 1986 billing determinants, the proposed rate changes would result in an estimated yearly revenue increase of $429,502.

Copies of this filing were served upon NCPA, CPN, RID#1, Redding, and Shasta and the Public Utilities Commission of the State of California.

Comment date: November 17, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Power & Light Company, an Assumed Business Name of PacifiCorp

[Docket No. ER87-51-000]

Take notice that Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, on October 27, 1986, tendered for filing, in accordance with § 35.12 of the Commission's Regulations a Power Sales Agreement dated August 1, 1986, between Pacific and Puget Sound Power & Light Company (Puget).

Pacific requests waiver of the Commission's Notice requirements to permit this rate schedule to become effective August 1, 1986, which it claims is the date of commencement of service.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission of the state of Washington and Puget.

Comment date: November 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Pacific Power & Light Company

[Docket No. ER85-757-001]

Take notice that on October 14, 1986, Pacific Power & Light Company (Pacific) tendered for filing a compliance report in accordance with the Commission's order directing Bonneville Power Administration (Bonneville) to correct Pacific's general plant functionalization error in order to conform to both the Average System Cost (ASC) methodology and the treatment used in other filings.

Pacific states that the effect of this correction is to increase the Phase-in ASC by $103,000 or .94 mills per kilowatt hour effective October 1, 1984. The correction will also increase the Phase II ASC by $205,000 or .07 mills per kilowatt hour to 27.46 mills per kilowatt hour effective July 1, 1985.

Comment date: November 17, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Tampa Electric Co.

[Docket No. ER86-455-000]

Take notice that on October 20, 1986, Tampa Electric Company (Tampa Electric) tendered for filing an amended cost support schedule showing a change in the daily capacity charge for its scheduled interchange service provided under interchange agreements with Florida Power Corporation, Florida Power & Light Company, Florida Municipal Power Agency, Fort Pierce Utilities Authority, Jacksonville Electric Authority, Orlando Utilities Commission, Sebring Utilities Commission, Seminole Electric Cooperative, and the City of Gainesville, Kissimme, Lakeworth, Lakeland, St. Cloud, Starke, Tallahassee, and Vero Beach, Florida. The amended cost support schedule supersedes one of the cost support schedules tendered initially in this docket. The amended schedule reflects deletion of a portion of the Big

Bend No. 4 generating unit costs from the cost basis for the daily capacity charge, resulting in a lesser charge.

Tampa Electric requests that the revised daily capacity charge be made effective as of May 1, 1986, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing, as amended, has been served upon each of the above-named parties to interchange agreements with Tampa Electric as well as the Florida Public Service Commission.

Comment date: November 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Wisconsin Public Service Corp.

[Docket No. ER87-50-000]

Take notice that on October 27, 1986, Wisconsin Public Service Corporation ("the company") of Green Bay, Wisconsin, filed a supplement to its service agreement with Wisconsin Public Power Incorporated System ("WPPI"). The service agreement supplement relates to the company's FERC Electric Tariff, Original Volume No. 2 for all requirements service and contains provisions relative to the location of electric metering at the City of Eagle River. The filing does not change the level of the company's rates or affect terms and conditions other than those related to the said metering location.

The Company asks that the supplemental agreement be given a November 3, 1986 effective date so that the transfer of certain substation facilities from the company to the City of Eagle River may take place, and that metering at the new location may commence on that date pursuant to the parties' agreement. The company represents the WPPI joins in the request for a November 3, 1986 effective date and also supports the filing which the company has made. The company states that it has furnished copies of the filing to WPPI and the Wisconsin Public Service Commission.

Comment date: November 14, 1986, in accordance with Standard Paragraph E at the end of this document.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-25366 Filed 11-7-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-33-000 et al.]

Panhandle Eastern Pipe Line Co. et al.; Natural Gas Certificate Filings

November 3, 1986.

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipe Line Co.

[Docket No. CP87-33-000]

Take notice that on October 22, 1986, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP87-33-000 a request pursuant to § 157.205 and § 157.212 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct, own and operate an additional delivery point for the use of the Kansas Power and Light Company (KPL) near Tipton, Missouri, under the blanket certificate issued in Docket No. CP83-83-000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Panhandle states that it will deliver up to 30 Mcf of gas per day to KPL at this new delivery point (Tipton #2). Panhandle also states that it and KPL will reassign 30 Mcf of gas per day currently delivered to KPL at its existing Harrisonville delivery point to the new Tipton #2 delivery point and that the total maximum daily delivery obligation remains unchanged. Panhandle asserts the proposed facilities, estimated to cost $2,800, consist of a meter and appurtenant facilities near Tipton, Missouri to effectuate deliverance to KPL.

Comment date: December 18, 1986, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Co. Division of Enron Corp.

[Docket No. CP85-615-001]

Take notice that on October 10, 1986, Northern Natural Gas Company, Division of Enron Corporation (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-615-001, a petition to amend the order issued January 16, 1986, in Docket No. CP85-615-000 pursuant to section 7(c) of the Natural Gas Act so as to authorize Northern to transport gas in Matagorda Island Area Blocks 711 and 712, offshore Louisiana (MAT 711 and 712) for Tennessee Gas Pipeline Company (Tennessee) on behalf of Tennessee's producer in MAT 711 and 712, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Northern states that in Docket No. CP85-615-000 it was authorized to transport up to 20,000 Mcf per day (Mcfd) on a firm basis (and overrun volumes in excess of 20,000 Mcfd on an interruptible basis) for Tennessee for a term of eight years. It is indicated that Northern receives such gas in MAT 713, transports the gas through its interest in the Matagorda Offshore Pipeline System (MOPS) and ultimately redelivers the gas to Channel Industries (Channel) for Tennessee's account at the intersection of MOPS and Channel's A/S pipeline near Tivoli, Refugio County, Texas. Northern now proposes to amend the existing authorized service so it may transport not only MAT 711 and 712 gas being purchased by Tennessee for system supply but also MAT 711 and 712 gas reserved by Tennessee's producer or released by Tennessee to its producer. Thus Northern proposes to transport for Tennessee on behalf of its producer. No change in receipt or delivery points is proposed nor is any change proposed in the existing transportation volume or rate.

Comment date: November 24, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. K N Energy, Inc.

[Docket No. CP83-140-004]

Take notice that on October 20, 1986, K N Energy, Inc. (K N), Post Office Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP83-140-004, a petition to amend the order issued March 16, 1983, in Docket Nos. CP83-140-000 and CP83-140-001, as amended, pursuant to section 7(c) of the Natural Gas Act so as to authorize K N to use the automatic authorization procedure set forth in § 157.200(a)(1) of the Regulations to construct and operate sales taps to make direct retail sales to customers located on or near its transmission facilities with delivery requirements of less than 200,000,000 Btu equivalent of natural gas per day, all as more fully set forth in the petition to amend on file

with the Commission and open to public inspection.

K N states that automatic authorization to tap its transmission lines and to install appurtenant facilities would permit it to make direct sales pursuant to its obligations as a local distribution company to small commercial, residential, agricultural and industrial users located on or near its transmission facilities without the cost and delay inherent in the preparation, filing for, and approval of requests for authorization under the prior notice provisions of § 157.205 of the Regulations. K N states that due to the delays inherent in the prior notice procedure it has lost opportunities to provide sales to retail customers. K N further states that delays in gas service for home heating purposes could constitute a threat to health and safety and for farmers that require gas for irrigation could result in crop loss or other economic harm. K N states that the filing fee of $1,400 for prior notice filings combined with the expenditure of $850 to $1,150 to install each tap is significant, that it has tried to mitigate such costs by combining requests for gas service into one application, but such cost cutting efforts only serve to further delay service. K N states that to the extent filing fees must be added to a customer's tap fee, it may result in gas service becoming uneconomical to rural customers. Finally, K N states that the Commission's goal of monitoring the attachment of new retail customers is adequately protected by the 200,000,000 Btu equivalent per day limitation and by the annual reporting mechanism provided by § 157.211(a) of the Commission's Regulations.

Comment date: November 24, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Consolidated Gas Transmission Corp.

[Docket No. CP87-32-000]

Take notice that on October 21, 1986, Consolidated Gas Transmission Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP87-32-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on an interruptible basis for Dayton Power and Light Company (Dayton Power), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests continued authority pursuant to an August 28, 1986 limited-term transportation agreement to provide an interruptible transportation service for Dayton Power of up to 25,000 dt equivalent of natural gas per day through August 31, 1987. It is stated that the transportation may continue year to year if either party does not terminate the agreement by providing 30 days written notice. Applicant states that it would charge Dayton Power a rate not greater than the maximum rate or less than the minimum rate set forth in its Rate Schedule TI.

Applicant states that it would receive the gas at various locations on its system and deliver the gas to an existing interconnection with Dayton Power located in Warren County, Ohio. Applicant also states that no new or additional facilities would be needed.

Comment date: November 24, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-25367 Filed 11-7-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF87-42-000, et al.]

Brassua Hydroelectric Limited Partnership, Inc., et al; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

November 3, 1986.

Comment date: December 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Brassua Hydroelectric Limited Partnership

[Docket No. QF87-42-000]

On October 23, 1986, Brassua Hydroelectric Limited Partnership (Applicant), c/o Swift River/Hafslund Company, General Partner, of 10 Harbor Street, Danvers, Massachusetts 01923 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 3.4 megawatt hydroelectric

facility will be located in Somerset County, Maine.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligiblility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

2. Gabriel Mills Energy Co.

[Docket No. QF87-18-000]

On October 16, 1986, Gabriel Mills Energy Company (Applicant), of 711 West 38th Street, Suite D-2, Austin, Texas 78705 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located near Liberty Hill, Texas. The facility will consist of natural gas fired reciprocating engine generating units. Waste heat from the engines will be used for a greenhouse application. The electric power generating capacity will be 2.0 MW. The primary energy source will be natural gas. Installation of the facility was scheduled to begin in 1986.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-25368 Filed 11-7-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF87-42-000 et al.]

Yarp Restaurant, Inc., et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

October 30, 1986.

Comment date: December 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Yarp Restaurant, Inc.

[Docket No. QF87-12-000]

On October 15, 1986, Yarp Restaurant, Inc. (Applicant), of 285 Mamaroneck Avenue, White Plains, New York 10605 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in White Plains, New York. The facility will consist of one (1) diesel engine-generator unit and necessary heat recovery system. Thermal energy will be used for space heating and domestic hot water. The electric power production capacity will be 270 kilowatts. The primary energy source will be No. 2 diesel oil. The date of installation was September 15, 1986.

2. Westmoreland Coal Co., Bullitt Coal Prep. Plant

[Docket No. QF86-1093-000]

On October 20, 1986, Westmoreland Coal Company (Applicant), of Drawer A and B, Big Stone Gap, Virginia 24219, submitted for filing an application for certification of a facility as a qualifying small production facility pursuant to § 292.207 of the Commission's regulations. No determiniation has been made that the submittal constitutes a complete filing.

The small power production facility will be located adjacent to the Applicant's Bullitt coal preparation plant on Route 23 near Appalachia, Wise County, Virginia. The facility will consist of a fluidized bed combustion boiler, steam turbine generator, and related auxiliary equipment. Applicant states that the primary energy source of the facility will be "waste" in the form of bituminous coal refuse fines produced by the Bullitt coal preparation plant. The electric power production capacity of the facility will be 20 megawatts.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the approriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kennth F. Plumb,

Secretary.

[FR Doc. 86-25369 Filed 11-7-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-1-51-000,001]

Great Lakes Gas Transmission Co.; Proposed Changes In F.E.R.C. Gas Tariff Under Purchased Gas Adjustment Clause Provisions

November 5, 1986.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on October 31, 1986 tendered for filing Third Revised Sheet Nos. 57(i) and 57(ii) and Thirteenth Revised Sheet No. 57-A to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective November 1, 1986.

Third Revised Sheet Nos. 57(i) and 57(ii) reflect a purchase gas cost surcharge resulting from maintaining unrecovered purchased gas cost accounts for the period commencing March 1, 1986 and ending August 31, 1986.

Thirteenth Revised Sheet No. 57-A reflects the estimated incremental pricing surcharge for the six month period commencing November 1, 1986 and ending April 30, 1987. No incremental costs are estimated for this period.

These tariffs sheets also reflect changes in Great Lafkes gas purchase cost applicable to sales to Michigan Consolidated Gas Company (Mich Con), ANR Pipeline Company (ANR), Natural Gas Pipeline Company of America (Natural), Michigan Power Company (Michigan Power), Peoples Natural Gas Company (Peoples), Inter-City Gas Corporation (Inter-City) and for the cost of gas used by Great Lakes to render all of its sales and transportation services. These changes are a result of either

pricing index mechanisms or renegotiations between the parties.

Great Lakes requests an effective date of November 1, 1986 for the tariff sheets submitted herewith so as to be in conformity with the semi-annual effective date as provided for in its tariff. Accordingly, Great Lakes requests waiver of the 30-day notice requirement of the provisions of § 154.38 (d)(4)(iv)(a) of the Commission's Regulations and any other necesary waivers so as to permit the above tariff sheets to become effective on the requested effective date.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests will be considered by the Commissioner in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-25370 Filed 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-1-56-000,001]

Valero Interstate Transmission Co.; Change in Rates Pursuant To Purchased Gas Cost Adjustment Provisions

November 5, 1986.

Take notice that on October 31, 1986, Valero Interstate Transmission Company ("Vitco") tendered the following tariff sheets for filing containing changes in rates pursuant to purchased gas cost adjustment provisions:

8th Revised Sheet No. 6, Superseding 7th Revised Sheet No. 6, To FERC Gas Tariff, Original Volume No. 2

3th Revised Sheet No. 14.2, Superseding 2nd Revised Sheet No. 14.2, To FERC Gas Tariff, Original Volume No. 1.

Vitco states that the rates stated on 8th Revised Sheet No. 6 and 3rd Revised Sheet No. 14.2 reflects the change in purchased gas costs based on the six months ended August 31, 1986.

The change in rate to Rate Schedule S-1, FERC Gas Tariff, Original Volume No. 2 includes an increase in purchased gas cost of 22.66¢ per MMBtu and a surcharge of 13.88¢ per MMBtu. The rate for Rate Schedule S-2 includes an increase in purchased gas cost of 13.31¢ per MMBtu and no surcharge. The rate for Rate Schedule S-3 includes a decrease in purchased gas cost of 90.57¢ per MMBtu and a negative surcharge of 16.04¢ per MMBtu. The surcharge in each Rate Schedule is designed to eliminate the balance in the deferred purchased gas cost account.

The proposed effective date for the above filings is December 1, 1986. Vitco requests a waiver of any Commission regulations or orders which would prohibit implementation by December 1, 1986.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR) 384.211 and 385.214). All such petitions or protests should be filed on or before November 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-25371 Filed 11-7-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-1-57-000,001]

Western Transmission Co.; Proposed Changes

November 5, 1986.

Take notice that Western Transmission Corporation (Western), on November 3, 1986, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet: Twenty Eighth Revised Sheet No. 3-A, superseding Twenty Seventh Revised Sheet No. 3-A.

There are no proposed changes to the monthly charges for purchased gas to Colorado Interstate Gas Company, Western's sole jurisdictional customer, pursuant to the provisions of Section 18 of Western's FPC Gas Tariff, Original Volume No. 1.

The proposed effective date of the above tariff sheet is December 1, 1986.

Copies of this filing have been served upon Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-25372 Filed 11-7-86; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-777-DR]

Amendment to Notice of Major-Disaster Declaration; Montana

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Montana (FEMA-777-DR), dated October 14, 1986, and related determinations.

DATE: October 30, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice: The notice of a major disaster for the State of Montana, dated October 14, 1986, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 14, 1986: Blaine, Garfield, McCone, Phillips, Rosebud, and Valley Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516 Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State, and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-25314 Filed 11-7-86; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 217–011023.

Title: Hyundai Merchant Marine Co., Ltd./Hanjin Container Lines, Ltd. Space Charter Agreement.

Parties:

Hyundai Merchant Marine Co., Ltd.

Hanjin Container Lines, Ltd.

Synopsis: The proposed agreement would replace and restructure an existing agreement (Agreement No. 217–010703) between the parties and would permit them to exchange vessel slots for monetary or other consideration determined on a slot-basis as needed. The parties have requested a shortened review period.

Agreement No.: 224–011024.

Title: Charleston Terminal Agreement.

Parties:

South Carolina State Ports Authority (Port)

Lykes Bros. Steamship Co., Inc. (Lykes)

Synopsis: The proposed agreement would permit the Port to assess Lykes reduced rate of wharfage as consideration for specified amounts of container cargo to be generated by Lykes on an annual basis. The agreement would remain in effect for three years.

By Order of the Federal Maritime Commission.

Dated: November 5, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86–25357 Filed 11–7–86; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notice; Acquisition of Banks or Bank Holding Companies

The notificants listed in this notice have applied for the Board's approval under the Change in Bank Control Act (12 U.S.C.1817(j)) and § 225.41 of the Board's Regulation Y (12 C..F.R. 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors.

Comments regarding these applications must be received not later than November 25, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Clinton Bank & Trust Company Employee Stock Ownership Stock Bonus Trust,* Clinton, Louisiana; to acquire 22.61 percent of the voting shares of Clinton Bancshares, Inc., Clinton, Louisiana, and thereby indirectly acquire Clinton Bank and Trust Company, Clinton, Louisiana.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Leon E. Langemeier,* Clarence G. Lohrenz, and Harold J. Lohrenz; to each acquire 33.33 percent of the voting shares of The Bridger Company, Billings, Montana, and thereby indirectly acquire Bank of Bridger, Bridger, Montana.

Board of Governors of the Federal Reserve System, November 4, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–25315 Filed 11–7–86; 8:45 am]

BILLING CODE 6210–01–M

First Ohio Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 28, 1986.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Ohio Bancshares, Inc.,* Toledo, Ohio; to acquire 100 percent of the voting shares of The Home Banking Company, Gibsonburg, Ohio. Comments on this application must be received by December 1, 1986.

2. *Wesbanco, Inc.,* Wheeling, West Virginia; to acquire 100 percent of the voting shares of South Hills Bank, Charleston, West Virginia.

3. *Wesbanco, Inc.,* Wheeling, West Virginia; to acquire 100 percent of the voting shares of Wirt County Bank, Elizabeth, West Virginia.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Highlands Bankshares, Inc.,* Petersburg, West Virginia; to acquire 100 percent of the voting shares of The Capon Valley Bank, Wardensville, West Virginia.

Board of Governors of the Federal Reserve System, November 4, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–25316 Filed 11–7–86; 8:45 am]

BILLING CODE 6210–01–M

Westpac Banking Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR

225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 25, 1986.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Westpac Banking Corp.*, Sydney, Australia; to acquire Wepco Holding Company, Inc., New York, New York, and thereby indirectly acquire William E. Pollock Government Securities, Inc., New York, New York; William E. Pollock Money Markets, Inc., New York, New York; William E. Pollock & Co., Inc., New York, New York; Cincinnati Mortgage Corporation, Cincinnati, Ohio; and one percent of Liberty Brokerage, Inc., New York, New York; and thereby engage in underwriting and dealing in direct obligations of the United States and its agencies; purchasing and selling for its own account financial futures and options on the securities list above; entering in to repurchase and reverse repurchase transactions with respect to obligations of the United States, general obligations of any state or any political subdivision thereof and other obligations list in 12 U.S.C. 24; underwriting and dealing in bankers acceptances, and negotiable certificates of deposit; making, acquiring and servicing mortgage loans; and underwriting and dealing in state and local general obligation bonds and revenue bonds for housing, university, or dormitory purposes pursuant to 12 U.S.C. 24(7) pursuant to §§ 225.25(b)(16) and (1) of the Board's Regulation Y. These activities will be conducted in the United States and Western Europe.

Board of Governors of the Federal Reserve System, November 4, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-25317 Filed 11-7-86; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR A-40, Supp. 21]

Federal Travel Regulations; Subsistence Expense Basis For Areas Outside CONUS

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of changes to Federal travel regulations.

SUMMARY: GSA has issued GSA Bulletin FPMR A-40, Supplement 21, transmitting changed pages amending the Federal Travel Regulations (FTR), FPMR 101-7, to permit agencies to authorize or approve travel on an actual subsistence expense basis to areas outside the conterminous United States (CONUS) under certain special or unusual circumstances.

EFFECTIVE DATE: The revised provisions transmitted by Supplement 21 are effective for travel performed on or after July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Staff members, Regulations and Policy Division FTS 557-1253 or 557-1256 (for non-FTS use AC 703).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Background

Public Law 99-234 (99 Stat. 1756), January 2, 1986, among other things, amended 5 U.S.C. 5702 to rescind the statutory ceilings imposed on actual subsistence expense reimbursement for official travel in locations outside the conterminous United States and authorized the President to set such rates.

By Executive Order No. 12561, July 1, 1986, the President delegated authority to the Secretaries of Defense and State to establish maximum rates for the reimbursement of actual and necessary expenses of official travel for Federal civilian employees performing official travel in localities outside CONUS.

Explanation of changes

Supplement 21 amends the FTR by revising reserved paragraph 1-8.3b to implement the maximum daily actual subsistence expense rates prescribed by the Departments of Defense and State under Executive Order 12561 for travel in nonforeign and foreign areas, respectively, and by establishing certain actual subsistence expense reimbursement limitations. Conditions warranting approval and other provisions in Part 1-8 governing actual expense reimbursement are applicable to travel outside CONUS as well as within CONUS.

Accordingly, the Federal Travel Regulations are amended as follows:

Chapter 1. Travel Allowances

1. **Authority:** (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Executive Order No. 11609, July 22, 1971; 5 U.S.C. 5707)

Part. 8. Reimbursement of Actual Subsistence Expenses

2. Paragraph 1-8.3b is revised to read as follows:

1-8.3. Maximum daily rates and reimbursement limitations.

* * * * *

b. *Travel outside CONUS.*

(1) *Maximum daily rates.* For travel outside CONUS, the maximum daily rate for subsistence expenses shall not exceed the amount prescribed by the Departments of Defense and State, respectively, for nonforeign and foreign areas as set forth in (a) or (b), below, whichever is greater:

(a) 150 percent of the applicable maximum per diem rate (rounded to the next higher dollar) prescribed under 1-7.2b or c; or

(b) $50 plus the applicable maximum per diem rate prescribed under 1-7.2b or c.

(2) *Reimbursement limitation.* When the actual subsistence expenses incurred during any one day are less than the maximum daily rate authorized, the employee shall be reimbursed only for the lesser amount. Expenses incurred and claimed (including those for fractional days) shall be reviewed and allowed only to the extent determined to be necessary and reasonable by the agency (1–8.5b). Reimbursement for meals and incidental expenses generally should not exceed 50 percent of the maximum daily rate authorized under (1), above. When appropriate, however, agencies may establish a different limitation.

* * * * *

Dated: October 14, 1986.

Terence Golden,

Administrator of General Services.

[FR Doc. 86–25325 Filed 11–7–86; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86M–0387]

Paco Pharmaceutical Services, Inc.; Premarket Approval of Charter Labs Cleaning Solution for Sensitive Eyes

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Paco Pharmaceutical Services, Inc., Lakewood, NJ, for premarket approval, under the Medical Device Amendments of 1976, of the CHARTER LABS CLEANING SOLUTION for SENSITIVE EYES. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by December 10, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On June 16, 1986, Paco Pharmaceutical Services, Inc., Lakewood, NJ 08701, submitted to CDRH an application for premarket approval of the CHARTER LABS CLEANING SOLUTION for SENSITIVE EYES indicated for use to clean soft (hydrophilic) contact lenses.

On July 18, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 5, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above.

The labeling of the CHARTER LABS CLEANING SOLUTION for SENSITIVE EYES states that the solution is indicated for use to clean soft (hydrophilic) contact lenses. Manufacturers of soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the **Federal Register** of the approval of a new solution for use with an approved soft contact lens, the manufacturer of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either. a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 10, 1986. file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 31, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–25320 Filed 11–7–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86M–0402]

Telectronics Proprietary Limited; Premarket Approval of PASAR® Model 4171 Pulse Generator, Model 4601 Programmer, and Model 4401 Simulator

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Telectronics Proprietary Limited, Lane Cove, Australia, for premarket approval, under the Medical Device Amendments of 1976, of the PASAR® Model 4171 Pulse Generator, Model 4601 Programmer, and Model 4401 Simulator. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by December 10, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management

Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Donald F. Dahms, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7594.

SUPPLEMENTARY INFORMATION: On November 8, 1985, Telectronics Proprietary Limited of Lane Cove, Australia, submitted to FDA an application for premarket approval of the PASAR® Model 4171 Pulse Generator, Model 4601 Programmer, and Model 4401 Simulator. The device system is indicated for use in patients who have complicated heart rhythm disorders who have undergone an electrophysiologic study workup and have been found to have AV nodal reentry or a Wolff-Parkinson-White accessory pathway refractory period of greater than 300 milliseconds. The patient's supraventricular tachycardia (SVT) must have been successfully reverted using either the PASAR® Model 4401 Simulator or a commercially available simulator using similar parameters. The successful termination must always have occurred from the atrium.

On May 23, 1986, the Circulatory Systems Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 30, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Donald F. Dahms (HFZ-450), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 10, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 31, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86-25319 Filed 11-7-86; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Council on Graduate Medical Education; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of December 1986:

Name: Council on Graduate Medical Education.

Date and Time: December 4-5, 1986, 8:30 a.m.

Place: Auditorium, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201

The entire meeting is open.

Purpose: Provides advice and recommendations to the Secretary and to the Committees on Labor and Human Resources, and Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, with respect to (A) the supply and distribution of physicians in the United States; (B) current and future shortages of physicians in medical and surgical specialties and subspecialties; (C) issues relating to foreign medical graduates; (D) appropriate Federal policies regarding (A), (B), and (C) above; (E) appropriate efforts to be carried out by medical and osteopathic schools, public and private hospitals and accrediting bodies regarding matters in (A), (B), and (C) above; and (F) deficiencies in the needs for improvements in, existing data bases concerning supply and distribution of, and training programs for physicians in the United States.

Agenda: The first meeting will tentatively include welcome and opening remarks; Department Perspective; Congressional perspective; the role of the Council; Staff and Program Support for the Council; Issue Forum A: Physician Manpower; Issue Forum B: Graduate Medical Education Overview; Election of Chairperson; Issue Forum C: Foreign Medical School Graduates; Issue Forum D: Graduate Medical Education—Financing; and Discussion of Preliminary Action Plan for First Report.

Anyone requiring information regarding the subject Council should contact Mr. Paul Schwab, Executive Secretary, Council on Graduate Medical Education, Health Resources and Services Administration, Room 14-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-2033.

Agenda items are subject to change as priorities dictate.

Dated: November 3, 1986.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 86-25321 Filed 11-7-86; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Eye Institute; Board of Scientific Counselors, NEI; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, December 1-2, 1986, Building 31, NEI Conference Room 6A33, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on December 1 from 8:30 a.m. until approximately 3:00 p.m. for general remarks by the Institute's Scientific Director on matters concerning the

intramural programs of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 1 from approximately 3:00 p.m. until recess and on December 2 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual projects conducted by the Ophthalmic Genetics and Pediatrics Sections of the Clinical Branch and the Laboratory of Mechanisms of Ocular Diseases. These evaluations and discussions could reveal personal information concerning individuals associated with the projects, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Consequently, this meeting is concerned with matters exempt from mandatory disclosure.

Ms. Kay Valeda, Committee Management Officer, National Eye Institute, Building 31, Room 6A03, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4903, will provide summaries of the meeting and rosters of committee members.

Substantive program information may be obtained from Dr. Jin Kinoshita, Scientific Director, National Eye Institute, Building 31, Room 6A04, National Institutes of Health, Bethesda, Maryland, 20892 (301/496–7483).

Dated: October 29, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–25306 Filed 11–7–86; 8:45 am]

BILLING CODE 4140–01–M

National Eye Institute; Vision Research Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Vision Research Review Committee, National Eye Institute, November 20–21, 1986, Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on November 20 from 8:30 a.m. to 9:30 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:30 a.m. on November 20 until recess and on November 21 from 8:30 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Kay Valeda, Committee Management Officer, National Eye Institute, Building 31, Room 6A–03, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4903, will provide summaries of the meeting and rosters of committee members.

Dr. Catherine Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A–06, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–5561, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health.)

Dated: October 29, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–25307 Filed 11–7–86; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Cancer Therapeutics Program Project Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Therapeutics Program Project Review Committee, National Cancer Institute, National Institutes of Health, December 4, 1986, Holiday Inn-Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852. This meeting will be open to the public on December 4, from 8:30 a.m. to 9:00 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 4th, from approximately 9:00 a.m. until adjournment for the review, discussion and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301) 496–5708, will provide summaries of the meeting and roster of committee members, upon request.

Dr. Suzanne E. Fisher, Executive Secretary, Cancer Therapeutics Program Project Review Committee, National Cancer Institute, Westwood Building, Room 834, National Institutes of Health, Bethesda, Maryland 20892 (301 496–2330) will furnish substantive program information.

Dated: October 29, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–25308 Filed 11–7–86; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–86–1643; FR 2282]

Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages; Correction

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of application deadline for funds under the CDBG Program for Indian Tribe and Alaskan Native Villages for fiscal year 1987; correction.

SUMMARY: This document corrects the date for submission of Region V applications for funds under the Community Development Block Grant Program for Indian Tribe and Alaskan Native Villages for fiscal year 1987, that appeared on page 36758 in the Federal Register of Wednesday, October 15, 1986 (51 FR 36758).

FOR FURTHER INFORMATION CONTACT: Mr. Leroy P. Gonnella, Office of Program Policy Development, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–6092. (This is not a toll-free number.)

Accordingly, the following correction is being made to the Table in FR Doc. 86-23197, on page 36759 in column one:

Final Date for Submission of Applications:

Offices	Applications must be submitted no later than [1]
Region V, OIP	Feb. 28, 1987.

[1] Applications must be received or postmarked no later than the date specified above. Applications received or postmarked after the deadline will not be considered.

Dated: November 5, 1986.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 86-25397 Filed 11-7-86; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Closure of Anchorage District Office

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice; closing of Anchorage District Office Public Room.

SUMMARY: The BLM Anchorage District Office Public Room will be closed in accordance with the Alaska State Office Reorganization. Information and assistance concerning BLM Land records and programs will continue to be provided at the BLM Public Room, Alaska State Office (Anchorage Federal Building) 701 C Street, Anchorage, Alaska 99513.

EFFECTIVE DATE: January 23, 1987.

FOR FURTHER INFORMATION CONTACT: Jean Rivers-Council, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513, (907) 271-5960.

Wayne A. Boden,

District Manager.

[FR Doc. 85-25381 Filed 11-7-86; 8:45 am]

BILLING CODE 4310-JA-M

[CO-070-07-4322-10-2410]

Colorado; Grand Junction District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of Grand Junction District Grazing Advisory Board.

SUMMARY: Notice is hereby given that a meeting of the Grand Junction District Grazing Advisory Board will be held on Thursday, December 11, 1986. The meeting will convene in the conference room at the Bureau of Land Management Office, 50629 Highway 6 and 24, Glenwood Springs, Colorado, at 9:00 a.m.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include: (1) Introductions, (2) minutes of the previous meeting, (3) new or revised allotment management plans, (4) weed control, (5) signing authority for checks on advisory board project work, (6) non-use and subleasing policies, (7) need to change advisory board contributions to projects in certain countries, (8) BLM policy on use of herbicides, (9) agreement for use of water on the Fish Park Pipeline, (10) status of current project work, (11) new advisory board project proposals, (12) public presentations, and (13) arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:00 and 3:30 p.m. or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81506, by December 9, 1986.

Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager. Minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Further information on the meeting may be obtained at the above address or by calling (303) 243-6552.

Dated: October 31, 1986.

Dick Freel,

District Manager, Grand Junction District.

[FR Doc. 25428 Filed 11-7-86; 8:45 am]

BILLING CODE 4310-JB-M

[NV-943-07-4220-11; (Nev-059798)]

Proposed Continuation of Withdrawal; Nevada

October 27, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: By **Federal Register** notice published on May 1, 1986 (51 FR 16233) the Bureau of Reclamation proposed that 2,263.71 acres of withdrawn land for the Robert B. Griffith Water Project (RBGWP) be continued for an additional 20 years. The May 1986 proposal is hereby revised to continue 9,729.97 acres. The land will remain closed to surface entry and mining, but has been and will remain open to mineral leasing.

DATE: Comments should be received by February 9, 1987.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, (702) 784-5481.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that a portion of the existing land withdrawal made by Public Land Order 3512 of December 7, 1964, be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Mount Diablo Meridian, Nevada

T. 21 S., R. 62 E.,
  Sec. 23, NE¼, NE¼NW¼, E½SE¼;
  Sec. 24, All;
  Sec. 25, N½NE¼, SE¼NE¼, NE¼NW¼.
T. 21 S., R. 63 E.,
  Sec. 19, lots 3 and 4, E½SW¼;
  Sec. 28, SE¼NE¼, N½NW¼, W½SW¼, SE¼SW¼, SE¼;
  Sec. 29, N½NE¼, NW¼, S½S½;
  Sec. 30, lots 1, 2 and 4, NE¼, E½NW¼, SE¼SW¼, S½SE¼;
  Sec. 34, lots 1 to 6, inclusive, W½NE¼, W½.
T. 22 S., R. 63 E.,
  Sec. 1, lots 5, 6, 7 and 8, S½N½, S½;
  Sec. 2, lots 5, 6, 7 and 8, S½N½, S½;
  Sec. 3, lots 5, 6, 7 and 8, S½N½, S½;
  Sec. 10, 14, 15 and 22, All;
  Sec. 23, W½;
  Sec. 26, W½;
  Sec. 35, All.
T. 23 S., R. 63 E.,
  Sec. 2, lots 3, 5, 6, 7, 11 to 15, inclusive, lot 18, S½SW¼;
  Sec. 11, lot 1, that portion lying west of land deeded to the City of Boulder City, Nevada, by quitclaim deed dated January 4, 1960, lot 2.
T. 22 S., R. 63½ E.,
  Sec. 1, lots 1 to 6, inclusive, S½NE¼, SE¼.

The area described contains 9,729.97 acres in Clark County.

The purpose of continuing 2,263.71 acres is to protect the construction, operation and maintenance of certain salinity control units associated with the Robert B. Griffith Water Project (RBGWP) (formerly known as the Southern Nevada Water Project). This project supplies southern Nevada with water from the Colorado River. The proposed continuation of 7,466.26 acres is for the Southern Nevada Systems Capacity Study. This study involves investigating alternatives for meeting future peak delivery capacity problems

with RBGWP and other existing water supply systems in southern Nevada. Among the alternatives are potential expansion of the River Mountain Tunnel; a recharge basin in Henderson, Nevada; and related conveyance routes. Also under consideration, is the potential recharging of Colorado River water in the Eldorado Basin. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 86-25310 Filed 11-7-86; 8:45 am]

BILLING CODE 4310-HC-M

[NV-943-07-4220-10; (N-43342)]

Proposed Withdrawal and Opportunity for Public Meeting; Nevada

October 27, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The FAA proposes to withdraw 52.5 acres of public land for the installation and operation of a VHS direction finder at Orvada, Nevada, in support of a nation-wide air navigational control system. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATE: Comments and requests for a public meeting should be received by February 9, 1987.

ADDRESS: Comments and meeting requests should be sent to: State Director, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM, Nevada State Office, (702) 784-5481.

On August 22, 1986, the Federal Aviation Administration filed an application to withdraw the following described public land, subject to valid existing rights, from settlement, sale, location or entry under the nondiscretionary public land laws, including the mining laws:

Mount Diablo Meridian, Nevada

T. 41 N., R. 35 E.,
Sec. 27, NW¼NE¼NW¼NW¼, W½NW¼NW¼, W½SW¼NW¼, NW¼SE¼SW¼NW¼, S½SE¼ SW¼NW¼, SW¼SW¼SE¼NW¼.

The area described contains 52.5 acres in Humboldt County, Nevada.

The purpose of the withdrawal is for the use of the land by the Federal Aviation Administration for a VHS direction finder in support of air traffic operations. This facility will provide position orientation to aircraft flying between Reno, Nevada, and Boise, Idaho, and a vast area of North Central Nevada. The withdrawal is necessary to provide and secure a clear zone with a 1000 foot radius extending from the direction finder.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestion, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register,** the lands will be segregated as specified above unless the application is denied or cancelled, or the withdrawal is approved prior to that date. Temporary uses which will be permitted during this segregative period are grazing and wildlife habitat management. Other licenses, permits, cooperative agreements or discretionary land use authorizations of a temporary nature may be allowed on the lands if compatible with the intent of the proposed withdrawal with the approval of an authorized officer of the Bureau of Land Management.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 86-25309 Filed 11-7-86; 8:45 am]

BILLING CODE 4310-HC-M

[NV-943-07-4220-10 (N-43390)]

Proposed Withdrawal and Opportunity for Public Meeting; Nevada

October 27, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The FAA proposes to withdraw 207 acres of public land for the installation and operation of a Vortac facility in support of air traffic operations. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATE: Comments and request for a public meeting should be received by February 9, 1987.

ADDRESS: Comments and meeting requests should be sent to: State Director, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM, Nevada State Office, (702) 784-5481.

On March 6, 1986, the Federal Aviation Administration filed an application to withdraw the following described public land, subject to valid existing rights, from settlement, sale, location or entry under the nondiscretionary public land laws, including the mining laws:

Mount Diablo Meridian, Nevada

A portion of section 14, Township 26 N., Range 30 E., Pershing County, Lovelock, Nevada, owned by the Bureau of Land Management, and more specifically described as follows:

Beginning at the north west corner of section 14, thence S. 62°46'25" E. 3883.05 feet, to the hill top, said point to be center of the proposed VORTAC site, thence N. 89°53'35" E. 1500.0 feet, said point being the true point of beginning (P.O.B.). From the true point to beginning, proceed:

S. 0°6'25" E. 1500.0 feet, thence S. 89°53'35" W. 3000.0 feet thence N. 0°6'25" W. 3000.0 feet, thence N. 89°53'35" E. 3000.0 feet, thence S. 0°6'25" E. 1500.0 feet, back to the P.O.B.

The area described contains 206.60 acres in Pershing County, Nevada.

The purpose of the withdrawal is for the use of the land by the Federal Aviation Administration for a Vortac facility in support of the National Airspace System. The system consists of air navigation facilities, communications facilities and support equipment which provides a means for the safe and expeditious movement of air traffic throughout the United States. The withdrawal is necessary for the establishment, operation, maintenance and protection of the facility.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the Federal Register at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or cancelled, or the withdrawal is approved prior to that date. Temporary uses which will be permitted during this segregative period are grazing and wildlife habitat management. Other licenses, permits, cooperative agreements or discretionary land use authorizations of a temporary nature may be allowed on the lands if compatible with the intent of the proposed withdrawal with the approval of an authorized officer of the Bureau of Land Management.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 86-25311 Filed 11-7-86; 8:45 am]

BILLING CODE 4310-HC-M

[U-52625-AT]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease U-52625-AT for lands in Carbon County, Utah, was timely filed and required rentals and royalties accruing from May 1, 1986, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this Notice.

Having met all the requirements for reinstatement of lease U-52625-AT as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective May 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-25330 Filed 11-7-86; 8:45 am]

BILLING CODE 4310-DQ-M

[U-38977-E]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease U-38977-E for lands in San Juan County, Utah, was timely filed and required rentals and royalties accruing from March 1, 1986, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this Notice.

Having met all the requirements for reinstatement of lease U-38977-E as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective March 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-25331 Filed 11-7-86; 8:45 am]

BILLING CODE 4310-DQ-M

[U-55713]

Utah; Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease U-55713 for lands in Summit County, Utah, was timely filed and required rentals and royalties accruing from July 1, 1986, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this Notice.

Having met all the requirements for reinstatement of lease U-55713 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective July 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-25332 Filed 11-7-86; 8:45 am]

BILLING CODE 4310-DQ-M

[NV-943-07-4220-10 (N-42735)]

Proposed Withdrawal and Opportunity for Public Meeting; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The FAA proposes to withdraw 60 acres of public land for the installation and operation of a VHS direction finder near Beatty, Nevada, in support of air traffic operations for the McCarran International Airport in Las Vegas. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATE: Comments and request for a public meeting should be received by February 9, 1987.

ADDRESS: Comments and meeting requests should be sent to: State Director, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM, Nevada State Office, (702) 784–5481.

On September 18, 1985, the Federal Aviation Administration filed an application to withdraw the following described public land, subject to valid existing rights, from settlement, sale, location or entry under the nondiscretionary public land laws, including the mining laws:

Mount Diablo Meridian, Nevada

T. 13 S., R. 47 E.,
Sec. 17, W½E½SW¼SE¼, W½SE¼ NW¼SE¼;
Sec. 20, W½NE¼NW¼NE¼, SW¼NW¼NE¼, S½NE¼NW¼, SE¼NW¼NW¼.

The area described contains 60 acres in Nye County, Nevada.

The purpose of the withdrawal is for the use of the land by the Federal Aviation Administration for a VHS direction finder near Beatty, Nevada, in support of air traffic operations for the McCarran International Airport in Las Vegas. The withdrawal is necessary to provide and secure a clear zone with a 1000 foot radius extending from the direction finder.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will segregated as specified above unless the application is denied or cancelled, or the withdrawal is approved prior to that date. Temporary uses which will be permitted during this segregation period are grazing, wildlife habitat management, development of oil and gas reserves without surface occupancy and licenses, permits, cooperative agreements or other discretionary land use authorizations of a temporary nature that are compatible with the intent of the proposed withdrawal will be allowed on the lands with the approval of an authorized officer of the Bureau of Land Management.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 86–25383 Filed 11–7–86; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Intent To Prepare an Environmental Impact Statement; Reelfoot Lake, TN

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Fish and Wildlife Service (FWS) intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) on the effects of alternative water level management regimes at Reelfoot Lake, Tennessee that could result from modifying the existing lease and cooperative management agreement between the Fish and Wildlife Service and the Tennessee Wildlife Resources Agency. A public meeting will also be held regarding this proposal and the preparation of the EIS. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received by December 10, 1986. A public scoping meeting will be held in Tiptonville, Tennessee on November 18, 1986.

ADDRESSES: Comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service (ARW/PC), 75 Spring Street, SW., Atlanta, Georgia 30303.

The public scoping meeting on November 18, 1986, will be held at 7:00 p.m. at the Reelfoot Lake State Park Museum, Lake Road, Tiptonville, TN 38079. Detailed directions to the meeting location may be obtained by calling the Refuge Manager, Reelfoot National Wildlife Refuge, 901–538–2481, or by writing to the Regional Director at the address above.

FOR FURTHER INFORMATION CONTACT: Jeffery M. Donahoe (ARW/PC), Fish and Wildlife Biologist, 75 Spring Street, SW., Atlanta, Ga 30303, 404–331–3551 or FTS 242–3551.

SUPPLEMENTARY INFORMATION: Jeffery M. Donahoe is the primary author of this document.

The Fish and Wildlife Service, Department of the Interior, proposes to modify the existing lease from the Tennessee Wildlife Resources Agency that allows the FWS to manage the water control structure and portions of the national wildlife refuge.

The FWS will consider the following alternative methods of approaching the proposed action.

Alternative 1—No Action

With this alternative, management would continue as in the past, both with respect to water levels and other programs. The surface elevation of the lake would continue to be maintained as close to 282.2 feet m.s.l. (mean sea level) as possible; water would be released any time the lake is above 282.2 feet m.s.l. and the gates would be closed any time the lake is below that level. The forest habitat management program, and wildlife management programs on the refuge would continue as in the past.

Alternative 2

Modify the lease to unconditionally return water management responsibilities to the State by excluding the water control structure from the provisions of the lease.

A number of different management options would be available to the State under this alternative. The options that could be implemented by the State would include any of the following:

Option A. Continue Current Management Practices

This option would entail the same management practices as described in Alternative 1—No Action.

Option B. Drawdown

The drawdown option would involve lowering the lake level 5.8 ft (from 282.2 feet m.s.l. to 276.4 feet m.s.l.) to expose approximately 50% of the lake bottom to drying by the sun. The principal objective would be cosolidation of lake sediments and resulting improvements in fish habitat. The drawdown would start on June 1 and be completed by July 15. A minimum of 120 days would be allowed for drying, thus allowing

refilling to begin somewhere between November 1 and November 15. The lake would be refilled to 283.2 feet m.s.l. and held at that level until June 1 of the following year, at which time any of a number of other water management strategies might be followed. While the lake was drawn down, existing channels would be cleaned and new channels would be cut as necessary to ensure proper drainage and drying. Annual vegetation (e.g., annual ryegrass or millet) would be seeded on the exposed lake bed to prevent growth of undesirable vegetation and provide food for waterfowl. Small impoundments (200+ acres) would be constructed on the upper lake fingers to provide food for waterfowl arriving prior to the refilling of the lake. Drawdowns would be repeated as needed every 5 to 10 years; specific decisions concerning timing would be made on the basis of monitoring physical and biological conditions resulting from the first drawdown.

Option C. Drawdown Plus Excavation

The drawdown alternative would be implemented as described above. In addition, dried sediment would be excavated from certain critical areas while the lake was down. The purpose of excavation would be to increase water depth in certain areas where movement of boats is now difficult and also to provide additional sediment retention capacity. Actual identification of specific areas to be excavated might not be possible until a drawdown was underway.

Option D. Water Level Fluctuation

The level of Reelfoot Lake would be managed more dynamically than in the past, depending on the natural moisture regime in particular years. The intent would be to manage for *at least* a 2-ft. Fluctuation each *year*. For example, in a wet year, this fluctuation might be from 284.0 feet m.s.l. to 820.0 feet m.s.l. High water levels would generally occur in winter and spring; low levels would occur in the summer. This alternative could be implemented by itself or in the years between drawdowns as described in options B & C.

Option E. State Law

Under this option, which is described in Public Chapter No. 670 of the Public Acts of 1986 recently enacted by the Tennessee Legislature, the lake level would be managed much as it is now, but at a higher level. Gates on the control structure would be opened only when the lake surface elevation was above 283.6 feet m.s.l.; otherwise, they would remain closed. The lake would still drain over the control structure until the surface elevation reached 282.2 feet m.s.l. The exact implications of this strategy have not been determined; however, it is generally believed that peak lake levels would be somewhat higher than in the past, while low levels would be similar to those observed in the past, but for shorter periods of time.

Alternative 3—Implement New Water Management Procedure Under Current Lease

This alternative is similar to Alternative 2 except that the FWS would retain control of the water control structure but would implement a more dynamic water management regime. The management options available to the FWS would be similar to those under Alternative 2 with the exception that any water level manipulation would not exceed 3 feet above or below 282.2 feet m.s.l.

Alternative 4—Modify the lease from the State to include the following:

A. The spillway would be excluded from the lease and returned to State control, subject to stipulations by the FWS.

B. The boundaries of the lands currently leased from TWRA and administered as a national wildlife refuge would be revised to improve the effectiveness of the refuge management program and also to increase the State's flexibility in implementing new water level management programs at Reelfoot Lake.

C. Increase the term of lease to August 28, 2036, a period of 20 additional years beyond the current lease provision.

D. Supplement the revised lease with a simultaneously-entered cooperative agreement which would specify responsibilities and duties of each agency, and which would be reviewed for needed revision at least every 5 years.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), NEPA Regulations (40 CFR Parts 1500 through 1508), other appropriate Federal regulations, and FWS procedures for compliance with those regulations.

We estimate the DEIS will be made available to the public by June 15, 1987.

Dated: November 4, 1986.

James W. Pulliam, Jr.,

Regional Director.

[FR Doc. 86-25497 Filed 11-7-86; 8:45 am]

BILLING CODE 4310-55-M

Nation Park Service

Chesapeake & Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, December 6, 1986, at 1:00 p.m. at the Grace Episcopal Church, 1041 Wisconsin Avenue NW., Georgetown, DC.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Carrie Johnson, Chairman, Arlington, Virginia
Mr. Carl L. Shipley, Washington, D.C.
Ms. Polly Bloedorn, Bethesda, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. William H. Ansel, Jr., Romney, West Virginia
Mr. Silas Starry, Shepherdstown, West Virginia
Mr. John D. Millar, Cumberland, Maryland
Mr. Rockwood H. Foster, Washington, D.C.
Mr. Barry Passett, Washington, D.C.
Ms. Barbara Yeaman, Brookmont, Maryland
Ms. Joan LaRock, Lovettsville, Virginia
Ms. Elise Heinz, Arlington, Virginia
Ms. Marjorie Stanley, Silver Spring, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. R. Lee Downey, Williamsport, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland.

Matters to be discussed at this meeting include:

1. Old and new business
2. Superintendent's report
3. Committee reports, Plans and Projects Committee, Recreation Policies and Issues Committee, Resource Protection Committee
4. Public comments

The meeting will be open to the public. Any member of the public may file with the Commission a written

statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection six (6) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: November 4, 1986.

Lowell V. Sturgill,

Acting Regional Director, National Capital Region.

[FR Doc. 86-25409 Filed 11-6-86; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the Seventy-Ninth meeting of the Board for International Food and Agricultural Development (BIFAD) on November 25, 1986.

The purposes of the meeting are to discuss responses to the Administrator's questionnaire on Title XII, to hear a report on JCARD and to hear and discuss a presentation on the Michigan State Report on Africa Food Security.

The Meeting will be held at 8:45 a.m. and adjourn at 12:00 p.m. on November 25, 1986. The meeting will be held in the Pan American Health Organization Building, 525 23rd Street NW., Washington, DC 20037. Any interested person may attend, and may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits.

Erven J. Long, Director, Research and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as AID Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, International Development Cooperation Agency, Washington, DC 20523, or telephone him at (703) 235-8929.

Dated: November 5, 1986.

Erven J. Long,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 86-25396 Filed 11-7-86; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30930]

The Midland Terminal Co., Exemption to Lease

The Midland Terminal Company has filed a notice of exemption to lease the railroad right-of-way owned by J&L Specialty Products Corporation (J&L) and located within the confines of J&L's steel plant in the Borough of Midland, Beaver County, Pennsylvania. Comments must be filed with the Commission and served on: Thomas M. Thompson, Esquire, Buchanan Ingersoll, Professional Corporation, 57th Floor, 600 Grant Street, Pittsburgh, PA 15219, Henry M. Wick, Jr., Esquire, Wick, Rich, Fluke & Streiff, 1610 Two Chatham Center, Pittsburgh, PA 15219, and James D. Barontini, Esquire, Law Department, The Midland Terminal Company, 3600 Second Avenue, Pittsburgh, PA 15219.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Dated: October 24, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86-25404 Filed 11-7-86; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-C-30006]

Quaker Oats Co.; Transportation Within Texas and California; Petition for Declaratory Order

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of petition for declaratory order.

SUMMARY: The Quaker Oats Company, a producer of grocery and food products, seeks institution of a declaratory order proceeding to determine whether the following movements of food products are interstate or intrastate in nature: (1) From storage facilities in Texas and California to customers at other points in each State, respectively, after prior movements from out-of-State manufacturing facilities; and (2) from a manufacturing facility at Dallas, TX, to a customer at El Paso, TX, via the shortest direct route passing through New Mexico.

Quaker is joined in its petition by Custom Carriers, Inc., Iowa Continental Shippers, Inc., C.H. Robinson Company, and Wagonmaster Transportation Co.

DATES: Persons interested in participating in this proceedings should so advise the Commission in writing by November 25, 1986.

A list of interested parties will then be compiled and served. Petitioners will have 10 days from the service date of that list to serve each party on the list and the Commission with a copy of each of their comments. Other parties will then have 35 days from the service date of the service list to submit their comments to the Commission and to petitioners' representatives. Petitioners will have 50 days from the service date of the service list to reply.

ADDRESS: Send an original and, if possible, 10 copies of comments referring to No. MC-C-30006 to: Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

Send one copy of comments to each petitioners' representatives:

William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210

Florence Wishman, 3649 Conflans Rd., Suite 122, Irving, TX 75061

Owen P. Gleason, 7525 Mitchell Rd., Eden Prairie, MN 55344

Michael L. Springer, 2524 E. Fender Ave., Suite I, Fullerton, CA 92631.

FOR FURTHER INFORMATION CONTACT:

Paul W. Schach, (202) 275-7885

or

Louis E. Gitomer, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC, 20423, or call 289-4357 (DC Metropolitan areas) or toll-free (800) 424-5403.

Decided: October 28, 1986.

By the Commission, chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Chairman Gradison and Commissioner Lamboley commented with separate expressions: Vice

Chairman Simmons would have set this proceeding for oral hearing.

Noreta R. McGee,

Secretary.

[FR Doc. 86-25403 Filed 11-7-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-18 (Sub-90X)]

The Chesapeake & Ohio Railway Co.; Abandonment Exemption; Hocking County, OH

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by The Chesapeake and Ohio Railway Company of 6.30 miles of track in Hocking County, OH, subject to standard labor protection.

DATES: This exemption is effective on December 10, 1986. Petitions to stay must be filed by November 25, 1986, and petitions for reconsideration must be filed by December 5, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB-18 (Sub-No. 90X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Patricia Vail, 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area), or toll-free (800) 424-5403.

Decided: November 3, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-25405 Filed 11-7-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collection(s) Under Review

November 6, 1986.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form/supporting documents is available); (2) the office of the agency issuing the form; (3) the title of the form; (4) the agency from number, if applicable; (5) how often the form must be filled out; (6) who will be required or asked to report; an estimate of the number of responses; (7) an estimate of the total number of respondents; (8) an estimate of the total number of hours needed to fill out the form; (9) an indication of whether Section 3504(h) of Pub. L. 96-511 applies; and, (10) the name and the telephone number of the person or office responsible for the OMB review. Copies of the proposed form(s) and the supporting documentation may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions regarding the item(s) contained in this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. 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 and the Agency Clearance Officer of your intent as early as possible.

Department of Justice, Agency Clearance Officer: Larry E. Miesse, 202/633-4312; Deputy Agency Clearance Officer: Daphne Holden, 202/633-5356.

New Collection

(1) Larry E. Miesse, 202/633-4312 (alt. Daphne Holden, 633-5356)
(2) Office for Victims of Crime, Office of Justice Programs, Department of Justice
(3) VICTIM ASSISTANCE PROGRAM SURVEY FOR THE NATIONAL VICTIMS RESOURCE CENTER DATA BASE (Mailing)
(4) N/A
(5) Annual
(6) State or local governments. Survey will enable National Victims Resource Center to collect information on victim assistance programs throughout the United States that provide direct services to victims of crime.
(7) 1800 respondents
(8) 900 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Larry E. Miesse, 202/633-4312 (alt. Daphne Holden, 633-5356)
(2) Immigration and Naturalization Service, Department of Justice
(3) PETITION TO CLASSIFY NONIMMIGRANT AS TEMPORARY WORKER OR TRAINEE
(4) I-128B
(5) On occasion
(6) Individuals or households, businesses or other for-profit. Section 101(a)(15)(H) and (L), and 214 requires the use of this form by employers to petition to classify nonimmigrant as temporary worker or trainee.
(7) 23,958 respondents
(8) 23,958 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312 (alt. Daphne Holden, 633-5356)
(2) Immigration and Naturalization Service, Department of Justice
(3) APPLICATION FOR WAIVER OF THE FOREIGN RESIDENCE REQUIREMENT OF SECTION 212(e) OF THE IMMIGRATION AND NATIONALITY ACT
(4) I-612
(5) On occasion
(6) Individuals or households. Information used to determine eligibility of applicants for a waiver.
(7) 1,300 respondents
(8) 433 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312 (alt. Daphne Holden, 633-5356)
(2) Immigration and Naturalization Service, Department of Justice
(3) APPLICATION BY REFUGEE FOR WAIVER OF GROUNDS OF EXCLUDABILITY
(4) I-602
(5) On occasion
(6) Individuals or households. Information used to determine eligibility for waivers and to report to Congress on the reasons for granting waivers.
(7) 2,500 respondents
(8) 625 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395-4814

(1) Larry E. Miesse, 202/633-4312 (alt. Daphne Holden, 633-5356)
(2) Immigration and Naturalization Service, Department of Justice
(3) REQUEST FOR INFORMATION FROM SELECTIVE SERVICE FILES
(4) N-422
(5) On occasion

(6) Individuals or households. Form is necessary to obtain information from Selective Service to determine eligibility for naturalization as provided for in the Immigration and Nationality Act.
(7) 2,000 respondents
(8) 322 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633-4312 (alt. Daphne Holden, 633–5356)
(2) Immigration and Naturalization Service, Department of Justice
(3) APPLICATION FOR REMOVAL
(4) I–243
(5) On occasion
(6) Individuals or households. Needed to determine eligibility of an applicant under Section 250 of the Immigration and Nationality Act, which provides that an alien in the United States who has fallen into distress or needs public aid, may apply for removal from the United States.
(7) 22 respondents
(8) 4 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633-4312 (alt. Daphne Holden, 633–5356)
(2) Immigration and Naturalization Service, Department of Justice
(3) REQUEST FOR RECOGNITION AS A NON-PROFIT RELIGIOUS, CHARITABLE, SOCIAL SERVICE, OR SIMILAR ORGANIZATION
(4) G–27
(5) On occasion
(6) Individuals or households, businesses or other for-profit, non-profit institutions, small businesses or organizations. Form is used to determine the qualifications of persons or organizations desiring accreditation to represent aliens during immigration proceedings as provided in Section 292 of the Immigration and Nationality Act.
(7) 50 respondents
(8) 4 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633-4312 (alt. Daphne Holden, 633–5356)
(2) Immigration and Naturalization Service, Department of Justice
(3) REQUEST FOR DETERMINATION THAT PROSPECTIVE IMMIGRANT IS AN INVESTOR
(4) I–526
(5) On occasion
(6) Individuals or households. Used to determine if a prospective immigrant is an investor.
(7) 1 respondent
(8) 1 burden hour
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633-4312 (alt. Daphne Holden, 633–5356)
(2) Immigration and Naturalization Service, Department of Justice
(3) APPLICATION FOR A NEW NATURALIZATION OR CITIZENSHIP PAPER
(4) N–565
(5) On occasion
(6) Individuals or households. Form used to determine if applicant is eligible for issuance of replacement document.
(7) 8,000 respondents
(8) 2,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

Larry E. Miesse,

Department Clearance Officer, Department of Justice.

[FR Doc. 86–25334 Filed 11–7–86; 8:45 am]

BILLING CODE 4410–10–M

Drug Enforcement Administration

Importation of Controlled Substances; Registration; Arenol Chemical Corp.

By Notice dated August 8, 1986, and published in the **Federal Register** on August 15, 1986; (51 FR 29334), Arenol Chemical Corporation, 40–33 23rd Street, Long Island City, New York 11101, made application to the Drug Enforcement Administration to be registered as an importer of Phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations § 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: November 4, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86–25361 Filed 11–7–86; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Registration; Arenol Chemical Corporation

By Notice dated August 8, 1986, and published in the **Federal Register** on August 15, 1986; (51 FR 29334), Arenol Chemical Corporation, 40–33 23rd Street, Long Island City, New York 11101, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below.

Drug	Schedule
Amphetamine, its salts, optial isomers, and salts of its optical isomers (1100).	II
Methamphetamine, its salts, isomers, and salts of its isomers (1105).	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: November 4, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86–25362 Filed 11–7–86; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Registration; Ciba-Geigy Pharmaceuticals Division et al.

By Notice dated September 16, 1986 and published in the **Federal Register** on September 22, 1986; (51 FR 33668), Pharmaceuticals Division, Ciba–Geigy Corporation, Regulatory Compliance, SEF 1030G, 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: November 4, 1986

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86–25363 Filed 11–7–86; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances Registration; Du Pont Pharmaceuticals

By Notice dated September 16, 1986, and published in the **Federal Register** on

September 22, 1986; (51 FR 33668), Du Pont Pharmaceuticals, 1000 Stewart Avenue, Garden City, New York 11530, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II
Hydrocodone (9193)	II
Oxymorphone (9652)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: November 4, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86-25364 Filed 11-7-86; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-317 and 50-318]

Baltimore Gas & Electric Co.; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-53 and DPR-69 issued to the Baltimore Gas and Electric Company (the licensee), for operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, located in Calvert County, Maryland.

The proposed amendments would modify Technical Specification Limiting Condition For Operation 3.1.1.4 by raising the upper limit for moderator temperature coefficient (MTC) above 70% Rated Thermal Power (RTP) from the current limit of less positive than + 0.2 E-4 delta k/k/°F to a proposed limit of less positive than + (1.16-.66 P) E-4 delta k/k/°F where P is the Fraction of Rated Power.

The increase in MTC to less than +0.50 E-4 at 100% RTP necessitates the changing of the reactor coolant system (RCS) pressure limit for the safety analysis of the feed line break event concurrent with a loss of A.C. power. The previous safety analysis for this event had an RCS pressure limit of 2750 psig (110% of design pressure). The proposed safety analysis RCS pressure limit is 3000 psig (120% of design pressure). This increase is based upon the low probability of occurence of the event.

This proposed TS revision is in partial response to the licensee's application for amendments dated July 31, 1986. The remaining issues associated with the July 31, 1986 application will be addressed in separate actions.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By December 10, 1986, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding; but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Ashok C. Thadani: (Petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to D. A. Brune, Jr., General Counsel, Baltimore Gas & Electric Company, P.O. Box 1475, Baltimore, Maryland 21203, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request

should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated July 31, 1986 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Calvert County Library, Prince Frederick, Maryland.

Dated at Bethesda, Maryland, this 4th day of November 1986.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, PWR Project Directorate #8 Division of PWR Licensing-B.

[FR Doc. 86-25410 Filed 11-7-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-483]

Union Electric Co. (Callaway Plant, Unit 1); Notice of Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Union Electric Company (the Licensee) to withdraw part of its May 17, 1985, amendment application for the Callaway Plant, Unit 1, located in Callaway County, Missouri. The withdrawn part of the proposed amendments would have permitted an extension to perform Type C tests on 59 containment isolation valves and editorial changes to valve function descriptions and system designators in Table 3.6-1 of the Technical Specifications. The Commission issued a Notice of Consideration of Issuance of the Amendment in the **Federal Register** on July 3, 1985 (50 FR 27510). By letter dated September 29, 1986, the licensee withdrew part of its application for the proposed amendment. The Commission has determined that permission to withdraw part of the May 17, 1985, application for amendment should be granted.

For further details with respect to this action, see (1) the application for amendment dated May 17, 1985, (2) the licensee's letter dated September 29, 1986, withdrawing part of the application for amendment, and (3) our letter dated November 5, 1986. All of the above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Dated at Bethesda, Maryland, this 5th day of November 1986.

For the Nuclear Regulatory Commission.

B.J. Youngblood,

*Director, PWR Project Directorate *4, Division of PWR Licensing-A.*

[FR Doc. 86-25411 Filed 11-7-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-15985]

Application and Opportunity For Hearing; Citicorp

November 5, 1986.

Notice is hereby given that Citicorp (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeships of United States Trust Company of New York (the "Trust Company") under four existing indentures, three Pooling and Servicing Agreements each dated as of July 1, 1986 and two Pooling and Servicing Agreements each dated as of August 1, 1986 ("the Agreements") under which certificates evidencing interests in a pool of mortgage loans have been issued, are 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 the Trust Company from acting as Trustee under either of such indentures or the Agreements.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such a conflicting interest, either eliminate the conflicting interest or resign as trustee. Subsection (1) of section 310(b) provides, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture which securities of an obligor upon the indenture securities are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of the subsection another indenture under which other securities of the same obligor are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under both the qualified indenture and such other indenture 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 such trustee from acting as trustee under one of such indentures.

The Applicant alleged that:

(1) The Trust Company currently is acting as Trustee under four indentures in which the Applicant is the obligor. The indenture dated as of February 15, 1972 involved the issuance of Floating Rate Notes due 1989, the indenture dated as of March 15, 1977 involved the issuance of various series of unsecured and unsubordinated Notes, the indenture dated as of August 25, 1977 involved the issuance of Rising-Rate Notes, Series A and the indenture dated as of April 21, 1980 involved the issuance of various series of unsecured and unsubordinated Notes. Said indentures were filed as, respectively, Exhibits 4(a), 2(b), 2(b), and 2(a) to Applicant's respective Registration Statements Nos. 2-42915, 2-58355, 2-59396 and 2-64862 filed under the Securities Act of 1933, and have been qualified under the Trust Indenture Act of 1939. Said four indentures are hereinafter called the Indentures and the securities issued pursuant to the Indentures are hereinafter called the Notes.

(2) The Applicant is not in default in any respect under the Indentures or under any other existing indenture.

(3) On July 24, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of July 1, 1986 (the "1986-H Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which they were issued on July 24, 1986 Mortgage Pass-Through Certificates, Series 1986-H 10.00% Pass-Through Rate (the Series 1986-H Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1986-H Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $74,875,168.36 at the close of business on July 1, 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986-H Certificates. On July 24, 1986, Applicant, the parent of Citibank, N.A., entered into a guaranty of even date (the "1986-H Guaranty") pursuant to which applicant agreed, for the benefit of the holders of the Series 1986-H Certificates, to be liable for 6.5% of the initial aggregate principal balance of the 1986-H Mortgage Pool and for lesser amounts in later years pursuant to the

provision of the 1986–H Guaranty. The 1986–H Guaranty states the applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986–H Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986–H Certificates were registeed under the Securities Act of 1933 (Registration Statement on Forms S–11 and S–3, File No;. 33–6358) as part of a delayed or continuous offering of $2,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1986–H Certificates were offered by a Prospectus Supplement dated July 9, 1986, supplemental to a Prospectus dated July 9, 1986. The 1986–H Agreement has not been qualified under the Trust Indenture Act of 1939.

(4) On July 28, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of July 1, 1986 (the "1986–I Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on July 28, 1986, Mortgage Pass-Through Certificates, Series 1986–I 9.50% Pass-Through Rate (the "Series 1986–I Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1986–I Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $75,552,240.88 at the close of business on July 1, 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986–I Certificates. On July 28, 1986, Applicant, the parent of Citibank, N.A., entered into a Guaranty of even date (the "1986–I Guaranty") pursuant to which Applicant agreed, for the benefit of the holders of the Series 1986–I Certificates, to be liable for 7.00% of the initial aggregate principal balance of the 1986–I Mortgage Pool and for lesser amounts in later years pursuant to the provision of the 1986–I Guaranty. The 1986–I Guaranty states that Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986–I Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986–I Certificates were registered under the Securities Act of 1933 (Registrant Statement on Forms S–11 and S–3, File No. 33–6358) as part of a delayed or continuous offering of $2,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1986–I Certificates were offered by a Prospectus Supplemental dated July 10, 1986 supplemental to Prospectus dated July 9, 1986. The 1986–I Agreement has not been qualified under the Trust Indenture Act of 1939.

(5) On July 28, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of July 1, 1986 (the "1986–J Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on July 28, 1986 Mortgage Pass-Through Certificates, Series 1986–J 10.00% Pass-Through Rate (the "Series 1986–J Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1986–J Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $119,385,653.63 at the close of business on July 1, 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986–J Certificates. On July 28, 1986, Applicant, the parent of Citibank, N.A., entered into a guaranty of even date (the "1986–J Guaranty") pursuant to which applicant agreed, for the benefit of the holders of the Series 1986–J Certificates, to be liable for 7.00% of the initial aggregate principal balance of the 1986–J Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1986–J Guaranty. The 1986–J Guaranty states that Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986–J Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986–J Certificates were registered under the Securities Act of 1933 (Registration Statement on Forms S–11 an S–3, File No. 33–6358 as part of a delayed or continuous offering of $2,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1986–J Certificates were offered by a Prospectus Supplement dated July 16, 1986, supplemental to a Prospectus dated July 9, 1986. The 1986–J Agreement has not been qualified under the Trust Indenture Act of 1939.

(6) On August 26, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of August 1, 1986 (the 1986–K Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homemakers, Inc., under which there were issued on August 26, 1986, Mortgage Pass-Through Certificates, Series 1986–K 9.50% Pass-Through Rates (the "Series 1986–K Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the 1986–K Mortgage Pool") originated and services by Citibank, N.A. and having adjusted principal balances aggregating $76,666,366.75 at close of business on August 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986–K Certificates. On August 26, 1986, Applicant, the parent of Citibank, N.A., entered into a Guaranty of even date (the "1986–K Guaranty") pursuant to which Applicant agreed, for the benefit of the holders of the Series 1986–K Certificates, to be liable for 7.00% of the initial aggregate principal balance of the 1986–K Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1986–K Guaranty. The 1986–K Guaranty states that Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986–K Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986–K certificates were registered under the Securities Act of 1933 (Registration Statement on Forms S–11 and S–3, File No. 33–6358) as part of a delayed or continuous offering of $2,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1986–K Certificates were offered by a Prospectus Supplement dated August 14, 1986 supplemental to a Prospectus dated July 9, 1986. The 1986–K Agreement has not been qualified under the Trust Indenture Act of 1939.

(7) On August 26, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of August 1, 1986 (the "1986–L Agreement") with Citibank N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which these were issued on August 26, 1986 Mortgage Pass-Through Certificates, Series 1986–L 9.50% Pass-Through Rate (the "Series 1986–L Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1986–L Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $98,775,532.57 at the close of business on

August 1, 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986–L Certificates. On August 26, 1986, Applicant, the parent of Citibank, N.A., entered into a guaranty of even date (the "1986–L Guaranty") pursuant to which applicant agreed, for the benefit of the holders of the Series 1986–L Certificates, to be liable for 6.50% of the initial aggregate principal balance of the 1986–L Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1986–L Guaranty. The 1986–L Guaranty states that Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebteness of Applicant, and accordingly, if enforced against Applicant, the 1986–L Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986–L Certificates were registered under the Securities Act of 1933 (Registration Statement on Forms S–11 and S–3, File No. 33–6358 as part of a delayed or continuous offering of $2,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1986–L Certificates were offered by a Prospectus Supplement dated August 19, 1986, supplemental to a Prospectus dated August 19, 1986. The 1986–L Agreement has not been qualified under the Trust Indenture Act of 1939.

The 1986–H Agreement, the 1986–I Agreement, the 1986–J Agreement, the 1986–K Agreement and the 1986–L Agreement are hereinafter called the 1986 Agreements and the 1986–H Guaranty, the 1986–I Guaranty, the 1986–J Guaranty, the 1986–K Guaranty and the 1986–L Guaranty are hereinafter called the 1986 Guarantees.

(B) The obligations of Applicant under the Indentures and the 1986 Guarantees are wholly unsecured, are unsubordinated and rank *pari passu*. Any differences that exist between the provisions of the Indentures and the 1986 Guarantees are unlikely to cause any conflict of interert among the trusteeships of the Trust Company under the 1986 Agreements.

(9) The Applicant has waived notice of hearing, waived hearing, and waived any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22–15985, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC.

Notice is Further Given that any interested person may, not later than November 24, 1986, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by said application which he desires to controvert, or 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, DC 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 for the protection of investors, unless a hearing is ordered by the Commission,

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86–25402 Filed 11–7–86; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–23771; File No. SR–PHLX 86–39]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Use of the Uniform Application For Securities Industry Registration or Transfer (Form U–4).

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 October 30, 1986, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. (PHLX) hereby announces as a proposed rule change the use of Form U–4.

II. Self-Regulatory Organization's Statement Regarding 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 reflects the PHLX's current use and commitment to future use of Form U–4 as part of its registration and over-sight of member firm personnel. The Exchange finds the use of the Form in connection with the National Association of Securities Dealers, Inc.'s Central Registration Depository (CRD) system an efficient method of reviewing and tracking the continuous and frequent entry and movement of individuals in the securities industry as well as changes in their employment histories.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the PHLX 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

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 1, 1986. For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

November 3, 1986.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-25401 Filed 11-7-86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-23770; File No. SR-PHLX-86-35]

Self-Regulartory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change

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 September 19, 1986 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX") proposes to extend for an additional 60 days a pilot which would permit the PHLX to reduce Canadian dollar ("CD") customer margin for short positions in CD currency options to the options premium plus 1% of the underlying contract value (See, SR-PHLX 86-19 which was approved in Releases No. 34-23445, July 16, 1986.)

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 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

By Release No. 34-23445, the Securities and Exchange Commission ("Commission") approved the above referenced rule change for a 60 day period during which the PHLX agreed to conduct a study of foreign currency margin requirements. On August 18, 1986, the PHLX submitted its study to the Commission. The PHLX believes that the study supports full approval of reduced margin for CD options. However, in order to allow time for Commission review of the study and notice of the reduced margin for CD options for further public comment, the PHLX requests that the Commission extend temporary approved of the above referenced rule change for an additional 60 day period.

The proposed rule change is consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 in that it will facilitate transactions in securities, remove impediments to and perfect the mechansim of a free and open market and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition. Further, by reducing margin for CD options, the proposed rule change will address a disparity in regulation between CD options which are traded in a securities environment and those which are traded in a futures environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, 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 because the proposal extends a pilot program previously approved by the Commission,[1] and will allow the Commission sufficient time to fully evaluate the pilot. The Exchange states that the reduced margin requirement for CD currency options continues to maintain a 95% confidence level, perviously identified by the Commission as appropriate for margin on short options positions [2] and continues of correlate margin to risk exposure. During the 60 day extension, the Commission will review the PHLX's study of foreign currency margin requirements, along with the Exchange's experience under the pilot, and will decide on the appropriateness of permanent approval.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section,

[1] *See* Securities Exchange Act Release No. 23445 (July 16, 1986), 51 FR 26489 (July 23, 1986).

[2] *See* Securities Exchange Act Release No. 22469 (September 26, 1985), 51 FR 49633 (October 4, 1985).

450 Fifth Street, NW Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 1, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 3, 1986.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-25400 Filed 11-7-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending October 31, 1986.

The following applications for certificates of public convenience and necessity and foreign air carrier permits filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited 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.

Docket No. 44450

Date Filed: October 27, 1986.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 24, 1986.

Description: Application of Soundair Corporation, pursuant to section 402 of the Act and Subpart Q of the Regulations, requests a foreign air carrier permit to operate a class 9-2 International Regulator Specific Point commercial air service to transport persons, goods and mail between Toronto, Ontario, Canada, and Cincinnati, Ohio, U.S.A., using fixed wing aircraft in Group C.

Docket No. 44452

Date Filed: October 27, 1986.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 24, 1986.

Description: Application of Lufthansa pursuant to section 402 of the Act and Subpart Q of the Regulations, for an amendment of its foreign air carrier permit so as to authorize it to engage in foreign air transportation of persons, property and mail between a point or points in the Federal Republic of Germany and Washington, DC.

Docket No. 44462

Date Filed: October 29, 1986.

Due Date for Answers, Conforming Application, or Motions to Modify Scope: November 26, 1986.

Description: Application of Million Air, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations, requests an amendment of its certificate of public convenience and necessity authorizing it to perform scheduled all-cargo service between United States, on the one hand, and Paraguay, on the other hand.

Docket No. 44465

Date Filed: October 30, 1986.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 28, 1986.

Description: Application of Soundair Corporation pursuant to section 402 of the Act and Subpart Q of the Regulations, requests a foreign air carrier permit to operate two class 9-2 International Regular Specific Point commercial air services, carrying on business under the firm name and style of Commuter Express, to transport persons, goods and mail, using fixed wing aircraft as certified as capable of carrying no more than 60 passengers and having a maximum payload of no more than 13,000 pounds, between Toronto, Ontario, Canada, and Toledo, Ohio and Youngstown/Akron, Ohio, U.S.A.

Phyllis T. Kaylor,

Chief, Documentary Service Division.

[FR Doc. 86-25376 Filed 11-7-86; 8:45 am]

BILLING CODE 4910-62-M

Aviation Proceedings; Agreements Filed During the Week Ending October 31, 1986

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44457

Parties: Air Traffic Conference of America.

Date Filed: October 28, 1986.

Subject: Application of Air Traffic Conference of America pursuant to section 412 of the Act requests approval of amendments to the following Air Traffic Conference Resolutions:

Resolutions	Title
10.45	Standard Interline Passenger Procedures—Appendix "A".
20.09	Computer Ticket.
20.10	Transitional Automated Ticket.
20.13	Automated Ticket/Boarding Pass (ATB) Agents.
20.15	Transitional Automated Ticket—Agents.
20.17	Transitional Automated Ticket—Scheduled Airlines Traffic Office, Inc. (SATO).
20.20	Air Transportation Exchange Order For Use by Agent.
20.25	Revalidation Sticker.
30.50	Interline Baggage Handling and Processing.
30.300	Automated Ticket/Boarding Pass—(ATB).
64.10	Standard Specifications for Optical Scanning, Transitional Automated Ticket (TAT) Automated Ticket/Boarding Pass (ATB) Agents.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-25375 Filed 11-7-86; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration Radio Technical Commission for Aeronautics (RTCA), Special Committee 150; Minimum System Performance Standards for Vertical Separation Above Flight Level 290; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 150 on Minimum System Performance Standards for Vertical Separation above Flight Level 290 to be held on December 3-5, 1986, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Remarks; (2) Approval of the Thirteenth Meeting's Minutes; (3) Report of Working Group Activities; (4) Update on Data Collection Programs; (5) Development of MSPS; (6) Task Assignments; (7) Other Business; and (8) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 30, 1986.

Wendie F. Chapman,

Designated Officer

[FR Doc. 86-25302 Filed 11-7-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB For Review

Dated: November 5, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0014
Form Number: IRS Form 637
Type of Review: Revision
Title: Registration for Tax-Free Transactions Under Chapters 31 and 32 of the Internal Revenue Code

Clearance Officer: Garrick Shear, (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Robert Neal, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Douglas J. Colley,

Departmental Reports Management Office.

[FR Doc. 86-25399 Filed 11-7-86; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 33-86]

Treasury Notes of Series H-1993; Interest Rate

Washington, October 29, 1986.

The Secretary announced on October 28, 1986, that the interest rate on the notes designated Series H-1993, described in Department Circular—Public Debt Series—No. 33-86 dated October 22, 1986, will be 7⅛ percent. Interest on the notes will be payable at the rate of 7⅛ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86-25416 Filed 11-7-86; 8:45 am]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 34-86]

Treasury Notes of November 15, 1989, Series T-1989

Washington, October 30, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $10,000,000,000, of United States securities, designated Treasury Notes of November 15, 1989, Series T-1989 (CUSIP No. 912827 UE O), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated November 17, 1986, and will accrue interest from that date, payable on a semiannual basis on May 15, 1987, and each subsequent 6 months on November 15 and may 15 through the date that the principal becomes payable. They will mature November 15, 1989, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC. 20239, prior to 1:00 p.m., Eastern Standard time, Tuesday, November 4, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, November 3, 1986, and received no later than Monday, November 17, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers

and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent requried to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender alloted will be determined and each successful competitive bidders will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes alloted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes alloted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Monday, November 17, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, November 13, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes alloted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, November 17, 1986. When payment has been submitted with the tender and the purchase price of the Notes alloted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes alloted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes alloted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes alloted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pleged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86-25413 Filed 11-6-86; 9:29 am]

BILLING CODE 4810-40-M

[Department Circular—Public Dept Series—No. 35-86]

Treasury Notes of November 15, 1996, Series D-1996

Washington, October 30, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,750,000,000 of United States securities, designated Treasury Notes of November 15, 1996, Series D-1996 (CUSIP No. 912827 UF 7), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes

may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated November 15, 1986, and issued November 17, 1986. Payment for the Notes will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from November 15, 1986, to November 17, 1986. Interest on the Notes is payable on a semiannual basis on May 15, 1987, and each subsequent 6 months on November 15 and May 15 through the date that the principal becomes payable. They will mature November 15, 1996, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. A Note may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, and transfer of Principal and Interest Components are set forth in section 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Standard time, Wednesday, November 5, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, November 4, 1986, and received no later than Monday, November 17, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federal-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all other must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.750. That stated rate of interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1 The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the

amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1 Settlement for the Notes alloted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement must include accrued interest from November 15, 1986, to November 17, 1986. The amount of accrued interest will be determined after the auction, and investors will be notified of the amount. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5 must be made or completed on or before Monday, November 17, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury: in Treasury bills, notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, November 13, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note accounts on or before Monday, Novemer 17, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2 In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3 Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tendered form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1 Under the Treasury's STRIPS program (Separate Trading of Registered Interest and Principal of Securities), a Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The components of a Note are: each future semiannual interest payment (hereafter referred to as an Interest Component); and the principal payment (hereafter referred to as the Principal Component). Each Interest Component and Principal Component shall have its own CUSIP number and designation, which are set forth in Attachment A hereto.

6.2 In order for a Note to be separated into the components described in section 6.1., the par amount of the Note must be in an amount which, based on the stated interest rate of the Note, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum and multiple par amount required to obtain the separate components for this offering will be provided in the public announcement of the amount and yield range of accepted bids for the Notes. The chart in Attachment B hereto provides the minimum and multiple par amounts required to separate a security into components at various stated interest rates. Separation of Notes into their components may be effected at any time from the issue date until maturity. A request to obtain the separate components must be made to the Federal Reserve Bank maintaining the account for the Notes. Normally, any such request shall be executed by the Federal Reserve Bank within 3 business days after it is received.

6.3. The Principal Component will be payable on November 15, 1996.

6.4. Each Interest Component will be payable on its particular due date designated in Attachment A hereto.

6.5. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

6.6 Once a Note has been separated into its components, each Interest Component and the Principal Component may be maintained and transferred in multiples of $1,000, regardless of the par amount initially required for separation or the resulting amount of each Interest Component.

6.7 Once there is a disposition of any amount of an Interest Component or of a Principal Component, the holder of the Note will be considered for tax purposes to have stripped the amount of principal allocable to the amount of the components disposed of as of the date such first disposition occurs. both the retained amount allocable to the stripped principal and the amount disposed of are thereafter treated as discount obligations, and the holders of such are subject to periodic income inclusion and other provisions of the Internal Revenue Code of 1954.

6.8. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies at such time and such value as will be determined by the Secretary of the Treasury. They will not be acceptable in payment of Federal taxes.

6.9 Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the full constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachments A and B are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

ATTACHMENT A

CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Notes of November 15, 1996, Series D–1996, CUSIP No. 912827 UF 7

The Principal Component is designated (Interest Rate) Treasury

Principal (TPRN) Series D–1996 due November 15, 1996, CUSIP No. 912820 AH 0.

INTEREST COMPONENTS

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) Due		Treasury Interest (TINT) Due	
May 15, 1987	EJ 5	May 15, 1992	EU 0
Nov. 15 1987	EK 2	Nov. 15, 1992	EV 8
May 15, 1988	EL 0	May 15, 1993	EW 6
Nov. 15, 1988	EM 8	Nov. 15, 1993	EX 4
May 15, 1989	EN 6	May 15, 1994	EY 2
Nov. 15, 1989	EP 1	Nov. 15, 1994	EZ 9
May 15, 1990	EQ 9	May 15, 1995	FA 3
Nov. 15, 1990	ER 7	Nov. 15, 1995	FB 1
May 15, 1991	ES 5	May 15, 1996	FC 9
Nov. 15, 1991	ET 3	Nov. 15, 1996	FD 7

BILLING CODE 4810-40-M

ATTACHMENT B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

[FR Doc. 86-25414 Filed 11-6-86; 9:29 am]
BILLING CODE 4810-40-C

[Department Circular—Public Debt Series—No. 36-86]

Treasury Bonds of 2016

Washington, October 30, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,250,000,000 of United States securities, designated Treasury Bonds of 2016 (CUSIP No. 912810 DX 3), hereafter referred to as Bonds. The Bonds will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Bonds and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Bonds may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Bonds may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Bonds will be dated November 15, 1986, and issued November 17, 1986. Payment for the Bonds will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from November 15, 1986, to November 17, 1986. Interest on the Bonds is payable on a semiannual basis on May 15, 1987, and each subsequent 6 months on November 15 and May 15 through the date that the principal becomes payable. They will mature November 15, 2016, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Bonds are subject to all taxes imposed under the Internal Revenue Code of 1954. The Bonds are exempt from all taxation now or hereafter on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Bonds will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Bonds will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. A Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, and transfer of Principal and interest Components are set forth in sections 6 of this circular. Subsections 2.1. through 2.4. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and interest components is set forth in Section 6 of this circular.

2.6. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Bonds offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Standard time, Thursday, November 6, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, November 5, 1986, and received no later than Monday, November 17, 1986.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above. Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 92.750.

That stated rate of interest will be paid on all of the Bonds. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g.,

99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Bonds specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and delivery

5.1. Settlement for the Bonds allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement must include accrued interest from November 15, 1986, to November 17, 1986. The amount of accrued interest will be determined after the auction, and investors will be notified of the amount. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Monday, November 17, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, November 13, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Bonds allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, November 17, 1986. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Bond being purchased. In any such case, the tender form used to place the Bonds allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS program (Separate Trading of Registered Interest and Principal of Securities), a Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The components of a Bond are: each future semiannual interest payment (hereafter referred to as an Interest Component); and the principal payment (hereafter referred to as the Principal Component). Each Interest Component and Principal Component shall have its own CUSIP number and designation, which are set forth in Attachment A hereto.

6.2. In order for a Bond to be separated into the components described in section 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum and multiple par amount required to obtain the separate components for this offering will be provided in the public announcement of the amount and yield range of accepted bids for the Bonds. The chart in Attachment B hereto provides the minimum and multiple par amounts required to separate a security into components at various stated interest rates. Separation of Bonds into their components may be effected at any time from the issue date until maturity. A request to obtain the separate components must be made to the Federal Reserve Bank maintaining the account for the Bonds. Normally, any such request shall be executed by Federal Reserve Bank within 3 business days after it is received.

6.3. The Principal Component will be payable on November 15, 2016.

6.4. Each Interest Component will be payable on its particular due date designated in Attachment A hereto.

6.5. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

6.6. Once a Bond has been separated into its components, each Interest Component and the Principal Component may be maintained and transferred in multiples of $1,000, regardless of the par amount initially required for separation or the resulting amount of each Interest Component.

6.7. Once there is a disposition of any amount of an Interest Component or of a Principal Component, the holder of the Bond will be considered for tax purposes to have stripped the amount of principal allocable to the amount of the components disposed of as of the date such first disposition occurs. Both the retained amount allocable to the stripped principal and the amount disposed of are thereafter treated as discount obligations, and the holders of such are subject to periodic income inclusion and other provisions of the Internal Revenue Code of 1954.

6.8. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies at such time and such value as will be determined by the Secretary of the Treasury. They will not be acceptable in payment of Federal taxes.

6.9. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public

announcement of such changes will be promptly provided.

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachments A and B are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A

CUSIP NUMBERS AND DESIGNATIONS FOR THE PRINCIPAL COMPONENT AND INTEREST COMPONENTS OF TREASURY BONDS OF NOVEMBER 15, 2016, CUSIP NO. 912810 DX 3

[The Principal Component is designated (interest Rate) Treasury Principal (TPRN) 2016 due Nov. 15, 2016, CUSIP No. 912803 AK 9]

Interest Components			
Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury interest (TINT) due:		Treasury interest (TINT) 2016 due:	
May 15, 1987	EJ 5	May 15, 2002	FQ 8
Nov. 15, 1987	EK 2	Nov. 15, 2002	FR 6
May 15, 1988	EL 0	May 15, 2003	FS 4
Nov. 15, 1988	EM 8	Nov. 15, 2003	FT 2
May 15, 1989	EN 6	May 15, 2004	FU 9
Nov. 15, 1989	EP 1	Nov. 15, 2004	FV 7
May 15, 1990	EQ 9	May 15, 2005	FW 5
Nov. 15, 1990	ER 7	Nov. 15, 2005	FX 3
May 15, 1991	ES 5	May 15, 2006	FY 1
Nov. 15, 1991	ET 3	Nov. 15, 2006	FZ 8
May 15, 1992	EU 0	May 15, 2007	GA 2
Nov. 15, 1992	EV 8	Nov. 15, 2007	GB 0
May 15, 1993	EW 6	May 15, 2008	GC 8
Nov. 15, 1993	EX 4	Nov. 15, 2008	GD 6
May 15, 1994	EY 2	May 15, 2009	GE 4
Nov. 15, 1994	EZ 9	Nov. 15, 2009	GF 1
May 15, 1995	FA 3	May 15, 2010	JU 5
Nov. 15, 1995	FB 1	Nov. 15, 2010	JV 3
May 15, 1996	FC 6	May 15, 2011	JW 1
Nov. 15, 1996	FD 7	Nov. 15, 2011	JX 9
May 15, 1997	FE 5	May 15, 2012	JY 7
Nov. 15, 1997	FF 2	Nov. 15, 2012	JZ 4
May 15, 1998	FG 0	May 15, 2013	KA 7
Nov. 15, 1998	FH 8	Nov. 15, 2013	KB 5
May 15, 1999	FJ 4	May 15, 2014	KC 3
Nov. 15, 1999	FK 1	Nov. 15, 2014	KD 1
May 15, 2000	FL 9	May 15, 2015	KE 9
Nov. 15, 2000	FM 7	Nov. 15, 2015	KF 6
May 15, 2001	FN 5	May 15, 2016	KH 2
Nov. 15, 2001	FP 0	Nov. 15, 2016	KK 5

BILLING CODE 4810-40-M

ATTACHMENT B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

[FR Doc. 86-25415 Filed 11-6-86; 9:29 am]
BILLING CODE 4810-40-C

Internal Revenue Service

[Delegation Order No. 221]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This delegation order authorizes the responsible official within the Internal Revenue Service the authority to grant an extension of a waiver of the magnetic media reporting requirements for filing of certain information returns to taxpayers who submit a written request for approval of an extension or a waiver of the filing requirements. Text of the delegation order appears below.

EFFECTIVE DATE: October 29, 1986.

FOR FURTHER INFORMATION CONTACT: Hugo Santora, D:R:P:L, Room 3611, 1111 Constitution Avenue, NW., Washington, DC 20224, Telephone: (202) 566–7575, (Not a Toll-Free Telephone Number).

Ophelia W. Burton,

Director, Program Planning and Review Staff.

Delegation Order

Order Number. 221

Effective Date:

Authority to Grant an Extension or a Waiver of Certain Magnetic Media Report Requirements

1. Pursuant to the authority vested in the Commissioner of the Internal Revenue Service by 26 CFR 1.6081–1, 26 CFR 301.7701–9 and 26 CFR 301.6011–2, it is hereby delegated to the Director, National Computer Center the authority to grant extensions of time to file information returns on magnetic media or waivers of magnetic media reporting requirements for information returns. This authority can only be exercised in situations where the taxpayer has provided prescribed documentation containing the reason for the request and it is sufficient to warrant the approval of an extension or a waiver of the filing requirements.

2. This authority may be redelegated no lower than Magnetic Media Specialists.

3. To the extent that authority previously exercised consistent with this order may require ratification, it is hereby affirmed and ratified.

Dated: October 24, 1986.

James I. Owens,

Deputy Commissioner.

[FR Doc. 86–25365 Filed 11–7–86; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)

Date of meeting: 25 November 1986

Times of meeting: 0800–1630 hours

Place: Pentagon

Agenda

The Army Science Board's Ad Hoc Subgroup for the Army Combat Models will meet to coordinate a final draft report. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–25570 Filed 11–7–86; 8:45 am]

BILLING CODE 3710–08–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–102 (Sub-12)]

Missouri-Kansas-Texas Railroad Co.; Abandonment in Labette and Neosho Counties, KS; Notice of Findings

The Commission has issued a certificate authorizing the Missouri-Kansas-Texas Railroad Company to abandon its 25.6-mile rail line between Parsons (milepost B–2.15) and Chanute, (milepost B–27.76) in Labette and Neosho Counties, KS. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial 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 the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA". Any 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 1152.27.

Noreta R. McGee,

Secretary.

[FR Doc. 86–25554 Filed 11–7–86; 8:45 am]

BILLING CODE 7035–01–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 217
Monday, November 10, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, November 4, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a discussion of a matter involving jurisdiction under the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsection (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B)).

Dated: November 5, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-25468 Filed 11-6-86; 11:50 am]

BILLING CODE 6714-01-M

Federal Register

Monday
November 10, 1986

Part II

Department of Education

34 CFR Parts 682 and 683
Guaranteed Student Loan and PLUS Programs; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Parts 682 and 683

Guaranteed Student Loan and PLUS Programs

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations for the Guaranteed Student Loan Program (GSLP) and the PLUS Program. These regulations cover the administration of the GSLP and PLUS Programs administered by State and private nonprofit guarantee agencies, the Federal Insured Student Loan Program (FISLP), and the Federal PLUS Program. These regulations incorporate recent statutory changes, and implement various policy initiatives intended to prevent loan defaults and to effect repayment of loans once default has occurred. Currently, the GSLP and PLUS Programs are covered by separate, though similar, regulations. The Secretary is consolidating the regulations of the two programs into one part.

These regulations clarify and simplify the requirements governing the GSLP and PLUS Programs, effect regulatory relief, including the reduction of paperwork and compliance burdens, provide for the improved administration of the programs, and reduce waste, fraud and abuse.

These regulations do not reflect changes to the authorizing legislation for the GSLP and PLUS Programs made by the Higher Education Amendments of 1986 recently enacted by the Congress. Regulations to implement those changes will be issued as soon as possible.

EFFECTIVE DATES: These regulations become effective either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments, except as noted below. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

Section 682.213, which prohibits the use of the rule of 78's, becomes effective six months after the effective date of these regulations. This provision will only affect those loans for which repayment has not begun as of that date.

Section 682.303, which requires the use of the average daily or actual accrual methods for computing interest benefits and special allowance billing by lenders, is effective on July 1, 1987.

Section 682.410(b)(3), which establishes collection procedures to be exercised by a guarantee agency on loans for which it pays a default claim, is effective for loans on which an agency pays default claims on or after March 10, 1987.

Section 682.411, which establishes due diligence requirements for lenders in the collection of guarantee agency loans, is effective for loans on which the first day of delinquency occurs on or after March 10, 1987.

FOR FURTHER INFORMATION CONTACT: Paula Husselmann or Patricia Beavan, Guaranteed Student Loan Branch, Division of Policy and Program Development, Office of Student Financial Assistance, Department of Education, Room 4310, ROB-3, 7th and D Streets, SW., Washington, DC 20202, telephone number (202) 245-2475.

SUPPLEMENTARY INFORMATION: These regulations revise and streamline the existing regulations and consolidate 34 CFR Part 682 (GSLP regulations) and 34 CFR Part 683 (PLUS Program regulations) into one part. These regulations comply with the provisions of Executive Order 12291 by reducing burdens where possible, eliminating unnecessary duplication and clarifying the intent of existing rules. These regulations make a number of changes designed to reduce defaults and to increase collections on loans that, nevertheless, go into default. Recent statutory changes were also incorporated into these regulations.

In order to reduce further the unnecessary duplication of regulations that apply to all title IV student assistance programs, these regulations delete a number of definitions and existing rules and replace them with cross-references to the Student Assistance General Provisions Regulations (34 CFR Part 668).

Subpart B consolidates provisions common to the GSL, FISL and PLUS Programs. Some guarantee agency provisions under Subpart D were revised to include provisions common to the FISL and guarantee agency programs. The FISL sections then reference the guarantee agency sections. Within a given subpart, the numbering of sections may have changed. Below is a list showing some of the changes in section numbers and content from the NPRM to these regulations:

NPRM	Final regulations
§ 682.204	§ 682.209(e).
§§ 682.205-682.206	§§ 682.212-682.213.
§ 682.305	Deleted.
§ 682.401(b) (1) and (2)	§ 682.204.
§ 682.506 (b)-(e)	§ 682.204.
§ 682.507	§ 682.205.
§ 682.508 (a)-(c)	§ 682.206.
§ 682.508 (f) and (g)	§ 682.207.
§ 682.509	§ 682.208.
§§ 682.510-682.512	§§ 682.209-682.211.
§§ 682.513-682.514	§§ 682.507-682.509.
§ 682.515	§ 682.412.
§§ 682.516-682.522	§§ 682.509-682.515.

Revisions to the Notice of Proposed Rulemaking

In the preamble to the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** of September 4, 1985, 50 FR 35964-36013, the Secretary requested comment on regulating the management practices and structure of State lenders or State secondary markets that are closely affiliated with guarantee agencies, often under identical management.

In view of public comment, the Secretary has decided not to implement final regulations related to management practices of guarantee agencies. Some existing organizational structures have been created under applicable laws and legislative authorities of the various States, and may require State legislation to be altered. In addition, the proposal, which deals with structural matters such as the make-up of boards of directors, might conflict with some provisions of State law.

The Secretary believes, based on comments received, that substantial statutory and regulatory authority exists for monitoring and sanctioning the programs—including remedial actions taken to adequately protect the Federal Government. Additionally, all 50 States have existing laws governing conflict of interests between entities. However, if in the future it appears that these safeguards are inadequate, the Secretary will reconsider promulgating regulations in this area.

Some significant changes have been made to the NPRM. Most of these changes reduce the burden that these regulations place on schools, lenders and guarantee agencies. The following is a listing of significant changes. A full discussion of the changes is contained in the Appendix—Summary of Comments and Responses.

Subpart B—General Provisions

Section 682.200 Definitions.

- The Secretary removed the definition of "enrolled" from these regulations, and intends to place it in the Student Assistance General Provisions Regulations instead. The Secretary has also revised § 682.605 (§ 682.604 of the NPRM) of these regulations, which governs how an institution processes a borrower's loan proceeds, to provide that an institution may credit the borrower's account up to 21 days, and release loan proceeds directly to a

borrower up to 10 days, prior to the first day of classes of the period of enrollment for which the loan is intended.

• The Secretary has clarified that aid awarded under the ROTC and Selected Reserve Educational Assistance programs is to be considered in determining a student's estimated financial assistance.

Section 682.205 Disclosure requirements.

• The Secretary has deleted the requirement in the proposed regulations that certain disclosures be made in the promissory note. The Secretary is revising the proposed regulations to provide the lender and guarantee agency with the greatest amount of flexibility by permitting the required disclosures to be made at any time before disbursement. This change was proposed in § 682.507 of the NPRM.

Subpart C—Federal Payments of Interest and Special Allowance

Section 682.300 Payment of interest benefits on a GSLP Loan.

• The Secretary has revised the proposed regulations to extend the number of days a lender is eligible for interest benefits and special allowance payments on an uncashed loan check, from 90 to 120 days.

Section 682.302 Payments of special allowance on a GSLP or PLUS Program Loan.

• The Secretary has revised § 682.300(b)(2) and § 682.302(d)(1) of the proposed regulations to terminate a lender's eligibility for interest benefits and special allowance payments on a loan when the loan ceases to be eligible for reinsurance coverage by the Secretary. This change was made primarily to address a lender's violation of its due diligence duties under § 682.411 where the agency's guarantee remains in effect, but the loan is no longer eligible for reinsurance by the Secretary.

Section 682.303 Methods for computing interest benefits and special allowance.

• The Secretary has retained the proposed regulations that prohibit the use of the average quarterly balance method for interest benefits and special allowance billing because this method is not a precise means of determining the amount of interest benefits and special allowance that has accrued on a loan. The Secretary does, however, recognize commenters' concerns regarding the difficulty of immediate implementation of the requirements for the use of average daily or actual accrual methods and, accordingly, is postponing the effective date of these provisions until July 1, 1987.

Subpart D—Guarantee Agency Programs

Section 682.401 Basic program agreement.

• The Secretary has revised the proposed regulations to provide that although an agency must submit to the Secretary its regulations, procedures and other substantive program materials whenever they are revised, the Secretary's approval is not needed before most are implemented. The Secretary will, however, continue, as provided in existing regulations, to require agencies to submit those documents and policies for his review to protect the Federal fiscal interest and to assist agencies in carrying out their programs. Prior approval of the application forms, promissory notes, and write-off criteria and procedures will be required.

Section 682.404 Federal reinsurance agreement.

• The proposed regulations have been revised to incorporate provisions of the Student Financial Assistance Technical Corrections Act of 1986 (Pub. L. 99-320) that permit an agency to be reimbursed for the administrative costs of supplemental preclaim assistance for default prevention, as part of its reinsurance payment on a defaulted loan. These reimbursement amounts, like other reinsurance payments, will be determined in part by each agency's default rate.

Section 682.410 Fiscal, administrative, and enforcement requirements.

• The Secretary has revised the proposed due diligence procedures that an agency must follow to delete the requirement that an agency file suit in all cases; this change has been made to respond to commenters' concerns that this procedure may not always be cost-effective or appropriate.

• The Secretary deleted the term "geographical area" from § 682.410(c)(1)(ii) of the proposed regulations, which governs an agency's on-site program reviews at its schools, because this term limited the distance within which an agency must conduct those reviews.

Subpart F—Requirements, Standards, and Payments for Participating Schools

Section 682.602 Providing employment data to prospective students.

• The Secretary has deleted this section of the proposed regulations in response to commenters that the requirement is burdensome and expensive. It appears that the paperwork burden imposed by this requirement would outweigh the protection provided to students against misrepresentations by vocational schools as to the success of their graduates in obtaining employment.

Section 682.605 Determining the date of a student's withdrawal.

• The Secretary has deleted the requirement in the proposed regulations that the school include the specific day of withdrawal in determining the student's withdrawal date for the purpose of reporting to lenders. However, for all other purposes, including refunds, the "day-specific" rules are retained.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Assessment of Educational Impact

In the NPRM, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and its own review as discussed in the Appendix of Comments and Responses, the Department has determined that the regulations in this document may require the transmission of certain information that is also being gathered by other agencies or authorities of the United States. However, the Department either does not have statutory authority to obtain this information or the information is not currently available in a form usable by the Department.

List of Subjects in 34 CFR Part 682

Administrative practice and procedures, Colleges and universities, Education loan programs—education, Student Aid, Vocational education.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the

line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number 84.032, Guaranteed Student Loan Program and PLUS Program)

Dated: November 5, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Parts 682 and 683 of title 34 of the Code of Federal Regulations as follows:

PART 683—[REMOVED]

1. Part 683 is removed.

2. Subparts A–G and Appendices A and C of Part 682 are revised to read as follows:

PART 682—GUARANTEED STUDENT LOAN AND PLUS PROGRAMS

Subpart A—Purpose and Scope

Sec.

Subpart B—General Provisions

Subpart C—Federal Payments of Interest and Special Allowance

Subpart D—Guarantee Agency Programs

Subpart E—Federal Insured Student Loan Program and Federal PLUS Program

Subpart F—Requirements, Standards, and Payments for Participating Schools

Subpart G—Limitation, Suspension, or Termination of Lender Eligibility Under the Guaranteed Student Loan Program and the PLUS Program

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

Subpart A—Purpose and Scope

§ 682.100 The Guaranteed Student Loan and PLUS Programs.

(a) This part governs two programs in which lenders use their own funds to make loans to enable students to pay the costs of attending postsecondary schools:

(1) The Guaranteed Student Loan Program (GSLP), which encourages the making of loans to undergraduate, graduate, and professional students.

(2) The PLUS Program, which encourages the making of loans to independent undergraduate students, graduate and professional students, and parents of dependent undergraduate students to help pay for the students' cost of education.

(b)(1) A guarantee agency guarantees lenders against losses due to default by the borrower on GSLP and PLUS Program loans. If the guarantee agency meets certain Federal requirements, the guarantee agency is reimbursed by the Secretary for all or part of the default claims it pays.

(2) The Secretary guarantees lenders against losses, within the GSLP, on Federal Insured Student Loan Program (FISLP) loans and, within the PLUS Program, on Federal PLUS Program loans. The FISLP and the Federal PLUS Program are authorized to operate in

States not served by a guarantee agency program. In addition, the FISLP is authorized, under limited circumstances, to operate in States in which a guarantee agency program does not serve all eligible students.

(Authority: 20 U.S.C. 1071 to 1087–2)

§ 682.101 Participation in the Guaranteed Student Loan and PLUS Programs.

(a) Banks, savings and loan associations, credit unions, pension funds, insurance companies, schools, and State and private nonprofit agencies may make loans.

(b) Educational institutions, including most colleges, universities, graduate and professional schools, and many vocational, technical, and correspondence schools, are eligible to participate as schools enabling an eligible student or parent to obtain a loan to pay for the student's costs of education.

(c) Students who meet certain requirements, including enrollment at a participating school, may borrow under the GSLP and the PLUS Program. Parents of eligible dependent undergraduate students may borrow under the PLUS Program.

(Authority: 20 U.S.C. 1071 to 1087–2)

§ 682.102 Obtaining and repaying a loan.

(a) *GSLP application.* Generally, to obtain a GSLP loan, a student completes an application and submits it to the school for certification. After the school certifies the application, the application is submitted to a participating lender. If the lender decides to make the loan, the lender obtains a loan guarantee from a guarantee agency or the Secretary.

(b) *PLUS Program application.* Generally, to obtain a PLUS Program loan, a student completes an application and submits it to the school for certification. If the loan is to be made to the student's parent(s), both the student and the parent(s) complete the application before submitting it to the school. After the school certifies the application, the application is submitted to a participating lender. If the lender decides to make the loan, the lender obtains a loan guarantee from a guarantee agency or the Secretary.

(c) *Repaying a loan.* (1) *General.* Generally, the borrower is obligated to repay the full amount of the loan, collection costs chargeable to the borrower, and any interest not payable by the Secretary. The borrower's obligation to repay is cancelled if the borrower dies, becomes totally and permanently disabled, or has the loan discharged in bankruptcy.

(2) *GSLP repayment.* Generally, a borrower is not required to make any payments on a GSLP loan during the time the borrower is in school. In most cases the Secretary pays the interest on the borrower's behalf during the time the borrower is in school. When the borrower ceases to be enrolled on at least a half-time basis, a grace period begins during which no payments are required. At the end of the grace period, the repayment period begins. During the repayment period the borrower pays both the principal and the interest accruing on the loan.

(3) *PLUS repayment.* The Secretary does not pay the interest on a PLUS Program loan on behalf of the borrower. The first payment is due on a PLUS Program loan within 60 days after the loan is disbursed.

(4) *Default.* If a borrower defaults on a loan, the guarantee agency or the Secretary reimburses the lender for the amount of its loss. The guarantee agency or the Secretary then collects the amount owed from the borrower.

(Authority: 20 U.S.C. 1071 to 1087–2)

§ 682.103 Applicability of subparts.

(a) Subpart B contains general provisions that are applicable to all GSLP and PLUS Program participants.

(b) Guarantee agency programs are also subject to Subparts C, D, F, G and H.

(c) The FISLP and the Federal PLUS Program are also subject to Subparts C, E, F, G, and H.

(d) Schools are specifically addressed in Subpart F.

(Authority: 20 U.S.C. 1071 to 1087–2)

Subpart B—General Provisions

§ 682.200 Definitions.

(a) The following definitions are set forth in the Student Assistance General Provisions, 34 CFR Part 668:

Academic year
Campus-based Programs
Clock hour
College Work-Study Program
Dependent student
Enrolled
Guaranteed Student Loan Program
Independent student
Institution of higher education
National Direct Student Loan Program
Pell Grant Program
PLUS Program
Secretary
State
State Student Incentive Grant Program
Supplemental Educational Opportunity Grant Program
Vocational school

(b) The following definitions also apply to this part: *Act:* Title IV, Part B of the Higher Education Act of 1965, as amended, 20 U.S.C. 1071, *et seq.*

Actual interest rate: The annual interest rate a lender charges on a loan, which may be equal to or less than the applicable interest rate on that loan.

Applicable interest rate: The maximum annual interest rate that a lender may charge under the Act on a loan.

Borrower: A student or parent to whom a GSLP or PLUS Program loan is made.

Co-maker: One of two individuals who are joint borrowers on a PLUS Program loan and who are equally liable for repayment of the loan.

Default: The failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the Secretary or guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for—

(1) 180 days for a loan repayable in monthly installments; or

(2) 240 days for a loan repayable in less frequent installments.

Disbursement: The transfer of loan proceeds by a lender to a borrower, a school, or an escrow agent by issuance of a check or by electronic funds transfer.

Endorser: A signer of a promissory note who is secondarily liable for a loan obligation.

Escrow agent: A guarantee agency that receives the proceeds of a GSLP loan as an agent of an eligible lender for the purpose of transmitting those proceeds to the borrowers.

Estimated cost of attendance: (1) Except as provided in paragraph (2) of this definition, the tuition and fees applicable to a student, plus the school's estimate of other expenses reasonably related to attendance at that school, for the period of enrollment for which the loan is sought. These expenses may include, but are not limited to: reasonable transportation and commuting costs; costs for room, board, books, and supplies; the insurance premium for the loan; and, if applicable, the origination fee for the loan. These expenses may not include the purchase of a motor vehicle.

(2) For a student enrolled in a correspondence study program, only the contract price of the program, the insurance premium for the loan, and, if applicable, the origination fee for the loan. However, other costs described in paragraph (1) of this definition incurred by the student in fulfilling a required period of residential training in connection with the correspondence

study program may also be included in the estimated cost of attendance.

Estimated financial assistance: The estimated amount of assistance that a student has been or will be awarded during the period of enrollment for which the loan is sought from Federal, State, institutional or other scholarship, grant, work, or loan programs, including but not limited to—

(1) Any Social Security benefits paid to, or on account of, the student that would not be paid if he or she were not a student;

(2) Veterans' educational benefits paid under chapters 30, 31, 32, 34, and 35 of title 38 of the United States Code;

(3) Educational benefits paid under chapters 106 and 107 of title 10 of the United States Code (Selected Reserve Educational Assistance Program);

(4) Reserve Officer Training Corps (ROTC) scholarships and subsistence allowances awarded under Chapter 2 of title 10 and Chapter 2 of title 37 of the United States Code;

(5) The estimated amount of other Federal student financial aid, including but not limited to Pell Grants and campus-based aid, which the student would be expected to receive if the student applied, whether or not the student has applied for that aid; and

(6) GSLP and PLUS loan proceeds withheld by the lender and applied towards an origination fee or insurance premium, if these costs are included in computing the borrower's estimated cost of attendance.

Foreign school: A school not located in a State.

Full-time student: (1) A student enrolled in an institution of higher education (other than a student enrolled in a program of study by correspondence) who is carrying a full-time academic workload as determined by the school under standards applicable to all students enrolled in that student's particular program. The student's workload may include any combination of courses, work, research or special studies, whether or not for credit, that the school considers sufficient to classify the student as a full-time student; or

(2) A student enrolled in a vocational school (other than a student enrolled in a program of study by correspondence) who is carrying a workload of not less than 24 clock-hours per week or 12 semester or quarter hours of instruction, or its equivalent.

Grace period: The period that begins on the day on which a GSLP borrower ceases to be enrolled as at least a half-time student (or a full-time student, if so required by the applicable guarantee agency) at a participating school and ends on the day that the repayment period begins. See also "Post-deferment grace period."

Graduate or professional student: A student who—

(1) Is enrolled in a program or course above the baccalaureate level at an institution of higher education or is enrolled in a program leading to a first professional degree;

(2) Has completed the equivalent of at least three years of full-time study at an institution of higher education, either prior to entrance into the program or as part of the program itself; and

(3) Is not receiving Title IV aid as an undergraduate student for the same period of enrollment.

Guarantee agency: A State or private nonprofit organization that has an agreement with the Secretary to administer a loan guarantee program under the Act.

Half-time student: A student who is enrolled in a participating school, is carrying an academic workload that amounts to at least one-half the workload of a full-time student, as determined by the school, and is not a full time student. A student enrolled solely in an eligible program of study by correspondence is considered a half-time student.

Holder: An eligible lender in possession of a GSLP or PLUS Program loan.

Legal guardian: An individual appointed by a court to be a "guardian" of a person and specifically required by the court to use his or her financial resources for the support of that person.

Lender: (1) The term "eligible lender" is defined in section 435(g) of the Act.

(2) With respect to a National or State chartered bank, a mutual savings bank, a savings and loan association, or a credit union—

(i) The term "subject to examination and supervision" means "subject to examination and supervision in its capacity as a lender;" and

(ii) The term "does not have as its primary consumer credit function the making or holding of loans made to students under this part" means—

(A) Does not, in any calendar year, make or purchase GSLP or PLUS Program loans that total more than one-half of its consumer credit loan dollar volume for that year, including home mortgages; and

(B) Does not, at any time, hold GSLP or PLUS Program loans that total more than one-half of its consumer credit loan portfolio, including home mortgages.

(3) The corporate parent or other owner of a school that qualifies as an eligible lender under section 435(g)(1)(E) of the Act is not an eligible lender unless the corporate parent or owner itself qualifies as an eligible lender under section 435(g) of the Act.

National credit bureau: A credit reporting agency with a service area that emcompasses more than a single state or region of the country.

National of the United States: (1) A citizen of the United States; or

(2) As defined in the Immigration and Nationality Act, 8 U.S.C. 1101(a)(22), a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

Origination: A special relationship between a school and a lender, in which the lender delegates to the school, or to an entity or individual affiliated with the school, substantial functions or responsibilities normally performed by lenders before making loans. In this situation, the school is considered to have "originated" a loan made by the lender. The Secretary determines that "origination" exists if, for example—

(1) A school determines who will receive a loan and the amount of the loan; or

(2) The lender has the school verify the identity of the borrower or complete forms normally completed by the lender.

Origination fee: A fee which a lender is allowed to charge a GSLP borrower under section 438 of the Act.

Parent: A student's mother, father, or legal guardian. A parent by adoption is considered to be a student's mother or father.

Participating school: A school that has entered into an agreement with the Secretary under § 682.600.

Post-deferment grace period: For a loan made prior to October 1, 1981, a period of six consecutive months beginning on the day following the last day of an authorized deferment period.

School: (1) An educational institution that is—

(i) An institution of higher education or a vocational school, as those terms are defined in 34 CFR Part 668; or

(ii) With respect to students who are nationals of the United States, a school outside the United States that is comparable to an institution of higher education or to a vocational school and that has been approved by the Secretary for purposes of the GSLP and the PLUS Program.

(2) The term includes only those individual units or programs within a school that have been determined by the Secretary to meet all the requirements for school eligibility.

(3) A school that employs or uses commissioned salespersons to promote the availability of the GSLP or the PLUS

Program is not eligible to participate in those programs. For this purpose—

(i) A "commissioned salesperson" is one who receives compensation in any form or amount that is related to, or calculated on the basis of, student applications for enrollment, student enrollments, or student acceptances for enrollment; and

(ii) "Promote the availability" means providing prospective or enrolled students with application forms, names of eligible lenders, or other information designed to encourage persons to finance their education with a GSLP or PLUS Program loan. This term does not include providing general financial aid information to prospective or enrolled students.

School lender: A school, other than a correspondence school, that has been approved as a lender and has entered into a contract of guarantee under this part with the Secretary or a similar agreement with a guarantee agency.

State lender: In any State, a single State agency or private nonprofit agency designated by the State that has been approved as a lender and has entered into a contract of guarantee under this part with the Secretary or a similar agreement with a guarantee agency.

Totally and permanently disabled: The inability to work and earn money because of an impairment that is expected to continue indefinitely or result in death.

Undergraduate student: A student who is enrolled at a school in a course or program of study, at or below the baccalaureate level, that usually does not exceed four academic years, or is up to five academic years in length and is designed to lead to a first degree. A student enrolled in any other length program is considered an undergraduate student for only the first four academic years.

(Authority: 8 U.S.C. 1101; 20 U.S.C. 1070 to 1087–2, 1088–1098, 1141)

§ 682.201 Eligible borrowers.

(a) *Student borrower.* A student is eligible to receive a GSLP loan, and an independent undergraduate student or a graduate or professional student is eligible to receive a PLUS Program loan, if the student—

(1) Is enrolled or accepted for enrollment on at least a half-time basis at a participating school, and meets the requirements of paragraph (c) of this section;

(2) Provides his or her social security number;

(3) Authorizes the school in writing to pay directly to the lender that portion of any refund of school charges that is allocable to the loan, in accordance with 34 CFR Part 668;

(4) Meets the qualifications pertaining to citizenship and residency status, set forth in paragraph (d) of this section;

(5) Meets the qualifications concerning defaults and overpayments, set forth in paragraphs (e) and (f) of this section;

(6) Complies with the requirements pertaining to registration with the Selective Service, set forth in 34 CFR Part 668;

(7) Complies with the requirements for submission of a Statement of Educational Purpose, set forth in § 682.203; and

(8) In the case of an undergraduate student who seeks a GSLP loan for the cost of attendance at a school that participates in the Pell Grant Program, receives a preliminary or final determination from the school of the student's eligibility or ineligibility for a Pell Grant.

(b) *Parent borrower.* A parent is eligible to receive a PLUS Program loan if the parent—

(1) Is borrowing to pay for the educational costs of a dependent undergraduate student who meets all of the qualifications set forth in paragraphs (a) (1) through (6) of this section;

(2) Provides his or her social security number;

(3) Meets the qualifications pertaining to citizenship and residency status set forth in paragraph (d) of this section;

(4) Meets the qualifications concerning defaults and overpayments set forth in paragraphs (e) and (f) of this section; and

(5) Complies with the requirements for submission of a Statement of Educational Purpose set forth in § 682.203.

(c) *Enrollment status.* To be eligible as a student or a borrower under the GSLP or the PLUS Program, a student must—

(1) If currently enrolled, be maintaining satisfactory progress, as determined by the school;

(2) If enrolled or accepted for enrollment in a foreign school, be a national of the United States; and

(3) If enrolled in a flight school program at a vocational school or an institution of higher education, meet the additional requirements set forth in paragraph (g) of this section.

(d) *Citizenship and residency status.* Each borrower, and each student for whom a parent is borrowing, must be—

(1) A national of the United States;

(2) A permanent resident of the United States and must provide evidence from the Immigration and Naturalization Service of that status;

(3) In the United States for other than a temporary purpose and must provide evidence from the Immigration and Naturalization Service of intent to become a citizen or permanent resident;

(4) A permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands; or

(5) A citizen of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau.

(e) *Effect of default on eligibility.* (1) Except as provided in paragraph (e)(2) of this section, a person is ineligible to be a borrower under the GSLP or PLUS Program if that person, or the student for whom a parent is borrowing, is in default on any loan made under any title IV student financial assistance program identified in 34 CFR Part 668. For loans made under the National Direct Student Loan Program, the term "default" is defined in 34 CFR Part 674.

(2) If a borrower, or student for whom a parent is borrowing, is in default, as set forth in paragraph (e)(1) of this section, the borrower may receive a GSLP or PLUS Program loan only if the person who is in default has made satisfactory arrangements with the holder of the loan to repay the defaulted loan.

(3) The school may rely on the borrower's or student's written statement that he or she is not in default, unless the school has information to the contrary.

(4) The Secretary does not consider either a loan that is discharged in bankruptcy or a defaulted loan that is paid-in-full after default to be in default for purposes of this section.

(f) *Effect of overpayment of a grant on eligibility.* (1) Except as provided in paragraph (f)(2) of this section, a person is ineligible to be a borrower under the GSLP or PLUS Program if that person, or the student for whom a parent is borrowing, is liable for an overpayment on any grant made under any Title IV student assistance program identified in 34 CFR Part 668.

(2) If the borrower, or the student for whom a parent is borrowing, is liable for an overpayment on a grant, as set forth in paragraph (f)(1) of this section, the borrower may receive a GSLP or PLUS Program loan only if the person who is liable for the overpayment meets the following conditions:

(i) *Overpayment of a Pell Grant.* If the borrower, or the student for whom a parent is borrowing, has been overpaid on a Pell Grant, the borrower may still be eligible under the GSLP or PLUS Program if—

(A) The borrower, or the student for whom a parent is borrowing, is otherwise eligible; and

(B) The overpayment can be eliminated in the award year (as defined in 34 CFR Part 690) in which it occurred by adjusting the subsequent Pell Grant payments for that award year.

(ii) *Overpayment of a Pell Grant due to a school error.* If the borrower, or the student for whom a parent is borrowing, has been overpaid as a result of a school error, and the overpayment cannot be eliminated by adjusting subsequent Pell Grant payments in the award year, the borrower may still be eligible under the GSLP or PLUS Program if—

(A) The borrower, or the student for whom a parent is borrowing, is otherwise eligible; and

(B) The person who received the overpayment acknowledges in writing the amount of the Pell Grant overpayment and agrees to repay it within six months from the date of the acknowledgment.

(iii) *Overpayment on a Supplemental Educational Opportunity Grant.* If the borrower, or the student for whom a parent is borrowing, is overpaid on a Supplemental Educational Opportunity Grant, the borrower may still be eligible under the GSLP or PLUS Program if—

(A) The borrower, or the student for whom a parent is borrowing, is otherwise eligible; and

(B) An adjustment in subsequent financial aid payments (other than Pell Grants) eliminates the overpayment in the same award year (as defined in 34 CFR Part 676) in which it occurred.

(g) *Additional eligibility requirements for a student attending flight school.* To be eligible as a student or a borrower under the GSLP or the PLUS Program for enrollment in a flight school program at a vocational school or an institution of higher education, a student must—

(1) Plan to pursue or be pursuing a full-time program leading to commercial flight ratings;

(2) Have completed ground school training or be taking it concurrently with flight training;

(3) Hold a private pilot's certificate or have sufficient flight hours to qualify for that certificate; and

(4) Hold at least a Class II medical certificate.

(Authority: 20 U.S.C. 1077, 1078, 1082, 1085, 1091)

§ 682.202 Permissible charges by lenders to borrowers.

The charges that lenders may impose on borrowers, either directly or indirectly, are limited to the following:

(a) *Interest.* (1) Applicable interest rates under the GSLP:

(i) The applicable interest rate on a GSLP loan for a borrower who, on the date the promissory note is signed, does not have an outstanding balance on a previous GSLP loan is—

(A) Seven percent for a loan covering a period of instruction beginning before January 1, 1981;

(B) Nine percent for a loan covering a period of instruction beginning on or after January 1, 1981, but before September 13, 1983; or

(C) Eight percent for a loan covering a period of instruction beginning on or after September 13, 1983.

(ii) The applicable interest rate on a GSLP loan for a borrower who, on the date the promissory note evidencing the loan is signed, has an outstanding balance on a previous GSLP loan, is the applicable interest rate on the previous loan.

(2) Applicable interest rates under the PLUS Program: (i) The applicable interest rate on a PLUS Program loan is—

(A) Nine percent for a loan made on or after January 1, 1981, but before October 1, 1981;

(B) Fourteen percent for a loan made on or after October 1, 1981, but before November 1, 1982; or

(C) Twelve percent for a loan made on or after November 1, 1982.

(3) Under both the GSLP and the PLUS Program a lender may charge a borrower an actual rate of interest that is less than the applicable interest rate specified in paragraphs (a)(1) or (a)(2) of this section.

(b) *Capitalization.* (1) Under a guarantee agency program, a lender may add accrued interest and unpaid insurance premiums on a loan to the borrower's unpaid principal balance if so authorized by the guarantee agency. This increase in the principal balance of a loan is called "capitalization." A guarantee agency's policy, with respect to capitalization, may not permit capitalization that is not permitted under paragraphs (b)(2) and (b)(3) of this section.

(2) Under the FISLP and the Federal PLUS Program, a lender may capitalize interest that has accrued—

(i) During the in-school period or grace period, if capitalization is expressly authorized by the promissory note;

(ii) During a period of authorized deferment;

(iii) During a period of forbearance, as permitted under § 682.211; or

(iv) During the period from the date the first installment payment was due until it was made.

(3) A lender may capitalize accrued interest under paragraphs (b)(2)(i) through (iii) of this section no more frequently than once a year, except that capitalization is again permitted when repayment is required to begin or resume. A lender may capitalize accrued interest under paragraph (b)(2)(iv) of this section only on the date repayment of principal actually begins.

(c) *Origination fee for a GSLP loan.* Under the GSLP a lender—

(1) May charge a borrower an origination fee not to exceed the maximum rate specified by Federal statute.

(2) May deduct the origination fee from the proceeds of the loan;

(3) Shall, in the case of a loan disbursed in multiple installments, deduct a *pro rata* portion of the fee from each disbursement;

(4) Shall refund the portion of the origination fee previously deducted from the loan or multiply-disbursed portion thereof by a credit against the borrower's loan balance if—

(i) The loan check is returned uncashed to the lender;

(ii) The loan is repaid-in-full within 120 days of disbursement;

(iii) The loan check has not been cashed within 120 days of disbursement; or

(iv) The loan proceeds disbursed by electronic funds transfer in accordance with § 682.207(b)(ii)(B) have not been released from the restricted account maintained by the school within 120 days of disbursement.

(d) *Insurance premium.* The insurance premium is a charge made by the guarantee agency or the Secretary to the lender, incident to the guarantee the lender receives against default by the borrower. If the insurance premium is provided for in a borrower's promissory note, a lender may charge the borrower the amount of the insurance premium paid by the lender to the guarantor.

(e) *Late charges.* (1) If authorized by the borrower's promissory note, the lender may require the borrower to pay a late charge under the circumstances described in paragraph (e)(2) of this section. This charge may not exceed six cents for each dollar of each late installment.

(2) The lender may require the borrower to pay a late charge if the borrower—

(i) Fails to pay all or a portion of a required installment payment within 10 days after it is due; and

(ii) Fails to provide written evidence that verifies the borrower's eligibility for an authorized deferment of the payment.

(f) *Collection charges.* (1) If provided for in the borrower's promissory note, the lender may require that the borrower pay costs incurred by the lender or its

agent in collecting installments not paid when due, including, but not limited to—

(i) Attorney's fees;

(ii) Court costs;

(iii) Telegrams; and

(iv) Long distance telephone calls.

(2) The costs referred to in paragraph (f)(1) of this section may not include normal collection costs associated with preparing letters or notices or with making personal contacts with the borrower (*e.g.*, local telephone calls).

(Authority: 20 U.S.C. 1077, 1078, 1079, 1082, 1087–1)

§ 682.203 Statement of Educational Purpose.

No loan may be made under this Part until the borrower submits to the lender a written Statement of Educational Purpose, on a form approved by the Secretary, certifying that the loan proceeds will be used solely for costs of attendance at the school that the borrower, or the student on whose behalf a parent is borrowing, is or will be attending.

(Authority: 20 U.S.C. 1082, 1091)

§ 682.204 Maximum loan amounts.

(a) *GSLP annual limits.* The total amount a student may borrow in any academic year of study under the GSLP, including the FISLP, may not exceed—

(1) $2,500 in the case of an undergraduate student, including any amounts borrowed under the PLUS Program in the case of an independent undergraduate student, but not more than the lesser of $2,500 or half the estimated cost of attendance, for a loan made by a State lender or made or originated by a school to a student who—

(i) Is enrolled in the first academic year of undergraduate study; and

(ii) Was not previously enrolled in an undergraduate program; or

(2) $5,000 in the case of a graduate or professional student.

(b) *GSLP aggregate limits.* The aggregate guaranteed unpaid principal amount of all GSLP loans made to a student may not exceed—

(1) $12,500, in the case of an undergraduate student, including any amounts borrowed under the PLUS Program in the case of an independent undergraduate student; or

(2) $25,000, in the case of any graduate or professional student, including loans for undergraduate study.

(c) *PLUS Program annual limits.* The total principal amount of all PLUS Program loans made to, or for the benefit of, an eligible student for any academic year of study may not exceed—

(1) $2,500, including any amounts borrowed by the student under the GSLP, in the case of an independent undergraduate student;

(2) $3,000, in the case of a graduate or professional student; or

(3) $3,000, in the case of a parent borrower.

(d) *PLUS Program aggregate limits.* The aggregate guaranteed unpaid principal amount of all PLUS Program loans made to or for the benefit of an eligible student may not exceed—

(1) $12,500, including any amounts borrowed by the student under the GSLP, in the case of an independent undergraduate student;

(2) $15,000, in the case of a graduate or professional student; or

(3) $15,000, in the case of a parent borrower.

(Authority: 20 U.S.C. 1075, 1078, 1078–1, 1078–2, 1079, 1082, 1089)

§ 682.205 Disclosure requirements.

(a) A lender shall disclose the following information to a borrower either before or at the time of the first disbursement on the loan:

(1) The lender's name, and the address to which correspondence with the lender and payments should be sent;

(2) The principal amount of the loan;

(3) The amount of any charges, including the origination fee and the insurance premium, collected by the lender at the time of or before disbursement of the loan, and an indication of whether those charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) The actual interest rate;

(5) The annual and aggregate maximum amounts that may be borrowed;

(6) A statement that information concerning the loan, including the date of disbursement and the amount of the loan, will be reported to a credit bureau or a credit reporting agency;

(7) An explanation of when repayment of the loan is required and when the borrower is required to pay the interest that accrues on the loan;

(8) The minimum and maximum number of years in which the loan must be repaid and the minimum amount of required annual payments;

(9) An explanation of any special options the borrower may have for consolidating or refinancing the loan;

(10) A statement that the borrower has the right to prepay all or part of the loan at any time, without penalty;

(11) A statement describing the circumstances under which repayment of the loan or interest that accrues on the loan may be deferred;

(12) A statement of availability of the Department of Defense program for repayment of loans on the basis of military service, as provided for in 10 U.S.C. 2141, note;

(13) The definition of "default" found in § 682.200, and the consequences to the borrower of a default, including a statement concerning likely litigation and a statement that the default will be reported to a credit bureau or a credit reporting agency;

(14) An explanation of the possible effects of accepting the loan on the eligibility of the student for other forms of student financial assistance;

(15) An explanation of any costs the borrower may incur in the making or collection of the loan; and

(16) In the case of a GSLP or student PLUS loan, a statement that the loan proceeds will be transmitted to the school for delivery to the borrower.

(b) The lender shall also disclose the information listed in this paragraph in a written statement provided to the borrower at or prior to the beginning of the repayment period. The lender shall make the disclosures during the grace period, in the case of a FISLP loan. Should the borrower enter the repayment period without the lender's knowledge, the lender shall provide the required disclosures to the borrower immediately upon discovering that the borrower has entered the repayment period. The lender shall disclose—

(1) The lender's name, and the address to which correspondence with the lender and payments should be sent;

(2) The scheduled date upon which the repayment period is to begin;

(3) The estimated balance, including the estimated amount of interest to be capitalized, owed by the borrower as of the date upon which the repayment period is to begin, or the date of the disclosure, whichever is later;

(4) The actual interest rate on the loan;

(5) An explanation of any fees which may accrue or be charged to the borrower during the repayment period;

(6) The borrower's repayment schedule, including the due date of the first installment and the number, amount, and frequency of payments;

(7) An explanation of any special options the borrower may have for consolidating or refinancing the loan;

(8) The estimated total amount of interest to be paid on the loan, assuming that payments are made in accordance with the repayment schedule; and

(9) A statement that the borrower has the right to prepay all or part of the loan at any time, without penalty.

(c) The lender shall provide the information required to be disclosed by paragraphs (a) and (b) of this section at no cost to the borrower.

(Authority: 20 U.S.C. 1078–2, 1082, 1083a); (Approved by OMB under control number 1840–0538)

§ 682.206 Due diligence in making a loan.

(a) *General.* (1) The loan-making process includes processing the loan application and other required forms, approving the borrower for a loan, determining the loan amount, explaining to the borrower his or her responsibilities under the loan, completing and having the borrower sign the promissory note, and disbursing the loan proceeds.

(2) Except as may be authorized by the Secretary, a lender may not delegate its loan-making functions to a school unless the school has an origination relationship with the lender. If that relationship exists, the lender may rely in good faith upon statements of the borrower contained in the loan application, but may not rely upon statements made by the school in the application. A non-school lender that does not have an origination relationship with a school may rely in good faith upon statements of both the borrower and the school that are contained in the application. Except as provided in Part 668, Subpart E, a school lender may rely in good faith upon statements made by the borrower in the loan application.

(b) *Processing forms.* Before disbursing a loan, a lender must determine that all required forms have been accurately completed by the borrower, the student, the school, and the lender. A lender may not ask the borrower to sign any form before all information requested from the borrower on that form has been supplied.

(c) *Approval of borrower and determination of loan amount.* (1) A lender may make a loan only to an eligible borrower. To the extent authorized by paragraph (a)(2) of this section, the lender may determine the borrower's eligibility based on the information provided on the application by the school, the borrower, and, if the borrower is a parent, the student on whose behalf the loan is sought.

(2) In determining the amount of the loan to be made, within the limitations of § 682.204, the lender shall review the data on the student's cost of attendance and estimated financial assistance that is provided on the application form. In no case may the loan amount exceed the student's estimated cost of attendance, less estimated financial assistance, for the academic period for which the loan is intended.

(d) *Promissory note.* (1) The lender shall obtain from the borrower an executed legally-enforceable promissory note for each loan as proof of the borrower's indebtedness.

(2) A lender may not add any clauses to, or modify any provisions of, the most current promissory note provided by the guarantor without the guarantor's prior approval.

(3) The lender shall give the borrower a copy of each executed note.

(e) *Security, endorsement, and co-makers.* (1) A FISLP or Federal PLUS Program loan shall be made without security or endorsement.

(2) A Federal PLUS Program loan may be made to two eligible parents who agree to be jointly liable for repayment of the loan as co-makers.

(f) *Loan disbursement.* A lender shall disburse funds as required by § 682.207.

(Authority: 20 U.S.C. 1077, 1078–2, 1079, 1080, 1082, 1083, 1085)

§ 682.207 Due diligence in disbursing a loan.

(a) (1) This section prescribes procedures for lenders to follow in disbursing GSLP and PLUS Program loans. With respect to FISLP and Federal PLUS Program loans, references to the "guarantee agency" in this section mean the "Secretary."

(2) The requirements of paragraphs (b)(1) (ii) and (iv) of this section must be satisfied either by the lender or by an escrow agent with which the lender has an agreement pursuant to § 682.408. The lender must comply with paragraph (b)(1)(iii) of this section whether or not it disburses to an escrow agent.

(b)(1) In disbursing a loan, a lender—

(i) May not disburse a loan prior to the issuance of the guarantee commitment for the loan by the guarantee agency, except with the agency's prior approval;

(ii) Shall disburse loan proceeds by—

(A) A check that is made payable to the borrower, or, if required by the guarantor, is made co-payable to the borrower and the school identified on the loan application, and requires the personal endorsement or other written approval of the borrower in order to be cashed; or

(B) If authorized by the guarantor, electronic funds transfer to an account of the student's school that requires the written approval of the borrower for the release of funds from the account; and

(iii) Shall not disburse loan proceeds earlier than is reasonably necessary to meet the student's cost of attendance for the period for which the loan is made, and in no case, without the Secretary's prior approval, earlier than 30 days prior to the date on which the student is scheduled to enroll; and

(iv) Shall disburse—

(A) Directly to the school, in the case of a student borrower; or

(B) Directly to the borrower, in the case of a parent borrowing on behalf of an eligible student, and shall notify the school of the amount of the loan within 30 days of the date on which the first disbursement on the loan is made.

(2) Neither a lender nor a school may obtain a borrower's power of attorney or other authorization to endorse or otherwise approve the cashing of a loan check or approve the release of funds disbursed by electronic funds transfer, nor may a borrower provide this power of attorney or authorization to anyone else.

(c) (1) Multiple disbursement requirements: A lender shall disburse GSLP and PLUS Program loans made to student borrowers in multiple installments if—

(i) The amount of the loan is $1,000 or more; and

(ii) On the date of the first disbursement, the time remaining in the period of enrollment for which the loan is made is greater than six months, one semester, two quarters, or 600 clock hours.

(2) Multiple disbursement procedures: In multiply disbursing a loan, a lender shall disburse as follows:

(i) Disbursement must be in two or more installments.

(ii) No installment may exceed one-half of the loan.

(iii) At least one-third of the period of enrollment for which the loan is made must elapse before the second installment is disbursed.

(3) For purposes of this paragraph, a lender shall consider all loans made for the same period of enrollment as a single loan.

(d) (1) Under certain circumstances, a lender, with the prior approval of the guarantee agency, may disburse after the student has ceased to be enrolled on at least a half-time basis or after the expiration date of the guarantee commitment.

(2) A guarantee agency may approve a lender's request to disburse under these circumstances only if the loan proceeds will be used for the student's cost of attendance for the period of enrollment for which the loan was intended and during which the student was actually enrolled on at least a half-time basis.

(3) If the lender, after receiving the guarantee agency's prior approval, makes a late disbursement, the lender

shall give notice of that approval to the school at the time the lender sends the loan proceeds to the school.

(Authority: 20 U.S.C. 1077, 1078, 1078–2, 1079, 1080, 1082, 1083, 1085)

§ 682.208 Due diligence in servicing a loan.

(a) The loan servicing process includes reporting to credit bureau organizations, responding to borrower inquiries, and establishing the terms of repayment.

(b) For any GSLP or PLUS Program loan, a lender shall promptly report to at least one credit bureau—

(1) The date of disbursement and the amount of the loan;

(2) Information concerning the collection of the loan, including the repayment status of the loan; and

(3) The date the loan is fully repaid by, or on behalf of, the borrower or discharged by reason of the borrower's death, bankruptcy, or total and permanent disability.

(c) (1) A lender shall respond on a timely basis to written inquiries and other communications from a borrower and any endorser on a loan.

(2) When a lender learns that a GSLP borrower is no longer enrolled at a participating school on at least a half-time basis, the lender shall promptly contact the borrower in order to establish the terms of repayment.

(d)(1) A lender shall follow the procedures in § 682.412 whenever it learns that the borrower, or, if applicable, the student on whose behalf a parent has borrowed—

(i) Did not qualify for all or a portion of a loan made under this part; or

(ii) Has received a GSLP loan subject to payment of Federal interest benefits as provided under § 682.301, but is in fact ineligible for some or all of those interest benefits.

(2) For purposes of § 682.412(f), the term "guarantee agency" means the Secretary in the case of a FISLP or Federal PLUS Program loan.

(Authority: 20 U.S.C. 1077, 1078, 1078–2, 1079, 1080, 1082, 1085)

(Reporting and recordkeeping requirements contained in paragraph (b) were approved by the Office of Management and Budget under control number 1840–0538)

§ 682.209 Repayment of loans.

(a) *Conversion of a loan to repayment status.* (1) For a PLUS Program loan, the repayment period begins on the day the loan is disbursed. The first payment is due within 60 days after the date of disbursement.

(2) Except as provided in paragraphs (a) (3) and (4) of this section, for a GSLP loan the repayment period begins—

(i) For a borrower with a loan for which the applicable interest rate is seven percent per year, not less than nine nor more than twelve consecutive months following the date on which the borrower is no longer enrolled on at least a half-time basis at an eligible school. The length of this grace period is determined by the lender for loans made under the FISLP, and by the guarantee agency for loans guaranteed by the agency; and

(ii) For a borrower with a loan for which the applicable interest rate is eight or nine percent per year, six consecutive months following the month in which the borrower is no longer enrolled on at least a half-time basis at an eligible school.

(3) For a borrower of a GSLP loan who is a correspondence student, the grace period specified in paragraph (a)(2) of this section begins on the earliest of the date—

(i) The borrower completes the program;

(ii) The borrower falls 60 days behind the due date for submission of a scheduled assignment, according to the schedule required in § 682.602. However, the school may permit one restoration to in-school status for a student who falls 60 days behind the due date for submission of a particular assignment if the student states in writing, within the 60-day period, an intention to continue in the program and an understanding that the required lessons must be submitted on time; or

(iii) That is 60 days following the latest allowable date established by the school for completing the program in the schedule required under § § 682.602.

(4) For a GSLP loan, the repayment period begins prior to the end of the grace period, if the borrower requests and is granted a repayment schedule that so provides. In this event, a borrower may not further utilize the grace period.

(5) The repayment schedule may provide for substantially equal installment payments or for installment payments that increase in amount over the repayment period. If a graduated repayment schedule is established, it may not provide for any single installment that is more than three times greater than any other installment.

(6) (i) Subject to paragraphs (a)(6) (ii) through (iv) of this section, a lender shall allow a borrower at least five years, but not more than ten years, to repay a loan, calculated from the beginning of the repayment period. Except in the case of a FISLP loan made for a period of enrollment beginning on or after July 1, 1986, the lender shall require a borrower to fully repay a GSLP loan within 15 years after it is made.

(ii) If the borrower receives an authorized deferment or is granted forbearance, as described in §§ 682.210 or 682.211, respectively, the periods of deferment or forbearance are excluded from determinations of the 5-, 10- and 15-year periods.

(iii) If the minimum annual repayment required in paragraph (c) of this section would result in complete repayment of the loan in less than five years, the borrower is not entitled to the full 5-year period.

(iv) Prior to the beginning of the repayment period the borrower may request and be granted by the lender a repayment period of less than five years. At any time, subject to paragraph (a)(6)(iii) of this section, and without the lender's consent, the borrower may subsequently have the total repayment period extended to a minimum of five years.

(b) *Prepayment.* The borrower may prepay the whole or any part of a loan at any time without penalty. Unless the borrower requests that the lender credit the prepayment to future installments, the lender shall credit the entire prepayment to unpaid principal.

(c) *Minimum annual payment.* (1)(i) Subject to paragraphs (c)(1) (ii) and (iii) of this section, during each year of the repayment period a borrower's total payments to all holders of the borrower's GSLP or PLUS Program loans must total at least $600 or the unpaid balance of all loans, including interest, whichever amount is less.

(ii) If the borrower and the lender agree, the amount paid may be less.

(iii) If the borrower and the borrower's spouse have one or more GSLP or PLUS Program loans, their combined annual payment must meet the requirement of paragraph (c)(1)(i) of this section.

(2) The provisions of paragraphs (c)(1)(i) and (ii) of this section may not result in an extension of the 10- or 15-year maximum repayment periods unless forbearance, as described in § 682.211, has been approved.

(d) *Supplemental repayment schedule.* (1) In the case of a loan made by a school lender, the lender and the borrower may agree on a supplemental repayment schedule, with the prior approval of the Secretary, that would supplement the regular repayment schedule described in paragraph (a)(5) of this section.

(2) The supplemental repayment schedule may be based on other than equal or graduated payments. For example, the supplemental repayment

schedule may base the amount of the borrower's payment on the borrower's income.

(3) The borrower may not insist upon the establishment of a supplemental repayment schedule. The lender may not insist upon the establishment of a supplemental repayment schedule unless the lender obtained the borrower's written consent to enter into one at the time the loan was made.

(e) *Treatment by lenders of borrower's refunds received from schools.*

(1) A lender shall treat a payment of a borrower's refund received by the lender from a school as a credit against the amount owed by the borrower on the borrower's loan.

(2) (i) If a lender receives a refund payment from a school on a loan that is no longer held by that lender, the lender shall promptly transmit the amount of the refund payment to the holder to whom it assigned the loan, with an explanation of the source of the payment.

(ii) Upon receipt of a refund transmitted under paragraph (e)(2)(i) of this section, the holder of the loan shall promptly provide written notice to the borrower that the holder has received the refund.

(Authority: 20 U.S.C. 1077, 1078, 1078-2, 1079, 1082, 1085)

§ 682.210 Deferment.

(a) *Borrower eligibility.* (1) Except in the case of a loan received by a parent borrower under the PLUS Program on or after August 15, 1983, a borrower is entitled to have periodic installment payments of principal deferred during authorized periods after the beginning of the repayment period.

(2) For a loan made before October 1, 1981, the borrower is also entitled to have periodic installment payments of principal deferred during the six-month period (post-deferment grace period) that commences after the completion of each deferment period or combination of those periods.

(3) Interest accrues and is paid by the borrower during the deferment period, and the post-deferment grace period, if applicable, unless, in the case of a GSLP loan, the loan was determined to be eligible for interest benefits under § 682.301 when the loan was made.

(4) In order to receive a deferment, the borrower must request the deferment and provide the lender with all documentation required to establish eligibility for a specific type of deferment.

(5) An authorized deferment period begins on the date the condition entitling the borrower to a deferment first exists, but not more than—

(i) Sixty days before the date the lender receives the request and documentation required under paragraph (a)(4) of this section for an unemployment deferment; and

(ii) Six months before the date the lender receives the request and documentation required under paragraph (a)(4) of this section for all other deferments.

(6) An authorized deferment period ends on the earlier of—

(i) The date the condition establishing the borrower's eligibility for the deferment ends; or

(ii) The date when the condition entitling the borrower to a deferment has continued to exist for the maximum amount of the time allowed for a specific deferment.

(7) A lender may not deny a deferment to which the borrower is entitled, even though the borrower may be delinquent, but not in default, in making required installment payments. The 180- or 240-day period required to establish a default does not run during the deferment and post-deferment grace periods. When the deferment and, if applicable, post-deferment grace period expires, a borrower resumes any delinquent status that existed when the deferment period began.

(8) A borrower whose loan is in default is not eligible for a deferment as to that loan, unless the borrower has made satisfactory repayment arrangements with the holder of the loan.

(9) The borrower must inform the lender when the condition entitling the borrower to a deferment no longer exists.

(b) *Authorized deferments.* Deferment is authorized during periods when a borrower is engaged in—

(1) (i) Full-time study at a participating school, unless the borrower is not a national of the United States and is pursuing a course of study at a foreign school; or

(ii) Full-time study at a school which meets the definition of an institution of higher education or a vocational school and is operated by an agency of the Federal Government (*e.g.*, the service academies), unless the borrower is not a national of the United States and is pursuing a course of study at a foreign school;

(2) Study under an eligible graduate fellowship program, as described in paragraph (c) of this section;

(3) Up to three years of active duty status in the United States Armed Forces or service as an officer in the Commissioned Corps of the United States Public Health Service;

(4) Up to three years of service under the Peace Corps Act (if the borrower has agreed to serve for a term of at least one year);

(5) Up to three years of service as a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973 (ACTION programs) (if the borrower has agreed to serve for a term of at least one year);

(6) Up to three years of full-time volunteer service, which the Secretary has determined is comparable to service referred to in paragraphs (b)(4) and (b)(5) of this section, for a tax-exempt organization, as described in paragraph (d) of this section;

(7) Conscientiously seeking, but unable to find, full-time employment in the United States over a single period of up to 12 months, as described in paragraph (e) of this section;

(8) Pursuing a rehabilitation training program for disabled individuals, as described in paragraph (f) of this section;

(9) Up to two years of service as an intern, as described in paragraph (g) of this section; or

(10) Up to three years during which the borrower is temporarily totally disabled, as described in paragraph (h) of this section, or during which the borrower is unable to secure employment because the borrower is caring for a spouse who is temporarily totally disabled, as described in paragraph (i) of this section.

(c) *Graduate fellowship deferment.* To qualify for a deferment for study in a graduate fellowship program, a borrower must provide the lender with a statement from an official of the borrower's fellowship program certifying that—

(1) The fellowship program—

(i) Provides sufficient financial support to graduate fellows to allow for full-time study for at least six months;

(ii) Requires a written statement from each applicant explaining the applicant's objectives before the award of that financial support; and

(iii) Requires a graduate fellow to submit periodic reports, projects, or other evidence of the fellow's progress; and

(2) The borrower—

(i) Holds at least a baccalaureate degree conferred by an institution of higher education;

(ii) Is engaged in full-time study, which may be independent of an educational or cultural institution, in an academic or professional subject area

for which the borrower has shown an interest and ability; and

(iii) Has been recommended by an institution of higher education for acceptance into the graduate fellowship program.

(d) *Full-time volunteer service for a tax-exempt organization deferment.* To qualify for a deferment for full-time volunteer service, for a tax-exempt organization, comparable to volunteer service in the Peace Corps or full-time volunteer service in a program administered by the ACTION agency, a borrower must provide the lender with a statement from an official of the borrower's volunteer program certifying that—

(1) The borrower serves in an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

(2) The borrower provides service to low-income persons and their communities to assist them in eliminating poverty and poverty-related human, social, and environmental conditions;

(3) The borrower's compensation (including a subsistence allowance) does not exceed the compensation received by a full-time volunteer in the Peace Corps or in a program administered by the ACTION agency;

(4) The borrower, as part of his or her duties, does not give religious instruction, conduct worship services, engage in religious proselytizing, or engage in fund-raising to support religious activities; and

(5) The borrower has agreed to serve on a full-time basis for a term of at least one year.

(e) *Unemployment deferment.* (1) To qualify for an unemployment deferment, a borrower must provide the lender with a written request for the deferment. To continue the deferment for more than three months, the borrower must provide an additional request before the end of each three-month period. Each request must be signed by the borrower and dated, and must contain—

(i) A statement from the borrower describing the borrower's conscientious search for full-time employment, including for at least three attempts to secure employment during that three-month period—

(A) The name of the firm contacted;

(B) The name of the person contacted; and

(C) The firm's address and phone number.

(ii) The borrower's latest permanent home address and, if applicable, the borrower's latest temporary address;

(iii) Certification from the borrower that the borrower has registered with a public or private employment agency, if one is accessible, specifying its name and address and the date of registration therewith; and

(iv) The borrower's agreement to notify the lender promptly when full-time employment is obtained.

(2) A borrower may qualify for an unemployment deferment whether or not the borrower has been previously employed.

(3) For purposes of this section, full-time employment involves at least 30 hours of work per week and is expected to last at least three months.

(4) An unemployment deferment is not justified if the borrower refuses to seek employment in kinds of positions or at salary and responsibility levels for which the borrower feels overly qualified by virtue of education or previous experience.

(f) *Rehabilitation training program deferment.* To qualify for a rehabilitation training deferment, the borrower must be receiving, or be scheduled to receive, services under a program designed to rehabilitate disabled individuals, and must provide the lender with the following documentation:

(1) A certification from the rehabilitation agency that the borrower is either receiving or scheduled to receive rehabilitation training services from the agency.

(2) A certification from the rehabilitation agency that the rehabilitation program—

(i) Is licensed, approved, certified, or otherwise recognized as providing rehabilitation training to disabled individuals by—

(A) A State agency with responsibility for vocational rehabilitation programs;

(B) A State agency with responsibility for drug abuse treatment programs;

(C) A State agency with responsibility for mental health services programs;

(D) A State agency with responsibility for alcohol abuse treatment programs; or

(E) The Veterans Administration; and

(ii) Provides or will provide the borrower with rehabilitation services under a written plan that—

(A) Is individualized to meet the borrower's needs;

(B) Specifies the date on which the services to the borrower are expected to end; and

(C) Is structured in a way that requires a substantial commitment by the borrower to his or her rehabilitation. The Secretary considers a substantial commitment by the borrower to be a commitment of time and effort that would normally prevent an individual from engaging in full-time employment either because of the number of hours that must be devoted to rehabilitation or because of the nature of the rehabilitation. For the purposes of this paragraph, full-time employment involves at least 30 hours of work per week.

(g) *Internship deferment.* (1) An eligible internship program is a supervised training program that—

(i) Is required in order for the borrower to begin professional practice or service, *e.g.,* medical residency;

(ii) Requires the borrower to hold at least a bachelor's degree before beginning the internship program; and

(iii) A State licensing agency requires completion of before certifying the individual for professional practice or service.

(2) To qualify for an internship deferment, the borrower must provide to the lender the following certifications:

(i) A statement from an official of the appropriate State licensing agency that the internship program meets the provisions of paragraph (g)(2) of this section.

(ii) A statement from the organization with which the borrower is undertaking the internship program certifying—

(A) The acceptance of the borrower into its internship program; and

(B) The anticipated dates on which the borrower will begin and complete the program.

(h) *Temporary total disability deferment.* (1) To qualify for a temporary total disability deferment, a borrower must give the lender a certification, from a physician who is a doctor of medicine or osteopathy and legally authorized to practice, that the borrower is temporarily totally disabled.

(2) For purposes of this section, a borrower who is "temporarily totally disabled" is one who, by reason of injury or illness, has become unable to attend school or to work and earn money during a period of at least 60 days needed to recover from the injury or illness.

(3) A borrower is not considered temporarily totally disabled on the basis of a condition that existed before he or she applied for the loan, unless the borrower's condition has substantially deteriorated since he or she submitted the loan application so as to render the borrower temporarily totally disabled.

(i) *Spouse's temporary total disability deferment.* (1) To qualify for a deferment given to a borrower whose spouse is temporarily totally disabled, a borrower must give the lender—

(i) A certification from a physician who is a doctor of medicine or osteopathy and legally authorized to

practice, that the borrower's spouse is temporarily totally disabled; and

(ii) A certification from the borrower that the borrower is unable to secure employment because the borrower is providing nursing or similar services to the borrower's spouse that the spouse requires due to the injury or illness.

(2) For the purposes of this section, a spouse who is "temporarily totally disabled" is one who, by reason of injury or illness, has become unable to work and earn money during a period of at least 60 days needed to recover from the injury or illness, and who, during that special period, requires nursing or similar services.

(Authority: 20 U.S.C. 1077, 1078, 1078–2, 1082, 1085)

(Approved by OMB under control number 1840–0538)

§ 682.211 Forbearance.

(a) (1) The Secretary encourages a lender to grant forbearance for the benefit of a borrower in order to prevent the borrower from defaulting on the borrower's repayment obligation. "Forbearance" means permitting the temporary cessation of payments, allowing an extension of time for making payments, or accepting smaller payments than were previously scheduled.

(2) A lender may grant forbearance of payments of principal and interest under paragraph (b) of this section whenever—

(i) Poor health or other personal problems affect the ability of the borrower to make scheduled payments; or

(ii) The borrower's payments of principal are deferred under § 682.210 and the Secretary does not pay interest benefits on behalf of the borrower under § 682.301.

(3) If two borrowers are liable for repayment of a PLUS Program loan as co-makers, the lender may grant forbearance only when the ability of both borrowers to make scheduled payments has been impaired.

(4) If payments of interest are forborne, they may be capitalized as provided in § 682.202(b).

(b) A lender may grant forbearance on terms that are consistent with the minimum annual payment requirement and the 10- and 15-year maximum repayment periods if the lender and borrower agree in writing to the new terms, or, in the case of forbearance of interest during a period of deferment, if the lender informs the borrower at the time the deferment is granted that interest payments are to be forborne.

(c) A lender may grant forbearance for a period of up to one year at a time on terms that are inconsistent with the minimum annual repayment and the 10- and 15-year maximum repayment periods if—

(1) The lender reasonably believes that the borrower intends to repay the loan but is currently unable to make payments in accordance with the terms of the loan note, and the lender states the basis for its belief in writing and maintains that statement in its loan file on that borrower;

(2) Both the borrower and an authorized official of the lender agree in writing to the forbearance; and

(3) Where the forbearance involves the postponement of all payments, the lender contacts the borrower at least once every three months during the period of forbearance in order to remind the borrower of the outstanding obligation to repay.

(d) The lender shall maintain evidence in the borrower's loan file that the forbearance has been agreed to by both the lender and the borrower.

(Authority: 20 U.S.C. 1078, 1078–2, 1080, 1082)
(Reporting and recordkeeping requirements contained in paragraph (d) were approved by the Office of Management and Budget under control number 1840–0538)

§ 682.212 Prohibited transactions.

(a) No points, premiums, payments, or additional interest of any kind may be paid or otherwise extended to any eligible lender or other party in order to—

(1) Secure funds for making loans; or

(2) Induce a lender to make loans to either the students or the parents of students of a particular school or a particular category of students or their parents.

(b) The following are examples of transactions which, if entered into for the purposes described in paragraph (a) of this section, are prohibited:

(1) Cash payments by or on behalf of a school made to a lender or other party.

(2) The maintaining of a compensating balance by or on behalf of a school with a lender.

(3) Payments by or on behalf of a school to a lender of servicing costs on loans that the school does not own.

(4) Payments by or on behalf of a school to a lender of unreasonably high servicing costs on loans that the school does own.

(5) Purchase by or on behalf of a school of stock of the lender.

(6) Payments ostensibly made for other purposes.

(c) Except when purchased by the Student Loan Marketing Association, an agency of any State functioning as a secondary market, or in other circumstances approved by the Secretary, notes, or any interest in notes, shall not be sold or otherwise transferred at discount if the underlying loans were made—

(1) By a school; or

(2) To students or parents of students attending a school by a lender having common ownership with that school.

(d) Except to secure a loan from the Student Loan Marketing Association or an agency of a State functioning as a secondary market or in other circumstances approved by the Secretary, a school or a lender, with respect to a loan made to a student, or a parent of a student, attending a school having common ownership with the lender, may not pledge a loan made under the GSLP or PLUS Program as security for any loan bearing aggregate interest and other charges in excess of the sum of the interest rate applicable to the loan plus the rate of the then most recently-prescribed special allowance under § 682.302.

(e) The prohibitions described in paragraphs (a), (b), (c), and (d) of this section apply to any school or lender which would be a party to the proscribed transactions.

(f) This section does not preclude a buyer of loans made by a school from obtaining from the seller of those loans a warranty that—

(1) Covers future reductions by the Secretary or a guarantee agency in computing the amount of loss payable on default claims filed on the loans, where the reductions are attributable to an act or failure to act on the part of the seller or previous holder; and

(2) Does not cover matters for which a purchaser is charged with responsibility under this part, such as due diligence in collecting loans.

(g) Section 490(c) of the Act provides that any person who knowingly and willfully makes an unlawful payment to an eligible lender as an inducement to make, or to acquire by assignment, a loan guaranteed under the GSLP or PLUS Program shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

(Authority: 20 U.S.C. 1082, 1097)

§ 682.213 Prohibition against the use of the Rule of 78's.

For purposes of the calculations required by this part, a lender shall not use the Rule of 78's to calculate the outstanding principal balance of a loan.

(Authority: 20 U.S.C. 1082)

Subpart C—Federal Payments of Interest and Special Allowance

§ 682.300 Payment of interest benefits on a GSLP loan.

(a) *General.* The Secretary pays a lender a portion of the interest on a GSLP loan on behalf of a borrower who qualifies under § 682.301. This payment is known as interest benefits.

(b) *Covered interest.* (1) The Secretary pays interest benefits on an eligible GSLP loan for interest accruing—

(i) During all periods prior to the beginning of the repayment period, except as provided in paragraph (b)(2) of this section;

(ii) During any period when the borrower has an authorized deferment, and, if applicable, a post-deferment grace period; and

(iii) During the repayment period for loans described in paragraph (d)(2) of this section.

(2) The Secretary's obligation to pay interest benefits on an otherwise eligible loan terminates on the earlier of—

(i) The date the borrower's loan is repaid;

(ii) The date the loan check is returned uncashed to the lender;

(iii) The 120th day after the date of disbursement, if the loan check has not been cashed on or before that date, or if the loan proceeds disbursed by electronic funds transfer in accordance with § 682.207(b)(1)(ii)(B) have not been released from the restricted account maintained by the school on or before that date;

(iv) The date of default by the borrower;

(v) The date the borrower's loan is discharged by a bankruptcy court;

(vi) The date the lender determines that the borrower has died or has become totally and permanently disabled; or

(vii) The date the loan ceases to be guaranteed or ceases to be eligible for reinsurance under this part, regardless of whether the lender has filed a claim for loss on the loan with the guarantor.

(3) Section 682.413(a) sets forth the circumstances under which a lender may be required to repay interest benefits received on a loan guaranteed by a guarantee agency.

(c) *Interest not covered.* Interest benefits do not cover—

(1) Interest on interest added to principal, except for interest capitalized in accordance with § 682.202(b);

(2) Interest for which the borrower is not otherwise liable; or

(3) Interest paid on behalf of the borrower by a guarantee agency.

(d) *Rate.* (1) Except as provided in paragraph (d)(2) of this section, the Secretary pays the lender the actual interest rate on the outstanding principal balance of an eligible GSLP loan, provided that the actual interest rate does not exceed the applicable interest rate.

(2) For a loan disbursed prior to December 15, 1968, or subject to a binding commitment made prior to that date, the Secretary pays an amount during the repayment period equivalent to three percent per year of the unpaid principal amount of the loan.

(Authority: 20 U.S.C. 1078, 1082)

§ 682.301 Eligibility of borrowers for interest benefits on GSLP loans.

(a) *General.* (1) If a student's adjusted gross family income is $30,000 or less, the student qualifies for interest benefits for the amount of his or her GSLP loan.

(2) If the student's adjusted gross family income is more than $30,000, the student qualifies for interest benefits if the institution he or she attends or is planning to attend determines that the student demonstrates financial need for the loan.

(i) If the student demonstrates financial need for a loan of less than $500, or of more than $1,000, the student qualifies for interest benefits for the loan amount for which the student has demonstrated financial need.

(ii) If the student demonstrates financial need for a loan between $500 and $1000, the student qualifies for interest benefits on a loan of up to $1,000.

(b) *Application for interest benefits.* To apply for interest benefits, the student shall submit to the lender his or her loan application. The application must include a certification from the student's institution of the following information:

(1) The estimated cost of attendance for the student for the academic period for which the loan is intended.

(2) The estimated financial assistance for the student for the academic period for which the loan is intended.

(3) The adjusted gross family income of the student's family.

(4) The student's expected family contribution if his or her adjusted gross family income exceeds $30,000.

(5) The amount of the student's need for a loan as determined by the institution pursuant to paragraph (e) of this section.

(c) *Adjusted gross family income.* (1) The institution shall determine the adjusted gross family income of the student's family based upon data provided, and certified to, by each person whose income is required to be considered.

(2) As used in this section, "adjusted gross family income of the student's family" means "adjusted gross income," as defined in section 62 of the Internal Revenue Code, as reported on the 1985 Federal income tax return(s) of—

(i) The student;

(ii) The student's spouse, if any; and

(iii) The student's mother and father, unless the school determines that, at the time the student applies for the loan, the student is an "independent student."

(3) A dependent student whose parents are divorced or separated shall comply with the following procedures for reporting a parent's adjusted gross income to determine the adjusted gross family income:

(i) Include only the income of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of application.

(ii) If paragraph (c)(3)(i) of this section does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12 month period preceding the date of application.

(iii) If neither paragraph (c)(3)(i) nor (c)(3)(ii) of this section applies, include only the income of the parent who provided the greater support for the period commencing January 1, 1985, and ending 12 months prior to the date of application.

(4) If one of the parents has died, a dependent student shall include only the income of the surviving parent. If both parents have died, the student shall not report any parental income for those parents even if the parent(s) had income.

(5) The following rule applies if either a parent whose income is taken into account under paragraph (c)(3) of this section, or a parent who is a widow or widower and whose income is taken into account under paragraph (c)(4) of this section, has remarried. The income of that parent's spouse is included in determining the adjusted gross family income if, in 1985 or 1986, the dependent student—

(i) Has received or will receive financial assistance of more than $750 from that spouse; or

(ii) Has lived or will live for more than six weeks in the home of the parent and that spouse.

(6) The income of the student's spouse is not included in determining the adjusted gross family income for a student who is divorced or separated, or whose spouse has died.

(d) *Independent student.* As used in this section, "independent student" means a student who meets the criteria

in 34 CFR 668.1a. All other students are considered to be dependent students.

(e) *Determination of need.* (1) If the student's adjusted gross family income exceeds $30,000, the institution shall determine the student's need for a loan by subtracting from the student's "estimated cost of attendance," as defined in § 682.200, his or her—

(i) "Estimated financial assistance," as defined in § 682.200; and

(ii) Expected family contribution, as determined under paragraph (f) of this section.

(2) The student shall certify the accuracy of any information he or she provides to the institution that is necessary to determine need.

(3) The Secretary may require that family members whose incomes are included in the student's adjusted gross family income under paragraph (c) of this section provide copies of the relevant Federal income tax return(s) and other pertinent documents to support the student's application for interest benefits.

(f) *Determination of expected family contribution.* For a student who seeks a loan for a period of instruction beginning on or after July 1, 1986, but not later than June 30, 1987, the institution shall calculate his or her expected family contribution as follows:

(1) If the student has been awarded financial assistance for award year 1986–87 (July 1, 1986–June 30, 1987) under the National Direct Student Loan (NDSL), College Work-Study (CWS), or Supplemental Educational Opportunity Grant (SEOG) program at the time he or she applies for a Guaranteed Student Loan, the student's expected family contribution is his or her expected family contribution as calculated for the NDSL, CWS or SEOG program.

(2) If the student has not been awarded financial assistance under the campus-based programs for award year 1986–87 at the time he or she applies for a GSLP loan the student's expected family contribution must be determined under either—

(i) A need analysis system approved by the Secretary for the academic year for which the loan is sought for the campus-based programs; or

(ii) The tables found in Appendix B if the adjusted gross income of the student and his or her family, after taking the provisions of paragraph (g) of this section into account, is more than $30,000 and less than $75,000.

(g) In calculating a student's expected family contribution under paragraph (f) of this section—

(1) The institution shall exclude any taxable and nontaxable income realized from the proceeds of a sale of farm or business assets if—

(i) The sale of the farm or business assets results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy; and

(ii) The institution uses a need analysis system approved by the Secretary for the campus-based programs to calculate the student's expected family contribution; and

(2) The institution shall exclude any taxable income realized from the proceeds of a sale of farm or business assets if—

(i) The sale of the farm or business assets results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy; and

(ii) The institution uses the tables set forth in Appendix B to calculate the student's expected family contribution.

(Authority: 20 U.S.C. 1078, 1082, 1089)

§ 682.302 Payments of special allowance on a GSLP or PLUS Program loan.

(a) *General.* The Secretary pays a special allowance to a lender on an eligible GSLP or PLUS Program loan. The special allowance is a percentage of the average unpaid principal balance, including interest capitalized in accordance with § 682.202(b), computed in accordance with paragraph (c) of this section.

(b) *Eligible loans.* All GSLP and PLUS loans otherwise meeting program requirements are eligible for special allowance payments, except for GSLP loans disbursed on or after October 1, 1981 that do not qualify for interest benefits under § 682.301.

(c) *Rate.* (1) Except as provided in paragraphs (c) (2) and (3) of this section, the special allowance rate for an eligible loan during a three-month period is calculated by—

(i) Determining the average of the bond equivalent rates of the 91-day Treasury bills auctioned during the three month period;

(ii) Subtracting the applicable interest rate for that loan;

(iii) Adding three and one-half percent to the resulting percentage;

(iv) For a loan made prior to October 1, 1981, rounding the result upward to the nearest one-eighth of one percent; and

(v) Dividing the resulting percentage by four.

(2) In the case of an eligible loan subject to the requirements of section 252 of Pub. L. 99–177, the Balanced Budget and Emergency Deficit Control Act of 1985, the rate specified in paragraph (c)(1)(iii) of this section is reduced to the greater of three percent or the specified rate less four-tenths of one percentage point.

(3)(i) The special allowance rate payable for a three-month period on an eligible loan made or guaranteed on or after October 1, 1980 that was made or purchased with funds obtained from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, is one-half the rate determined under paragraphs (c) (1) or (2) of this section, but not less than—

(A) Two and one-half percent per year on eligible loans for which the applicable interest rate is seven percent;

(B) One and one-half percent per year on eligible loans for which the applicable interest rate is eight percent; or

(C) One-half of one percent per year on eligible loans for which the applicable interest rate is nine percent.

(ii) The rate established in paragraph (c)(3)(i) of this section also applies to a loan made or purchased with funds obtained from—

(A) Collections or default reimbursements on, or interest or other income pertaining to, a loan described in paragraph (c)(3)(i) of this section; or

(B) The investment of the funds described in paragraph (c)(3)(ii)(A) of this section.

(d) *Termination of special allowance payments on a loan.* (1) The Secretary's obligation to pay special allowance on a loan terminates on the earliest of the date—

(i) The borrower's loan is repaid or the borrower's loan check is returned uncashed to the lender;

(ii) The lender receives payment on a claim for loss on the loan;

(iii) The loan ceases to be guaranteed or ceases to be eligible for reinsurance under this part, regardless of whether the lender has filed a claim for loss on the loan with the guarantor;

(iv) Ninety days after the borrower's default on the loan, unless the lender files a claim for loss on the loan with the guarantor prior to that 90th day; or

(v) One hundred twenty days after the date of disbursement, if the loan check has not been cashed on or before that date, or if the loan proceeds disbursed by electronic funds transfer in accordance with § 682.207(b)(1)(ii)(B) have not been released from the restricted account maintained by the school on or before that date.

(2) Section 682.413(a) sets forth the circumstances under which a lender may be required to repay special allowance received on a loan guaranteed by a guarantee agency.

(e) (1) Except as otherwise provided in Subpart H of this Part, the Secretary pays a special allowance on a loan made or acquired with the proceeds of an obligation the interest income from which is exempt from taxation under the Internal Revenue Code only if the Secretary has approved—

(i) The Plan for Doing Business of the Authority which issued the obligation, if the obligation was issued after December 31, 1980; and

(ii) The justification of need for the obligation, if the obligation was issued after August 14, 1983.

(2) As used in this paragraph, proceeds of a tax-exempt obligation include collections, reimbursements from guarantors, interest received, and receipts from the sale of loans financed with the original proceeds of that obligation.

(3) The Secretary pays a special allowance to an Authority at the rate prescribed in paragraph (c)(1) or (c)(2) of this section on a loan made or acquired with the proceeds of a tax-exempt obligation after the loan is pledged or otherwise transferred in consideration of funds derived from sources other than a tax-exempt obligation and—

(i) The prior tax-exempt obligation is retired; or

(ii) The prior tax-exempt obligation is defeased by means of obligations which the Authority certifies in writing to the Secretary bear a yield which does not exceed the yield permitted under 26 CFR 1.103–14 with regard to investments of proceeds of a tax-exempt refunding obligation.

(Authority: 20 U.S.C. 1082, 1087–1)

§ 682.303 Methods for computing interest benefits and special allowance.

(a) *General.* The Secretary pays a lender interest benefits and special allowance on eligible loans on a quarterly basis. These calendar quarters end on March 31, June 30, September 30, and December 31 of each year. A lender may use either the average daily balance method or the actual accrual method to determine the amount of interest benefits payable on its loans. A lender shall use the average daily balance method to determine the balance on which the Secretary computes the amount of special allowance payable on its loans.

(b) *Average daily balance method for interest benefits.* (1) Under this method, the lender adds the unpaid principal balance outstanding on all loans qualifying for interest benefits at each actual interest rate for each day of the quarter, and divides the sum by the number of days in the quarter. The resulting figure is the average daily balance for qualified loans outstanding at each actual interest rate.

(2) The lender computes the interest benefits due on all qualified loans at each actual interest rate by multiplying the average daily balance thereof by the actual interest rate, multiplying this result by the number of days in the quarter, and then dividing this result by the actual number of days in the year or 365.25 days. A lender who chooses to divide by 365.25 days must do so for four consecutive years.

(c) *Actual accrual method for interest benefits.* (1) Under this method, the lender computes the total unpaid principal balance outstanding on all qualified loans at each actual interest rate on each day of the quarter, multiplies this result by the actual interest rate, and divides this result by the actual number of days in the year or 365.25 days. A lender who chooses to divide by 365.25 days must do so for four consecutive years.

(2) The interest benefits due for a quarter is the sum of the daily interest benefits due, computed under paragraph (c)(1) of this section, for each day of the quarter.

(d) *Average daily balance method for special allowance.*

(1) To compute the average daily balance outstanding for special allowance purposes, the lender adds the unpaid principal balance outstanding on all qualified loans at each applicable interest rate for each day of the quarter and divides this sum by the number of days in the quarter. The resulting figure is the average daily balance for the quarter.

(2) The Secretary computes the special allowance payable to a lender based upon the average daily balance computed by the lender under paragraph (d)(1) of this section.

(Authority: 20 U.S.C. 1078, 1082, 1087–1)

§ 682.304 Procedure for payment of interest benefits and special allowance.

(a) *General.* (1) To receive payments of interest benefits and special allowance, a lender must submit quarterly reports to the Secretary on a form provided or prescribed by the Secretary.

(2) The Secretary reduces the amount of interest benefits and special allowance payable to the lender by the amount of origination fees the lender was authorized to collect during the quarter under § 682.202(c), whether or not the lender actually collected that amount. The Secretary increases the amount of interest benefits and special allowance payable to the lender by the amount of origination fees refunded to borrowers during the quarter under § 682.202(c).

(3) The lender shall report, on the quarterly report required by paragraph (a)(1) of this section, the amount of origination fees it was authorized to collect, and the amount of those fees refunded to borrowers, during the quarter covered by the report.

(4) If a lender sells or otherwise transfers a loan within the calendar quarter in which the loan is disbursed, either the lender making the loan or the new holder may report the amount of the origination fee to the Secretary. In either case, the lender making the loan and any subsequent holder are jointly and severally liable for payment of the origination fee to the Secretary.

(b) *Penalty interest.* (1)(i) If the Secretary does not pay interest benefits or special allowance within 30 days after the Secretary receives an accurate, timely, and complete request for payment from a lender, the Secretary pays the lender penalty interest.

(ii) The payment of interest benefits or special allowance shall be deemed to occur, for purposes of this paragraph, when the Secretary—

(A) Authorizes the Treasury Department to pay the lender;

(B) Credits the payment due the lender against a debt which the Secretary determines is owed the Secretary by the lender; or

(C) Authorizes the Treasury Department to pay the amount due the lender to another Federal agency for credit against a debt that the agency has determined is owed it by the lender.

(2) Penalty interest is an amount that accrues daily on interest benefits and special allowance due to the lender. The penalty interest is computed at the daily rate of the sum of—

(i) The interest rate applicable to the eligible loans on which payment is requested; and

(ii) The special allowance rate on those loans computed under § 682.302(c) for the quarter for which payment is requested.

(3) The Secretary pays penalty interest from the later of—

(i) The 31st day after the final day of the quarter covered by the request for payment; or

(ii) The 31st day after the Secretary's receipt of an accurate, timely, and complete request for payment from the lender.

(4) Penalty interest continues to accrue through the day the Secretary pays the interest benefits and special allowance at issue, in accordance with paragraph (b)(1)(ii) of this Section.

(5) A request for interest benefits and special allowance is considered timely only if it is received by the Secretary within 90 days following the end of the quarter to which the request pertains.

(6) A request for interest benefits and special allowance is not considered accurate if it requests payments to which the lender is not entitled under § 682.300–§ 682.303, or includes loans that the Secretary has directed the lender in writing to exclude from the request.

(Authority: 20 U.S.C. 1078, 1082, 1087–1)

(Reporting and recordkeeping requirements contained in paragraph (a)(3) were approved by the Office of Management and Budget under control number 1840–0538)

Subpart D—Guarantee Agency Programs

§ 682.400 Agreements between a guarantee agency and the Secretary.

(a) The Secretary enters into agreements with a guarantee agency whose loan guarantee program meets the requirements of this subpart. The agreements enable the guarantee agency to participate in the GSLP and the PLUS Program and to receive the various payments and benefits incident to that participation.

(b) There are five agreements:

(1) *Basic program agreement.* In order to participate in the GSLP and the PLUS Program a guarantee agency must have a basic program agreement. Under this agreement—

(i) Borrowers whose GSLP loans are guaranteed may qualify for interest benefits that are paid to the lender on the borrower's behalf;

(ii) Lenders under the guarantee agency program may receive special allowance payments from the Secretary, and have death, disability, and bankruptcy claims paid by the Secretary through the guarantee agency; and

(iii) The guarantee agency may apply for the primary administrative cost allowance, and for the other agreements described in this section.

(2) *Federal advances for claim payments agreement.* A guarantee agency must have a Federal advance for claim payments agreement to receive and use Federal advances to pay default claims.

(3) *Reinsurance agreement.* A guarantee agency must have a reinsurance agreement to receive reimbursement from the Secretary for at least 80 percent of its losses on default claims.

(4) *Supplemental reinsurance agreement.* A guarantee agency must have a supplemental reinsurance agreement to receive reimbursement from the Secretary for up to 100 percent of its losses on default claims.

(5) *Secondary administrative cost allowance agreement.* A guarantee agency must have a secondary administrative cost allowance agreement to receive that allowance.

(c) The Secretary's execution of an agreement does not indicate acceptance of any current or past standards or procedures used by the agency.

(d) All of the agreements are subject to subsequent changes in the Act or the regulations that apply to the GSLP or the PLUS Program.

(Authority: 20 U.S.C. 1072, 1078–1, 1078–2, 1082, 1087, 1087–1)

§ 682.401 Basic program agreement.

(a) In order to participate in the GSLP and the PLUS Program, a guarantee agency must enter into a basic agreement with the Secretary.

(b) In the basic agreement, the guarantee agency must agree to ensure that its loan guarantee program meets the following requirements at all times:

(1) *Aggregate loan limits.* The aggregate guaranteed unpaid principal amount for all GSLP and PLUS Program loans made to a borrower may not exceed the amounts set forth in § 682.204 (b) and (d).

(2) *Annual amounts.* (i) The annual loan amount authorized for an academic year must be at least $1,000, but may not exceed the amounts set forth in § 682.204 (a) and (c).

(ii) If the program guarantees loans to an eligible half-time student borrower or to a parent borrower on behalf of an eligible half-time student, the annual loan amount authorized for an academic year must be at least $500.

(iii) A guarantee agency may make the loan amounts authorized under paragraphs (b)(2)(i) and (ii) of this section applicable for either—

(A) A period that does not exceed 12 months; or

(B) A period in which the student earns the amount of credit in the student's program of study required by the student's school as the amount necessary for the student to advance in academic standing as normally measured on an academic year basis (for example, from freshman to sophomore) or, in the case of schools using clock hours, completion of at least 900 clock hours.

(iv) In no case may the amount of the loan exceed the student's estimated cost of attendance for the academic period for which the loan is intended, less estimated financial assistance.

(3) *Duration of borrower eligibility.* (i) A student borrowing under the GSLP or the PLUS Program, and a parent borrowing on behalf of a student under the PLUS Program, must be eligible to borrow for any year of the student's study at a participating school; and

(ii) Loans must be available to or on behalf of any student for at least six academic years of study or the equivalent.

(4) *Borrower responsibilities.* (i) The borrower shall promptly notify the lender of any change of name or address.

(ii) The borrower shall give to the lender, as part of the loan application process—

(A) A statement, described in § 682.203, that the loan will be used for the cost of the student's attendance;

(B) Information that provides a basis for determining that the borrower is eligible for the loan;

(C) Information concerning the borrower's outstanding GSLP and PLUS Program loans, and, if the borrower is a parent, information on the outstanding GSLP and PLUS Program loans made to or on behalf of the student;

(D) A statement of the sources and amount of other financial assistance from Federal, State, institutional or other scholarship, grant, work, or loan programs, that the student has received or expects to receive for the period of enrollment for which the loan is intended;

(E) A statement from the student authorizing the school to release information relevant to the student's eligibility to borrow or to have a parent borrow on the student's behalf (e.g., the student's enrollment status, financial assistance, and employment records); and

(F) Information from the school that provides a basis for determining that the student qualifies as an eligible student and the maximum amount that may be borrowed by or on behalf of the student.

(5) *Loan disbursement.* The guarantee agency shall require that a lender disburse loan funds as required by § 682.207.

(6) *Insurance premiums.* (i) The guarantee agency may charge the lender an insurance premium on each loan. The guarantee agency may use the proceeds of this charge only to guarantee loans and to cover costs incurred by the guarantee agency in the administration of its loan guarantee program. The lender may deduct this charge from the borrower's loan proceeds. The guarantee agency may not use the proceeds of this charge to make incentive payments to lenders or to increase yields to lenders.

(ii) The amount of the insurance premium may not exceed one percent

per year of the unpaid principal balance of the loan, excluding interest or other charges the lender may have added to the principal balance.

(iii) The lender shall refund to the borrower, by a credit against the borrower's loan balance, all or a part of the insurance premium paid by the borrower on a GSLP loan under the following circumstances:

(A) The premium, or the portion thereof attributable to a portion of a multiply-disbursed loan, must be refunded if the loan check is returned uncashed to the lender.

(B) The premium must be refunded if the loan is repaid in full, or the loan check has not been cashed within 120 days of disbursement, or the loan proceeds disbursed by electronic funds transfer in accordance with § 682.207(b)(1)(ii)(B) have not been released from the restricted account maintained by the school on or before that date.

(C) If the insurance premium is charged for a period extending beyond one year after the borrower's anticipated graduation date, the insurance premium must be refunded to the borrower in accordance with paragraph (b)(6)(iv) of this section.

(iv) (A) If a borrower graduates or withdraws from school before the anticipated graduation date, the amount of any insurance premium on a GSLP loan attributable to the repayment period must be recomputed to take into account the declining principal balance of the loan. Any refund due the borrower as a result of this computation must be treated as a prepayment of the insurance premium for a later period, if a premium will be required for that period, or as a repayment of principal.

(B) If a borrower defaults, the amount of any insurance premium attributable to subsequent periods must be credited first to accrued interest and then to the principal balance of the loan.

(C) If a borrower prepays the entire unpaid balance of the loan, the amount of any insurance premium attributable to a period following the date of prepayment by two or more years must be refunded to the borrower.

(v) The insurance premium for a PLUS Program loan need not be refunded under any circumstances.

(7) *Guarantee liability.* The guarantee agency shall guarantee at least 80 percent of the unpaid principal balance of each loan guaranteed.

(8) *Guarantee agency administration.* In the case of a State loan guarantee program administered by a State government, the program must be administered by a single State agency, or by one or more private nonprofit institutions or organizations under the supervision of a single State agency. For this purpose, "supervision" includes, but is not limited to, setting policies and procedures, and having full responsibility for the operation of the program.

(9) *Loan assignment.* (i) The guarantee agency shall allow a loan to be assigned only to—

(A) An eligible lender;

(B) The guarantee agency, in the case of a borrower's default, death, total and permanent disability, or filing of a bankruptcy petition; or

(C) The Secretary.

(ii) For the purpose of this paragraph, "assigned" means any kind of transfer of an interest in the loan, including a pledge of such an interest as security.

(10) *Standards and procedures.*

(i) The guarantee agency shall establish, disseminate to concerned parties, and enforce standards and procedures for—

(A) Ensuring that all lenders in its program meet the definition of "eligible lender" in section 435(g)(1) of the Act;

(B) School and lender participation in its program;

(C) Limitation, suspension, or termination of school and lender participation;

(D) The exercise of due diligence by lenders in making, servicing, and collecting loans; and

(E) The timely filing by lenders of default, death, disability, and bankruptcy claims.

(ii) The guarantee agency shall ensure that its program, and all participants in its program, at all times meet the requirements of Subparts B, C, D and F of this Part.

(11) The guarantee agency shall establish and follow a system and procedures for monitoring the enrollment status of a student borrower that include, at a minimum—

(i) Transmitting a student status confirmation request to the school for completion at least semi-annually; and

(ii) Reporting to the current holder of the loan, within 60 days of receipt of the completed request from the school, any change in the student's enrollment status that triggers—

(A) The commencement of the borrower's grace period; or

(B) The commencement or resumption of the borrower's immediate obligation to make scheduled payments.

(12) The guarantee agency shall submit, or require its lenders to submit, upon the Secretary's request, information the Secretary deems necessary for determining the amount of interest benefits and special allowance payable on the agency's guaranteed loans.

(13) The guarantee agency shall require lenders to submit to the agency the information necessary for the agency to complete the reports required by § 682.414(b).

(c) (1) The guarantee agency shall ensure that it, or an eligible lender described in section 435(g)(1)(D) of the Act, serves as a lender of last resort in its State.

(2) The lender of last resort shall make a GSLP loan to any eligible student who—

(A) Qualifies for interest benefits, pursuant to § 682.301 for a loan amount of at least $200; and

(B) Has been otherwise unable after conscientious efforts to obtain a loan from another eligible lender for the same period of enrollment.

(3) The guarantee agency, or an eligible lender described in § 435(g)(1)(D) of the Act, may make a loan required by this paragraph through an agreement with an eligible lender.

(d) (1) The guarantee agency shall submit to the Secretary its application forms, promissory notes, and write-off criteria and procedures. The agency shall not use these materials until the Secretary approves them.

(2) The guarantee agency shall promptly submit to the Secretary its regulations, statements of procedures and standards, and other materials that substantially affect the operation of the agency's program whenever changes or new materials are proposed. Except as provided in paragraph (d)(1) of this section, the agency may use these materials unless and until the Secretary disapproves them.

(3) The guarantee agency shall ensure that all program materials meet the requirements of Federal and State law.

(Authority: 20 U.S.C. 1078, 1078-2, 1082)

(Reporting and recordkeeping requirements contained in paragraph (b)(4) were approved by the Office of Management and Budget under control number 1840-0538)

§ 682.402 Death, disability, and bankruptcy payments.

(a) *General.* (1) References in this section to death and disability claims relate only to loans made after December 14, 1968. If a borrower who received a loan covered by a reinsurance agreement prior to December 15, 1968, dies or becomes totally and permanently disabled, the Secretary reimburses the guarantee agency under the provisions of § 682.404.

(2) If a PLUS Program loan was obtained by two parents as co-makers and only one of the borrowers dies,

becomes totally and permanently disabled, or has his or her loan obligation discharged in bankruptcy, the other borrower remains obligated to repay the loan.

(3) The Secretary does not pay a death, disability, or bankruptcy claim if a default claim for the loan previously has been disapproved by the guarantee agency, or if the loan would not qualify either for payment of a default claim or for reinsurance payments.

(b) *Death.* (1) If an individual borrower dies, the borrower's obligation to make any further payments of principal and interest on the loan is cancelled.

(2) The lender may determine that a borrower has died on the basis of a death certificate or other proof of death that is acceptable under applicable State law. If a death certificate or other acceptable proof of death is not available, the borrower's obligation on the loan is cancelled only upon a determination by the guarantee agency on the basis of other evidence that the agency finds conclusive.

(3) Once the lender has determined that the borrower has died, the lender may not attempt to collect on the loan from the borrower's estate or from any endorser.

(4) The lender shall return to the sender any payments received from the estate or paid on behalf of the borrower after the date of the borrower's death.

(c) *Total and permanent disability.* (1) If the lender determines that an individual borrower is totally and permanently disabled, the borrower's obligation to make any further payments of principal and interest on the loan is cancelled. A borrower is not considered totally and permanently disabled on the basis of a condition that existed before he or she applied for the loan, unless the borrower's condition has substantially deteriorated since he or she submitted the loan application, so as to render the borrower totally and permanently disabled.

(2) After being notified by the borrower or the borrower's representative that the borrower claims to be totally and permanently disabled, the lender shall promptly request that the borrower or the borrower's representative obtain a certification from a physician who is a doctor of medicine or osteopathy and legally authorized to practice, on a form provided or approved by the Secretary, that the borrower is totally and permanently disabled. The lender shall continue collection until it receives the certification or receives a letter from a physician stating that the certification has been requested and that additional time is needed to determine if the borrower is totally and permanently disabled. After receiving the physician's certification or letter, the lender may not attempt to collect from the borrower or any endorser.

(3) After receiving the physician's certification described in paragraph (c)(2) of this section, the lender shall return any payments that it received from or on behalf of the borrower after the date the borrower or the borrower's representative notified the lender of the borrower's claim described in paragraph (c)(2) of this section.

(4) If the lender determines that a loan owed by a borrower who claims to be totally and permanently disabled is not eligible for cancellation for that reason, or if the lender has not received the physician's certification, described in paragraph (c)(2) of this section, within 60 days of the receipt of the physician's letter described in paragraph (c)(2) of this section, the lender shall resume collection and shall be deemed to have exercised forbearance of payment of both principal and interest from the date the lender received the physician's letter described in paragraph (c)(2) of this section, and may capitalize, in accordance with § 682.202(b), any interest payments forborne.

(d) *Bankruptcy.* (1) If an individual borrower's repayment obligation on a loan is discharged in bankruptcy, the Secretary assumes the borrower's liability for unpaid principal and interest on the loan.

(2) The lender shall determine that a borrower has filed a bankruptcy petition on the basis of a notice of the first meeting of creditors received from the bankruptcy court.

(3) Once a lender determines that a borrower has filed a bankruptcy petition, the lender may not attempt to collect on the loan, except as required by paragraph (d)(4)(ii) of this section, and shall file a proof of claim with the bankruptcy court within 30 days after the lender receives notice of the first meeting of creditors.

(4) (i) If the loan has not been in repayment for at least five years (exclusive of any applicable suspension of the repayment period) on the date the lender receives notice of the first meeting of creditors, the lender shall hold the loan and promptly inquire of the bankruptcy court whether a petition to have the loan obligation declared dischargeable in bankruptcy on grounds of undue hardship (hereinafter referred to as a "hardship petition") has been filed by the borrower.

(ii) If the lender determines, based on its inquiry under paragraph (d)(4)(i) of this section, that the borrower has not filed a hardship petition, the lender shall continue to hold the loan, and not attempt collection, until the bankruptcy action is concluded. Thereafter, the lender shall treat the loan as if the lender had exercised forbearance as to repayment of principal and interest from the date of the borrower's filing of the bankruptcy petition until the date the lender is notified that the bankruptcy action is concluded.

(iii) The lender shall file a bankruptcy claim on the loan with the guarantee agency, in accordance with paragraph (e) of this section, if—

(A) The borrower has filed a petition for relief under Chapter 13 of the Bankruptcy Code;

(B) The loan has been in repayment for more than five years (exclusive of any applicable suspension of the repayment period); or

(C) The loan has been in repayment for less than 5 years (exclusive of any applicable suspension of the repayment period) and the lender determines that the borrower has filed a hardship petition.

(e) *Claim procedures for a loan held by a lender.*

(1) *Documentation.* A lender shall provide the guarantee agency with the following documentation when filing a death, disability, or bankruptcy claim:

(i) The original promissory note.

(ii) The loan application.

(iii) In the case of a death claim, those documents that formed the basis for the determination of death.

(iv) In the case of a disability claim, a copy of the certification of disability described in paragraph (c)(2) of this section.

(v) In the case of a bankruptcy claim—

(A) Evidence that a bankruptcy petition has been filed, written evidence of the lender's efforts to determine if the borrower filed a hardship petition, an assignment to the guarantee agency of the lender's proof of claim, and all pertinent documents sent to or received from the bankruptcy court by the lender; and

(B) A statement of any facts of which the lender is aware that may form the basis for an objection or exception to the discharge of the borrower's loan obligation in bankruptcy, and all documents supporting those facts.

(2) *Filing deadlines.* As a condition for obtaining payment, a lender shall comply with the following requirements for filing death, disability, and bankruptcy claims:

(i) A lender must file a death or disability claim with the guarantee agency within 60 days after the lender

determines that a borrower has died or is totally and permanently disabled, in accordance with the procedures in paragraphs (b) and (c) of this section.

(ii) A lender must file a bankruptcy claim with the guarantee agency—

(A) Within 30 days after the lender receives notice of the first meeting of creditors in a borrower's bankruptcy proceeding, if the loan has been in repayment for more than 5 years (exclusive of any applicable suspension of the repayment period);

(B) Within 30 days after the lender determines that the borrower has filed a hardship petition, if the loan has been in repayment for less than 5 years (exclusive of any applicable suspension of the repayment period); or

(C) Within 30 days after receiving notice of the first meeting of creditors, if the borrower files a petition for relief under Chapter 13 of the Bankruptcy Code.

(f) *Payment of death, disability, and bankruptcy claims by the guarantee agency.*—(1) *General.* After determining that a death, disability, or bankruptcy claim is valid, the guarantee agency shall pay the lender the amount of loss in accordance with this paragraph.

(2) *Amount of loss to be paid on a claim.* (i) The amount of loss to be paid on a death, disability, or bankruptcy claim is equal to the unpaid balance of principal and interest in accordance with paragraph (f)(3) of this section.

(ii) The unpaid balance of principal may include interest capitalized in accordance with § 682.202(b).

(3) *Payment of interest.* If the guarantee covers unpaid interest, the payment of an approved claim covers the unpaid interest that accrues during the following periods:

(i) During the period before the claim is filed, not to exceed the period provided for in paragraph (e)(2) of this section for filing the claim.

(ii) During a period not to exceed 30 days following the return of the claim to the lender by the guarantee agency for additional documentation necessary for the claim to be approved by the guarantee agency.

(iii) During the period required by the guarantee agency to approve the claim and to authorize payment.

(g) *Treatment of loans acquired by the guarantee agency through the payment of bankruptcy claims to lenders.*

(1) After payment of a bankruptcy claim to a lender, the guarantee agency shall diligently contest the discharge of the loan by the bankruptcy court. Once the dischargeability of the loan has been decided in a bankruptcy action, the guarantee agency shall—

(i) Submit the bankruptcy claim to the Secretary for reimbursement, if the loan is discharged; or

(ii) Treat the loan as if forbearance had been exercised as to repayment of principal and interest from the date of filing of the bankruptcy petition until the date the court held the loan to be non-dischargeable, if the court so held, and either—

(A) Require the lender that filed the claim to repurchase the loan; or

(B) Permit another eligible lender to purchase the loan.

(2) In the case of a claim submitted under paragraph (g)(1)(i) of this section, the Secretary pays the guarantee agency the amount of loss that the guarantee agency paid the lender on the bankruptcy claim, plus interest that accrues through the earlier of—

(i) The date the Secretary authorizes payment to the guarantee agency; or

(ii) Sixty days after the date of discharge.

(h) *Claim procedures for loans held by a guarantee agency.*

(1) The Secretary pays a death, disability, or bankruptcy claim on a loan held by a guarantee agency after the agency has paid a default claim to the lender thereon only under the following circumstances:

(i) The guarantee agency determines that the borrower has died, become totally and permanently disabled since applying for the loan, or had the loan obligation discharged in bankruptcy, in accordance with the procedures set forth in paragraphs (b)–(d) of this section. For purposes of this paragraph, references to the "lender" in paragraphs (b)–(d) of this section mean the guarantee agency.

(ii)(A) In the case of a PLUS Program loan, when the guarantee agency determines the borrower (or each of the co-makers) has died, become totally and permanently disabled since applying for the loan, or had the repayment obligation discharged in bankruptcy, within 10 years of the date the loan was made, exclusive of periods of deferment or periods of forbearance granted by the lender that extended the 10-year maximum repayment period; or

(B) In the case of a GSLP loan, when the guarantee agency determines the borrower has died, become totally and permanently disabled since applying for the loan, or had the loan discharged in bankruptcy, within 15 years of the date the loan was made, exclusive of periods of deferment or periods of forbearance granted by the lender that extended the 15-year maximum repayment period;

(iii) The guarantee agency has not written off the loan as uncollectible in accordance with the procedures established by the agency pursuant to § 682.410(b)(4)(x); and

(iv) The guarantee agency has exercised due diligence in the collection of the loan, in accordance with the procedures established by the agency pursuant to § 682.410(b)(4), until the borrower (or each of the co-makers) died, became totally and permanently disabled, or had the loan discharged in bankruptcy.

(2)(i) The Secretary pays the guarantee agency a percentage of the outstanding principal and interest that is equal to the complement of the reinsurance percentage paid on the loan. Interest includes interest that accrues during the lesser of—

(A) The period from the date the guarantee agency determines that the borrower (or each of the co-makers) died, became totally and permanently disabled, or had the loan discharged in bankruptcy, until the Secretary authorizes payment; or

(B) Sixty days.

(ii) In addition, the Secretary pays the guarantee agency for any unpaid interest that the agency paid as part of the default claim and for which the agency was not previously reimbursed by the Secretary.

(i) *Payments.* If the guarantee agency receives any payments from or on behalf of the borrower on a loan on which the Secretary previously paid a bankruptcy claim, the guarantee agency shall remit 100 percent of these payments to the Secretary.

(j) *Suspension of repayment.* For purposes of this section, the term "applicable suspension of the repayment period" means any period of time during which the lender did not require the borrower to make payments (e.g., periods of deferment or forbearance).

(Authority: 20 U.S.C. 1078–2, 1082, 1087)

(Reporting and recordkeeping requirements contained in paragraph (e)(1) were approved by the Office of Management and Budget under control number 1840–0538)

§ 682.403 Federal advances for claim payments.

(a) The Secretary makes an advance to a guarantee agency that has a reinsurance agreement. The advance may be used only to pay guarantee claims. The Secretary makes an advance to—

(1) A State guarantee agency; or

(2) One or more private nonprofit guarantee agencies in a State if, during a fiscal year—

(i) The State does not have a guarantee agency program;

(ii) The Secretary consults the chief executive officer of the State and finds it

unlikely that the State will have a program for that year; and

(iii) Each private nonprofit guarantee agency—

(A) Agrees to establish at least one office in the State with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State;

(B) Agrees to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major lenders within the State;

(C) Agrees that the benefit of its loan guarantees will not be denied to students because of their choice of schools or lack of need; and

(D) Certifies that it is not an eligible educational institution, and that it does not have substantial affiliation with any eligible educational institution.

(b) A guarantee agency must apply in order to receive an initial advance.

(c)(1) An advance may be made to a new guarantee agency for each of five consecutive calendar years. A new agency is an agency that entered into a basic agreement on or after October 12, 1976, or that was not actively carrying on a loan guarantee program on or before October 12, 1976.

(2) (i) A guarantee agency may request that the initial advance be made on a specified date. The Secretary pays subsequent advances on the same date of four succeeding years that the initial advance was made.

(ii) An additional advance may be made to a private nonprofit guarantee agency only if the agency continues to qualify under paragraph (a) of this section.

(d) The Secretary makes an advance on terms and conditions specified in a Federal advances for claim payments agreement between the Secretary and the guarantee agency.

(e) In the case of a private nonprofit guarantee agency, the "outstanding insurance obligation," referred to in section 422(c)(4) of the Act, is determined separately for each State for which the agency has received an advance under this section.

(Authority: 20 U.S.C. 1072, 1082)

§ 682.404 Federal reinsurance agreement.

(a) (1) The Secretary may enter into a reinsurance agreement with a guarantee agency that has a basic program agreement. Under a reinsurance agreement, the Secretary reimburses the guarantee agency for 80 percent of its losses on default claim payments to lenders. This agreement is a prerequisite for the supplemental reinsurance agreement, under which the Secretary reimburses the guarantee agency for up to 100 percent of those losses.

(2) For the purpose of this section and § 682.405, "losses" means—

(i) The amount of unpaid principal and accrued interest the agency pays on a default claim filed by a lender on a reinsured loan, minus payments made by, or on behalf of, the borrower after the lender's claim is paid and before the Secretary reimburses the agency; and

(ii) An amount, not to exceed the lesser of $100 or two percent of the amount of unpaid principal the agency pays on a default claim, expended by the agency for the administrative costs of supplemental preclaim assistance for default prevention as defined in section 428(c)(6) of the Act, to the extent the agency has not been reimbursed for those costs under paragraph (e)(2)(ii) of this section or § 682.407.

(3) (i) Death and disability claims on loans made prior to December 15, 1968, are covered by the reinsurance agreement. The guarantee agency is not required to attempt to collect the loan from the borrower or the borrower's estate after the borrower dies or becomes totally and permanently disabled.

(ii) Death and disability claims on loans made after December 14, 1968, are not covered by the reinsurance agreement. Bankruptcy claims also are not covered. The Secretary's payments on these death, disability, and bankruptcy claims are addressed in § 682.402.

(4) A guarantee agency's loss on a loan that was outstanding when a reinsurance agreement was executed is covered by the reinsurance agreement only if the default on the loan occurs after the effective date of the agreement.

(b) In deciding whether to enter into or extend a reinsurance agreement, or, if an agreement has been terminated, whether to enter into a new agreement, the Secretary considers the adequacy of—

(1) Efforts by the guarantee agency and the lenders to which it provides guarantees to collect outstanding loans;

(2) Efforts by the guarantee agency to make GSLP and PLUS Program loans available to all eligible borrowers; and

(3) Other relevant aspects of the guarantee agency's program operations.

(c) The reinsurance agreement contains terms and conditions that the Secretary finds necessary to promote the purposes of the GSLP and the PLUS Program and to protect the United States from unreasonable risks of loss.

(d) A reinsurance agreement provides that payments made to a guarantee agency by a borrower must first be applied to the payment of all accrued interest, then to repayment of principal, then to payment of the agency's administrative costs of supplemental preclaims assistance for default prevention, and then to payment of other charges.

(e) (1) If a borrower makes payments on a loan after the Secretary has paid a reinsurance claim on that loan, the agency shall pay to the Secretary the Secretary's equitable share of those payments.

(2) For the purpose of this section and § 682.405, "the Secretary's equitable share" means that portion of borrower payments, attributable to principal, interest and administrative costs of supplemental preclaims assistance for default prevention, which remains after the agency has deducted—

(i) An amount equal to the complement of the reinsurance percentage which was in effect when the reinsurance payment was made by the Secretary; and

(ii) An amount, not exceeding 30 percent of borrower payments, expended by the agency for the administrative costs of collection of loans, the administrative costs of preclaim assistance for default prevention, the administrative costs of supplemental preclaims assistance for default prevention, and the administrative costs of monitoring the enrollment status of students and repayment status of borrowers, to the extent the agency has not been reimbursed for these costs under paragraph (a)(2) of this section or § 682.407.

(3)(i) The terms "administrative costs of collection of loans," "administrative costs of preclaim assistance for default prevention," and "administrative costs of supplemental preclaims assistance for default prevention," as used in this paragraph, are defined in section 428(c)(6) of the Act. The term "administrative costs of monitoring the enrollment status of students and repayment status of borrowers," as used in this paragraph, has the same meaning as "administrative costs of monitoring the enrollment and repayment status of students," as defined in section 428(c)(6) of the Act, except that the reference to repayment status, in cases where the borrower is a parent, refers to that of the parent borrower.

(ii) The term "overhead costs" used in those definitions includes space and utilities costs.

(4) Unless the Secretary approves otherwise, the guarantee agency shall pay to the Secretary the Secretary's equitable share of borrower payments

within 60 days of its receipt of the payments.

(5) If a guarantee agency, in determining the Secretary's equitable share of borrower payments, includes as an administrative cost a portion of the price of an asset it buys and—

(i) If the agency subsequently sells that asset, the agency shall promptly repay to the Secretary a percentage of the sale proceeds equal to the percentage of the original purchase price of the asset paid by the Secretary; or

(ii) If the agency subsequently converts the asset to a use unrelated to its GSLP or PLUS loan guarantee program, the agency shall promptly repay to the Secretary a percentage of the fair market value of the asset equal to the percentage of the original purchase price of the asset paid by the Secretary.

(Authority: 20 U.S.C. 1078, 1078-2, 1082)

§ 682.405 Supplemental Federal reinsurance.

(a) (1) The Secretary may enter into a supplemental reinsurance agreement with a guarantee agency that has a reinsurance agreement and that meets the requirements of this section. Under a supplemental reinsurance agreement, the Secretary reimburses the guarantee agency for up to 100 percent of its losses, with the following exceptions:

(i) When the total of reinsurance claims paid by the Secretary to a guarantee agency during any fiscal year reaches five percent of the amount of loans in repayment at the end of the preceding fiscal year, the Secretary's reinsurance payment on a default claim subsequently paid by the guarantee agency during that fiscal year equals 90 percent of its losses.

(ii) When the total of reinsurance claims paid by the Secretary to a guarantee agency during any fiscal year reaches nine percent of the amount of loans in repayment at the end of the preceding fiscal year, the Secretary's reinsurance payment on a default claim subsequently paid by the guarantee agency during that fiscal year is 80 percent of its losses.

(2) For purposes of this paragraph, the total of reinsurance claims paid by the Secretary to a guarantee agency during any fiscal year does not include amounts paid on claims by the guarantee agency—

(i) On loans considered in default under § 682.412(f); or

(ii) Under a policy established by the agency that is consistent with § 682.509(a)(1).

(3) Notwithstanding paragraph (a)(1) of this section, for a guarantee agency that entered into a basic program agreement under section 428(b) of the Act after September 30, 1976, or was not actively carrying on a loan guarantee program covered by a basic program agreement on October 1, 1976, the Secretary pays 100 percent of its losses under a supplemental reinsurance agreement during five consecutive fiscal years beginning with the first year of its operation. The Secretary monitors programs of this type and, if an agency does not prudently administer its program, the Secretary may determine that it does not continue to qualify for this exception.

(b) For purposes of this section—

(1) "Amount of loans in repayment" means the original principal amount of all loans guaranteed by the agency minus—

(i) The original principal amount of loans on which—

(A) The borrower has not yet reached the repayment period;

(B) Payment in full by the borrower has been made; or

(C) The borrower was in deferment status at the time repayment was scheduled to begin, and remains in deferment status; and

(ii) The amount paid by the agency for guarantee claims on loans, exclusive of claims paid—

(A) On loans considered in default under § 682.412(f); or

(B) Under a policy established by the agency that is consistent with § 682.509(a)(1).

(2) "Losses" is defined in § 682.404(a).

(3) "The Secretary's equitable share" is defined in § 682.404(e).

(c) (1) If a guarantee agency enters into a supplemental reinsurance agreement for both the GSLP and the PLUS Program, the agency must include its loans under both programs in calculating the Secretary's reinsurance payment percentage and the amount of loans in repayment.

(2) If a guarantee agency that has a reinsurance agreement for PLUS loans and GSLP loans under § 682.404 enters into a supplemental reinsurance agreement for one, but not both, of the programs, the guarantee agency must maintain separate records for each program sufficient to enable the Secretary to determine—

(i) The reinsurance percentage payable by the Secretary on reinsurance claims filed by the agency under each program; and

(ii) The Secretary's equitable share of borrower payments, as defined in § 682.404(e), received after payment by the Secretary of reinsurance claims under each program.

(d)(1) The supplemental reinsurance agreement requires that—

(i) The agency shall ensure that the program requirements of paragraph (e) of this section are continuously met;

(ii) An agreement may be renewed only if the agency's program complies with all the terms of the agreement and all pertinent provisions of the Act and applicable regulations; and

(iii) Before the Secretary pays a supplemental reinsurance claim, the guarantee agency must submit to the Secretary the quarterly report required by the Secretary for the previous quarter ending September 30, containing complete and accurate data, in order for the Secretary to calculate the amount of loans in repayment at the end of the preceding fiscal year.

(2) A supplemental reinsurance agreement may contain other requirements that the Secretary finds necessary.

(e)(1) *GSLP loan maximums.* (i) The maximum annual amount of a GSLP loan that a guarantee agency guarantees for an eligible student who is carrying at least a half-time workload for an academic year or its equivalent must be the maximum loan amount specified in § 682.204(a).

(ii) The maximum aggregate unpaid principal amount of GSLP loans that a guarantee agency guarantees for an eligible student must be the maximum amounts specified in § 682.204(b).

(2) *PLUS Program loan maximums.* (i) The maximum annual amount, attributable to one or more PLUS Program loans, that the agency guarantees for or on behalf of an eligible student who is carrying at least a half-time workload for an academic year or its equivalent, must be—

(A) The maximum loan amounts specified in § 682.204(c) (1) and (2); and

(B) At least $2,500 but not more than $3,000, in the case of a parent borrower on behalf of each eligible student.

(ii) The maximum aggregate unpaid principal, attributable to PLUS Program loans, that the agency guarantees for or on behalf of an eligible student must be—

(A) The amounts specified in § 682.204(d) (1) and (2); and

(B) At least $12,500 but not more than $15,000, in the case of a parent borrower on behalf of each eligible student.

(3) *Guarantee liability.* The guarantee agency shall guarantee 100 percent of the unpaid principal of each loan guaranteed.

(4) *School eligibility.* Except in the case of correspondence schools, a guarantee agency's eligibility criteria for the participation of schools in its program may not be more stringent than those for the FISLP and the Federal

PLUS program. However, the agency may exclude a school from its program if—

(i) The school's eligibility is limited, suspended, or terminated by the Secretary under 34 CFR Part 668, or by the agency under standards and procedures approved by the Secretary; or

(ii) There is a State constitutional prohibition affecting the school's eligibility.

(5) *School lender provisions.* (i) The agency shall provide that a school may be a lender in its program under reasonable criteria unless—

(A) The school's lending eligibility has been limited, suspended, or terminated by the Secretary under § 682.608 or Subpart G of this part, or by the agency under standards and procedures approved by the Secretary; or

(B) There is a State constitutional prohibition affecting the school's lending eligibility.

(ii) The agency may not guarantee a loan made by a school lender that is not located in the geographic area that the agency serves.

(6) *Out-of-State schools.* The agency shall guarantee GSLP or PLUS loans for eligible borrowers who are legal residents of the State where the agency operates, but who attend participating schools out of the State, or, in the case of parent borrowers, are legal residents of the State where the agency operates, but are borrowing on behalf of students attending participating schools out of the State. In guaranteeing these loans, the agency must not impose any restrictions not applicable to borrowers who are legal residents of the State attending in-State schools, or to parent borrowers who are legal residents of the State and are borrowing for students attending in-State schools.

(Authority: 20 U.S.C. 1078, 1078–1, 1078–2, 1082)

§ 682.406 Conditions of reinsurance coverage.

(a) The Secretary makes a reinsurance payment on a loan to a guarantee agency only if—

(1) The lender exercised due diligence in making, disbursing and servicing the loan, as prescribed by rules of the agency;

(2)(i) The loan check was cashed within 120 days after disbursement; or

(ii) The loan proceeds disbursed by electronic funds transfer in accordance with § 682.207(b)(1)(ii)(B) have not been released from the restricted account maintained by the school on or before that date.

(3) The lender exercised due diligence in collecting the loan through collection efforts meeting the requirements of § 682.411;

(4) The loan was in default before the agency paid a default claim filed thereon;

(5) The lender filed a default claim thereon with the guarantee agency within 90 days of default;

(6) The lender satisfied all conditions of guarantee coverage set by the agency unless the agency reinstated guarantee coverage on the loan, following the lender's failure to satisfy such a condition, pursuant to policies and procedures established by the agency.

(7) The agency paid a default claim filed by the lender thereon with the agency within 90 days of the date the lender filed the claim;

(8) The agency submitted a request for the payment no earlier than 90 days following default, on a form required by the Secretary; and

(9) The agency and lender complied with all other Federal requirements with respect to the loan.

(b) Notwithstanding paragraph (a) of this section, the Secretary may waive his right to refuse to make a reinsurance payment when, in the Secretary's judgment, the best interests of the United States so require.

(Authority: 20 U.S.C. 1078, 1078–1, 1078–2, 1082)

§ 682.407 Administrative cost allowances for guarantee agencies.

(a)(1) The Secretary pays to a guarantee agency having a basic program agreement a primary administrative cost allowance and, to an agency having a reinsurance agreement, a secondary administrative cost allowance.

(2) Payments of allowances under this section to a guarantee agency for any fiscal year, for each administrative cost allowance, equal one-half of one percent of the total principal amount of loans guaranteed by the agency during that fiscal year.

(b)(1) The guarantee agency must submit an application for each allowance to the Secretary by January 1 of the fiscal year for which it is requesting the allowance.

(2) In addition to other information and assurances that the Secretary may reasonably require, the application must contain—

(i) Information showing the agency's ability to collect loans and provide preclaim assistance to its lenders, including descriptions of staff size and activities in these areas;

(ii) An estimate of the costs that will be eligible for payments under this section;

(iii) Assurances that sufficient administrative and fiscal procedures, including an independent audit, conducted in accordance with § 682.410(b)(1), will be used to ensure that administrative cost allowances are used in accordance with the provisions of this section;

(iv) A report of the most recent audit, conducted in accordance with § 682.410(b)(1), submitted in a format satisfactory to the Secretary;

(v) Assurances that the guarantee agency will furnish any further information, including estimates, that the Secretary may reasonably require to carry out the provisions of this section;

(vi) For the primary allowance only, an estimate of the total amount of new loan volume expected to be guaranteed during the fiscal year; and

(vii) For the secondary allowance only, assurances that the agency's program—

(A) Meets and will continue to meet all the requirements contained in § 682.405(e) for a supplemental reinsurance agreement;

(B) Guarantees GSLP or PLUS loans for eligible students who are not legal residents of the State where the agency operates, but who attend participating schools in the State, other than correspondence schools, without imposing any restrictions not imposed on legal residents of the State who attend schools in the State other than correspondence schools; and

(C) Guarantees PLUS loans to parent borrowers who are not legal residents of the State where the agency operates, but who are borrowing for students attending participating schools in the State, other than correspondence schools, without imposing any restrictions not imposed on residents of the State who borrow for students attending schools in the State, other than correspondence schools.

(4) The Secretary's payment of the secondary allowance establishes an agreement between the Secretary and the guarantee agency with respect to the assurances contained in the application.

(c)(1) A guarantee agency may use the administrative cost allowances only to meet administrative costs related to the GSLP and the PLUS Program.

(2) A guarantee agency may not use the administrative cost allowances to meet costs—

(i) Taken into account by the agency under the formula for determining the "Secretary's equitable share" of borrower payments made after the Secretary has paid reinsurance claims to the agency under § 682.404(e); or

(ii) For which the agency has been, or will be, reimbursed from a source other than the payment provided by this section.

(3) If a guarantee agency uses the allowances paid under this section to pay for a portion of the price of an asset it buys and—

(i) If the agcncy subsequently sells that asset, the agency shall promptly repay to the Secretary a percentage of the sale proceeds equal to the percentage of the original purchase price of the asset paid for with the allowances; or

(ii) If the agency subsequently converts the asset to a use unrelated to its GSLP or PLUS loan guarantee program, the agency shall promptly repay to the Secretary a percentage of the fair market value of the asset equal to the percentage of the original purchase price of the asset paid for with the allowances.

(Authority: 20 U.S.C. 1078, 1078–1, 1078–2, 1082)

(Reporting and recordkeeping requirements contained in paragraph (b)(2) were approved by the Office of Management and Budget under control number 1840–0538)

§ 682.408 GSLP loan disbursement through a guarantee agency escrow agent.

(a) *General.* (1) A guarantee agency may act as an escrow agent for the purpose of receiving GSLP loan proceeds disbursed by an eligible lender, other than a school or State lender, and transmitting those proceeds to borrowers, if the lender and guarantee agency have entered into an agreement for this purpose.

(2) In its capacity as escrow agent, the guarantee agency may—

(i) Commingle the proceeds of the GSLP loans paid to it pursuant to an escrow agreement;

(ii) Invest the GSLP loan proceeds only in obligations of the Federal Government or obligations that are insured or guaranteed by the Federal Government; and

(iii) Retain for its own use interest or other earnings on those investments.

(b) *Disbursement by the lender.* Subject to § 682.207(b)(1)(iii), the lender may disburse the loan proceeds to the escrow agent using any method agreed to by the escrow agent and the lender.

(c) *Transmittal of loan proceeds to a school by the escrow agent.* The escrow agent shall transmit loan proceeds received from a lender under this section to the school in accordance with the requirements of § 682.207(b)(1) (ii) and (iv) no later than 30 days after receipt of the funds from the lender.

(d) *Return of untransmitted proceeds.* The escrow agent shall return any untransmitted proceeds of a loan to the lender within 15 working days after learning that the student has not enrolled, or has ceased to be enrolled, on at least a half-time basis for the period of enrollment for which the loan was intended.

(Authority: 20 U.S.C. 1078, 1082)

§ 682.409 Mandatory assignment by guarantee agencies of defaulted loans to the Secretary.

(a) When the Secretary determines that such action is necessary to protect the Federal fiscal interest, the Secretary may direct a guarantee agency to assign to the Secretary for collection a defaulted loan on which the Secretary has made a payment under §§ 682.404 or 682.405. In making this determination, the Secretary considers all relevant information available to the Secretary, including any information and documentation submitted by the guarantee agency.

(b)(1) When a guarantee agency assigns a defaulted loan to the Secretary under this section, the agency releases all rights and title to that loan. The Secretary does not pay the guarantee agency any compensation for a loan assigned under this section.

(2) The agency does not share in any amounts received by the Secretary on a loan assigned under this section, regardless of the reinsurance percentage paid on the loan or the agency's previous collection costs.

(c)(1) A guarantee agency shall assign a loan to the Secretary under this section at such time, in such a manner, and with such documentation as the Secretary may require.

(2) The documents that the assignor agency shall submit with a loan include, but are not limited to—

(i) The loan application;

(ii) The promissory note; and

(iii) The payment and collection histories for the loan.

(3) The guarantee agency shall execute an assignment to the United States of America of all right, title, and interest in the promissory note evidencing a loan assigned under this section.

(d) Assignment of a loan does not affect calculation of any default rate under this Part. However, the Secretary accounts, in calculations of relevant default rates, for any collections achieved by the Secretary on loans assigned by an agency.

(Authority: 20 U.S.C. 1078, 1078–2, 1082)

(Reporting and recordkeeping requirements contained in paragraph (c) were approved by the Office of Management and Budget under control number 1840–0538)

§ 682.410 Fiscal, administrative, and enforcement requirements.

(a) *Fiscal requirements.* A guarantee agency shall establish, at a minimum, the following fiscal procedures:

(1) The guarantee agency shall establish and maintain a reserve fund to which thc guarantee agency shall credit—

(i) Federal advances obtained under, and matching funds required by, section 422(a) of the Act;

(ii) Funds appropriated by a State for the agency's loan guarantee program;

(iii) Federal advances obtained under § 682.403;

(iv) Funds received by the guarantee agency as loan insurance premiums;

(v) Administrative cost allowances received by the guarantee agency under § 682.407;

(vi) Funds received by the guarantee agency for the agency's loan guarantee program from gift, grant, or other sources;

(vii) Funds collected on defaulted loans;

(viii) Death, disability, bankruptcy, and reinsurance payments received from the Secretary; and

(ix) Funds earned from investments under paragraph (a)(5) of this section.

(2) Except as provided in paragraphs (a)(3) and (a)(4) of this section, a guarantee agency may use the assets of the reserve fund established under paragraph (a)(1) of this section only to—

(i) Guarantee loans under the guarantee agency's loan guarantee program;

(ii) Pay default claims;

(iii) Pay death, disability, and bankruptcy claims;

(iv) Refund overpayments of insurance premiums;

(v) Pay to the Secretary the Secretary's equitable share of borrower payments; and

(vi) Repay advances made by the Secretary.

(3) Except as provided in paragraph (a)(4) of this section, a guarantee agency may also use loan insurance premiums, administrative cost allowances, interest or investment earnings, and funds described in paragraph (a)(1)(vi) of this section for payments necessary for the proper administration of the guarantee agency's loan guarantee program.

(4)(i) The guarantee agency may use the amount of Federal advances identified in paragraph (a)(1)(iii) of this section, and interest or other earnings on those advances, only to pay default claims.

(ii) The guarantee agency shall account separately for the funds

described in paragraph (a)(4)(i) of this section.

(5) The guarantee agency may invest the assets of the reserve fund described in paragraph (a)(1) of this section only in low-risk securities, such as obligations issued or guaranteed by the United States or a State, and shall exercise the level of care in that investment required of a fiduciary charged with the duty of investing the money of others.

(6) If the guarantee agency uses loan insurance premiums or funds earned from investments under paragraph (a)(5) of this section to buy an asset and—

(i) If the agency subsequently sells that asset, the agency shall promptly deposit into the reserve fund described in paragraph (a)(1) of this section a percentage of the sale proceeds equal to the percentage of the original purchase price of the asset paid with the insurance premiums and investment earnings; or

(ii) If the agency subsequently converts the asset to a use unrelated to its GSLP or PLUS loan guarantee program, the agency shall promptly deposit into the reserve fund described in paragraph (a)(1) of this section a percentage of the fair market value of the asset equal to the percentage of the original purchase price paid with the insurance premiums or investment earnings.

(b) *Administrative requirements.* A guarantee agency shall establish, at a minimum, the following administrative procedures:

(1) The guarantee agency shall arrange for an independent biennial financial and compliance audit of the agency's guaranteed loan program that meets each of the following requirements:

(i) The audit must examine the agency's compliance with the Act, applicable regulations, and agreements entered into under this part.

(ii) The audit must examine the agency's financial management of its loan guarantee program.

(iii) The audit must be conducted in accordance with the general standards and the standards for financial and compliance audits of the United States General Accounting Office's (GAO) *Standards for Audit of Governmental Organizations, Programs, Activities and Functions.* Procedures for audits are contained in audit guides developed by, and available from, the Office of the Inspector General of the Department. These audit guides do not impose any requirements beyond those imposed under applicable statutes and regulations, and GAO's *Standards.*

(iv) The audit must be conducted not less frequently than once every two years, and must be submitted to the Secretary within six months of the end of the audit period. The first audit must cover the agency's activities for a period beginning no later than the effective date of this requirement. Each subsequent audit must cover the agency's activities for a period beginning no later than the end of the period covered by the preceding audit.

(v) With regard to a guarantee agency that is an agency of a State government, an audit conducted in accordance with 31 U.S.C. 7502 satisfies the requirements of this paragraph for the period covered by the audit.

(2) The guarantee agency shall charge interest on the amount for which the Secretary has paid a reinsurance claim to the guarantee agency, at a rate that is the greater of—

(i) The rate established by the terms of the original promissory note; or

(ii) The rate provided for by State law.

(3) The guarantee agency shall promptly report to all national credit bureaus—

(i) The date of default;

(ii) Information concerning collection of the loan, including the repayment status of the loan; and

(iii) The date the loan is fully repaid by or on behalf of the borrower or discharged by reason of the borrower's death, bankruptcy or total and permanent disability.

(4)(i) The guarantee agency shall engage in at least the collection efforts described in paragraphs (b)(4) (iii)–(ix) of this section on a loan on which it pays a default claim filed by a lender.

(ii)(A) The periods of time set forth in paragraphs (b)(4) (iii)–(vii) of this section refer to the number of days that elapse from the date the agency pays a default claim on a loan or, in the case of a borrower whom the agency locates through the use of skip tracing under paragraph (b)(4)(xii) of this section, the number of days that elapse from the date the agency obtains the borrower's correct address. References to the "borrower" include all endorsers on a loan.

(B) Upon receipt of a payment from a borrower, the agency is not required to follow the specific collection efforts described in paragraphs (b)(4) (iii)–(vii). but shall diligently attempt to collect the loan for 60 days following receipt of the payment. If no subsequent payments are received during the 60-day period, the agency shall resume its use of the collection efforts described in this paragraph (b)(4), treating the first day after the end of the 60-day period as the first day of the period described in paragraph (b)(4)(iv) of this section.

(iii) One–45 days: During this period, the agency shall—

(A) Send a written notice to the borrower stating that the agency has paid a default claim filed by the lender on the loan, and has taken assignment of the loan. In addition, the notice must forcefully demand that the borrower immediately commence repayment of the loan, and must inform the borrower that the agency will report the default to all national credit bureaus, thereby damaging the borrower's credit rating, may institute a civil suit against the borrower to compel repayment of the loan, and may refer the debt to the Department for collection by offset against Federal income tax refunds due the borrower; and

(B) Diligently attempt to contact the borrower by telephone to demand repayment of the loan.

(iv) Forty-six–90 days: During this period the agency shall—

(A) Diligently attempt to contact the borrower by telephone to demand repayment of the loan; and

(B) Send a written notice to the borrower demanding that the borrower immediately commence repayment of the loan, and informing the borrower that the default has been reported to a credit bureau and that the borrower's credit rating has thereby been damaged.

(v) Ninety-one–135 days: During this period, the agency shall—

(A) Diligently attempt to contact the borrower by telephone to demand repayment of the loan; and

(B) Send one additional collection letter at least as forceful as the notice described in paragraph (b)(4)(iii)(A) of this section.

(vi) One hundred thirty-six–180 days: During this period, the agency shall send a written notice to the borrower forcefully demanding repayment in full on the loan, and indicating that it is the final notice the borrower will receive before the agency may institute a civil suit to compel repayment of the loan;

(vii) One hundred eighty-one–225 days: During this period, but not sooner than 30 days after sending the notice described in paragraph (b)(4)(vi) of this section, the agency shall institute a civil suit against the borrower for repayment of the loan, unless the agency determines, and documents in the borrower's file, that—

(A) The cost of litigation would exceed the likely recovery if litigation were commenced; or

(B) The borrower does not have the means to satisfy a judgment on the debt, or a substantial portion thereof.

(viii)(A) If the agency does not institute a civil suit against the borrower

for repayment of the loan as a result of a determination made pursuant to paragraph (b)(4)(vii)(B) of this section, the agency shall conduct diligent semi-annual inquiries to determine if the borrower has since acquired the means to satisfy a judgment on the debt, or a substantial portion thereof.

(B) If the agency determines that the borrower has acquired the means to satisfy a judgment on the debt, or a substantial portion thereof, and that the cost of litigation would not exceed the likely recovery if litigation were commenced, then if subsequent collection efforts are not successful, the agency shall, no later than 60 days after the determination, institute a civil suit against the borrower for repayment of the loan.

(C) Determinations made pursuant to this paragraph must be documented in the borrower's file.

(ix)(A) The agency shall diligently attempt to enforce a judgment obtained against a borrower respecting a loan. If, after doing so, the agency is unable to obtain full satisfaction of the judgment because the borrower lacks the means to pay, the agency shall conduct diligent semi-annual inquiries to determine if the borrower has since acquired the means to satisfy the remainder of the judgment.

(B) If the agency determines that the borrower has acquired the means to satisfy the remainder of the judgment, the agency shall, not later that 60 days thereafter, notify the borrower in writing of its intention to resume enforcement efforts on the judgment unless the borrower makes payment in full on all outstanding amounts.

(C) If the borrower does not make payment in full within 30 days of the date the agency sends the notice described in the preceding paragraph, the agency shall, within 30 days thereafter, institute civil proceedings to enforce the remainder of the judgment.

(x) The agency may discontinue conducting the semi-annual inquiries concerning a borrower's means required by paragraphs (b)(4) (viii) and (ix) of this section only in accordance with write-off criteria and procedures approved by the Secretary.

(xi) Not withstanding paragraphs (b)(4) (vii)–(x), the agency shall file a civil suit against the borrower for repayment of the loan, or to enforce a judgment obtained thereon, prior to the date on which the applicable statute of limitations elapses unless the agency—

(A) Determines, and documents in the borrower's file, that the cost of litigation would exceed the likely recovery if litigation were commenced; or

(B) Has previously written off the debt in accordance with write-off criteria and procedures approved by the Secretary.

(xii) Not later than 10 days after its receipt of information indicating that it does not know the borrower's current address, or the 60th day after its payment of a default claim on a loan, whichever is later, the agency shall diligently attempt to locate the borrower through the use of all available skip-tracing techniques, including, but not limited to, any skip-tracing assistance available from the Internal Revenue Service, credit bureaus, and State motor vehicle departments.

(c) *Enforcement requirements.* A guarantee agency shall take such measures, and establish such controls, as are necessary to ensure its vigorous enforcement of all Federal, State, and guarantee agency requirements applicable to its loan guarantee program, including, at a minimum, the following:

(1) Conducting comprehensive biennial on-site program reviews of at least—

(i) Each participating lender whose loan volume guaranteed by the agency in the preceding year—

(A) Equaled or exceeded two percent of the total of all loans guaranteed in that year by the agency; or

(B) Was one of the ten largest among lenders whose loans were guaranteed in that year by the agency; and

(ii) Each participating school whose students received, or benefitted from, loans guaranteed by the agency in the preceding year, the total amount of which—

(A) Equaled or exceeded two percent of the total of all loans guaranteed in the preceding year by the agency; or

(B) Was one of the ten largest among schools whose students received or benefitted from loans guaranteed in that year by the agency.

(2) Seeking prompt repayment of all funds found in those reviews to have been improperly retained by the participants, and monitoring the implementation by participants of corrective actions required by the agency as a result of those reviews.

(3) Adopting procedures for identifying fraudulent loan applications.

(4) Undertaking, or arranging with State or local law enforcement agencies for, the prompt and thorough investigation of all allegations and indications of criminal or other programmatic misconduct, including violations of Federal law or regulations, by its program participants.

(5) Promptly reporting all of the allegations and indications having a substantial basis in fact, and the scope, progress, and results of the agency's investigations thereof, to the Secretary.

(6) Referring appropriate cases to State or local authorities for criminal prosecution or civil litigation.

(7) Cooperating with all program reviews, investigations, and audits conducted by the Secretary relating to the agency's loan guarantee program.

(Authority: 20 U.S.C. 1078, 1078–1, 1082, 1097)

§ 682.411 Due diligence by lenders in the collection of guarantee agency loans.

(a) In the event of delinquency on a loan guaranteed by a guarantee agency, the lender shall engage in at least the collection efforts described in paragraphs (c)–(h) of this section.

(b) For purposes of this section, delinquency on a loan begins on the first day after the due date of the first missed payment not later made, or 30 days after the day the lender discovers that the borrower has entered the repayment period, whichever is later. If a payment is made late, the first day of delinquency is the day after the due date of the next missed payment not later made.

(c) One—30 days delinquent: During this period, the lender shall send at least two written notices or collection letters to the borrower informing the borrower of the delinquency and urging the borrower to make payments sufficient to eliminate the delinquency.

(d) Thirty-one—60 days delinquent: During this period, the lender shall make diligent efforts to contact the borrower by telephone. If the lender is unable, despite those efforts, to reach the borrower by telephone, the lender shall send at least two forceful collection letters to the borrower urging the borrower to cure the delinquency. The letters shall also warn the borrower that, if the delinquency is not cured, the lender will assign the loan to the guarantee agency which in turn will report the default to a credit bureau, thereby damaging the borrower's credit rating, and may bring suit against the borrower to compel repayment of the loan.

(e) Sixty-one—150 days delinquent: During each thirty-day period comprising this period, the lender shall again make diligent efforts to contact the borrower by telephone. During each thirty-day period, if the lender is unable, despite those efforts, to reach the borrower by telephone, the lender shall send at least one more collection letter no less forceful than those described in paragraph (d) of this section.

(f) One hundred fifty-one—180 days delinquent: During this period, the lender shall send a final demand letter to the borrower, unless the borrower's

address is unknown, requiring repayment of the loan in full and notifying the borrower that a default will be reported to all national credit bureaus. The lender shall allow the borrower at least 30 days to respond to the final demand letter and to make payments sufficient to bring the loan out of default before filing a default claim on the loan or reporting that default to a credit bureau.

(g) Within 10 days of its receipt of information indicating it does not know the borrower's current address, the lender shall diligently attempt to locate the borrower, through the use of normal commercial skip-tracing techniques. These efforts shall include, but not be limited to, contacting the endorser, relatives, references, and any other individuals and entities identified in the borrower's loan file.

(h) If the agency that guaranteed the loan offers preclaims assistance, the lender shall request that assistance within 10 days of the date that assistance is first available from the agency.

(Authority: 20 U.S.C. 1078, 1078–1, 1082, 1087–1)

(Approved by OMB under control number 1840–0538)

§ 682.412 Consequences of the failure of a borrower or student to establish eligibility.

(a) The lender shall immediately send a final demand letter to the borrower, as required by § 682.411(g), when it learns that the borrower or, if applicable, the student on whose behalf a parent has borrowed—

(1) Did not qualify for all or a portion of a loan made under this part; or

(2) Has received a GSLP loan subject to payment of Federal interest benefits as provided under § 682.301, but is in fact ineligible for some or all of those interest benefits.

(b) The lender shall neither bill the Secretary nor be entitled to interest benefits on a loan after it learns that one of the conditions described in paragraph (a) of this section exists with respect to the loan.

(c) In the final demand letter, transmitted under paragraph (a) of this section, the lender shall demand that, within 30 days, the borrower repay in full the principal amount of the ineligible portion of the loan, accrued interest thereon, and all interest benefits paid by the Secretary thereon.

(d) If the borrower repays the amounts described in paragraph (c) of this section within the 30-day period, the lender shall, on its next quarterly interest billing submitted under § 682.304, refund to the Secretary the interest benefits repaid by the borrower, and all other interest benefits previously billed to the Secretary on the ineligible portion of the loan.

(e) If the borrower repays to the lender the principal amount of the ineligible portion of the loan, the lender shall treat that payment as a prepayment on the loan.

(f) If a borrower fails to comply with the terms of a final demand letter described in paragraph (a) of this section, the loan shall be considered in default. The lender shall, on its next quarterly interest request submitted under § 682.304, refund the interest paid on the ineligible portion of the loan by the Secretary, and the lender shall file a default claim thereon with the guarantee agency for the entire unpaid balance of principal and accrued unpaid interest within the time specified in § 682.406(a)(4).

(Authority: 20 U.S.C. 1077, 1078, 1078–2, 1082)

(Reporting and recordkeeping requirements contained in paragraph (c) were approved by the Office of Management and Budget under control number 1840–0538)

§ 682.413 Remedial actions.

(a) The Secretary requires a lender to repay interest benefits and special allowance on a loan guaranteed by a guarantee agency—

(1) For any period beginning on the date of a failure by the lender, with respect to the loan, to comply with any of the requirements set forth in § 682.406(a)(1)–(a)(5) and (a)(9);

(2) For any period beginning on the date of the lender's failure, with respect to the loan, to meet a condition of guarantee coverage established by the guarantee agency, to the date, if any, on which the guarantee agency reinstated the guarantee coverage pursuant to policies and procedures established by the agency;

(3) For any period as to which the lender, with respect to the loan, violates the requirements of Subpart C of this part; and

(4) For any period beginning on the day after the Secretary's obligation to pay special allowance on the loan terminates under § 682.302(d).

(b) The Secretary requires a guarantee agency to repay reinsurance payments on a loan—

(1) If the lender or the agency failed to meet the requirements of § 682.406(a); or

(2) If the agency failed to exercise due diligence in collection of the loan in accordance with procedures established under § 682.410(b)(4).

(c) In addition to requiring repayment of reinsurance payments pursuant to paragraph (b) of this section, the Secretary may take one or more of the following remedial actions against a guarantee agency that makes an incomplete or incorrect statement in connection with any agreement entered into under this part, or violates any applicable Federal requirement:

(1) Require the repayment by the agency of payments made to the agency.

(2) Withhold payments to the agency.

(3) Limit the terms and conditions of the agency's continued participation in the GSLP or PLUS Program.

(4) Suspend or terminate agreements with the agency.

(5) Require repayment from the agency of any related payments which the Secretary has become obligated to make to others.

(d) The Secretary's decision to require repayment of funds by a lender or agency, to withhold funds from an agency, or to limit, suspend, or terminate an agency's GSLP or PLUS Program participation, does not become final until the Secretary provides the lender or agency with written notice of the intended action and an opportunity to be heard thereon. However, the Secretary may withhold payments from an agency or suspend an agreement with an agency prior to giving notice and an opportunity to be heard if the Secretary finds that emergency action necessary to prevent substantial harm to Federal interests.

(e) Notwithstanding paragraphs (a)–(d) of this section, the Secretary may waive the right to require repayment of funds by a lender or agency if, in the Secretary's judgment, the best interests of the United States so require.

(f) Once final, the Secretary's decision to require repayment of funds or to take other remedial action against a lender or guarantee agency under this section is conclusive and binding on the lender or agency. (Note: A decision by the Secretary under this section is subject to judicial review under 5 U.S.C. 706 and 41 U.S.C. 321–322.)

(Authority: 20 U.S.C. 1078, 1078–1, 1078–2, 1082, 1087–1, 1097)

§ 682.414 Records, reports, and inspection requirements for guarantee agency programs.

(a) *Records.* (1) A guarantee agency shall keep the records required by this section and such other records as are necessary to document fully the accuracy of reports required by this subpart and the right of the agency to receive or retain payments made by the Secretary under this part.

(2) The guarantee agency shall retain records for each loan for at least five years after the loan is paid in full or has been determined to be uncollectable in accordance with the agency's write-off

procedures. For the purposes of this section, the term "paid in full" includes loans paid by the Secretary on account of the borrower's death or permanent and total disability, or discharge of the loan in bankruptcy.

(3)(i) The guarantee agency shall require a participating lender to keep complete and accurate records of each loan that it holds, including but not limited to the records described in paragraph (a)(3)(ii) of this section. The records must be organized in such a way as to permit ready identification of the current status of each loan.

(ii) The lender shall keep—

(A) The loan application;

(B) The original promissory note, including the repayment instruments, until the loan is fully repaid, after which a copy is required;

(C) The repayment schedule;

(D) A record of each disbursement of loan proceeds;

(E) Notices of changes in a borrower's address and status as at least a half-time student;

(F) Evidence of the borrower's eligibility for a deferment;

(G) The documents required for the exercise of forbearance;

(H) Documentation of the assignment of the loan;

(I) A payment history showing the date and amount of each payment received from or on behalf of the borrower, and the amount of each payment which was attributed to principal and to interest;

(J) A collection history, showing the date and subject of each communication between the lender and the borrower or endorser relating to collection of a delinquent loan, each communication between the lender and a credit bureau regarding the loan, each effort to locate a borrower whose address was unknown at any time and each request by the lender for preclaims assistance on the loan; and

(K) Any additional records that are necessary to document the validity of a claim against the guarantee or the accuracy of reports submitted under this part.

(iii) A lender shall retain the records required for each loan for not less than five years following the date the loan is repaid in full by the borrower or the lender is reimbursed on a claim. However, in particular cases the Secretary or the guarantee agency may require the retention of records beyond this minimum period.

(4)(i) A guarantee agency or lender may store the records specified in paragraphs (a)(3)(ii)(C)–(K) of this section on microfilm or computer format.

(ii) A lender or guarantee agency holding a promissory note shall retain the original note until the loan is paid in full or assigned to the Secretary. When a loan is paid in full by the borrower, the lender or guarantee agency shall either return the original note to the borrower or notify the borrower, under a procedure that is alternatively acceptable under State law, that the loan is paid in full, and retain a copy for the prescribed period.

(iii) Either the lender or guarantee agency shall retain the original loan application or a copy.

(b) *Reports.* A guarantee agency shall submit to the Secretary the following reports:

(1) A report concerning the status of the agency's reserve fund and the operation of the agency's loan guarantee program, at such time and in the manner that the Secretary may reasonably require. The Secretary does not pay the agency amounts that are dependent upon data contained in the report until a complete and accurate report is received.

(2) Annually, for each State in which it operates, a report of the total guaranteed loan volume, default volume, and default rate for each of the following categories of originating lenders on all loans guaranteed after December 31, 1980:

(i) Schools.

(ii) State or private nonprofit lenders.

(iii) Commercial financial institutions (banks, savings and loan associations, and credit unions).

(iv) All other types of lenders.

(3) For a guarantee agency with a supplemental reinsurance agreement, by July 1 of each year, a report on—

(i) Its eligibility criteria for school lenders;

(ii) Its procedures for the limitation, suspension, and termination of schools and lenders;

(iii) A list of all schools that applied for lender eligibility in the preceding 12 months and a summary of the action taken on those applications;

(iv) A list of all school lenders participating in the agency's program;

(v) A description of any actions taken in the preceding 12 months to limit, suspend, or terminate the participation of a school or lender in the agency's program; and

(vi) The steps the agency has taken to ensure its compliance with § 682.410(c)(2)–(6), including the identity of any law enforcement agency with which the agency has made arrangements for that purpose.

(4) Any other information concerning the loan insurance program, at such frequency as determined by the Secretary.

(c) *Inspection requirements.* (1) A guarantee agency shall give the Secretary or the Secretary's designee access to its records in order to verify the correctness of the reports described in paragraph (b) of this section, or the right of the agency to receive or retain payments made by the Secretary under this part.

(2) A guarantee agency shall require in its agreement with a lender, or in its published rules or procedures, that the lender, or its agent, give the Secretary or the Secretary's designee and the guarantee agency access to the lender's records in order to verify the accuracy of the information provided by the lender pursuant to § 682.401(b)(12) and (13), and the right of the lender to receive or retain payments made under this part.

(Authority: 20 U.S.C. 1078, 1078–1, 1078–2, 1082, 1087–1)

(Reporting and recordkeeping requirements contained in paragraph (a)(3) and (b)(2) were approved by the Office of Management and Budget under control number 1840–0538)

Subpart E—Federal Insured Student Loan Program and Federal PLUS Program

§ 682.500 Circumstances under which loans may be guaranteed by the Secretary.

(a) The Secretary may guarantee all—

(1) FISLP and Federal PLUS Program loans made by lenders located in a State in which no State or private nonprofit guarantee agency has in effect an agreement with the Secretary under § 682.401 to serve as guarantor in that State;

(2) Federal PLUS Program loans made by lenders in a State in which a State or private nonprofit guarantee agency has in effect an agreement with the Secretary under § 682.401 but does not provide a loan guarantee program for PLUS borrowers; and

(3) FISLP loans made by lenders located in a State in which a guarantee agency program is operating but is not reasonably accessible to students who meet the agency's residency requirements.

(b) The Secretary may guarantee FISLP loans made by a lender located in a State where a guarantee agency operates a program that is reasonably accessible to students who meet the residency requirements of that program only for—

(1) A student who does not meet the agency's residency requirements;

(2) A lender who is not able to obtain a guarantee from the guarantee agency for at least 80 percent of the loans the

lender intends to make over a 12-month period because of the agency's residency requirements;

(3) With the approval of the guarantee agency, a student who has previously received from the same lender a FISLP loan that has not been repaid; or

(4) All students at a school located in the State, if the Secretary finds that—

(i) No single guarantee agency program is reasonably accessible to students at that school, as compared to students at other schools during a comparable period of time; and

(ii) Guaranteeing loans made in the State to students attending that school would significantly increase the access of students at that school to GSLP loans. The Secretary may guarantee loans made to those students by a lender in that State if—

(A) The guarantee agency does not recognize the school as being eligible, but the school is eligible under the FISLP; or

(B) A majority of the persons enrolled at the school meet the conditions of student eligibility for FISLP loans, but are not recognized as eligible under the guarantee agency program.

(c) For purposes of paragraph (b) of this section, a lender is considered to be located in the same State as a school if the lender—

(1) Has a relationship with the school such that the school will be considered to have originated loans made to students at that school;

(2) Has a majority of its voting stock held by the school; or

(3) Has common ownership or management with the school and more than 50 percent of the loans made by that lender are made to students at that school.

(d) As a condition for guaranteeing loans under the FISLP, the Secretary may require the lender to submit evidence of circumstances that would justify loan guarantees under the provisions of this section.

(e) With regard to a school lender which has entered into an agreement with the Secretary under § 682.601, the Secretary denies loan guarantees on the basis of this section only if the Secretary first determines that all eligible students at that school who make a conscientious effort to obtain a loan from another lender will find a loan to be reasonably available. For purposes of this paragraph, the determination of loan availability is based on studies and surveys which the Secretary considers satisfactory.

(Authority: 20 U.S.C. 1071, 1073, 1078–2, 1082)

§ 682.501 Extent of Federal guarantee under the FISLP and the Federal PLUS Program.

(a) *General.* Except as provided in paragraph (b) of this section, the Secretary's guarantee liability on any FISLP loan or Federal PLUS Program loan is 100 percent of the unpaid principal balance and, to the extent permitted under § 682.512, accrued interest.

(b) *Special provisions for State lenders.* (1) Except as described in paragraph (b)(2) of this section, the Secretary's guarantee liability is less than 100 percent under the following conditions:

(i) When the total of default claims under the FISLP and the Federal PLUS Program paid by the Secretary to a State lender during any fiscal year reaches five percent of the amount of the FISLP and Federal PLUS Program loans in repayment at the end of the preceding fiscal year, the Secretary's guarantee liability on a claim subsequently paid during that fiscal year is 90 percent of the amount of the unpaid principal balance plus accrued interest.

(ii) When the total of default claims under the FISLP and the Federal PLUS Program paid by the Secretary to a State lender during any fiscal year reaches nine percent of the amount of the FISLP and Federal PLUS Program loans in repayment at the end of the preceding fiscal year, the Secretary's guarantee liability on a claim subsequently paid during that fiscal year is 80 percent of the amount of the unpaid principal balance plus accrued interest.

(iii) For purposes of this paragraph, the total default claims paid by the Secretary during any fiscal year does not include paid claims filed by the lender under the provisions of § 682.208(d) or § 682.509.

(2) The potential reduction in guarantee liability does not apply to a State lender during the first Federal fiscal year of its operation as a lender under either the FISLP or the Federal PLUS Program, and during each of the four succeeding fiscal years.

(3) For the purposes of this section, the term "amount of the FISLP and Federal PLUS Program loans in repayment" means the original principal amount of all FISLP and Federal PLUS Program loans guaranteed by the Secretary less—

(i) The original principal amount of loans on which—

(A) Under the FISLP, the borrower has not yet reached the repayment period;

(B) Payment in full has been made by the borrower; or

(C) The borrower was in deferment status at the time repayment of principal was scheduled to begin, and remains in deferment status; and

(ii) The amount paid by the Secretary for default claims on loans, exclusive of paid claims filed by the lender under § 682.208(d) or § 682.509.

(4) For the purposes of this paragraph, payments by the Secretary on a loan that the original lender assigned to a subsequent holder are considered payments made to the original lender.

(5) State lenders shall consolidate FISLP and Federal PLUS Program loans for the purpose of calculating the amount of the Secretary's guarantee liability under this section.

(Authority: 20 U.S.C. 1075, 1078–2, 1082)

§ 682.502 The application to be a lender.

(a) In order to be considered for participation in the FISLP and the Federal PLUS Program, a lender must submit an application to the Secretary.

(b) In determining whether to enter into a guarantee contract with an applicant, and, if so, what the terms of the contract will be, the Secretary considers—

(1) Whether the applicant meets the definition of an "eligible lender" in section 435(g)(1) of the Act and the definition of "lender" in § 682.200;

(2) Whether the applicant is capable of complying with the regulations in this part as they apply to lenders;

(3) Whether the applicant is capable of implementing adequate procedures for making, servicing, and collecting loans;

(4) Whether the applicant has had prior experience with a similar Federal, State, or private nonprofit student loan program, and the amount and percentage of loans that are currently delinquent or in default under that program;

(5) The financial resources of the applicant; and

(6) In the case of a school that is seeking approval as a lender, its accreditation status (with the preferred condition being accredited).

(c) The Secretary may require an applicant to submit sufficient materials with its application so that the Secretary may fairly evaluate it in accordance with the criteria in this section.

(d) Denial of participation: (1) If the Secretary decides not to approve the application for an insurance contract, the reason for the decision is included in the Secretary's response.

(2) The Secretary provides an opportunity for the lender to meet with a designated Department official if the lender wishes to appeal the Secretary's decision.

(3) However, the Secretary need not explain the reasons for the denial, or grant the lender an opportunity to appeal, if the lender submits its application within 6 months of a previous denial.

(Authority: 20 U.S.C. 1078–2, 1079, 1082)

§ 682.503 The guarantee contract.

(a)(1) To participate in the FISLP and Federal PLUS Program, a lender must hold a guarantee contract with the Secretary. No loan is guaranteed unless it is covered by such an agreement.

(2) In general, under a guarantee contract, the lender agrees to comply with all laws, regulations, and other requirements applicable to its participation as a lender in the FISLP and the Federal PLUS Program. In return the Secretary agrees to guarantee each eligible FISLP and Federal PLUS Program loan held by the lender against the borrower's default, death, total and permanent disability, or bankruptcy.

(3) The Secretary may include in a contract a limit on the duration of the contract and the number or amount of FISLP or Federal PLUS Program loans the lender may make or hold.

(b)(1) Except as otherwise approved by the Secretary, a guarantee contract with a school lender limits the FISLP and Federal PLUS Program loans made by that school lender that will be covered by the Federal guarantee to those loans made to students, or to parents borrowing on behalf of students, who are—

(i) In attendance at that school;

(ii) In attendance at other schools under the same ownership as that school; or

(iii) Employees or dependents of employees, or whose parents are employees, of that school lender or other schools under the same ownership, under circumstances the Secretary considers appropriate for loan guarantees.

(2) A limit imposed under paragraph (b)(1) of this section on a school lender that makes loans to students, or to parents of students, in attendance at other schools under the same ownership, or to employees, or to dependents or parents of employees of those other schools, may be imposed on a school-by-school basis.

(Authority: 20 U.S.C. 1078–2, 1079, 1082)

§ 682.504 Issuance of Federal loan guarantees.

(a) A lender having a guarantee contract shall submit an application to the Secretary for a Federal loan guarantee on each intended loan that the lender determines to be eligible for a guarantee. The application must be on a form prescribed by the Secretary. The Secretary notifies the lender whether the loan can be guaranteed and the amount of the guarantee. No disbursement on a loan made prior to the Secretary's approval of that loan is covered by the guarantee.

(b) The Secretary issues a guarantee on a FISLP or Federal PLUS Program loan in reliance on the implied representations of the lender that all requirements for the initial eligibility of the loan for guarantee coverage have been met. As described in § 682.513, the continuance of the guarantee is conditioned upon compliance by all holders of the loan with the regulations in this part. The delegation of functions to a servicing agency or another party does not relieve the lender of its responsibilities in the making, servicing, and collecting of a FISLP or Federal PLUS Program loan.

(Authority: 20 U.S.C. 1078–2, 1079, 1082)

§ 682.505 Insurance premium.

(a) *General.* The Secretary charges the lender an insurance premium for each loan that is guaranteed.

(b) *Rate.* The rate of the insurance premium is one-fourth of one percent per year of the loan principal, excluding interest or other charges that may have been added to the principal.

(c) *FISLP loans—insurance premium calculation.* (1) The insurance premium for FISLP loans is calculated by—

(i) Counting the number of months beginning with the month following the month in which each disbursement on the loan is to be made and ending 12 months after the borrower's anticipated graduation from the school for attendance at which the loan is sought;

(ii) Dividing one-fourth of one percent of the principal amount of the loan by 12; and

(iii) Multiplying the result obtained in paragraph (c)(1)(i) of this section by that obtained in paragraph (c)(1)(ii) of this section.

(2) In cases where the lender disburses the loan in multiple installments, the insurance premium is calculated for each disbursement from the month following the month that the disbursement is made.

(d) *PLUS loans—insurance premium calculation.* The insurance premium for a Federal PLUS Program loan is calculated by—

(1) Using the actual repayment period as a base;

(2) Amortizing the loan in monthly installments over the repayment period;

(3) Determining one-fourth of one percent of each monthly declining principal balance; and

(4) Totalling the monthly amounts derived in paragraph (d)(3) of this section.

(e) *Collection from lenders.* (1) The Secretary may bill the lender for the insurance premium or may require the lender to pay the insurance premium to the Secretary at the time of disbursement of the loan. At the Secretary's discretion, the Secretary may alternatively collect the insurance premium by offsetting it against amounts payable by the Secretary to the lender.

(2) The Secretary's guarantee on a loan ceases to be effective when the lender fails to pay the insurance premium within 60 days of the date payment is due. The Secretary may, however, excuse late payment of an insurance premium, and reinstate the guarantee coverage on a loan, if the Secretary is satisfied that—

(i) The loan is not in default and the borrower is not delinquent in making installment payments; or

(ii) The loan is in default, or the borrower is delinquent, under circumstances where the borrower has entered the repayment period without the lender's knowledge.

(f) *Collection from borrowers.* The lender may pass along the cost of the insurance premium to the borrower. If it does so, the insurance premium must be deducted from each disbursement of the loan in an amount proportionate to that disbursement's contribution to the premium amount.

(g) Refund provisions. The insurance premium is not refundable by the Secretary, and need not be refunded by the lender to the borrower, even if the borrower prepays, defaults, dies, becomes totally and permanently disabled, or files a petition in bankruptcy.

(Authority: 20 U.S.C. 1077, 1078–2, 1079, 1082)

§ 682.506 Limitations on maximum loan amounts.

The Secretary does not guarantee a FISLP or Federal PLUS Program loan in an amount that would—

(a) Result in an annual loan amount in excess of the student's estimated cost of attendance for the academic period for which the loan is intended less the estimated financial assistance awarded for that period; or

(b) Result in an annual or aggregate loan amount in excess of the permissible annual and aggregate loan limits described in § 682.204.

(Authority: 20 U.S.C. 1075, 1078, 1078–2, 1082, 1089)

§ 682.507 Due diligence in collecting a loan.

(a) *General.* (1) A lender shall exercise due diligence in the collection of a loan with respect to both a borrower and an endorser. In order to exercise due diligence, a lender shall implement the procedures described in this section when a borrower fails to make an installment payment when due.

(2) If two borrowers are liable for repayment of a Federal PLUS Program loan as co-makers, the lender shall follow these procedures with respect to both borrowers.

(3) For purposes of this section, the borrower's delinquency begins on the day after the due date of an installment payment not paid when due, except that if the borrower entered the repayment period without the lender's knowledge, the delinquency begins 30 days after the day the lender discovers that the borrower has entered the repayment period.

(b) *Initial delinquency.* When a borrower is delinquent in making a payment, the lender shall remind the borrower within 15 working days of the date the payment was due by means of a letter, notice, telephone call, or personal contact. If payments do not begin or resume, the lender shall attempt to contact the borrower at least six more times at regular intervals during the remainder of the six-month period that started on the due date of the delinquent payment.

(c) *Skip-tracing assistance.* (1) Whenever a lender does not know the borrower's current address, the lender shall promptly attempt to locate the borrower through normal commercial collection techniques, including contacting all individuals and entities named in the borrower's loan application. If these efforts are unsuccessful, the lender shall promptly attempt to learn the borrower's current address through use of the Department of Education's skip-tracing assistance.

(2) If the lender does not know the borrower's address when a borrower is first delinquent in making a payment, but subsequently obtains the borrower's address prior to the date on which the loan goes into default, the lender shall attempt to contact the borrower in accordance with paragraph (b) of this section, with the first contact occurring within 15 days of the date the lender obtained knowledge of the borrower's address, and shall attempt to contact the borrower at least once during each succeeding 30-day period until default.

(d) *Preclaims assistance.* When the borrower is 60 days delinquent in making a payment, the lender shall request preclaims assistance from the Department of Education. This preclaim assistance consists of sending a series of letters to the borrower, urging the borrower to contact the lender and begin or resume payments.

(e) *Final demand letter.* A lender shall send a final demand letter to the borrower at least 30 days before the lender files a default claim. The lender shall allow the borrower at least 30 days to respond to the final demand letter. However, a lender need not send a final demand letter to a borrower whose address is unknown.

(f) *Litigation.* (1) If a loan is in default and the lender determines that the borrower or an endorser has the ability to repay the loan, the lender may bring suit against the borrower or the endorser to recover the amount of the unpaid principal and interest together with reasonable attorneys' fees.

(2) Prior to bringing suit the lender shall—

(i) Obtain the Secretary's approval; and

(ii) Notify the borrower or endorser in writing that it has received the Secretary's approval to bring suit on the loan, and that, unless the borrower or endorser makes payments sufficient to bring the account out of default, the lender will seek a judgment under which the borrower or endorser will be liable for payment of reasonable attorneys' fees and court costs in addition to the unpaid principal and interest on the loan. The lender shall mail the notice to the borrower or endorser by certified mail, return receipt requested.

(3) The lender may bring suit if the borrower or endorser does not make payments sufficient to bring the account out of default within 10 days following the date of delivery of the notice described in paragraph (f)(2)(ii) of this section to the borrower or endorser indicated on the receipt.

(4) A lender may first apply the proceeds of any judgment against its reasonable attorneys' fees and court costs, whether or not the judgment provides for these fees and costs.

(Authority: 20 U.S.C. 1078–2, 1079, 1080, 1081, 1082, 1085)

(Approved by OMB under control number 1840–0538)

§ 682.508 Assignment of a loan.

(a) *General.* A FISLP or Federal PLUS Program note may not be assigned except to another eligible lender. In this section, "seller" means any kind of assignor, "buyer" means any kind of assignee, and "assignment" means any kind of transfer, including assignment as security.

(b) *Procedure.* (1) A note assigned from one lender to another must be made subject to a blanket endorsement together with other notes being assigned or must individually bear effective words of assignment. Either the blanket endorsement or the note must be signed and dated by an authorized official of the seller.

(2) The buyer shall—

(i) Notify the Secretary of the assignment if the right to receive special allowance has been assigned; and

(ii) Ensure that the borrower is notified promptly if the assignment results in the borrower being required to make installment payments, or to direct other matters connected with the loan, to a party other than the party with whom the borrower dealt before the assignment. The buyer shall include in the notice to the borrower a clear statement of all the borrower's rights and responsibilities which arise from the assignment of the loan, including a statement regarding the consequences of making payments to the seller or any prior holder of the loan, subsequent to receipt of the notice.

(c) *Risks assumed by the buyer.* (1) General rules: Upon acquiring a note, a new holder assumes responsibility for the consequences of any previous violation of applicable statutes or regulations or the terms of the note. Neither a FISLP note nor a Federal PLUS Program note is a negotiable instrument, and a subsequent holder of such a note is not a holder in due course. If the borrower has a valid legal defense that could be asserted against the original holder, the borrower can also assert the defense against the new holder. If the new holder files a default claim on a loan, the Secretary denies the default claim if there was a legal defect affecting the initial validity or guarantee eligibility of the loan and to the extent of the borrower's legal defenses. When a new holder files a claim on a loan, it shall provide the Secretary with the same documentation that would be required of the original lender.

(2) Special additional rules for assignment of loans made or originated by a school: The buyer of a loan is not entitled to rely on statements made by a school that made or originated that loan. In addition, the Secretary considers any unpaid tuition refund that was due to the student under § 682.606, before the first assignment of a loan that was made or originated by a school, as having been paid to the subsequent holder on the borrower's behalf.

(d) *The Secretary's approval.* The approval of the Secretary is required prior to the assignment of a note to an eligible lender that has not entered into

a contract of insurance with the Secretary under § 682.503.

(e) *Trustee responsibility.* A lender to whom a loan is assigned in its capacity as a trustee assumes responsibility for complying with all applicable statutory and regulatory requirements imposed on any other holder of a loan.

(f) *Warranty.* (1) Nothing in this section precludes the buyer of a loan from obtaining a warranty from the seller covering certain future reductions by the Secretary in computing the amount of guaranteed loss, if any, on a claim filed on the loan.

(2) The warranty may only cover reductions which are attributable to an act or failure to act of the seller or other previous holder.

(3) The warranty may not cover matters the buyer is responsible for under the regulations in this part.

(Authority: 20 U.S.C. 1078–2, 1079, 1080, 1082)

(Reporting and recordkeeping requirements contained in paragraph (b) were approved by the Office of Management and Budget under control number 1840–0538.)

§ 682.509 Special conditions for filing a claim.

(a) A lender shall cease collection activity on a loan and file a claim with the Secretary within the time specified in § 682.511(e)(3), when—

(1) The lender learns that the school, in which the student on whose behalf the loan was made was enrolled, terminated its teaching activities involving that student during the academic period covered by the loan; or

(2) The Secretary directs that the claim be filed.

(b) A lender may not, as a result of a claim filed with the Secretary under this section, make a report to any credit bureau or other third party concerning the borrower's failure to repay the loan.

(Authority: 20 U.S.C. 1078–2, 1080, 1082)

§ 682.510 Determination of the borrower's death, total and permanent disability, or bankruptcy.

(a) The procedures in § 682.402 (a)–(d) for determining whether a borrower has died, become totally and permanently disabled, or filed a bankruptcy petition, apply to the FISLP and Federal PLUS Program.

(b) References to the "guarantee agency" in § 682.402 (b)(2) and (d)(4) mean the Secretary.

(Authority: 20 U.S.C. 1078–2, 1082, 1087)

§ 682.511 Procedures for filing a claim.

(a) *Filing a claim application.* (1) A lender may file a claim against the Secretary's guarantee on a FISLP or Federal PLUS Program loan for any of the following reasons:

(i) The loan is in default, as defined in § 682.200.

(ii) Any of the conditions exist for filing a claim without collection efforts, as set forth in § 682.208(d) or § 682.509.

(iii) The borrower has died, become totally and permanently disabled, or filed a bankruptcy petition, as determined by the lender in accordance with § 682.510.

(2) If a PLUS Program loan was obtained by two eligible parents as co-makers, the reason for filing a claim thereon must hold true for both parents.

(3) A lender may file a claim against the Secretary's guarantee only on a form provided by the Secretary. The lender must attach to the claim all documents required by the Secretary. If the lender fails to do so, the Secretary denies the claim.

(b) *Documentation required for claims.* (1) The Secretary requires a lender to submit the following documentation with all claims:

(i) The original promissory note.

(ii) The loan application.

(iii) The repayment instrument, in the case of a FISLP loan.

(iv) A payment history, as described in § 682.414(a)(3)(ii)(I), if any payments have been made.

(v) A collection history, as described in § 682.414(a)(3)(ii)(J).

(vi) A copy of the final demand letter, if required by § 682.507(e).

(vii) The original or a copy of all correspondence addressed to, from, or on behalf of the borrower that is relevant to the loan, whether that correspondence involved the original lender, a subsequent holder, or a servicing agent.

(viii) If applicable, evidence of the lender's requests to the Department of Education for skip-tracing assistance under § 682.507(c), and for preclaims assistance under § 682.507(d).

(ix) Any additional documentation that the Secretary deems relevant to a claim.

(2) The documentation requirements for death, total and permanent disability, or bankruptcy claims in § 682.402(e)(1) apply to the FISLP and the Federal PLUS Program. References to the "guarantee agency" in § 682.402(e)(1) mean the Secretary.

(c) *Assignment of note.* The Secretary's payment of a claim is contingent upon receipt from the lender of an assignment to the United States of America of all rights, title, and interest of the lender in the note underlying the claim. The lender shall also agree to reimburse the Secretary for any overpayments of interest benefits or special allowance that the Secretary may have made respecting the loan.

(d) *Bankruptcy subsequent to default.* If the lender files a default claim on a loan and subsequently receives a notice of the first meeting of creditors in the proceeding of the borrower in bankruptcy, the lender shall promptly forward that notice to the Department of Education. Under these circumstances the lender shall not file a proof of claim with the bankruptcy court.

(e) *Claim filing deadlines.* To obtain payment of a claim, a lender shall comply with the following deadlines:

(1) *Default claims.* Unless the lender has already filed suit against the borrower in accordance with § 682.507(f), it shall file a default claim on a loan with the Secretary within 90 days after default. For a claim filed pursuant to § 682.208, the lender shall file a claim within 90 days following transmission of the final demand letter sent pursuant to § 682.412(d), if the borrower failed to comply with the terms thereof within 30 days of such transmission.

(2) *Death, total and permanent disability, or bankruptcy claims.* The claim filing deadlines in § 682.402(e)(2) apply to the FISLP and the Federal PLUS Program. References to the "guarantee agency" in § 682.402(e)(2) mean the Secretary.

(3) *Special condition claims.* In the case of a special condition claim filed pursuant to § 682.509, the lender shall file a claim with the Secretary within 90 days of the date the lender determines that the conditions set forth in § 682.509(a)(1) exist, or the date the Secretary directs that the claim be filed pursuant to § 682.509(a)(2).

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1087);

(Approved by OMB under control number 1840–0538)

§ 682.512 Determination of amount of loss on a claim.

(a) *Default claims.*—(1) *Amount of loss.* The amount of loss to be paid on a default claim depends upon the date the Secretary received the application for a guarantee commitment on the loan. If the application was received—

(i) Prior to July 1, 1972, or from August 19, 1972 through February 28, 1973, the amount of loss to be paid on a valid claim is equal to the unpaid balance of the original principal loan amount disbursed; or

(ii) From July 1 through August 18, 1972, or after February 28, 1973, the amount of the loss to be paid on a valid claim is equal to the unpaid balance of the principal and interest in accordance with paragraph (a)(2) of this section. The unpaid principal amount of the loan may

include capitalized interest to the extent authorized by § 682.202.

(2) *Payment of interest.* If the guarantee covers unpaid interest, the payment of a valid claim covers the unpaid interest that accrues during the following periods:

(i) During the period before the claim is filed, not to exceed the period provided for in § 682.511(e) for filing the claim.

(ii) During a period not to exceed 30 days following the return of the claim to the lender by the Secretary for additional documentation necessary for the claim to be approved by the Secretary.

(iii) During the period, after the claim is filed, which is required by the Secretary to approve the claim and to authorize payment.

(b) *Death, total and permanent disability or bankruptcy claims.* (1) In the case of a death or disability claim, the amount of loss to be paid on a valid claim—

(i) Is equal to the unpaid balance of the original principal loan amount disbursed, if the loan was disbursed prior to December 15, 1968; or

(ii) Is calculated in accordance with § 682.402 (f)(2) and (f)(3) if the loan was disbursed after December 14, 1968.

(2) In the case of a bankruptcy claim, the amount of loss is calculated in accordance with § 682.402 (f)(2) and (f)(3).

(3) In § 682.402(f)(3) the "guarantee agency" means the Secretary.

(c) *Special rules for a loan acquired by assignment.* Except as provided in paragraph (d)(2) of this section, if a claim is filed by a lender that obtained a loan by assignment, that lender is not entitled to any payment under this section greater than that to which a previous holder would have been entitled. For example, the Secretary deducts from the claim any amounts that are attributable to payments made by the borrower to a prior holder of the loan before the borrower received proper notice of the assignment of the loan.

(d) *Special rules for loans made by a school lender.* (1) If the loan for which a claim is filed was made by a school and the claim is filed by the school, the Secretary deducts from the claim—

(i) An amount equal to any unpaid refund that the school owes the student to whom or on whose behalf the loan was made under § 682.606; or

(ii) An amount which bears the same ratio to the total amount of the claim as the amount of educational services that the student was unable to complete, because the school terminated its teaching activities during the period for which the loan was obtained, bears to the total educational services which the student would have received, during the period for which the loan was obtained, had the school not terminated its teaching activity.

(2) If the loan for which a claim is filed was originally made by a school, but the claim is filed by another lender that obtained the note by assignment, the Secretary deducts from the claim the amount determined—

(i) Under paragraph (d)(1)(i) of this section that was due the student prior to the assignment of the loan; or

(ii) Under paragraph (d)(1)(ii) of this section.

(e) *Special rule for loans originated by a school.* A loan that is originated by a school is treated, for purposes of paragraph (d) of this section, as if it were a loan made and still held by the school.

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1087)

§ 682.513 Factors affecting coverage of a loan under the loan guarantee.

(a)(1) In determining whether to approve for payment a claim against the Secretary's guarantee, the Secretary considers matters affecting the enforceability of the loan obligation, and whether the loan was made and administered in accordance with the Act and applicable regulations.

(2) The Secretary deducts from a claim any amount that is not a legally enforceable obligation of the borrower, except to the extent that the defense of infancy applies.

(3) Except as provided in § 682.509 the Secretary does not pay a claim unless—

(i) All holders of the loan have complied with the requirements of this part, including, but not limited to, those concerning due diligence in the making, servicing, and collecting of a loan;

(ii) The current holder has complied with the deadlines for filing a claim established in § 682.511(e); and

(iii) The current holder complies with the requirements for submitting documents with a claim as established in § 682.511(b).

(b) Except as provided in § 682.509, the Secretary does not pay a death, disability, or bankruptcy claim for a loan after a default claim for that loan has been disapproved by the Secretary or if it would not be payable as a default claim by the Secretary.

(c) The Secretary's determination of the amount of loss payable on a default claim under this part, once final, is conclusive and binding on the lender that filed the claim. (Note: A determination of the Secretary under this section is subject to judicial review under 5 U.S.C. 706 and 41 U.S.C. 321–322.)

(Authority: 20 U.S.C. 1078–2, 1079, 1080, 1082)

§ 682.514 Procedures for receipt or retention of payments where the lender has violated program requirements for FISLP or Federal PLUS Program loans.

(a) The Secretary may waive the right to recover or refuse to make an interest benefits, special allowance, or claim payment, or may permit a lender to cure certain defects in a specified manner if, in the Secretary's judgment, the best interests of the United States so require.

(b) To receive payment on a default claim or to resume eligibility to receive interest benefits and special allowance on a loan as to which a lender has committed a violation of the requirements of this part regarding due diligence in collection or timely filing of claims, the lender shall meet the conditions described in Appendix C to this Part.

(Authority: 20 U.S.C. 1078–2, 1080, 1082)

§ 682.515 Records, reports, and inspection requirements for FISLP and Federal PLUS Program lenders.

(a) *Records.* (1) A lender shall keep complete and accurate records of each loan that it holds, including but not limited to the records described in § 682.414(a)(3)(ii). The records must be organized in such a way as to permit ready identification of the current status of each loan.

(2) A lender shall retain the records required for each loan for not less than five years following the date the loan is repaid in full by the borrower or the lender is reimbursed on a claim. However, in particular cases the Secretary may require the retention of records beyond this minimum period.

(3)(i) The lender may store the records specified in § 682.414(a)(3)(ii)(C)–(K) on microfilm or computer format.

(ii) The holder of the promissory note shall retain the original note and repayment instrument until the loan is fully repaid. At that time the lender shall return the original note and repayment instrument to the borrower, and retain copies for the prescribed period.

(iii) The lender shall retain the original or a copy of the loan application.

(b) *Reports.* A lender shall submit reports to the Secretary at the time and in the manner that the Secretary may reasonably require.

(c) *Inspections.* Upon request, a lender or its agent shall afford the Secretary, the Comptroller General of the United States, and any of their authorized representatives, access to its records in

order to verify the accuracy of its reports or the lender's compliance with the Act and applicable regulations.

(Authority: 20 U.S.C. 1077, 1078, 1078-2, 1079, 1080, 1082)

(Reporting and recordkeeping requirements contained in paragraph (a) were approved by the Office of Management and Budget under control number 1840-0538)

Subpart F—Requirements, Standards, and Payments for Participating Schools

§ 682.600 Agreement between an eligible school and the Secretary for participation in the Guaranteed Student Loan and PLUS Programs.

(a) *General.* Participation of a school in the GSLP and the PLUS Program means that the school's students are eligible to receive GSLP and PLUS Program loans. To participate in the GSLP and the PLUS Program under either the FISLP, the Federal PLUS Program, or a guarantee agency program, a school shall—

(1) Establish its basic eligibility as an institution of higher education or a vocational school as defined in 34 CFR Part 668 through certification by the Secretary; and

(2) Enter into a written program participation agreement with the Secretary that is signed by an appropriate official of the school on a form approved by the Secretary.

(b) *Program participation agreement.* The school, in the program participation agreement, promises to comply with the applicable provisions of—

(1) The Act and the regulations in this part; and

(2) The Student Assistance General Provisions, 34 CFR Part 668.

(c) *Appeal of denial or limitations.* (1) If the Secretary denies a request for an agreement or approves only limited participation in the GSLP or the PLUS Program by a school—

(i) The reason for the decision is included in the Secretary's response to the request; and

(ii) The Secretary provides an opportunity for the school to meet with a designated Department official to appeal that decision.

(2) The Secretary does not, however, grant an opportunity for appeal, or give reasons for denying the participation or approving only the limited participation of a school, if the school submits its request within six months of a previous denial or limited approval.

(d) *Foreign schools.* A foreign school is required to comply with the provisions of the regulations in this part only to the extent determined by the Secretary.

(Authority: 20 U.S.C. 1078-2, 1082, 1094)

§ 682.601 Agreement between the Secretary and a school that makes or originates loans.

(a) *General.* A school must have an agreement with the Secretary in order to make or originate loans under either the GSLP or the PLUS Program.

(b) *Contents of the agreement.* An agreement to allow a school either to make or to originate loans must contain the following terms:

(1) The school will not make or originate loans which would be outstanding to or on behalf of more than 50 percent of its undergraduates in attendance at that school on at least a half-time basis, unless the Secretary waives this rule pursuant to paragraph (d) of this section.

(2) The school will inform any undergraduate student, who has not previously obtained a loan that was made or originated by the school and who seeks to obtain that loan, that he or she must first make a good faith effort to obtain a loan from a commercial lender.

(3)(i) The school will not make or originate a loan for an academic period to a student described in paragraph (b)(2) of this section until the student provides the school with evidence under paragraph (c) of this section of denial of a loan by a commercial lender for the same academic period.

(ii) In determining whether a school has complied with the requirement set forth in paragraph (b)(3)(i) of this section, the Secretary may take into consideration any patterns reflected by the letters of denial or the students' sworn statements referred to in paragraph (c) of this section that indicate that the school has not given sufficient counseling to students to seek loans from a commercial lender first. An example of an unacceptable pattern would be if all denials of loans to a school's students were made by a small number of lenders.

(4) The school will not make or originate a loan for an academic year in excess of the lesser of $2,500 or half the estimated cost of attendance to a student who—

(i) Is in the first academic year of study as an undergraduate; and

(ii) Was not previously enrolled in an undergraduate program.

(c) *Establishing a loan denial by a commercial lender.* (1) To verify that a borrower has sought and been denied a loan from a commercial lender, pursuant to paragraph (b)(3) of this section, the school shall obtain from the borrower—

(i) A written statement from a commercial lender indicating that the lender denied the borrower a loan for that academic period; or

(ii) The borrower's sworn statement, indicating both the refusal of a loan by a commercial lender and the lender's refusal to provide a written statement of the denial.

(2) If the borrower's statement is used to establish the denial of a loan, the statement must include—

(i) The name and address of the lender that denied the loan;

(ii) The approximate date on which the loan was denied;

(iii) The name and telephone number of the official who communicated the denial to the borrower; and

(iv) The borrower's signature.

(3) If the school determines that the denial of a loan to an eligible borrower by a commercial lender is based upon the lender's refusal to lend more than a part of the amount requested by the borrower, the school may either—

(i) Make or originate a loan to the borrower for the entire amount; or

(ii) Supplement the loan that the commercial lender is willing to make with a second loan to the borrower.

(d) *Waiver of the 50 percent lending limit.* A school may request the Secretary to waive the 50 percent lending limit described in paragraph (b)(1) of this section if adherence to that limit would create a substantial hardship for the school's present or prospective students. The Secretary determines whether to grant the school a waiver after considering—

(1) The extent to which the school provides, and expects to continue providing, educational opportunities to economically disadvantaged students, as measured by the percentage of those students enrolled at the school who—

(i) Are in families that fall within the "low-income family" category used by the Bureau of the Census;

(ii) Would not be able to enroll, or continue their enrollment, at that school without GSLP or PLUS Program loans made or originated by the school; and

(iii) Would not be able to obtain a comparable education at another school;

(2) The extent to which the school offers academic programs that—

(i) Are unique in the geographical area the school serves; and

(ii) Would not be available to some students if the school adhered to the 50 percent lending limit; and

(3) The quality of the school's—

(i) Management of student financial assistance programs; and

(ii) Conformance with sound business practices.

(Authority: 20 U.S.C. 1075, 1078, 1078-2, 1082, 1083)

(Reporting and recordkeeping requirements contained in paragraph (c) were approved by the Office of Management and Budget under control number 1840–0538)

§ 682.602 Correspondence school schedule requirements.

(a) A school offering a course of study by correspondence shall establish a schedule for submission of lessons by its students, which must be given to a prospective student prior to that student's enrollment.

(b) The school shall include in its schedule—

(1) The number of lessons in the course;

(2) The intervals at which lessons are to be submitted;

(3) The date by which the course is to be completed; and

(4) The period of time within which any resident training must be completed.

(c) The school's schedule must conform to the requirements set forth in paragraph (b) of the definition of "vocational school" in 34 CFR 668.4.

(Authority: 20 U.S.C. 1078–2, 1082)

(Reporting and recordkeeping requirements contained in paragraph (a) were approved by the Office of Management and Budget under control number 1840–0538)

§ 682.603 Certification by a participating school in connection with a loan application.

(a) A school shall certify that the information it provides in connection with a loan application about the borrower and, in the case of a parent borrower, the student for whom the loan is intended, is complete and accurate. Except as provided in 34 CFR Part 668 Subpart E, a school may rely in good faith upon statements made on the application by the student.

(b) The information to be provided by the school about the borrower making application for the loan pertains to—

(1) The borrower's eligibility for a loan as determined in accordance with § 682.201;

(2) The student's estimated cost of attendance for the period for which the loan is sought;

(3) The student's estimated financial assistance for the period for which the loan is sought; and

(4) For a GSLP loan, the student's eligibility for interest benefits, as determined in accordance with § 682.301.

(Authority: 20 U.S.C. 1077, 1078, 1078–2, 1082, 1085, 1094)

(Reporting and recordkeeping requirements contained in paragraph (b) were approved by the Office of Management and Budget under control number 1840–0538)

§ 682.604 The borrower's loan proceeds.

(a) *Purpose.* This section establishes rules governing a school's processing of a borrower's loan proceeds. The school shall also comply with any rules for processing a loan contained in 34 CFR Part 668.

(b) *General.* (1) Except in the case of a PLUS Program loan to a parent borrower, GSLP or PLUS Program loan proceeds are sent directly to the school by the lender.

(2) Except in the case of a late disbursement under paragraph (e) of this section, a school may release the proceeds of a loan made under this part only to a student who the school determines, after it receives the proceeds of the loan from the lender, has maintained eligibility in accordance with the provisions of § 682.201.

(c) *Processing of the loan proceeds by the school.* (1) Except as provided in paragraph (d)(3) of this section, when a school receives a borrower's loan proceeds, it shall hold the funds until the student has registered for classes for the period of enrollment for which the loan is intended, and then follow the procedures in paragraph (c)(2) of this section.

(2)(i) After the student has registered, if the loan proceeds are disbursed by means of a check which requires the endorsement only of the student, the school shall promptly deliver the check to the student in accordance with paragraph (d)(2) of this section.

(ii) If the loan proceeds are disbursed by means of a check which requires the endorsement of both the student and the school, the school shall—

(A) Endorse the check on its own behalf and, after the student has registered, promptly deliver it to the student in accordance with paragraph (d)(2) of this section; or

(B) Obtain the student's endorsement on the check, endorse the check on its own behalf and, after the student has registered, credit the student's account, in accordance with paragraph (d)(1) of this section, and deliver the remaining loan proceeds to the student in accordance with paragraph (d)(2) of this section.

(3) If the loan proceeds are disbursed by electronic transfer to an account of the school on behalf of a borrower in accordance with § 682.207(b)(1)(ii)(B), the school shall, not more than 30 days prior to the first day of classes of the period of enrollment for which the loan is intended, obtain the student's written authorization for the release of the funds, and, after the student has registered, either—

(i) Deliver the proceeds to the student in accordance with paragraph (d)(1) of this section; or

(ii) Credit the student's account in accordance with paragraph (d)(1) of this section and deliver the remaining loan proceeds to the student in accordance with paragraph (d)(2) of this section.

(4) A school may not release the proceeds of a loan made under this part to a borrower for whom a financial aid transcript is required under 34 CFR Part 668 and has not been received, except as permitted by Part 668. If a required financial aid transcript has not been received for a borrower for whom the school has received the proceeds of a GSLP or PLUS Program loan within 45 days of that receipt, and release of the proceeds to the borrower is therefore prohibited by 34 CFR Part 668, the school shall immediately return the loan proceeds to the lender.

(d) *Applying the loan proceeds.* (1)(i) For purposes of paragraphs (c)(2)(ii)(B) and (c)(3)(ii) of this section, the earliest an institution may credit a registered student's account is three weeks before the first day of classes of the period of enrollment for which the loan is intended.

(ii) The school may credit a registered student's account with only those loan proceeds covering costs of attendance owed to the school by the student for which substantially all of the school's students incurring those costs have been billed, and any additional loan proceeds that the student requests in writing that the school retain in order to assist the student in managing his or her loan funds for the remainder of the academic year.

(2) For purposes of paragraphs (c)(2)(i), (c)(2)(ii)(A), and (c)(3) of this section, the earliest an institution may deliver loan proceeds to a registered student is 10 days before the first day of classes of the period of enrollment for which the loan is intended.

(3) If the school determines that the student has not registered, the school shall return the loan proceeds to the lender within 30 days of this determination.

(4) If a registered student withdraws or is expelled prior to the first day of classes of the period of enrollment for which the loan is intended, or if the school is unable to document that the student attended class during that period, the school shall return to the lender—

(i) Any loan proceeds credited directly by the school to the student's account; and

(ii) Any loan proceeds delivered to the student and subsequently paid by the student to the school.

(e) *Processing a late disbursement.* (1) For the purpose of this paragraph, a disbursement is late if the school receives the student's loan proceeds from the lender either—

(i) After the end of the period of attendance for which the loan was made (*i.e.*, after the expiration date of the guarantee commitment); or

(ii) Before the end of the academic period for which the loan was made, but after the student ceased to be enrolled at the school on at least a half-time basis.

(2) If a late disbursement is accompanied by a notice from the lender that the late disbursement has been approved by the guarantor under § 682.207(d), the school shall follow the procedure described in paragraph (c)(2) of this section.

(3) If a late disbursement is not accompanied by the notice described in paragraph (e)(2) of this section, the school shall—

(i) Return the loan proceeds to the lender within 30 days of its determination that one of the conditions described in paragraph (e)(1) of this section exists;

(ii) Send with the loan proceeds—

(A) A notice that one of the conditions described in paragraph (e)(1) of this section exists; and

(B) If applicable, information concerning the student's date of withdrawal and costs of attendance owed the school for the period in which the student was enrolled on at least a half-time basis; and

(iii) Advise the student that the lender may, in accordance with the procedures in § 682.207(c), redisburse funds for the student's costs of attendance incurred before the existence of one of the conditions described in paragraph (e)(1) of this section.

(Authority: 20 U.S.C. 1078, 1078–2, 1082)

(Reporting and recordkeeping requirements contained in paragraph (e) were approved by the Office of Management and Budget under control number 1840–0538)

§ 682.605 Determining the date of a student's withdrawal.

(a) *Purpose.* This section establishes rules for how a school shall determine the date on which a student to whom or on whose behalf a loan has been made under this part withdraws from the school, for the purpose of calculating the amount of a refund due the student from the school and reporting to the lender that the student has withdrawn.

(b) *The withdrawal date.* (1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, the student's withdrawal date is the earlier of—

(i) The date the student notifies the school of the student's withdrawal, or the date of withdrawal specified by the student, whichever is later; or

(ii) The date of withdrawal, as determined by the school.

(2) If the student has not returned to school at the expiration of a leave of absence approved under paragraph (c) of this section, the student's withdrawal date is the date of the first day of the leave of absence.

(3) If the student is enrolled in a program of study by correspondence, the student's withdrawal date is normally 60 days after the due date of a required lesson that the student failed to submit in accordance with the schedule for lessons established under § 682.602. However, if the student establishes in writing, within the 60-day period, a desire to continue in the program and an understanding that the required lessons must be submitted on time, the school may restore that student to in-school status for purposes of the loan made under this part. The school shall not grant the student more than one restoration to in-school status on this basis.

(4) For the purpose of a school's reporting to a lender, a student's withdrawal date is the month and year of the withdrawal date determined under paragraphs (b)(1)–(b)(3) of this section.

(c) *Leaves of absence.* A student who has been absent from school and has been granted a leave of absence by a school, in accordance with this paragraph, is not considered to have withdrawn from school for purposes of this section. In any twelve-month period, a school may grant no more than a single leave of absence to a student, provided that—

(1) The student has made a written request to be granted a leave of absence;

(2) The leave of absence involves no additional charges by the school to the student; and

(3) The leave of absence does not exceed—

(i) Sixty days; or

(ii) Six months, under either of the following circumstances:

(A) The school is not a correspondence school and the school's next period of enrollment after the start of the leave of absence would begin more than 60 days after the first day of the leave of absence.

(B) The leave of absence is requested because of the student's medically determinable condition, in which case the student must provide the school with a written recommendation from a physician for a leave of absence longer than 60 days.

(Authority: 20 U.S.C. 1078–2, 1082, 1094)

§ 682.606 Refund policy.

(a) *General.* (1) A school shall have a fair and equitable refund policy under which the school shall make a refund of unearned tuition, fees, and room and board charges to a student who received a GSLP or PLUS Program loan, or whose parent received a PLUS Program loan on behalf of the student, if the student—

(i) Does not register for the period of attendance for which the loan was intended; or

(ii) Withdraws or otherwise fails to complete the period of enrollment for which the loan was made.

(2) The school shall provide a written statement containing its refund policy to a prospective student prior to the student's enrollment, and shall make its policy known to currently enrolled students. The school shall include in its statement the procedures that a student must follow to obtain a refund. If the school changes its refund policy, it shall ensure that all students are made aware of the new policy.

(b) *Fair and equitable refund policy.* A school's refund policy is fair and equitable if that policy conforms with—

(1) The requirements of applicable State law; and

(2)(i) Specific refund standards established by the school's nationally recognized accrediting agency and approved by the Secretary; or

(ii) If no such standards exist, the specific refund policy standards contained in Appendix A to this part, or the refund policy standards set by another association of institutions of postsecondary education and approved by the Secretary.

(Authority: 20 U.S.C. 1078–2, 1082, 1094)

§ 682.607 Payment of a refund to a lender.

(a) *General.* By applying for a GSLP or PLUS Program loan, a borrower authorizes the school to pay directly to the lender that portion of a refund from the school that is allocable to the loan. A school—

(1) Shall pay that portion of the student's refund that is allocable to a GSLP or PLUS Program loan to—

(i) The original lender; or

(ii) A subsequent holder, if the loan has been transferred and the school knows the new holder's identity; and

(2) Shall provide simultaneous written notice to the borrower and, if the borrower is a parent, to the student on whose behalf the loan was made, when

the school pays a refund to a lender on behalf of that student.

(b) *Allocation of refund.* In determining what portion of a student's refund for an academic period is allocable to a loan received by the borrower for the same academic period, the school shall follow the procedures established in 34 CFR Part 668.

(c) *Timely payment.* A school shall pay each refund that is due—

(1) Within 30 days after the date of the student's withdrawal from the school, as determined in accordance with § 8682.605(b)(1)–(b)(3); or

(2) In the case of a student who does not return to school at the expiration of an approved leave of absence under § 682.605(c), within 30 days after the last day of that leave of absence.

(d) *Transition requirements.* In the event of a school's closure, termination, suspension of operations, or change in ownership, the school or its successors shall make provisions for compliance with the requirements of this section with regard to students who obtained, or on whose behalf parents obtained, loans for periods of attendance at the school that began prior to the school's change in status.

(Authority: 20 U.S.C. 1078–2, 1082, 1094)

§ 682.608 Termination of a school's lending eligibility.

(a) *General.* The Secretary terminates a school's eligibility to make loans under this part, if the school reaches the 15 percent limit on loan defaults described in paragraph (b) of this section.

(b) *The 15 percent limit.* (1) The Secretary terminates a school's eligibility to make loans if, at the end of each of the two most recent consecutive fiscal years for which data are available, the total amount of loans described in paragraph (b)(1)(i) of this section is equal to or greater than 15 percent of the total amount of loans described in paragraph (b)(1)(ii) of this section:

(i) The original principal amount of all loans the school has ever made that went into default during that period.

(ii) The original principal amount of all loans the school has ever made, including loans in deferment status that—

(A) Were in repayment status at the beginning of that period; or

(B) Entered repayment status during that period.

(2) In making the determination under this section, the Secretary considers the status of all GSLP and PLUS-Program loans made by the school, whether the loans are held by the school or by a subsequent holder.

(c) *Exception based on hardship.* The Secretary does not terminate a school's lending eligibility under paragraphs (a) and (b) of this section if the Secretary determines that the termination would result in a hardship for the school or its students. The Secretary makes this determination if the school shows that—

(1) Termination is not justified in light of recent improvements the school has made in its collection capabilities that will cause the school's loan delinquency rate to improve within the next year. Examples of these improvements include—

(i) Adopting more efficient collection procedures; or

(ii) Employing increased collection staff; or

(2) Termination would cause a substantial hardship to the school's current or prospective students or their parents based on—

(i) The extent to which the school provides, and expects to continue to provide, educational opportunities to economically disadvantaged students, as measured by the percentage of students enrolled at the school who—

(A) Are in families that fall within the "low-income family" category used by the Bureau of the Census;

(B) Would not be able to enroll, or continue their enrollment, at that school without a loan from the school; and

(C) Would not be able to obtain a comparable education at another school;

(ii) The extent to which the school offers academic programs that—

(A) Are unique in the geographical area that the school serves; and

(B) Would not be available to some students if they or their parents could not obtain loans from the school; and

(iii) The quality of improvements the school has made in its—

(A) Management of student financial assistance programs; and

(B) Conformance with sound business practices.

(d) *Termination procedures.* (1) The Secretary does not terminate the lending eligibility of a school under this section until the school has been notified of the impending action and has had an opportunity for a hearing.

(2) The Secretary or a Department of Education official designated by the Secretary begins a termination action by sending a notice to the school. The notice is sent by certified mail with return receipt requested. The notice—

(i) Informs the school of the intent to terminate the school's lending eligibility because of the school's default experience;

(ii) Specifies the proposed effective date of the termination as the following October 1; and

(iii) Informs the school that it has 15 days to—

(A) Submit any written material it wants considered in determining whether its lending eligibility should be terminated under paragraphs (a) and (b) of this section, including written material in support of a hardship exception under paragraph (c) of this section; or

(B) Request a hearing to show why the school's lending eligibility should not be terminated.

(3) If the school does not request a hearing but submits written material, the Secretary or the designated official considers that material and notifies the school as to whether the termination action will be taken.

(4) The Secretary or the designated official (presiding officer) schedules the date and place of a hearing for a school that has requested a hearing. The date of the hearing is at least 15 days from the date of receipt of the request. The presiding officer—

(i) Conducts the hearing;

(ii) Considers all written material presented before the hearing and any other material presented during the hearing; and

(iii) Determines if termination of the school's lending eligibility is warranted.

(5) The decision of the presiding officer, in the event that the school has submitted written material but has not requested a hearing, is subject to review by the Secretary.

(e) *Effects of termination.* A school that has its lending eligibility terminated under this section may not—

(1) Make further loans under this part unless it has entered into a new lending agreement with the Secretary under § 682.601; or

(2) Enter into a new guarantee agreement with the Secretary until at least one year after the school's lending eligibility has been terminated under this section.

(f) *Schools under the same ownership.* If a school makes a loan to students or parents of students in attendance at other schools under the same ownership, the Secretary may make the determinations required by this section by—

(1) Treating all of the schools as one school; or

(2) Treating each school on an individual basis.

(Authority: 20 U.S.C. 1078–2, 1082, 1085)

§ 682.609 Remedial actions.

(a) The Secretary requires a school to repay to the Secretary funds paid by the Secretary to other program participants if the Secretary determines that the

payment resulted, in whole or in part, from—

(1) The school's violation of a Federal statute or regulation; or

(2) The school's negligent or willful false certification.

(b) The Secretary's decision to require repayment of funds by a school, to withhold funds from a school, or to limit, suspend or terminate a school's GSL or PLUS Program participation, does not become final until the Secretary provides the school with written notice of the intended action and an opportunity to be heard. However, the Secretary may withhold payments from a school or suspend an agreement with a school prior to giving notice and an opportunity to be heard if the Secretary finds that emergency action necessary to prevent substantial harm to the Federal interest.

(c) Notwithstanding paragraph (a) of this section, the Secretary may waive the right to require repayment of funds by a school if, in the Secretary's judgment, the best interest of the United States so requires.

(d) Once final, the Secretary's decision to require repayment of funds or to take other remedial action against a school under this section is conclusive and binding on the school. (Note: A decision by the Secretary under this section is subject to judicial review under 5 U.S.C. 706 and 41 U.S.C. 321–322.)

(Authority: 20 U.S.C. 1078–2, 1082, 1094)

§ 682.610 Records, reports, and inspection requirements for participating schools.

(a) *General.* Each school shall—

(1) Establish and maintain proper administrative and fiscal procedures and all necessary records as set forth in the regulations in this part and in 34 CFR Part 668 in order to—

(i) Protect the rights of students and parent borrowers;

(ii) Protect the United States from unreasonable risk of loss; and

(iii) Comply with any specific requirements in those regulations; and

(2) Submit all reports required by this part and 34 CFR Part 668 to the Secretary.

(b) *Loan record requirements.* In addition to records required by 34 CFR Part 668, for each loan received under this part by or on behalf of its students, a school shall maintain a copy of the loan application and a record of—

(1) The name of the lender;

(2) The address of the lender;

(3) The amount of the loan and the period of attendance for which the loan was intended;

(4) The data used to construct an individual student budget or the school's itemized standard budget used in calculating the student's estimated cost of attendance;

(5) The amount of the student's tuition and fees paid for the loan period and the date the student paid the tuition and fees;

(6) In the case of a GSLP loan for which the borrower applies for interest benefits under § 682.301, the data used to determine the student's adjusted gross family income and the student's expected family contribution, and the corresponding certification by the school to the lender;

(7) In the case of a GSLP loan—

(i) The date the school received each loan disbursement and the amount of that disbursement;

(ii) The date the school endorsed each loan check; and

(iii) The date or dates of transmittal of the loan proceeds by the school to the student; and

(8) A record of the student's job placement, if known.

(c) *Student status reports.* A school shall—

(1) Upon receipt of a student confirmation report form from the Secretary or a similar status confirmation report form from any guarantee agency, complete and return, within 30 days of receipt, that report to the Secretary or the guarantee agency, as appropriate; and

(2) Promptly notify the lender—

(i) When the school discovers that a student who has received a GSLP loan has ceased to be enrolled on at least a half-time basis and it does not expect to submit, within the next 60 days, its next student confirmation report to the Secretary or the guarantee agency;

(ii) When the school discovers that a PLUS Program loan has been made to or on behalf of a student who has been accepted for enrollment at that school but who fails to enroll on at least a half-time basis for the period for which the loan was intended; or

(iii) When the school discovers that a full-time student to whom a PLUS Program loan was made has ceased to be enrolled on a full-time basis.

(d) *Record-retention requirements.* Unless otherwise directed by the Secretary, the school or its successors—

(1) Shall keep all records required under the regulations in this part for five years following the last day of the period for which the loan was intended;

(2) Shall keep for five years after their completion copies of reports and other forms used by the school relating to the GSLP or the PLUS Program;

(3) Shall provide, in the event of the school's closure, termination, suspension, or change of ownership, for the retention of the records and reports required by the regulations in this part and for access by the Secretary or his authorized representatives to those records and reports; and

(4) May keep records and copies of reports on microfilm or in computer format.

(e) *Inspection requirements.* Upon request, a school shall afford the Secretary, a guarantee agency, and any of their authorized representatives, access to its records in order to verify the accuracy of its reports or the school's compliance with the Act and applicable regulations.

(Authority: 20 U.S.C. 1078–2, 1082, 1094)

(Reporting and recordkeeping requirements contained in paragraph (b) were approved by the Office of Management and Budget under control number 1840–0538)

Subpart G—Limitation, Suspension, or Termination of Lender Eligibility Under the Guaranteed Student Loan Program and the PLUS Program

§ 682.700 Purpose and scope.

(a) This subpart governs the limitation, suspension, or termination of the eligibility of an otherwise eligible lender to participate in the GSLP and the PLUS Program. The regulations in this subpart apply to a lender that violates any statutory provision governing the GSLP or the PLUS Program or any regulations, special arrangements, agreements, or limitations prescribed under the GSLP or the PLUS Program. These regulations apply to lenders that participate in a guarantee agency program as well as lenders that participate in the FISLP or the Federal PLUS Program.

(b) This subpart does not apply—

(1) To a determination that an organization fails to meet the definition of "eligible lender" in § 435(g)(1) of the Act or the definition of "lender" in § 682.200;

(2) To a school's loss of lending eligibility under § 682.608; or

(3) To an administrative action by the Department of Education based on any alleged violation of—

(i) The Family Educational Rights and Privacy Act of 1974 (Section 438 of the General Education Provisions Act), which is governed by 34 CFR Part 99;

(ii) Title VI of the Civil Rights Act of 1964, which is governed by 34 CFR Parts 100 and 101;

(iii) Section 504 of the Rehabilitation Act of 1973 (relating to discrimination on

the basis of handicap), which is governed by 34 CFR Part 104; or

(iv) Title IX of the Education Amendments of 1972 (relating to sex discrimination), which is governed by 34 CFR Part 106.

(c) This subpart does not supplant any rights or remedies that the Secretary may have against participating lenders under other authorities.

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.701 Definitions of terms used in this subpart.

The following dcfinitions are used in this subpart:

Designated Departmental official: An official of the Department of Education to whom the Secretary has delegated the responsibility for initiating and pursuing limitation, suspension, or termination proceedings.

Limitation: The continuation of a lender's eligibility subject to compliance with special conditions established by the Secretary as the result of a limitation or termination proceeding.

Suspension: The removal of a lender's eligibility for a specified period of time or until the lender fulfills certain requirements.

Termination: The removal of a lender's eligibility for an indefinite period of time.

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.702 Effect on participation.

(a) Limitation, suspension, or termination proceedings do not affect a lender's responsibilities, or rights to benefits and claim payments, that are based on the lender's prior participation in the program, except as provided in paragraph (c) of this section and in § 682.709.

(b) Effect of limitation: A limitation imposes on a lender—

(1) A limit on the number of total amount of GSLP or PLUS Program loans that a lender may make, purchase, or hold;

(2) A limit on the number of total amount of GSLP or PLUS Program loans a lender may make to, or on behalf of, students at a particular school; or

(3) Other reasonable requirements or conditions, including those described in § 682.709.

(c) Effect of termination: After the effective date of the termination of a lender's eligibility, the Secretary does not guarantee new loans made by that lender or pay interest benefits, special allowance, or reinsurance on new loans guaranteed by a guarantee agency after that date. The Secretary may also prohibit the lender from making further disbursements on a loan for which a guarantee commitment has already been issued.

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.703 Informal compliance procedure.

(a) The Secretary may use the informal compliance procedure in paragraph (b) of this section if the Secretary receives a complaint or other reliable information indicating that a lender may be in violation of applicable laws, regulations, special arrangements, agreements, or limitations.

(b) Under the informal compliance procedure, the Secretary gives the lender a reasonable opportunity to—

(1) Respond to the complaint or information; and

(2) Show that the violation has been corrected or submit an acceptable plan for correcting the violation and preventing its recurrence.

(c) The Secretary does not delay limitation, suspension, or termination procedures during the informal compliance procedure if—

(1) The delay would harm the GSLP or the PLUS Program; or

(2) The informal compliance procedure will not result in correction of the alleged violation.

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.704 Emergency action.

(a) The Secretary, or a designated Departmental official, may take emergency action to stop the issuance of guarantee commitments and the payment of interest benefits and special allowance to a lender if the Secretary—

(1) Receives reliable information that the lender is in violation of applicable laws, regulations, special arrangements, agreements, or limitations;

(2) Determines that immediate action is necessary to prevent the likelihood of substantial losses by the Federal Government, parents, or students; and

(3) Determines that the likelihood of loss exceeds the importance of following the procedures for limitation, suspension, or termination.

(b) The Secretary begins an emergency action by notifying the lender, by certified mail with return receipt requested, of the action and the basis for the action.

(c) The effective date of the action is the date the notice is mailed to the lender.

(d)(1) An emergency action does not exceed 30 days unless a limitation, suspension, or termination proceeding is begun before that time expires.

(2) If a limitation, suspension, or termination proceeding is begun before the expiration of the 30-day period—

(i) The emergency action may be extended until completion of the proceeding, including any appeal to the Secretary; and

(ii) The Secretary provides, upon the request of the lender, an opportunity for the lender to demonstrate that the emergency action is unwarranted.

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.705 Suspension proceedings.

(a) *Scope.* (1) A suspension removes a lender's eligibility under the GSLP and the PLUS Program, and the Secretary does not guarantee or reinsure a new loan made by the lender during a period not to exceed 60 days from the effective date of the suspension, unless—

(i) The lender and the Secretary agree to an extension of the suspension period, if the lender has not requested a hearing; or

(ii) The Secretary begins a limitation or a termination proceeding.

(2) If the Secretary begins a limitation or a termination proceeding before the suspension period ends, the Secretary may extend the suspension period until the completion of that proceeding, including any appeal to the Secretary.

(b) *Notice.* (1) The Secretary, or a designated Departmental official, begins a suspension proceeding by sending the lender a notice by certified mail with return receipt requested.

(2) The notice—

(i) Informs the lender of the Secretary's intent to suspend the lender's eligibility for a period not to exceed 60 days;

(ii) Describes the consequences of a suspension;

(iii) Identifies the alleged violations on which the proposed suspension is based;

(iv) States the proposed effective date of the suspension, which is at least 20 days after the date of mailing of the notice;

(v) Informs the lender that the suspension will not take effect on the proposed effective date if the Secretary receives, at least five days prior to that date, a request for a hearing or written material showing why the suspension should not take effect; and

(vi) Asks the lender to correct any alleged violations voluntarily.

(c) *Hearing.* (1) If the lender does not request a hearing but submits written material, the Secretary, or a designated Departmental official, considers the material and—

(i) Dismisses the proposed suspension; or

(ii) Notifies the lender of the effective date of the suspension.

(2) If the lender requests a hearing within the time specified in paragraph (b)(2)(v) of this section, the Secretary schedules the date and place of the

hearing. The date is at least 15 days after receipt of the request from the lender. No proposed suspension takes effect until a hearing is held.

(3) The hearing is conducted by a presiding officer who—

(i) Ensures that a written record of the hearing is made;

(ii) Considers relevant written material presented before the hearing and other relevant evidence presented during the hearing; and

(iii) Issues a decision, based on findings of fact and conclusions of law, that may suspend the lender's eligibility only if the presiding officer is persuaded that the suspension is warranted by the evidence.

(4) The formal rules of evidence do not apply, and no discovery, as provided in the Federal Rules of Civil Procedure, is required.

(5) The presiding officer shall base findings of fact only on evidence considered at or before the hearing and matters given official notice.

(6) The initial decision of the presiding officer is mailed to the lender.

(7) The Secretary reviews the decision of the presiding officer. The Secretary affirms a decision of the presiding officer imposing a suspension unless it is clearly unsupported by the evidence. The Secretary affirms a decision declining to impose a suspension if the Secretary believes suspension is not warranted by the evidence. The Secretary notifies the lender of the Secretary's decision by mail.

(8) A suspension takes effect on either the date that the notice of a decision imposing the suspension is mailed to the lender, or on the original proposed effective date started in the notice sent under paragraph (b) of this section, whichever is later.

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.706 Limitation or termination proceedings.

(a) *Notice.* (1) The Secretary, or a designated Departmental official, begins a limitation or termination proceeding, whether or not a suspension proceeding has begun, by sending the lender a notice by certified mail with return receipt requested.

(2) The notice—

(i) Informs the lender of the Secretary's intent to limit or terminate the lender's eligibility;

(ii) Describes the consequences of a limitation or termination;

(iii) Identifies the alleged violations on which the proposed limitation or termination is based;

(iv) States the limits which may be imposed, in the case of a limitation proceeding;

(v) States the proposed effective date of the limitation or termination, which is at least 20 days after the date of mailing of the notice;

(vi) Informs the lender that the limitation or termination will not take effect on the proposed effective date if the Secretary receives, at least five days prior to that date, a request for a hearing or written material showing why the limitation or termination should not take effect; and

(vii) Asks the lender to voluntarily correct any alleged violations.

(b) *Hearing.* (1) If the lender does not request a hearing but submits written material, the Secretary, or a designated Departmental official, considers the material and—

(i) Dismisses the proposed limitation or termination; or

(ii) Notifies the lender of the effective date of the limitation or termination.

(2) If the lender requests a hearing within the time specified in paragraph (a)(2)(vi) of this section, the Secretary schedules the date and place of the hearing. The date is at least 15 days after receipt of the request from the lender. No proposed limitation or termination takes effect until a hearing is held.

(3) The hearing is conducted by a presiding officer who—

(i) Ensures that a written record of the hearing is made;

(ii) Considers relevant written material presented before the hearing and other relevant evidence presented during the hearing; and

(iii) Issues an initial decision, based on findings of fact and conclusions of law, that may limit or terminate the lender's eligibility if the presiding officer is persuaded that the limitation or termination is warranted by the evidence.

(4) The formal rules of evidence do not apply, and no discovery, as provided in the Federal Rules of Civil Procedure, is required.

(5) The presiding officer shall base findings of fact only on evidence considered at the hearing and matters given official notice.

(6) If a termination action is brought against a lender, and the presiding officer concludes that a limitation is more appropriate, the presiding officer may issue a decision imposing one or more limitations on a lender rather than terminating the lender's eligibility.

(7) The initial decision of the presiding officer is mailed to the lender.

(8) Any time-schedule specified in this section may be shortened with the approval of the presiding officer and the consent of the lender and the Secretary or designated Department official.

(9) The presiding officer's initial decision automatically becomes the Secretary's final decision 20 days after it is issued, unless the lender or designated Department official appeals the decision to the Secretary within this period.

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.707 Appeals in a limitation or termination proceeding.

(a) If the lender or designated Departmental official appeals the initial decision of the presiding officer in accordance with § 682.706(b)(9), the Secretary—

(1) Sets a time period for the appealing party to submit additional written material, including exceptions to the initial decision, proposed findings and conclusions, and supporting briefs and statements;

(2) Sets a time by which the opposing party must respond; and

(3) Issues a final decision affirming, modifying, or reversing the initial decision, including a statement of the reasons for the Secretary's decision.

(b) Any party submitting material to the Secretary must provide a copy to each party that participates in the hearing.

(c) If the presiding officer's initial decision would limit or terminate the lender's eligibility, it does not take effect pending the appeal, unless the Secretary determines that a stay of the effective date would seriously and adversely affect the GSLP, the PLUS Program, students, or parents.

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.708 Evidence of mailing and receipt dates.

(a) All mailing dates and receipt dates referred to in this subpart are evidenced by the original receipts from the U.S. Postal Service.

(b) If a lender refuses to accept a notice mailed under this subpart, the Secretary considers the notice as being received on the date that the lender refuses to accept the notice.

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.709 Reimbursements, refunds, and offsets.

(a) As part of a limitation or termination proceeding, the Secretary, or a designated Departmental official, may require a lender to take reasonable corrective action to remedy a violation of applicable laws, regulations, special arrangements, agreements, or limitations.

(b) The corrective action may include payment to the Secretary or recipients designated by the Secretary of any

funds, and any interest thereon, that the lender improperly received, withheld, disbursed, or caused to be disbursed.

(c) If a final decision requires a lender to reimburse or make any payment to the Secretary, the Secretary may offset the amount due against any interest benefits, special allowance, or other payments due to the lender.

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.710 Removal of limitation.

(a) A lender may request removal of a limitation imposed in accordance with the regulations in this subpart at any time more than 12 months after the effective date of the limitation.

(b) The request must be in writing and must show that the lender has corrected any violations on which the limitation was based.

(c) Within 60 days after receiving the request, the Secretary—

(1) Grants the request;

(2) Denies the request; or

(3) Grants the request subject to other limitations.

(d)(1) If the Secretary denies the request or establishes other limitations, the lender, upon request, is given an opportunity to show why all limitations should be removed.

(2) A lender may continue to participate in the GSLP and the PLUS Program, subject to any limitation imposed by the Secretary under paragraph (c)(3) of this section, pending a decision by the Secretary on a request under paragraph (d)(1) of this section.

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1094)

§ 682.711 Reinstatement after termination.

(a) A lender whose eligibility has been terminated by the Secretary in accordance with the regulations in this subpart may request reinstatement of its eligibility at any time more than 18 months after the effective date of the termination.

(b) The request must be in writing and must show that—

(1) The lender has corrected any violations on which the termination was based; and

(2) The lender meets all requirements for eligibility.

(c) A school lender whose eligibility as a participating school has been terminated under 34 CFR Part 668, may not be considered for reinstatement as a GSLP or PLUS Program lender until it is reinstated as a participating school. However, the school may request reinstatement as both a school and a lender at the same time.

(d) Within 60 days after receiving a request for reinstatement, the Secretary—

(1) Grants the request;

(2) Denies the request; or

(3) Grants the request subject to limitations.

(e)(1) If the Secretary denies the lender's request, or allows reinstatement subject to limitations, the lender, upon request, is given an opportunity to show why its eligibility should be reinstated and all limitations removed.

(2) A lender, whose eligibility to participate in the GSLP and the PLUS Program is reinstated subject to limitations imposed by the Secretary pursuant to paragraph (d)(3) of this section, may participate in those programs, subject to those limitations, pending a decision by the Secretary on a request under paragraph (e)(1) of this section.

(Authority: 20 U.S.C. 1078–2, 1080, 1082, 1094)
(Reporting and recordkeeping requirements contained in paragraph (b) were approved by the Office of Management and Budget under control number 1840–0538)

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Appendix A To Part 682—Standards for Acceptable Refund Policies by Participating Schools

For purposes of § 682.606(b), the Secretary considers guidelines VI, VII, and VIII of the following document to be acceptable elements of a fair and equitable school refund policy. The document, which is reproduced in its entirety for the convenience of the reader, was developed by the National Association of College and University Business Officers. The document does not affect a school's obligation to comply with other Department of Education regulations.

Policy Guidelines for Refund of Student Charges

(I) *The governing board of the institution should review and approve the schedule of all institutional charges and refund policies applicable to students.* The pricing of services and refund policies have important consequences to students, parents, the institution, and society; as such, pricing and refund policies should receive board attention and approval.

(II) *Institutions should seek consumer views in the process of establishing and amending charge and refund structures.* Decisions regarding institutional funds are ultimately the sole responsibility of the institution's legally designated fund custodians. However, consumer concerns do affect decision making, and involving consumers in decision making related to charges and refunds is a desirable approach for assessing student needs and creating public awareness of institutional requirements.

(III) *Institutions should publish a current schedule of all student charges, a statement of the purpose for such charges, and related refund policies, and have them readily available free of charge to current and prospective students.* Students and parents have a right to know what charges they will be expected to pay and what will or will not be refunded. They also have a right to know what services accompany payment to the charges. Informational materials published free for students and prospective students are ideal for this purpose.

(IV) *Institutions should clearly designate all optional charges as "optional" in all published schedules and related materials. Clearly, charges that the mandatory and charges that are optional must be plainly differentiated in all printed materials.* Also, the institution should state clearly in its schedule if a charge is optional for some students but required for others. Statements accompanying the schedule may include institutional endorsements of the optional program or service.

(V) *Institutions should clearly identify charges and deposits that are nonrefundable as "nonrefundable" on all published schedules.* Institutions determine on an individual basis which of their charges are refundable or non-refundable. In general, admission fees, application fees, laboratory fees, facility and student activity fees, and other similar charges are not refundable. These fees are generally charged to cover the cost of activities such as processing applications and other student information, reserving academic positions, and establishing the limits of institutional programs and services, reserving housing space, and otherwise setting the fixed costs of the institution for the coming academic periods.

Institutions determine on an individual basis which of their deposits are refundable or nonrefundable. Some deposits will be nonrefundable or will be credited to a student's account (e.g. tuition deposits). Others are refundable according to the terms of the deposit agreement (e.g., deposits for breakage).

(VI) *Institutions should refund housing rental charges, less a deposit, so long as written notification of concellation is made prior to well-publicized date that provides reasonable opportunity to make the space available to other students.* Written notification on or before the beginning of the term of the contract is necessary to ensure utilization of housing units. During the term of the contract, room charges are generally not refundable. However, based on the program offered, space availability, debt service requirements, State and local laws, and other individual circumstances, institutions may provide for some more flexible refund guideline for housing.

(VII) *Institutions should refund board charges in full, less a deposit, if written notification of cancellation is made prior to a well-publicized date that falls on or before the beginning of the term of the contract. Subsequent board charges should be refunded on a pro rata basis less a withdrawal fee.* It is reasonable to make a refund for those goods and services not consumed. The withdrawal charge should reflect that portion of an institution's costs that are fixed for the term of the contract.

(VIII) *The institutional tuition refund policy for an academic period should include the following minimum guidelines:*

A. *The institution should refund 100 percent of the tuition charges, less a deposit fee, if written notification of cancellation is made prior to a well-publicized date that falls on or before the first day of classes.*

B. *The institution should refund at least 25 percent of the tuition charge if written notification of withdrawal is made during the first 25 percent of the academic period.* It is reasonable to refund tuition charges on a sliding scale if a student withdraws from his or her program prior to the end of the first 25 percent of the academic period unless state law imposes a more restrictive refund policy.

(IX) *The institution should assess no penalty charges where the institution, as opposed to the student is in error. The institution has assessed charges in error.* Penalty charges, such as those involving late registration fees, change of schedule fees, late payment fees, should not be assessed if it is determined that the student is not responsible for the action causing the charge to be levied.

(X) *Institutions should advise students that any notifications of withdrawal or cancellation and requests for refund must be in writing and addressed to the designated institution officer.* A student's written notification of withdrawal or cancellation and request for a refund provides an accurate record of transactions and also ensures that such request will be processed on a timely basis. Acceptance of oral requests is an undesirable practice.

(XI) *Institutions should pay or credit refunds due on a timely basis.* The definition of "timely basis" should include the time required to process a formal student request for refund, to process a check if required, and to allow for mail delivery, when necessary. If an institution has a policy that a refund of an inconsequential amount will not be made, this policy should be published in part of all materials related to refund policies.

(XII) *Institutions should publicize, as a part of their dissemination of information on charges and refunds, that an appeals process exists for students or parents who feel that individual circumstances warrant exceptions from published policy. The informational materials should include the name, title, and address of the official responsible.* Although charges and refund policies should reflect extensive consideration of student and institutional needs, it will not be possible to encompass in these structures the variety of personal circumstances that may exist or develop. Institutions are required to provide a system of due process to their students, and charges and refund policies are legitimately a part of that process. Students and parents should be informed regularly of procedures for requesting information concerning exceptions to published policies.

* * * * *

Appendix C to Part 682—Procedures for Curing Violations of the Due Diligence in Collection and Timely Filing of Claims Requirements Applicable to FISLP and Federal PLUS Program Loans and for Repayment of Interest and Special Allowance Overbillings [Bulletin L–77a]

Note: The following is a reprint of Bulletin L–77a, issued on January 7, 1983, with minor modifications made to reflect changes in the program regulations since the date. All references to "the date of this bulletin" herein refer to that date. All references made to the Federal Insured Student Loan Program (FISLP) shall be understood to include the Federal PLUS Program. The bulletin includes references to the 120- and 180-day default periods that used to apply to GSLP and PLUS Program loans. Public Law 99–272 established new default periods of 180 and 240 days (as set out in 34 CFR 682.200 of these regulations) for all new loans and many existing ones. Although the discussion in this Appendix C refers to the 120- and 180-day default periods, it is equally applicable to the new 180- and 240-day default periods. Finally, references to sections of the regulations published on September 17, 1979 (44 FR 53916) are so noted. All other citations refer to the current regulations.

Introduction

This bulletin prescribes procedures for lenders to use (1) to cure violations of the requirements for due diligence in collection ("the diligence") and timely filing of claims under the Federal Insured Student Loan Program (FISLP), and (2) to repay interest and special allowance overbillings made on loans evidencing such violations. *See* 34 CFR 682.507, 682.511.[1] These procedures allow for the reinstatement of a lender's eligibility for interest and special allowance and claim payments on loans evidencing such violations, under specified circumstances. These procedures apply to loans for which the first day of the 120-day or 180-day default period occurred on or after October 21, 1979 (the effective date of the September 17, 1979, regulations), *whether or not* the loans have previously been submitted as claims to the Secretary.

The due diligence and timely filing requirements governing the FISLP were established in response to requests from some lenders for more detailed regulatory guidance on the proper handling of FISLP loans. Despite the promulgation of these provisions, a number of lenders have failed to exercise the requisite care in their treatment of these loans, thereby increasing the risk of default thereon and, in many cases, prejudicing the Secretary's ability to collect from the borrowers. At the time the current due diligence and timely filing rules were issued, the Secretary anticipated that violations of these rules would be so infrequent as to permit requests for cures to be handled individually, *See* 44 FR 53916 (September 17, 1979). However, the unexpectedly high incidence of violations of these rules has made continued case-by-case treatment of all cure requests administratively unmanageable. After carefully considering the views of lenders and other program participants, the Secretary has decided to exercise his authority under 20 U.S.C. 1082(a) (5), (6), and 34 CFR 682.517(g) (1979), and institute uniform procedures by which lenders with loans involving violations of the due diligence or timely filing requirements may cure these violations.

[1] All references to the program regulations are to Part 682 of Title 34 of the Code of Federal Regulations (34 CFR Part 682).

Due Diligence

Except as provided in 34 CFR 682.509(e)(3) (1979), collection activity is required to begin immediately upon delinquency by the borrower in honoring the repayment obligation. This holds true whether or not the borrower received a repayment schedule or signed a repayment agreement. Under 34 CFR 682.200, default on a FISLP loan occurs when a borrower fails to make a payment when due, provided this failure persists for 120 days for loans payable in monthly installments, or for 180 days for loans payable in less frequent installments. If, however, the lender has added the optional provision to the promissory note requiring the borrower to execute a repayment agreement not later than 120 days prior to the expiration of the grace period (*See* 34 CFR 682.509(e)(3), (1979), the loan entered repayment prior to September 4, 1985 (*see* 50 FR 35970), the lender sends the agreement to the borrower 150 days or more before the end of the grace period, and the agreement is not executed before the end of the grace period, default occurs at that time. *See* 34 CFR 682.510(b)(ii) (1979). One exception to this rule is as follows: if the holder of the loan is not the lender that made the loan, the holder may choose to forego enforcement of the optional 120-day provision in the note.

The 120/180 day default period applies regardless of whether payments were missed consecutively or intermittently. For example, if the borrower, on a loan payable in monthly installments, makes his January 1st payment on time, his February 1st payment two months late (April 1st), his March 1st payment three months late (June 1st), and makes no further payments, the default period begins on February 1st, with the first delinquency, and ends on August 1st, when the April 1st payment becomes 120 days past due. The lender must treat the payment made on April 1st as the February 1st payment, since the February 1st payment had not been made prior to that time. Similarly, the lender must treat the payment made on June 1st as the March 1st payment, since the March payment had not been made prior to that time. *Note:* Lenders are strongly encouraged to exercise forbearance, *prior* to default, for the benefit of borrowers who have missed payments intermittently but have otherwise indicated willingness to repay their loans. *See* 34 CFR 682.211. The forebearance process helps to reduce the incidence of default, and serves to emphasize for the borrower the importance of compliance with the repayment obligation.

Timely Filing

The 90-day filing period applicable to FISLP default claims is set forth in 34 CFR 682.511(e) (1) and (3). The 90-day filing period begins at the end of the 120/180 day default period. The lender must file a default claim on a loan in default by the end of the filing period, unless the borrower brings the account current before the end of the filing period. In such a case, the lender may choose not to file a claim on the loan at that time.

In addition, for any loan less than 210 days delinquent on the date of this bulletin, the lender need not file a claim on that loan

before the 210th day of delinquency (120-day default period plus 90-day filing period) if the borrower brings the account less than 120 days delinquent before such 210th day. Thus, in the above example, if the borrower makes the April 1st payment on August 2nd, the 90-day filing period continues to run from August 1st, unless the loan was less than 210 days delinquent on the date of this bulletin. If the loan was less than 210 days delinquent on the date of this bulletin, then the August 2nd payment makes the loan 91 days delinquent, and the lender may, but need not file a default claim on the loan at that time. If, however, that loan again becomes 120 days delinquent, the lender must file a default claim within 90 days thereafter (unless the loan is again brought to less than 120 days delinquent prior to the end of that 90 day period). If other words, for any loan less than 210 days delinquent on the date of this bulletin, the Secretary will permit a lender to treat payments made during the filing period as "curing" the default it such payments are sufficient to make the loan less than 120 days delinquent.

If a lender fails to comply with either the due diligence or timely filing requirements, the affected loan ceases to be insured; that is, the lender loses its right to receive interest benefits, special allowance and claim payments thereon. Some examples of violations of the due diligence requirements are set out in section I.C. below.

I. Cure Procuredures

A. Definitions

The following definitions apply to terms used throughout Section I of this bulletin.

"Full payment" means payment by the borrower, or another person (other than the lender) on the borrower's behalf, in an amount at least as great as the monthly payment amount required under the existing terms of the loan, "exclusive of any forbearance agreement in force at the time of the default. (For example, if the original repayment schedule or agreement called for payments of $30 per month, but a forbearance agreement was in effect at the time of default that allowed the borrower to pay $15 per month for a specified time, and the borrower defaulted in making the reduced payments, a "full payment" would be $30, or two $15 payments in accordance with original repayment schedule or agreement.)

"Reinstatement" with respect to insurance coverage means the reinstatement of the lender's right to receive default, death, disability, or bankruptcy claim payments for the unpaid principal balance of the loan and for unpaid interest accruing on the loan after the date of reinstatement. Upon reinstatement of insurance, the borrower regains the right to receive forbearance or deferments, as appropriate. For purposes of this bulletin, "reinstatement" with respect to insurance on a loan does not include reinstatement of the lender's right to receive interest and special allowance payments on that loan. Reinstatement of the lender's rights to receive interest and special allowance payments is addressed in Section I.B. 1, below.

B. General

1. Resumption of Interest and Special Allowance Billing on Loans Involving Due Diligence or Timely Filing Violations. For any loan on which a cure is attempted under this bulletin, the lender may resume billing for interest and special allowance on the loan only for periods following the earlier of (1) its receipt of the equivalent of three full payments thereon, after the date of this bulletin or the date of the violation, whichever is later, or (2) receipt by the borrower of an authorized deferment, after reinstatement of insurance coverage.

2. *Reservation of the Secretary's Right to Strict Enforcement.* While this bulletin allows cures to be attempted for particular violations in specified ways, the Secretary retains the option of refusing to permit or recognize cures in cases where, in the Secretary's judgment, a lender has committed an excessive number of severe violations of the due diligence or timely filing rules, and in cases where the best interests of the program otherwise require strict enforcement of these requirements. More generally, this bulletin states the Secretary's general policy and is not intended to limit in any way the authority and discretion afforded the Secretary by statute or regulation.

3. *Interest and Special Allowance Repayment and Certification Required as a Condition for the Secretary Recognition of a Cure.* The Secretary has commenced a concerted effort to recoup all excess interest and special allowance payments made on loans involving due diligence or timely filing violations. Accordingly, the Secretary will not recognize cures for such violations until the lender has filed an executive Interest and Special Allowance Certification Form (Attachment A) with the Division of Certification and Program Review of the regional office responsible for the State in which the lender maintains its principal place of business, Additionally, the lender must enclose a photocopy of the certification with each "cured" claim it files.

4. *Applicability of the Cure Procedures to Particular Classes of Loans.* The cure procedures outlined in this bulletin apply only to a loan for which the first day of the 120/180 day default period that ended with default by the borrower occurred on or after October 21, 1979, and which involve violations *only* of the due diligence and/or timely filing requirements.

The cure procedures applicable to loans involving due diligence violations also apply to loans involving violations of both the timely filing and due diligence requirements.

5. *Excusal of Certain Due Diligence Violations.* A lender whose claim was previously denied *solely* for violation of the timely filing rule, and who is permitted to cure that violation under the procedures set out in this bulletin, will not be required to utilize the procedures for curing due diligence violations, or to repay interest and special allowance improperly received from the Secretary as a result of a due diligence violation for periods prior to the timely filing violation. This applies even if, upon submission of the "cured" claim, the Secretary discovers that evidence of due diligence violations appeared in the file of the previously rejected claim.

The Secretary will also excuse a due diligence violation by a lender if the account was brought current by the borrower (or another, other than the lender, on the borrower's behalf) prior to the 120th/180th day of the delinquency period during which the violation occurred.

6. *Treatment of Accrued Interest on "Cured" Claims.*—a. *Due Diligence Violations.* For any default claim involving "cured" violations of the due diligence rules, the Secretary will not reimburse the lender for any unpaid interest accruing after the first day of the 120/180 day period that culminated in default, and prior to the date of reinstatement of insurance coverage.

For any loan involving "cured" due diligence violations, the lender may capitalize unpaid interest accruing on the loan from the commencement of the 120/180 day default period to the date of the reinstatement of insurance coverage. See sections I.C. and D. below. However, if the lender later files a claim on that loan, the lender must deduct this capitalized interest from the amount of the claim. This deduction must be reflected in column 15 on the OE Form 1207, Lender's Application for Insurance Claim on Federal Insured Student Loan, filed with the claim evidencing the cure.

b. *Timely Filing Violations.* For any default claim involving "cured" violations of the timely filing rules, the Secretary will not reimburse the lender for any unpaid interest accruing after the end of the 120/180 day default period that culminated in default, and prior to the date of reinstatement of insurance coverage.

For any default claim involving a "cured" timely filing violation, if insurance coverage is later reinstated, the lender may capitalize unpaid interest accruing on the loan from the commencement of the original 120/180 day default period to the date of the reinstatement of insurance coverage. See sections I.C. and D. below. However, if the lender later files a claim, on that loan, the lender must deduct this capitalized interest from the amount of the claim, except that the lender need not deduct from the claim unpaid interest that accrued on the loan during the original 120/180 day default period. This deduction must be reflected in Column 15 of the OE Form 1207, Lender's Application for Insurance Claim on Federal Insured Student Loan filed with the claim evidencing the cure.

Some timely filing cures will not reinstate insurance coverage. For treatment of accrued interest in such cases, see Section I.D.1.c.

7. Documents to be Submitted with "Cured" Claims. The Secretary requests that any lender submitting a claim on a loan involving "cured" violations identify the claim as such with a note in the claim file stapled to the new OE Form 1207.

For all "cured" claims, the lender must submit:

- For loans on which a claim was previously rejected, all documents sent by the regional office with the original claim (when

the claim was rejected and returned to the lender), including without limitation, the original OE Form 1207 and all documents showing the reason(s) for the original rejection;

- All documents ordinarily required in connection with the submission of a default claim, including, without limitation, the promissory note, which must bear a valid assignment to the United States of America;
- A new OE Form 1207;
- All documents showing that the lender has complied with the applicable cure procedures and requirements; and
- A copy of the Interest and Special Allowance Certification form (Attachment A).

C. Cures for Violations of the Due Diligence in Collection Requirements (34 CFR 682.507)

A violation of the due diligence in collection rules occurs when a lender fails to meet requirements found in 34 CFR 682.507. For example, a violation occurs if the lender fails to:

- Remind the borrower of the date a missed payment was due within 15 days of delinquency;
- Attempt to contact the borrower and any endorser at least 3 times at regular intervals during the rest of the 120/180 day default period;
- Request pre-claims assistance from the Department of Education;
- Request skip-tracing assistance from the Secretary, if required, or
- Send a final demand letter to the borrower exercising the option to accelerate the due date for the outstanding balance of the loan, unless the lender does not know the borrower's address as of the 90th day of delinquency.

1. *Reinstatement of Insurance Coverage.* In the case of a due diligence violation, the lender may utilize either of the two procedures described below for obtaining reinstatement of insurance coverage on the loan. After the date of this bulletin, or after the date of the violation, whichever is later:

(a) the lender obtains a new repayment agreement signed by the borrower which complies with the ten and fifteen year repayment limitations set out in 34 CFR 682.209(a)(6); or

(b) the lender obtains 3 full payments. If the borrower later defaults, the lender must submit evidence of these payments (*e.g.* copies of the checks) with the claim.

2. *Borrower Deemed Current As of Date of Cure.* On the date the lender receives a signed copy of the new repayment agreement, or receives the third (curing) payment, insurance coverage on the loan is reinstated, and the borrower shall be deemed by the lender to be current in repaying the loan and entitled to all rights and benefits available to FISLP borrowers. If the borrower later becomes delinquent in repayment, the lender shall follow the collection procedures set out in 34 CFR 682.507, and the timely filing requirements set out in 34 CFR 682.511.

D. Cures for Violations of the Timely Filing Requirements (34 CFR 682.511)

1. *Default Claims.*—a. *Reinstatement of Insurance Coverage.* In order to obtain reinstatement of insurance coverage on a loan in the case of a timely filing violation, the lender must first locate the borrower after the date of this bulletin, or after the date of the violation, whichever is later (see Section I.D.1.d. for description of acceptable evidence of location). Then, the lender must send to the borrower, at the address at which the borrower was located, (i) a new repayment agreement, to be signed by the borrower, which complies with the ten and fifteen year repayment limitations set out in 34 CFR 682.209(a)(6), along with (ii) a collection letter indicating in strong terms the seriousness of the borrower's delinquency and its potential effect on his or her credit rating if repayment is not commenced or resumed.

If, within 30 days after the lender sends these items, the borrower fails to make a full payment or to sign and return the new repayment agreement, the lender shall, within 5 working days thereafter, send the borrower a copy of the attached "8-Hour" collection letter, on the lender's letterhead. (See Attachment B).

b. *Borrower Deemed Current Under Certain Circumstances.* If, within 45 days after the lender sends the new repayment agreement to the borrower for signature, the borrower makes a full payment or signs and returns the new repayment agreement, insurance coverage on the loan is reinstated. The borrower shall be deemed by the lender to be current in repaying the loan and entitled to all rights and benefits available to FISLP borrowers. If the borrower later becomes delinquent in repayment, the lender shall follow the collection steps set out in 34 CFR 682.507 and the timely filing requirements set out in 34 CFR 682.511.

c. *Borrower Deemed in Default Under Certain Circumstances.* If the borrower does not make a full payment, or sign and return the new repayment agreement, within 45 days after the lender sends the new repayment agreement, the lender shall deem the borrower to be in default. The lender shall then file a default claim on the loan accompanied by acceptable evidence of location (see I.D.I.d below), within 30 days after the end of such 45-day period. Although insurance coverage is not reinstated on loans involving these circumstances, the Secretary will honor default claims submitted in accordance with this paragraph, on the outstanding principal balance of such loans, and on unpaid interest accruing on the loan during the 120/180 day default period.

d. *Acceptable Evidence of Location.* Only the following documentation is acceptable as evidence that the lender has located the borrower:

(i) Postal receipt signed by the borrower not more than 25 days prior to the date on which the lender sent the new repayment agreement, indicating acceptance of correspondence from the lender by the borrower at the address shown on the receipt; *or*

(ii) A completed "Certification of Borrower Location" form (Attachment C).

2. *Death, Disability, and Bankruptcy Claims.* Lenders may immediately resubmit any death or disability claim which was rejected solely for failure to meet the 60 day timely filing requirement (*see* 34 CFR 685.511(e)(2)). However, the Secretary will not pay any such claim if, before the date the lender determined that the borrower died or was totally and permanently disabled, the lender had violated the due diligence or timely filing requirements applicable to default claims with respect to that loan. Interest that accrued on the loan after the expiration of the 60-day filing period remains uninsured by the Secretary, and the lender must repay all interest and special allowance received on the loan for periods after the expiration of the 60-day filing period.

The Secretary has determined that, in the vast majority of cases, the failure of a lender to comply with the timely filing requirement applicable to *bankruptcy* claims causes irreparable harm to the Secretary's ability to contest the discharge of the loan by the court, or to otherwise collect from the borrower. Therefore, the Secretary has decided not to permit cures for violations of the timely filing requirement applicable to bankruptcy claims, except when the lender can demonstrate that the bankruptcy action has concluded and that the loan has not been discharged in bankruptcy. In that case, the lender shall treat the loan as in default. The Secretary will honor a default claim later filed on such a loan only if the lender has met the cure requirements set out in Section I.C. above for due diligence violations.

II. Repayment of Interest and Special Allowance on Loans Evidencing Violations of the Due Diligence or Timely Filing Requirements.

A. General Rule

It has always been the Secretary's interpretation of the FISLP statute and regulations that a lender's right to receive interest and special allowance payments on a FISLP loan terminates immediately following the lender's violation of the due diligence or timely filing requirements. This applies whether or not the lender has filed a claim on the loan. In other words, lenders may receive interest and special allowance only on loans which are insured by the Secretary. Since these violations result in the termination of insurance, they also result in the termination of FISLP benefits.

B. Cessation of Billing on Loans Evidencing Violations of the Due Diligence or Timely Filing Requirements

Any lender currently billing the Secretary for interest and special allowance on a loan that the lender *knows* involves a due diligence or timely filing violation must cease doing so immediately. However, except in connection with the certification described below, lenders are not required at this time to review their loan portfolios for due diligence and timely filing violations.

C. Determination of Amounts of Interest and Special Allowance That Must Be Repaid

1. *Due Diligence Violations.* In the case of due diligence violations, it is often difficult to ascertain the precise date on which a violation occurred. For the administrative ease of the Secretary and lenders, the Secretary has decided to waive his right to recoup interest and special allowance

payments made to a lender for periods between the date of a due diligence violation and the end of the 120/180 day default period. However, any lender that has received interest and/or special allowance payments from the Secretary for periods after the end of the 120/180 day default period on a loan that the lender *knows* involves a due diligence violation must promptly repay those amounts.

2. *Timely Filing Violations.* In the case of timely filing violations, the lender loses its right to receive interest and special allowance payments as of the expiration of the applicable timely filing period. Therefore, any lender that has received interest and/or special allowance payments from the Secretary for periods following the end of the applicable timely filing period on a loan that the lender *knows* involves a timely filing violation must repay those amounts.

3. *Situations in Which a Lender May Have Received Interest Benefits for Periods During Which a Loan was Uninsured.* Because most due diligence violations, and all timely filing violations, occur after termination of the grace period, interest payments are ordinarily not affected by such violations. However, there are three types of situations in which a lender may have received interest payments from the Secretary to which it was not entitled due to a due diligence or timely filing violation.

a. *Promissory notes that include a requirement that the borrower sign a repayment agreement no later than 120 days prior to the expiration of the grace period.* In such cases, a due diligence violation may occur during the grace period, when the lender may otherwise have been eligible to receive interest benefits. However the lender need not repay that interest to the Secretary. *See* II.C.1. above.

b. *Deferment Periods.* A due diligence violation may occur prior to a deferment period when the lender would otherwise have been eligible to receive interest benefits.

c. *Loans Made Prior to December 15, 1968.* A loan disbursed prior to December 15, 1968, and which qualified for payment of Federal interest benefits at the time the loan was disbursed, qualifies for payment of a 3 percent interest subsidy on the unpaid principal balance during the entire repayment period, provided the loan remains insured. In the case of such a loan, a due diligence or timely filing violation terminates the lender's eligibility for the 3 percent payments.

D. Procedures for Repayment of Federal Interest Benefits and Special Allowance Received by a Lender for Periods During Which a Loan Was Uninsured

A Lender must make the repayments of interest and/or special allowance discussed in II.C, above, by way of an adjustment during the two quarters immediately following the discovery of the violation. These adjustments must be reported in a format similar to that in Attachment D, and must not be reported on the normal Lender's Request for Interest and Special Allowance (ED Form 799) submission. Lenders are requested not to send a check with the adjustment, the overpaid amount will be deducted by the Secretary from the lender's next regular interest and special allowance payment. The adjustment must state the quarters for which the adjustment is being made, and the total dollar amounts of all loans involved in the adjustment. In addition, for five years after any loan for which an adjustment is made is repaid in full, the lender shall retain a record of the basis for the adjustment showing the amount(s) of the overbilling(s) repaid, the violation(s) giving rise to the overbilling(s), and the date it used for cessation of interest and/or special allowance eligibility in calculating the overbilled amount. *See* 34 CFR 682.515(a)(2). Completed adjustment forms should be sent to the following address: Student Loan Processing Center, P.O. Box 2640, Norfolk, Virginia 23501.

Attachments.

Attachment A—Interest and Special Allowance Certification Form

I, (name) _____, as a duly authorized official of (lender name and address) _____, hereby certify on behalf of this institution as follows:

(1) After consulting with all appropriate employees, agents, and servicers of this institution responsible for the collection of, and the filing of claims on, FISLP loans. I have determined that this institution has not knowingly delayed filing claims on FISLP loans evidencing violations of the due diligence, timely filing or other requirements for the purpose of continuing to bill the Secretary of Education or his predecessors for interest benefits or special allowance thereon, nor will this institution do so in the future.

(2) This institution will thoroughly review all FISLP loans for which claims were denied for violation of the due diligence in collection or timely filing regulations, 34 CFR 682.511 and .516 (1979) respectively or the current regulations, 34 CFR 682.507 and .511, respectively. The purpose of this review will be to determine how much interest and special allowance the Secretary has paid this institution on these loans for the period(s) during which they were uninsured due to these violations. This institution will repay any and all such amounts so determined by way of an adjustment to one of the next two quarterly interest and special allowance billings (ED Form 799).

(3) This institution will retain all records and upon request will provide the Secretary of Education with all information required by Bulletin L-77a in connection with repayment of interest and special allowance overbillings.

Signature of Employee _____

Date _____

Lender identification Number _____

BILLING CODE 4000-01-M

Attachment B

NOTICE

Date

TO:

Social Security Number

You have previously been notified that you are severely delinquent in repaying your Guaranteed Student Loan. This notice is our final effort to remedy this delinquency. You must contact us at _____ within

48 HOURS

Failure to act upon this notice will result in transfer of your account to the Federal Government.

Official of Lender

Title

Attachment C Certification of Borrower Location

As an employee or agent of _____
Name and Address of Lender

I hereby certify as follows:

1. On _____, I spoke with or received written communication
Date
from (copy attached):
(circle a or b)
(a) the borrower on the loan underlying this default claim; or
(b) a parent, spouse, or sibling of the borrower.

2. The borrower, parent, spouse, or sibling represented to me that the borrower's address and telephone number are -- _____
_____
Address and Telephone Number

3. Within 15 days thereafter, this institution sent the borrower a new repayment agreement along with a collection letter of the type described in section I.D.1.a.ii of Bulletin L-77a, dated January 7, 1983, to the address set out in '2)' above.

4. (Applicable only if 1(b), above, is used) The letter and agreement referenced in 3, above, has not been returned undelivered.

_____
Name of Borrower

_____
Borrower's SSN

_____
Signature of Employee or Agent

_____
Typed Name of Employee or Agent

_____
Title of Employee or Agent

_____
Date

_____
Lender Identification Number

CURE PROCEDURE

Repayment of Interest Benefits and Special Allowance

Attachment D

NAME OF LENDER, I.D. NUMBER, ADDRESS (STREET, CITY, STATE, ZIP CODE)

EMPLOYER IDENTIFICATION NUMBER:

LENDER'S TELEPHONE NUMBER: ( )

(1) BILLING PERIOD (CHECK ONE)
1 ☐ ANNUAL
2 ☐ SEMIANNUAL
3 ☐ QUARTERLY

(2) BILLING PERIOD ENDING (CHECK ONE)
1 ☐ MARCH 31
2 ☐ JUNE 30
3 ☐ SEPTEMBER 30
4 ☐ DECEMBER 31
YEAR 19 ____

(3) METHOD (CHECK ONE)
1 ☐ ACTUAL ACCRUAL
2 ☐ AVERAGE DAILY BALANCE
3 ☐ AVERAGE QUARTERLY BALANCE

INTEREST ADJUSTMENTS (Enter only those Adjustments occurring as a result of Lender Bulletin #77a)

[X] DECREASED $_____

SPECIAL ALLOWANCE ADJUSTMENTS

Loans made before October 1, 1981:

QTR. ENDING MM/DD/YY	%	AVERAGE PRINCIPAL BALANCE BALANCE PREVIOUSLY REPORTED	AVERAGE PRINCIPAL BALANCE SHOULD HAVE BEEN REPORTED	DIFFERENCE IN AVERAGE PRINCIPAL BALANCE
	9%			
/ /	7%			
	9%			
/ /	7%			
	9%			
/ /	7%			
	9%			
/ /	7%			
	9%			
/ /	7%			
	9%			
/ /	7%			

Loans made on or after October 1, 1981:

/ /	14%			
	12%			
	9%			
	8%			
	7%			
/ /	14%			
	12%			
	9%			
	8%			
	7%			

NOTE: Do not submit this form concurrent with the submission of ED Form 799, "Lender's Request for Interest and Special Allowance". Lenders are required to maintain a copy of this form for their records.

Appendix—Summary of Comments and Responses

[Editorial Note: This Appendix will not appear in the Code of Federal Regulations.]

Subpart A—Purpose and Scope

Section 682.102 Obtaining and repaying a loan.

Comment: Several commenters objected to the description of the application process contained in § 682.102 of the NPRM. Many commenters recommended that this section of the regulations be revised to allow the use of electronic data transmission technology and a different sequential flow of paper or data among the student, school, lender and agency. A number of the commenters believed that the application process as described precludes the use of a combined form for the loan application and the promissory note. Many of the commenters recommended that the school be permitted to mail the application directly to the lender to prevent potential fraudulent alteration by the borrower of the school certification.

Response: No change has been made. The intent of Subpart A is to provide the reader with general information about the GSL and PLUS programs and the types of information contained in the ensuing subparts. Accordingly, the provisions of § 682.102 are general descriptions of the process of obtaining and repaying a loan and, therefore, are not to be considered requirements governing the application process. Where possible, the regulations have been written to accommodate electronic processing and combined applications and promissory notes. A school may mail an application directly to a lender.

Section 682.103 Applicability of subparts.

Comment: One commenter recommended that guarantee agency programs be exempt from the provisions of Subpart G and Appendix C because agencies already have established their own limitation, suspension and termination procedures and cure procedures for violations of agency rules regarding due diligence and timely filing of claims.

Response: No change has been made. The Secretary is extending coverage of Subpart G, which formerly governed only the Secretary's authority to limit, suspend or terminate a lender's eligibility to participate in the FISL Program, to include a lender's eligibility to participate in a guarantee agency program. The extension by the Secretary of Subpart G to guarantee agency lenders is not intended to relieve guarantee agencies of the duty to establish and implement their own limitation, suspension and termination procedures. The Secretary believes, however, that the integrity of these programs requires that the Secretary also have the ability to control, through limitation, suspension, and termination actions, the participation of lenders in all guarantee agency programs of lenders who violate program requirements.

Appendix C does not apply to guarantee agency programs. As noted in the preamble to the NPRM, however, the Secretary will use Appendix C as a guide in reviewing "cure policies" that agencies propose to use.

Subpart B—General Provisions

Section 682.200 Definitions.

"Disbursement"

Comment: Several commenters requested that this definition be modified to reflect the provisions in § 682.605 of the NPRM, which would have required that checks be made co-payable to the institution and the borrower and sent to the institution.

Response: A change has been made. The Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272; April 7, 1986) prohibits the Secretary from requiring that checks be made jointly payable to the borrower and the school. The final regulations have been revised to reflect that statutory change. The definition of disbursement has been revised to delete the specific rules governing the disbursement of a loan and is now defined as the transfer of loan proceeds by a lender to a borrower, a school, or an escrow agent. The specific requirements for disbursing a loan are now found in § 682.207 of the final regulations.

"Endorser"

Comment: A number of commenters objected to the use of the word "endorser" to describe a signer of a promissory note who is secondarily liable on the loan. One commenter suggested that since the regulations frequently refer to a borrower or school as "endorsing" a loan check, it is confusing to use the term "endorse" to describe a completely different concept. Several of these commenters recommended that the word "co-signer" be substituted for the word "endorser," since they believed that it is the term most frequently used in the GSL and PLUS programs to describe a secondarily-liable signer of the note.

Response: A change has been made. The Secretary has clarified the definition of the term "endorser" by indicating that it refers to the signer of the *promissory note.* Thus, endorsement of a *loan check* by an institution does not make the institution secondarily liable for the loan obligation. Only endorsers who sign promissory notes are liable for the repayment of loans.

"Enrolled"

Comment: Numerous commenters opposed the proposal to amend the definition of "enrolled" to require that students have attended classes in order to be considered enrolled and eligible to receive GSLP loan proceeds for an academic period. Commenters remarked that adoption of this proposal would place a considerable administrative burden on institutions, many of which do not have procedures for checking class attendance. Many commenters disagreed with the Secretary's perception that this proposal would reduce the likelihood of students using GSLP loan proceeds for non-educational purposes. These commenters felt that, if a student intended to use the proceeds of a loan for non-educational purposes, he or she would simply attend the first class, cash the loan check and then leave school.

Response: A change has been made. The Secretary has removed the definition of "enrolled" from these regulations. The definition will be published in 34 CFR Part 668 shortly. In addition, the Secretary has revised, in § 682.604 of these final regulations, the rules under which an institution processes a borrower's loan proceeds so that an institution may release loan proceeds directly to a student up to 10 days prior to the first day of classes of the period of enrollment for which the loan is intended.

"Estimated Cost of Attendance"

Comment: Many commenters objected to the exclusion of the purchase of an automobile from a student's estimated cost of attendance. Several commenters remarked that in some instances, such as medical or nursing students doing clinical rotation or students commuting from distant rural areas where no public transportation is available, the purchase of an automobile could be considered a reasonable expense. A number of commenters argued that, with this provision, the Secretary has undermined confidence in the discretion of the financial aid officer to allow selective decisions in these areas.

Response: No change has been made. In determining a student's estimated cost of attendance, an institution should calculate those expenses reasonably related to the student's attendance at that institution for the period for which the loan is sought. The institution may include reasonable amounts related to transportation expenses which a student might be expected to incur during the period for which the loan is intended. The Secretary does not believe that the purchase price of a motor vehicle is a reasonable transportation expense.

Comment: Two commenters opposed the inclusion of interest on previous student loans as an expense related to a current loan period. These commenters objected to the addition of expenses to a cost of attendance figure that, in many cases, already exceeds available aid and other resources. They felt that it is unwise to encourage students to borrow to pay off previous debts. Several commenters supported the inclusion of interest on previous student loans as an expense related to a current loan period.

Response: A change has been made. Interest on previous student loans that accrues during the period of enrollment for which the new loan is intended is not a cost of attendance for that period.

"Estimated Financial Assistance"

Comment: A number of commenters objected to the requirement that, in determining a student's estimated financial assistance, the institution must include all Federal student financial aid which the student would be expected to receive if he or she applied, whether or not the student has applied for such aid. The commenters objected to this requirement on the grounds that, in some cases, the data would not be available for the institution to estimate realistically such eligibility. Several commenters expressed concern that the Secretary was requiring students to apply for aid under the Campus-Based and Pell Grant Programs prior to applying for a GSL or PLUS Program loan. These commenters indicated that this requirement would result in an increased workload for institutions and

would cause unnecessary delays in processing GSL and PLUS loan applications.

Response: No change has been made. The Secretary believes that in order to assure that students do not receive aid in excess of their cost of education it is important that, prior to certifying a GSL application, an institution provide an estimate of the financial aid which a student is eligible to receive. Public Law 99–272 requires an institution to make a determination of the student's Pell Grant eligibility (in the case of an undergraduate student) prior to certifying a GSLP application. To comply with this requirement, the institution will have information available that will enable it to estimate the amount of aid for which a student is eligible under the Pell Grant and Campus-Based programs. In the case of a student for whom the institution is not required to make a determination of Pell Grant eligibility, the Secretary expects the institution to make its estimate based solely on the information which it has available to it at the time the GSL application is being certified. The institution can base its estimate on the information which the student has provided in conjunction with the application. The institution will not incur any liability if, after having provided a reasonable estimate in good faith, it is later found to be inaccurate for some reason (*e.g.*, a student receives a scholarship which the institution could not have anticipated). It should be noted, however, that if an institution provides an unreasonably low estimate which enables the student to receive more aid than he or she is otherwise entitled to receive, the Secretary may impose a liability against the institution for losses incurred by the Federal Government.

Comment: One commenter suggested that aid awarded under the ROTC and Chapter 106 of the Veterans' Administration (VA) benefits programs be considered in determining a student's estimated financial assistance.

Response: A change has been made. The Secretary concurs with the commenter and has revised the regulations accordingly. The Secretary wishes to point out that this is not a change in the Department of Education's policy. The regulation is being revised merely to include what has been the Secretary's interpretation of the Act and GSLP and PLUS Program regulations.

Comment: One commenter objected to the inclusion of aid from State or private loan programs in determining a student's estimated financial assistance. The commenter believed that only aid received through federally-supported sources should be included in this calculation.

Response: No change has been made. The Act requires that all loans or assistance received by a borrower be included in calculating estimated financial assistance. The basic principle used to determine if a resource is considered "estimated financial assistance" is whether the student would be eligible for such assistance if he or she were not a student. These State and privately-supported loan programs exist to provide aid to individuals to be used to pay their educational expenses. Not to include assistance received from such resources as "estimated financial assistance" would enable some individuals to obtain funds in excess of their costs of education.

Comment: Several commenters expressed concern that the VA does not report the number of months of entitlement during which a veteran will receive educational benefits. These commenters asked for guidance in calculating the amounts of these benefits when determining a veteran's estimated financial assistance.

Response: No change has been made. The school may rely in good faith on statements made by the student regarding the time periods during which the student will receive VA benefits unless the institution has conflicting information, in which case the conflicting information must be resolved.

Comment: One commenter requested that the Secretary retain in these regulations the provision in the prior rules indicating that resources or financial support from a student or a student's family may not be considered as financial assistance.

Response: No change has been made. The introductory language contained in the definition excludes financial support from a student or a student's family. Therefore, the Secretary believes it is unnecessary to exclude specifically those sources of support not included in the definition.

Comment: A number of commenters objected to including in the definition of "estimated financial assistance" those loan proceeds which the lender withheld and applied towards the borrower's origination fee and insurance premium, if these amounts were included in the borrower's cost of attendance.

Response: No change has been made. A financial aid administrator has the option of excluding or including origination fees and insurance premiums in the calculation of the estimated cost of attendance. These fees and premiums are generally paid by the student with the proceeds of the GSL. The Secretary presumes that if the fees are included in the cost of attendance, the financial aid administrator expects the student to receive a GSL to pay them. Therefore, the fees must also be considered financial assistance. If the fees are not included in the estimated cost of attendance, no loan proceeds withheld by the lender for these fees should be included in the calculation of the student's "estimated financial assistance."

"Full-time Student"

Comment: One commenter requested that this definition reflect which offices or individuals within the institution may certify a student's enrollment status.

Response: No change has been made. The Secretary sees no reason to regulate institutions to designate the individuals and offices responsible for certifying enrollment status. Generally, though, this responsibility is part of the registrar's function.

Comment: Two commenters requested clarification regarding the classification of students enrolled in both undergraduate and graduate courses.

Response: No change has been made. While generally it is the prerogative of the institution to decide if the students described are considered undergraduate or graduate students, a student can only be considered a graduate student for GSLP and PLUS Program purposes if that student meets the regulatory definition of a graduate or professional student. An institution should have a written policy, which is administered uniformly, concerning these situations. It should be noted, however, that the definition of "graduate or professional student" precludes a student from being simultaneously considered a graduate student, for purposes of the GSLP and PLUS Program, and an undergraduate student, for purposes of other title IV student assistance programs.

"Grace Period"

Comment: Several commenters did not understand why, under this definition, the grace period begins on the day on which a borrower ceases to be enrolled as at least a half-time student, while §§ 682.401(b)(10)(ii)(C) and 682.510 of the NPRM imply that the grace period begins on the day the borrower ceases to be enrolled at least half-time (*i.e.*, is day-specific) for 7% loans, and on the month following the month in which the borrower ceases to be enrolled at least half-time (*i.e.*, is month-specific) for 8% and 9% loans.

Response: No change has been made. A borrower's grace period begins the day the borrower ceases attending an eligible institution on at least a half-time basis. For 8% and 9% loans, a borrower's repayment period begins (*i.e.* the grace period *ends*) six months after the month in which the borrower ceases attending an eligible institution on at least a half-time basis. For 7% loans, a borrower's repayment period begins (*i.e.* the grace period *ends*) nine to twelve months after the day on which the borrower ceases half-time attendance. In other words, the grace period start date is day-specific for all loans. The grace period ending date, and thus the repayment period start date, is month-specific for 8% and 9% loans. The grace period ending date, and thus the repayment period start date, is day-specific for 7% loans if the grace period is 12 months, but may be month-specific if the grace period is less than 12 months.

"Holder"

Comment: Several commenters recommended that, since secondary loan markets and guarantee agencies are eligible lenders, they should be included in this definition.

Response: No change has been made. The NPRM did not propose to alter any existing policies regarding this definition. The NPRM merely refers to a "holder" as an "eligible lender in possession of a GSLP or PLUS Program loan." The entities to which the commenters referred are covered under the definition of "lender."

"Lender"

Comment: Several commenters questioned the deletion in the NPRM of the requirement in current regulations that a lender may not make or hold GSLP loans that total more than one-half of its consumer credit loan dollar volume (the 50% rule).

Response: A change has been made. The 50% rule in the definition of "lender" was inadvertently omitted from the NPRM and has been reinstated in these final regulations.

This definition has also been expanded to include the Secretary's existing interpretation of that rule.

"Origination"

Comment: Several commenters expressed concern that under this definition the Secretary determines that "origination" exists if a school determines who will receive a loan and the amount of the loan, or the lender has the school verify the identity of the borrower or completes forms normally completed by the lender. The commenters argued that since proposed disbursement procedures require the lender to mail the check directly to the institution for delivery, the institution, before delivering the loan proceeds to the borrower, would have to verify the identity of the borrower for the lender. The commenters noted that it would therefore be necessary for each eligible institution to enter into an origination agreement with the Secretary.

Response: No change has been made. Loan origination functions are those activities that occur prior to a lender's making a loan to a borrower. An institution is not considered to have originated a loan merely because, prior to delivering a check to a borrower, it verifies the identity of the borrower.

"Parent"

Comment: One commenter recommended that since a step-parent is considered in establishing dependency status, it would be beneficial to include "step-parent" in this definition.

Response: No change has been made. A step-parent is not considered in establishing a student's dependency status. A step-parent is considered in determining a family's *adjusted gross income* once a student has been determined to be dependent on one of his or her parents and that parent has remarried. Neither is a step-parent eligible to borrow on behalf of his or her step-child under the PLUS program unless that step-parent is also a legal guardian.

"School"

Comment: One commenter suggested that a school's eligibility be institution-wide rather than limited to particular programs offered by the school. The commenter remarked that, while guarantors and financial aid administrators are aware of what institutions have been approved by the Secretary, they are not aware of which specific programs offered by these institutions the Secretary has approved. The commenter felt that many ineligible loans are therefore being made and guaranteed.

Response: No change has been made. An institution is notified by a letter from the Department of Education that it is eligible to particpate in the GSLP. Included in the letter is information concerning which programs offered by the institution are or are not eligible. It is the institution's responsibility to certify only applications submitted by students enrolled in eligible programs at the institution. The Secretary has always had the right to recover from a school any Federal funds it pays to lenders and guarantors on GSL and PLUS loans made to borrowers on behalf of students enrolled in ineligible programs, if the school certified that the borrower was enrolled in an eligible program. In those circumstances the school's false certification would be negligent at a minimum, because the school knew that the program was ineligible. *See also* § 682.609 of the final regulations.

Section 682.201 Eligible borrowers.

Comment: Several commenters indicated that students should be required to be enrolled in an "eligible program" rather than to be enrolled or accepted for enrollment on at least a half-time basis at a participating school. This would bring the GSLP and PLUS program into line with the other title IV student assistance programs.

Response: No change has been made. The statute requires that, in order to receive a GSL or PLUS loan, a student must be enrolled at least half-time in a participating school. A school's participation in the GSL and PLUS programs is limited to the programs that have been determined to be eligible. The Secretary, notes that, unlike the Pell Grant program, this does not mean that the student must be enrolled in a program which leads to a degree or certificate.

Comment: Several commenters were opposed to the requirement that a student authorize the school in writing to pay a refund directly to the lender. They suggested that this requirement duplicates § 682.608(a) of the NPRM, which states that "by applying for a GSLP the borrower authorizes the school to pay a refund directly to the lender."

Response: No change has been made. Section 682.201 (a) and (b) of the final regulations provides eligibility requirements for borrowers, one of which is that the borrower must authorize in writing the school to pay directly to the lender that portion of any refund of school charges that is allocable to the loan. Section 682.607(a) of the final regulations describes the method by which this requirement is satisfied through the GSL application process. Schools are therefore not required to obtain an additional authorization.

Comment: Some commenters stated that guarantee agencies should be required to notify a school when a former student of the school defaults on a loan.

Response: No change has been made. The Secretary is reluctant to impose such a burdensome requirement on agencies when the benefits of doing so are not immediately evident. It should be noted, however, that Pub. L. 99-272 authorizes guarantee agencies to provide such information to schools.

Comment: Several commenters indicated that § 682.201(c)(1) of the NPRM, which states that to be eligible for a GSL or PLUS loan, a student, if currently enrolled, must be maintaining satisfactory academic progress as determined by the school, would result in a duplication of effort. This provision requires that a school verify that a student is maintaining satisfactory academic progress when it completes its portion of the loan application, and § 682.604(b)(4) of the NPRM would require the school to verify that information again before it releases loan proceeds to the student.

Response: No change has been made. The requirement of § 682.201(c)(1) of the final regulations is not a change from current regulations, which state that, if currently enrolled, the student must be maintaining satisfactory academic progress as determined by the school. However, § 682.604(b)(2) of the final regulations does reflect a new requirement that, before a school can release the proceeds of a loan, the student must have maintained eligibility as required under § 682.201(c)(1) of the final regulations. The Secretary believes the additional requirement is necessary to ensure that only eligible students receive loan proceeds. A student's eligibility may change between the date the application was certified and the date the GSL loan proceeds are disbursed. This is particularly likely in the case of loans that are disbursed in more than one installment (*i.e.*, multiply disbursed). Prior to releasing the loan proceeds, the school is required to determine again if the borrower is maintaining satisfactory academic progress, in accordance with the system established by the school pursuant to 34 CFR 668.16.

Comment: Several commenters supported the Secretary's proposal, in § 682.201(d) and § 682.603, that the borrower provide evidence from the Immigration and Naturalization Service (INS) of permanent resident status. However, the commenters requested clarification concerning what evidence from INS is acceptable.

Response: No change has been made. Most GSL applications also identify in the application instructions the type of documentation that must be provided. The Secretary believes that the documentation is necessary to ensure that students do not receive aid to which they are not entitled.

Comment: Several commenters agreed with the Secretary's proposal in § 682.201(e), which would make a student ineligible for an additional GSLP or PLUS Program loan if the student (or parent, if applicable) is in default on a GSL, PLUS or NDSL Program loan or owes a refund on a State Student Incentive Grant (SSIG), Supplemental Educational Opportunity Grant (SEOG) or Pell grant for attendance at *any* school. Many commenters expressed concern that defaulted GSLs would be required to be reported on a student's financial aid transcript which would create delays and cash flow problems for students. Some commenters felt that implementation would be impossible without the availability of information regarding a borrower's previous default history.

Response: No change has been made. An institution is only required to report on a financial aid transcript default information for GSL and PLUS loans if the institution is aware of the default status. When a student applies for a loan the student must certify that he/she is not in default on another loan, and the school may rely upon that certification statement unless the school has information to the contrary. Proposed revisions to 34 CFR 668 would require a school to obtain a student's financial aid transcript prior to releasing GSL or PLUS loan proceeds to the student or to a parent borrower on the student's behalf.

Section 682.202 Permissible charges by lenders to borrowers.

Comment: Some commenters objected to the Secretary's proposal that lenders be allowed to capitalize interest no more than once a year. Other commenters argued that capitalization should be permitted at least semi-annually since many lenders grant forbearance in six-month intervals. Some commenters felt that the frequency of capitalization should be determined by the guarantee agency.

Response: No change has been made. Capitalization significantly increases costs to the student and the Federal Government. For this reason the Secretary wishes to limit the frequency with which a lender may capitalize interest. Lenders may continue to capitalize interest that accrues during periods of forbearance or deferment in accordance with these regulations.

Comment: Several commenters suggested that the regulations should permit capitalization when a loan is purchased by a secondary market.

Response: No change has been made. The Secretary does not believe that a borrower should be charged more interest, or that the Secretary should be liable to make special allowance payments on an increased loan balance, simply because a loan is transferred from one holder to another.

Comment: Several commenters expressed concern with the Secretary's proposal in § 682.202(b)(2)(iv) of the NPRM, which would permit lenders to capitalize interest from the date the first installment payment was due until it was made. These commenters argued that lenders would be unable to produce a disclosure of finance charges and a repayment schedule that accurately reflect the amount of interest to be capitalized since they do not always know the date the first payment will be made.

Response: No change has been made. Lenders are not required to capitalize this interest, but may do so in accordance with policies established by the guarantee agency. Section 682.205(b)(3) of the final regulations requires a lender to disclose to a borrower the *estimated* amount of interest to be capitalized.

Comment: Many commenters objected to the Secretary's proposal in § 682.202(c) of the NPRM to permit lenders to deduct the entire origination fee from the first disbursement of loan proceeds. Commenters suggested that students would be unnecessarily burdened at the beginning of the year, when most expenses are incurred, if the entire fee were deducted from the first disbursement.

Response: A change has been made. Public Law 99-272 requires origination fees to be deducted proportionately from each disbursement.

Comment: Many commenters agreed that the origination fee should be refunded to the borrower if the check for the entire loan or multiply disbursed portion is returned to the lender uncashed. While many commenters also agreed that the origination fee should be refunded to the borrower if, within a certain number of days, the loan is repaid in full, the commenters did not believe that 60 days was a sufficient period of time to allow for repayment in full. Several commenters thought that the 60-day limit was inconsistent with the 90-day limit allowed under § 682.300(b)(2)(iii) of the NPRM for interest benefits and special allowance payments on loans for which checks have not been cashed. The commenters contended that if the lender is eligible for interest benefits and special allowance payments for 90 days, then the borrower should also be eligible for a refund of the origination fee during the same period.

Response: A change has been made. The Secretary has extended the number of days specified in § 682.202(c)(4) of the final regulations during which the origination fee will be refunded from 60 to 120 days. In addition, the period of time specified in § 682.300(b)(2)(iii) of the final regulations during which the Secretary will pay interest benefits and special allowance to lenders on uncashed loan checks has been extended from 90 to 120 days. The Secretary has decided to make the two time frames consistent to eliminate the need for lenders to collect the origination fees from the borrowers after a loan is canceled because the check was not cashed.

Comment: Several commenters suggested that costs associated with locating a borrower (*e.g.*, skip-tracing costs), including fees paid to governmental and non-governmental agencies, fees paid to credit bureaus for address information, express or certified mail charges, and other charges associated with skip-tracing, be included on the list of collection costs that a lender may charge a borrower.

Response: No change has been made. Skip-tracing costs are considered collection costs and may be charged to the borrower, subject to the limits specified in § 682.202(f) of the final regulations, which excludes such items as local telephone calls.

Section 682.203 Statement of Educational Purpose.

Comment: Some commenters argued that the Statement of Educational Purpose is a part of the application process, during which the school determines the student's eligibility and, therefore, that § 682.203 of the NPRM, which requires the statement, is redundant and should be eliminated.

Response: No change has been made. Section 682.203 of the final regulations reflects the statutory requirement that a borrower provide a Statement of Educational Purpose to the lender as a condition for eligibility to participate in the GSL and PLUS Programs. The Statement of Educational Purpose is included as part of the student certification in GSL and PLUS applications, and, therefore, the borrower satisfies the requirement contained in this section by signing the application.

Section 682.205 Disclosure requirements.

Comment: Several commenters expressed concern that the disclosure requirements as proposed would preclude the use of a combined application/promissory note form. The commenters argued that there is no way of knowing the loan amount for which a student will qualify at the time a combined application/promissory note form is completed by the borrower.

Response: A change has been made. The Secretary has deleted the proposed requirement that certain disclosures be made in the promissory note in order to provide the lenders and guarantee agencies with maximum flexibility.

Section 682.209 Repayment of loans.

Comment: Several commenters disagreed with the Secretary's proposal, found in § 682.207(b) of the NPRM, to require a lender to credit prepayments that it receives against the principal amount of the loan. Most of these commenters agreed that this requirement is burdensome to lenders with automated servicing systems that treat prepayments as credits toward future installments due unless otherwise requested by the borrower.

Response: No change has been made. Both the proposed rules and final regulations require lenders to credit prepayments to principal only when the borrower does not request that the credits be credited to future installments. If the borrower does not specifically request the prepayment to be credited to future installments, the Secretary believes the borrower should receive the greatest monetary benefit of the prepayment in order to encourage such payments.

Comment: Two commenters suggested that the Secretary include deferment under what is now § 682.209(c)(2) of the final regulations since both deferments and forbearance are included in calculating the 10- or 15-year maximum repayment period.

Response: No change has been made. Section 682.209(c)(2) of the final regulations relates only to minimum annual payments. This section prohibits a lender from establishing an annual payment which would result in an extension of the 10- or 15-year maximum repayment period unless forbearance, as described in § 682.211 of the final regulations, has been approved. Since a deferment cannot affect the amount of a borrower's payment, deferments are not included in this provision. However, § 682.209(a)(6) of the final regulations governs the period of time during which a borrower must repay a loan, and stipulates that if the borrower receives an authorized deferment or is granted forbearance, as described in § 682.210 and § 682.211 of the final regulations, the periods of deferment or forbearance are excluded from determinations of the 5-, 10- and 15-year repayment periods.

Comment: One commenter pointed out a conflict between §§ 682.510(a)(3) and 682.606(b)(3) of the NPRM, which specify the period of time during which a student enrolled in a course of study by correspondence may request a restoration of in-school status after failing to submit a scheduled lesson when due.

Response: A change has been made. The Secretary has amended the language of the pertinent sections, §§ 682.209(a)(3) and 682.605(b)(3) of the final regulations, to require the student to make the request for restoration to in-school status within 60 days after the due date of a scheduled lesson that the student failed to submit.

Comment: Several commenters recommended that language be included in the regulations to distinguish between loans

that have the $360 minimum annual repayment and loans that have the $600 minimum annual repayment. One commenter suggested including the applicable effective dates to make the distinction.

Response: No change has been made. The Secretary believes that it is unnecessary to include in the final regulations the $360 minimum annual repayment provision, since no new loans will be governed by that provision. All loans to which the $360 minimum annual payment applies currently have that provision included as a term of the promissory note.

Comment: Several commenters suggested that the regulations should specify that the beginning of the repayment period is day-specific for 7% loans and month-specific for 8% and 9% loans.

Response: No change has been made. The beginning of the repayment period (*i.e.*, the end of the grace period) on 7% loans is day-specific only if the lender allowed the borrower a 12-month grace period. However, if the borrower received a 6-, 9-, 10- or 11-month grace period, the beginning of the repayment period may be month-specific. If a lender allowed a 12-month grace period to be month-specific, the 12-month statutory maximum would be violated.

Comment: One commenter questioned the proposed requirement that both the school and the holder of the loan notify the borrower of a tuition refund paid by the school to the original lender.

Response: No change has been made. Section 682.209(e) of the final regulations applies only if a lender receives a refund from a school, and that lender is no longer the current holder of the loan. In such cases, the lender must transmit the refund to the current holder of the loan, and the current holder must provide written notice to the borrower that the refund payment has been received. The purpose of this provision is to inform the borrower that a refund which was sent to the original lender was subsequently received by the current holder.

Section 682.210 Deferment.

Comment: Several commenters stated that the 60 days for which a deferment may be granted retroactively, under what is now § 682.210(a)(5) of the final regulations, is too short a period to allow borrowers to obtain the required certifications. The commenters argued that this policy will lead to a significant increase in defaults, because borrowers will fail to submit the deferment documentation on time.

Response: A change has been made. The Secretary has amended § 682.210(a)(5) to allow all deferments, except the unemployment deferment, to be granted retroactively up to six months. The 60-day limit will continue to apply to the unemployment deferment. The Secretary believes that unlimited retroactive deferments have been an administrative burden to lenders. The six month and 60-day limits will minimize the adverse effect on lenders of having to adjust the borrower's account retroactive to the first day that the condition entitling the borrower to deferment began. In many cases, lenders have not been notified of deferments until after the conditions entitling borrowers to deferments no longer existed. This provision should also encourage borrowers to submit required deferment documents more promptly.

Comment: One commenter recommended that schools that are eligible to participate in the GSL and PLUS programs, but choose not to, should be allowed to certify the required documents for purposes of an in-school deferment.

Response: No change has been made. Section 487(a) of the Act specifies that, in order to be an eligible institution for purposes of any program authorized under title IV of the Act (except for SSIG), a school must enter into a participation agreement with the Secretary. Therefore, only participating schools may certify deferment forms for purposes of the GSL and PLUS programs.

Comment: Section 682.511(a)(8) of the NPRM proposed to prohibit a borrower who is in default from qualifying for a deferment until the account has been brought current with the lender. One commenter suggested that, instead, a borrower whose loan is in default not be eligible for a deferment until the borrower brings the account to less than 60 days past due, by means of either a payment or a forbearance requested in accordance with what is now § 682.211.

Response: A change has been made. A borrower may receive a deferment on a loan that is in default if the borrower has made arrangements, satisfactory to the holder of the loan, to repay the loan.

Comment: One commenter suggested that the regulations clarify whether or not an in-school deferment must be documented in writing or whether the lender may confirm the deferment orally with the school.

Response: A change has been made. Section 682.210(a)(4) now requires the borrower to provide the lender with all documentation required to establish eligibility for a deferment. This requirement would *not* be met if the lender orally confirms the borrower's in-school status with the school and so notes in the borrower's file. The Secretary provides a deferment form (ED Form 1188) for use under the FISLP to provide written documentation for all deferments. Guarantee agencies generally provide lenders with a comparable deferment form.

Comment: One commenter recommended that the regulations describe the conditions under which a student can be considered full-time while enrolled part-time in each of two or more eligible schools.

Response: No change has been made. It has always been the Secretary's policy to consider a student to be enrolled full-time at a participating school if he or she is enrolled less than full-time at two or more participating schools, as long as one school certifies the student's eligibility for the deferment, *i.e.*, that the combined enrollment at all schools constitutes full-time status.

Comment: One commenter suggested that § 682.511(i) of the NPRM, "Spouse's temporary total disability," be expanded to include all dependents of a borrower. The commenter argued that this revision would recognize that borrowers must often care for other family members who are temporarily totally disabled.

Response: No change has been made. The regulation reflects the statute, which only provides for a deferment for a borrower engaged in the care of a spouse who is temporarily totally disabled. However, a lender has the option under § 682.211 to grant forbearance to a borrower whose ability to make scheduled payments has been temporarily impaired by personal problems such as the illness of a dependent.

Comment: Several commenters suggested that unemployment deferments be renewable every six months, as specified in current regulations, rather than every three months.

Response: No change has been made. Because a borrower's employment status is subject to rapid and unexpected change, the Secretary believes that it is necessary to verify that the borrower is still unemployed and actively seeking employment at least once every three months.

Comment: One commenter suggested that the Secretary delete § 682.511(g)(3)(i) of the NPRM, now § 682.210(g)(3)(i), which requires that, to get an internship deferment, a borrower must provide the lender with a statement from an official of the appropriate State licensing agency that the internship program in which the borrower participates is one which the agency requires before certifying an individual for professional practice or service. The commenter stated that internship program administrators know enough about the legal requirements of their professions to be able to certify to this fact competently.

Response: No change has been made. In reviewing requests for the approval of internship programs, often from program administrators, the Secretary has noted that, contrary to the assertions of these administrators, the programs often do not meet the requirements specified in § 682.210(g)(2). Since a State licensing agency is responsible for the licensure of individuals in a particular profession, the Secretary has concluded that an official of that agency should certify that the internship program meets the requirements of § 682.210(g)(2). The program administrator must then certify, pursuant to § 682.210(g)(3), that the borrower is actually serving in that program.

Comment: One commenter noted that the regulation cites medical residency as an eligible internship program. The commenter noted that the minimum medical residency is three years in length while internship deferments are only two years.

Response: No change has been made. The two-year time limit for internship deferments is mandated by the statute. *See* 20 U.S.C. 1078(b)(1)(M)(vi) and 1078-2(a)(1).

Section 682.211 Forbearance.

Comment: Several commenters objected to deleting from prior regulations the requirement for a written forbearance agreement between the borrower and the lender.

Response: A change has been made. The Secretary has reinstated the requirement for a written forbearance agreement. A written forbearance agreement between the borrower and the lender is necessary to preclude any misunderstanding and to serve as a protection for both parties. Written forbearance agreements are especially

important to a review of a lender's collection efforts on defaulted loans by the agencies or the Secretary.

Comment: One commenter suggested that the lender be given discretion to disregard all the rules of forbearance under certain circumstances. The commenter argued that the guarantee agencies need to retain flexibility to handle a situation in which the forbearance is agreed to orally but the form has been left unsigned by the borrower.

Response: No change has been made. The Secretary believes that the requirements of § 682.211 are general enough to accommodate most circumstances. If the forbearance agreement is not signed by the borrower, the forbearance would not be in effect until the borrower's signature was obtained.

Comment: One commenter objected to the requirement under § 682.209(c)(1), now § 682.211(c)(1), that, in order to grant forbearance, the lender must reasonably believe that the borrower intends to repay the loan, but is currently unable to do so. The commenter argued that it would be impossible for the lender to prove that the borrower intends to repay the loan.

Response: No change has been made. A lender is not required to *prove* that the borrower intends to repay the loan. A lender is only required to make a reasoned judgement that the borrower intends to honor the repayment obligation.

Section 682.212 Prohibited transactions.

Comment: One commenter suggested that a clause be added to this section to prohibit agents of lending institutions, particularly insurance companies, from earning commissions on sales of other services offered by the lender that are coupled with a promise by the lender to make a GSLP or PLUS Program loan in the future.

Response: No change has been made. The Secretary shares these concerns and is currently considering various alternatives for addressing these issues by regulation.

Section 682.213 Prohibition against the use of the rule of 78's.

Comment: Several commenters agreed with the proposal to prohibit the use of the rule of 78's. However, several commenters questioned what loans would be affected and thought that the rule should apply only to new loans. One commenter also suggested that the rule apply to loans entering repayment after the effective date of the regulation. Another commenter suggested that, for purposes of special allowance, lenders should be allowed to continue to calculate balances using the rule of 78's. Some commenters argued that the rule of 78's is used for computing all interest due by means of a pre-computed system. To change methods would result in the loss of substantial income. Some commenters pointed out that smaller lenders would have problems implementing this proposal.

Response: No change has been made. The Secretary appreciates the concerns expressed by the commenters. While lenders are encouraged to implement this provision immediately, they will not be required to do so until six months after the effective date of the regulation package (See the "Effective Dates" section of the preamble to these final regulations.) This provision will only affect those loans for which repayment has not begun as of that date.

Subpart C—Federal Payments of Interest and Special Allowance

Section 682.300 Payment of interest benefits on a GSLP loan.

Comment: While there was some support for the proposal to limit the payment of interest benefits and special allowance on a loan for which the check remains uncashed to 90 days, many commenters objected to the proposal. The commenters argued that the proposal would create an unreasonable administrative burden for lenders since few checks remain uncashed and not returned to the lender in a timely manner. Other commenters indicated that the proposal would unfairly penalize lenders when schools are slow in returning uncashed checks. Moreover, the commenters believed that implementation of this proposal may decrease lender participation in the program. A number of commenters recommended that the Secretary use a longer period than 90 days.

Response: A change has been made. The Secretary is extending the number of days a check may remain uncashed and continue to be eligible for interest and special allowance benefits from 90 to 120 days. The Secretary believes that loan funds should be made available to a borrower at the time they are needed to pay educational costs. Accordingly, § 682.207(b)(9)(iv) prohibits a lender from disbursing a loan more than 30 days prior to the beginning of the academic period for which the loan is intended. If a loan check has not been cashed by a borrower within 120 days of the date of disbursement, it is reasonable to conclude that the funds are no longer needed by the borrower to pay educational expenses, and therefore the Secretary ceases to pay Federal subsidies on the loan. Failure by a borrower or school to return a loan check within 120 days does not penalize a lender, since these regulations authorize the lender to bill for interest benefits and special allowance for up to 120 days for loan checks that are not cashed.

Section 682.302 Payments of special allowance on a GSLP or PLUS Program loan.

Comment: One commenter recommended that § 682.302(d)(1)(iii) be revised to clarify that a lender's eligibility for special allowance payments ceases when the loan no longer qualifies for reinsurance payments by the Secretary.

Response: A change has been made. The Secretary has amended this section to terminate a lender's eligibility for special allowance payments by the Secretary on a loan when it ceases to be eligible for reinsurance coverage by the Secretary, so that both interest benefits and special allowance payments terminate at the same time.

Comment: One commenter requested a clarification of how a lender would know when a loan ceases to be guaranteed by a guarantee agency or reinsured by the Secretary. Another commenter indicated that it is a burden on the guarantor to determine the time at which the loan ceases to be guaranteed and to inform the lender in a timely manner.

Response: No change has been made. A loan ceases to be guaranteed when it no longer meets the conditions for guarantee coverage established by the guarantee agency. A loan no longer qualifies for reinsurance coverage when it ceases to meet the conditions established in § 682.406. It is not necessary for a guarantee agency to identify a violation of a condition for its guarantee coverage and notify the lender of that violation in order for the guarantee coverage on a loan to be terminated. The termination is automatic upon a lender's violation of a condition for guarantee coverage. Since the lender is presumed to know these conditions, it also should know when it has violated them.

Comment: One commenter believed it should be made clear that if a lender files a claim with a guarantee agency prior to the 90th day after the borrower's default, the lender should continue receiving special allowance payments up until the day the lender receives payment on that claim from the guarantee agency.

Response: No change has been made. Special allowance payments cease on default claims on the earlier of the date the lender receives payment on the claim or the date the loan ceases to qualify for reinsurance coverage. The maximum period of time for which a loan qualifies for reinsurance, and thus for which a lender qualifies for special allowance payment on the loan, after default by the borrower, is 90 days after the default claim is filed with the guarantor, provided the claim is filed within 90 days following the borrower's default. These regulations do not preclude a lender from collecting from a guarantee agency any lost income that resulted from a guarantee agency's failure to pay a claim within 90 days.

Section 682.303 Methods for computing interest benefits and special allowance.

Comment: Some commenters supported the elimination of the average quarterly balance method for interest and special allowance billing by lenders. One commenter indicated that most holders will benefit from the average daily or actual accrual method. Numerous commenters strongly opposed the elimination of the average quarterly balance method. The commenters' objections were based on the belief that other methods of computing interest and special allowance payments are burdensome, both for lenders that compute interest and special allowance payments without using an automated system, and for lenders that use automated systems (since computer programming changes will be costly). Many of the commenters recommended that the Secretary specifically address the problem of loan transfers in another way rather than eliminating the average quarterly balance method.

Response: No change has been made. The final regulations do not provide for the use of the average quarterly balance method for interest and special allowance billing

because this method is not a precise means of determining the amount of interest and special allowance that has accrued on a loan portfolio. In the early years of the GSLP, the Secretary allowed the use of the average quarterly balance method because loan volume was considerably smaller than today. Thus, the financial impact of the imprecision of this method on the Government was negligible. This is no longer the case.

Comment: Many commenters requested that implementation of the prohibition against the use of the average quarterly balance method be delayed for a year.

Response: A change has been made. The Secretary has decided to postpone the effective date of this provision to allow lenders sufficient time to modify, or develop, procedures for billing for interest and special allowance payments under the new requirements. The effective date for this change may be found in the preamble to these regulations.

Comment: Many commenters objected to the proposal requiring the use of 365 days (or 366 in a leap year) in determining interest benefits under the average daily balance method or the actual accrual method. The commenters stated that a 365.25-day year represents no difference in cost to the Federal Government over a four-year period and should be allowed in order to eliminate the need to change interest billing systems to accommodate leap years.

Response: A change has been made. The Secretary has revised the regulations to allow for the use of either a 365.25-day year or the actual number of days in a year for the purpose of calculating the amount of interest benefits and special allowance payable to a lender by the Secretary. However, if a lender chooses to use a 365.25-day year, it must do so for four consecutive years.

Comment: Several commenters asked if the use of a 30-day month and 360-day year would be permissible in calculating interest benefits payable by the Secretary.

Response: No change has been made. The permissible methods for calculating interest and special allowance benefits payable by the Secretary are described in § 682.303 of the final regulations. In determining the average daily balance (§§ 682.303(b)(1) and 682.303(d)(1)), the actual number of days in the month and quarter must be used.

Subpart D—Guarantee Agency Programs

Section 682.401 Basic program agreement.

Comment: Several commenters objected to the requirement, found in § 682.401(b)(2)(i) of the NPRM, that the minimum loan amount authorized for a full-time student must be $1000. Some argued that it is unfair to burden students with a loan amount in excess of unmet need. Others argued that $1000 is too large a figure, suggesting that $500 would be more appropriate. Another commenter thought it unreasonable to require a $1000 minimum loan amount in the case of a full-time student applying for a loan for a period of less than one academic year in length.

Response: No change has been made. This requirement is not substantively different from previous regulatory requirements and is mandated by section 428(b)(1)(A) of the Act. The commenters misunderstood the intent of the rule. The final regulations *do not* require that loans must be in an amount of at least $1000; the final regulations merely require a guarantee agency that does not have a Supplemental Reinsurance Agreement with the Secretary to establish a policy that the maximum loan amount which it will guarantee will be no less than $1000.

Comment: Several commenters were critical of § 682.401(b)(4)(ii)(C) of the NPRM, which would require borrowers to supply, as part of the loan application, information regarding the borrower's and, if appropriate, the borrower's parents' outstanding student loans made under title IV of the Act. Several commenters contended that collecting information on the National Direct Student Loan Program (NDSLP) loans is unneccessary, since the school already has that information. One commenter suggested that the Secretary should specify the information to be included about PLUS Program and NDSLP loans. Several commenters objected to any requirement that PLUS Program parent borrowers disclose information about their children's student loans since they might not be aware of those loans. One commenter wondered if the proposed requirement meant that parent borrowers under the PLUS Program will be required to disclose *their* NDSLP loans.

Response: A change has been made. The requirement that borrowers provide information concerning their NDSL Program loans has been deleted. The requirement that borrowers provide information about their GSL and PLUS Program loans has been retained. The purpose of this requirement is to ensure that borrowers do not exceed the annual and aggregate loan limits and to provide information to enable lenders to counsel borrowers regarding their accumulated debts. In the case of a parent borrowing a PLUS loan, the parent is required to provide information concerning the student's outstanding loans in connection with the PLUS program loan application. In practice, the student will ordinarily provide this information on the application form, which the parent will then certify. The Secretary believes it is reasonable to require that a parent borrowing on behalf of a student become aware of that student's outstanding loan obligations.

Comment: Many commenters objected to the proposed requirement in § 682.401(b)(5) of the NPRM that all loan checks (other than those made for students to attend school outside the United States, or PLUS loans to parents) be made jointly payable to both the borrower and the school, and be sent to the school. Many commenters suggested that the same benefits for the program are achieved by either making loan checks jointly payable or by requiring checks to be sent to the school, and that requiring both is therefore unnecessary. Several commenters urged that guarantee agencies be allowed to exercise their discretion in deciding if loan checks should be made jointly payable. One commenter suggested that schools should be given the option to decline the use of jointly payable checks. One commenter argued that the jointly payable check requirement eliminates any need for holding a loan check until after classes commence, as was proposed in § 682.605(c) of the NPRM.

Response: A change has been made. Among the many changes in the GSLP mandated by Pub. L. 99-272, several provisions addressed some of the concerns of the commenters. The statute now prohibits the Secretary from requiring the use of jointly payable checks; it does not, however, prohibit a guarantee agency from requiring the use of jointly payable checks in its program. The statute also requires that GSL and PLUS Program checks be sent to the schools, including foreign schools, for delivery to borrowers. The final regulations have been amended to reflect these statutory changes.

Comment: Several commenters expressed apprehension over the provisions found in § 682.401(b)(6)(iii)–(iv) of the NPRM, which specify circumstances requiring refund of the insurance premium. One commenter complained that the administrative burden of examining each paid-in-full loan to determine if a portion of the insurance premium is refundable is too great to be justified.

Response: No change has been made. Section 682.401(b)(6) of the final regulations authorizes a guarantee agency to charge an insurance premium to the lender. That section further stipulates the circumstances under which insurance premiums must be refunded. Neither the NPRM nor the final regulations require each paid-in-full loan to be examined to determine if a portion of the insurance premium is refundable. The Secretary has decided to refund the origination fee on a loan which is either paid-in-full within 120 days or cancelled because the check was not cashed. The final regulations require a guarantee agency to refund the insurance premium on such loans. This will establish a uniform policy for all agencies and will ensure that no default claim is submitted by a lender for the amount of the insurance premium only. The costs incident to the submission and review of such claims far exceed their amount. The remaining requirements found in § 682.401(b)(6) of the final regulations require the refund of an insurance premium charged to cover the anticipated repayment period when the loan is not outstanding during the period for which the insurance premium was charged. That requirement continues an existing one, which ensures that the actual insurance premium paid by the borrower does not exceed the regulatory maximum.

Comment: One commenter was critical of the provision in § 682.401(b)(9) of the NPRM, which requires a guarantee agency to allow a loan to be assigned only to certain parties. The commenter stated that policing such assignments is a responsibility which is beyond the ability of guarantee agencies to perform.

Response: No change has been made. Current regulations contain the same requirement concerning assignment. The Secretary believes it is the responsibility of each guarantee agency to ensure that GSL and PLUS Program loans are held only by eligible lenders.

Comment: Several commenters suggested that § 682.401(b)(9)(ii)(B) of the NPRM should not limit loans assigned to the guarantee agency to cases of a borrower's default,

death, total and permanent disability or filing of a bankruptcy petition.

Response: No change has been made. GSL and PLUS Program loans cannot be routinely assigned to a guarantee agency because, under the Act, an agency is an eligible lender only for purposes of making consolidation loans or when the agency serves as a lender of last resort.

Comment: Several commenters asked the Secretary to clarify the status of loans pledged as collateral, including possibly as collateral for State funds deposited into a lending institution, since such loans would be affected by the provision in § 682.401(b)(9)(ii) of the NPRM, which defines "assigned" to include loans pledged as security.

Response: No change has been made. Since, under the Act, only eligible lenders may receive program benefits, the pledge of a GSLP or PLUS program loan to an ineligible lender confers on the ineligible lender no right to receive those benefits. The ineligible lenders may not be aware of this. For this reason, the Secretary believes it is necessary to prohibit such pledges entirely. Accordingly, loans may not be pledged as collateral except to an eligible lender.

Comment: Several commenters suggested that the Secretary delete the proposed requirement, found in § 682.401(b)(10)(i)(D) of the NPRM, that a guarantee agency must establish, disseminate and enforce standards and procedures for approval of forbearance since standards for forbearance were included in § 682.512 of the NPRM and apply to guarantee agency programs.

Response: A change has been made. The Secretary has deleted the requirement as suggested by the commenters. Final regulations governing forbearance are provided in § 682.211 of the final regulations and apply to both the guarantee agency and the FISL programs.

Comment: Several commenters suggested that the Secretary could reduce the burden on schools by mandating in what was § 682.401(b)(11) of the NPRM uniform procedures for use by all guarantee agencies in monitoring enrollment status.

Response: No change has been made. The final regulations require that guarantee agencies develop systems to monitor student enrollment status, as was proposed in the NPRM. The Secretary is concerned with the administrative burden that might be imposed on schools if each agency adopts a different monitoring system. The National Council of Higher Education Loan Programs (NCHELP) has established a committee which is developing a uniform system for monitoring student enrollment status. A pilot project utilizing this system was conducted by NCHELP in the Spring of 1986. The committee is evaluating the success of the pilot and is attempting to resolve the technical and administrative problems encountered. The Secretary is greatly interested in the establishment of a single system for monitoring student enrollment status in order to reduce reporting burdens on schools and intends to consider the results of the NCHELP pilot project in developing future regulations in this area.

Comment: Many commenters disapproved of the proposed requirement, found in § 682.401(c) of the NPRM, that prohibits guarantee agencies from using forms, procedures, regulations and other materials until they have been reviewed and approved by the Secretary. Many commenters suggested that the provision should be amended to provide for implied approval of documents not acted on within a given period of time (*e.g.*, 30 to 60 days). Several commenters suggested that the regulations should mandate that the Secretary must review documents within a given period of time. One commenter thought that agency materials could be reviewed by the Secretary during an agency's annual program review. Another commenter recommended that the Secretary mandate a standard loan application for all agencies, which would eliminate the need for the Secretary to review over fifty separate applications.

Response: A change has been made. The Secretary is requiring a guarantee agency to obtain the Secretary's approval of its application forms, promissory notes, and write-off criteria and procedures before using them. Prior approval of the application forms and promissory notes is necessary because these forms are central to the GSL and PLUS programs and affect all program participants. Prior approval of write-off criteria and procedures is required to ensure that agencies exercise due diligence in collecting loans they hold. An agency is also required to submit to the Secretary its regulations, procedures and other substantive program materials whenever they are revised, but the Secretary's approval is not needed before they are implemented. The Secretary is interested in the development of a single application form to be used by all guarantee agencies, and is reviewing various technical and programmatic alternatives in this area. Such an approach (*i.e.*, a single application) would presumably be desirable from the perspective of schools and lenders dealing with multiple guarantee agencies.

Section 682.402 Death, disability, and bankruptcy payments.

Comment: Several commenters stated that guarantee agencies retain copies of the loan application at the time the loan is approved. Therefore, there is no need to require that a copy of the loan application be included with the claim.

Response: No change has been made. The Secretary retained this provision because all agencies do not have a uniform policy of retaining a copy of the application at the time the loan is approved. The Secretary does not object, however, if a guarantee agency retains the application at the time of guarantee on the lender's behalf, and does not require that a copy be submitted with a death, disability, or bankruptcy claim.

Comment: One commenter stated that there is no provision for the treatment of bankruptcy when the borrower is in the in-school, grace, or deferment periods, because the borrower is not in default during those times.

Response: A change has been made. Under the final regulations, a lender is required to hold a loan on which a borrower has filed bankruptcy if the borrower has not been in repayment for at least five years, unless a hardship petition has been filed by the borrower with the bankruptcy court. If the borrower has been in repayment for longer than five years, the lender must file a bankruptcy claim with the guarantor. The regulations have been changed to reflect current Federal bankruptcy law. Loans on which lenders have ceased collection activity due to the borrower's filing of bankruptcy, but which are not later discharged, will be considered as having been in forbearance status until the outcome of the bankruptcy proceedings is known.

Section 682.404 Federal reinsurance agreement.

Comment: Several commenters objected to the proposed amendment to the Federal reinsurance agreement in § 682.404(d) of the NPRM that would require agencies to apply payments of defaulted borrowers to accrued interest first. They argued that defaulted borrowers would become discouraged if they did not see their principal balance reduced, thus making them less likely to continue making payments. Some commenters suggested that agencies should to be given the option of applying payments to either accrued interest or principal first as they were previously. Several commenters objected to the proposed requirement because agencies would incur administrative costs in having to reprogram their computer systems.

Response: No change has been made. The Secretary is requiring payments to be applied to accrued interest first because borrowers who default and have their payments applied to principal first would otherwise pay less over the life of the loan than would borrowers who do not default. This would be unfair to borrowers who honor their repayment obligations.

Comment: Several commenters suggested that guarantee agencies that use collection agents would have difficulty remitting to the Secretary his equitable share of borrower payments within 60 days of receipt, as required by § 682.404(e)(4) of the NPRM. They suggested that the agency should be allowed an additional 30 days from the collection agents' receipt of funds.

Response: No change has been made. The final regulations clarify that the Secretary is entitled to his equitable share in a timely manner, irrespective of the guarantee agency's collection procedures. The Secretary emphasizes that the 60 days begins on the day the borrower's payment is received, whether by the guarantee agency or by its agent. Sixty days is a sufficient period for a guarantee agency to perform the administrative functions necessary to account for and remit the Secretary's equitable share. This requirement is no different from current regulations.

Comment: Several commenters objected to the proposed requirement in § 682.404(e)(5) of the NPRM that a guarantee agency must transmit to the Secretary his fair share of an asset which the agency purchased with the Secretary's assistance and which is subsequently sold by the agency. They charged that the word "assets" is vague and broad. They argued further that the Secretary

is overreaching his authority by imposing such a requirement. (This comment also applies to § 682.407(b)(3) of the NPRM.)

Response: No change has been made. The Secretary is entitled to a portion of the proceeds of any asset a guarantee agency sells or converts to a non-GSL or non-PLUS use, if the cost, or a portion of the cost, of the asset was claimed as an expense under § 682.404(e)(5) (retention of collections), § 682.407(b)(3) (administrative cost allowance), or § 682.410(a)(6) (insurance premiums and investment earnings). Indeed, this is implicit in the notion that these funds may be used to pay only an agency's *costs* of the GSLP and PLUS Program. The Secretary is owed the same proportion of the liquidation price or fair market value, if applicable, as the proportion of the purchase price that the Secretary paid. The term "asset" is indeed a broad one, as it must be to protect the Federal interest adequately. The term includes equipment, supplies, and all other property whether real or personal, tangible or intangible.

Section 682.406 Conditions of reinsurance coverage.

Comment: One commenter stated that it should be made clear that if an agency fails to pay a claim within 90 days from the date the lender files the claim, the agency should be responsible for sums due the lender, including accrued interest and special allowance benefits.

Response: No change has been made. The refusal of the Secretary to pay a reinsurance claim because of violations by a guarantee agency does not affect that agency's responsibility to honor a lender's default claim. In addition, these regulations do not preclude a lender from collecting from a guarantee agency any lost income that resulted from a guarantee agency's failure to pay a claim within 90 days.

Section 682.408 GSLP loan disbursement through a guarantee agency escrow agent.

Comment: Several commenters objected to the disbursement requirements proposed in § 682.408 of the NPRM. Several commenters stated that disbursements should not be required to be equal, if it can be shown that unequal disbursements will better assist the borrower in meeting educational costs as they arise. In addition, a number of commenters suggested that loans for periods of enrollment of less than 600 clock hours, one quarter, six months, or for amounts of $1250 or less, should be exempt from the disbursement provisions. One commenter noted that multiple disbursements or co-payable checks are not feasible for borrowers attending foreign schools. This commenter recommended that the Secretary include a provision for disbursement by the escrow agent by means of a single check, made payable only to the borrower. Some commenters opposed the provision that loan proceeds be received no later than 30 days after the beginning of each academic period.

Response: A change has been made. This section has been revised to reflect requirements of Pub. L. 99-272 which mandate that lenders disburse a loan in two or more installments if the loan is for $1000 or more, and the period of enrollment is more than six months, one semester, two quarters or 600 clock hours. A loan to a student attending a foreign school is not exempt from the multiple disbursement provisions of the law. The Secretary has revised these final regulations to delete the requirement for co-payable checks, in accordance with the mandate of Pub. L. 99-272. These regulations contain provisions which allow an escrow agent to disburse loan proceeds on behalf of an eligible lender. Loans disbursed by an escrow agent are also subject to the multiple disbursement requirements, and must be transmitted to the school no later than 30 days after receipt of the funds from the lender.

Comment: One commenter questioned the applicability of the requirements of § 682.408 of the NPRM to disbursements by wire transfer. This commenter wanted to know at what point the account would be credited and if the borrower would have to sign an endorsement form.

Response: A change has been made. Public Law 99-272 provides that loan disbursements may be made by means of checks payable to and requiring the personal endorsement of borrowers or by other means payable to and requiring the certification by borrowers. The change in the regulation authorizes the disbursement of loan proceeds by wire transfer to the escrow agent, and from the escrow agent to the school, if authorized by guarantee agency policy.

Comment: Several commenters stated that it is inconsistent to require escrow agents to return any untransmitted proceeds of a loan to the lender within 15 working days after learning that the student has not enrolled or is no longer enrolled at least half-time, when schools are allowed 30 days to refund to lenders.

Response: No change has been made. An escrow agent, unlike a school, is not required to determine the amount of a refund which is allocable to the loan. The escrow agent needs only to determine the amount of the borrower's loan that has not previously been transmitted to the school, and return that amount to the lender. The Secretary believes, therefore, that it is appropriate to provide a school with more time to process a refund to a lender than is provided to an escrow agent.

Comment: Several commenters objected to the requirement that a lender, upon disbursing funds to an escrow agent, must give simultaneous written notice to the borrower. Some of the commenters argued that this requirement will only add to the lender's expenses, create confusion among borrowers, and increase administrative burdens for lenders and escrow agents.

Response: A change has been made. The Secretary agrees with the commenters and has deleted the proposed requirement.

Comment: Some commenters objected to the proposal that would authorize guarantee agencies to establish an escrow system. Several commenters supported allowing a school to become an escrow agent for loans made to its students.

Response: No change has been made. Section 428(i) of the Act authorizes the establishment of escrow systems. Under the revised requirements, a lender may only disburse a loan to an escrow agent at such time and in such amount as the lender could disburse to a school. Thus, the escrow system concept makes sense only where the loan proceeds are disbursed to an entity other than the school.

Section 682.409 Mandatory assignment by guarantee agencies of defaulted loans to the Secretary.

Comment: Several commenters expressed reservations about the assignment procedures and documentation that would be required for loans that the Secretary selects for assignment. Many commenters were critical of the broad language used in the section, because they feared that the Secretary could require an agency to assign all defaulted loans in its portfolio, regardless of the status of the loans. One commenter suggested that agencies should be allowed to appeal the Secretary's decision.

Response: No change has been made. One purpose of mandatory assignment of defaulted loans is to facilitate the use of the most effective, cost-efficient collection methods available. The Federal Government has available to it a number of collection tools which are not available to guarantee agencies, including the authority to offset Federal income tax refunds. One of the main factors that the Secretary intends to consider in determining which loans will be assigned is the relative cost-effectiveness of agency collection efforts compared to those which will be applied to assigned loans by the Secretary. Since it is difficult to foresee which loans, or types of loans, could be collected by the Secretary more successfully than by guarantee agencies (given the changing characteristic of loan portfolios over time, the varying sucess of different agencies in loan collection, and the availability to the Federal Government only of additional collection tools, *etc.*), the Secretary has retained flexibility to require assignment of defaulted loans.

Comment: Many commenters argued that a guarantee agency is entitled to a percentage of the funds collected by the Secretary on assigned loans equal to the percentage of the reinsurance claim not paid by the Secretary. They suggested that the Secretary should also reimburse agencies for collection costs incurred on a loan prior to assignment.

Response: No change has been made. The statute does not require the Secretary to remit to an agency any portion of funds collected on a loan assigned to the Secretary, nor does the statutory scheme suggest that this would be appropriate as a policy matter.

Comment: Several commenters insisted that assigned loans should be removed from an agency's default rate calculation for purposes of determining the agency's reinsurance percentage.

Response: No change has been made. Loans assigned to the Secretary will continue to be included in the default rate calculation because they remain in default, regardless of who is performing collection activity, and are, therefore, relevant to an assessment of the agency's performance and of program trends. However, the Secretary will exclude the amount of collections received by the

Secretary on assigned loans from an agency's cumulative net default rate calculation. Because of collection tools available only to the Federal Government, agencies may, accordingly, reasonably expect that assignment would lead to lower default rates than would occur without assignment.

Section 682.410 Fiscal, administrative, and enforcement requirements.

Comment: Several commenters strongly objected to the proposed provisions imposing specific due diligence requirements for guarantee agencies to follow in collecting defaulted loans. Some of the commenters noted that these requirements provide no flexibility to the guarantee agency in weighing the costs against the benefits of particular collection efforts in particular cases, especially the requirement that the agency file suit in all cases.

Response: A change has been made. The Secretary has deleted the proposed requirement that guarantee agencies file suit on all accounts that are not in repayment after 180 days of collection efforts by the guarantee agency. The Secretary believes, however, that litigation and the threat of litigation are valuable collection tools, and that they should be an integral part of any diligent collection effort. Accordingly, the Secretary has revised the final regulations to require periodic evaluation of the borrower's ability to pay, to identify those accounts on which the guarantee agency must institute a civil suit. The Secretary has, however, retained the other specific collection requirement in this section. The Secretary believes that these requirements reflect the minimal level of effort necessary to protect the Federal fiscal interest in diligent loan collection.

Comment: One commenter questioned whether the requirements for guarantee agencies' due diligence in collection, found in § 682.410(b)(3) of the NPRM, pertains only to the guarantee agency or also to agents of the guarantee agency.

Response: This subpart of the final regulations regulates the activities of guarantee agencies. An agency may choose to contract with other parties to perform activities on its behalf, but the agency remains responsible for complying with the regulations.

Comment: Several commenters objected to agencies being required to conduct on-site program reviews at participating schools. Some of the commenters believed this to be a duplication of effort, because schools are currently being reviewed by the Federal government.

Response: No change has been made. It is the intent of the Secretary that guarantee agencies have primary responsibility for monitoring and ensuring the compliance of their program participants (*i.e.*, lenders and schools). Although the Secretary plans to continue to conduct some lender and school reviews, most future program reviews will involve the guarantee agencies.

Comment: Several commenters strongly objected to the requirement that a guarantee agency reserve fund include all of the funds and the fund sources listed in this section. Several of the commenters pointed out that gifts and grants, for example, are sometimes provided for a specific purpose.

Response: A change has been made. The Secretary has amended the final regulations to allow gifts and grants to be used for the administration of a guarantee agency's loan program. The Secretary believes that all funds generated as a result of a guarantee agency's administration of its loan guarantee program should be reserved for use by that guarantee agency in performing its duties as a guarantee agency. The Secretary does not believe it appropriate that the guarantee agency program be used to raise funds for purposes unrelated to the loan guarantee program. In addition, the Secretary believes that the amount of insurance premiums charged by a guarantee agency to borrowers should reflect that agency's need for funds to administer its loan guarantee program. If a guarantee agency has excess funds available to it, the Secretary urges it to repay Federal advances or, if the guarantee agency has no outstanding advances, reduce the amount of insurance premiums charged to borrowers.

Comment: Several commenters objected to the provision that would require the guarantee agency to invest the assets of the reserve fund only in low-risk securities. Some of the commmenters believed that this provision should be less restrictive.

Response: No change has been made. The reserve fund is meant to support the guarantee agency's loan program. Therefore, the assets of the reserve fund should not be invested in securities which entail a high risk of loss.

Comment: Several commenters objected to the provision that would require the guarantee agency to report a default to a credit bureau. Some of the commenters stated that there would be dual reporting of the same default would result.

Response: No change has been made. Public Law 99-272 requires guarantee agencies to report a default to credit bureaus. In addition, that law requires lenders to report disbursements to credit bureaus. The final regulations reflect those statutory changes.

Comment: Several commenters objected to the provision that would require a guarantee agency to charge interest on defaulted loans for which the Secretary has paid reinsurance. Another commenter requested an interpretation of how this provision is affected by State usury laws, or other State laws, that might limit the interest rate charged by an agency.

Response: No change has been made. The Secretary strongly believes that borrowers should not receive a financial benefit from defaulting on their loans. Therefore, the Secretary has retained the requirement in the final regulations that all guarantee agencies charge interest on defaulted loans. The Secretary does not believe that State usury laws will conflict with this requirement because, under the final regulations, borrowers must be charged interest at the higher of the rate stated in the borrower's promissory note or the rate permitted by State law. The Secretary notes that many States permit the rate of interest specified in a promissory note to be increased upon the entry of a judgment on the debt.

Comment: Several commenters pointed out that the term "geographic area" in § 682.410(c)(1)(ii) of the NPRM requires definition, because of multi-State guarantors and possible adjacent State jurisdictions.

Response: A change has been made. The term "geographic area" has been deleted. Guarantee agencies are responsible for monitoring the compliance of their program participants regardless of geographic proximity to the guarantee agency.

Comment: Several commenters stated that the proposed provisions for adopting procedures to identify fraudulent loan applications were too vague.

Response: No change has been made. The Secretary has not prescribed specific procedures that guarantee agencies must adopt in order to permit each agency the flexibility to establish procedures that are most effective for that agency. At a minimum, agencies should have controls in their systems that identify invalid Social Security numbers, and procedures for the treatment of information received from the Secretary on borrowers who have exceeded loan limits or defaulted on loans guaranteed under other agencies' programs.

Section 682.411 Due diligence by lenders in the collection of guarantee agency loans.

Comment: Several commenters criticized various aspects of § 682.411 of the NPRM, which would establish minimum collection requirements for lenders participating in guarantee agency programs. Several commenters agreed with the principle of due diligence, but did not believe the Secretary should prescribe specific actions on specific days. A few commenters found the requirements too lenient. Several commenters believed that these requirements should not apply to agencies with more stringent requirements. Several commenters suggested that the rules governing agency lenders should not be more stringent than those applied to FISL lenders.

Response: No change has been made. Over time a wide diversity of due diligence policies has developed among agencies. While some agencies have developed policies designed to ensure that lenders undertake all reasonable collection efforts prior to submitting default claims, others have been very lax, both in the formulation and enforcement of their policies. The Secretary is alarmed at the rising costs of defaults in recent years. The requirements set forth in these final regulations represent the minimum level of effort that lenders must undertake in collecting loans in order for agencies to qualify for reinsurance payments. These regulations do not prohibit a guarantee agency from adopting more stringent requirements. These standards will help to protect the Federal government from unreasonable risks of loss and will improve the collections of loans nationwide. The Secretary does not believe it is necessary at this time to change the FISL due diligence procedures for lenders because loans are no longer being made under the FISLP.

Comment: Several commenters suggested that telephone contacts are more effective than written notices. Several commenters

requested clarification of what constitutes diligent effort to make telephone contact.

Response: No change has been made. By these final regulations the Secretary is merely prescribing the minimum efforts that lenders must undertake in collecting on loans, in order for an agency to qualify for reinsurance payments. The mixture of telephone and written contacts required should not be interpreted as limiting collection efforts. If a lender finds that telephone contacts are more effective than written contacts, the lender is encouraged to increase the number of such telephone contacts. To qualify for reinsurance payments, however, the guarantee agency must require its lenders to adhere to the minimum number of written and telephone contacts set forth in the final regulations. Diligent efforts to make telephone contact include, but are not limited to, attempting to contact a borrower at different times of day, on different days of the week.

Comment: Several commenters requested that the Secretary tolerate some minor violations of the deadlines by which a lender must complete a collection activity (*e.g.*, a 30-day letter sent on the 31st day should not cause a loan to become unreinsured).

Response: No change has been made. The time frames established in the final regulations are set at 30-day intervals. By establishing the time-frames in this manner, the Secretary provides lenders with sufficient flexibility to perform the required activities at any time during the prescribed intervals. The requirements set forth in the regulations are the minimum requirements with which a lender must comply in order for a guarantee agency to receive reinsurance on a loan. The regulations do not prohibit either a guarantee agency from requiring additional activities by its lenders or a lender from performing additional activities that it considers effective.

Comment: One commenter suggested that, for purposes of § 682.411(b) of the NPRM, in the event of a late payment by the borrower, the first day of the delinquency period should be the day after the due date of the next missed payment rather than the due date itself.

Response: A change has been made. The language concerning the effect of late payments on delinquency has been changed to reflect the commenter's suggestion.

Comment: One commenter asserted that 30 days is too brief a period of time for a lender to recognize that a loan has entered the repayment period and that 60 days is a more reasonable period.

Response: No change has been made. The Secretary believes that 30 days is adequate time for a lender to recognize that a loan has entered the repayment period, particularly since lenders are not required to obtain signed repayment schedules from borrowers. Though the Secretary recognizes that a reasonable amount of time is required for a lender to recognize that a loan has entered the repayment period, any delay in repayment extends the period of time the loan is outstanding and thereby increases special allowance costs on the loan.

Comment: One commenter suggested that it would be impossible for a lender to begin skip-tracing activity within 10 days of discovery of a skip, as was proposed in § 682.411(g) of the NPRM.

Response: No change has been made. The Secretary is requiring only that a lender begin skip-tracing activity within 10 days of discovery, not that those efforts be completed in 10 days. The Secretary believes that it is essential to begin skip-tracing activity as soon as possible after discovery of a skip, so that the chances of locating the borrower are enhanced.

Comment: One commenter suggested that § 682.411(h) of the NPRM was unclear and should be revised to require the lender to request pre-claim assistance at the *earlier* of the 90th day of delinquency or as soon as assistance is available from the agency.

Response: A change has been made. The final regulations have been changed to require lenders to request pre-claim assistance as soon as it is available. If a guarantee agency offers such assistance at the 60th day of delinquency, for example, the lender must request it at that time.

Section 682.412 Consequences of the failure of a borrower or student to establish eligibility.

Comment: Several commenters objected to the proposal to require lenders to take specific action on loans to borrowers who failed to establish eligibility, because schools are not held responsible for loans made to, or interest paid on behalf of, ineligible borrowers.

Response: No change has been made. However, by including a requirement that the lender demand that a borrower repay loan funds for which the borrower was not eligible, the Secretary does not intend to imply that the Secretary will not impose a fine against a school, if appropriate, under 34 CFR 668.75. Also, the Secretary may choose, if appropriate, to recover Federal funds paid on such a loan from the school, under § 682.609 of the final regulations, or from the borrower.

Comment: One commenter objected to the proposal that would require lenders to adjust their interest billing for interest paid by the borrower as a result of the final demand letter.

Response: No change has been made. The interest that is paid by the borrower is reimbursement of interest improperly paid to the lender by the Secretary on the borrower's behalf. These final regulations, therefore, require this repaid interest to be reimbursed to the Secretary on the lender's next quarterly interest billing form.

Comment: Several commenters objected to the proposal to require lenders to demand full repayment of an ineligible loan because the commenters believed that this action forces a borrower into default.

Response: No change has been made. The Secretary provides the borrower with an opportunity to repay fully, within 30 days of the final demand letter, the amount for which the borrower was ineligible. The Secretary only requires a lender to file a default claim on the full amount of the loan if a borrower fails to comply with the terms of the final demand letter. In any case, an ineligible borrower is, by definition, not permitted to receive or retain loan funds at all, under the Act.

Section 682.413 Remedial actions.

Comment: Several commenters suggested that § 682.413 of the NPRM should provide for specific, reasonable and appropriate sanctions only in the case of specific, identifiable and material violations.

Response: No change has been made. The Secretary believes that the remedial actions in § 682.413 of the final regulations *are* specific, reasonable and appropriate. The Secretary has no intention of applying them where violations are unidentifiable. The Secretary is authorized to recover payments to which program participants were not entitled due to program violations. If the Secretary finds it necessary to limit, suspend or terminate a lender or an agency, or to recover or withhold payments, he will do so only after the affected party is granted notice and an opportunity to be heard.

Subpart E—Federal Insured Student Loan Program and Federal PLUS Program

Section 682.507 Due diligence in collecting a loan.

Comment: Two commenters noted that § 682.513(f) (1) and (2) of the NPRM would allow the lender to file a lawsuit against the borrower to recover the amount of the loan, together with attorneys' fees. The commenters asked if, in connection with a default claim later filed on the loan, the Secretary will reimburse the lender for attorneys' fees incurred by the lender.

Response: No change has been made. Section § 682.202(f)(1) of the final regulations allows the lender to charge the borrower for collection costs incurred by the lender or its agent in collecting installments not paid when due, if the borrower's promissory note included a provision to that effect. The Secretary provides a lender participating in the FISLP with the authority to institute a civil suit against a borrower for recovery of amounts owed. In addition, a lender may first apply payments received from a borrower in satisfaction of a judgment against the lender's attorneys' fees and court costs. In the event that the lender is unsuccessful in recouping such costs from the borrower, however, the Secretary will not reimburse the lender for such costs.

Section 682.510 Determination of the borrower's death, total and permanent disability, or bankruptcy.

Comment: Several commenters objected to the requirement in § 682.517(b) of the NPRM for returning payments a lender receives between the date the lender is notified of a borrower's claim of total and permanent disability and the date the lender receives the physician's certification of the borrower's total and permanent disability.

Response: No change has been made. Section 437(a) of the Act requires the Secretary to discharge the liability of a borrower who becomes totally and permanently disabled. The Secretary believes it is reasonable to conclude that a borrower who submits a physician's certification of total and permanent disability was, in fact,

disabled at the time he or she notified the lender of his or her disability. The Secretary, therefore, is requiring in these final regulations that the lender return to the borrower payments received between the date a lender is notified of a borrower's claim of total and permanent disability and the date the lender receives the physician's certification. The lender may add the amount of such payments to the claim for reimbursement by the Secretary.

Comment: One commenter noted that a typographical error may exist in § 682.517(b)(2) of the NPRM, which states that the lender shall continue collection on an account on which a borrower has notified the lender that he or she is totally and permanently disabled. Section 682.517(b)(4) of the NPRM states that the lender shall *resume* collection if the lender determines that the borrower's loan is not eligible for cancellation due to total and permanent disability or if the lender has not received a physician's certification, giving the impression that collection activity has ceased. Previous regulations instructed the lender to cease collection for 60 days while awaiting receipt of the physician's certification. The commenter believed that § 682.517(b)(2) of the NPRM should read, "The lender shall discontinue collection. . . ."

Response: No change has been made. Section 682.402(c)(2) of the final regulations requires the lender to continue collection *until* it receives the certification or receives a letter from a physician stating that the certification has been requested and that additional time is needed to determine if the borrower is totally and permanently disabled. After receiving the physician's certification or letter, the lender may not attempt to collect from the borrower or any endorser. Section 682.402(c)(4) of the final regulations requires the lender to resume collection if the lender has not received the certification within 60 days of receipt of the letter promising the certification.

Section 682.511 Procedures for filing a claim.

Comment: Several commenters objected to the Secretary's proposed language ". . . if a lender fails to submit all required documents, the Secretary denies the claim . . . ." The commenters believed that the term "denies" is too restrictive and prefer the current language ". . . may result in the claim not being honored. . . ."

Response: No change has been made. The required documentation enables the Secretary to determine if the debt is legally enforceable, and to determine if the lender has complied with the Act and regulations. Failure to submit the required documentation would prevent the Secretary from determining, for example, if due diligence has been properly exercised on the claim. The Secretary has reserved the right under § 682.514 of these regulations to make claim payments despite defects in a claim, if the best interests of the United States so require.

Comment: One commenter stated that it would be a logistical nightmare to retain each relevant piece of correspondence or to retrieve all such documents from microfilm in order to file a claim. The commenters recommended that the Secretary accept instead a computer-generated collection history.

Response: No change has been made. The Secretary believes that a computer-generated collection history alone does not provide enough information to determine if adequate due diligence has been performed by the lender. A computer-generated collection history with samples of standardized letters sent to borrowers, however, is acceptable, if the letters did not require the insertion of information as to the status of the loan which, if incorrect, could confuse the borrower or otherwise reduce the effectiveness of the letters as collection tools. For example, a "form" letter that materially misstates the extent of the borrower's delinquency or the amount owed on the loan may have little positive effect on the borrower's willingness to repay the loan or could even reduce it.

Comment: One commenter objected to the proposal requiring bankruptcy claims to be filed within 30 days after the lender receives notice of the first meeting of creditors. The commenter noted that the notice of the first meeting of creditors usually goes to the lender, who in turn must send it to the lender's servicer if, as is often true, the lender uses such a servicer. Therefore, the commenter argued, the 30-day reduction in the time for filing bankruptcy claims allowed under current regulations is not warranted.

Response: No change has been made. Since there is limited time available for the Secretary to file a protest to the discharge of a loan in bankruptcy, the Secretary must receive assignment of a loan that is the subject of a bankruptcy claim as soon as possible after the bankruptcy action is filed.

Section 682.513 Factors affecting coverage of a loan under the loan guarantee.

Comment: One commenter objected to the language in § 682.520(a)(3)(i) of the NPRM which would require that all holders of the loan must have complied with the requirements of this part, including, but not limited to those concerning due diligence in the making, servicing, and collecting of a loan, in order for the Secretary to pay a default claim. The commenter argued that this requirement creates a risk for secondary markets. The Secretary could identify a minor compliance error on the part of an original holder and deny a claim payable to the current holder, who had fully complied with all applicable requirements. The commenter suggested that § 682.513 of the NPRM ought to be rewritten to include a standard of materiality governing the circumstances under which the loan would lose its guarantee coverage as a result of the prior holder's error.

Response: No change has been made. The Secretary believes that defects in a loan are the responsibility of the holder submitting a request for claim payment on that loan. However, there is nothing to preclude the buyer of a loan from obtaining a warranty from the seller covering certain future reductions by the Secretary in computing the amount of loss on a claim, thereby protecting the buyer from loss due to violations by the seller.

Subpart F—Requirements, Standards, and Payments for Participating Schools

Section 682.601 Agreement between the Secretary and a school that makes or originates loans.

Comment: One commenter suggested that parents of students should be included in § 682.601(b)(1) of the NPRM in order to permit this section to be applicable to the PLUS Program.

Response: A change has been made. The section has been revised so that the 50% lending rule, applicable to loans made or originated by a school, applies to loans received by undergraduate students in attendance at the school, and to loans received by parents on behalf of undergraduate students in attendance at the school. However, waiver of the 50% lending limit under § 682.601(d) continues to be based upon the hardship for the students at the school, not their parents.

Section 682.602 Providing employment data to prospective students (Found only in Notice of Proposed Rulemaking).

Comment: Several commenters recommended that the requirement for providing employment data to prospective students would be more beneficial if the information provided was based on "graduates" or "individuals" who have completed a specific program. Two commenters felt that the provision was appropriate for schools that offer only vocational or trade programs, but it was burdensome and expensive for public community colleges that offer vocational and trade programs. One commenter suggested that, for institutions which have a university-wide placement service open to all prospective graduates, an option should be provided in regulations whereby an institution could refer students to the placement office, rather than providing written information. A few commenters suggested that this section be deleted.

Response: A change has been made. It appears that the paperwork burden imposed by this requirement would outweigh the protection provided to students against misrepresentations by vocational schools as to the success of their graduates in obtaining employment. The Secretary has decided to delete this section in its entirety.

Section 682.603 Certification by a participating school in connection with a loan application.

Comment: One commenter suggested that, because of the increasing use of electronic applications, the wording in this section should be revised to read that a "school shall provide accurate and complete information about the student making application for a loan," in lieu of "fill out the portion of a loan application."

Response: A change has been made. The Secretary has revised the language to address the commenter's concern.

Section 682.604 The borrower's loan proceeds.

Comment: While numerous commenters objected to the GSL or PLUS check being

made jointly payable to the student and school and sent directly to the school, other commenters supported the change. Many commenters suggested that this procedure will delay processing and delivery of student loan proceeds and will create undue administrative burdens. Some commenters expressed concern over the security of checks since they cannot be deposited until endorsed. Some expressed concern that this provision gives too much authority to schools and could result in abuse by some schools. Many commenters believed that this provision will assure that the school receives tuition and fees and that the loan will be used solely for educational purposes. Many commenters believed that this provision will give the school greater control over delivery of funds to students, thereby reducing defaults, program costs, fraud and abuse. Several commenters recommended sending the check to the school but making it payable only to the student.

Response: A change has been made. Pub. L. 99-272, § 16012, prohibits the Secretary (but not guarantee agencies) from requiring that checks be made jointly payable to the borrower and the school. The final regulations have been revised to reflect that statutory change.

Comment: Numerous commenters objected to the requirement for verifying a student's satisfactory academic progress before loan proceeds are released. Many commenters expressed concern that this requirement would create an administrative burden when applied to multiple disbursements and to schools that operate on a quarter, as opposed to a semester, system. Many commenters suggested that the current practice of verifying a student's GSL eligibility based on satisfactory academic progress at the time of certification of the loan application is sufficient. Some commenters expressed concern that this requirement may negatively affect students, since many students plan for their educations based on assurances, received at the time of application, that funds will be available. Some commenters argued that, since a student's academic progress is determined at the time of application, the school can easily comply with this requirement using the records upon which that initial determination was based. Some commenters noted that, since grades are not known until after the semester is over, a second verification of satisfactory progress prior to the end of the semester would serve no purpose, and that, in any case, schools would be able to stop the disbursement of checks for succeeding semesters to students who, subsequent to certification of the application, fail to meet progress requirements. Some commenters argued that the benefits of the provision far outweigh its costs. One commenter questioned whether the proposal could also be interpreted to require that a school determine whether the borrower is maintaining satisfactory academic progress before disbursing the second disbursement of a multiply-disbursed loan.

Response: No change has been made. Other title IV programs require that the school verify satisfactory progress before releasing funds. The Secretary sees no reason why the disbursement of a GSL or a PLUS loan should be treated differently. This provision applies not only to the first disbursement of a multiply-disbursed loan, but also to all subsequent disbursements. Institutions are not required to develop systems separate from those established pursuant to 34 CFR 668.16 for monitoring the academic progress of a GSL or PLUS student borrower in courses in which the student is currently enrolled. However, after receiving and prior to releasing any loan proceeds, the institution must use that system to determine if the borrower is maintaining satisfactory progress.

Comment: One commenter noted that, under the current requirements in § 682.607(e) of the prior regulations, the student had the option of requesting in writing that an institution retain additional loan proceeds in order to assist the student in budgeting his or her funds. The commenter suggested that this option be incorporated into the new regulations.

Response: A change has been made. The language that allows schools to retain additional loan proceeds to assist students in budgeting, if so requested by the students in writing, was inadvertently omitted from the NPRM. Therefore, the provision has been restored, and is now in § 682.604(d).

Comment: One commenter stated that §§ 682.605 (c)(2) and (d) of the NPRM imply that the school can retain amounts the student owes the school for any prior period of study and for items such as traffic violations and property damage charges.

Response: No change has been made. The definition of "estimated cost of attendance" clearly states that the loan is to cover those expenses reasonably related to attendance at that school for the period for which the loan is sought. Therefore, a school may not apply any portion of the borrower's loan proceeds for the current loan period to any outstanding obligations from a prior period nor to items unrelated to attendance, such as traffic violations and property damage charges.

Comment: Several commenters requested clarification of when the 30-day period in which a school must return an uncashed loan check to the lender under § 682.605(d) of the NPRM begins, since there is no time limit established for a school's determination that a student has not enrolled as expected (now registered). The commenters expressed concern that enrollment could be delayed for various reasons such as the unavailability of required classes or various academic problems. One commenter envisioned a situation where GSL checks would be repeatedly returned to lenders and reissued because of other proposed changes which delay GSL processing (*e.g.*, collecting default information prior to disbursement, or verification requirements). Several commenters urged that determination of non-enrollment and the return of checks be based on the institutional deadline for student registration. One commenter suggested that the language be changed to ". . . the school shall return the check to the lender within 30 days of the beginning of the enrollment period of the academic term for which the loan was intended or within 30 days of the receipt of the check, whichever is later." A few commenters agreed with the 30-day check return proposal; however, many commenters opposed the change from 40 days in current regulations to 30 days in the NPRM for return of an uncashed borrower's loan check to a lender.

Response: No change has been made. The Secretary is not prescribing a deadline by which a school must determine that a student has not registered, but is encouraging schools to make this determination as early as possible in the academic period. A loan check that is not cashed within 120 days of issuance causes serious repercussions (*e.g.*, the lender is forced to cease billing for interest subsidy and special allowance payments even though it still has a loan check outstanding). The school should already have a mechanism in place to determine that the student has not registered. However, the Secretary is not attempting to standardize the internal procedures used by schools to make this determination.

Section 682.605 Determining the date of a student's withdrawal.

Comment: One commenter requested clarification concerning disbursement during a leave of absence. The regulations state that the student is not considered withdrawn. The commenter questioned whether loan proceeds could be released to the borrower during the leave of absence.

Response: No change has been made. Section 682.605 provides that a student who has been granted a leave of absence is not considered withdrawn only for purposes of reporting a withdrawal date to a lender or for calculating the amount of a refund due to the student from the school. However, when a school receives a GSL check for a student who has been granted a leave of absence, the school may not release the check to the student, but must return the check to the lender. At the expiration of the leave of absence, the lender may redisburse the check under the late disbursement procedures, provided the student maintains eligibility.

Comment: The majority of comments on this section did not support the Secretary's proposal to require the school to determine a "day-specific" withdrawal date. The commenters stated that many students do not officially withdraw, but drop to less than half-time status, or leave school without following the withdrawal instructions of the school. Determination of withdrawal in such cases cannot be made immediately. School policies for determining a student's date of withdrawal vary widely. One commenter urged consistency in the requirements for determination of a withdrawal date.

Response: A change has been made. The Secretary agrees with the commenters that students often do not always follow the school's withdrawal procedures, and therefore it can be difficult to determine the actual day a student withdraws from school. Consequently, the requirement that the school include the specific day of withdrawal in determining the student's withdrawal date has been deleted for the purpose of reporting to lenders. However, for all other purposes, including refunds, the Secretary has decided to retain the "day-specific" rule, out of

fairness to the borrowers and to protect Federal fiscal interests.

Comment: Two commenters strongly urged that this section should remove any relationship between the withdrawal date and the amount of the refund. Two commenters expressed concern over the term "withdrawal." They believed that a clearer definition is needed. They further suggested that the withdrawal date should not be the last date of attendance but the earlier of the date the student informs the school or the date the school discovers that the student has withdrawn. The 30-day refund period, it was suggested, would then start with the date of the school's discovery of the student's withdrawal. One commenter asked about procedures where the withdrawal is the "first day of the leave of absence." The commenter asked what would happen if the student returned to school at less than half-time status (*i.e.*, is the student eligible or entitled to funds, deferments, etc.).

Response: No change has been made. This section does not specify the amount of a refund a school must make, but sets forth requirements for determining the date of withdrawal to be used in applying the school's refund policy. As specified in § 682.605(b) of the final regulations, the student's withdrawal date is the earlier of (1) the date the student notifies the school of withdrawal or the date of withdrawal specified by the student, whichever is later, or (2) the date the school determines that the student has withdrawn.

Comment: Several commenters objected to the single leave of absence limitation. They stated that different schools define the term "leave of absence" differently. Thus, this provision would create a standard for students who receive GSL or PLUS aid that is different from that for students who do not receive that aid. Many commenters also argued that it is not appropriate to limit leaves of absence for illness, or for other conditions over which the school and student have no control. Denial of a second leave of absence would cause the individual to be considered withdrawn by the school and force him or her into repayment at a time when he or she is least able to repay, perhaps creating an unnecessary default.

Response: A change has been made. The final regulations have been changed to recognize one leave of absence of up to 60 days, and in certain cases up to six months, during each twelve-month period. The Secretary believes this revision provides a school with sufficient flexibility to address the needs of its students. It is the Secretary's intent that leaves of absence be granted for short periods of time during which students are unable to attend school for personal or medical reasons. However, before granting a leave of absence, the Secretary expects schools to reasonably conclude that the student intends to return to school at the expiration of the leave of absence.

Section 682.606 Refund policy.

Comment: A few commenters said it was unnecessarily rigid to require the school to provide to students a written statement of its refund policy *prior* to the student's acceptance for initial enrollment. Prior to acceptance, the applicant is not a student or recipient of student financial aid.

Response: A change has been made. The final regulations have been revised to require a school to provide a prospective student with its refund policy prior to the student's enrollment, instead of prior to the student's acceptance for initial enrollment. The Secretary's concern is that the school's refund policy be provided to a prospective student before any funds are paid to the school by the student.

Section 682.607 Payment of a refund to a lender.

Comment: A few commenters were in favor of the reduction from 40 days to 30 days of the time within which a school must pay a refund to a lender. Other commenters suggested that the period be made longer. Several commenters argued that the added burden of a reduction of ten days will leave no time for unexpected delays, computer problems, consideration of State regulations and school operating procedures, check writing cycles, the involvement of more than one office in the refund process, and time for "final" billing computations by the school.

Response: No change has been made. The Secretary believes 30 days is sufficient time for a school to calculate the amount of a refund and pay the refund to the borrower's lender. The Secretary is concerned with the length of time a refund is due and unpaid, because the Secretary is continuing to pay interest benefits and special allowance on those funds even though they are no longer needed by the borrower to pay educational expenses.

Comment: One commenter requested a clarification of whether the 30-day refund period is measured in calendar days, working days or school days.

Response: No change has been made. Unless otherwise noted, "day-specific" periods discussed in these regulations refer to calendar days.

Section 682.608 Termination of a school's lending eligibility.

Comment: Two commenters suggested that the termination provision should not be limited to schools that participate as lenders. All schools with very high default rates should be considered for suspension from participation in the GSL and PLUS programs. The guarantee agency should have the authority to suspend such schools from the program.

Response: No change has been made. This section applies to those schools that participate as lenders in the GSL or PLUS programs. 34 CFR 668 establishes rules for the suspension, limitation or termination of a school's participation in the title IV student assistance programs. In addition, guarantee agencies have the authority to limit, suspend or terminate (L/S/T) a school's participation, in accordance with its L/S/T procedures established pursuant to § 682.401(b)(10)(i)(C).

Section 682.610 Records, reports, and inspection requirements for participating schools.

Comment: Several commenters objected to requiring the school to maintain a copy of the loan application, since this requirement does not take into account the various procedures established by certain guarantee agencies regarding the electronic transmittal of application data and the fact that the schools may not have an exact copy.

Response: No change has been made. This provision does not necessarily require the school to maintain an exact copy of the borrowers's application in those instances where the guarantee agency or other agent uses the electronic transmittal of data. The school may instead keep the loan application data in computer format.

Subpart G—Limitation, Suspension, or Termination of Lender Eligibility Under the Guaranteed Student Loan Program and the Plus Program

Section 682.700 Purpose and scope.

Comment: The Secretary received support from several commenters for the Limitation, Suspension and Termination (L/S/T) provisions under Subpart G. However, one commenter objected to the proposal as unnecessary and duplicative. One commenter indicated that some guarantee agencies and nonprofit private corporations must follow administrative practices and procedures established by State law, and thus may not be able to comply with the provisions of this Subpart that apply FISL L/S/T standards to lenders under guarantee agencies' programs.

Response: No change has been made. The provisions of Subpart G reflect the procedures the Secretary uses to limit, suspend or terminate (L/S/T) lenders participating in the FISLP or a guarantee agency program. They do not apply to L/S/T actions undertaken by guarantee agencies. The Secretary believes it necessary to retain independent authority to terminate a lender from the entire program. A guarantee agency is required to establish its own procedures for L/S/T of lenders participating in its program. If a guarantee agency chooses, it may adopt the procedures established in this section.

[FR Doc. 86-25231 Filed 11-7-86; 8:45 am]
BILLING CODE 4000-01-M

federal register

Monday
November 10, 1986

Part III

Department of Transportation

Coast Guard

33 CFR Parts 151 and 158

Control of Residues and Mixtures Containing Oil or Noxious Liquid Substances; Extension of the Comment Period

46 CFR Parts 98, 151, 153, and 172

Pollution Rules for Ships Carrying Hazardous Liquids; Extension of Comment Period for Proposed Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 85-010]

33 CFR Parts 151 and 158

Control of Residues and Mixtures Containing Oil or Noxious Liquid Substances

AGENCY: Coast Guard, DOT.

ACTION: Extension of the comment period.

SUMMARY: This notice extends the comment period on proposed rules to implement the Annex II port and terminal backpressure requirements and reception facility requirements of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, (MARPOL 73/78) published in the **Federal Register** of September 26, 1986 (51 FR 34332). The extended comment period is provided to satisfy requests for additional time to review the proposed rules. The comment period is scheduled to close on November 10, 1986. Due to the significance of the proposed rules, the Coast Guard believes it is important to allow parties with relevant comments additional time to evaluate the proposal.

DATE: The comment period is extended until November 24, 1986.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/22) (CGD85-010) U.S. Coast Guard, Washington, DC 20593-0001. Comments will be available for inspection or copying at the Marine Safety Council (G-CMC/22), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001 between 8:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Copies of the draft evaluation and the environmental assessment may also be inspected or copied at that address or obtained by a written request to the same address. To expedite processing, requests for the draft evaluation and the environmental assessment should be submitted separately from any comments submitted.

FOR FURTHER INFORMATION CONTACT: Lieutenant Timothy M. Mallon, Office of Marine Safety, Security, and Environmental Protection, (G-MPS-3), telephone 202-267-0494. Normal working hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: In order to avoid unnecessary submittals, the Coast Guard is providing the following additional information. The list of Oil-like Category C and D NLS substances which is in Table 2 of the proposed rule will be revised in the final rule to be consistent with Annex II of MARPOL 73/78. The revised table follows:

Table 2—List of Category C and D Oil-like NLSs That May be Carried Under 33 CFR Part 151

Category C

Cyclohexane
P-Cymene
Diethyl Benzene
Dipentene
Dodecyl benzene
Ethyl benzene
Heptene (mixed isomers)
1-Hexene
2-Methyl-1-pentene
n-Pentane
Pentene, all isomers
Phenylxylylethane
Propylene dimer
Tetrahydro naphthalene
Toluene
Xylenes

Category D

Alkylbenzene (C_9 to C_{17}) straight or branched chain
Butene oligomer
Diisopropyl naphthalene
Dodecane
Ethylcyclohexane
Isopentane
Nonane
Octane
n-Parafins (C_{10} to C_{20})

The Coast Guard intended to limit applicability of the proposed rules to ports and terminals that unload Category A, B, or C NLS cargo from ships. As written, the proposed rules would apply to ports and terminals loading and unloading Category A, B, C or D NLS cargo from ships. To be consistent with the international requirements, the final rule will apply to ports and terminals that unload Category A, B, or C NLS cargo from ships. Terminals that unload Category B or C NLS cargo from ships will be required to make arrangements to reduce the backpressure to facilitate efficient stripping operations.

As written, the conditions at which the backpressure requirements in proposed 33 CFR 158.330 would be evaluated are not clear. The Coast Guard will clarify in the final rule that this requirement be met at mean low tide with the height of the ship's manifold 10 feet above the surface of the water.

Dated: November 6, 1986.

J.W. Kime,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 86-25559 Filed 11-7-86; 11:35 am]

BILLING CODE 4910-14-M

46 CFR Parts 98, 151, 153, and 172

[CGD 81-101]

Pollution Rules for Ships Carrying Hazardous Liquids

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period for proposed rules.

SUMMARY: This notice extends the public comment period on proposed rules to implement Annex II of the 1978 Protocol to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78), published in the **Federal Register** of September 26, 1986 (51 FR 34350). The Coast Guard is extending the comment period because a number of people have requested additional time to evaluate the proposal.

In the preamble of the proposal, the Coast Guard stated its intention that the proposal not exceed the standards in MARPOL 73/78. Several comments received to date have pointed out that the proposal appears to apply damage stability and other requirements of the IMO Bulk Chemical Code and International Bulk Chemical Code to fixed and floating drilling rigs and platforms. This would exceed the requirements of MARPOL 73/78, which was not intended. The final rule will be clarified to correct this problem.

DATE: The public comment period is extended to November 24, 1986.

ADDRESSES: Comments should be submitted to: Commandant (G-CMC/21) (CGD 81-101), United States Coast Guard, Washington, DC 20593. Between the hours of 8:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/21), Room 2110, United States Coast Guard Headquarters, 2100 Second Street SW., Washington, DC. The Regulatory Impact Assessment is available at this same location.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Query, Office of Marine Safety, Security, and Environmental Protection, telephone (202)-267-1217. Normal working hours are from 7:30 am until 4:00 pm, Monday through Friday, except Federal holidays.

Dated: November 6, 1986.

J.W. Kime,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 86-25558 Filed 11-7-86; 11:35 am]

BILLING CODE 4910-14-M

Federal Register

Monday
November 10, 1986

Part IV

The President

Executive Order 12573—Amending Executive Order No. 11157 as It Relates to Incentive Pay for Hazardous Duty

Presidential Documents

Executive Order 12573 of November 6, 1986

Amending Executive Order No. 11157 as It Relates to Incentive Pay for Hazardous Duty

By the authority vested in me as President of the United States of America by Section 301(a) of Title 37 of the United States Code, and in order to further define duties involving exposure to toxic pesticides and to define an additional category of hazardous duty, it is hereby ordered as follows:

Section 1. (a) Executive Order No. 11157 of June 22, 1964, as amended, is further amended by adding at the end of subsection (h) of Section 109 of Part I, the following sentence:

"The use of solid fumigant formulations, such as aluminum phosphide, magnesium phosphide and calcium cyanide, in the outdoor control of burrowing animals does not qualify a member for incentive pay under this subsection."

(b) Executive Order No. 11157 is further amended by adding at the end of Section 109 of Part I, the following new subsection:

"(j) The term "the handling of chemical munitions (or components of such munitions)" shall be construed to mean duty performed by members as a primary duty which routinely requires (1) direct physical handling of toxic chemical munitions incident to storage, maintenance, testing, surveillance, assembly, disassembly, demilitarization, or disposal of said munitions; (2) direct physical handling of chemical surety material, as defined by the Secretary concerned, incident to manufacture, storage, testing, laboratory analysis, detoxification, or disposal of said material; (3) direct physical handling of toxic chemical munitions incident to technical escort of shipments of said munitions; (4) direct physical handling of chemical surety material, as defined by the Secretary concerned incident to technical escort of shipments of said material. The term does not include the handling of the individual components of binary chemical agents or munitions. The term does not include user handling incident to loading, firing, or otherwise launching the toxic chemical munitions nor field storage operations during hostilities. The term also excludes the handling of Research, Development, Testing and Evaluation Dilute Solutions of toxic chemicals as defined by the Secretary concerned. It also excludes the handling of riot control agents, chemical defoliants and herbicides, smoke, flame and incendiaries, and industrial chemicals. The entitlement to the pay provided for in this subsection is based upon the performance of such duty that has the potential for accidental exposure to chemical agents and not upon actual quantifiable exposure to such agents. Therefore, neither the construction of the term nor the receipt of pay provided for in this subsection may be construed as indicating that any person entitled to such pay actually has been exposed to chemical agents contrary to the provisions of any statute, executive order, rule, or regulations relating to the health and safety which is applicable to the uniformed services."

Sec. 2. The amendment made by this Order to Executive Order No. 11157 relating to chemical munitions shall be effective as of October 1, 1985. The amendment made by this Order to Executive Order No. 11157 relating to highly toxic pesticides shall be effective immediately upon signature.

Ronald Reagan

THE WHITE HOUSE,
November 6, 1986.

[FR Doc. 86-25572
Filed 11-7-86; 11:49 am]
Billing code 3195-01-M

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1986. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1986. The CFR volume issued as of July 1, 1984, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.