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# Federal Register

Tuesday
March 22, 1988

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**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:** April 15; at 9:00 a.m.
**WHERE:** Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC
**RESERVATIONS:** Carolyn Payne, 202-523-3187

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**WHEN:** April 19; at 9 a.m.
**WHERE:** Thomas P. O'Neill Federal Building Auditorium, 10 Causeway Street, Boston, MA.
**RESERVATIONS:** Call the Boston Federal Information Center, 617-565-8123

# Contents

Federal Register
Vol. 53, No. 55
Tuesday, March 22, 1988

**Agency for International Development**
NOTICES
Agency information collection activities under OMB review, 9381

**Agricultural Stabilization and Conservation Service**
NOTICES
Warehouses, licensed; list availability, 9344

**Agriculture Department**
*See* Agricultural Stabilization and Conservation Service

**Antitrust Division**
NOTICES
International energy program; voluntary agreement and plan of action; amendment, 9382

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

**Commerce Department**
*See also* National Bureau of Standards; National Oceanic and Atmospheric Administration
NOTICES
Privacy Act; systems of records, 9344

**Committee for the Implementation of Textile Agreements**
NOTICES
Export visa requirements; certification, waivers, etc.:
Pakistan, 9349

**Consumer Product Safety Commission**
NOTICES
Meetings; Sunshine Act, 9403

**Customs Service**
RULES
Air commerce:
General revision, 9285
Vessels in foreign and domestic trades:
Ecuador; tonnage tax and light money payment exemption list, 9315

**Defense Department**
RULES
Contractors receiving contract awards ($10 million or more) Amendment, 9317
NOTICES
Agency information collection activities under OMB review, 9350
Meetings:
Strategic Defense Initiative Advisory Committee, 9350 (2 documents)

**Education Department**
PROPOSED RULES
Educational research and improvement:
Regional educational laboratories and research and development centers program, 9408
NOTICES
Grants; availability, etc.:
Research and development centers program, 9417 (2 documents)
Meetings:
Bilingual Education National Advisory and Coordinating Council, 9351

**Employment and Training Administration**
NOTICES
Adjustment assistance:
CSX Transportation et al., 9382
National Aluminum Corp., 9383

**Energy Department**
*See* Federal Energy Regulatory Commission

**Environmental Protection Agency**
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Connecticut, 9334
Massachusetts, 9335, 9336 (2 documents)
NOTICES
Superfund program:
Hazardous substance research centers, 3958
Hazardous waste treatment; cost-effective methods, application requests, 9358

**Executive Office of the President**
*See* Presidential Documents

**Farmers Home Administration**
PROPOSED RULES
Debt collection; applicant certification statements, 9318

**Federal Aviation Administration**
RULES
Airworthiness directives:
Allison, 9284
Transition areas, 9285
PROPOSED RULES
Airworthiness directives:
Short Brothers, Ltd., 9322
Transition areas, 9323
NOTICES
Advisory circulars; availability, etc.:
Aircraft—
Powerplant fire zone areas; materials and components fire testing, 9401

**Federal Communications Commission**
NOTICES
Meetings; Sunshine Act, 9403

**Federal Deposit Insurance Corporation**
PROPOSED RULES
Practice and procedure rules
Correction, 9406
NOTICES
Meetings; Sunshine Act, 9403

**Federal Emergency Management Agency**
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements (OMB A-102 implementation)
Correction, 9317
NOTICES
Disaster and emergency areas:
Micronesia, 9368

**Federal Energy Regulatory Commission**
PROPOSED RULES
Federal Power Act:
Independent power producers, 9327
Public Utility Regulatory Policies Act:
Bidding programs, 9324
Small power production and cogenerating facilities, 9331
NOTICES
Electric rate and corporate regulation filings:
Arizona Public Service Co. et al., 9351
Pennsylvania Power & Light Co. et al., 9352
Natural gas certificate filings:
United Gas Pipe Line Co. et al., 9353
*Applications, hearings, determinations, etc.:*
Consolidated Oil & Gas, Inc., et al., 9354
Distrigas Corp. et al., 9356
Howell Gas Management Co. et al., 9356
Natural Gas Pipeline Co. of America, 9356, 9357 (2 documents)
Tennessee Gas Pipeline Co., 9357 (2 documents)
Williams Natural Gas Co., 9358

**Federal Maritime Commission**
NOTICES
Agreements filed, etc., 9368
Meetings; Sunshine Act, 9404

**Federal Mine Safety and Health Review Commission**
NOTICES
Meetings; Sunshine Act, 9404

**Federal Reserve System**
NOTICES
Meetings; Sunshine Act, 9404
*Applications, hearings, determinations, etc.:*
1889 Bankcorp. et al., 9369
Austermann, Elmer H., Jr. et al., 9368
Baer Holding Ltd., 9368
Omnibancorp, 9369

**Federal Retirement Thrift Investment Board**
NOTICES
Thrift savings plan elections; open season, 9369

**Health and Human Services Department**
*See* Health Care Financing Administration; Health Resources and Services Administration; Public Health Service; Social Security Administration

**Health Care Financing Administration**
PROPOSED RULES
Medicare:
Inpatient hospital services—
Payments, 9337
NOTICES
Medicaid:
State plan amendments, reconsideration hearings—
Michigan, 9369

**Health Resources and Services Administration**
*See also* Public Health Service
NOTICES
Grants and cooperative agreements:
Geriatric medicine and dentistry faculty training projects, 9370

**Immigration and Naturalization Service**
RULES
Aliens:
Criminal aliens and alien drug traffickers; deportation proceedings; authority extended, etc., 9281
NOTICES
Applications and petitions; direct mail to Regional Service Centers:
San Ysidro, CA; correction, 9382

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

**International Development Cooperation Agency**
*See* Agency for International Development

**Interstate Commerce Commission**
NOTICES
Railroad operation, acquisition, construction, etc.:
Rio Grande Industries, Inc., 9381

**Justice Department**
*See* Antitrust Division; Immigration and Naturalization Service

**Labor Department**
*See also* Employment and Training Administration; Mine Safety and Health Administration
NOTICES
Meetings:
Trade Negotiations and Trade Policy Labor Advisory Committee, 9382

**Land Management Bureau**
NOTICES
Meetings:
Moab District Advisory Council, 9378
Realty actions; sales, leases, etc.:
California, 9377

**Mine Safety and Health Administration**
NOTICES
Committees; establishment, renewal, termination, etc.:
Diesel-powered equipment in Underground Coal Mines—
Standards and regulations Advisory Committee, 9383

**Mine Safety and Health Federal Review Commission**
*See* Federal Mine Safety and Health Review Commission

**National Bureau of Standards**
NOTICES
Meetings:
Electronmagnetic properties of materials consortium workshop, 9347

**National Foundation on the Arts and the Humanities**
NOTICES
Meetings:
Museum Advisory Panel, 9384
Music Advisory Panel, 9384

Meetings; Sunshine Act, 9404

**National Oceanic and Atmospheric Administration**
NOTICES
Coastal zone management programs and estuarine sanctuaries:
State programs—
Alaska, 9347
Evaluation findings availability, 9347
Intent to evaluate performance, 9348
Meetings:
North Pacific Fishery Management Council, 9349
Pacific Fishery Management Council, 9349
South Atlantic Fishery Management Council, 9349
Permits:
Marine mammals, 9348
(2 documents)

**National Park Service**
NOTICES
National Register of Historic Places:
Pending nominations—
Alaska et al., 9378
Recreation entrance fees; increase, 9379

**National Transportation Safety Board**
NOTICES
Meetings; Sunshine Act, 9404

**Neighborhood Reinvestment Corporation**
NOTICES
Meetings; Sunshine Act, 9405

**Nuclear Regulatory Commission**
NOTICES
Meetings:
Reactor Safeguards Advisory Committee
Proposed schedule, 9384
Three Mile Island Unit 2 Decontamination Advisory Panel, 9386
Meetings; Sunshine Act, 9405
*Applications, hearings, determinations, etc.:*
Cleveland Electric Illuminating Co. et al., 9386
Florida Power Corp. et al., 9386
Pennsylvania Power & Light Co., 9387

**Postal Service**
PROPOSED RULES
Domestic mail manual:
Second-class publications supplements and enclosures, 9334

**Presidential Documents**
PROCLAMATIONS
*Special observances:*
Agriculture Day, National (Proc. 5777), 9420
EXECUTIVE ORDERS
Committees; establishment, termination, renewal, etc.:
Working Group on Financial Markets (EO 12631), 9421

**Public Health Service**
*See also* Health Resources and Services Administration
NOTICES
Grants; availability, etc.:
Minority community health coalition demonstration projects, 9371

**Research and Special Programs Administration**
NOTICES
Hazardous materials:
Applications; exemptions, renewals, etc., 9401

**Securities and Exchange Commission**
NOTICES
Meetings; Sunshine Act, 9405
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 9388
National Association of Securities Dealers, Inc., 9389–9391
(3 documents)
National Securities Clearing Corp., 9393
New York Stock Exchange, Inc., 9394
Pacific Stock Exchange, Inc., 9396
Philadelphia Stock Exchange, Inc., 9397
*Applications, hearings, determinations, etc.:*
FB MTP Partners, 9398

**Social Security Administration**
NOTICES
Social security benefits:
Disability program demonstration projects, 9374

**State Department**
NOTICES
Meetings:
Shipping Coordinating Committee, 9400, 9401
(2 documents)

**Surface Mining Reclamation and Enforcement Office**
RULES
Permanent program submission:
Indiana, 9316

**Textile Agreements Implementation Committee**
*See* Committee for the Implementation of Textile Agreements

**Transportation Department**
*See* Federal Aviation Administration; Federal Highway Administration; Research and Special Programs Administration

**Treasury Department**
*See also* Customs Service
NOTICES
Agency information collection activities under OMB review, 9402

---

**Separate Parts In This Issue**

**Part II**
Department of Education, 9408

**Part III**
The President, 9420

---

**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.


**3 CFR**
**Proclamations:**
5777 ..... 9420
**Executive Orders:**
12631 ..... 9421

**7 CFR**
**Proposed Rules:**
1822 ..... 9318
1823 ..... 9318
1910 ..... 9318
1941 ..... 9318
1942 ..... 9318
1943 ..... 9318
1944 ..... 9318
1945 ..... 9318
1951 ..... 9318
1955 ..... 9318
1965 ..... 9318

**8 CFR**
212 ..... 9281
241 ..... 9281
242 ..... 9281
287 ..... 9281

**12 CFR**
**Proposed Rules:**
308 ..... 9406

**14 CFR**
39 ..... 9284
71 ..... 9285
**Proposed Rules:**
39 ..... 9322
71 ..... 9323

**18 CFR**
**Proposed Rules:**
35 ..... 9324
38 ..... 9327
292 ..... 9331
293 ..... 9324
382 ..... 9327

**19 CFR**
4 (2 documents) ..... 9285, 9315
6 ..... 9285
10 ..... 9285
18 ..... 9285
24 ..... 9285
122 ..... 9285
123 ..... 9285
162 ..... 9285

**30 CFR**
914 ..... 9316

**32 CFR**
40a ..... 9317

**34 CFR**
**Proposed Rules.**
706 ..... 9408
707 ..... 9408
708 ..... 9408

**39 CFR**
**Proposed Rules:**
111 ..... 9334

**40 CFR**
**Proposed Rules:**
52 (3 documents) ..... 9334-9336

**42 CFR**
**Proposed Rules:**
405 ..... 9337
412 ..... 9337
413 ..... 9337
489 ..... 9337

**44 CFR**
13 ..... 9317

# Rules and Regulations

Federal Register
Vol. 53, No. 55
Tuesday, March 22, 1988

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

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### 8 CFR Parts 212, 241, 242 and 287

[INS #1005-88]

### Documentary Requirements: Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole Judicial Recommendations Against Deportation Proceedings To Determine Deportability of Aliens in the United States: Apprehension, Custody, Hearing, and Appeal Field Officers; Powers and Duties

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the present regulations by (1) the addition of supplementary definitions to those already found in the regulations; (2) the establishment of procedures for expeditious processing of aliens convicted of offenses which render them deportable from the United States; and (3) the establishment of procedures for determining whether or not the Service will issue detainers against aliens arrested for controlled substance violations. These changes are necessitated by the amendments to the Immigration and Nationality Act contained in the Anti-Drug Abuse Act of 1986, Pub. L. 99-570; and the Immigration Reform and Control Act of 1986, Pub. L. 99-603. Prompt establishment of the procedures contained in these regulations is necessary in order to ensure that Service operations are conducted in a manner consistent with the public interest and Congressional intent regarding the aforementioned statutes.

**EFFECTIVE DATE:** March 22, 1988.

**FOR FURTHER INFORMATION CONTACT:** Walter D. Cadman, Deputy Assistant Commissioner, Investigations, Immigration and Naturalization Service, 425 "I" Street, NW., Rm 2207, Washington, DC 20536, (202) 633-2997.

**SUPPLEMENTARY INFORMATION:**

### 1. Background

Over the last two decades the Congress and the nation have grappled with the issue of drug abuse prevention and control. This problem has become particularly acute in recent years. Congress has formally recognized the extensive involvement of certain aliens in narcotics trafficking and the problem of criminal aliens in general. This recognition has come to fruition through amendments to the Immigration and Nationality Act (INA) contained in the Anti-Drug Abuse Act of 1986 and the Immigration Reform and Control Act of 1986 (IRCA). Establishment of uniform definitions and procedural requirements will allow the Service to implement these new provisions of the Act in an orderly and consistent fashion. Because many of the key words and phrases are not defined in these statutes, the Service has developed definitions and procedural obligations to avoid ambiguity and protect the due process rights of the affected individuals. These procedures also serve to protect the interests of the Service and other governmental entities whose actions may have an adverse impact on the affected individuals. Lastly, these procedures serve to protect the interests of society in ensuring, to the extent possible, the safety of our streets through detection and removal of alien criminals and narcotics offenders. Where appropriate, these words and phrases have been defined to comport with existing law, regulation or precedent. What follows is an analysis of the amendments and a discussion of the conforming regulatory changes to this chapter.

### 2. Changes Based on the Anti-Drug Abuse Act of 1986

Subtitle M (Section 1751) of this Act, entitled the Narcotics Traffickers Deportation Act, amended sections 212(a)(23), 241(a)(11), and 287 of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(a)(23), 1251(a)(11), and 1357, as follows:

Section 212(a)(23) was amended to render excludable any alien convicted of violating any law or regulation involving controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), of a state, the United States or a foreign country.

Section 241(a)(11) was amended to render deportable any alien convicted of any law or regulation involving controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), of a state, the United States or a foreign country. Accordingly, 8 CFR Parts 212 and 241 have been changed by the addition of §§ 212.11 and 241.2, respectively, in order to define "controlled substance(s)" for use in determining an alien's excludability or deportability based on convictions for such violations. Although the amendment defines controlled substances for the purposes of sections 212(a)(23) and 241(a)(11) of the INA by reference to 21 U.S.C. 802, as noted above, it does not enumerate a listing of controlled substances. The specific substances may be found in Schedules I through V, contained in 21 U.S.C. 812 and 21 CFR 1308.1 et seq., as promulgated under the authority of the Controlled Substances Act, 21 U.S.C. 801 et seq. For clarity, these further citations are incorporated by reference into the regulatory amendments contained in this rulemaking.

Section 287 of the INA was also amended by the addition of a new subsection (d) to require that when the Immigration and Naturalization Service (INS) is expeditiously informed of an alien's arrest for a violation of any law relating to controlled substances, the Service must promptly determine whether or not to issue a detainer. Accordingly, 8 CFR Parts 242 and 287 have been amended to likewise define the terms "controlled substance(s)," "arrested," "law enforcement official (or other official)," and to establish procedures for determining whether or not the Service should issue a detainer as required in section 287(d)(3) of the Act.

—The term "arrested by a federal, state, or local law enforcement official" has been defined to require that an alien must have been (1) physically taken into custody, and (2) officially booked or charged, or (3) accorded an initial appearance before a judicial officer

where the alien has been informed of the charges and the right to counsel. The term has been defined in this manner to ensure that the Service is not required to react to situations involving assumption of custody, and possible removal, of an alien whose civil rights may have been violated through illegal or unconstitutional detention by law enforcement officials. Requiring that the alien(s) be officially processed minimizes such concerns.

—The term "law enforcement (or other) official" has been defined to establish the nature and kind of official agencies to which the Service must respond, i.e., criminal justice agencies, courts, correctional, or probation and parole departments.

—The term "controlled substance" has been defined consonant with the revised provisions of sections 212(a)(23) and 241(a)(11) of the INA, i.e., by reference to the Controlled Substances Act, 21 U.S.C. 801 et seq., and in accordance with the schedules enumerated in 21 CFR Part 1308.

The public should be aware that the Immigration Reform and Control Act of 1986 (IRCA) also amended section 287 of the INA through addition of a new subsection (d). The subsection (d) provisions contained in IRCA are unrelated to the subsection (d) provisions of the Anti-Drug Abuse Act. The like numbering of unrelated subsections appears to have occurred as a result of an editorial oversight. It is anticipated that this editorial oversight will be annotated by footnote, or possible redesignation by a conforming technical amendment of the Act, in the printed final revision of the amended Title 8 of the United States Code.

**3. Changes Based on the Immigration Reform and Control Act of 1986 (IRCA)**

Title VII, section 701, of IRCA amends section 242 of the INA by requiring the Attorney General to begin deportation proceedings as expeditiously as possible after the date of conviction of an alien for an offense which makes the alien subject to deportation. Accordingly, 8 CFR 242.2 has been amended to codify the authority of the Service to issue detainers, and to establish procedures for their use and limitations in situations involving aliens amenable to Service action. A paragraph concerning the use of convictions has also been added to codify the point at which a conviction is considered "final" for purposes of immigration laws. Because actual jurisdiction over proceedings once commenced by the issuance and filing of an order to show cause with an Immigration Judge rests with the Executive Office for Immigration Review (8 CFR 3.0), the procedures and definitions contained in these regulatory amendments are confined to those within the jurisdiction and control of the Service.

On May 5, 1987, the Service published a Notice of Interim Rulemaking in the **Federal Register** (52 FR 16370), with a request for comments to be received no later than June 4, 1987. No comments were received. This final rule contains no substantive changes from the interim rule; however, there have been some editorial changes to clarify the language and, where applicable, to adopt definitions from existing law, regulation and precedent. Accordingly, the affected text has been revised to avoid any ambiguity between the interim and final rule as stated herein.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule is not a major rule as defined in E.O. 12291, nor is it expected to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601–611).

**List of Subjects**

*8 CFR Part 212*

Administrative practice and procedure, Aliens, Passports and visas.

*8 CFR Part 241*

Administrative practice and procedure, Aliens, Controlled substance definition, Deportability, Judicial recommendations against deportation.

*8 CFR Part 242*

Administrative practice and procedure, Aliens, Authority delegation, Cancellation proceeding, Detention, Order to show cause.

*8 CFR Part 287*

Criminal violations, Definitions, Detainers, Disposition of cases of aliens arrested without warrant, Immigration law enforcement officers, Power and authority to administer oaths, Proof of official records, Subpoena.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

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

1. The authority citation for Part 212 is revised to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1182, 1184, 1225, 1226, 1228, 1252.

2. Section 212.11 is revised to read as follows:

**§ 212.11 Controlled substance convictions.**

In determining the admissibility of an alien who has been convicted of a violation of any law or regulation of a State, the United States, or a foreign country relating to a controlled substance, the term "controlled substance" as used in section 212(a)(23) of the Act, shall mean the same as that referenced in the Controlled Substances Act, 21 U.S.C. 801, et seq., and shall include any substance contained in Schedules I through V of 21 CFR 1308.1, et seq. For the purposes of this section, the term "controlled substance" includes controlled substance analogues as defined in 21 U.S.C. 802(23) and 813.

## PART 241—JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION

3. The authority citation for Part 241 of Title 8 is revised to read as follows:

**Authority:** 8 U.S.C. 1103, 1251, 1252, 1357.

4. The heading of Part 241 is revised to read as follows:

## PART 241—JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION; CONTROLLED SUBSTANCE VIOLATIONS

5. Section 241.2 is revised to read as follows:

**§ 241.2 Controlled substance convictions.**

In determining the deportability of an alien who has been convicted of a violation of any law or regulation of a State, the United States, or a foreign country relating to a controlled substance, the term "controlled substance" as used in section 241(a)(11) of the Act, shall mean the same as that referenced in the Controlled Substances Act, 21 U.S.C. 801, et seq., and shall include any substance contained in Schedules I through V of 21 CFR 1308.1, et seq. For the purposes of this section, the term "controlled substance" includes controlled substance analogues as defined in 21 U.S.C. 802(23) and 813.

## PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

6. The authority citation for Part 242 of Title 8 is revised to read as follows:

**Authority:** 8 U.S.C. 1103, 1182, 1251, 1252, 1254, 1362.

7. Section 242.2 is amended by revising paragraph (a); removing paragraph (g) and redesignating paragraphs (b) through (f) as (c) through (g) respectively; adding a new paragraph (b); and amending newly redesignated (c)(2) by changing the two references to "paragraph (b) of this section" to read "paragraph (d) of this section"; and amending newly redesignated paragraph (d) by changing the reference to "paragraph (a) of this section" to read "paragraph (c) of this section"; and amending newly redesignated paragraph (e) by changing the reference to "paragraph (b) of this section" to read "paragraph (d) of this section".

**§ 242.2 Apprehension, custody and detention.**

(a) *Detainers in general.* (1) Only an immigration officer as defined in section 101(a)(18) of the Act, or § 103.1(q) of this chapter is authorized to issue a detainer. Detainers may only be issued in the case of an alien who is amenable to exclusion or deportation proceedings under any provision of law; however, no detainer shall be issued in the case of an alien who is in the United States without legal authority and is eligible to apply, or has applied, for legalization or special agricultural worker status under the provisions of section 245A or 210 of the Act, unless the Service has denied, or has issued a notice of intent to deny, the benefit applied for.

(2) *Availability of records.* In order for the Service to accurately determine the propriety of issuing a detainer, serving an order to show cause, or taking custody of an alien in accordance with this section, the criminal justice agency requesting such action or informing the Service of a conviction or act which renders an alien excludable or deportable under any provision of law shall provide the Service with all documentary records and information available from the agency which reasonably relates to the alien's status in the United States, or which may have an impact on conditions of release.

(3) *Telephonic detainers.* Issuance of a detainer in accordance with this section may be authorized telephonically, *provided* such authorizations are confirmed in writing on Form I-247, or by electronic communications transfer media (e.g. the National Law Enforcement Telecommunications System (NLETS)) within twenty-four hours of the telephonic authorization. The contents of the electronic transfer shall contain substantially the same language as the Form I-247.

(4) *Temporary detention at Service request.* Upon a determination by the Service to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien for a period not to exceed forty-eight hours, in order to permit assumption of custody by the Service.

(5) *Financial responsibility for detention.* No detainer issued as a result of a determination made under this chapter shall incur any fiscal obligation on the part of the Service, until actual assumption of custody by the Service, except as provided in paragraph (a)(4) of this section.

(b) *Use of convictions.* The term "conviction" as used in section 242(i) of the Act means that—

(1) There has been a conviction by a court of competent jurisdiction; and

(2) All direct appeal rights have been exhausted or waived; or

(3) The appeal period has lapsed.

* * * * *

## PART 287—FIELD OFFICERS; POWERS AND DUTIES

8. The authority citation for Part 287 of Title 8 is revised to read as follows:

**Authority:** 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357.

9. Section 287.1 paragraphs (g) through (i) are revised to read as follows:

**§ 287.1 Definitions.**

* * * * *

(g) *Arrested by federal, state, or local law enforcement official.* The term "arrested," as used in section 287(d) of the Act (as amended by section 1701 (Subtitle M) of the Anti-Drug Abuse Act of 1986, Pub. L. 99-509), means that an alien has been—

(1) Physically taken into custody for a criminal violation of the controlled substance laws; and

(2) Subsequently booked, charged or otherwise officially processed; or

(3) Provided an initial appearance before a judicial officer where the alien has been informed of the charges and the right to counsel.

(h) *Law enforcement or other official.* The phrase "law enforcement official (or other official)," as used in section 287(d) of the Act, and § 242.2(a) of this part means an officer or employee of an agency engaged in the administration of criminal justice pursuant to statute or executive order, including (1) courts; (2) a government agency or component which performs the administration of criminal justice as defined in 28 CFR Part 20 including performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.

(i) *Controlled substance.* The term "controlled substance," as used in section 287(d)(3) of the Act, shall mean the same as that referenced in the Controlled Substances Act, 21 U.S.C. 801 et seq., and shall include any substance contained in Schedules I through V of 21 CFR 1308.1 et seq. For the purposes of this chapter, the term "controlled substance" includes controlled substance analogues as defined in 21 U.S.C. 802(23) and 813.

10. Section 287.7 is revised to read as follows:

**§ 287.7 Detainer provisions under section 287(d)(3) of the Act.**

(a) *Detainers in general.* (1) Only an immigration officer as defined in section 101(a)(18) of the Act, or § 103.1(q) of this chapter is authorized to issue a detainer. Detainers may only be issued in the case of an alien who is amenable to exclusion or deportation proceedings under any provision of law; however, no detainer shall be issued in the case of an alien who is in the United States without legal authority and is eligible to apply, or has applied, for legalization or special agricultural worker status under the provisions of sections 245A or 210 of the Act, unless the Service has denied, or has issued a notice of intent to deny, the benefit applied for.

(2) *Availability of records.* In order for the Service to accurately determine the propriety of issuing a detainer, serving an order to show cause, or taking custody of an alien in accordance with this section, the criminal justice agency requesting such action or informing the service of a conviction or act which renders an alien excludable or deportable under any provision of law shall provide the Service with all documentary records and information available from the agency which reasonably relates to the alien's status in the United States, or which may have an impact on conditions of release.

(3) *Telephonic detainers.* Issuance of a detainer in accordance with this section may be authorized telephonically, *provided* such authorizations are confirmed in writing on Form I-247, or by electronic communications transfer media (e.g. the National Law Enforcement Telecommunications System (NLETS)) within twenty-four hours of the telephonic authorization. The contents of the electronic transfer shall contain substantially the same language as the Form I-247.

(4) *Temporary detention at Service request.* Upon a determination by the

Service to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien for a period not to exceed forty-eight hours, in order to permit assumption of custody by the Service.

(5) *Financial responsibility for detention.* No detainer issued as a result of a determination made under this chapter shall incur any fiscal obligation on the part of the Service, until actual assumption of custody by the Service, except as provided in paragraph (a)(4) of this section.

Date: March 2, 1988.

**Alan C. Nelson,**

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 88-5767 Filed 3-21-88; 8:45 am]

BILLING CODE 4410-10-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 87-ANE-26; Amdt. 39-5860]**

### Airworthiness Directives; Allison Gas Turbine Division, General Motors Corporation (Formerly Detroit Diesel Allison) Allison Model 250-C30 Series Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD), applicable to certain Allison Model 250-C30 series engines. The AD requires daily post flight check of Gas Producer Support Pressure Oil Tube Assembly P/N 23037410 or P/N 6892825 until P/N 23037410 is replaced with Tube Assembly P/N 23038235, or P/N 6892825 is replaced with Pressure Oil Fitting Assembly, P/N 23035275, and Tube Assembly, P/N 23038235. These replacements are required not later than April 15, 1988, and July 1, 1988, respectively. The AD is needed to prevent possible loss of engine oil during operation and subsequent in-flight shutdown.

**DATES:** Effective—March 30, 1988.

Compliance required as prescribed in body of AD, unless already accomplished.

Incorporation by Reference—Approved by the Director of the Federal Register as of March 30, 1988.

**ADDRESSES:** The applicable Commercial Engine Bulletin (CEB) may be obtained from Allison Gas Turbine Division, General Motors Corporation, P.O. Box 420, Indianapolis, Indiana 46206-0420.

A copy of the CEB is contained in the Rules Docket, Office of Regional Counsel, Federal Aviation Administration, New England Region, Attn: Rules Docket No. 87-ANE-26, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. Royace H. Prather, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694-7132.

**SUPPLEMENTARY INFORMATION:** There have been reports of the Gas Producer Support Pressure Oil Tube Assembly, P/N 6892825, which supplies oil to the number 8 bearing, cracking on certain model 250-C30 series engines. This condition on occasions has resulted in loss of engine oil/pressure and the necessity for a pilot initiated in-flight shutdown. An initial Tube Assembly replacement, P/N 23037410, had a dimensional problem and is being superceded by P/N 23038235.

Since this condition is likely to exist or develop on other engines of the same type design, an AD is being issued which requires daily post flight check of the Gas Producer Support Pressure Oil Tube Assembly, P/N 23037410 or P/N 6892825, until P/N 23037410 is replaced with Tube Assembly P/N 23038235 or P/N 6892825 is replaced with a new number 8 Bearing Pressure Oil Fitting Assembly, P/N 23035275, and Tube Assembly, P/N 23038235. These replacement actions are required not later than April 15, 1988, and July 1, 1988, respectively.

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

### Conclusion

The FAA has determined that this proposed regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

### List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

### Adoption of the Amendment

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

## PART 39—[AMENDED]

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 adding to § 39.13 the following new airworthiness directive (AD):

**Allison Gas Turbine Division, General Motors Corporation (Allison, formerly Detroit Diesel Allison):** Applies to Allison Model 250-C30 Series engines installed in, but not limited to, Sikorsky Model S-76A, Bell Model 206L-3, Bell Model 206L-1, modified to incorporate the Allison 250-C30 engine, Aerospatiale Model AS-350D "ASTAR" modified to incorporate the Allison 250-30M engine, and McDonnell Douglas Helicopter Company (Hughes) Model 369F and 369FF aircraft.

The following engine models and turbine serial numbers are affected:

| Engine model | Turbine serial number |
|---|---|
| 250-C30 | CAT 90001 thru 90683, 95001 thru 95600. |
| 250-C30S | CAT 90001 thru 90683, 95001 thru 95600. |
| 250-C30M | CAT 95001 thru 95600. |
| 250-C30P | CAT 95001 thru 95600, 97501 thru 97550. |
| 250-C30L | CAT 95001 thru 95600, 97501 thru 97550. |
| 250-C30R(T703-AD-700). | AT 19001 thru 19140. |

*Except:* Existing model 250-C30 series engines which have incorporated Part II or III of Allison Commercial Engine Alert Bulletin 250-C30, CEB-A-72-3165, dated August 31, 1987, or FAA approved equivalent.

Compliance is required as indicated, unless already accomplished.

To prevent possible cracks of the Gas Producer Support Pressure Oil Tube Assembly, P/N 6892825, or P/N 23037410, from progressing to where a loss of engine oil could cause an in-flight shutdown, accomplish the following:

(a) Following the last flight of each day after the effective date of this AD, until compliance with paragraph (b) or (c) is accomplished, check for oil leaks and, if a leak is found remove before further flight the Gas Producer Support Pressure Oil Tube Assembly, P/N 23037410 or P/N 6892825, in accordance with Part I of Allison Commercial Engine Alert Bulletin 250-C30, CEB-A-72-3165, dated August 31, 1987, or FAA approved equivalent.

Note.—The checks required above may be performed by the pilot and must be recorded in accordance with FAR Section 43.9.

(b) Replace Gas Producer Support Pressure Oil Tube Assembly P/N 23037410 with P/N 23038235 or FAA approved equivalent in accordance with Part II of Allison Commercial Engine Alert Bulletin 250-C30, CEB-A-72-3165, dated August 31, 1987, not later than April 15, 1988.

(c) Replace Gas Producer Support Pressure Oil Tube Assembly P/N 6892825 with number 8 Bearing Pressure Oil Fitting Assembly, P/N 23035275, and Tube Assembly, P/N 23038235, or FAA approved equivalents in accordance with Part III of Allison Commercial Engine Alert Bulletin 250-C30, CEB-A-72-3165, dated August 31, 1987, or FAA approved equivalent, not later than July 1, 1988.

(d) Aircraft may be ferried in accordance with the provisions of Federal Aviation Regulations (FAR) 21.197 and 21.199 to a base where the AD can be accomplished.

(e) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

(f) Upon submission of sustantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Chicago Aircraft Certification Office may adjust the compliance time specified in this AD.

Allison Commercial Engine Alert Bulletin 250-C30 CEB-A-72-3165 dated August 31, 1987, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain a copy upon request to Allison Gas Turbine Division, General Motors Corp., P.O. Box 420, Indianapolis, Indiana 46206-0420. This document also may be examined at the office of Regional Counsel, Federal Aviation Administration, Attn: Rules Docket No. 87-ANE-26, 12 New England Executive Park, Burlington, Massachusetts 01803, weekdays, except federal holidays, between 8:00 a.m. and 4:30 p.m.

This amendment becomes effective March 30, 1988.

Issued in Burlington, Massachusetts, on February 17, 1988.

Gary W. Tucker,

*Acting Director, New England Region.*

[FR Doc. 88-6146 Filed 3-21-88; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 71

**[Airspace Docket No. 87-ASO-21]**

## Designation of Transition Area; Nashville, GA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment designates the Nashville, Georgia, transition area to accommodate instrument flight rule (IFR) operations at the Berrien County Airport. This action lowers the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure has been developed to serve the airport and the controlled airspace is required for protection of IFR aeronautical operations.

**EFFECTIVE DATE:** 0901 UTC, May 1, 1988.

**FOR FURTHER INFORMATION CONTACT:** James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

**SUPPLEMENTARY INFORMATION:**

### History

On January 6, 1988, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating the Nashville, Georgia, transition area (53 FR 2503). This action will provide additional controlled airspace in the vicinity of the Berrien County Airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6C dated January 2, 1987.

### The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the Nashville, Georgia, transition area and lowers the base of controlled airspace in the vicinity of the Berrien County Airport from 1,200 feet to 700 feet above the surface.

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

### List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

## PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

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.

**§ 71.181 [Amended]**

2. By amending § 71.181 as follows:

**Nashville, Georgia [New]**

That airspace extending upward from 700 feet above the surface within a six-mile radius of the Berrien County Airport (latitude 31°12'45" N, longitude 83°13'40" W).

Issued in East Point, Georgia, on March 8, 1988.

William D. Wood,

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 88-6147 Filed 3-21-88; 8:45 am]

BILLING CODE 4910-13-M

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## DEPARTMENT OF THE TREASURY

## Customs Service

## 19 CFR Parts 4, 6, 10, 18, 24, 122, 123, and 162

**[T.D. 88-12]**

## Air Commerce Regulations

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** As part of the general revision of the Customs Regulations,

Customs is revising its rules relating to the entry and clearance of aircraft and the transportation of persons and cargo by aircraft. This revision sets forth the general Customs requirements applicable to all air commerce. It is presented in a new format and includes changes or additions in language to clarify various provisions and to make some minor substantive changes.

**EFFECTIVE DATE:** April 21, 1988.

**FOR FURTHER INFORMATION CONTACT:**

*Legal Aspects:* Larry L. Burton, Carrier Rulings Branch (202-566-5706).

*Operational Aspects:* Glenn Ross, Office of Inspection and Control (202-566-5607).

**SUPPLEMENTARY INFORMATION:**

## Background

Customs has undertaken to review and revise selected parts of the Customs Regulations contained in Chapter I, Title 19, Code of Federal Regulations (19 CFR Ch. I), with the objective of reducing and/or eliminating, to the fullest extent possible, obsolete and unnecessary regulatory requirements. This action was mandated by the Regulatory Flexibility Act, and by the Treasury Department Regulatory Flexibility Review Plan which appeared in the **Federal Register** on April 14, 1982 (47 FR 16033). As stated in a notice published by Customs in the **Federal Register** on June 10, 1983 (48 FR 26831), Part 6, Customs Regulations (19 CFR Part 6), is one of those which has been scheduled for revision under the Treasury plan. Before making this revision, Customs published a notice in the **Federal Register** on July 26, 1985 (50 FR 30455), describing the changes to be made and inviting public comments. The comments and our analysis are contained in this document.

The revised Part 6, redesignated as Part 122, sets forth all air commerce regulations administered by Customs in a clearly stated new format, which incorporates both current provisions and substantive changes. The major changes from the long-standing air commerce regulations are deletion of the requirements that American-flag aircraft report foreign repairs and pay duty (a change resulting from a provision of the Trade Agreements Act of 1979), and the inclusion of a subpart dealing with requirements relating to aircraft liquor kits. The revision also contains regulatory amenaments concerning overflight exemptions and reporting requirements which was published as T.D. 86-72 in the **Federal Register** of March 31, 1986 (51 FR 11004), and T.D. 87-42 published in the **Federal Register** on March 30, 1987 (52 FR 10047), requirements for access to Customs security areas published as T.D. 86-174 in the **Federal Register** on September 12, 1986 (51 FR 32448), and elimination of the now defunct international airport at Portal, North Dakota.

Additionally, amendments necessitated by the revision of the Customs bond structure published as T.D. 84-213 in the **Federal Register** on October 19, 1984 (49 FR 41152), have been incorporated into this revision.

We are aware of the impact of the Anti-Drug Abuse Act of 1986 (Pub. L. 99-570), upon the penalty provisions of the air commerce regulations. Potentially extensive amendments are beyond the scope of this general revision and clarification of existing provisions. Accordingly, any necessary amendments in this regard will be subject of a separate document.

Revised Part 122 is divided into 17 subparts. Following is information concerning the origins of the various sections as well as a discussion of the major changes in each of the subparts.

Section 122.0 is new and sets forth in general terms the scope and geographic applicability of the revised part.

## Subpart A—General Definitions and Provisions

1. Section 122.1(a) substitutes the statutory definition of "aircraft" from 49 U.S.C. 1301(5) for the present narrower definition of "civil aircraft."
2. Section 122.1(b) is unchanged from § 6.1(e).
3. Section 122.1(c) revises § 6.1(g) by substituting the word "agent" for the phrase "authorized person (authorized agent of an owner or operator)."
4. Section 122.1(d) is new and clarifies the difference between commercial and non-commercial (private and public) flights.
5. Section 122.1(e) clarifies § 6.1(h).
6. Section 122.1(f) is new and defines, for the first time, a "landing rights airport."
7. Section 122.1(g) is a rephrasing of § 24.18.
8. Section 122.1(h) is new and defines "private aircraft."
9. Section 122.1(i) is new and defines "public aircraft."
10. Section 122.1(j) is new and defines "residue cargo." The definition is loosely derived from § 6.9(a).
11. Section 122.1(k) is a rephrasing of § 6.1(f).
12. Section 122.1(l) combines § 6.1 (b) and (c) and includes Puerto Rico in the definition of "United States."
13. Section 122.2 is largely unchanged from § 6.10.
14. Section 122.3 is a rephrasing of § 6.6(b).
15. Section 122.4 is a rephrasing of § 6.6(a).
16. Section 122.5 significantly revises the specific requirements for reproduction of Customs forms found in § 6.6(a).

## Subpart B—International Airports

1. Section 122.11(a) rephrases § 6.12 (a), (b) and (d).
2. Section 122.11(b) is a rephrasing of § 6.12(c).
3. Section 122.11(c) is a rephrasing of § 6.12(e).
4. Section 122.12(a) is a restatement of § 6.12(f).
5. Section 122.12(b) is a restatement of § 6.12(g).
6. Section 122.12(c) is a restatement of § 6.12(h).
7. Section 122.12(d) is a restatement of § 6.12(i) with deletion of the reference to "Area."
8. Section 122.13 is unchanged from § 6.13.
9. Section 122.14 is new and is based upon T.D. 86-174, published in the **Federal Register** on September 12, 1986 (51 FR 32448).

## Subpart C—Private Aircraft

1. Section 122.21 is new and makes the subpart applicable to all private aircraft.
2. Section 122.22 makes the landing requirements in § 122.31 applicable to private aircraft.
3. Section 122.23(a) is new and is based upon definitions found in the Department of Transportation regulations relating to exemptions for air taxi operations (14 CFR Part 298).
4. Section 122.23 (b) and (c) is a restatement of § 6.14(a) as amended by T.D. 86-22, published in the **Federal Register** on March 31, 1986 (51 FR 11004).
5. Section 122.24 (a) and (b) is a restatement of § 6.14 (d) and (g).
6. Section 122.25 (a), (b), (c), (d) and (e) is a restatement of § 6.14(f), as amended by T.D. 86-72 and T.D. 87-42.
7. Section 122.26 is new and exempts private aircraft from entry and clearance requirements.
8. Section 122.27 is partially new and partially a restatement of § 148.5. It sets forth the documentation necessary for declaring baggage and cargo upon arrival of a private aircraft, as well as documentation and requirements for departing with certain cargo not for hire
9. Section 122.28 is based upon § 148.32 and relates to a U.S. resident returning a private aircraft to the U.S. which has been taken abroad for non-commercial purposes.
10. Section 122.29 is new and sets forth the changes and procedures

relating to overtime services rendered by Customs in connection with an arriving private aircraft. The section is based in part upon § 24.16.

11. Section 122.30 is based upon §§ 6.10 and 6.11, and lists other regulatory requirements applying to private aircraft.

**Subpart D—Landing Requirements**

1. Section 122.31(a) contains a complete rewording and restructuring of § 6.2(b)(1) and sets forth reporting requirements for all non-excepted aircraft arriving from outside the U.S. Exceptions appear in § 122.31(b).

2. Section 122.31(b) is based upon § 6.2(b)(3).

3. Section 122.31(c)(2) is based upon § 6.2(b)(2).

4. Section 122.31(d) is based upon § 6.2(b)(4).

5. Section 122.31(e) is based upon § 6.2(b)(5).

6. Section 122.31(f) is based upon the second sentence of § 6.2(b)(1).

7. Section 122.32 is based upon the first sentence of § 6.2(a).

8. Section 122.33 is based upon the second sentence of § 6.2(a). The revision adds reference to two other sections relating to alternative landing sites.

9. Section 122.34 is based upon the last three sentences of § 6.2(a).

10. Section 122.35 is based upon § 6.2(h).

11. Section 122.36 is based upon § 6.2(b)(6).

12. Section 122.37 is based upon present § 6.2(h).

13. Section 122.38(a) is based upon the sentence of present § 6.2 (e) and (f).

14. Section 122.38(b) is based upon § 6.2 (e) and (f).

15. Section 122.38(c) is based upon § 6.2 (e) and (f).

16. Section 122.38(d) is based upon § 6.2 (e) and (f) and provides exceptions for the need to obtain a permit or special license for each arrival or departure.

17. Section 122.38(e) is based upon § 6.2(g).

18. Section 122.38(f) is new and is based upon Customs Circular INS-2-EV, dated 12/14/61, and provides the procedure for requesting automatic renewal of permits and special licenses.

**Subpart E—Aircraft Entry and Entry Documents**

1. Section 122.41 is based upon §§ 6.3(a), 6.4(a) and (b), and 6.9(c).

2. Section 122.42 is based upon §§ 6.3(b), 6.4(c), and 6.7.

**Note:** Much of the remainder of Subpart E is based upon § 6.7. It covers all of the various forms required for entry. The revision is structured so that each required form is treated in a separate section.

3. Section 122.43(a) and (c) is based upon § 6.7(a) and (b).

4. Section 122.43(b) is based upon Customs Circular Air-4-ICS, dated 1/24/68, and permits entry upon presentation of an air cargo manifest in lieu of a general declaration.

5. Section 122.44 is new and is based upon Customs Circular BAG-3-CO (AIR-4-AIR), dated 8/9/65. It states that aircraft crewmembers arriving from a foreign area must file a crew baggage declaration as provided in Subpart G, Part 148, Customs Regulations (19 CFR Part 148).

6. Section 122.45 is based upon § 6.7(b)(1) and substitutes "crew list" for "crew manifest."

7. Section 122.45(d) is based upon Customs Circular BAG-3-CO, dated 8/9/65, and sets forth requirements for crewmembers returning as passengers.

8. Section 122.46(a) is based upon § 6.7(b)(2). The qualifying phrase "for any aircraft required to enter by § 122.41" is added.

9. Section 122.46(b) is based upon the last sentence of § 6.7(b)(2), as well as Customs Circular AIR-4-ICS, dated 1/24/68. The section includes a cross-reference to Subpart G, Part 148, Customs Regulations (19 CFR Part 148).

10. Section 122.46(c) is based upon the second and third sentences of § 6.7(b)(2). The reference to "attached list" is replaced by "crew purchase list."

11. Section 122.47(a) is based upon § 6.7(f).

12. Section 122.47(b) is based upon 6.7(f).

13. Section 122.47(c)(1) is based upon § 6.7(b)(3)(v).

14. Section 122.47(c)(2) is based upon § 6.7(b)(3)(v) and (vi), and includes major changes. The section specifies that "other domestic supplies" may be omitted from the stores list when an appropriate statement appears on the manifest or stores list. Further, the statement "Aircraft of scheduled airline" is deleted, thus being made applicable to all aircraft required to enter.

15. Section 122.47(d) is based upon § 6.7(f).

**Note:** Section 122.48 is taken from § 6.7(b)(3). Subparagraphs (v) and (vi) are included in proposed § 122.47(c).

16. Section 122.48(a) is based upon § 6.7(b)(3), and the phrase "for any aircraft required to enter under § 122.41" is added for clarification.

17. Section 122.48(b) is based upon § 6.7(b)(3). There is no substantive change except as concerns the requirement that company mail be listed on the cargo manifest.

18. Section 122.48(c) is based upon § 6.7(b)(3), with the words "duty free" inserted for clarity.

19. Section 122.48(d) is based upon § 6.7(b)(3)(vii), as amended by T.D. 84-128, published in the **Federal Register** on June 4, 1984 (49 FR 23038).

20. Section 122.48(e) is new and is based upon Customs Circular AIR-7-IEI, dated 1/31/72. This section concerns accompanied baggage in transit.

21. Section 122.49(a) is based upon § 6.7(h)(1) and (2).

22. Section 122.49(b) is based upon § 6.7(h)(1) and (3), as well as § 4.12(a). The sections were combined and put in outline form, making it unnecessary to continually refer back to Part 4, Customs Regulations (19 CFR Part 4), to check the applicability of the vessel regulations to aircraft.

23. Paragraphs (c), (d), (e), and (f) of § 122.49 are based upon §§ 6.7(h) and 4.12. The comments relating to § 122.49(b) apply to these paragraphs as well.

**Note:** All reference to the applicability of the vessel repair statute (19 U.S.C. 1466) to repairs made to aircraft, currently reflected in § 6.7(d) and (e), are deleted in Part 122 due to enactment of the Trade Agreements Act of 1979 (Title 6, section 601(a)(3), Pub. L. 96-39), which relieved aircraft from the duty provisions of 19 U.S.C. 1466.

**Subpart F—International Traffic Permit**

1. Section 122.51 is based upon § 6.2(d)(3). The word "civil" is deleted and the phrase "passengers carried for hire or merchandise" is replaced by the word "commercial."

2. Section 122.52(a) is based upon § 6.2(d)(3). The word "civil" is deleted and the term "commercial aircraft" replaces the term "international traffic."

3. Section 122.52(b) is based upon § 6.2(d)(3).

4. Section 122.52(c) is based upon the last two sentences of § 6.2(d)(3). The term "international traffic" has been changed to "commercial aircraft."

5. Section 122.53 is new and is based upon the Federal Aviation Administration regulations (14 CFR 121.153).

6. Section 122.54 (a) and (b) is based upon § 6.2(d)(1). The term "or agent" is added to paragraph (b), and necessary information is listed for inclusion on Customs Form 7507 (Permit to Proceed).

7. Section 122.54(c) is based upon § 6.2(d)(1).

8. Section 122.54 (d), (e) and (f) is based upon § 6.2(d)(1).

9. Section 122.54(g) is based upon § 6.2(d)(2).

**Subpart G—Clearance of Aircraft and Permission to Depart**

1. Section 122.61 is based upon § 6.3(c) and includes a general statement covering all aircraft except public and private.

2. Section 122.62 (a), (b) and (c) is based upon the third, fourth, and fifth sentences of § 6.3(c), and names those aircraft not otherwise required to clear.

3. Section 122.63(a) is based upon § 6.5(c).

4. Section 122.63(b) is based upon § 6.5(c).

5. Section 122.64 is based upon § 6.3(d) and is largely a restatement of § 122.63 (a) and (b), but deals with aircraft not using the procedure outlined therein.

6. Section 122.65 is new and provides that aircraft commanders must notify Customs if departure is delayed or cancelled after the aircraft has been cleared or given permission to depart.

**Subpart H—Documents Required for Clearance and Permission to Depart**

1. Section 122.71 is based upon § 6.8(a) and rephrases the telephonic clearance procedures, added by T.D. 82-92, published in the **Federal Register** on May 14, 1982 (47 FR 20750).

2. Section 122.72 is based upon § 6.8(a).

3. Section 122.73 is based upon § 6.8(b) and T.D. 82-92, and concerns the form and preparation of air cargo manifests.

4. Section 122.74(a) is based upon § 6.8(a) and the Bureau of the Census regulations (15 CFR 30.24). The term "Customs officer in charge" is changed to "district director."

5. Section 122.74(b) is based upon § 6.8(a). The term "Customs officer in charge" is changed to "district director."

6. Section 122.74(c) is based upon § 6.8(a) and 15 CFR 30.24(a).

7. Section 122.74(c)(1) is based upon § 6.8(a) and 15 CFR 30.24(a), and concerns shipments to foreign countries.

8. Section 122.74(c)(2) is based upon § 6.8(e) and 15 CFR 30.24(a)(1), and concerns shipments to and from Puerto Rico.

9. Section 122.74(c)(3) is based upon § 6.8(a) and 15 CFR 30.24(a)(1), and concerns shipments to U.S. possessions.

10. Section 122.74(d) is based upon § 6.8(e). The phrase "or all required cargo documents will be filed within the 7-day bond period" is added.

11. Section 122.75(a) (1) and (2) is based upon § 6.8(e) and 15 CFR 30.21(b), and concerns the contents of a complete air cargo manifest.

12. Section 122.75(b) is based upon the third and fourth sentences of § 6.8(e).

13. Section 122.76 is based upon § 6.8(a) and 15 CFR 30.1, and sets forth the requirements for Shipper's Export Declarations.

14. Section 122.77 is based upon § 6.8(d).

15. Section 122.78 is based upon § 6.8(c). The phrase "cargo manifest" replaces "outward manifest."

16. Section 122.79(a) is based upon §§ 6.5(b) and 6.3(c), and concerns shipments to U.S. possessions, other than Puerto Rico.

17. Section 122.79(b) is based upon §§ 6.5(b) and 6.3(c), and concerns manifest requirements on direct flights to Puerto Rico.

18. Section 122.80 is based upon § 6.8(e), and concerns verification by Customs of statements made on shipping records.

**Subpart I—Procedures for Residue Cargo and Stopover Passengers**

1. Section 122.81 is based upon § 6.9(a).

2. Section 122.82 is based upon §§ 6.9(a), 4.85(a), 113.13 (a) and (b), and 113.61, and details the bond requirement for aircraft seeking a permit to proceed while carrying residue cargo.

3. Section 122.83(a) is based upon § 6.9(b), footnote 6. The term "area" is deleted, and the phrase "an authorized person" is replaced by the word "agent."

4. Section 122.83(b) is based upon § 6.9(b), and includes a provision for crew purchases and stores lists, as well as alternate procedures for unlisted items.

5. Section 122.83(c) is based upon § 6.9(b). The clarifying phrase "An abstract general declaration and manifest need not be filed at the last domestic port of discharge" is added.

6. Section 122.83(d) is based upon § 6.9(b), and relates to the contents of a permit to proceed. The word "agent" replaces the phrase "authorized person", and the phrase "Customs officer in charge" replaces "appropriate Customs officer."

7. Section 122.83(e) is based upon § 6.9, and includes a reproduction of Customs Form 7512-C, Permit to Proceed.

8. Section 122.83(f) is based upon § 6.9(b). The phrase "The documents presented by the aircraft commander or authorized person when applying for clearance shall be delivered to the aircraft commander" is replaced by "* * * must be delivered to aircraft commander or agent." The word "agent" replaces the phrase "authorized person."

9. Section 122.84(a) and (b) is based upon § 6.9(c).

10. Section 122.84(c) is based upon § 6.9(c). The section provides that declarations are to be detached by Customs.

11. Section 122.84(d) is based upon § 6.9(c), and concerns departure from an intermediate airport.

12. Section 122.85 is based upon § 6.9(d). It concerns arrival at the final airport.

13. Section 122.86 is new and is based upon Customs Circular AIR-7-EV, dated 11/23/59. It concerns the substitution of aircraft under the residue cargo procedures.

14. Section 122.87 is based upon § 6.9(e).

15. Section 122.88 is based upon § 6.9(f).

**Subpart J—Transportation in Bond and Merchandise in Transit**

1. Section 122.91 is based upon § 6.15(a).

2. Section 122.92(a) and (b) is based upon § 6.15(b)(1) and (2).

3. Section 122.92(c) is based upon § 6.15(b)(3).

4. Section 122.92(d) is based upon § 6.15(b)(4).

5. Section 122.92(e) is based upon § 6.15(b)(5), and the phrase "aircraft of the same line" is changed to "aircraft of the same airline."

6. Section 122.92(f) is based upon the first sentence of § 6.15(b)(6).

7. Section 122.92(g) is based upon the second sentence of § 6.15(b)(6).

8. Section 122.93(a) is based upon § 6.15(c). The word "port" is changed to "airport", the phrase "authorized person" is replaced by the word "agent", and reference to appropriate Customs forms is inserted.

9. Section 122.93(b) is based upon § 6.15.

10. Section 122.94(a) is based upon § 6.16.

11. Section 122.94(b) is based upon § 6.16, and the phrase "authorized person" is replaced by the word "agent."

12. Section 122.95 is based upon footnote 9 of § 6.15(a).

**Subpart K—Accompanied Baggage in Transit**

1. Sections 122.101 and 122.102 are new and are based upon Customs Circular AIR-7-IEI, dated 1/31/72. These sections concern entry and inspection of accompanied baggage in transit.

**Subpart L—Transit Air Cargo Manifest (TACM) Procedures**

1. Section 122.111 is based upon § 6.17.

2. Section 122.112(a), (b) and (c) is based upon the definition portion of § 6.17.

3. Section 122.112(d) is based upon § 6.18(a), and defines the use of the transit air cargo manifest.

4. Section 122.113 is based upon § 6.18(a), and discusses the form used for transit air cargo manifest procedures.

5. Section 122.114(a) is based upon the last sentence of § 6.18(a), and Customs Circular AIR-EV, dated 5/8/62.

6. Section 122.114(b) is based upon the first sentence of § 6.18(b).

7. Section 122.114(b)(2) is based upon the second sentence of § 6.18(b).

8. Section 122.114(c) is based upon § 6.18(d).

9. Section 122.114(d) is based upon Customs Circular AIR-7-EV, dated 5/8/62, and concerns corrections to the route shown on the original manifest.

10. Section 122.115 is based upon § 6.18(e) and Customs Circular AIR-7-EV, dated 5/8/62. The section concerns labeling of cargo.

11. Section 122.116 is based upon § 6.19.

12. Section 122.117(a)(1) is based upon the first sentence of § 6.20(c).

13. Section 122.117(a)(2) is based upon the second sentence of § 20(c).

14. Section 122.117(b) is based upon § 6.20(b) and (d).

15. Section 122.117(c)(1) is based upon § 6.20(c) and concerns responsibility for direct exploration of transit air cargo.

16. Section 122.117(c)(2) is based upon the fourth sentence of § 6.20(c).

17. Section 122.117(c)(3) is based upon the last sentence of § 6.20(c). Section 122.17(c)(4) is based upon the third sentence of § 6.20(c).

18. Section 122.117(d) is based upon § 6.20(e) and concerns receipts for split shipments.

19. Section 122.118(a) is based upon § 6.24(a). All material in the section following the phrase "in the United States" is deleted and the words "under this section" are added.

20. Section 122.118(b) is based upon § 6.21(c).

21. Section 122.118(c) is based upon § 6.24 (b) and (c).

22. Section 122.118(d) is based upon § 6.24(g) with the phrase "air-carrier" being replaced by the word "airline."

23. Section 122.118(f) is based upon Customs Circular AIR-7-CO, dated 3/17/65. It concerns the exportation of post-entered air cargo.

24. Section 122.118(g) is based upon § 6.24(d).

25. Section 122.119(a) is based upon § 6.22(a).

26. Section 122.119(b) is based upon § 6.21(a).

27. Section 122.119(c) is based upon § 6.22(a) and Customs Circular TRA-1-IMS, dated 7/15/68.

28. Section 122.119(d) (1) and (2) is based upon § 6.22 (c) and (d), and concerns failure to deliver transit air cargo in a timely fashion.

29. Section 122.119(e) is new and concerns the transfer of cargo between carriers.

30. Section 122.120(a) is based upon § 6.23(a) and establishes the authority for transporting cargo to another port for exportation.

31. Section 122.120(b)(1) is based upon the first sentence of § 6.23(a).

32. Section 122.120(b)(2) is based upon the second sentence of § 6.23(c). The phrase "when the goods are ready for lading" is replaced by the phrase "when transit air cargo is ready for lading."

33. Section 122.120(c) is based upon § 6.21(b), and concerns the time limit for delivery of transit air cargo for exportation.

34. Section 122.120(d) is based upon § 6.23 and sets forth new procedures for using Customs Form 7512-C.

35. Section 122.120(e) is based upon § 6.23(b) and details the requirements for presentation of the carrier manifest copy.

36. Section 122.120(f) is based upon the first sentence of § 6.23(c).

37. Section 122.120(g) is based upon § 6.23(e).

38. Section 122.120(h) is based upon § 6.23(d). The phrase "these documents (including the clearance copies of transit air cargo manifest)" is replaced by the phrase "the exportation and clearance copies of transit air cargo manifests."

39. Section 122.120(i) is based upon § 6.23(h).

40. Section 122.120(j) is based upon § 6.23(h) and concerns cargo laden on more than one aircraft of the same airline.

41. Section 122.120(k) is based upon § 6.23(g).

**Subpart M—Aircraft Liquor Kits**

**Note:** Sections 122.131 through 122.137, the aircraft liquor kit provisions, do not appear in Part 6, Customs Regulations. The subpart is based upon Customs Circular AIR-7-AIR, dated 6/16/64.

**Subpart N—Flights to and From the U.S. Virgin Islands**

1. Section 122.141 is a new definition section, inserted to help clarify the subpart.

2. Section 122.142 is based upon § 6.25(a).

3. Section 122.143 is based upon § 6.25(b).

4. Section 122.144(a)(1) is based upon § 6.25(c)(1).

5. Section 122.144(a)(2) is based upon § 6.25(c)(2).

6. Section 122.144(b) is based upon § 6.25(c)(3).

7. Section 122.144(c) is based upon § 6.25(c)(4).

**Subpart O—Flights to and From Cuba**

Sections 122.151 through 122.158 are based upon § 6.3a, as amended by T.D. 87-77, published in the **Federal Register** on June 30, 1987. (52 FR 24291).

**Subpart P—Public Aircraft**

(Reserved)

**Subpart Q—Penalties**

1. Section 122.161 is based upon § 6.11.

2. Section 122.162 is based upon § 6.7(h)

3. Section 122.163 is based upon § 6.22(e).

4. Section 122.164 is based upon § 6.23(g).

5. Section 122.165 is new and is based upon Customs Circular AIR-4-CR, dated 11/12/72. It concerns the Air Cabotage statue, 49 U.S.C. App. 1508(b).

6. Section 122.166 is new and is based upon amendments to 19 U.S.C. 1433 and 1436.

7. Section 122.167 is new and is based upon amendments to 19 U.S.C. 1433 and 1436.

**Editorial Changes**

Throughout the revision, numerous editorial changes have been made to clarify and simplify the language contained in the existing air commerce regulations.

**Analysis of Comments**

Only six comments were received in response to the July 26, 1985, **Federal Register** notice. Of these, two were from aircraft and airline industry associations, two from Federal Government offices, one from a customs broker, and one from an aircraft importer.

Two commenters stated that the requirements in § 122.23, relating to 1-hour advance notice of penetration of U.S. airspace by private aircraft arriving from areas south of the U.S., are burdensome, and that compliance may be impossible in some instances.

As discussed in T.D. 86-72, published in the **Federal Register** on March 3, 1986 (51 FR 11004), Customs changed the notice time in § 6.14 from 15 minutes to 1 hour after very careful consideration of the effect and impact of such a change. The revised reporting time was determined to be necessary for valid enforcement reasons. If the 1-hour time period proves unworkable for some aircraft operators, Customs will consider accepting notification of intended airspace penetration when a flight plan is filed with the Federal

Aviation Administration or at any time prior to departure from the U.S.

A discussion of the other sections commented upon follows.

*Section 122.2(c) (1) and (2).* (renumbered § 122.1(c) (1) and (2) in this document). Companies acting as an agent for an airline temporarily importing an aircraft for modifications, or, if a used aircraft, being traded in for a new one, should be permitted to act as an agent for the airline without holding a power of attorney or without having written authority from the airline. This comment is outside the scope of this revision. Relevant procedures for these matters are set forth in § 10.36a, Customs Regulations (19 CFR 10.36a).

*Section 122.6(b).* (renumbered § 122.5(b) in this document). Airlines need to have flexibility in determining the size, shape, and color of general declaration and air cargo manifest forms to conform with other private sector documents.

The requirements in § 6.6, upon which § 122.6 is based, were amended by T.D. 85–157, published in the **Federal Register** on September 19, 1985 (50 FR 37996). The amendment permits private sector printing of the forms so long as the same size, wording arrangement, style and size of type, and quality of paper are used.

*Section 122.13.* The list of international airports should be revised frequently.

This section is unchanged from § 6.13. The comment is not relevant to this revision. Changes to the list are made as needed.

*Section 122.23(b).* The requirement that advance notice of U.S. airspace penetration be made by aircraft arriving from the south, even though not touching foreign territory, is unduly burdensome.

As stated earlier in this document, the amendment to § 6.14 by T.D. 86–72 represents a necessary enforcement requirement. However, Customs will continue to accept the notification either prior to or during such a flight.

*Section 122.24.* Houston Intercontinental Airport should be added to the list of designated airports.

As no explanation or justification was offered, no such action will be taken at this time.

*Section 122.25.* The section should be changed to permit air ambulances to get single flight exemptions from special landing requirements without the necessity of notification 15 days in advance.

Such exemption may be granted in the discretion of the appropriate district director.

*Section 122.27.* The minimum dollar amount for which landing certificates or copies of foreign customs entries for merchandise must be filed should be changed from $100 to $500.

As this suggestion has merit, it has been adopted.

*Section 122.29.* The question is posed as to why Customs overtime charges apply to aircraft and not to vehicles.

This is because service is provided 24 hours a day to aircraft and vessels. The service is free during normal working hours, but must be reimbursed at other times. Automobiles must arrive at Customs border stations during regular hours of operation only and no service is provided during other times.

*Section 122.34.* Landing rights airports should be required to provide proper office and other space for use by Federal officials.

Authority for such a requirement is found in 31 U.S.C. 9701, and airports provide the necessary space for use by the Federal Inspection Services.

*Section 122.34(a)(1).* The words "or his representative" should be added to the section to indicate that the regional commissioner need not personally grant landing rights.

This suggestion has been adopted.

*Section 122.42.* The section should be changed to permit aircraft to land for refueling only, without the need to formally enter.

As the suggestion has merit, it has been adopted. the section has been changed to set forth certain conditions which must be met for aircraft to be excepted from the entry requirement.

*Section 122.46.* The section, which concerns crew purchase lists, should be changed to reflect contemporary procedures.

We believe that the section is properly drafted at present because, while it is true that a crew purchase list is rarely used, the requirement should be retained as an optional procedure for crewmember declarations.

*Section 122.48.* The following changes were suggested: Airline company mail should be considered "baggage" without the necessity to include it on a manifest. Reference to Customs Form 5119A should be changed to 7501. The third sentence of paragraph (d) should be changed to read "* * * added to the cargo list * * *," rather than "* * * shown on the cargo manifest." Finally, the second sentence of paragraph (e) should be changed to "* * * while in transit through the U.S." instead of "* * * during the flight."

Customs believes that company mail should continue to be manifested as cargo and be subject to examination. The remaining points are well taken, and appropriate changes have been made.

*Section 122.49.* The section should provide for corrections made to air way bills as well as air cargo manifests.

We agree and have amended the section accordingly.

*Section 122.52(c).* Paragraph (c) should be changed to read, in appropriate part, "* * * carrying neither passengers nor cargo," in lieu of the words "* * * in ballast."

We agree and have made the necessary change.

*Subpart F.* The subpart title should be changed to avoid confusion with Subpart I.

We agree and have changed the title.

*Subpart H.* The subpart should include the requirements for an outward general declaration, Customs Form 7507.

This was an inadvertent omission which has been corrected.

*Section 122.65.* The section should include mention of a time limit within which an aircraft must depart after receiving clearance to depart.

The suggestion has been adopted and the section has been appropriately amended.

*Section 122.71.* The section is burdensome because it requires an aircraft to depart only from an airport where Customs officers are stationed.

This is an incorrect interpretation. Aircraft departing with no commercial export cargo may clear by telephone in advance with the district director nearest the departure place.

*Section 122.83(d).* The "permit to proceed" form printed in the section should be changed in two respects. First, the phrase "number of pieces of cargo not cleared" should be deleted because it has no application to aircraft which can now accommodate up to 60 breakbulk containers, and the counting of pieces is not done the same way at any two airports. Second, reference to Public Health Service (PHS) clearance should be deleted because PHS personnel no longer routinely inspect arriving passengers.

We concur in the first suggestion and have modified the form accordingly. We have contacted the PHS regarding the second suggestion and as they have no objection to deletion of the requirement, this change has also been made.

*Section 122.86(d)(2).* The last sentence, which reads, "No other cargo may be laden on the substitute aircraft.", should be deleted.

This sentence was inserted to insure that foreign aircraft are not used in violation of the air cabotage law, prohibiting certain air transit within the U.S. However, as the Federal Aviation Administration, which is responsible for

this requirement, did not object to the suggestion, the change has been made.

*Section 122.92 (a) and (b).* Customs Form 7520, Manifest of Baggage Shipped in Bond, should be described in the section, and the requirement for submitting both the Customs Form 7512 and Customs Form 7512–C should be deleted.

Use of the CF 7520 is described in § 18.13, Customs Regulations (19 CFR 18.13), and we have added an appropriate reference to that section. In regard to the requirement that both the CF 7512 and CF 7512–C be completed for in-bond merchandise, it has been determined that the information on the CF 7512–C is easier to read and use than that on the CF 7512. Accordingly, at this time, the requirement that both forms be submitted is being retained.

*Section 122.115* The warning label procedure in regard to transit air cargo not directly exported from the port of arrival is impractical and should be dropped.

Customs continues to experience problems associated with the unauthorized delivery of in-bond merchandise. Therefore, we must continue to require that the warning label be affixed to all such shipments which are not sealed.

## Conforming Amendments

The revision of the air commerce regulations by elimination of Part 6, Customs Regulations (19 CFR Part 6), and the addition of a new Part 122, Customs Regulations (19 CFR Part 122), requires that certain non-substantive amendments be made to other parts of the Customs Regulations to conform them to the revised scheme. These amendments consist wholly of changing citations to Part 6 of the appropriate citations in Part 122 wherever they appear.

## Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, U.S.C. 601 et. seq.), it is certified that this revision will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

## Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

## Drafting Information

The principal author of this document was Larry L. Burton, Office of Regulations and Rulings, Customs Headquarters. However, personnel from other offices participated in its development.

### PARALLEL REFERENCE TABLE

[This table shows the relationship of sections in revised Part 122 to superseded Part 6.]

| Revised section | Superseded section |
|---|---|
| 122.0 | New. |
| 122.1(a) | New. |
| 122.1(b) | 6.1(e). |
| 122.1(c) | 6.1(g). |
| 122.1(d) | New. |
| 122.1(e) | 6.1(h). |
| 122.1(f) | New. |
| 122.1(g) | Based on 19 CFR 24.18. |
| 122.1(h) | New. |
| 122.1(i) | New. |
| 122.1(j) | New. |
| 122.1(k) | 6.1(f). |
| 122.1(l) | 6.1(b), (c). |
| 122.2 | 6.10. |
| 122.3 | 6.6(b). |
| 122.4 | 6.6(a) |
| 122.5 | 6.6(a). |
| 122.11(a) | 6.12(a), (b), (d). |
| 122.11(b) | 6.12(c). |
| 122.11(c) | 6.12(e). |
| 122.12(a) | 6.12(f). |
| 122.12(b) | 6.12(g). |
| 122.12(c) | 6.12(h). |
| 122.12(d) | 6.12(i). |
| 122.13 | 6.13. |
| 122.14 | 6.12a. |
| 122.21 | New. |
| 122.22 | New. |
| 122.23(a) | New. |
| 122.23(b), (c), (d), (e) | 6.14(a). |
| 122.24(a), (b) | 6.14(b), (g). |
| 122.25(a), (b), (c), (d) | 6.14(f). |
| 122.26 | New. |
| 122.27 | Based on 19 CFR 148.5. |
| 122.28 | Based on 19 CFR 148.32. |
| 122.29 | New. |
| 122.30 | 6.10 and 6.11. |
| 122.31(a) | 6.2(b)(1). |
| 122.31(b) | 6.2(b)(3). |
| 122.31(c)(2) | 6.2(b)(2). |
| 122.31(d) | 6.2(b)(4). |
| 122.31(e) | 6.2(b)(5). |
| 122.31(f) | 6.2(b)(1). |
| 122.32 | 6.2(a). |
| 122.33 | 6.2(a). |
| 122.34 | 6.2(a). |
| 122.35 | 6.2(h). |
| 122.36 | 6.2(b)(6). |
| 122.37 | 6.2(h). |
| 122.38(a) | 6.2(e), (f). |
| 122.38(b) | 6.2(e), (f). |
| 122.38(c) | 6.2(g). |
| 122.38(d) | 6.2(e), (f). |
| 122.38(e) | 6.2(g). |
| 122.38(f) | New. Based on Customs Circular INS-2-EV, dated 12-14-61. |
| 122.41 | 6.3(a), 6.4(a), (b) and 6.9(c). |
| 122.42 | 6.3(b), 6.4(c), and 6.7. |
| 122.43(a), (c) | 6.7(a), (b). |
| 122.43(b) | New. Based on Customs Circular AIR-4-ICS, dated 1-24-68. |

### PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in revised Part 122 to superseded Part 6.]

| Revised section | Superseded section |
|---|---|
| 122.44 | New. Based on Customs Circular BAG-3-CO (AIR-4-AIR), dated 8-9-65. |
| 122.45 | 6.7(b)(1). |
| 122.45(d) | New. Based on Customs Circular BAG-3-CO (AIR-4-AIR), dated 8-9-65. |
| 122.46(a) | 6.7(b)(2). |
| 122.46(b) | 6.7(b)(2). Also based on Customs Circular AIR-4-ICS, dated 1-24-68. |
| 122.46(c) | 6.7(b)(2). |
| 122.47(a) | 6.7(f). |
| 122.47(b) | 6.7(f). |
| 122.47(c)(1) | 6.7(b)(3)(v). |
| 122.47(c)(2) | 6.7(b)(3)(V), (vi). |
| 122.47(d) | 6.7(f). |
| 122.48(a), (b), (c), (d) | 6.7(b)(3). |
| 122.48(e) | New. Based on Customs Circular ATR-7-IEI, dated 1-31-72. |
| 122.49(a) | 6.7(h)(1), (2). |
| 122.49(b), (c), (d), (e), (f) | 6.7(h)(1), (3). Also based on 19 CFR 4.12(a). |
| 122.51 | 6.2(d)(3). |
| 122.52(a), (b), (c) | 6.2(d)(3). |
| 122.52(d) | 6.2(d)(3)(ii). Also based on T.D. 55063(1), dated 3-4-60. |
| 122.53 | New. Based on 14 CFR 121.153. |
| 122.54(a), (b), (c), (d), (e), (f). | 6.2(d)(1). |
| 122.54(g) | 6.2(d)(2). |
| 122.61(a) | 6.3(c). |
| 122.62(a), (b), (c) | 6.3(c). |
| 122.63(a), (b) | 6.5(c). |
| 122.64 | 6.3(d). |
| 122.65 | New. |
| 122.71 | 6.8(a). |
| 122.72 | 6.8(a). |
| 122.73 | 6.8(b). Also based on T.D. 82-92, dated March 22, 1982. |
| 122.74(a) | 6.8(a). Also based on 15 CFR 30.24. |
| 122.74(b) | 6.8(a). |
| 122.74(c) | 6.8(a). Also based on 15 CFR 30.24(a). |
| 122.74(c)(1) | 6.8(a). Also based on 15 CFR 30.24(a). |
| 122.74(c)(2) | 6.8(e). Also based on 15 CFR 30.24(a)(1). |
| 122.74(c)(3) | 6.8(a). Also based on 15 CFR 30.24(a)(1). |
| 122.74(d) | 6.8(e). |
| 122.75(a)(1), (2) | 6.8(e). Also based on 15 CFR 30.21(b). |
| 122.75(b) | 6.8(e). |
| 122.76 | 6.8(a). Also based on 15 CFR 30.1. |
| 122.77 | 6.8(d). |
| 122.78 | 6.8(c). |
| 122.79(a), (b) | 6.3(c) and 6.5(b). |
| 122.80 | 6.8(e). |
| 122.81 | 6.9(a). |
| 122.82 | 6.9(a). Also based on 19 CFR 4.85(a), 19 CFR 113.13a(a), (b) and 19 CFR 113.61. |
| 122.83(a), (b), (c), (d) | 6.9(b). |
| 122.83(e) | 6.9. |
| 122.83(f) | 6.9(b). |
| 122.84(a), (b), (c), (d) | 6.9(c). |
| 122.85 | 6.9(d). |

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in revised Part 122 to superseded Part 6.]

| Revised section | Superseded section |
|---|---|
| 122.86 | New. Based on Customs Circular AIR-7-EV, dated 11-23-59. |
| 122.87 | 6.9(e). |
| 122.88 | 6.9(f). |
| 122.91 | 6.15(a). |
| 122.92(a), (b) | 6.15(b)(1), (2). |
| 122.92(c) | 6.15(b)(3). |
| 122.92(d) | 6.15(b)(4). |
| 122.92(e) | 6.15(b)(5). |
| 122.92(f), (g) | 6.15(b)(6). |
| 122.93(a) | 6.15(c). |
| 122.93(b) | 6.15. |
| 122.94(a), (b) | 6.16. |
| 122 95 | 6.15(a). |
| 122.101 | New. Based on Customs Circular AIR-7-IEI, dated 1-31-72. |
| 122.102 | New. Based on Customs Circular AIR-7-IEI, dated 1-31-72. |
| 122.111 | 6.17. |
| 122.112(a), (b), (c) | 6.17. |
| 122.112(d) | 6.18(a). |
| 122.113 | 6.18(a). |
| 122.114(a) | 6.18(a). Also based on Customs Circular AIR-7-EV, dated 5-8-62. |
| 122.114(b) | 6.18(b). |
| 122.114(b)(2) | 6.18(b). |
| 122.114(c) | 6.18(d). |
| 122.114(d) | New based on Customs Circular AIR-7-EV, dated 5-8-62. |
| 122.115 | 6.18(e). Also based on Customs Circular AIR-7-EV, dated 5-8-62. |
| 122.116 | 6.19. |
| 122.117(a) | 6.20(c). |
| 122.117(b) | 6.20(b), (d). |
| 122.117(c), (d) | 6.20(c). |
| 122.118(a) | 6.24(a). |
| 122.118(b) | 6.21(c). |
| 122.118(c) | 6.24(b), (c). |
| 122.118(d) | 6.24(g). |
| 122.118(e) | New. Based on 19 CFR 18.25. |
| 122.118(f) | New. Based on Customs Circular AIR-7-CO, dated 3-17-65. |
| 122.118(g) | 6.24(d). |
| 122.119(a) | 6.22(a). |
| 122.119(b) | 6.21(a). |
| 122.119(c) | 6.22(a). Also based on Customs Circular TRA-1-IMS, dated 7-15-68. |
| 122.119(d) | 6.22(c), (d). |
| 122.119(e) | 6.22(a). |
| 122.120(a) | 6.23(a). |
| 122.120(b)(1) | 6.23(a). |
| 122.120(b)(2) | 6.23(c). |
| 122.120(c) | 6.21(b). |
| 122.120(d) | 6.23. |
| 122.120(e) | 6.23(b). |
| 122.120(f) | 6.23(c). |
| 122.120(g) | 6.23(e). |
| 122.120(h) | 6.23(d). |
| 122.120(i), (j) | 6.23(h). |
| 122.120(k) | 6.23(g). |
| 122.131 through 122.137 | New. Based on Customs Circular AIR-7-AIR, dated 6-16-64. |
| 122.141 | New definition section. |
| 122.142 | 6.25(a). |
| 122.143 | 6.25(b). |
| 122.144(a)(1) | 6.25(c)(1). |

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in revised Part 122 to superseded Part 6.]

| Revised section | Superseded section |
|---|---|
| 122.144(a)(2) | 6.25(c)(2). |
| 122.144(b) | 6.25(c)(3). |
| 122.144(c) | 6.25(c)(4). |
| 122.151 through 122.158 | 6.3a. |
| 122.161 | 6.11. |
| 122.162 | 6.7(h). |
| 122.163 | 6.22(e). |
| 122.164 | 6.23(g). |
| 122.165 | New. Based on Customs Circular AIR-4-CR, dated 11-12-72. |
| 122.166 | New based on 19 U.S.C. 1433 and 1436. |
| 122.167 | New based on 19 U.S.C. 1433 and 1436. |

PARALLEL REFERENCE TABLE

[This table show the relationship of sections in Part 6 to revised Part 122]

| Superseded section | Revised section |
|---|---|
| 6.1 (b), (c) | 122.1(1). |
| 6.1(e) | 122.1(b). |
| 6.1(f) | 122.1(k). |
| 6.1(g) | 122.1(c). |
| 6.1(h) | 122.1(e). |
| 6.2(a) | 122.32, 122.33, 122.34. |
| 6.2(b) | 122.31. |
| 6.2(b)(6) | 122.36. |
| 6.2(d)(1) | 122.54 (a) through (f). |
| 6.2(d)(2) | 122.54(g). |
| 6.2(d)(3) | 122.51 and 122.52. |
| 6.2 (e), (f) | 122.38 (a), (b), (d), (e) and (f). |
| 6.2(g) | 122.38(c). |
| 6.2(h) | 122.35 and 122.37. |
| 6.3(a) | 122.41. |
| 6.3(b) | 122.42 (a), (b). |
| 6.3(c) | 122.61(a), 122.62 (a), (b), (c) and 122.79(a). |
| 6.3(d) | 122.64. |
| 6.3a | 122.151 through 122.158. |
| 6.4 (a) and (b) | 122.41. |
| 6.4(c) | 122.42(b). |
| 6.5 (b), (c) | 122.63 (a), (b) and 122.79(b). |
| 6.6(a) | 122.4 and 122.5. |
| 6.6(b) | 122.3. |
| 6.7(a) | 122.43(a). |
| 6.7(b) | 122.43(c), 122.45, 122.46 (a), (b), (c) and 122.47(c). |
| 6.7(f) | 122.47 (a), (b), and (d). |
| 6.7(h) | 122.49, and 122.162. |
| 6.8(a) | 122.122.71, 122.72, 122.74 (a), (b), and (c) (1) and (3) and 122.76. |
| 6.8(b) | 122.73. |
| 6.8(c) | 122.78. |
| 6.8(d) | 122.77. |
| 6.8(e) | 122.74(c)(2), 122.74(d), 122.75(a), (1) and (2), 122.75(b) and 122.80. |
| 6.9(a) | 122.81 and 122.82. |
| 6.9(b) | 122.83. |
| 6.9(c) | 122.84. |
| 6.9(d) | 122.85. |
| 6.9(e) | 122.87. |
| 6.9(f) | 122.88. |
| 6.10 | 122.2, 122.30 and 122.161. |
| 6.11 | 122.161. |
| 6.12 (a), (b), (d) | 122.11(a). |
| 6.12(c) | 122.11(b). |
| 6.12(e) | 122.11(c). |
| 6.12 (f), (g), (h), (i) | 122.12. |
| 6.12a | 122.14. |

PARALLEL REFERENCE TABLE—Continued

[This table show the relationship of sections in Part 6 to revised Part 122]

| Superseded section | Revised section |
|---|---|
| 6.13 | 122.13. |
| 6.14(a) | 122.23 (b), (c), (d), (e). |
| 6.14 (b), (g) | 122.24 (a), (b). |
| 6.14(f) | 122.25. |
| 6.15(a) | 122.91 and 122.95. |
| 6.15(b) | 122.92. |
| 6.15(c) | 122.93. |
| 6.16 | 122.94. |
| 6.17 | 122.111 and 122.112 (a), (b), (c). |
| 6.18(a) | 122.112(d), 122.113, and 122.114(a). |
| 6.18(b) | 122.114(b). |
| 6.18(d) | 122.114(c). |
| 6.18(e) | 122.114(e). |
| 6.19 | 122.116. |
| 6.20 (b), (d) | 122.117(b). |
| 6.20(c) | 122.117 (a), (c), and (d). |
| 6.21(a) | 122.119(b). |
| 6.21(b) | 122.120(c). |
| 6.21(c) | 122.118(b). |
| 6.22(a) | 122.119 (a), (c), and (e). |
| 6.22 (c), (d) | 122.119(d). |
| 6.22(e) | 122.163. |
| 6.23(a) | 122.120 (a) and (b)(1). |
| 6.23(b) | 122.120(e). |
| 6.23(c) | 122.120 (b)(2) and (f). |
| 6.23(d) | 122.120(h). |
| 6.23(e) | 122.120(g). |
| 6.23(g) | 122.120(k) and 122.164. |
| 6.23(h) | 122.120 (i), (j). |
| 6.24(a) | 122.118(a). |
| 6.24 (b), (c) | 122.118(c). |
| 6.24(d) | 122.118(g). |
| 6.24(g) | 122.118(d). |
| 6.25(a) | 122.142. |
| 6.25(b) | 122.143. |
| 6.25(c)(1) | 122.144(a)(1). |
| 6.25(c)(2) | 122.144(a)(2). |
| 6.25(c)(3) | 122.144(b). |
| 6.25(c)(4) | 122.144(c). |
| 6.25(c)(5) | 122.144(d). |

## List of Subjects

*19 CFR Part 122*

Air carriers, Air transportation, Aircraft, Airports, Cuba, Freight.

*19 CFR Parts 4, 6, 10, 18, 24, 123, 162*

Customs duties and inspection.

## PART 6—[REMOVED]

Chapter I of Title 19, Code of Federal Regulations, is amended by removing Part 6 (*Air Commerce Regulations*) (19 CFR Part 6).

Chapter I of Title 19, Code of Federal Regulations, is further amended by adding a new part, Part 122, to read as follows:

## PART 122—AIR COMMERCE REGULATIONS

Sec.

122.0 Scope

**Subpart A—General Definitions and Provisions**

122.1 General definitions.
122.2 Other Customs laws and regulations.
122.3 Availability of forms.
122.4 English language required.
122.5 Reproduction of Customs forms.

**Subpart B—International Airports**

122.11 Designation as international airport.
122.12 Operation of international airports.
122.13 List of international airports.
122.14 Access to Customs Security Areas.

**Subpart C—Private Aircraft**

122.21 Application.
122.22 Notice of arrival.
122.23 Private aircraft arriving from areas south of the U.S.
122.24 Landing requirements.
122.25 Exemption from special landing requirements.
122.26 Entry and clearance.
122.27 Documents required.
122.28 Private aircraft taken abroad by U.S. residents.
122.29 Overtime services.
122.30 Other Customs laws and regulations.

**Subpart D—Landing Requirements.**

122.31 Notice of arrival.
122.32 Aircraft required to land.
122.33 Place of first landing.
122.34 Landing rights airport.
122.35 Emergency or forced landing.
122.36 Responsibility of aircraft commander.
122.37 Precleared aircraft.
122.38 Permit and special license to unlade and lade.

**Subpart E—Aircraft Entry and Entry Documents**

122.41 Aircraft required to enter.
122.42 Aircraft entry.
122.43 General declaration.
122.44 Crew baggage declaration.
122.45 Crew list.
122.46 Crew purchase list.
122.47 Stores list.
122.48 Air cargo manifest.
122.49 Correction of air cargo manifest or air way bill.

**Subpart F—International Traffic Permit**

122.51 Aircraft of domestic origin registered in the U.S.
122.52 Aircraft of foreign origin registered in the U.S.
122.53 Aircraft of foreign registry chartered or leased to U.S. air carriers.
122.54 Aircraft of foreign registry.

**Subpart G—Clearance of Aircraft and Permission to Depart**

122.61 Aircraft required to clear.
122.62 Aircraft not otherwise required to clear.
122.63 Scheduled airlines.
122.64 Other aircraft.
122.65 Failure to depart.

**Subpart H—Documents Required for Clearance and Permission to Depart**

122.71 Aircraft departing with no commercial export cargo.
122.72 Aircraft departing with commercial export cargo.
122.73 General declaration and air cargo manifest.
122.74 Incomplete (pro forma) manifest.
122.75 Complete manifest.
122.76 Shipper's Export Declarations and inspection certifications.
122.77 Clearance certificate.
122.78 Entry or withdrawal for exportation or for transportation and exportation.
122.79 Shipments to U.S. possessions.
122.80 Verification of statement.

**Subpart I—Procedures for Residue Cargo and Stopover Passengers**

122.81 Application.
122.82 Bond requirements.
122.83 Forms required.
122.84 Intermediate airport.
122.85 Final airport.
122.86 Substitution of aircraft.
122.87 Other requirements.
122.88 Aircraft carrying domestic (stopover) passengers.

**Subpart J—Transportation in Bond and Merchandise in Transit**

122.91 Application.
122.92 Procedure at port of origin.
122.93 Procedure at destination or exportation airport.
122.94 Certificate of lading for exportation.
122.95 Other provisions.

**Subpart K—Accompanied Baggage in Transit**

122.101 Entry of accompanied baggage.
122.102 Inspection of baggage in transit.

**Subpart L—Transit Air Cargo Manifest (TACM) Procedures**

122.111 Application.
122.112 Definitions.
122.113 Form for transit air cargo manifest procedures.
122.114 Contents.
122.115 Labeling of cargo.
122.116 Identification of manifest sheets.
122.117 Requirements for transit air cargo transport.
122.118 Exportation from port of arrival.
122.119 Transportation to another U.S. port.
122.120 Transportation to another port for exportation.

**Subpart M—Aircraft Liquor Kits**

122.131 Application.
122.132 Sealing of aircraft liquor kits.
122.133 Stores list required on arrival.
122.134 When airline does not have in-bond liquor storeroom.
122.135 Whe airline has in-bond liquor storeroom.
122.136 Outgoing stores list.
122.137 Certificate of use.

**Subpart N—Flights to and From the U.S. Virgin Islands**

122.141 Definitions.
122.142 Flights between the U.S. Virgin Islands and a foreign area.
122.143 Flights from the U.S. to the U.S. Virgin Islands.
122.144 Flights from the U.S. Virgin Islands to the U.S.

**Subpart O—Flights to and From Cuba**

122.151 Definitions.
122.152 Application.
122.153 Limitations on airport of entry or departure.
122.154 Notice of arrival.
122.155 Documents to be presented upon arrival.
122.156 Release of passengers.
122.157 Documents required for clearance.
122.158 Other entry and clearance requirements.

**Subpart P—Public Aircraft**

[Reserved]

**Subpart Q—Penalties**

122.161 In general.
122.162 Failure to notify and explain differences in air cargo manifest.
122.163 Transit air cargo traveling to U.S. ports.
122.164 Tranportation to another port for exportation.
122.165 Air cabotage.
122.166 Arrived, departure, discharge, and documentation.
122.167 Aviation smuggling.

**Authority:** 5 U.S.C. 301, 19 U.S.C. 66, 1433, 1436, 1459, 1590, 1594, 1624, 1644, 49 U.S.C. App. 1509.

### § 122.0 Scope.

The regulations in this part relate to the entry and clearance of aircraft, and the transportation of persons and cargo by aircraft, and are applicable to all air commerce. They do not apply to Guam, Midway, American Samoa, Wake, Kingman Reef, Johnston Island, and other insular possessions of the U.S. not specified herein. They do apply to the U.S. Virgin Islands as stated in Subpart N (§§ 122.141 through 122.144), and Cuba as stated in Subpart O (§§ 122.151 through 122.158).

## Subpart A—General Definitions and Provisions

### § 122.1 General definitions.

The following definitions apply in this part, unless otherwise stated:

(a) *Aircraft.* An "aircraft" is any device now known, or hereafter invented, used or designed for navigation or flight in the air. It does not include hovercraft.

(b) *Aircraft commander.* An "aircraft commander" is any person serving on an aircraft who is in charge or has command of its operation and navigation.

(c) *Agent.* An "agent" is any person who is authorized to act for or in place of:

(1) An owner or operator of a scheduled airline by written authority; or

(2) An owner or operator of a non-scheduled airline, by power of attorney.

The authority to act shall be in writing and satisfactory to the district director.

(d) *Commercial aircraft.* A "commercial aircraft" is any aircraft transporting passengers and/or cargo for some payment or other consideration, including money or services rendered.

(e) *International airport.* An "international airport" is any airport designated by:

(1) The Secretary of the Treasury or the Commissioner of Customs as a port of entry for aircraft arriving in the U.S. from any place outside thereof and for the merchandise carried on such aircraft;

(2) The Attorney General as a port of entry for aliens arriving on such aircraft; and

(3) The Secretary of Health and Human Services as a place for quarantine inspection.

(f) *Landing rights airport.* A "landing rights airport" is any airport, other than an international airport, at which flights from a foreign area may be allowed to land.

(g) *Preclearance.* "Preclearance" is the examination and inspection of air travelers and their baggage, at the request of an airline, at foreign places where Customs personnel are stationed for that purpose. Preclearance may be used only for air travelers and their baggage, not for merchandise.

(h) *Private aircraft.* A "private aircraft" is any aircraft engaged in a personal or business flight to or from the U.S. which is not:

(1) Carrying passengers and/or cargo for commercial purposes:

(2) Leaving the U.S. carrying neither passengers nor cargo in order to lade passengers and/or cargo in a foreign area for commercial purposes; or

(3) Returning to the U.S. carrying neither passengers nor cargo in ballast after leaving with passengers and/or cargo for commercial purposes;

(i) *Public aircraft.* A "public aircraft", is any aircraft owned by, or under the complete control and management of the U.S. government or any of its agencies, or any aircraft owned by or under the complete control and management of any foreign government which exempts public aircraft of the U.S. from arrival, entry and clearance requirements similar to those provided in Subpart C of this part, but not including any government owned aircraft engaged in carrying persons or property for commercial purposes. This definition applies if the aircraft is:

(1) Manned entirely by members of the armed forces or civil service of such government, or by both;

(2) Transporting only property of such government, or passengers traveling on official business of such government; or

(3) Carrying neither passengers nor cargo.

(j) *Residue cargo.* "Residue cargo" is any cargo on board an aircraft arriving in the U.S. from a foreign area if the:

(1) Final delivery airport in the U.S. is not the port of arrival; or

(2) Cargo remains on board the aircraft and travels from port to port in the U.S., for final delivery in a foreign area.

(k) *scheduled airline.* A "scheduled airline" is any individual, partnership, corporation or association:

(1) Engaged in air transportation under regular schedules to, over, away from, or within the U.S.; and

(2) Holding a Foreign Air Carrier Permit or a Certificate of Public Convenience and Necessity, issued by the Department of Transportation pursuant to 14 CFR Parts 201 and 213.

(l) *United States.* Except when used in another context, "U.S." means the territory of the several States, the District of Columbia, and Puerto Rico, including the territorial waters and overlying airspace.

**§ 122.2 Other Customs laws and regulations.**

Except as otherwise provided for in this chapter, and insofar as such laws and regulations are applicable, aircraft arriving or having arrived from or departing for any foreign port or place, and the persons and merchandise, including baggage, carried thereon, shall be subject to the laws and regulations applicable to vessels to the extent that such laws and regulations are administered or enforced by Customs, as provided in 49 U.S.C. App. 1509(c).

**§ 122.3 Availability of forms.**

The forms mentioned in this part may be purchased from the district director at a port of entry. A small quantity of each form is set aside by district directors for free distribution and official use.

**§ 122.4 English language required.**

A translation in the English language shall be attached to the original and each copy of any form or document written or printed in a foreign language.

**§ 122.5 Reproduction of Customs forms.**

(a) *Specifications.* Subject to approval by Customs, the forms mentioned in this part may be printed by private parties if the specified size, wording arrangement, style and size of type, and quality of paper are used.

(b) *Exceptions.* District directors may accept privately printed copies of the General Declaration (Customs Form 7507) and air cargo manifest (Customs Form 7509) which are different from the official forms. The privately printed forms shall include all information required on the official forms. The differences allowed are:

(1) *General Declaration.* Customs Form 7507 may be printed in several languages, so long as the form includes an English version. The instructions on the reverse side of the official form may be omitted.

(2) *Air cargo manifest.* Customs Form 7509 may be changed to allow for additional information used by the airline.

## Subpart B—International Airports

**§ 122.11 Designation as international airport.**

(a) *Procedure.* International airports, as defined in § 122.1(e), will be designated after due investigation to establish that sufficient need exists in any particular district or area to justify such designation and to determine the airport best suited for such purpose. In each case, a specific airport will be chosen, rather than a general area or district. International airports will be publicly owned, unless circumstances require otherwise

(b) *Withdrawal of designation.* The designation as an international airport may be withdrawn for any of the following reasons:

(1) The amount of business clearing through the airport does not justify maintenance of inspection equipment and personnel;

(2) Proper facilities are not provided or maintained by the airport;

(3) The rules and regulations of the Federal Government are not followed; or

(4) Some other location would be more useful.

(c) *Providing office space to the Federal Government.* Each international airport shall provide, without cost to the Federal Government, proper office and other space for the sole use of Federal officials working at the airport. A suitable paved loading area shall be supplied by each airport at a place convenient to the office space. The loading area shall be kept for the use of aircraft entering or clearing through the airport.

**§ 122.12 Operation of international airports.**

(a) *Entry, clearance and charges.* International airports are open to all aircraft for entry and clearance at no charge by Customs. However, charges may be assessed by the airport for commercial or private use of the airport.

(b) *Servicing of aircraft.* When an aircraft enters or clears through an international airport, it shall be

promptly serviced by airport personnel solely on the basis of order of arrival or readiness for departure. Servicing charges imposed by the airport operators shall not be greater than the schedule of charges in effect at the airport in question.

(c) *Federal Aviation Administration rules.* International airports shall follow and enforce any requirements for airport operations, including airport rules, that area set out by the Federal Aviation Administration in 14 CFR Part 91.

(d) *Additional requirements.* Additional requirements may be put into effect at a particular airport as the needs of the Customs district served by the airport demand.

**§ 122.13 List of international airports.**

The following is a list of international airports of entry designated by the Secretary of the Treasury.

| Location | Name |
|---|---|
| Akron, Ohio | Akron Municipal Airport |
| Albany, N.Y | Albany County Airport |
| Baudette, Minn | Baudette International Airport |
| Bellingham, Wash | Bellingham International Airport |
| Brownsville, Tex | Brownsville International Airport |
| Burlington, Vt | Burlington International Airport |
| Calexico, Calif | Calexico International Airport |
| Caribou, Maine | Caribou Municipal Airport |
| Chicago, Ill | Midway Airport |
| Cleveland, Ohio | Cleveland Hopkins International Airport |
| Cut Bank, Mont | Cut Bank Airport |
| Del Rio, Tex | Del Rio International Airport |
| Detroit, Mich | Detroit City Airport |
| Detroit, Mich | Detroit Metropolitan Wayne County Airport |
| Douglas, Ariz | Bisbee-Douglas International Airport |
| Duluth, Minn | Duluth International Airport |
| Duluth, Minn | Sky Harbor Airport |
| Eagle Pass, Tex | Eagle Pass Municipal Airport |
| El Paso, Tex | El Paso International Airport |
| Fort Lauderdale, Fla. | Fort Lauderdale-Hollywood International Airport |
| Friday Harbor, Wash. | Friday Harbor Seaplane Base |
| Grand Forks, N. Dak. | Grand Forks International Airport |
| Great Falls, Mont | Great Falls International Airport |
| Havre, Mont | Havre City-County Airport |
| Houlton, Maine | Houlton International Airport |
| International Falls, Minn. | Falls International Airport |
| Juneau, Alaska | Juneau Municipal Airport |
| Juneau, Alaska | Juneau Harbor Seaplane Base |
| Ketchikan, Alaska | Ketchikan Harbor Seaplane Base |
| Key West, Fla | Key West International Airport |
| Laredo, Tex | Laredo International Airport |
| Massena, N.Y | Richards Field |
| McAllen, Tex | Miller International Airport |
| Miami, Fla | Chalk Seaplane Base |
| Miami, Fla | Miami International Airport |
| Minot, N.Dak | Minot International Airport |
| Nogales, Ariz | Nogales International Airport |
| Ogdensburg, N.Y | Ogdensburg Harbor |
| Ogdensburg, N.Y | Ogdensburg International Airport |
| Oroville, Wash | Dorothy Scott Airport |
| Oroville, Wash | Dorothy Scott Seaplane Base |
| Pembina, N.Dak | Pembina Municipal Airport |
| Port Huron, Mich | St. Clair County International Airport |
| Port Townsend, Wash. | Jefferson County International Airport |
| Ranier, Minn | Ranier Internatioal Seaplane Base |
| Rochester, N.Y | Rochester-Monroe County Airport |
| Rouses Point, N.Y | Rouses Point Seaplane Base |
| San Diego, Calif | San Diego International Airport (Lindbergh Field) |
| Sandusky, Ohio | Griffing-Sandusky Airport |
| Sault Ste. Marie, Mich. | Sault Ste. Marie City-County Airport |
| Seattle, Wash | King County International Airport |
| Seattle, Wash | Lake Union Air Service (Seaplanes) |
| Tampa, Fla | Tampa International Airport |
| Tucson, Ariz | Tucson International Airport |
| Watertown, N.Y | Watertown New York International Airport |
| West Palm Beach, Fla. | Palm Beach International Airport |
| Williston, N. Dak | Sloulin Field International Airport |
| Wrangell, Alaska | Wrangell Seaplane Base |
| Yuma, Ariz | Yuma International Airport |

**§ 122.14 Access to Customs security areas.**

(a) For the purposes of this section, the term "Customs security area" means the Federal inspection services area (as provided for by § 122.11(c)), designated for processing passengers, crew, their baggage and effects arriving from foreign countries, as well as the aircraft deplaning and ramp area and other restricted areas designated by the district director of Customs. These areas will be posted as restricted to the extent possible, and are established for the purpose of prohibiting unauthorized entries or contact with persons or objects.

(b) With the exception of all Federal, and uniformed State and local law enforcement personnel, all persons located at, operating out of, or employed by any airport accommodating international air commerce, or its tenants or contractors, including air carriers, who have unescorted access to the Customs security area must openly display or produce upon demand, an approved identification card, strip, or seal, to be issued by Customs. The approved identification card, strip, or seal shall be in the possession of the person in whose name it is issued at all times when the person is in the Customs security area. The identification strip or seal or any Customs issued card remains the property of Customs and any bearer must immediately surrender it upon demand by any authorized Customs officer.

(c) An application for an approved identification card, strip, or seal as required by this section, shall be filed by the applicant with the district director on Customs Form 3078. This requirement applies to all employees, regardless of the length of their employment. For employees hired on or after November 1, 1985, an authorized official of the employer shall attest in writing that a background check has been conducted on the applicant. The background check shall include, at a minimum, investigation of references and employment history to the extent necessary to verify representations made by the applicant relating to employment in the preceding 5 years. For any employee hired before November 1, 1985, the authorized official of the employer need only attest to the fact that the employee was hired before that date. The authorized official of the employer shall attest that, to the best of his knowledge, the applicant meets the conditions necessary to perform functions associated with employment in the Customs security area. The fingerprints of the applicant may be required on FD 258 at the time of the filing of the application. Proof of citizenship or authorized residency, and a photograph may also be required. In addition, the application may be investigated by Customs and a report prepared concerning the character of the applicant. Records of background investigations conducted by employers must be retained by them and made available upon request by the district director for a period of 1 year following cessation of employment of the employees.

(d) Law enforcement officers and other Federal, State, or local officials whose duties require access to the Customs security area may request from the district director the issuance of an approved identification card, strip, or seal. They need not make application nor submit to background checks for security area access.

(e)(1) An approved identification card, strip, or seal shall not be issued to any person whose employment necessitates access to the Customs security area and whose access will, in the judgment of the district director, endanger the

revenue or the security of the area. Grounds for denial of access shall include, but are not limited to:

(i) Any cause which would justify suspension or revocation of the identification card, strip, or seal under the provisions of paragraph (j) of this section; or

(ii) Evidence of a pending or past investigation which establishes criminal, or dishonest conduct, or a verified record of such conduct.

(2)(i) The district director shall give written notification to any person whose application for access to the Customs security area has been denied, fully stating the reasons for denial and setting forth specific appeal procedures. The employer shall be notified in writing that the applicant has been denied access to the area and that the detailed reasons for the denial have been furnished to the applicant. Specific reasons for denial shall not be furnished to the employer.

(ii) The denial will be final unless the applicant files with the district director a written notice of appeal. The applicant's written notice must be filed within 10 days following receipt of the notice of denial. The notice of appeal shall be filed in duplicate, and shall set forth the response of the applicant to the statement of the district director. The district director shall render his decision on the appeal to the applicant within 30 days of receipt of the notice of appeal.

(iii) If the district director denies the application on appeal, the applicant may file a further written notice of appeal to the Commissioner within 10 days of receipt of the district director's decision on the appeal. The further notice of appeal shall be filed in duplicate, and shall set forth the response of the applicant to the district director's decision. The Commissioner or his designee shall review the appeal, and render a written decision. This final decision shall be transmitted to the district director and served by him on the applicant.

(f) An employee may obtain a new identification card, strip, or seal from the district director in the following circumstances, without completing a new application, except as determined by the district director in his discretion:

(1) A change in employee name or address;

(2) A change in the name or ownership of his employing company;

(3) A change in employer or airport authority identification card format; or

(4) Loss or theft of the identification card, strip, or seal.

(g) The identification card, strip, or seal shall be removed from the employee by the district director when, for security reasons, it is necessary to change the nature of the identification.

(h) The loss or theft of an identification card, strip, or seal shall be promptly reported in writing by the employee to the district director, and the card, strip, or seal may be replaced as provided in paragraph (f) of this section.

(i) If an approved identification card, strip, or seal is presented by a person other than the one to whom it was issued, the identification card, strip, or seal shall be removed by the district director and destroyed.

(j)(1) An approved identification card, strip, or seal may be removed from an employee by any Customs officer designated by the district director. In addition, the district director may revoke or suspend access to the Customs security area and demand that the identification strip or seal or Customs issued card be surrendered, for any of the following reasons:

(i) The approved identification card, strip, or seal was obtained through fraud or the misstatement of a material fact;

(ii) The employee is convicted of a felony, or convicted of a misdemeanor involving theft, smuggling, or any theft-connected crime;

(iii) The employee permits the approved identification card, strip or seal to be used by any other person, or refuses to openly display or produce it upon the proper demand of a Customs officer;

(iv) The continuation of privileges would, in the judgment of the district director, endanger the revenue or security of the area.

(v) The employee refuses or neglects to obey any proper order of a Customs officer, or any Customs order, rule, or regulation; or

(vi) The employee's duties no longer require that he have access to the Customs security area for an extended period of time at the airport of issuance. In this instance the employer shall notify the district director in writing, return the identification card, strip, or seal, and give information regarding the status of the employee who was issued the card, strip, or seal and who no longer requires access. If the employee returns to duties in the Customs security area at the airport within 1 year, a Customs Form 3078, as required by paragraph (d) of this section, need not be submitted, at the discretion of the district director.

(2) The district director shall suspend or revoke access to the Customs security area by giving notice of the proposed action in writing to the employee with a copy of the notice to the employer. The notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of the privilege and shall be final and conclusive upon the employee unless he files with the district director a written notice of appeal as provided in subparagraph (3) of this paragraph.

(3) The employee may file a written notice of appeal from the revocation or suspension within 10 calendar days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed in duplicate, and shall set forth the response of the employee to the statement of the district director. The employee, in his notice of appeal, may request a hearing.

(4) If a hearing is requested, it shall be held before a hearing officer designated by the Commissioner or his designee within 30 calendar days following the request. The employee shall be notified of the time and place of the hearing at least 5 calendar days before the hearing.

(5) The employee may be represented by counsel at the revocation or suspension hearing. All evidence and testimony of witnesses in such proceeding, including substantiation of charges and the answer thereto, shall be presented. Both parties will have the right of cross-examination. A stenographic record of the proceedings shall be made upon request and a copy furnished to the employee. At the conclusion of the proceedings or review of a written appeal, the hearing officer or the district director, as the case may be, shall promptly transmit all papers and the stenographic record of the hearing to the Commissioner or his designee, together with his recommendation for final action.

(6) Following a hearing and within 10 calendar days after delivery of a copy of the stenographic record, the employee may submit to the Commissioner or his designee, additional written views and arguments on matters in the record.

(7) If neither the employee nor his attorney appear for a scheduled hearing, the hearing officer shall record that fact, accept any appropriate testimony, and conclude the hearing. The hearing officer shall promptly transmit all papers together with his recommendations to the Commissioner or his designee.

(8) After consideration of the recommendations of the hearing officer or the district director, the Commissioner or his designee shall render his decision, in writing, stating his reasons for the final action. The decision shall be transmitted to the district director and served by him on the employee.

(k) When an approved identification card, strip, or seal is required under paragraph (b) of this section, and the

district director determines that the application cannot be administratively processed in a reasonable period of time, an employer may, upon written request, be issued a temporary identification card, strip, or seal for his employee. The employer must satisfy the district director that a hardship to his business would result if the request is not granted.

(1) The temporary identification card, strip, or seal shall be valid for a period of 60 days. The district director may renew the temporary identification card, strip, or seal for additional 30-day periods if he determines that the circumstances under which the temporary identification card, strip, or seal was originally issued continue to exist. The temporary identification card, strip, or seal shall be destroyed by the district director when the permanent approved identification card, strip, or seal is issued, or the privileges granted thereby are withdrawn.

(2) The provisions of this paragraph shall also apply to temporary employees and official visitors requiring access to the Customs security area. In the case of temporary employees, the identification card, strip, or seal shall be valid for a period of 30 days. In the case of official visitors, the temporary identification card, strip, or seal shall be valid for the day of issuance only. Temporary employee and official visitor identification cards, strips, or seals are renewable for periods equal to their original period of validity.

(3) The temporary identification card, strip, or seal may be revoked and access to the Customs security area denied at any time if the holder of the temporary identification card, strip, or seal refuses or neglects to obey any proper order of a Customs officer, or any Customs order, rule, or regulation, or if, in the judgment of the district director, continuation of the privileges granted thereby would endanger the revenue or pose a threat to the Customs security area.

## Subpart C—Private Aircraft

### § 122.21 Application.

This subpart applies to all private aircraft as defind in § 122.1(h). No other provisions of this part apply to private aircraft, except where stated in this subpart.

### § 122.22 Notice of arrival.

When arriving in the U.S. from a foreign area, all private aricraft not covered by § 122.23 shall give advance notice of arrival as required in § 122.31.

### § 122.23 Private aircraft arriving from areas south of the U.S.

(a) *Definitions.* (1) For the purpose of this section, "private aircraft" means all aircraft except:

(i) Public aircraft;

(ii) Those aircraft operated on a regularly published schedule, pursuant to a certificate of public convenience and necessity or foreign aircraft permit issued by the Department of Transportation, authorizing interstate, overseas air transportation; and

(iii) Those aircraft with a seating capacity of more than 30 passenges or a maximum payload capacity of more than 7,500 pounds which are engaged in air transportation for compensation or hire on demand. (See 49 U.S.C. App. 1372 and 14 CFR Part 298).

(2) The term "place" as used in this section means anywhere outside of the inner boundary of the Atlantic (Coastal) Air Defense Identification Zone (ADIZ) south of 30 degrees north latitude, anywhere outside of the inner boundary of the Gulf of Mexico (Coastal) ADIZ, or anywhere outside of them inner boundary of the Pacific (Coastal) ADIZ south of 33 degrees north latitude.

(b) *Advance report of penetration of U.S. airspace.* All private aircraft arriving in the Continental U.S. via the U.S./Mexican border or the Pacific Coast from a foreign place in the Western Hemisphere south of 33 degrees north latitude, or from the Gulf of Mexico and Atlantic Coasts from a place in the Western Hemisphere south of 30 degrees north latitude from any place in Mexico, from the U.S. Virgin Islands, or (notwithstanding the definition of "United States" in § 122.1(1)) from Puerto Rico, (which if from Puerto Rico, are conducting flight under visual flight rules (VFR)), shall furnish a notice of intended arrival to Customs at the nearest designated airport to point of crossing listed in § 122.24(b), for the first landing in the U.S. The notice must be furnished at least 1 hour before crossing the U.S. coastline or border. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnishd through the Federal Aviation Administration to Customs. The requirement to furnish a notice of intended arrival shall not apply to private aircraft departing from Puerto Rico and conducting flight under instrument flight rules (IFR) until corssing the U.S. coastline or proceeding north of 30 degrees north latitude.

(c) *Contents of notice.* The advance notice of arrival shall include the following:

(1) Aircraft registration number;

(2) Name of aircraft commander;

(3) Number of U.S. citizen passengers;

(4) Number of alien passengers;

(5) Place of last departure;

(6) Estimated time and location of crossing U.S. border/coastline;

(7) Estimated time of arrival;

(8) Name of intended U.S. airport of first landing, as listed in § 122.24, unless an exemption has been granted under § 122.25, or the aircraft has not landed in foreign territory or is arriving directly from Puerto Rico, or the aircraft was inspected by Customs officers in the U.S. Virgin Islands.

### § 122.24 Landing requirements.

(a) *In general.* Private aircraft arriving in the U.S. from a foreign area shall follow the landing requirements set out in §§ 122.23 and 122.36.

(b) *Special requirements.* Private aircraft required to furnish a notice of intended arrival in compliance with § 122.23 shall land for Customs processing at the nearest designated airport to the border or coastline crosing point as listed in this paragraph unless exempted from this requirement in accordance with § 122.25. In addition to the requirement in accordance with § 122.25. In addition to the requirements of this section, private aircraft commanders must comply with all other landing and notice of arrival requirements. This requirement shall not apply to private aircraft which have not landed in foreign territory or are arriving directly from Puerto Rico or if the aircraft was inspected by Customs officers in the U.S. Virgin Islands.

| Location | Name |
|---|---|
| Beaumont, Tex. | Jefferson County Airport. |
| Brownsville, Tex. | Brownsville International Airport. |
| Calexico, Calif. | Calexico International Airport. |
| Corpus Christi, Tex. | Corpus Christi International Airport. |
| Del Rio, Tex. | Del Rio International Airport. |
| Douglas, Ariz. | Bisbee-Douglas International Airport. |
| Eagle Pass, Tex. | Eagle Pass Municipal Airport. |
| El Paso, Tex. | El Paso International Airport. |
| Fort Lauderdale, Fla. | Fort Lauderdale Executive Airport. |
| Fort Lauderdale, Fla. | Fort Lauderdale-Hollywood International Airport. |
| Fort Pierce, Fla. | St. Lucie County Airport. |
| Houston, Tex. | William P. Hobby Airport. |
| Key West, Fla. | Key West International Airport. |
| Laredo, Tex. | Laredo International Airport. |
| McAllen, Tex. | Miller International Airport. |
| Miami, Fla. | Miami International Airport. |
| Miami, Fla. | Opa-Locka Airport. |
| New Orleans, La. | New Orleans International Airport (Moissant Field). |
| New Orleans, La. | New Orleans Lakefront Airport. |
| Nogales, Ariz. | Nogales International Airport. |
| Presidio, Tex. | Presidio-Lely International Airport. |

| Location | Name |
|---|---|
| San Diego, Calif. | Brown Field. |
| Tampa, Fla | Tampa International Airport. |
| Tucson, Ariz | Tucson International Airport. |
| West Palm Beach, Fla. | Palm Beach International Airport. |
| Yuma, Ariz | Yuma International Airport. |

**§ 122.25 Exemption from special landing requirements.**

(a) *Request.* Only companies principally headquartered in the U.S. or individuals principally residing in the U.S. that have operational control over U.S. registered aircraft required to give advance notice of arrival under § 122.23, may request an exemption from the special landing requirements in § 122.24. Exemptions are within the discretion of the district director and may allow aircraft to land at any airport in the U.S. staffed by Customs. Aircraft traveling under an exemption shall continue to follow advance notice and general landing rights requirements.

(b) *Procedure.* An exemption request shall be made to the district director at the airport at which the majority of Customs overflight processing is desired by the applicant. The request shall be submitted:

(1) At least 30 days before the anticipated first arrival if the request is for an exemption covering a number of flights over a period of one year; or

(2) At least 15 days before the anticipated arrival if the request is for a single flight.

(c) *Content of request.* A request for exemption from the special landing requirements shall be signed by an officer of the company or by the requesting individual and be notarized or witnessed by a Customs officer, and shall include the following information:

(1) Aircraft U.S. registration number(s) and manufacturer's serial number(s) for all aircraft owned or operated by the applicant that will be utilizing the overflight exemption;

(2) Identification information for each aircraft include class, manufacturer, type, number, color scheme, and type of engine (e.g., turbojet, turbofan, turboprop, reciprocating, helicopter, etc.);

(3) A statement that the aircraft is equipped with a functioning mode C (altitude reporting) transponder which will be in use during overflight, that the overflights will be made in accord with instrument flight rules (IFR), and that the overflights will be made at altitudes above 12,500 feet mean sea level (unless otherwise instructed by Federal Aviation Administration controllers);

(4) Name and address of the applicant operating the aircraft, if the applicant is a business entity, the address of the headquarters of the business (include state of incorporation if applicable), and the names, addresses, Social Security numbers, and dates of birth of the company officer or individual signing the application. If the aircraft is operated under a lease, include the name, address, Social Security number, and date of birth of the owner if an individual, or the address of the headquarters of the business (include state of incorporation if applicable), and the names, addresses, Social Security numbers, and dates of birth of the officers of the business;

(5) Individual, signed applications from each usual or anticipated pilot or crewmember for all aircraft for which an overflight exemption is sought stating name, address, Social Security number, Federal Aviation Administration certificate number, and place and date of birth;

(6) A statement from the individual signing the application, as specified in paragraph (c)(4) of this section, that the pilot(s) and crewmembers(s) responding to paragraph (c)(5) of this section are those intended to conduct overflights, and that to the best of the individual's knowledge, the information supplied in response to paragraph (c)(5) of this section is accurate;

(7) Names, addresses, Social Security numbers, and dates of birth for all usual or anticipated passengers. An approved passenger must be on board to utilize the overflight exemption.

Note.—Where the Social Security number is requested, furnishing of the SSN is voluntary. The authority to collect the SSN is 19 U.S.C. 66, 1433, 1459 and 1624. The primary purpose for requesting the SSN is to assist in ascertaining the identity of the individual so as to assure that only law-abiding persons will be granted permission to land at interior airports in the U.S. without first landing at one of the airports designated in § 122.24. The SSN will be made available to Customs personnel on a need-to-know basis. Failure to provide the SSN may result in a delay in processing of the application.

(8) Description of the usual or anticipated baggage or cargo if known, or the actual baggage or cargo;

(9) Description of the applicant's usual business activity;

(10) Name(s) of the airport(s) of intended first landing in the U.S. Actual overflights will only be permitted to specific approved airports.

(11) Foreign place or places from which flight(s) will usually originate; and

(12) Reasons for request for overflight exemption.

(d) *Procedure following exemption.* (1) If a private aircraft is granted an exemption from the landing requirement as provided in this section, the aircraft commander shall notify Customs at least 60 minutes before:

(i) Crossing into the U.S. over a point on the Pacific Coast north of 33 degrees north latitude; or

(ii) Crossing into the U.S. over a point of the Gulf of Mexico or Atlantic Coast north of 30 degrees north latitude; or

(iii) Crossing into the U.S. over the Southwestern land border (defined as the U.S.-Mexican border between Brownsville, Texas, and San Diego, California). Southwestern land border crossings must be made while flying in Federal Aviation Administration published airways.

(2) The notice shall be given to a designated airport specified in § 122.24. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs. If notice is furnished pursuant to this paragraph, notice pursuant to §§ 122.23 and 122.24 is unnecessary.

(3) All overflights must be conducted pursuant to an instrument flight plan filed with the Federal Aviation Administration prior to the commencement of the overflight.

(4) The owner or aircraft commander of a private aircraft granted an exemption from the landing requirement must:

(i) Notify Customs of a change of Federal Aviation Administration registration number for the aircraft;

(ii) Notify Customs of the sale, theft, modification, or destruction of the aircraft;

(iii) Notify Customs of changes of usual or anticipated pilots or crewmembers as specified in paragraph (c)(5) of this section. Every pilot and crewmember participating in an overflight must have prior Customs approval either through initial application and approval, or through a supplemental application submitted by the new pilot or crewmember and approved by Customs before commencment of the pilot's or crewmember's first overflight.

(iv) Request permission from Customs to conduct an overflight to an airport not listed in the initial overflight application as specified in paragraph (c)(10) of this section. The request must be directed to the district director who approved the initial request for an overflight exemption.

(v) Retain copies of the initial request for an overflight exemption, all supplemental applications from pilots or

crewmembers, and all requests for additional landing privileges as well as a copy of the letter from Customs approving each of these requests. The copies must be carried on board any aircraft during the conduct of an overflight.

(vi) The notifications specified in this paragraph must be given to Customs within 5-working days of the change, sale, theft, modification, or destruction, or before a flight for which there is an exemption, whichever occurs earlier.

(e) *Inspection of aircraft having or requesting overflight exemption.* Applicants for overflight exemptions must agree to make the subject aircraft available for inspection by Customs to determine if the aircraft is capable of meeting Customs requirements for the proper conduct of overflight. Inspections may be conducted during the review of an initial application or at any time during the term of an overflight exemption.

**§ 122.26 Entry and clearance.**

Private aircraft, as defined in § 122.1(h), are not required to formally enter or to obtain formal clearance upon departure. However, entry and clearance requirements do apply to air charter and air taxi operators.

**§ 122.27 Documents required.**

(a) *Crewmembers and passengers.* Crewmembers and passengers on a private aircraft arriving in the U.S. shall make baggage declarations as set forth in Part 148 of this chapter. An oral declaration of articles acquired in foreign areas shall be made, unless a written declaration on Customs Form 6059–B is found necessary by inspecting officers.

(b) *Cargo.* (1) On arrival, cargo and unaccompanied baggage not carried for hire aboard a private aircraft may be listed on a baggage declaration on Customs Form 6059–B, and shall be entered. If the cargo or unaccompanied baggage is not listed on a baggage declaration, it shall be entered in the same manner as cargo carried for hire into the U.S.

(2) On departure, when a private aircraft leaves the U.S. carrying cargo not for hire, the Bureau of Census (15 CFR Part 30) and the Export Administration (15 CFR Parts 368 through 399) regulations and any other applicable export laws shall be followed. A foreign landing certificate or certified copy of a foreign Customs entry is required as proof of exportation if the cargo includes:

(i) Merchandise valued at more than $500.00; or

(ii) More than one case of alcoholic beverages withdrawn from a Customs bonded warehouse or otherwise in bond for direct exportation by private aircraft.

A foreign landing certificate, when required, shall be produced within six months from the date of exportation and shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that the country has no Customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of landing.

**§ 122.28 Private aircraft taken abroad by U.S. residents.**

An aircraft belonging to a resident of the U.S. which is taken to a foreign area for non-commercial purposes and then returned to the U.S. by the resident shall be admitted under the conditions and procedures set forth in § 148.32 of this chapter. Repairs made abroad, and accessories purchased abroad shall be included in the baggage declaration as required by § 148.32(c), and may be subject to entry and payment of duty as provided in § 148.32.

**§ 122.29 Overtime services.**

(a) *Application.* Private aircraft arriving in the U.S. and requiring Customs services to be performed outside the regular hours of duty are subject to overtime charges. The overtime charges to be assessed against the operator of a private aircraft in connection with each arrival are limited to a maximum of $25.

(b) *Procedures.* An application must be made on Customs Form 3171 to receive overtime services. The application shall be supported by a bond on Customs Form 301, containing the bond conditions set forth in Subpart G of Part 113 of this chapter, or a cash deposit, and may be effective up to one year. See § 24.16(c) of this chapter.

**§ 122.30 Other Customs laws and regulations.**

Sections 122.2 and 122.161 apply to private aircraft.

## Subpart D—Landing Requirements

**§ 122.31 Notice of arrival.**

(a) *Application.* Except as provided in paragraph (b) of this section, all aircraft entering the U.S. from a foreign area shall give advance notice of arrival. When a private aircraft, as defined in § 122.23(a) of this part, enters the U.S. from a foreign area in the Western hemisphere south of the U.S., advance notice shall be given as provided in § 122.23. Aircraft arriving from Cuba shall follow the procedures set forth in Subpart O of this part.

(b) *Exceptions for scheduled aircraft of a scheduled airline.* Advance notice is not required for aircraft of a scheduled airline arriving under a regular schedule. The regular schedule shall have been filed with the district director for the district in which the first landing is made. Scheduled airlines shall also submit a copy of their schedules to the regional commissioner of the region in which the scheduled aircraft will land. This notice shall be given 30 days before the effective date of the schedule.

(c) *Giving notice of arrival*—(1) *Procedure.* The commander of an aircraft covered by this section shall give the advance notice of arrival. Notice shall be given to the district director at or nearest the place of first landing, either:

(i) Directly by radio, telephone, or other method; or

(ii) Through Federal Aviation Administration flight notification procedure (see International Flight Information Manual, Federal Aviation Administration).

(2) *Reliable facilities.* When reliable means for giving notice are not available (for example, when departure is from a remote place) a landing shall be made at a place where notice can be sent prior to coming into the U.S.

(d) *Contents of notice.* The advance notice of arrival shall include the following information:

(1) Type of aircraft and registration number;

(2) Name of aircraft commander;

(3) Place of last foreign departure;

(4) International airport of intended landing or other place at which landing has been authorized by Customs;

(5) Number of alien passengers;

(6) Number of citizen passengers; and

(7) Estimated time of arrival.

(e) *Time of notice.* Notice of arrival shall be furnished far enough in advance to allow inspecting officers to reach the place of first landing of the aircraft.

(f) *Notice of other Federal agencies.* When advance notice is received, the district director shall inform any other concerned Federal agency.

**§ 122.32 Aircraft required to land.**

Any aircraft coming into the U.S., including Puerto Rico, from an area outside the U.S., is required to land, unless exempted by the Federal Aviation Administration.

**§ 122.33 Place of first landing.**

The first landing of an aircraft entering the U.S. from a foreign area

shall be at an international airport (see § 122.13, International airports). Permission to land at another place may be given under § 122.34 (Landing rights airport) or § 122.35 (Emergency or forced landing).

**§ 122.34 Landing rights airport.**

(a) *Permission to land.* Permission to land at a landing rights airport may be given as follows:

(1) *Scheduled flight.* The scheduled aircraft of a scheduled airline may be allowed to land at a landing rights airport. Permission is given by the regional commissioner, or his representative, of the region in which first landing is made.

(2) *Other aircraft.* All other aircraft may be allowed to land at a landing rights airport by the district director at the port of entry or station nearest the first place of landing.

(3) *Additional flights, charters or changes in schedule*—(i) *Scheduled aircraft.* If a new carrier plans to set up a new flight schedule, or an established carrier makes changes in its approved schedule, landing rights may be granted by the regional commissioner.

(ii) *Additional or charter flight.* If a carrier or charter operator wants to begin operating or to add flights, application shall be made to the district director for landing rights. All requests shall be made not less than 48 hours before the intended time of arrival, except in emergencies. If the request is oral, it shall be put in writing before or at the time of arrival.

(4) *Emergency or forced landing.* Permission to land is not required for an emergency or forced landing (see § 122.35).

(b) *Notice to Federal agencies.* If an aircraft is given permission to land at a landing rights airport, the Customs officer who granted the landing rights shall notify the Public Health Service, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, and any other interested Federal agency at once.

(c) *Payment of expenses.* The owner, operator or person in charge of the aircraft shall pay any added charges for inspecting the aircraft, passengers, employees and merchandise when landing rights are given. When permission to land is given to scheduled aircraft of a scheduled airline, no inspection charge is made except for the overtime expenses of Customs officers. (see § 24.16 of this chapter).

**§ 122.35 Emergency or forced landing.**

(a) *Application.* This section applies to emergency or forced landings made by aircraft when necessary for safety or the preservation of life or health, when such aircraft are:

(1) Travelling from airport to airport in the U.S. under a permit to proceed (see §§ 122.52, 122.54 and 122.83(d)), or a Customs Form 7509 (see § 122.113); or

(2) Coming into the U.S. from a foreign area.

(b) *Notice.* When an emergency or forced landing is made, notice shall be given:

(1) To the Customs officer at the intended place of first landing, nearest international airport, or nearest port entry, as soon as possible;

(2) By the aircraft commander, other person in charge, or aircraft owner, who shall make a full report of the flight and the emergency or forced landing.

(c) *Passengers and crewmembers.* The aircraft commander or other person in charge shall keep all passengers and crewmembers in a separate place at the landing area until Customs officers arrive. Passengers and crewmembers may be removed if necessary for safety, or for the purpose of contacting Customs.

(d) *Merchandise and baggage.* The aircraft commander or other person in charge shall keep all merchandise and baggage together and unopened at the landing area until Customs officers arrive. The merchandise and baggage may be removed for safety or to protect property.

(e) *Mail.* Mail may be removed from the aircraft, but shall be delivered at once to an officer or employee of the Postal Service.

**§ 122.36 Responsibility of aircraft commander.**

If an aircraft lands in the U.S. and Customs officers have not arrived, the aircraft commander shall hold the aircraft, and any merchandise or baggage on the aircraft for inspection. Passengers and crewmembers shall be kept in a separate place until Customs officers authorize their departure.

**§ 122.37 Precleared aircraft.**

(a) *Application.* This section applies when aircraft carrying crew, passengers and baggage, or merchandise which has been precleared pursuant to § 148.22 of this chapter at a location listed in § 101.5 of this chapter and makes an unscheduled or unintended landing at an airport in the U.S.

(b) *Notice.* The aircraft commander or agent shall give written notice to the Customs office at:

(1) The intended place of unlading; and

(2) The place of preclearance.

(c) *Time of notice.* Notice shall be given within 7 days of the unscheduled or unintended landing unless other arrangements have been made in advance between the carrier and the district director.

**§ 122.38 Permit and special license to unlade and lade.**

(a) *Applicability.* Before any passengers, baggage, or merchandise may be unladen or laden aboard on arrival or departure of an aircraft subject to these regulations, a permit and/or special license to unlade or lade shall be obtained from Customs.

(1) *Permit to unlade or lade.* A permit is required to obtain Customs supervision of unlading and lading during official Customs duty hours.

(2) *Special license to unlade or lade.* A special license is required to obtain Customs supervision of unlading and lading at any time not within official Customs duty hours (generally, at night, Sundays or holidays).

(b) *Authorization required.* A permit or special license shall be required for each arrival and departure unless a term permit or special license has been granted. No permit or special license shall be issued unless the carrier complies with the terminal facilities and employee list requirements of § 4.30 of this chapter.

(c) *Term permit or special license.* A term permit or special license may be issued covering all arrivals and departures during a period of up to one year, providing local arrangements have been made to notify Customs before services are needed. The notice shall specify the kinds of services requested, and the exact times they will be needed. No term permit or special license shall be issued, and any term permit or special license already issued shall be revoked, unless the carrier complies with the terminal facilities and employee list requirements of § 4.30 of this chapter.

(d) *Procedures.* The application for a permit and special license to unlade or lade shall be made by the owner, operator, or agent for an aircraft on Customs Form 3171, and shall be submitted to the district director for the district in which the unlading and lading will take place. The application shall be accompanied by a bond on Customs Form 301, containing the bond conditions set forth in Subpart G of Part 113 of this chapter, or a cash deposit, unless this requirement is waived under paragraph (e) of this section.

(e) *Waiver of bond.* To insure prompt and orderly clearance of the aircraft, passengers, baggage, or merchandise, the district director may waive the requirement under paragraph (d) of this

section that either a bond or a cash deposit be made, if he is convinced the revenue is protected and that all Customs requirements are satisfied.

(f) *Automatic renewal of term permit or special license.* Automatic renewal of a term permit or special license may be requested by the owner, operator, or agent for an aircraft when a bond on Customs Form 301 containing the appropriate bond conditions set forth in Subpart G of Part 113 of this chapter is on file. The request shall be for successive annual periods which conform to the automatic renewal periods of the bond. An application will be approved by the district director unless specific reasons exist for denial. If a request for automatic renewal is not approved, the district director shall notify the requestor, and shall state the reasons for the denial. To apply for automatic renewal, item 10 on Customs Form 3171 shall be changed by adding the following words after the period of time indicated: "And automatic annual renewal thereof for so long as the bond is renewed and remains in effect."

## Subpart E—Aircraft Entry and Entry Documents

### § 122.41 Aircraft required to enter.

All aircraft coming into the U.S. from a foreign area shall make entry under Subpart E except:

(a) Public and private aircraft; and

(b) Aircraft traveling from airport to airport in the U.S. under Subpart I, relating to residue cargo procedures.

### § 122.42 Aircraft entry.

(a) *By whom.* Entry shall be made by the aircraft commander or an agent.

(b) *Place of entry*—(1) *First landing at international airport.* Entry shall be made at the international airport at which first landing is made.

(2) *First landing at another airport.* If the first landing is not at international airport pursuant to §§ 122.34 or 122.35, the aircraft commander or agent shall make entry at the nearest international airport or port of entry, unless some other place is allowed for the purpose.

(c) *Delivery of forms.* When the aircraft arrives, the aircraft commander or agent shall deliver any required forms to the Customs officer at the place of entry at once.

(d) *Exception to entry requirement.* Except for flights to Cuba (provided for in Subpart O of this part), an aircraft of a scheduled airline which stops only for refueling at the first place or arrival in the U.S. shall not be required to enter provided:

(1) That such aircraft departs within 24 hours after arrival;

(2) No cargo, crew, or passengers are off-loaded; and

(3) Landing rights at that airport as either a regular or alternate landing place shall have been previously secured.

### § 122.43 General declaration.

(a) *When required.* A general declaration, Customs Form 7507, shall be filed for all aircraft required to enter under § 122.41 (Aircraft required to enter).

(b) *Exception.* Aircraft arriving directly from Canada on a flight beginning in Canada and ending in the U.S. need not file a general declaration to enter. Instead, an air cargo manifest (see § 122.48) may be filed in place of the general declaration, regardless of whether cargo is on board. The air cargo manifest shall state the following:

I certify to the best of my knowledge and belief that this manifest contains an exact and true account of all cargo on board this aircraft.

Signature _____

(Aircraft Commander or Agent)

(c) *Form.* The general declaration shall be on Customs Form 7507 or on a privately printed form prepared under § 122.5. The form shall contain all required information, unless the information is given is some other manner under Subpart E of this part.

### § 122.44 Crew baggage declaration.

If an aircraft enters the U.S. from a foreign area, aircraft crewmembers shall file a crew baggage declaration as provided in Subpart G, Part 148 of this chapter.

### § 122.45 Crew list.

(a) *When required.* A crew list shall be filed by all aircraft required to enter under § 122.41.

(b) *Exception.* No crew list is required for aircraft arriving directly from Canada on a flight beginning in Canada and ending in the U.S. Instead, the total number of crewmembers may be shown on the general declaration.

(c) *Form.* The crew list shall show the full name (last name, first name, middle initial) of each crewmember, either:

(1) On the general declaration in the column headed "Total Number of Crew"; or

(2) On a separate, clearly marked document.

(d) *Crewmembers returning as passengers.* Crewmembers of any aircraft returning to the U.S. as passengers on a commercial aircraft from a trip on which they were employed as crewmembers shall be listed on the aircraft general declaration or crew list.

### § 122.46 Crew purchase list.

(a) *When required.* A crew purchase list shall be filed with the general declaration for any aircraft required to enter under § 122.41.

(b) *Exception.* A crew purchase list is not required for aircraft arriving directly from Canada on a flight beginning in Canada and ending in the U.S. If a written crew declaration is required for the aircraft under Subpart G of Part 148 of this chapter (Crewmember Declarations and Exemptions), it shall be attached to the air cargo manifest, along with the number of any written crew declarations.

(c) *Form.* If a crewmember enters articles for which a written crew declaration is not required (see Subpart G, Part 148 of this chapter), the articles shall be listed next to the crewmember's name on the general declaration, or on the attached crew purchase list. Articles listed on a written crew declaration need not be listed on the crew purchase list if:

(1) The crew declaration is attached to the general declaration, or to the crew list which in turn is attached to the general declaration; and

(2) The statement "Crew purchases as per attached crew declaration" appears on the general declaration or crew list.

### § 122.47 Stores list.

(a) *When required.* A stores list shall be filed for all aircraft required to enter under § 122.41.

(b) *Form.* The aircraft stores shall be listed on the cargo manifest or on a separate list. If the stores are listed on a separate list, the list must be attached to the cargo manifest. The statement "Stores List Attached" must appear on the cargo manifest.

(c) *Contents*—(1) *Required listing.* The stores list shall include all of the following:

(i) Alcoholic beverages, cigars, cigarettes and narcotic drugs, whether domestic or foreign;

(ii) Bonded merchandise arriving as stores;

(iii) Foreign merchandise arriving as stores; and

(iv) Equipment which must be licensed by the Secretary of State (see § 122.48(b)).

(2) *Other articles.* In the case of aircraft of scheduled airlines, other domestic supplies and equipment (if not subject to license) and fuel may be dropped from the stores list if the statement "Domestic supplies and equipment and fuel for immediate flight only, except as noted" appears on the cargo manifest or on the separate stores

list. The stores list shall be attached to the cargo manifest.

(d) *Other statutes.* Section 446, Tariff Act of 1930, as amended (19 U.S.C. 1446), which covers supplies and stores kept on board vessels, applies to aircraft arriving in the U.S. from any foreign area.

**§ 122.48 Air cargo manifest.**

(a) *When required.* An air cargo manifest for all cargo on board shall be filed together with the general declaration for any aircraft required to enter under § 122.41.

(b) *Exception.* A cargo manifest is not required for merchandise, baggage and stores arriving from and departing for a foreign country on the same through flight. Any cargo manifest already on board may be inspected. All articles on board which must be licensed by the Secretary of State shall be listed on the cargo manifest. Company mail shall be listed on the cargo manifest.

(c) *Form.* The cargo manifest shall be on Customs Form 7509. The form shall contain all required information, except that a more complete description of the cargo shipped under air waybills may be provided by attaching a copy of each master air waybill and, if a consolidated shipment, copies of the house air waybills to the cargo manifest. The statement "Cargo as per air waybills attached" shall appear on the cargo manifest when this is done. Each air waybill number shall also be listed on the cargo manifest.

(d) *Unaccompanied baggage.* Unaccompanied baggage arriving in the U.S. under a check number from any foreign country by air and presented timely to Customs may be authorized for delivery by the carrier after inspection and examination without preparation of an entry, declaration, or being manifested as cargo. Such baggage must be found to be free of duty or tax under any provision of Schedule 8, Tariff Schedules of the United States (19 U.S.C. 1202), and cannot be restricted or prohibited. Unaccompanied checked baggage not presented timely to Customs or presented timely and found by Customs to be dutiable, restricted, or prohibited may be subject to seizure. Such unaccompanied checked baggage shall be added to the cargo list in columns under the following headings:

| Check No. | Description | Where from | Destination | Name of examining officer | Disposition |
|---|---|---|---|---|---|
| | | | | | |

The two columns, headed "Name of examining officer" and "Disposition," are provided on the cargo manifest for the use of Customs officers. Unaccompained unchecked baggage arriving as air express or freight shall be manifested as other air express or freight.

(e) *Accompanied baggage in transit.* This section applies when accompaned baggage enters into the U.S. in one aircraft and leaves the U.S. in another aircraft. When passengers do not have access to their baggage while in transit through the U.S., the baggage is considered cargo and shall be listed on Customs Form 7509, Air Cargo Manifest.

**§ 122.49 Correction of air cargo manifest or air waybill.**

(a) *Shortages*—(1) *Reporting.* Shortages (merchandise listed on the manifest or air waybill but not found) shall be reported to the district director by the aircraft commander or agent. The report shall be made:

(i) On a Customs Form 5931, filled out and signed by the importer and the importing or bonded carrier; or

(ii) On a Customs Form 5931, filled out and signed by the importer alone under § 158.3 of this chapter; or

(iii) On a copy of the cargo manifest, which shall be marked "Shortage Declaration," and must list the merchandise involved and the reasons for the shortage.

(2) *Time to file.* Shortages shall be reported within the time set out in Part 158 of this chapter, or within 30 days of aircraft entry.

(3) *Evidence.* The aircraft commander or agent shall supply proof of the claim that:

(i) Shortage merchandise was not imported, or was properly disposed of; or

(ii) That corrective action was taken. This proof shall be kept in the carrier file for one year from the date of aircraft entry.

(b) *Overages*—(1) *Reporting.* Overages (merchandise found but not listed on the manifest or air waybill) shall be reported to the district director by the aricraft commander or agent. The report shall be made.

(i) On a Customs Form 5931; or

(ii) On a separate copy of the cargo manifest which is marked "Post Entry" and lists the overage merchandise and the reason for the overage.

(2) *Time to file.* Overages shall be reported within 30 days of aircraft entry.

(3) *Evidence.* Satisfactory proof of the reasons for the overage shall be kept on file by the carrier for one year from the date of the report.

(c) *Statement on cargo manifest.* If the air cargo manifest is used to report shortages or overages, the Shortages Declaration or Post Entry must include the signed statement of the aircraft commander or agent as follows:

I declare to the best of my knowledge and belief that the discrepancy described herein occurred for the reason stated. I also certify that evidence to support the explanation of the discrepancy will be retained in the carrier's files for a period of at least one year and will be made available to Customs on demand.

Signature _____

(Aircraft Commander or Agent)

(d) *Notice by district director.* The district director shall immediately notify the aircraft commander or agent of any shortages or overages that were not reported by the aircraft commander or agent. Notice shall be given by sending a copy of Customs Form 5931 to the aircraft commander or agent, or in any other appropriate way. The aircraft commander or agent shall make a satisfactory reply within 30 days of entry of the aircraft or receipt of the notice, whichever is later.

(e) *Correction not required.* A correction in the manifest or air waybill is not required if:

(1) The district director is satisfied that the difference between the quantity of bulk merchandise listed on the manifest or air waybill, and the quantity unladen, is the usual difference caused by absorption or loss of moisture, temperature, faulty weighing at the airport, or other such reason; and

(2) The marks or numbers on merchandise packages are different from the marks or numbers listed on the cargo manifest for those packages if the quantity and description of the merchandise is given correctly.

(f) *Statutes applicable.* If an aircraft arrives in the U.S. from a foreign area with merchandise and unaccompained baggage for which a manifest or air

waybill must be filed, sections 440 (concerning post entry) and 584 (concerning manifest violations), Tariff Act of 1930, as amended (19 U.S.C. 1440, 1584), apply.

## Subpart F—International Traffic Permit

### § 122.51 Aircraft of domestic origin registered in the U.S.

After Customs inspection of the aircraft, passengers, baggage and merchandise at the entry airport, commercial aircraft of domestic origin registered in the U.S. may be allowed to proceed to other airports in the U.S. without permit.

### § 122.52 Aircraft of foreign origin registered in the U.S.

(a) *Application.* This section applies to commercial aircraft (as defined in § 122.1(d)) of foreign origin registered in the U.S. and arriving in the U.S. from a foreign area.

(b) *Aircraft entered as an imported article.* If an aircraft covered by this section is entered as an imported article, and any applicable duty for the aircraft has been paid on a prior arrival, it may be allowed to proceed as other than an imported article. In this instance, the aircraft commander must file a declaration that states the:

(1) Port where entry was made;

(2) Date duty, if any, was paid; and

(3) Number of the entry.

(c) *Aircraft not entered as imported article*—(1) *Treatment as other than an imported article.* A commercial aircraft covered by this section which has not been entered as an imported article may travel from airport to airport in the U.S. without payment of duty. Each commercial aircraft shall proceed under a permit on Customs Form 7507 or 7509, as provided in § 122.54. Treatment of the aircraft as other than an imported article shall continue for so long as the aircraft:

(i) Is used only for commercial purposes between the U.S. and foreign areas; and

(ii) Will leave the U.S. for a foreign destination in commercial use or carrying neither passengers nor cargo.

(2) *Treatment as an imported article.* Any aircraft covered by this section which was not entered as an imported article shall make entry if it:

(i) Is withdrawn from commercial use between the U.S. and foreign areas; or

(ii) Is used in the U.S. in a way not reasonably related to efficient commercial use of the aircraft between the U.S. and foreign areas.

(3) *Aircraft damage and duty payment*—(i) *Substantial damage to commercial aircraft.* If an accident causes substantial damage to a commercial aircraft, no entry or duty payment is required for any part of the wreckage.

(ii) *Less than substantial damage and export.* If an accident does not cause substantial damage to a commercial aircraft, salvageable parts of the wrecked aircraft may be exported. In this circumstance, the aircraft, as a whole or in part, is not considered to be withdrawn from commerical use and is not subject to entry or to duty as imported merchandise.

(iii) *Less than substantial damage and no export.* If an accident does not cause substantial damage to a commercial aircraft and the wrecked aircraft or any salvageable part of it is not exported, then:

(A) Entry is required to be made for the damaged aircraft or any salvageable part of it; and

(B) A duty payment, if applicable, based on the condition of the aircraft following the accident, is required.

### § 122.53 Aircraft of foreign registry chartered or leased to U.S. air carriers.

Aircraft of foreign registry leased or chartered to a U.S. air carrier, while being operated by the U.S. air carrier under the provisions of the Federal Aviation Administration regulations (14 CFR 121.153), shall be treated as U.S. registered aircraft for purposes of this subpart.

### § 122.54 Aircraft of foreign registry.

(a) *Application.* For any commercial aircraft of foreign registry arriving in the U.S., the aircraft commander or agent shall file for an international traffic permit when the aircraft;

(1) Is not an imported article; and

(2) Is ferried (proceeds carrying neither passengers nor cargo) from the airport of first arrival to one or more airports in the U.S. (For permit to proceed with residue cargo, passengers, or crewmembers for discharge in the U.S., see Subpart I of this part).

(b) *International traffic permit.* The international traffic permit shall be filed on Customs Form 7507 by the carrier or its agent. Customs Form 7509 may be used if the aircraft arrives directly from Canada on a flight beginning in Canada and ending in the U.S. Either form shall show the following information and must be approved by the appropriate Customs officer:

(1) Type of aircraft;

(2) Nationality and registration number of aircraft;

(3) Name and country of aircraft manufacturer;

(4) Name of aircraft commander;

(5) Country from which aircraft arrived;

(6) Name and location of airport where international traffic permit is issued;

(7) Date international traffic permit is issued;

(8) Name and location of airport to which aircraft is proceeding;

(9) Purpose of stay in the U.S.;

(10) Signature of Customs officer giving permit.

(c) *Permit on board.* The international traffic permit shall be kept on board the aircraft while in the U.S.

(d) *Intermediate airports.* For each airport at which the aircraft lands, the Customs officer, or airport manager if there is no Customs officer present, shall note the following information on the permit:

(1) Name and location of the airport;

(2) Date and arrival time;

(3) Purpose of the visit;

(4) Name and location of the next airport to be visited; and

(5) Date and time of departure.

(e) *Final airport.* The international traffic permit shall be given to the Customs officer in charge at the airport of final clearance for a foreign destination. Before clearance is given, the Customs officer shall make sure that the aircraft was properly inspected by Customs in the U.S.

(f) *Port of issue.* The international traffic permit shall be returned after final clearance to the district director at the port where the permit was issued, to be kept on file.

(g) *Enforcement.* Once the permit to proceed has been issued for an aircraft, the district director at the port of issue must receive notice that the aircraft has made final clearance. If notice is not received within 60 days, the district director shall report the matter to the Customs agent in charge of the area for investigation.

## Subpart G—Clearance of Aircraft and Permission To Depart

### § 122.61 Aircraft required to clear.

(a) All aircraft, except public and private aircraft, leaving the U.S. for a foreign area are required to clear if:

(1) Carrying passengers and/or merchandise for hire; or

(2) Taking aboard or discharging passengers and/or merchandise for hire in a foreign area.

(b) Any aircraft used by members of air travel clubs are required to clear, and foreign aircraft traveling under a permit to proceed shall also clear.

**§ 122.62 Aircraft not otherwise required to clear.**

(a) *Bureau of the Census.* Under Bureau of the Census Regulations (15 CFR 30.1), aircraft not required to clear by § 122.61 shall obtain permission to depart if carrying merchandise from the U.S. to Puerto Rico or from Puerto Rico to the U.S.

(b) *Office of Export Administration.* Aircraft leaving the U.S. for a foreign area must be cleared by Customs if a validated license from the Office of Export Administration (Department of Commerce) is required for the aircraft under the Export Control Regulations (15 CFR Part 370). Aircraft are not required to clear if the Secretary of Commerce issues a permit allowing departure without clearance.

(c) *Department of State.* Aircraft not covered by Export Control Regulations are subject to the Department of State export licensing authority as set out in 22 CFR Parts 121 and 123. Such aircraft may depart from the U.S. only with the proper Department of State license.

**§ 122.63 Scheduled airlines.**

The aircraft commander or agent shall request clearance or permission to depart for aircraft of scheduled airlines covered by this subpart.

(a) *Clearance at other than airport of final departure.* Aircraft may clear at each airport where merchandise and/or passengers are taken on board for transport outside of the U.S. The clearance applies only to the merchandise and passengers boarding at each place. Clearance shall be requested at the Customs port of entry (regardless of whether it is an international airport) nearest to the place where merchandise and/or passengers are taken on board.

(b) *Clearance at final departure airport.* Clearance or permission to depart may be requested at the Customs port of entry (regardless of whether it is an international airport) nearest the last departure airport, unless some other place is designated by the district director at that port.

**§ 122.64 Other aircraft.**

Clearance or permission to depart shall be requested by the aircraft commander or agent for aircraft covered by this subpart other than those of scheduled airlines. The request must be made to the district director at the Customs port of entry (regardless of whether it is an international airport) nearest the final departure airport, unless some other place is designated by the district director

**§ 122.65 Failure to depart.**

Once an aircraft has been cleared or given permission to depart it must depart within 72 hours. The aircraft commander or agent shall report promptly to the district director if departure is delayed beyond or cancelled within 72 hours after the aircraft received clearance or permission to depart.

## Subpart H—Documents Required for Clearance and Permission to Depart

**§ 122.71 Aircraft departing with no commercial export cargo.**

(a) *Application.* This section applies to aircraft departing for foreign territory with no export cargo, but not to those aircraft which are themselves being exported.

(1) Such aircraft may clear by telephone in advance with the district director nearest the departure place if departing empty or carrying only:

(i) Passengers for hire; or

(ii) Non-commercial cargo for which Shipper's Export Declarations are not required.

(2) If not cleared by telephone, an air cargo manifest containing the following statement, signed by the aircraft commander or agent, shall be submitted to Customs:

I declare to the best of my knowledge and belief that there is no cargo on board this aircraft.

Signature _____

(Aircraft Commander or Agent)

(b) *Timeliness.* The request for telephone clearance must be received by the Customs officer in charge with sufficient time remaining before departure to ensure that Customs may undertake any necessary examination of the aircraft and cargo.

(c) *Documentation.* If clearance is granted by telephone, the aircraft commander is not required to file the documents required by this subpart.

**§ 122.72 Aircraft departing with commercial export cargo.**

If an aircraft with export cargo leaves the U.S. for any foreign area, a general declaration, if required, an air cargo manifest and any required Shipper's Export Declarations, shall be filed in accordance with this subpart for all cargo on the aircraft, and for the aircraft itself if exported as merchandise. See § 122.79 for special requirements regarding shipments to U.S. possessions.

**§ 122.73 General declaration and air cargo manifest.**

(a) *General declaration*—(1) *Form.* The general declaration shall be on Customs Form 7507 and shall show all information required.

(2) *Preparation and filing.* The aircraft commander or agent shall file two copies of the general declaration with the district director at the departure airport.

(3) *Exception.* A general declaration shall not be required if the air cargo manifest, Customs Form 7509, contains the statement shown in paragraph (b) of this section.

(b) *Air cargo manifest.*

(1) *Form.* The air cargo manifest shall be on Customs Form 7509, and shall show all information required. If a general declaration is not presented, the following statement, signed by the aircraft commander or agent, shall appear on the form:

I declare that all statements contained in this manifest, including the account of the cargo on board this aircraft, are complete, exact, and true to the best of my knowledge.

Signature _____

(Aircraft Commander or Agent)

(2) *Preparation and filing.* The aircraft commander or agent shall file two copies of the air cargo manifest with the district director or the departure airport. Three copies of the air cargo manifest shall be filed if the aircraft is covered by § 122.77(b). The air cargo manifest must be filed in:

(i) Complete form, with all required Shipper's Export Declarations (see § 122.75); or

(ii) Incomplete form (pro forma) under § 122.74.

**§ 122.74 Incomplete (pro forma) manifest.**

(a) *Application.* Clearance or permission to depart may be given to an aircraft by the district director before a complete manifest or all required Shipper's Export Declarations have been filed, if a proper bond is filed on Customs Form 301, containing the bond conditions set forth in Subpart G of Part 113 of this chapter, except for aircraft bound for locations referred to in paragraph (b) of this section.

(b) *Exceptions.* An incomplete manifest will not be accepted:

(1) During any time covered by a proclamation of the President that a state of war exists between foreign nations; or

(2) If the aircraft is departing on a flight from the U.S. directly or indirectly to a foreign country listed in § 4.75 of this chapter.

In both cases, a complete air cargo manifest and all required Shipper's Export Declarations shall be filed with the district director before the aircraft will be cleared.

(c) *Filing under bond.* An incomplete set of documents may be filed only when accompanied by the proper bond. Under the bond, a complete set of documents shall be filed within whichever of the following time periods is appropriate:

(1) *Shipments to foreign countries.* All required Shipper's Export Declarations and a complete air cargo manifest shall be filed by the airline not later than the fourth business day after clearance (when clearance is required) or departure (when clearance is not required) of the aircraft.

(2) *Shipments to and from Puerto Rico.* For shipments between the U.S. and Puerto Rico, the complete manifest (when required) and all Shipper's Export Declarations shall be filed by the airline not later than the seventh business day after departure.

(3) *Shipments to U.S. possessions.* For shipments between the U.S. or Puerto Rico and possessions of the U.S., a complete manifest and all required Shipper's Export Declarations shall be filed by the airline not later than the seventh business day after departure. See § 122.79.

(d) *Declaration required.* A declaration shall be made on the incomplete manifest that:

(1) All required documents will be filed within the 4-day bond period; or

(2) All required documents will be filed within the 7-day bond period.

Once all documents have been filed, a statement as required by § 122.75(b) shall be made.

**§ 122.75 Complete manifest.**

(a) *Contents.* A complete air cargo manifest shall list all cargo laden, and show for each item the air waybill number, or marks and numbers on packages and the type of goods carried. If an item does not requires a Shipper's Export Declaration, it shall be noted on the air cargo manifest.

(1) *Shipments on an air waybill.* A copy of each air waybill on which shipments are listed may be attached to the air cargo manifest, and the number of the air waybill may be listed on the air cargo manifest. The statement "Cargo as per Air Waybill Attached" must appear on the air cargo manifest if this is done.

(2) *Direct departure.* This subsection applies only to direct departures of shipments requiring a Shipper's Export Declaration. A copy of each declaration may be attached to the air cargo manifest, and the number of each declaration shall be listed on the air cargo manifest in the column for air waybill numbers. The statement "Cargo as per export Declarations Attached" must appear on the manifest if this is done.

(b) *Statement required.* (1) When all required documents are ready for filing, the following statement must appear on the air cargo manifest, or on the general declaration form if an air cargo manifest is not required:

Attached Shipper's Export Declarations represent a full and complete enumeration and description of the cargo carried in this flight except that listed on the cargo manifest.

(2) If an incomplete set of documents has been filed and is later completed, the following statement shall accompany the Shipper's Export Declarations and any required air cargo manifests:

Attached Shipper's Export Declarations represent a full and complete enumeration and description of the cargo carried on aircraft No. _____, Flight No. _____ cleared direct for _____, on _____ except cargo listed on any cargo manifest required to be filed for such flight.

Airline _____

Authorized Agent _____

**§ 122.76 Shipper's Export Declarations and inspection certificates.**

At the time of clearance, the aircraft commander or agent shall file with the district director at the departure airport any Shipper's Export Declarations required by the Bureau of Census (see § 122.62(a)). The aircraft commander or authorized agent also shall deliver a proper export inspection certificate issued by the Veterinary Service, Animal and Plant Inspection Service, Department of Agriculture (9 CFR Part 91), to the Customs officer in charge at the time of departure of any aircraft carrying horses, mules, asses, cattle, sheep, swine or goats.

**§ 122.77 Clearance certificate.**

(a) *Aircraft departing from the U.S.* One copy of the air cargo manifest shall be used as a clearance certificate when endorsed by the district director to show that clearance is granted.

(b) *Scheduled aircraft.* If a scheduled aircraft clears at an airport which is not the airport at or nearest the place of final take-off from the U.S., two copies of the air cargo manifest shall be filed. One copy shall be used as a clearance certificate when endorsed at the port by the district director at the port where clearance is obtained, and the second copy shall be attached to the first for use at subsequent U.S. ports.

**§ 122.78 Entry or withdrawal for exportation or for transportation and exportation.**

If a shipment is exported under an entry or withdrawal for exportation, or for transportation and exportation, the air cargo manifest, the air waybill, or the consignment note attached to the manifest shall clearly show the following information for each entry or withdrawal:

(a) Number;

(b) Date; and

(c) Class of entry or withdrawal, as follows:

(1) Transportation and exportation;

(2) Withdrawal for transportation and exportation;

(3) Immediate exportation;

(4) Withdrawal for exportation; or

(5) Withdrawal for transportation.

The name of the port where the entry or withdrawal was filed, if not the port where the merchandise is laden for exportation, shall also appear on the air cargo manifest.

**§ 122.79 Shipments to U.S. possessions.**

(a) *Other than Puerto Rico.* An air cargo manifest shall be filed for aircraft transporting cargo between the U.S. and U.S. possessions. Shipper's Export Declarations are not required for shipments from the U.S. or Puerto Rico to the U.S. possessions, except to the U.S. Virgin Islands or from a U.S. possession and destined to the U.S., Puerto Rico, or another U.S. possession.

(b) *Puerto Rico.* This subsection applies when an aircraft carries merchandise on a direct flight between the U.S. and Puerto Rico. If the requirements contained in Subpart I, relating to residue cargo procedures, have been satisfied, an air cargo manifest is required only for:

(1) Merchandise transported as cargo for which a Shipper's Export Declaration is not required; or

(2) Cargo for which a Shipper's Export Declaration cannot be filed on time. (See 15 CFR 30.21).

Any required air cargo manifest or Shipper's Export Declarations shall be filed with the district director at the point of departure.

**§ 122.80 Verification of statement.**

Customs officers may verify any of the statements required under this subpart by examining the shipping records of the airline involved.

## Subpart I—Procedures for Residue Cargo and Stopover Passengers

**§ 122.81 Application.**

(a) *Aircraft arriving with cargo.* Aircraft arriving in the U.S. from a foreign area with cargo shown on the manifest to be traveling to other airports in the U.S. or to foreign areas may proceed under the provisions of this subpart.

(b) *Aircraft arriving with no cargo.* Aircraft arriving in the U.S. from a foreign area with no cargo on board, and requesting immediate examination and release, may proceed if a bond on Customs Form 301, containing the bond conditions set forth in Subpart G of Part 113 of this chapter, has been filed and covers the aircraft.

**§ 122.82 Bond requirements.**

A bond on Customs Form 301, containing the bond provisions set forth in Subpart G of Part 113 of this chapter, shall be filed before an aircraft is given a permit to proceed with residue cargo under this subpart. The bond shall be filed in the correct amount with the district director at the entry airport.

**§ 122.83 Forms required.**

(a) *Traveling general declaration and manifest.* When applying for examination and release from an airport or place of entry in the U.S., the aircraft commander or agent shall file a traveling general declaration and manifest. The traveling general declaration and manifest is one certified copy of the original inward general declaration, and each air cargo manifest required when the aircraft entered. This includes air waybills that were part of the manifest.

(b) *Attachments to traveling general declaration and manifest*—(1) *Crew purchase and stores list.* The crew purchase and stores list, if required when the aircraft enters under §§ 122.46 and 122.47, shall be attached to the traveling general declaration and manifest.

(2) *Crew purchases not listed on a crew purchase list.* A crew member's declaration shall be attached to the traveling general declaration and manifest if:

(i) Crew purchases are listed on a crew declaration, Customs Form 5129, instead of on the crew purchase list, under § 122.46(c)(2); and

(ii) The crew member has not left the aircraft with his or her purchase at the first entry port.

The crew member's declaration must be attached at the port where the articles listed on the declaration receive clearance.

(c) *Abstract general declaration and manifest.* The abstract general declaration and manifest shall consist of one copy of the general declaration, and one copy of each manifest (including air waybills) covering residue cargo:

(1) Not yet examined and released by Customs or any other Federal agency; and

(2) To be discharged at another domestic or foreign airport.

An abstract general declaration and manifest need not be filed at the last domestic port of discharge.

(d) *Permit to proceed.* A permit to proceed from one domestic airport to another shall be filed by the aircraft commander or agent with the Customs officer in charge at the clearance airport. The permit to proceed shall include a declaration by the aircraft commander or agent, which shall be signed on entry at the next domestic airport. The permit to proceed and declaration shall state substantially the following:

**Permit to Proceed From one Airport to Another**

Airport of Departure _____
Date _____

Permission is hereby given aircraft _____ to proceed to _____

(Next Domestic Airport)

The aircraft which has arrived from and is destined to the places shown in the general declaration, is proceeding to such places of destination to discharge residue cargo, passengers, or crew members and their purchases, as listed in the attached manifest. Bond was given at the airport of arrival for the cargo retained on board. Items of cargo manifested for delivery at this airport appear to have been landed.

Number of crew members not cleared by Customs _____.

Number of passengers not cleared by Customs _____.

Number of pages of the traveling manifest _____.

_____

(Customs Officer and Title)

**Declaration on Entry of Aircraft at Following Airport**

Airport of Arrival _____
Date _____

I, _____, commander or authorized agent of the aircraft identified in this document, declare and guarantee that there were not, when such aircraft departed from the airport of _____, nor have been since, nor now are, any more or other goods, wares, or merchandise on board than was stated in the attached manifests.

_____

(Signature and Title)

The permit to proceed and declaration must be stamped, mimeographed or printed on:

(1) The abstract general declaration;

(2) The traveling general declaration when an abstract general declaration is not required; or

(3) A separate sheet of paper.

(e) *Permit to proceed for nonscheduled aircraft.* For each permit to proceed issued to a nonscheduled aircraft carrying residue cargo the transit air cargo manifest procedures shall be followed and a numbered Customs Form 7512–C shall be filled out and filed. The number on the form shall be placed in the upper right hand corner of the permit to proceed. The original copy of Customs Form 7512–C shall be forwarded as required by the issuing port and the duplicate must be attached to the permit and given to the aircraft commander. When the aircraft arrives at the final port, the aircraft commander shall deliver the permit to proceed and Customs Form 7512–C (duplicate) to Customs.

(f) *Use of form.* When all of the documents required by this section are in order, the permit to proceed shall be dated and signed by the Customs officer in charge at the clearance airport. One copy of the permit to proceed shall be delivered to the aircraft commander or agent with the other required documents, for filing at the next international airport.

**§ 122.84 Intermediate airport.**

(a) *Application.* The provisions of this section apply at any U.S. airport to which an aircraft proceeds with residue cargo, and passengers, or crewmembers and their purchases not cleared by Customs. They do not apply to aircraft arriving at the last domestic port of discharge.

(b) *Entry.* When an aircraft arrives at the next airport, the aircraft commander or agent shall make entry by filing the:

(1) Abstract general declaration and manifest;

(2) Traveling general declaration and manifest; and

(3) Permit to proceed.

The *Declaration on Entry of Aircraft at Following Airport,* found on the permit to proceed, shall be properly signed before filing for entry.

(c) *Crew declarations.* The declarations and entries, Customs Form 5129, of any crewmembers who leave the aircraft with their purchases at the intermediate airport shall be detached from the traveling general manifest. The declaration and entries are to be detached by the Customs officer in charge and are kept at the airport.

(d) *Departure.* When the aircraft leaves an intermediate airport carrying residue cargo, and passengers or crewmembers and their purchases are not yet cleared by Customs or another interested Federal agency, the procedure is the same as at the first arrival airport. All documents required by this section, except those detached under paragraph (c) of this section, shall be returned to the aircraft commander or agent for filing at the next entry airport.

**§ 122.85 Final airport.**

When an aircraft enters at the last domestic airport of discharge, the

traveling general declaration and manifest shall be filed with Customs and kept at the airport. No abstract general declaration and manifest is required.

**§ 122.86 Substitution of aircraft.**

(a) *Application.* The residue cargo procedure applies when an airline must substitute aircraft to reach a destination due to weather conditions or operational factors which prevent an aircraft on arrival of the flight at the first port from continuing inbound to interior ports scheduled for that flight.

(b) *Clearance and entry.* Clearance and entry of substitute aircraft is required as provided in this subpart for other aircraft.

(c) *Identification.* An identification of all substitute aircraft shall be clearly made on all clearance and entry documents.

(d) *Transporting cargo*—(1) *Forwarding.* The carrier may forward all cargo which arrived on one aircraft by transferring it to another aircraft of the same airline to complete the inbound flight. The transfer shall be done under Customs supervision.

(2) *Conditions.* All of the residue cargo from more than one inbound flight of an airline may be laden on one substitute aircraft of the airline. The substitute aircraft shall finish the inbound transport of the residue cargo.

**§ 122.87 Other requirements.**

Section 4.85 of this chapter, relating to vessels with residue cargo for domestic ports, applies to aircraft residue cargo, except as stated in this subpart.

**§ 122.88 Aircraft carrying domestic (stopover) passengers.**

Airlines that commingle domestic (stopover) passengers (that is, passengers who have already cleared Customs at their port of arrival and are continuing on another aircraft to a second U.S. destination) with international passengers who are continuing on the flight to their port of arrival and have not yet cleared Customs, must comply with certain requirements before being issued a permit to proceed. The carriers requirements are as follows:

(a) The domestic (stopover) passengers must be transported on U.S.-registered aircraft, or foreign-registered aircraft of the same foreign airline that brought them into the U.S.

(b) A $2.00 charge must be paid for each revenue producing domestic (stopover) passenger reinspected in the U.S. (see § 24.12 of this chapter).

(c) Arrangements must be made for the checked baggage of all passengers requiring inspection on the previously described flights to be off-loaded and made available for examination in the Federal inspection area at the destination port (intermediate or final) where an inspection is to take place.

(d) All stopover passengers shall be notified in writing, prior to boarding, that they will be subject to full reinspection by Customs. This written notification shall contain the following language: "Notice to all boarding passengers: You are boarding an aircraft on which passengers will be arriving in the U.S. from foreign destinations. These passengers have not yet cleared U.S. Customs. Accordingly, you will be subject to a full reinspection by Customs at your final U.S. port of entry."

(e) Domestic (stopover) passengers shall be provided a Customs declaration identified by the words "Domestic Flight". The domestic (stopover) passenger is only required to complete items 1–4 on that declaration.

(f) The carrier shall present to Customs, as otherwise required by law, the permit to proceed and/or the general declaration, clearly stating the number of domestic (stopover) passengers to be reinspected upon arrival at the destination port (intermediate or final) where an inspection of passengers is to take place.

## Subpart J—Transportation in Bond and Merchandise in Transit

**§ 122.91 Application.**

This subpart applies to the transportation in bond of merchandise arriving in the U.S. by aircraft and entered:

(a) For immediate transportation to another airport without appraisement; or

(b) For transportation through the U.S. and later exportation by aircraft.

**§ 122.92 Procedure at port of origin.**

(a) *Forms required*—(1) *Customs Form 7512.* Customs Form 7512 or other Customs approved documents shall be used for both entry and manifest. Three copies of the form or other document are required to be filed with Customs at the port of origin for merchandise for immediate transportation without appraisement. Four copies of the form or other document are required when merchandise for transportation and exportation is entered. (See also, §§ 18.11 and 18.20(a) of this chapter). Each copy shall be signed by the carrier or its authorized agent.

(2) *Customs Form 7512–C.* The "Origin" copy of Customs Form 7512–C shall be filed with Customs Form 7512, and its number shall be placed on all copies of Customs Form 7512.

(b) *Delivery of Customs form to carrier*—(1) *Merchandise entered for immediate transportation without appraisement.* When merchandise is entered for immediate transportation without appraisement, two copies of Customs Form 7512 or other Customs approved document, and the duplicate copy of Customs Form 7512–C shall be delivered to the carrier.

(2) *Merchandise entered for transportation and exportation.* When merchandise is entered for transportation and exportation, one copy of Customs Form 7512 and one copy of Customs Form 7512–C or other Customs approved document shall be delivered to the carrier.

(3) *After delivery.* After delivery, the forms or other document shall accompany the merchandise to the port of destination or exportation.

(c) *Receipt and supervision.* The agent of a bonded air carrier shall give a receipt for any merchandise delivered to it for transportation in bond, and no supervision of the lading of the merchandise on the transporting aircraft shall be required.

(d) *Split shipment—(1) Departure within 24 hours.* Merchandise covered by a single entry and manifest (Customs Form 7512 or other Customs approved document) may be sent to the destination airport on one or more aircraft. A separate manifest for each aircraft is not required if the whole shipment is sent within a single 24-hour period.

(2) *Departure not within 24 hours.* If any part of a shipment is sent more than 24 hours after the first part was sent, the entry and manifest copy which accompanies the first shipment shall state that the rest of the shipment will follow by separate aircraft. A single manifest shall be prepared for each part of the shipment sent by separate aircraft. The manifest shall be used as notice of each arrival at the destination airport.

(e) *Transhipment.* Merchandise sent under bond may be transferred at an intermediate airport to one or more aircraft of the same airline. This may be done without Customs supervision and notice of the transfer is not required. If merchandise covered by one entry and manifest is transferred to more than one aircraft, paragraph (d) of this section applies.

(f) *Sealing not required.* The sealing of aircraft, aircraft compartments carrying bonded merchandise, or the cording and sealing of bonded packages carried by the aircraft, is not required.

(g) *Warning labels.* The carrier shall supply and attach the warning label, as

described in § 18.4(e) of this chapter, to each bonded package.

**§ 122.93 Procedure at destination or exportation airport.**

(a) *Delivery to district director.* When a bonded shipment arrives at the destination or exportation airport, the aircraft commander or agent shall deliver one copy of the entry and manifest with Customs Form 7512–C attached (Customs Form 7512 or other Customs approved document) covering the shipment to the district director of that airport as notice of arrival. If the shipment was sent by separate aircraft more than 24 hours after the first part of the shipment was sent, then a manifest for each part of the shipment shall be delivered to the district director.

(b) *Delivery to consignee.* When the merchandise is sent under an entry for immediate transportation without appraisal, one copy of the manifest covering the merchandise shall be delivered by the carrier to the consignee. This copy is used to make entry, and may also be used as a carrier certificate as provided in § 141.11(a)(4) of this chapter.

**§ 122.94 Certificate of lading for exportation.**

(a) *Required filing.* This section applies to merchandise entered for transportation and exportation by aircraft. A certificate of lading for exportation, Customs Form 7512 with Customs Form 7512–C attached, or other Customs approved document (see § 122.93 of this subpart) shall be filed when the merchandise reaches the final departure airport. The form shall be filled out and signed at the place where aircraft clearance for the merchandise is given.

(b) *Clearance not at place of final departure.* If an aircraft is cleared at a place other than the place of final departure from the U.S., the aircraft commander or its authorized agent shall:

(1) Promptly report arrival of any bonded merchandise for export to the Customs officer in charge at that place; and

(2) Submit to the Customs officer in charge the certificate received at the place the merchandise was taken on board. The clearance certificate is kept by the Customs officer in charge until departure.

This procedure shall be followed at each place of landing before final departure.

**§ 122.95 Other provisions.**

Part 18 of this chapter (Transportation in Bond and Merchandise in Transit) applies to the transportation of merchandise under this subpart unless stated otherwise.

## Subpart K—Accompanied Baggage in Transit

**§ 122.101 Entry of accompanied baggage.**

Passengers who enter the U.S. on one aircraft and depart to a foreign area on another aircraft with accompanying baggage shall either:

(a) Submit their baggage to Customs for inspection; or

(b) Arrange with the importing carrier for the baggage to be processed under regular in-transit procedures.

When passengers choose not to have access to their baggage while in the U.S., the baggage shall be listed on the Air Cargo Manifest as provided in § 122.48.

**§ 122.102 Inspection of baggage in transit.**

(a) General baggage in transit may be inspected upon arrival, while in transit, and upon exportation. Carriers shall present in-transit baggage for inspection at any time found necessary by the district director.

(b) In-transit baggage shall be presented to a Customs officer for inspection and clearance before the baggage can be delivered to a passenger while in the U.S.

## Subpart L—Transit Air Cargo Manifest (TACM) Procedures

**§ 122.111 Application.**

Cargo (including manifested baggage) which arrives and is transported under Customs control in, through, or from, the U.S. may be transported in bond under this subpart. If cargo is not transported under this subpart, it shall be transported under other provisions of this chapter. (See Subparts I and J of this part, and Parts 18 and 123 of this chapter.)

**§ 122.112 Definitions.**

The following definitions apply in this subpart:

(a) *Transit air cargo.* "Transit air cargo" is cargo, including manifested baggage, transported under the requirements of this subpart.

(b) *Port of arrival.* The "port of arrival" is the port in the U.S. where imported cargo must be documented for further transportation under this subpart.

(c) *Transfer or transferred.* "Transfer or transferred" means the change of documentation of cargo to transit air cargo for transportation. The terms also include the physical movement of the cargo from one carrier to another, and thereafter by air or surface movement to the port of destination.

(d) *Transit air cargo manifest.* "Transit air cargo manifest" is used in this subpart as the shortened title for the transportation entry and transit air cargo manifest.

**§ 122.113 Form for transit air cargo manifest procedures.**

A manifest on Customs Form 7509 is required for transit air cargo, as provided in § 122.48(c) of this part. The words "Transportation Entry and Transit Air Cargo Manifest" shall be printed, stamped or marked on the form and on all copies of the form required for transit air cargo movement.

**§ 122.114 Contents.**

(a) *Form duplicates original manifest.* Each transit air cargo manifest shall be a duplicate of the sheet presented as part of the cargo manifest for the aircraft on which the cargo arrived in the U.S.

(b) *Shipments shown on manifest*—(1) *Country of exportation.* Each transit air cargo manifest sheet may list:

(i) Only air cargo shipments from one exporting country, with the name of the country shown in the heading; or

(ii) Air cargo shipments from several exporting countries, with the name of the exporting country shown in the "Nature of Goods" column.

(2) *Shipment to same port.* Each transit air manifest sheet may list only those shipments manifested by way of the port of arrival for:

(i) The same Customs port of destination;

(ii) The same Customs port for later exportation; or

(iii) Direct exportation from the port of arrival.

(c) *Information required.* Each air cargo manifest sheet shall show:

(1) The foreign port of lading;

(2) The date the aircraft arrived at the port of arrival;

(3) Each U.S. port where Customs services will be necessary due to transit air cargo procedures; and

(4) The final port of destination in the U.S., or the foreign country of destination, for each shipment. The foreign country destination shown on the manifest must be the final destination, as shown by airline shipping documents, even though airline transport may be scheduled to end before the shipment arrives at the final destination.

(d) *Corrections.* If corrections in the route shown on the original manifest for the cargo are required at the port of arrival to make a manifest sheet workable as a transit air cargo manifest, the district director at the port of arrival may allow the corrections.

**§ 122.115 Labeling of cargo.**

A warning label, as required by § 18.4(e) of this chapter, shall be attached to all transit air cargo not directly exported from the port of arrival before the cargo leaves the port of arrival.

**§ 122.116 Identification of manifest sheets.**

When the original cargo manifest for the aircraft on which the cargo arrives is presented by the aircraft commander or its authorized agent at the port of arrival, a manifest number will be given to the aircraft entry documents by Customs. The number given shall be used by the airline to identify all copies of the transit air cargo manifest. All copies of the manifest shall be correctly numbered before cargo will be released from the port of arrival as transit air cargo.

**§ 122.117 Requirements for transit air cargo transport.**

(a) *Transportation*—(1) *Port to port.* Transit air cargo may be carried to another port only when a receipt is given, as provided in paragraph (b) of this section. The receipt may be given only to an airline which:

(i) Is a common carrier for the transportation of bonded merchandise; and

(ii) Has the required Customs bond on file.

(2) *Exportation from port of arrival.* Transit air cargo may be exported from the port of arrival only if covered by a bond on Customs Form 301, containing the bond conditions set forth in Subpart G of Part 113 of this chapter, as provided in § 18.25 of this chapter.

(b) *Receipt*—(1) *Requirements.* When air cargo is to move from the port of arrival as transit air cargo, a receipt shall be given. The receipt shall be made by the airline responsible for transport or export within the lay order period, or an authorized extension period (see § 4.37 of this chapter).

(2) *Contents.* The receipt shall appear on each copy of the transit air cargo manifest, clearly signed and dated if required, in the following form:

Received the cargo listed herein for delivery to Customs at the port of destination or exportation shown above, or for direct exportation.

Name of carrier (or exporter)

Attorney or agent of carrier (or exporter)

Date

(c) *Responsibility for transit air cargo*—(1) *Direct exportation.* The responsibility of the airline exporting transit air cargo for direct exportation begins when a receipt, as provided in paragraph (b) of this section, is presented to Customs.

(2) *Other than direct exportation.* When the transit air cargo is not for direct exportation, the responsibility of the airline receiving the cargo begins when a receipt, as provided in paragraph (b) of this section, is presented to Customs.

(3) *Carting.* When carting is used to deliver transit air cargo to receiving airlines, the importing airline is responsible for the cargo under its own bond until a receipt is filed by the receiving airline. This does not apply when the carting is done under Part 112 of this chapter, at the expense of the parties involved.

(4) *Importing airlines.* An importing airline which has qualified as a carrier of bonded merchandise, whether registered in the U.S. or a foreign area, may:

(i) Give a receipt for the air cargo;

(ii) File an appropriate bond; and

(iii) Deliver the cargo to an authorized domestic carrier for in-bond transportation from the port of arrival. The importing carrier's bond covers the transportation.

(d) *Split shipments.* A receipt shall be given by one airline for all of the cargo shipments listed on one transit air cargo manifest sheet. Cargo shipments so listed shall be transported from the port of arrival on one aircraft or carrier unless the use of more than one aircraft or carrier would be allowed:

(1) By § 122.92(d) under a single combined entry and manifest;

(2) By § 122.118(d); or

(3) By § 122.119(e), permitting the use of a surface carrier for transport.

Otherwise, all shipments on the transit air cargo manifest shall be separately documented and transported under the regular procedures for transportation of merchandise in bond (See Subpart J).

**§ 122.118 Exportation from port of arrival.**

(a) *Application.* Transit air cargo may be transferred for exportation from any port of arrival under this section. The district director may require any supervision necessary to enforce the regulations of other Federal agencies.

(b) *Time.* Transit air cargo shall be exported from the port of arrival within 10 days from the date the exporting airline receives the cargo. After the 10-day period, the individual cargo shipments must be made the subject of individual entries, as appropriate.

(c) *Transit air cargo manifest copies.* Three copies of the transit air cargo manifest shall be filed with Customs.

(1) *Review copy.* The importing airline shall file a copy of each transit air cargo manifest sheet covering any cargo shipment that will be transferred for direct exportation. This filing shall be made as soon as the exporting airline has been chosen. The exporting airline need not give receipt on the review copy for the cargo to be transferred, but the name of the exporting airline shall be placed on the copy.

(2) *Exportation copy.* The exportation copy shall be filed by the exporting airline when clearance documents are presented to Customs.

(3) *Clearance copy.* The clearance copy shall be filed with the exporting aircraft's clearance documents.

The exportation and clearance copies shall show the exporting airline's receipt for the cargo, aircraft number, flight number, and the date.

(d) *Direct export on different aircraft.* Transit air cargo shipments which are listed on one aircraft transit air cargo manifest sheet may be directly exported on different aircraft of the exporting airline. If this occurs, two additional copies of the transit air cargo manifest shall be filed for each shipment or group of shipments transported in other aircraft. Each copy of the transit air cargo manifest shall be clearly marked to show which shipment or shipments listed are covered by the manifest copy.

(e) *Direct export by another airline.* If shipments listed on one transit air cargo manifest sheet are not exported from the same port on the same airline, separate export entries on Customs Form 7512, as required by § 18.25 of this chapter, shall be filed.

(f) *Post entered air cargo.* Air cargo not listed on the manifest (i.e., overages) which has been post entered under § 122.49(b) may be exported from the port of origin under this subpart. If this occurs, four copies of the air cargo manifest, Customs Form 7509, marked "Post Entry", shall be provided. All requirements of § 122.44(b) shall be followed in using this procedure.

(g) *Review.* The review copy of the transit air cargo manifest sheets must be reviewed by Customs as required for the carrier manifest copy in § 122.120(g). The reviewing officer shall take the proper action if a license is necessary for any cargo. The exporting airline shall be notified that any transit air cargo which is not covered by the required license must be placed under constructive Customs custody in a special area of the airline's terminal until the license is obtained.

**§ 122.119 Transportation to another U.S. port.**

(a) *Application.* Air cargo shipments may be transferred for transportation as transit air cargo from the port of arrival to another port in the U.S. under this section. The district director of the port of arrival may require Customs supervision of the transfer.

(b) *Time.* Transit air cargo traveling to a final port of destination in the U.S. shall be delivered to Customs at its destination within 15 days from the date the receiving airline gives the receipt for the cargo at the port of arrival.

(c) *Transit air cargo manifest copies.* Four copies of the transit air cargo manifest, including a carrier manifest copy, and two copies of Customs Form 7512–C (original and duplicate) shall be filed by the airline giving a receipt for moving the cargo shipments to their destination.

(1) *Permit copy.* This copy is used and kept by Customs at the port of arrival.

(2) *Customs Form 7512–C (duplicate).* This copy accompanies the transit air cargo to the port of destination.

(d) *Failure to deliver on time*—(1) *Procedure.* If transit air cargo does not arrive at the destination port on time, the district director at the port of arrival shall take action as provided in §§ 18.6 and 18.8 of this chapter. The amount of duty and tax shall be decided at the port of arrival on the basis of information:

(i) On the permit copy kept at the port of arrival; and

(ii) Obtained from the carriers as necessary.

The district director at the port of arrival shall notify the airline that presented a receipt for the cargo that there has been a failure to deliver.

(2) *Responsibility of airline.* When the airline that presented a receipt for the cargo receives notice of discrepancies, the airline shall answer within 90 days of the date of such notice to the district director at the port of arrival. The answer shall provide any information or documents related to the value and description of the cargo involved that the receipting airline and the importing airline can produce.

(e) *Surface movement to port of destination.* If an aircraft arrives at the port of arrival with cargo to be carried as transit air cargo, the cargo may be transferred to another carrier for surface movement to the port of destination. The transfer is allowed under the following conditions:

(1) The bond of the party receiving the cargo for surface movement must cover the transfer and surface movement;

(2) The description of the cargo on the transit air cargo manifest must be complete;

(3) The entire shipment listed in the transit air cargo manifest must be shipped from the port of arrival to the port of destination by the same surface carrier; and

(4) The requirements of § 122.114(b) must be followed.

**§ 122.120 Transportation to another port for exportation.**

(a) *Application.* Air cargo may be transferred as transit air cargo at the port of arrival for transportation to another port in the U.S. and later exportation under this section.

(b) *Supervision*—(1) *From port of arrival to exportation port.* The district director at the port of arrival shall order any supervision found necessary for the transfer of transit air cargo for transportation to another port for export.

(2) *At exportation port.* Customs shall be notified far enough in advance to be able to make any required supervision of the lading of cargo, and to enforce any other Federal agency requirements, when transit air cargo is ready for lading on the exporting aircraft.

(c) *Time.* Transit air cargo covered by this section shall be delivered to Customs at the port of exportation within 15 days from the date of receipt by the forwarding airline.

(d) *Transit air cargo manifest copies.* Five copies of the transit air cargo manifest and a Customs Form 7512–C (original and duplicate) shall be filed with Customs.

(1) *Port of arrival.* Two copies of the transit air cargo manifest, marked separately as "permit" and "control" copies, and Customs Form 7512–C (original) shall be filed with Customs at the port of arrival. The duplicate shall accompany the shipment as provided in § 122.119(c)(2) of this part. Filing shall be made when the arriving aircraft enters, or before the lay order period ends, by the airline which presents a receipt to transport the cargo from the port of arrival to the port of destination.

(2) *Port of exportation.* Three copies of the transit air cargo manifest shall be filed at the port of exportation.

(i) *Carrier manifest copy.* The carrier manifest copy shall be attached to the listing of cargo shipments and submitted when the cargo arrives at the exportation port.

(ii) *Exportation and clearance copies.* Two copies, marked separately as "exportation" and "clearance" copies, shall be filed with Customs at the exportation port.

(e) *Delivery to exporting airline.* When the transit air cargo arrives at the exportation port, it may be delivered directly to the exporting carrier, together with the exportation and clearance copies. The name of the exporting carrier shall be clearly noted on the carrier manifest copy, which shall then be delivered to Customs.

(f) *Storage by exporting airline.* The exporting carrier shall keep all cargo listed on the transit air cargo manifest in one storage space. This storage space shall be separate from the area in which special shipments which require a license under paragraph (g) of this section are stored.

(g) *Export license*—(1) *Review.* A Customs officer shall review the carrier manifest copy of the transit air cargo manifest to make sure that the export licensing requirements of other Federal agencies have been followed.

(2) *Information inadequate.* If the manifest information is not enough for Customs to determine that a license or other requirement applies, then the transit air cargo shall be checked by examination, or by inspection of the air waybills or attached invoices.

(3) *When license or other requirement applies.* The exporting airline shall be notified at once if Customs finds that the shipment cannot be exported without a license or other approval. The shipment shall then be put under constructive Customs custody in a special area set aside for the shipment in the exporting airline's cargo terminal.

(h) *Filing of exportation and clearance copies*—(1) *Information.* When filed with Customs, the exportation and clearance copies of the transit air cargo manifest shall each show:

(i) The aircraft number;

(ii) The aircraft flight number; and

(iii) The date.

(2) *Filing.* The exporting airline shall file the exportation and clearance copies before the aircraft that carries the transit air cargo departs. The clearance copies shall be grouped together and not mixed in with other outward manifest sheets. The exportation copies shall be grouped together, and kept separate from the outward clearance documents.

(i) *Cargo not laden at same airport by same airline.* If all the cargo listed on one transit air cargo manifest sheet is not laden for exportation from the same U.S. airport by the same airline, then separate entries on Customs Forms 7512 and 7512–C are required for each cargo shipment listed:

(1) For transportation and exportation under Subpart J of this part; or

(2) For direct exportation under § 18.25 of this chapter.

(j) *Cargo laden on more than one aircraft of same airline.* When any cargo shipment listed on the same transit air

cargo manifest must be exported on more than one aircraft of the same airline, § 122.118(d) applies.

(k) *Failure to deliver.* If all or part of the cargo listed on the transit air cargo manifest is not accounted for with an exportation copy within 40 days, the district director at the port of arrival shall take action as provided in § 122.119(d).

## Subpart M—Aircraft Liquor Kits

### § 122.131 Application.

(a) *Liquor and tobacco.* Subpart M applies to:

(1) Duty-free and tax-free liquor and tobacco; and

(2) Duty-paid and tax-paid liquor and tobacco which has been placed in the same liquor kit as duty-free and tax-free liquor and tobacco.

(b) *Aircraft.* Subpart M applies to all commercial aircraft on domestic or foreign flights operating into, from and between U.S. airports, which are carrying:

(1) Duty-free and tax-free liquor and tobacco withdrawn from bond under section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309); or

(2) Other liquor or tobacco on which duty or taxes have not been paid.

This includes any aircraft carrying duty-free and tax-free liquor under 19 U.S.C. 1309, or other Federal law, although the aircraft is not required to enter, clear or report arrival.

### § 122.132 Sealing of aircraft liquor kits.

(a) *Sealing required.* Aircraft liquor kits shall be sealed on board the aircraft by crewmembers before the aircraft lands in the U.S. The liquor kits shall be kept under seal while on the ground unless taken to an authorized airline in-bond liquor storeroom.

(b) *Exception.* When an aircraft is traveling between airports in the U.S., in a trade for which duty-free and tax-free liquor is used during flight, sealing the liquor kits on board during transporting stopovers is not required if:

(1) The liquor kits are kept on board the aircraft; and

(2) The district director finds that sealing is not required for revenue protection.

(c) *Seals to be used.* Aircraft liquor kits shall be sealed with serially numbered, Customs approved seals. The airline shall use seals supplied by an approved manufacturer, as provided in Part 24 of this chapter. A small number of seals may be obtained from the district director.

(d) *Removing seals.* When sealed liquor kits are on the ground, the Customs seals may be broken only by:

(1) A Customs officer; or

(2) Authorized airline personnel, in an authorized airline in-bond liquor storeroom.

(e) *Resealing.* When a Customs officer breaks the seal of a liquor kit to check the contents, the action shall be recorded on the liquor kit stores list, and the liquor kit must be resealed with an approved seal.

### § 122.133 Stores list required on arrival.

(a) *When required, contents.* Three copies of an incoming stores list shall be prepared for each liquor kit on board before an aircraft lands. The incoming stores list shall state for each type of liquor and bottle size:

(1) Number of full bottles;

(2) Number of partially filled bottles; and

(3) Total number of bottles.

If the carrier chooses not to state the type of liquor for each size bottle, any duty or taxes assessed for any shortage shall be set at the highest rate available for the alcoholic beverages in the kit.

(b) *Disposition of stores list copies.* One copy of the incoming stores list shall be placed in the liquor kit before it is sealed. The remaining two copies shall be used as follows:

(1) One copy shall be filed with the inward cargo manifest; and

(2) One copy shall be kept for filing with the outward cargo manifest if the liquor kit was laden for export.

(c) *For aircraft not required to enter and/or clear.* If an aircraft is not required to enter and/or clear:

(1) One copy shall be given to the Customs officer upon arrival; and

(2) One copy shall be kept to be given to the Customs officer before departure of the aircraft.

(d) *When stores list not prepared.* When a complete stores list is not prepared before landing, liquor kits must be sealed on board, and the seal number shall be recorded on the stores list. When the aircraft lands, the liquor shall be taken at once to the Customs office and the stores list shall be completed by crew members under Customs supervision.

### § 122.134 When airline does not have in-bond liquor storeroom.

(a) *Handling of liquor kits.* An aircraft may land at an airport where the airline involved does not have an authorized in-bond liquor storeroom. When this occurs, the liquor kits, under any supervision found necessary by the district director, may be:

(1) Kept on board the aircraft;

(2) Removed and replaced upon the aircraft; or

(3) Removed and replaced aboard another aircraft.

(b) *Sealing of kits.* Aircraft liquor kits covered by this section shall remain sealed until departure. Customs officers may remove the seal to check the contents of the liquor kits, but shall reseal the kits as provided in § 122.132(e).

(c) *Restocking.* Additional amounts of duty-free and tax-free liquor and tobacco obtained in the U.S. shall be laden in a separate container on any aircraft covered by this section. The lading shall be done under any supervision the district director finds necessary. The additional liquor and tobacco shall be shown on separate outward stores lists.

### § 122.135 When airline has in-bond liquor storeroom.

(a) *Restocking.* Liquor kits on board an aircraft landing at an airport where the airline involved has an authorized in-bond liquor storeroom may be removed and restocked in the storeroom.

(b) *Inventory record.* Each authorized airline in-bond liquor storeroom shall keep an inventory record in a form that satisfies the district director. The inventory record shall account for the receipt and use of all aircraft liquor and tobacco stores on which duty and/or tax has not been paid.

(c) *Airline employees.* Any airline which has an authorized in-bond liquor store room at an airport shall give the district director:

(1) A list of names of all airline employees authorized to break Customs seals on liquor kits in the in-bond liquor storeroom; and

(2) Signature samples of the authorized employees.

(d) *Opening of aircraft liquor kits.* Aircraft liquor kits received in an authorized storeroom shall be opened only by authorized airline employees, or by Customs officers.

(e) *Contents of liquor kits.* The employees who break the seals on aircraft liquor kits shall check the contents at once. The employees shall immediately report to the district director any:

(1) Evidence of seal tampering;

(2) Difference between the seal numbers on the liquor kits and those recorded on the stores list; and

(3) Differences in quantity as shown on the stores list.

(f) *Handling the liquor kits*—(1) *Partial bottles.* Partial bottles of liquor may be removed from incoming liquor kits and kept in the in-bond liquor storeroom to be destroyed or combined

with other partial bottles. This may be done only under Customs supervision. The costs of Customs supervision shall be paid by the airline.

(2) *Exportation.* The contents of incoming liquor kits may be commingled to restock outbound liquor kits. The commingling must take place in the airline in-bond liquor storeroom, using liquor bottles on which the seal has not been broken.

(3) *Sealing.* All liquor kits shall be sealed as provided in § 122.132(a) before removal from the in-bond liquor storeroom. All seal numbers shall be listed on an outgoing stores list.

**§ 122.136 Outgoing stores list.**

(a) *Preparation.* Two copies of a serially numbered outgoing stores list shall be prepared by the airline for all liquor and tobacco withdrawn from bonded or non-tax-paid stock and added to liquor kits. The outgoing stores list shall show the total number of bottles for each type liquor, the brand, and the size of each bottle.

(b) *Use of copies.* The two copies of the outgoing stores list shall be used as follows:

(1) One copy shall be placed and kept in the outgoing kits until the aircraft leaves the U.S.; and

(2) One copy must be filed either with the outgoing cargo manifest (for aircraft required to clear) or with Customs before departing, as provided in § 122.133(c).

In both cases, the third copy of the inward stores list shall be filed with the outgoing stores list. (See § 122.133(c)).

**§ 122.137 Certificate of use.**

Any liquor or tobacco withdrawn from the in-bond storeroom and shown on the outgoing stores list shall be recorded, when exported, on a certificate of use prepared by the airline.

## Subpart N—Flights to and From the U.S. Virgin Islands

**§ 122.141 Definitions.**

Under Subpart N, the following definitions apply:

(a) *United States.* The term "U.S." includes the several States, the District of Columbia and Puerto Rico.

(b) *Foreign area.* The term "foreign area" means any area other than the several States, the District of Columbia and Puerto Rico.

**§ 122.142 Flights between the U.S. Virgin Islands and a foreign area.**

(a) *Aircraft arriving in the U.S. Virgin Islands.* Aircraft arriving in the U.S. Virgin Islands from a place other than the U.S. are governed by the provisions of this part which apply to aircraft arriving in the U.S. from a foreign area.

(b) *Aircraft leaving the U.S. Virgin Islands.* Aircraft leaving the U.S. Virgin Islands for a place other than the U.S. are governed by the provisions of this part that apply to aircraft leaving the U.S. for a foreign area.

**§ 122.143 Flights from the U.S. to the U.S. Virgin Islands.**

(a) *In general.* Aircraft on flights from the U.S. to the U.S. Virgin Islands are governed by the provisions of this part that apply to aircraft on a flight within the U.S.

(b) *Bureau of the Census.* When Bureau of the Census regulations (15 CFR Part 30) apply to aircraft carrying merchandise to the U.S. Virgin Islands from the U.S., permission to depart must be obtained from the district director. Permission to depart shall not be given unless:

(1) A complete manifest and Shipper's Export Declarations as required by 15 CFR Part 30 are filed; or

(2) An incomplete manifest under 15 CFR 30.24 is filed and the complete manifest and Shipper's Export Declarations are filed within 7 business days after departure.

**§ 122.144 Flights from the U.S. Virgin Islands to the U.S.**

(a) *Aircraft not inspected.* This paragraph applies to aircraft departing from the U.S. Virgin Islands and arriving in the U.S., without having been inspected prior to departure.

(1) *On departure.* Aircraft leaving the U.S. Virgin Islands for the U.S. are governed by the provisions of this part that apply to aircraft leaving the U.S. for a foreign area.

(2) *On arrival.* Aircraft departing from the U.S. Virgin Islands and arriving in the U.S. are governed by the provisions of this part that apply to aircraft arriving in the U.S. from a foreign area.

(b) *Supervision.* When aircraft are inspected by Customs in the U.S. Virgin Islands, the district director may order any supervision found necessary to protect the revenue and enforce the laws administered by Customs. This includes the collection of duty and taxes on articles bought in the U.S. Virgin Islands.

(c) *Procedure.* When an aircraft that was inspected in the U.S. Virgin Islands arrives in the U.S. from the U.S. Virgin Islands, the aircraft commander must be able to give evidence of the inspection to Customs on request. Evidence of the inspection shall be given in the following manner:

(1) A certificate on Customs Form 7507 shall be presented for aircraft registered in the U.S.:

(i) Of domestic origin; or

(ii) Of foreign origin, if duty has been paid and the aircraft is proceeding carrying neither passengers nor cargo, or with cargo and/or passengers solely from the U.S. Virgin Islands.

Two copies of the certificate shall be given to the inspecting Customs officers in the U.S. Virgin Islands by the aircraft commander. The certificate shall be marked with the port and date of inspection, and must be signed by the inspecting officer. The original of the certificate must be returned to the aircraft commander, who must keep the certificate for a reasonable time after the end of the flight to the U.S. If requested, the certificate shall be presented to Customs. The certificate may be destroyed or disposed of after a reasonable time at the discretion of the aircraft commander or agent.

(2) A permit to proceed on Customs Form 7507 shall be presented for aircraft registered in the U.S. which are:

(i) Of foreign origin;

(ii) Not duty paid; and

(iii) Proceeding carrying neither passengers nor cargo.

The permit to proceed, as required by Subpart F of this part, shall be marked with the port and date of inspection, and shall be signed by the inspecting officer in the U.S. Virgin Islands.

(3) A permit to proceed on Customs Form 7507 shall be presented for aircraft registered in a foreign country and proceeding carrying neither passengers nor cargo. The permit to proceed, as required under Subpart F of this part, shall be marked with the port and date of inspection, and shall be signed by the inspecting officer in the U.S. Virgin Islands.

(4) A permit to proceed, or other document, shall be filed as required under Subpart I of this part for an aircraft carrying residue cargo and/or passengers. The permit to proceed shall be marked with the port and date of inspection, and it must be signed by the inspecting officer in the U.S. Virgin Islands.

## Subpart O—Flights to and From Cuba

**§ 122.151 Definitions.**

Under this subpart, the following definitions apply:

(a) *United States.* The term "U.S." includes the several States, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico.

(b) *Cuba.* The term "Cuba" does not include the Guantanamo Bay Naval Station.

**§ 122.152 Application.**

This subpart applies to all aircraft entering or departing the U.S. to or from Cuba except public aircraft. Public aircraft are covered by Subpart P.

**§ 122.153 Limitations on airport of entry or departure.**

The owner or person in command of any aircraft clearing the U.S. for, or entering the U.S. from, Cuba, whether the aircraft is departing on a temporary sojourn, or for export, shall clear or obtain permission to depart from, or enter at, the Miami International Airport, Miami, Florida, and comply with the requirements in this part unless otherwise authorized by the Regional Commissioner of Customs, Miami, Florida.

**§ 122.154 Notice of arrival.**

(a) *Application.* All aircraft entering the U.S. from Cuba shall give advance notice of arrival.

(b) *Procedure for giving advance notice of arrival.* The commander of an aircraft covered by this section shall give the advance notice of arrival not less than one (1) hour before crossing the U.S. coast or border. Notice shall be given either:

(1) Through Federal Aviation Administration flight notification procedure (see International Flight Information Manual, Federal Aviation Administration); or

(2) Directly to the Customs officer in charge at the Miami International Airport, Miami, Florida.

(c) *Contents of notice.* The advance notice of arrival shall state:

(1) Type of aircraft and registration number;

(2) Name of aircraft commander;

(3) Number of U.S. citizen passengers;

(4) Number of alien passengers;

(5) Place of last foreign departure;

(6) Estimated time and location of crossing the U.S. coast or border; and

(7) Estimated time of arrival.

**§ 122.155 Document to be presented upon arrival.**

Upon arrival, the aircraft commander shall present:

(a) A manifest of all passengers on board, as required by the U.S. Immigration and Naturalization Service pursuant to 8 CFR 231.1(b), to an officer of the U.S. Immigration and Naturalization Service or to a Customs officer acting as an Immigration officer;

(b) The documents required by Subpart E of this part.

**§ 122.156 Release of passengers.**

No passengers arriving from Cuba by aircraft will be released by Customs, nor will the aircraft be cleared or permitted to depart before the passengers are released by an officer of the Immigration and Naturalization Service or by a Customs officer acting on behalf of that agency.

**§ 122.157 Documents required for clearance.**

As a condition precedent to clearance, the aircraft commander shall present to Customs:

(a) The documents required by Subpart H of this part; and

(b) A validated license issued by the Department of Commerce, as provided for in 15 CFR 371.19 or a license issued by the Department of State, as provided in 22 CFR Part 123.

**§ 122.158 Other entry and clearance requirements.**

All other provisions of this part relating to entry and clearance of aircraft are applicable to aircraft subject to this subpart.

## Subpart P—Public Aircraft [Reserved]

## Subpart Q—Penalties

**§ 122.161 In general.**

Except as provided in § 122.14, any person who violates any Customs requirements stated in this part, or any regulation that applies to aircraft under § 122.2, is, in addition to any other applicable penalty, subject to a civil penalty of $5,000 as provided by 49 U.S.C. App. 1474, except for overages, and failure to manifest narcotics or marihuana, in which cases the penalties set forth in section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584) apply, or for failure to report arrival as required in which case the penalties set forth in section 436, Tariff Act of 1930, as amended (19 U.S.C. 1436) apply, and any aircraft used in connection with any such violation shall be subject to seizure and forfeiture, as provided for in the Customs laws. A penalty or forfeiture may be mitigated under Part 171 of this chapter.

**§ 122.162 Failure to notify and explain differences in air cargo manifest.**

(a) *Application.* Penalties shall be assessed if differences in an air cargo manifest (overages or shortages) are discovered and:

(1) The required notice and explanation are not made in time;

(2) The district director is not satisfied that the differences were caused by clerical error or other mistake;

(3) There has been a loss of revenue to the U.S.; or

(4) The district director is not satisfied that there was a valid reason for delay in reporting any differences.

(b) *Definition.* Under this section, "clerical error or other mistake" means a non-negligent, inadvertant, or typographical mistake, made when the manifest is prepared, assembled or submitted.

(c) *Repeated differences.* If repeated differences are found in manifests filed by the same person, it may be determined that the differences were a result of negligence and not clerical error or other mistake.

(d) *Knowledge.* A penalty may be assessed for differences in a manifest that are unknown to the aircraft commander or owner.

**§ 122.163 Transit air cargo traveling to U.S. ports.**

(a) *Application.* If transit air cargo is traveling from the port of arrival to another U.S. port under § 122.119, a liability shall be assessed, as set out in § 18.8 of this chapter if there has been:

(1) Shortage in delivery;

(2) Irregular delivery; or

(3) Non-delivery.

(b) *Liabilities assessed.* The liabilities assessed under this section are imposed as liquidated damages under a carrier's bond.

(c) *Value of merchandise.* The district director shall determine the value of merchandise for assessment purposes based on the following factors:

(1) Any data or documents available to the airline which presented a receipt for the transit air cargo, and available to the importing airline relating to the description and value of the cargo; and

(2) Other information available to the district director relating to the same or similar merchandise. If the data or documents required by this section are not submitted within 90 days of the date requested, the district director shall determine value on the basis of other available information. The transit air cargo manifest does not reflect value.

**§ 122.164 Transportation to another port for exportation.**

If transit air cargo is traveling from the port of arrival to another U.S. port for later exportation, any liquidated damages for shortages or irregular delivery shall be assessed as provided in § 122.163.

**§ 122.165 Air cabotage.**

(a) The air cabotage law (49 U.S.C. App. 1508(b)) prohibits the transportation of persons, property, or mail for compensation or hire between

points of the U.S. in a foreign civil aircraft. The term "foreign civil aircraft" includes all aircraft that are not of U.S. registration except those foreign-registered aircraft leased or chartered to a U.S. air carrier and operated under the authority of regulations issued by the Department of Transportation, as provided for in 14 CFR 121.153, and those aircraft used exclusively in the service of any government.

(b) Customs officers detecting possible violations shall report the matter to Headquarters, Attention: Carrier Rulings Branch. Liability should not be assessed under 49 U.S.C. App. 1471 pending instructions from Headquarters since certain limited domestic transportation by foreign civil aircraft is permitted under regulations issued by the Department of Transportation.

**§ 122.166 Arrival, departure, discharge, and documentation.**

(a) *Liability for civil penalties.* Except as otherwise provided, any aircraft pilot violation of the requirements of section 433, Tariff Act of 1930, as amended, (19 U.S.C. 1433), with respect to the following actions shall be liable for civil penalties as provided by section 436, Tariff Act of 1930, as amended (19 U.S.C. 1436), and described in paragraph (c) of this section:

(1) Advance notification of arrival;

(2) Report of arrival;

(3) Landing of aircraft;

(4) Presentation of documentation;

(5) Departure from the port, place, or airport of arrival without authorization; or

(6) Discharge of passenger, or merchandise (to include baggage) without authorization.

(b) *Liability for criminal penalties.* Upon conviction, any aircraft pilot violating any of the Customs requirements described in paragraph (a) of this section shall, in addition to civil penalties be subject to criminal penalties as set forth in section 436, Tariff Act of 1930, as amended, (19 U.S.C. 1436), and described in paragraph (c) of this section. If the aircraft has or is discovered to have had on board any merchandise (other than the equivalent, for a vessel, of sea stores) the importation of which into the U.S. is prohibited, that person shall be subject to an additional fine as set forth in 19 U.S.C. 1436 and described in paragraph (c) of this section.

(c) *Civil and criminal penalties described*—(1) *Civil penalty.* The pilot of any aircraft who fails to comply with the requirements of this section is liable for a civil penalty of $5,000 for the first violation, and $10,000 for each subsequent violation. Any aircraft used in connection with any such violation is subject to seizure and forfeiture.

(2) *Criminal penalty.* In addition to the civil penalty prescribed for violation of this section, the pilot of any aircraft who intentionally fails to comply with the requirements of this section is liable, upon conviction, for a fine of not more than $2,000 or imprisonment for 1 year, or both. If the aircraft is found to have, or to have had, on board any merchandise the importation of which is prohibited, such individual is liable for an additional fine of not more than $10,000 or imprisonment for not more than 5 years, or both.

(3) *Additional civil penalty.* If any merchandise, other than the equivalent of vessel sea stores, is imported or brought into the U.S. aboard an aircraft which has failed to comply with the requirements prescribed by this section, the pilot of the aircraft shall be liable for a civil penalty equal to the value of the merchandise, and the merchandise may be seized and forfeited, unless properly entered by the importer or consignee.

**§ 122.167 Aviation smuggling.**

(a) *Civil penalties.* Any aircraft pilot who transports, or any person on board any aircraft who possesses prohibited or restricted merchandise knowing, or intending, that the merchandise will be introduced into the U.S. contrary to law shall be subject to a civil penalty of twice the value of the merchandise involved, but not less than $10,000, as prescribed in section 590, Tariff Act of 1930, as amended (19 U.S.C. 1590). Any aircraft used in connection with, or in aiding or facilitating, any violation of 19 U.S.C. 1590, whether or not any person is charged in connection with such violation, may be seized and forfeited in accordance with Customs laws.

(b) *Criminal penalties.* Any aircraft pilot or person who intentionally violates 19 U.S.C. 1590 is, upon conviction, subject to the criminal penalties of a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, if none of the merchandise involved is a controlled substance. More severe penalties are provided in 19 U.S.C. 1590 if the smuggled merchandise is a controlled substance. In such case, a violator is liable for a fine of not more than $250,000 or imprisonment for not more than 20 years, or both.

(c) For purposes of imposing civil penalties under this section, any of the following acts, when performed within 250 miles of the territorial sea of the United States, shall be evidence that the transportation or possession of merchandise was unlawful and shall indicate that the purpose of the transfer was to make it possible for such merchandise, or any part of it, to be introduced into the U.S. unlawfully. For purposes of seizure and forfeiture, the following acts shall be evidence that an aircraft was used in connection with, or to aid or facilitate, a violation of this section:

(1) The operation of an aircraft without lights during such times as lights are required to be displayed under applicable law.

(2) The presence on an aircraft of an auxilliary fuel tank which is not installed in accordance with applicable law.

(3) The failure to correctly identify the aircraft by registration number and country of registration, when requested to do so by a customs officer or other government authority.

(4) The external display of false registration numbers or false country of registration.

(5) The presence on board of unmanifested merchandise, the importation of which is prohibited or restricted.

(6) The presence on board of controlled substances which are not manifested or which are not accompanied by the permits or licenses required under Single Convention on Narcotic Drugs or other international treaty.

(7) The presence of any compartment or equipment which is built or fitted out for smuggling.

**Conforming Amendments to the Regulations**

Parts 4, 10, 18, 24, 123, and 162, Customs Regulations (19 CFR Parts 4, 10, 18, 24, 123, and 162), are amended as set forth below.

## PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority citation for Part 4 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. 3, 2103.

**§ 4.30 [Amended]**

2. Section 4.30(l) and (m) is amended by removing the references to "Part 6", and by inserting, in their places, references to "Part 122".

## PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

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

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1623, 1624.

**§ 10.41 [Amended]**

2. Section 10.41(c) is amended by removing the reference to "Part 6", and by inserting, in its place, a reference to "Part 122".

## PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

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

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnt. 11), 1551, 1552, 1553, 1624.

**§ 18.2 [Amended]**

2. Section 18.2(c)(2) is amended by removing the reference to "§ 6.21" and inserting, in its place, a reference to "§ 122.118".

## PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for Part 24 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnte. 11), 1624; 31 U.S.C. 9701.

**§ 24.12 [Amended]**

2. Section 24.12(d) is amended by removing the reference to "§ 6.9(f)" and inserting, in its place, a reference to "§ 122.88".

## PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The authority citation for Part 123 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (Gen. Hdnte. 11), 1624.

**§ 123.0 [Amended]**

2. Section 123.0 is amended by removing the reference to "Part 6" and inserting, in its place, a reference to "Part 122".

## PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

1. The authority citation for Part 162 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624.

**§ 162.72 [Amended]**

2. Section 162.72(b)(3)(ii) is amended by removing the reference to "§ 6.11" and inserting, in its place, a reference to "§ 122.161".

3. Section 162.72(c) is amended by removing the reference to "§ 6.7(h)(5)" and inserting, in its place, a reference to "§ 122.162".

**William von Raab,**
*Commissioner of Customs.*

Approved: March 8, 1988.

**Francis A. Keating II,**
*Assistant Secretary of the Treasury.*

[FR Doc. 88-5723 Filed 3-21-88; 8:45 am]

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**19 CFR Part 4**

**[T.D. 88-15]**

## Customs Regulations Amendment Removing Ecuador From the List of Countries Entitled to Special Tonnage Tax Exemption

**AGENCY:** Customs Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Customs Regulations by removing Ecuador from the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money. The Department of State has informed Customs that U.S. vessels have been paying lighthouse fees in Ecuadorian ports since at least 1983, in apparent violation of a reciprocal agreement under which the vessels of neither country would be assessed such duties. Exemption from the assessment of such duties is a privilege which is extended to vessels of countries which extend such privileges to U.S. vessels. Since U.S. vessels are no longer exempt from special tonnage fees and light money in Ecuador, the privileges regarding exemption from the payment of such duties at U.S. ports will no longer be extended to vessels registered in Ecuador.

**EFFECTIVE DATE:** February 4, 1988.

**FOR FURTHER INFORMATION CONTACT:** Paul Hegland, Carrier Rulings Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229 (202-566-5706).

**SUPPLEMENTARY INFORMATION:**

### Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, known as "light money", on all foreign vessels which enter United States ports (46 U.S.C. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of proof, satisfactory to the President, that no discriminatory duties of tonnage or imposts are imposed by that foreign nation on U.S. vessels or their cargoes (46 U.S.C. 141). Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been exempted from the payment of any higher tonnage duties than are applicable to vessels of the U.S., and from payment of light money.

Ecuadorian ships have been exempt as the result of a finding, based upon reciprocity, issued in 1944. By letter, dated January 12, 1988, the Department of State informed the U.S. Customs Service that the U.S. Embassy in Quito, Ecuador had reported it had been advised that U.S. vessels have been paying lighthouse fees in Ecuadorian ports since 1983. This is in violation of the requirement for reciprocal treatment, since Ecuadorian vessels were not being charged such fees at U.S. ports. Because of this lack of reciprocity, the Department of State recommended that Ecuador be removed from the list of nations whose vessels are exempted from payment of special tonnage taxes and light money. On February 4, 1988, the Director, Office of Regulations and Rulings of the U.S. Customs Service determined that, as of that date, Ecuador should be deleted from the list in § 4.22.

By virtue of the authority vested in the President by section 4228 of the revised statutes, as amended (116 U.S.C. 141), the President delegated the authority to grant the exemption from payment of special tonnage tax and light money to the Secretary of the Treasury by E.O. 10289, September 17, 1951, as amended by E.O. No. 10882, July 18, 1960 (3 CFR 1959-1960 Comp., Ch. II). By Treasury Department Order 165025, the Secretary of the Treasury delegated authority to the Commissioner of Customs to prescribe regulations relating to § 4.22 and other sections of the Customs Regulations relating to lists of countries entitled to preferential treatment in Customs matters because of reciprocal privileges accorded to vessels and aircraft of the U.S. Subsequently, by Customs Delegation Order No. 66 (T.D. 82-201), dated October 13, 1982, the Commissioner delegated authority to amend this section to the Assistant Commissioner (Commercial Operations), who redelegated this authority to the Director, Office Regulations and Rulings, who then redelegated it to the Chief, Regulations and Disclosure Law Branch.

### Finding

On the basis of the information received from the Department of State, as described above, it has been determined that the U.S. is in possession of satisfactory evidence regarding the

assessment of lighthouse fees on U.S. vessels by the nation of Ecuador in violation of an agreement to the contrary. Therefore, Ecuador will be deleted from the list of nations whose vessels are exempted from the payment of the special tonnage tax and the payment of light money as of February 4, 1988.

**Inapplicability of Public Notice and Delayed Effective Date Requirements**

Because this amendment merely implements a statutory requirement and involves a matter in which the majority of the public is not particularly interested, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary. Further, for the same reasons good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1).

**The Regulatory Flexibility Act**

This document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). 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.

**Effective Order 12291**

This amendment does not meet the criteria for a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

**Drafting Information**

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

**List of Subjects in 19 CFR Part 4**

Customs inspection and duties, Harbors, Vessels.

## PART 4—VESSELS IN FOREIGN DOMESTIC TRADES

1. The general authority citation for Part 4 and the specific authority for § 4.22 continue to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1624, 46 U.S.C. 3, 2103.

Section 4.22 also issued under 46 U.S.C. 121, 128, 141.

**§ 4.22 [Amended]**

2. Section 4.22, Customs Regulations (19 CFR 4.22), is amended by removing "Ecuador" from the list of nations entitled to exemptions from special tonnage taxes and light money.

Date: March 14, 1988.

**B. James Fritz,**

*Chief, Regulations and Disclosure Law Branch.*

[FR Doc. 88-6106 Filed 3-21-88; 8:45 am]

BILLING CODE 9107-37-M

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## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 914

## Approval of Amendments to the Indiana Permanent Regulatory Program

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

**ACTION:** Final rule.

**SUMMARY:** The Director of OSMRE is announcing the approval of a proposed amendment submitted by the State of Indiana as a modification to its permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The proposed amendment consists of revisions to the Indiana program pertaining to the removal and segregation of topsoil at both surface and underground mining sites. This action is in response to OSMRE's imposition of a required amendment at 30 CFR 914.16(d) to delete the inclusion of the term "permanent impoundments" from the listings of those areas for which topsoil need not be removed.

**EFFECTIVE DATE:** March 22, 1988.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard D. Rieke, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204. Telephone (317) 269-2609 or (FTS) 331-2609.

**SUPPLEMENTARY INFORMATION:**

**I. Background on the Indiana Program**

The general background on the Indiana submission and the approval process, as well as the Secretary's findings, the disposition of comments and an explanation of the conditions of approval can be found in the July 26 1982 **Federal Register** (47 FR 32107). Other actions concerning the approval, subsequent program amendments, and required amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

**II. Discussion of Proposed Amendment**

In 1985, OSMRE determined that "permanent impoundments" would not be considered minor disturbances and that topsoil from such sites must be removed and salvaged (50 FR 20206, May 15, 1985). As a result, a required program amendment was imposed on the Indiana program to remove the term "permanent impoundments" from the listings of sites for which topsoil need not be removed.

By letter dated April 10, 1987 (Administrative Record No. IND-0482), the Indiana Department of Natural Resources submitted to OSMRE, pursuant to 30 CFR 732.17, a proposed State program amendment for approval in response to the requirements at 30 CFR 914.16(d). Indiana proposed to amend 310 IAC 12-1-12.5(a)(3)(i) and 310 IAC 12-5-78.1(a)(3)(i) pertaining to topsoil removal at surface and underground coal mine sites, respectively. The amended rules delete the term "permanent impoundments" from the list of sites from which topsoil need not be removed.

**III. Director's Findings**

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendment submitted by Indiana on April 10, 1987, meets the requirements of SMCRA and 30 CFR Chapter VIII. Removal of the term "permanent impoundments" from the lists of sites from which topsoil need not be removed renders the Indiana provisions no less effective than the Federal rules at 30 CFR 816.22.

**IV. Public Comment**

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were solicited from various Federal agencies. No substantive comments were received.

On July 9, 1987, OSMRE published a notice of the receipt of the amendment and invited public comment on the adequacy of the proposed amendment in the **Federal Register** (52 FR 25887). The notice stated that a public hearing would be held only if requested. Since there were no requires for a hearing, a hearing was not held. The comment period closed on August 10, 1987, with no public comments received.

**V. Director's Decision**

Based on the findings, the Director is approving the amendment to the Indiana program as submitted on April 10, 1987. The Director is amending § 914.15 or 30 CFR Chapter VII to implement this decision. In addition, the required program amendments section at 30 CFR

914.16(d) is being removed to reflect the fulfillment of the requirement amendments.

## VI. Procedural Requirements

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 evironmental impact statement need be prepared on this rulemaking.

2. *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 by prepared on this rulemaking.

2. *Compliance with Executive Order No. 12291:* 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, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

3. *Compliance with the Regulatory Flexibility Act:* 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.

4. *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 914

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

Date: March 14, 1988.

**Robert E. Boldt,**

*Acting Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.*

## PART 914—INDIANA

30 CFR Part 914 is amended as follows:

1. The authority citation for Part 914 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.*).

2. Paragraph (r) is added to § 914.15 to read as follows:

**§ 914.15 Approval of regulatory program amendments.**

* * * * *

(r) The following amendments submitted by the Indiana Department of Natural Resources to OSMRE on April 10, 1987, are approved effective March 22, 1988: amendments to the Indiana regulations at 310 IAC 12-5-12.1(a)(3)(i) and 310 IAC 12-5-78.1(a)(3)(i) concerning removal of the term "permanent impoundments" from the listings of sites for which topsoil need not be removed.

* * * * *

**§ 914.16 [Amended]**

3. Section 914.16 is amended by removing paragraph (d) in its entirety.

[FR Doc. 88-6174 Filed 3-21-88; 8:45 am]

BILLING CODE 4310-05-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### 32 CFR Part 40a

### Defense Contracting; Reporting Procedures on Defense Related Employment

**AGENCY:** Department of Defense.

**ACTION:** Final rule amendment.

**SUMMARY:** The Department of Defense issued 32 CFR Part 40a which was printed in the **Federal Register** on Tuesday, December 22, 1987 (52 FR 48431).

This amendment is made to correct an administrative error submitted.

**EFFECTIVE DATE:** September 30, 1987.

**FOR FURTHER INFORMATION CONTACT:** Mr. J.R. Sungenis, Director for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

**SUPPLEMENTARY INFORMATION:**

### List of Subjects in 32 CFR Part 40a

Government procurement.

Accordingly, 32 CFR Part 40a is amended to read as follows:

## PART 40a—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 10 U.S.C. 2397.

**§40a.1 [Amended]**

2. In § 40a.1, change "Morrison Knudsen Corp." to "Morrison Knudsen Co., Inc."

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

March 17, 1988.

[FR Doc. 88-6227 Filed 3-21-88; 8:45 am]

BILLING CODE 3810-01-M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 13

### Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; Correction

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects an error in a document published on Friday, March 11, 1988. That document concerned "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments".

**FOR FURTHER INFORMATION CONTACT:** Arthur E. Curry, Office of the Comptroller Policy Division (202) 646-3717.

In FR Doc. 88-5251 beginning on page 8034 in the issue for Friday, March 11, 1988, make the follow correction. On page 8078, in the second column, the sixth paragraph is corrected to read "Title 44 of the Code of Federal Regulations is amended by adding Part 13 as set forth at the end of this document."

**Arthur E. Curry,**

*Chief, Policy Division.*

Date: March 16, 1988.

[FR Doc. 88-6170 Filed 3-21-88; 8:45 am]

BILLING CODE 6718-21-M

# Proposed Rules

Federal Register
Vol. 53, No. 55
Tuesday, March 22, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Farmers Home Administration

### 7 CFR Parts 1822,1823, 1910, 1941, 1942, 1943, 1944, 1945, 1951, 1955, and 1965

### Use of Certification Statements in Collection of Debt by the Farmers Home Administration

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Farmers Home Administration (FmHA) proposes to amend its regulations to add a new requirement concerning the use of applicant certification statements. This action is necessary to comply with OMB Circular A-129, Subject: Managing Federal Credit Programs. The intended effect is to establish procedure to ensure that applicants for Federal loans are aware of debt collection methods the Federal Government can use in recovering delinquent or defaulted debt on FmHA loans.

**DATE:** Comments must be submitted on or before May 23, 1988.

**ADDRESSES:** Submit written comments in duplicate to the Office of the Chief, Directives and Forms Management Branch, FmHA, Room 6348, South Agriculture Building, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address. The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Officer for the Farmers Home Administration, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Norma Weetman, Chief, Management Analysis Branch, Financial and Management Analysis Staff, Farmers Home Administration, Room 4929, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250, Telephone (202) 475-3859.

**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.

#### 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 this 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.

#### Intergovernmental Consultation

This program/activity is not subject to the provisions of Executive Order 12372 which required intergovernmental consultation with State and local officials.

#### Programs Affected

This program/activity is listed in the Catalog of Federal Domestic Assistance under: 10.404 Emergency Loans; 10.405 Farm Labor Housing Loans and Grants; 10.406 Farm Operating Loans; 10.407 Farm Ownership Loans; 10.410 Low Income Housing Loans; 10.411 Rural Housing Site Loans; 10.414 Resource Conservation and Development Loans; 10.415 Rural Rental Housing Loans; 10.416 Soil and Water Loans; 10.417 Very Low-Income Housing Repair Loans and Grants; 10.418 Water and Waste Disposal Systems Loans; 10.419 Watershed Protection and Flood Prevention Loans; 10.421 Indian Tribes and Tribal Corporation Loans; and 10.423 Community Facilities Loans.

#### Regulatory Flexibility Act

The Administrator, Farmers Home Administration, USDA, has determined that this action will not have a significant economic impact on a substantial number of small entities because it requires applicants only to read and to acknowledge a list of actions that the Government can take to collect delinquent debt.

#### Background

OMB Circular A-129 requires that Federal Agencies must use Certification Statements during the loan application process to notify applicants about the Federal Government's debt collection policies. Therefore, FmHA proposes to amend its regulations to require that the County Suprevisor or District Director must review a certification statement with applicants for insured loans and that the applicant must sign and date the certification statement to show that the applicant is aware of and understands the debt collection methods the Federal Government can use in recovering delinquent or defaulted debt on FmHA loans.

#### List of Subjects

*7 CFR Part 1822*

Loan programs—Housing and community development, Low and moderate income housing, Mortgages, Nonprofit organizations, Rural housing.

*7 CFR Part 1823*

Credit, Indians.

*7 CFR Part 1910*

Applications, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing, Marital status discrimination, Sex discrimination.

*7 CFR Part 1941*

Crops, Livestock, Loan programs—Agriculture, Rural areas, Youth.

*7 CFR Part 1942*

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and

disposal—Domestic, Water supply—Domestic.

*7 CFR Part 1943*

Credit, Loan programs—Agriculture, Recreation, Water resources.

*7 CFR Part 1944*

Administrative Practice and Procedure, Aged, Farm labor housing, Grant programs—Housing and community development, Handicapped, Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Migrant labor, Mobile homes, Mortgages, Nonprofit organizations, Public housing, Rent subsidies, Rural housing, Subsidies.

*7 CFR Part 1945*

Agriculture, Disaster assistance, Loan programs—Agriculture.

*7 CFR Part 1951*

Account servicing, Grant programs—Housing and community development, Reporting requirements, Rural areas.

*7 CFR Part 1955*

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

*7 CFR Part 1965*

Administrative practice and procedure, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mortgages, Rural areas.

Therefore, FmHA proposes to amend Chapter XVIII, Title 7, Code of Federal Regulations as follows:

## PART 1822—RURAL HOUSING LOANS AND GRANTS

1. The authority citation for Part 1822 continues to read as follows:

**Authority:** 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

### Subpart G—Rural Housing Site Loan Policies, Procedures, and Authorizations

**§ 1822.271 [Amended]**

2. Section 1822.271(e) is amended by adding the following entry to the list of forms after the Application Letter and Attachments and before the Evidence of Legal Authority (copy or citation of specific provisions of State statutory authority):

| Form No. | Name of form or document | Total No. of copies | Signed by borrower | No. for loan docket | Copy for borrower |
|---|---|---|---|---|---|
| * | * * * * * | | * | * | |
| FmHA 1910-11. | Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts ..... | 2 | 2-O&C | 1-O | 1-C |
| * | * * * * * | | * | * | |

## PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

3. The authority citation for Part 1823 is added to read as follows:

**Authority:** 7 U.S.C. 1989, 5 U.S.C. 301, 25 U.S.C. 490, 7 CFR 2.23, 7 CFR 2.70.

### Subpart N—Loans to Indian Tribes and Tribal Corporations

**Exhibit A [Amended]**

4. Exhibit A, Section 1 is amended by adding the following phrase to the list of forms after Form AD 621 and before Form FmHA 442-12:

"Form FmHA 1910-11: Aplicant Certification, Federal Collection Policies for Consumer or Commercial Debts. (O & 1C—Sign O)"

## PART 1910—GENERAL

5. The authority citation for Part 1910 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—Receiving and Processing Applications

6. Section 1910.8 is amended by adding paragraph (f) to read as follows:

**§ 1910.8 Reaching an understanding.**

* * * * *

(f) *Use of Form FmHA 1910-11, "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts."* Before loan closing, all insured Single Family Housing (502 and 504) and Farmer Program loan applicants will have Form FmHA 1910-11 reviewed with them by the County Supervisor, and all insured Multi-Family Housing and Community Program loan applicants will have Form FmHA 1910-11 reviewed with them by the Loan Approval Official (District Director or State Director, as appropriate.) Form FmHA 1910-11 explains collection policies that will be taken by FmHA to recover delinquent or defaulted debt on insured loans. Form FmHA 1910-11 will be signed and distributed in accordance with the Forms Manual Insert. The applicant certification statement does not constitute a notification under the Debt Collection Act or the Deficit Reduction Act.

## PART 1941—OPERATING

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

**Authority:** 7 U.S.C. 1989, 7 CFR 2.23, 7 CFR 2.70.

### Subpart A—Operating Loan Policies, Procedures and Authorizations

**Exhibit A [Amended]**

8. Exhibit A is amended in item A. APPLICANT INTERVIEW, by adding the following entry to the list of application processing forms after Form FmHA 410-1 and before Form FmHA 1910-5.

| Form No. | Name | |
|---|---|---|
| * | * * * * * | |
| 1910-11 | Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts. | (X) |
| * | * * * * * | |

## PART 1942—ASSOCIATION

9. The authority for Part 1942 continues to read as follows:

**Authority:** 7 U.S.C. 1989, 16 U.S.C. 1005, 7 CFR 2.23, 7 CFR 2.70.

### Subpart A—Community Facilities Loans

10. Section 1942.2 is amended by adding a new paragraph (a)(2)(v) to read as follows:

**§ 1942.2 Processing applications.**

(a) * * *

(2) * * *

(v) The District Director will review Form FmHA 1910–11, "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts," with the applicant. The applicant must sign and date the form after this review. A copy of the signed and dated form will be given to the applicant and the original placed in the loan docket.

* * * * *

## PART 1943—FARM OWNERSHIP, SOIL AND WATER, AND RECREATION

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

**Authority:** 7 U.S.C. 1989, 7 CFR 2.23, 7 CFR 2.70.

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

**§ 1943.32 [Amended]**

12. Section 1943.32 (a) is amended by adding the following entry to the list of forms after Form FmHA 410–1 and before Form FmHA 410–8:

| FmHA Form No. | Name of form | Total of No. of copies | Signed by borrower [1] | Loan docket [1] | Copy for borrower [1] |
|---|---|---|---|---|---|
| | * * * * * | | | | |
| 1910–11 | Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts | 2 | 2–O&C | 1–0 | 1–C |
| | * * * * * | | | | |

[1] O=Original; C=Copy.

* * * * *

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

**§ 1943.82 [Amended]**

13. Section 1943.82(a) is amended by adding the following entry to the list of forms after Form FmHA 410–1 and before Form FmHA 410–8:

| FmHA Form No. | Name of form | Total of No. of copies | Signed by borrower [1] | Loan docket [1] | Copy to borrower [1] |
|---|---|---|---|---|---|
| | * * * * * | | | | |
| 1910–11 | Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts | 2 | 2–O&C | 1–0 | 1–C |
| | * * * * * | | | | |

[1] O=Original; C=Copy.

* * * * *

### Subpart C—Insured Recreation Loan Policies, Procedures and Authorizations

**§ 1943.132 [Amended]**

14. Section 1943.132(a) is amended by adding the following entry to the list of forms after Form FmHA 410–1 and before Form FmHA 410–8:

| FmHA Form No. | Name of form | Total of No. of copies | Signed by borrower [1] | Loan docket [1] | Copy to borrower [1] |
|---|---|---|---|---|---|
| | * * * * * | | | | |
| 1910–11 | Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts | 2 | 2–O&C | 1–0 | 1–C |
| | * * * * * | | | | |

[1] O=Original; C=Copy.

## PART 1944—HOUSING

15. The authority citation for Part 1944 continues to read as follows:

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

**§ 1944.30 [Amended]**

### Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

16. Section 1944.30(a) is amended by reading the following entry to the list of forms after Form FmHA 410–4 and before Form FmHA 1944–12:

| Form No. | Name of form | Total of No. of copies | Signed by borrower [1] | Loan docket [1] | Copy for borrower [1] |
|---|---|---|---|---|---|
| | * * * * * | | | | |
| FmHA 1910–11 | Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts | 2 | [1] [2] 2 | [1] 1 | [2] 1 |
| | * * * * * | | | | |

[1] Original. [2] C=Copy.

* * * * *

## Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations

**§ 1944.171 [Amended]**

17. Section 1944.171(d) is amended by reading the following entry to the list of forms after Form AD–625 and before Exhibit A–1:

| Form No. | Name of form or document | Total No. of copies | Signed by borrower [1] | No. for docket [1] | Copy for borrower [1] |
|---|---|---|---|---|---|
| | * * * * * | | | | |
| FmHA 1910–11 | Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts | 2 | 2–O&C | 1–0 | 1–C |
| | * * * * * | | | | |

## Subpart J—Section 504 Rural Housing Loans and Grants

18. Section 1944.467 is amended by revising paragraph (a), by redesignating paragraphs (g)(2) and (g)(3) as (g)(3) and (g)(4) and by adding a new paragraph (g)(2) to read as follows:

**§ 1944.467 Processing applications.**

(a) *Application form.* Application for Section 504 loans and grants will be made on Form FmHA 410–4, "Application for Rural Housing Loans Assistance (Non-Farm Tract)," and processed in accordance with Subpart A of Part 1910 of this chapter.

* * * * *

(g) * * *

(2) Review Form FmHA 1910–11, "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts," with applicants for loans.

* * * * *

## PART 1945—EMERGENCY

19. The Authority Citation for Part 1945 is added to read as follows:

**Authority:** 7 U.S.C. 1989, 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.73, 7 CFR 2.70

## Subpart D—Emergency Loan Policies, Procedures and Authorizations

**Exhibit A [Amended]**

20. In Exhibit A, paragraph III A 5 is amended by adding the following entry to the list of forms after Form FmHA 410–1 and before Form FmHA 1910–5:

| Form No. | Name | Use |
|---|---|---|
| * | * * * * | * |
| 1910–11 | Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts. | X |
| * | * * * * | * |

22. The authority for Part 1951 is added 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 E—Servicing of Community Program Loans and Grants

23. Section 1951.210 is amended by adding a new paragraph (f) (15) to read as follows:

**§ 1951.210 Transfer of security and assumption of loans.**

* * * * *

(f) * * *

(15) Form FmHA 1910–11, "*Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts.*" The District Director must review Form FmHA 1910–11, "Application Certification, Federal Collection Policies for Consumer or Commercial Debts," with the applicant.

* * * * *

24. Section 1951.211 is amended by revising the introductory text of paragraph (c) to read as follows:

**§ 1951.211 Mergers.**

* * * * *

(c) *Processing mergers.* Processing is made according to all applicable items of § 1951.210 (e) (1) through (15) of this subpart. In addition:

* * * * *

## PART 1955—PROPERTY MANAGEMENT

25. 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

26. Section 1955.108 is amended by adding paragraph (i) to read as follows:

**§ 1955.108 Processing and closing (CONACT).**

* * * * *

(i) *Form FmHA 1910–11, "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts."* The County Supervisor or District Director must review Form FmHA 1910–11, "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts," with the applicant.

27. Section 1955.118 is amended by adding a new paragraph (h) to read as follows:

**§ 1955.118 Processing cash sales or credit sales on ineligible terms (housing).**

* * * * *

(h) *Form FmHA 1910–11, "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts."* The County Supervisor or District Director must review Form FmHA 1910–11, "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts," with the applicant.

## PART 1965—REAL PROPERTY

28. 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

29. Section 1965.27 is amended by adding paragraph (b) (21) to read as follows:

**§ 1965.27 Transfer of real estate security.**

* * * * *

(b) * * *

(21) Form FmHA 1910–11, "*Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts.*" For all transfers, the County Supervisor must review form FmHA 1910–11, "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts," with the applicant. A copy of the signed and dated form will be given to the applicant and the original placed in the loan docket.

### Subpart B—Security Servicing for Multiple Housing Loans

30. Section 1966.65 is amended by adding a new paragraph (a) (10) to read as follows:

**§ 1965.65 Transfer of real estate security and assumption of loans.**

(a) * * *

(10) for all transfers, the District Director must review Form FmHA 1910–11, "Applicant Certification, Federal Collection Policies for Consumer or Commercial Debts," with the applicant. A copy of the signed and dated form will be given to the applicant and the original placed in the loan docket.

* * * * *

Dated: February 3, 1988.

**Vance L. Clark,**

*Administrator, Farmers Home Administration.*

[FR Doc. 88–6021 Filed 3–21–88; 8:45 am]

BILLING CODE 3410–07–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 87-NM-130-AD]**

## Airworthiness Directives; Short Brothers, Ltd., SD3-30 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Supplemental Notice of Proposed Rulemaking (NPRM); reopening of comment period.

**SUMMARY:** This notice proposes to amend an earlier proposed airworthiness directive (AD) that would have required replacement of certain pitot tubes on Shorts Model SD3–60 series airplanes. That proposal was prompted by reports of inoperative pitot tubes due to icing. This condition, if not corrected, could result in erroneous airspeed and altitude indications. This action proposes to revise the applicability of the proposed rule to identify the appropriate model of airplane affected by the proposed action.

**DATES:** Comments must be received no later than May 2, 1988.

**ADDRESSES:** Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–130–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from the Short Brothers Ltd., Service Representative, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202–3702. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Herron, Systems and Equipment Branch, Seattle Aircraft Certification Office, ANM–130S; telephone (206) 431–1949. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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 specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

### Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM–103), Attention: Airworthiness Rules Docket No. 87–NM–130–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

### Discussion

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires the replacement of certain pitot tubes made from stainless steel on Short Brothers, Ltd. Model SD3–60 series airplanes, was published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on October 14, 1987 (52 FR 38107). The comment period closed on November 12, 1987.

Interested parties have been afforded an opportunity to comment on this proposal. Due consideration has been given to the comments received.

One commenter stated that the effectivity section of the applicable service bulletin listed the serial numbers of Shorts Model SD3–30 series airplanes, rather than Model SD3–60 series airplanes. The FAA has verified this fact with the manufacturer. Further discussion with the manufacturer has also verified that, while the applicable service bulletin refers to inoperative pitot tubes on Model SD3–60 airplanes, the procedures described in the service bulletin apply to the Model SD3–30, not the Model SD3–60. In light of the foregoing, the FAA has determined that the applicability of this proposed action must be revised to reflect only Shorts Model SD3–30 series airplanes.

Since this action changes the scope of the proposed AD, the comment period has been reopened to provide adequate time for public comment. Further, a reiteration of the discussion follows, for the benefit of those operators now affected by this supplemental proposed action:

This action is prompted by several reports of inoperative pitot tubes due to icing, which have resulted in erroneous airspeed and altitude indications.

Short Brothers, Ltd., issued Service Bulletin SD3–345–26, Revision 1, dated

October 1985, which indicates that pitot tubes produced between October 1982 and October 1983 were manufactured from stainless steel, in lieu of copper, with a resultant reduction of efficiency of the anti-icing system. These stainless steel pitot tubes bear a code letter "Z" adjacent to the serial number. The service bulletin describes inspection of pitot tubes for code letter "Z," and replacement, if necessary with copper pitot tubes bearing a code letter other than "Z." The United Kingdom Civil Aviation Authority (CAA) has classified the service bulletin as Mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on Shorts Model SD3-30 series airplanes registered in the United States, an AD is proposed which would require replacement of left and right pitot tubes bearing code letter "Z" adjacent to the serial number with pitot tubes bearing a code letter other than "Z," in accordance with the service bulletin previously mentioned.

It is estimated that 66 airplanes of U.S. registry would be affected by this AD, that it would take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $7,920.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($120). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

**List of Subjects in 14 CFR Part 39**

Aviation Safety, Aircraft.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

## PART 39—[AMENDED]

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.

2. By amending the applicability statement of the Notice of Proposed Rulemaking, Docket No. 87-NM-130-AD, published in the **Federal Register** on October 14, 1987 (52 FR 38107), FR Doc. 87-23678, as follows:

**Short Brothers, Ltd.:** Applies to Model SD3-30 series airplanes; serial numbers SH3002 through SH3096, inclusive; certificated in any category. Compliance required as indicated, unless previously accomplished."

To prevent pitot tubes from becoming inoperative due to icing, which could result in erroneous airspeed and altitude indication, accomplish the following:

A. Within the next 180 days after the effective date of this AD, replace pitot tubes having the code letter "Z" adjacent to the serial number with one containing a code letter other than "Z," in accordance with accomplishment instructions in Service Bulletin SD3-34-26, Revision 1, dated September 1, 1985.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the requirements required by this AD.

All persons affected by this proposal who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Short Brothers, Ltd., Service Representative, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3702. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on March 14, 1988.

**Frederick M. Isaac,**

*Acting Director, Northwest Mountain Region.*

[FR Doc. 88-6148 Filed 3-21-88; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 71**

**[Airspace Docket No. 88-AGL-1]**

## Establishment of Transition Area; Litchville, ND

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to establish the Litchville, ND, transition area to accommodate air taxi operators requesting a direct route to Alexandria, MN from Jamestown, ND and the Minneapolis-St. Paul, MN area. The intended effect of this action is to ensure segregation of Instrument Flight Rule (IFR) aircraft from other aircraft operating under visual weather conditions in controlled airspace.

**DATES:** Comments must be received on or before April 21, 1988.

**ADDRESS:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 88-AGL-1, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

**FOR FURTHER INFORMATION CONTACT:** Harold G. Hale, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

**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. 88-AGL-1." 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, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, 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 Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426-8058. 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.

**The Proposal**

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area airspace near Litchville, ND.

Presently, air taxi operators from Jamestown, ND, to the Minneapolis-St. Paul, MN area, routinely request a direct route to Alexandria, MN to save time and fuel. There are no airways. However, radar coverage is adequate to routinely approve a direct route, but when a direct route is used a portion of the climb or descent is made in uncontrolled airspace adding an additional workload on controllers. By designating this transition area better radar vectoring service for users going to and from Jamestown Municipal Airport will be provided. It will also eliminate an additional workload on controllers; and, will save the aviation users time and fuel.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

**List of Subjects in 14 CFR Part 71**

Aviation safety, Transition areas.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

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

1. The authority citation for Part 71 continues to read as follows:

**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.

**§ 71.181 [Amended]**

2. Section 71.181 is amended as follows:

**Litchville, ND [New]**

That airspace extending upward from 1200' AGL beginning at lat. 46°30'00" N., long. 98°29'30" W., to lat. 46°30'00" N., long. 97°38'00" W., to lat. 46°32'30" N., long. 97°37'00" W., to lat. 46°40'00" N., long. 97°42'00" W., to lat. 46°48'00" N., long. 97°54'00" W., to lat. 46°49'30" N., long. 98°15'00" W., to lat. 46°46'00" N., long. 98°10'00" W., to lat. 46°37'20" N., long. 98°22'00" W., to lat. 46°41'00" N., long. 98°27'00" W., to lat. 46°39'30" N., long. 98°31'00" W., to the point of beginning.

Issued in Des Plaines, Illinois, on March 7, 1988.

**Teddy W. Burcham,**
*Manager, Air Traffic Division.*

[FR Doc. 88-6149 Filed 3-21-88; 8:45 am]
BILLING CODE 4910-13-M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Parts 35 and 293

**[Docket No. RM88-5-000]**

## Regulations Governing Bidding Programs

March 16, 1988.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of Proposed Rulemaking (NOPR).

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) proposes to adopt regulations which would authorize state regulatory authorities and nonregulated electric utilities to implement bidding procedures as a means of establishing rates for power purchases from qualifying facilities (QFs) under section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA).

A bidding program is a formally organized market to acquire incremental supplies of electricity. The purpose of this proposed rule is to permit bidding programs that would accurately establish utilities' avoided cost. To accomplish this goal, the Commission proposes to amend its current regulations to establish conditions and to provide specific guidance to the state regulatory authorities and nonregulated electric utilities on the use of bidding programs to set avoided costs. This proposed rule sanctions the use of bidding as a procedure for purchasing electricity from QFs.

The Commission believes that bidding will promote the statutory objectives of PURPA by encouraging cogeneration and small power production, energy conservation, efficient use of facilities and resources by electric utilities and equitable rates for electric consumers.

**DATES:** The Commission is scheduling a public hearing to be held on July 5, 1988, to provide interested persons with an opportunity to make oral presentations of their views. Requests to participate must be filed in writing (separately from comments) with the Secretary on or

before June 14, 1988. An original and 14 copies of written comments on this proposed rule must be filed with the Commission on or before June 14, 1988. Replies to written comments must be filed with the Commission on or before July 14, 1988. Replies to written comments shall not exceed 15 double-spaced pages.

**ADDRESS:**

*Public hearing and comments:*

Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

**FOR FURTHER INFORMATION CONTACT:**

*General questions:*

Martha M. Poindexter, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, Telephone: (202) 357-8428.

*Technical questions:*

William Longenecker, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, Telephone: (202) 376-4444.

James C. Liles, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, Telephone: (202) 357-8069.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's action in Docket No. RM88-5-000 adopted and released March 16, 1988.

The full text of this Commission action is available for inspection and copying during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street NE., Washington, DC 20426; at the Atlanta Regional Office, 730 Peachtree Street NE., Room 800, Atlanta, GA 30308; at the Chicago Regional Office, Federal Building, 230 South Dearborn Street, Room 3130, Chicago, IL 60604; at the New York Regional Office, 201 Varick Street, Room 664, New York, NY 10014; at the Portland Regional Office, 1120 South West 5th Avenue, Suite 1340, Portland, OR 97204; and at the San Francisco Regional Office, 901 Market Street, 3rd Floor, San Francisco, CA 94103. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

**List of Subjects**

*18 CFR Part 35*

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

*18 CFR Part 293*

Electric power plants, Electric utilities, Natural gas, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission proposes to amend Parts 35 and add Part 293, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission. Commissioner Stalon concurred with a separate statement. Commissioner Trabandt concurred in part and dissented in part with a separate statement.

**Lois D. Cashell,**

*Acting Secretary.*

## PART 35—FILING OF RATE SCHEDULES

1. The authority citiation for Part 35 continues to read as follows:

**Authority:** Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 791a-825r (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982).

2. In § 35.13, paragraph (h)(37)(i) is revised to read as follows:

**§ 35.13 Filing of changes in rate schedules.**

* * * * *

(h) * * *

(37) *Statement BL—Rate design information.* * * *

(i) A narrative statement describing and justifying the objectives of the design of the changed rate. If the purpose of the rate design is to reflect costs, the utility must state how that objective is achieved, and must accompany it with a summary cost analysis that would justify the rate design, including any discount or surcharges based on delivery voltage level or other specific consideration. Such summary cost analysis must be consistent with, derived from, and cross-referenced to the data in cost of service Statement BK. If the rate design is not intended to reflect costs, whether fully distributed, marginal, incremental, or other, the utility must provide a statement to justify the departure from cost-based rates. For noncost based rates established in a bidding program under Part 293 of this chapter, the electric utility must submit a copy of the state certification of the bid selection under § 293.212 of this chapter in lieu of any of the cost of service information otherwise required by Statements AA through BM.

* * * * *

3. Part 293 is added to read as follows:

## PART 293—REGULATIONS GOVERNING THE USE OF BIDDING PROGRAMS TO PURCHASE ELECTRIC CAPACITY AND ASSOCIATED ENERGY FROM QUALIFYING FACILITIES UNDER PURPA

**Subpart A—General Provisions**

Sec.
293.101 Purpose.
293.102 Applicability.
293.103 Definitions.

**Subpart B—Requirements for Bidding Programs**

293.201 Rates for purchases.
293.202 Capacity reservations.
293.203 Sources of capacity.
293.204 Solicitation of bids.
293.205 Evaluation of bid selection.
293.206 Negotiation and bidding programs.
293.207 Preference for qualifying facilities.
293.208 Waiver of efficiency standard.
293.209 Availability of electric utility system cost data.
293.210 Small qualifying facilities.
293.211 State certification of bid selection.

**Authority:** Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 791a-825r (1982), as amended; Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982), as amended.

### Subpart A—General Provisions

**§ 293.101 Purpose.**

(a) The purpose of this part is to set forth minimum requirements for any bidding program that is used to determine rates for the purchase of electric capacity and associated energy from qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (PURPA).

(b) Nothing in this part relieves an electric utility of its obligation to:

(1) Purchase electric energy from a qualifying facility under § 292.303(a) of this chapter;

(2) Sell electric energy to a qualifying facility under § 292.303(b) of this chapter;

(3) Interconnect with a qualifying facility under § 292.303(c) of this chapter.

(4) Transmit to another electric utility under § 292.303(d) of this chapter; and

(5) Operate in parallel with a qualifying facility under § 292.303(e) of this chapter.

**§ 293.102 Applicability.**

(a) This part applies to any State regulatory authority or nonregulated electric utility that chooses to establish a bidding program to determine rates for the purchase of electric capacity and associated energy from qualifying facilities and others.

(b) Either a State regulatory authority or a nonregulated electric utility can establish or rescind a bidding program.

(c) If a State regulatory authority or nonregulated electric utility establishes a bidding program, the bidding program must:

(1) Not alter existing contracts between electric utilities and qualifying facilities; and

(2) Not be unduly discriminatory toward any participant in the bidding program.

**§ 293.103 Definitions.**

For the purpose of this part:

(a) "Person" means an individual or a corporation;

(b) "Corporation" means any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing;

(c) The terms "qualifying facility," "purchase," "rate" and "avoided cost" have the same meaning as defined in § 292.101 of this chapter;

(d) "Bidding program" means an established procedure through which offers from qualifying facilities under the Public Utility Regulatory Policies Act of 1978 and others are solicited, obtained and selected in order to meet a specified need for electric capacity and associated energy;

(e) "Benchmark avoided cost" means an avoided cost calculated on the basis of any sources of capacity not permitted to submit offers in a bidding program;

## Subpart B—Requirements for Bidding Programs

**§ 293.201 Rates for purchases.**

(a) Rates for purchases established in a bidding program under this part must:

(1) Be just and reasonable to the electric consumer of the electric utility and in the public interest;

(2) Not discriminate against qualifying facilities; and

(3) Not exceed the incremental cost of alternative electric energy.

(b) Rates established through a bidding program that meets the requirements of this part satisfy paragraph (a) of this section.

**§ 293.202 Capacity Reservations.**

A state regulatory authority or nonregulated electric utility that implements a bidding program may reserve or withhold a portion of the utility's planned capacity needs from bidding. Qualifying facilities must be:

(a) Permitted to submit offers for the capacity subject to bidding; and

(b) Given the opportunity to satisfy the planned capacity need reserved or withheld from bidding.

**§ 293.203 Sources of capacity.**

(a) Except as provided in paragraph (c) of this section a bidding program under this part must take into account all sources for satisfying the planned capacity needs of the electric utility.

(b) A State regulatory authority or nonregulated electric utility can satisfy the requirement in paragraph (a) of this section by either:

(1) Permitting all sources of capacity to submit offers in a bidding program; or

(2) Limiting the sources of capacity, other than qualifying facilities, that may submit offers in a bidding program by calculating a benchmark avoided cost which:

(i) Takes into account any source of capacity excluded from the bidding program; and

(ii) Serves as a ceiling for the rates established in the bidding program.

(c) If a state regulatory authority or nonregulated electric utility excludes any wholesale source from the benchmark avoid cost calculation required under paragraph (b)(2) of this section, it must explain in writing why the wholesale source was excluded.

**§ 293.204 Solicitation of bids.**

(a) *General rule.* The solicitation of bids must be:

(1) Open to all persons who sell electric capacity and associated energy other than those persons prohibited by the State regulatory authority or nonregulated electric utility pursuant to § 293.203 or this part; and

(2) Publicly noticed sufficiently in advance of the date offers are to be submitted to allow preparation of the bids or offers to sell electric capacity and associated energy.

(b) The solicitation of bids must include a full description of:

(1) The planned need for capacity and associated energy;

(2) The criteria for participation, including any conditions which limit prospective participants with respect to ownership, affiliation, condition of the facility, technology, experience of the owner or operator, financial capability, site control, fuel supply guarantees, and permits or licenses; and

(3) The selection criteria to be used for selecting the winning bids including the factors set forth in § 292.304(e) and § 292.304(b)(5) and (d) of this chapter.

**§ 293.205 Evaluation of bid selection.**

The evaluation of all bids submitted in a bidding program under this part must be in writing and must be based on the criteria identified in the solicitation of bids, including those factors in § 292.304(e) and § 292.304(b)(5) and (d) of this chapter.

**§ 293.206 Negotiation and bidding programs.**

(a) Except as provided in paragraphs (b) or (c) of this section, an electric utility may not negotiate to acquire electric capacity and associated energy to be obtained through a bidding program, if any, from the time the final bids are submitted to the time the winning bids are selected.

(b) An electric utility may negotiate with a winning bidder on terms and conditions not stated in the solicitation of bids.

(c) An electric utility may negotiate to acquire any capacity and associated energy that is not subject to bidding from the time the final bids are submitted to the time the winning bids are selected. must be given an opportunity to offer to satisfy this capacity.

**§ 293.207 Preference for qualifying facilities.**

In any bidding program under this part, in the case of a tie among bids between a qualifying facility and a nonqualifying facility, the qualifying facility's bid must be selected over the nonqualifying facility's bid.

**§ 293.208 Waiver of efficiency standard.**

If a qualifying oil- or gas-fired topping cycle cogeneration facility is selected as a winning bidder, the efficiency standard in § 292.205(a)(2) of this chapter is waived.

**§ 293.209 Availability of electric utility system cost data.**

(a) Except as provided in paragraph (b) of this section, an electric utility whose planned capacity needs are subject to a bidding program must provide to the State regulatory authority or nonregulated electric utility and must maintain for public inspection at its principal place of operation the following data:

(1) The estimated avoided cost on the electric utility's system;

(2) The electric utility's plan for the addition of capacity by amount and type, including wholesale sources; and

(3) The estimated capacity costs at completion of the planned capacity additions and planned capacity purchases.

(b) *Exception.* (1) If an electric utility submits an offer in a bidding program to satisfy its own planned capacity needs, the State regulatory authority may exempt the electric utility from the requirement to make the data in paragraph (a) of this section publicly available. However, the data in paragraph (a) of this section must still be submitted to the appropriate State regulatory authority.

(2) If a nonregulated electric utility submits an offer in a bidding program to satisfy its own capacity needs, the nonregulated electric utility is not required to make the data in paragraph (a) of this section publicly available. However, the data in paragraph (a) of this section must be submitted to the Commission.

**§ 293.210 Small qualifying facilities.**

(a) A State regulatory authority or nonregulated electric utility may exempt from participation in a bidding program qualifying facilities not exceeding one megawatt in size.

(b) Rates and terms and conditions for qualifying facilities exempted under paragraph (a) of this section must be determined by a bidding program under this part.

**§ 293.211 State certification of bid selection.**

Any State regulatory authority or nonregulated electric utility that establishes a bidding program under this part must:

(1) Approve the price and selection of the bids pursuant to any bidding program under its jurisdiction; and

(2) Notify the Commission of the winning bidders.

[FR Doc. 88-6217 Filed 3-21-88; 8:45 am]
BILLING CODE 6717-01-M

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## 18 CFR Parts 38 and 382

**[Docket No. RM88-4-000]**

## Regulations Governing Independent Power Producers

March 16, 1988.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of Proposed Rulemaking (NOPR).

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is proposing to streamline regulation of a class of nontraditional utility suppliers, called independent power producers (IPPs). The proposed regulations would: (1) Authorize rates for IPPs to be determined through competitive bidding or rate negotiation subject to a price cap, thereby freeing IPPs from cost-based ratemaking while ensuring rates fall within a zone of reasonableness; (2) authorize IPPs to file rate schedules without having to provide extensive cost support; (3) exempt IPPs from cost-related accounting, reporting and recordkeeping requirements; (4) streamline the corporate and financial regulation of IPPs; (5) provide for virtually automatic authorizations to engage in certain corporate activities; (6) revise filing fees; (7) waive annual charges; and (8) adopt an advance certification procedure to qualify as an IPP. By promulgating these regulations the Commission seeks to increase supply options in the wholesale electric energy market and thereby fulfill its statutory responsibilities under the Federal Power Act (FPA) and Public Utility Regulatory Policies Act of 1978 (PURPA).

**DATES:** The Commission is scheduling a public hearing to be held on July 5, 1988, to provide interested persons with an opportunity to make oral presentations of their views. Requests to participate must be filed in writing (separately from comments) with the Secretary on or before June 14, 1988. An original and 14 copies of written comments on this proposed rule must be filed with the Commission on or before June 14, 1988. Replies to written comments must be filed with the Commission on or before July 14, 1988. Replies to written comments shall not exceed 15 double-spaced pages.

**ADDRESS:** Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

**FOR FURTHER INFORMATION CONTACT:**

*General questions:* Gilda E. Rodriguez, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, Telephone: (202) 357-9155.

*Technical questions:* William Longenecker, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, Telephone: 376-4444.

David Mead, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, Telephone: 357-8024.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's action in Docket No. RM88-4-000 adopted and released March 16, 1988.

The full text of this Commission action is available for inspection and copying during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE., Washington, DC 20426; at the Atlanta Regional Office, 730 Peachtree Street NE., Room 800, Atlanta, GA 30308; at the Chicago Regional Office, Federal Building, 230 South Dearborn Street, Room 3130, Chicago, IL 60604; at the New York Regional Office, 201 Varick Street, Room 664, New York, NY 10014; at the Portland Regional Office, 1120 South West 5th Avenue, Suite 1340, Portland, OR 97204; and at the San Francisco Regional Office, 901 Market Street, 3rd Floor, San Francisco, Regional Office, 901 Market Street, 3rd Floor, San Francisco, CA 94103. The complete text on diskette in Word-Perfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

**List of Subjects**

*18 CFR Part 38*

Electric power, Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

*18 CFR Part 382*

Annual charges.

In consideration of the foregoing, the Commission proposes to add Part 38 and amend Part 382, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission. Commissioner Trabandt concurred in part and dissented in part with a separate statement.

**Lois D. Cashell,**

*Acting Secretary.*

1. Part 38 is added to read as follows:

## PART 38—REGULATIONS GOVERNING INDEPENDENT POWER PRODUCERS UNDER THE FEDERAL POWER ACT

**Subpart A—General Applicability**

Sec.
38.101 Purpose.
38.102 Application.
38.103 Definitions.

**Subpart B—Rate Regulation**

38.201 Sales by independent power producers.
38.202 Rate application.
38.203 Filing of rate schedules.

38.204 Notice requirements.

**Subpart C—Disposition of Facilities, Merger or Consolidation of Facilities, or Acquisition of Securities**

38.301 Applicability.
38.302 Commission authorization.
38.303 Contents of the application.
38.304 Number of copies.
38.305 Verification.

**Subpart D—Application for Authorization of the Issuance of Securities or the Assumption of Liabilities**

38.401 Applicability.
38.402 Commission authorization.
38.403 Exemptions.
38.404 Contents of the application.
38.405 Number of copies to be filed.
38.406 Verification.

**Subpart E—Application for Authorization To Hold Interlocking Positions**

38.501 Applicability.
38.502 Commission authorization.
38.503 Positions subject to authorization.
38.504 Time of filing.
38.505 Contents of the application.
38.506 Number of copies.

**Subpart F—Procedures for Obtaining Advance Cretification Independent Power Production (IPP) Status**

38.601 Advance certification.
38.602 Notice.
38.603 Revocation of independent power producer status.

**Subpart G—Accounting and Reporting Procedures**

38.701 Accounting requirements.

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 791a–825r (1982), as amended; Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982), as amended.

## Subpart A—General Applicability

### § 38.101 Purpose.

The purpose of this part is to establish procedures to regulate and certify independent power producers under the Federal Power Act.

### § 38.102 Application.

(a) This part applies to:

(1) An independent power producer (IPP), as that term is defined in § 38.103(a); and

(2) The sale for resale in interstate commerce of electric energy from an IPP to a wholesale customer.

(b) A public utility that has not been granted a retail service franchise territory and that is primarily engaged in transactions in which it qualifies as an independent power producer (IPP), qualifies for regulatory treatment under subparts C, D, and E of this part.

(c) A public utility that does not meet the requirements in paragraph (b) of this section may apply for regulatory treatment under subparts C, D, and E of this part on a case-by-case basis.

(d) Unless otherwise provided in this part, IPPs are exempt from Parts 33, 34, 35, 41, 45, 46, 50, 101, 141, and 382 of this chapter.

### § 38.103 Definitions.

For the purposes of this part:

(a) A public utility as defined in section 201(e) of the Federal Power Act is an "independent power producer" (IPP) only when it:

(1) Sells or will sell electric energy produced by an independent power facility to a customer outside any retail service franchise territory that the public utility (or its affiliate) may have been granted; and

(2) Does not control transmission facilities essential to the customer purchasing electric energy from that independent power facility.

(b) "Independent power facility" (IPF) is a facility, or portion thereof, that is not regulated on a cost-of-service basis as that term is defined in paragraph (a)(1) of this section.

(c) "Transmission facility essential to a customer" means a transmission facility that supplies a necessary or indispensable amount of electric energy to the customer served by such facility. Absent a Commission order to the contrary, a transmission facility that supplies less than 50 percent of the electric energy needs of the customer is not essential.

(d) "Affiliate" means companies or persons that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the IPP.

(e) "Control" for purposes of an affiliate (including the terms "controlled by," and "under common control with") means the possession, directly or indirectly, of the authority to direct or cause the direction of the management and policies of a company, whether such authority is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement, and whether such power is established through a majority or minority ownership or voting of securities, common directors, officers, or stockholders, voting trusts, holding trusts, associated companies, contract or any other direct or indirect means.

(f) "Control of transmission facilities" means the ability to prevent the use of transmission facilities for the purpose of transmitting electric energy.

(g) "Securities" means any note, stock, treasury stock, bond, or debenture or other evidence of interest in or indebtedness of a corporation subject to the Federal Power Act.

(h) "Person" means an individual or corporation.

(i) "Corporation" means any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees or any of the foregoing. Corporation does not include "municipalities" as defined in the Federal Power Act.

(j) "Purchaser's avoided cost" means the incremental cost to an electric utility of electric energy or capacity or both which, but for the purchase from the IPP, such utility would generate itself or purchase from another source.

(k) "Regulated on a cost-of-service basis" means rate treatment that provides, under an approved rate on file, for recovery of plant related costs including operation, maintenance, income and non-income taxes return on investment, return of capital, and lease expense.

## Subpart B—Rate Regulation

### § 38.201 Sales by independent power producers.

(a) An independent power producer (IPP) must file an application for a rate schedule in accordance with §§ 38.202–204 for any sale of electric energy subject to the jurisdiction of the Commission.

(b) *Ceiling price.* A rate filed by an IPP is just and reasonable if the rate is at or below the purchaser's avoided cost, as that term is defined in § 38.103(j).

(c) *Purchaser's avoided cost.* A purchaser's avoided cost can be determined, consistent with § 38.103(j), by:

(1) The purchaser in a statement filed by the IPP, verified and attested to by an authorized representative of the purchaser; or

(2) A State regulatory agency that has administratively determined the purchaser's avoided cost pursuant to Part 292 of this chapter; or

(3) A bidding program pursuant to Part 293 of this chapter.

### § 38.202 Rate application.

An initial or changed rate application filed under this subpart must contain the following information:

(a) The rate schedule with copies of all contracts (including the terms and conditions of sale) that affect or relate to the rates, charges, or services, as required by section 205(e) of the Federal Power Act;

(b) A list of documents submitted with the initial rate or rate change schedule;

(c) A letter to transmit to the Commission for filing the rate schedule. The transmittal letter must contain the following information:

(1) The date on which the service under the initial rate schedule or changed rate schedule is expected to commence;

(2) The names and addresses of those to whom the rate schedule has been mailed;

(3) A brief description of the kinds of services to be furnished at the initial or changed rates specified therein including:

(i) Whether the IPP will sell electric energy from an independent power facility (IPF) outside any retail service franchise territory that the IPP or its affiliate may have been granted; and

(ii) Whether the IPP or its affiliate controls transmission facilities essential to the customer purchasing electric energy from the IPF;

(4) A summary of the circumstances which show that all requisite agreement to the rate schedule or its filing, including any contract embodied therein, has in fact been obtained; and

(d) A form of notice suitable for publication in the **Federal Register** which briefly summarizes the facts contained in the application so as to acquaint the public with its scope and purpose.

**§ 38.203 Filing of rate schedules.**

(a) An independent power producer (IPP) must file with the Commission and maintain, rate schedules that show the rates for any sale of electric energy subject to the Commission's jurisdiction. The filing of the rate schedule must meet the requirements of this section.

(b) An IPP must:

(1) Make available a copy of every current rate schedule on file or as tendered for filing with the Commission during regular business hours for public inspection in a convenient form at its principal place of business and at any offices in the territory in which it sells power; and

(2) Mail to every purchaser under such rate schedule a copy of that schedule when the IPP sends it to this Commission for filing.

(c) If an IPP files for an increase or decrease in rates or charges, or other change in contract terms or conditions, the IPP must mail to each purchaser and to each State regulatory authority within whose jurisdiction such purchaser distributes and sells electric energy at retail, a copy of the rate schedule showing the increase or decrease in rates or charges or other change in contract terms and conditions, and if requested by a purchaser or State regulatory authority, a copy of the supporting data required to be submitted to this Commission under this part.

(d) The effective date of a rate schedule means the date on which a rate schedule, filed pursuant to the requirements of this section, is permitted by the Commission to become effective as a filed rate schedule.

(e) A rate schedule covered by the terms of this section must contain the following provisions when it is the intent of the contracting parties to withhold from the party furnishing service, the right to file any unilateral rate change under section 205 of the Federal Power Act:

The rates for service specified herin shall remain in effect for the term of XXX or until XXX, and shall not be subject to change through application to the Federal Energy Regulatory Commission pursuant to the provisions of Section 205 of the Federal Power Act absent the agreement of all parties thereto.

(f) *Form and style of rate schedules.* A rate application filed with the Commission under this part must include the following:

(1) The name of the rate applicant;

(2) Identity of the parties;

(3) A brief description of the service to be provided under the rate schedule;

(4) A verified statement that the proposed rates are at or below the purchasers avoided cost as defined in § 38.103(j).

(5) A rate schedule tendered for filing under this part must conform to the specifications in § 385.2003 of this chapter. All copies must be clear, legible, complete, and must show the name(s) of all signatures to executed documents.

(g) *Number of copies.* An applicant must supply an original and three copies of all rate schedules or parts thereof, and material related to the rate schedule, including any change in rates, notices of cancellation or termination, and notices of succession that are filed with the Commission. All copies are to be included in one package, together with three copies of the transmittal letter and all other materials and information required by these regulations. The package should be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

(h) *Identification and numbering of rate schedules.* Every rate schedule filed with the Commission will be numbered and the filing independent power producer will be advised of the rate schedule FERC number. Whenever a rate schedule change is offered for filing and is dependent upon, or amendatory of, an existing rate schedule on file with the Commission, it will be designated as a supplement or an exhibit to the existing rate schedule and will be so numbered.

**§ 38.204 Notice requirements.**

(a) *Rate schedules.* A rate application for an initial or changed rate must be filed with the Commission at least 60 days before the electric service begins and becomes effective under that rate schedule.

(b) *Construction of facilities.* If a rate schedule involves construction of facilities, the IPP may file the rate schedule up to 60 days before the date the parties have agreed the contract would go into effect.

(c) *Termination of service.* An IPP must file a notice of termination 60 days before service is to be terminated.

(d) *Waiver.* Upon application and for good cause shown, the Commission may waive the notice requirements of this section.

## Suppart C—Disposition of Facilities, Merger or Consolidation of Facilities, or Acquisition of Securities

**§ 38.301 Applicability.**

(a) An independent power producer (IPP) must file an application for Commission approval of any proposed transaction under this subpart.

(b) The requirements of this section apply to an IPP that seeks authority under section 203 of the Federal Power Act to:

(1) Dispose by sale, lease or otherwise the whole of its electric facilities subject to Commission jurisdiction, or any part thereof of a value in excess of $50,000;

(2) Merge or consolidate, directly or indirectly, its facilities subject to the Commission's jurisdiction which have a value in excess of $50,000, with those of any other person or corporation;

(3) Acquire electric facilities used for the transmission or sale at wholesale of electric energy in interstate commerce which, except for ownership, would be subject to the Commission's jurisdiction;

(4) Purchase, acquire, or take a security of any other IPP or public utility.

(c) "Value in excess of $50,000" as used in section 203 of the Federal Power Act is the original cost undepreciated as defined in Part 101 of this chapter.

**§ 39.302 Commission authorization.**

Except as provided in § 38.102(c), an IPP is authorized by the Commission to dispose of jurisdictional facilities, to merge or consolidate jurisdictional

facilities, and to acquire the securities of any other public utility provided that it complies with all the requirements of this subpart.

**§ 38.303 Contents of the application.**

(a) An application for a proposed transaction described in § 38.301 must contain the following information:

(1) An identification of the parties to the transactions including:

(i) The address of the principal business offices of the parties;

(ii) The name and address of the person authorized to receive notices and communications; and

(iii) The State or other sovereign power under which incorporated, the respective dates of incorporation, and the State in which the party is domiciled;

(2) A statement whether the application is for a disposition of facilities by sale, lease, or othewise, a merger or consolidation of facilities, or for purchase or acquisition of securities of an IPP or other public utility;

(3) A description of the consideration in the transaction, if any, and the method of determining the amount of consideration;

(4) A statement as to the effect the proposed transaction may have on:

(i) The applicant's retail service franchise territory and control of transmission facilities; and

(ii) Any contract for the purchase, sale, or interchange of electric energy;

(5) A statement describing the jurisdictional facilities or securities to be disposed of, consolidated, merged, or acquired;

(6) A statement whether the proposed disposition of facilities or plan for consolidation or merger includes all the operating facilities of the parties to the transaction;

(7) A statement whether any application with respect to the transaction or any part thereof is required to be filed with any other Federal or State regulatory authority; and

(8) A form of notice suitable for publication in the **Federal Register**, which will briefly summarize the facts contained in the application in such way as to acquaint the public with its scope and purpose.

(b) The application must include the following exhibits:

(1) *Exhibit A.* A signed copy of opinion of counsel with respect to legality of the proposed transaction;

(2) *Exhibit B.* A copy of all contracts with respect to the proposed disposition, merger or consolidation of facilities, or acquisition of securities, together with copies of all other written instruments entered into or proposed to be entered into by the parties to the transaction pertaining thereto.

**§ 38.304 Number of copies.**

An applicant must provide the Commission with an original and three copies of each application filed under this subpart.

**§ 38.305 Verification.**

The application must meet the requirements in § 385.2005 of this chapter and must be verified under oath.

## Subpart D—Application for Authorization of the Issuance of Securities or the Assumption of Liabilities

**§ 38.401 Applicability.**

Except as provided in § 38.403, an independent power producer (IPP) must file and application for authorization from the Commission pursuant to section 204 of the Federal Power Act to issue securities or to assume an obligation or liability.

**§ 38.402 Commission authorization.**

Except as provided for in §38.102(c), an IPP is authorized by the Commission to issue securities or assume an obligation or liability provided that it complies with the requirements of this subpart.

**§ 38.403 Exemptions.**

(a) The provisions of this subpart do not apply to:

(1) An applicant who is organized and operating in a State where its security issues are regulated by a State regulatory authority; or

(2) The issuance, renewal, or assumption of laibility on a note or draft if:

(i) The note or draft does not mature more than one year after the date of such issuance, renewal, or assumption of liability; and

(ii) The note or draft does not total (together with all other then outstanding notes and drafts of a maturity of one year or less on which such IPP is primarily or secondarily liable) more than five percent of the par value of the other securities of the IPP then outstanding. In the case of securities having no par value, the par value is the fair market value of the securities on the date of issuance, renewal or assumption of liability.

(b) To qualify for the exemption in paragraph (a) of this section the applicant must file with the Commission, within 10 days of the issuance, renewal, or assumption of liability, a certificate of notice in the form provided in § 131.50 of this chapter.

**§ 38.404 Contents of the application.**

An application to the Commission for authority to issue securities or assume an obligation or liability must contain the following information:

(a) A statement describing the transaction subject to the jurisdiction of the Commission under section 204 of the Federal Power Act;

(b) A description as to how the securities are to be issued and sold or the procedure by which the applicant will assume any obligation or liability as guarnator, endorser, surety, or otherwise;

(c) A statement whether the proposed issuance of securities or assumption of liabilities is for some lawful object, within the corporate purposes of the applicant;

(d) A statement, pursuant to section 204(d) of the Federal Power Act, declaring that the proposed issuance does not authorize the capitalization of the right to be a corporation or of any franchise, permit, or contracts for consolidation, merger or lease in excess of the amount (exclusive of any tax or annual charge) actually paid as the consideration for such right, franchise, permit, or contract;

(e) A statement as to whether the application, with respect to the transaction or any part thereof, is required to be filed with any State regulatory body; and

(f) A form of notice suitable for publication in the **Federal Register**, providing:

(1) The legal name of the applicant; and

(2) The securities offered for issuance including the proposed issue date.

**§ 38.405 Number of copies to be filed.**

An applicant must submit to the Commission an original and three copies of each application filed pursuant to this subpart.

**§ 38.409 Verification.**

The application must meet requirements in § 385.2005 of this chapter and must be verified under oath.

## Subpart E—Application for Authorization to Hold Interlocking Positions

**§ 38.501 Applicability.**

An officer or director of an independent power producer (IPP) who holds or will hold an interlocking position as described in § 38.503, must file under sectin 305(b) of the Federal Power Act, an application for authorization to hold the interlocking position with the Commission.

**§ 38.502 Commission authorization.**

Except as provided in § 38.102(c), an officer, or director of an IPP is authorized by the Commission to hold the interlocking positions described in § 38.503, if the officer or director of the IPP complies with the requirements of this subpart.

**§ 38.503 Position subject to authorization.**

(a) This subpart applies to a person seeking to hold the following interlocking positions:

(1) Officer or director of an IPP and the officer or director of another public utility;

(2) Officer or director of an IPP and the officer or director of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility; or

(3) Officer or director of an IPP and the officer or director of any company supplying electrical equipment to the IPP.

(b)(1) The positions subject to this section include those of any person elected or appointed to perform the duties or functions ordinarily performed by a president, vice president, secretary, treasurer, general manager, comptroller, chief purchasing agent, director or partner, or to perform any other similar executive duties or functions.

(2) If a position which the applicant holds and which is invested with executive authority is not specifically mentioned in paragraph (b)(1), the applicant must state in the application the source of such executive authority, whether by bylaws, action of the board of directors, or otherwise.

**§ 38.504 Time of filing.**

A person authorized to hold interlocking positions under this subpart must file an application with the Commission within 30 days of assuming the duties of the position.

**§ 38.505 Contents of the application.**

An application filed with the Commission under this subpart must contain the following information:

(a) The applicant's full name, and business address;

(b) A list of the jurisdictional interlocks, identifying the affected companies and the positions held by the applicant, including a description of those positions; and

(c) A form of notice suitable for publication in the **Federal Register**, which will briefly summarize the facts contained in the application in such way as to acquaint the public with its scope and purpose.

**§ 38.506 Number of copies.**

An applicant must provide the Commission with an original and three copies of each application filed under this subpart.

## Subpart F—Procedures for Obtaining Advance Certification Independent Power Producer (IPP) Status

**§ 38.601 Advance certification.**

(a) Any person or corporation seeking advance certification as an IPP under this part may, pursuant to either paragraphs (b) or (c) of this section file with the Commission an application for certification that the applicant is an IPP.

(b) If a public utility meets the requirements of § 38.102(b) it must, in order to be certified as an IPP, provide the following information:

(1) The name and address of the applicant;

(2) A verified statement that the applicant has not been, and will not be, granted a retail service franchise territory; and

(3) A verified statement that the applicant is or will be primarily engaged in transactions in which it qualifies as an IPP.

(c) If a public utility does not meet the requirements of § 38.102(b), it must, in order to be certified as an IPP, provide the following information:

(1) The name and address of the applicant;

(2) A brief description of the independent power facility (IPF) as that term is defined in § 38.103(b) of this part;

(3) A brief description of the IPP transaction;

(4) A description of the retail service franchise territory, if any, which has been granted to the applicant or its affiliate; and

(5) A verified statement that the applicant or its affiliate does not control a transmission facility which is essential to the customer purchasing electric energy from the IPF.

**§ 38.602 Notice.**

Applications filed under this subpart must provide the Commission with a form of notice suitable for publication in the **Federal Register**, which will briefly summarize the facts contained in the application.

**§ 38.603 Revocation of independent power producer status.**

The certification of a power producer as an IPP under this section is revoked if the power producer fails to comply with any of the statements contained in its application.

## Subpart G—Accounting and Reporting Procedures

**§ 38.701 Accounting requirments.**

Except for its transactions regulated on a cost-of-service basis, an independent power producer is exempt from Parts 41, 50, 101 and 141 of this chapter.

## PART 382—ANNUAL CHARGES

2. The authority citation for Part 382 continues to read as follows:

**Authority:** Omnibus Budget Reconciliation Act of 1986, Pub. L. No. 99-509, Title III, Subtitle E, sec. 3401 (Oct. 21, 1980); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 1978 Comp. p. 142; Administrative Procedure Act, 5 U.S.C. 551-557 (1982); Natural Gas Act 15 U.S.C. 717-717w (1982); Federal Power Act, 16 U.S.C. 791a-828c (1982); Natural Gas Policy Act, 15 U.S.C. 3301-3432 (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982); Interstate Commerce Act, 49 U.S.C. 1-27 (1976).

**§ 382.102 [Amended]**

3. In § 382.102, paragraph (b) is amended by adding the phrase ", or an independent power producer (IPP) as defined in Part 38 of this chapter." at the end of the sentence.

[FR Doc. 6215 Filed 3-21-88; 8:45 am]

BILLING CODE 6717-01-M

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## 18 CFR Part 292

**[Docket No. RM88-6-000]**

## Administrative Determination of Full Avoided Costs, Sales of Power To Qualifying Facilities, and Interconnection Facilities

March 16, 1988.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of Proposed Rulemaking (NOPR).

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations governing purchases and sales of electric energy and capacity between electric utilities and qualifying cogeneration facilities and qualifying small power production facilities. The proposed changes would §§ 292.304, 292.305, and 292.306 of the Commission's regulations (18 CFR 292.304, 292.305, and 292.306 (1987)) by: (1) More sharply defining guidelines and criteria for administrative determinations of full avoided costs by state regulatory authorities and nonregulated electric utilities; (2) revising guidelines with

respect to the provision of supplemental, backup, maintenance, and interruptible power to qualifying facilities and requiring certain factors to be considered in setting rates for back-up and maintenance power; and (3) permitting the ownership of internconnection and transmission facilities by qualifying facilities.

**DATES:** The Commission is scheduling a public hearing to be held on July 5, 1988, to provide interested persons with an opportunity to make oral presentations of their views. Requests to participate must be filed in writing (separately from comments) with the Secretary on or before June 14, 1988.

An original and 14 copies of written comments on this proposed rule should be filed with the Commission on or before May 16, 1988. Replies to written comments should be filed with the Commission on or before July 14, 1988. Replies to written comments shall not exceed 15 double-spaced pages.

**ADDRESS:** Public hearing and comments: Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC 20426.

**FOR FURTHER INFORMATION CONTACT:**

General questions:

Andre Goodson, Office of the General Counsel, Federal Energy Regulatory Commission, Washington, DC 20426, (202) 357-8467.

Technical questions:

Stratford Douglas, Office of Economic Policy, Federal Energy Regulatory Commission, Washington, DC 20426, (202) 357-8741

James K. Newton, Office of Electric Power Regulation, Federal Energy Regulatory Commission, Washington, DC 20426, (202) 376-9020

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's action in Docket No. RM88-6-000 adopted and released March 16, 1988.

The full text of this Commission action is available for inspection and copying during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE., Washington, DC 20426; at the Atlanta Regional Office, 730 Peachtree Street NE., Room 800, Atlanta, GA 30308; at the Chicago Regional Office, Federal Building, 230 South Dearborn Street, Room 3130, Chicago, IL 60604; at the New York Regional Office, 201 Varick Street, Room 664, New York, NY 10014; at the Portland Regional Office, 1120 South West 5th Avenue, Suite 1340, Portland, OR 97204; and at the San Francisco Regional Office, 901 Market Street, 3rd Floor, San Francisco, CA 94103. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

**List of Subjects in 18 CFR Part 292**

Electric power plants, Electric utilities, Natural Gas, Reporting and recordkeeping requirements.

The Commission proposes to amend Part 292, Chapter I, Title 18, *Code of Federal Regulations,* as set forth below.

By direction of the Commission. Commissioner Trabandt concurred in part and dissented in part with a separate statement.

**Lois D. Cashell,**

*Acting Secretary.*

## PART 292—REGULATIONS UNDER SECTION 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 WITH REGARD TO SMALL POWER PRODUCTION AND COGENERATION

1. The authority citation in Part 292 is revised to read as follows:

**Authority:** Electric Consumers Protection Act of 1986, Pub. L. 99-495; Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 C.F.R. 1978 Comp., p. 142; Independent Offices Appropriationis Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 791a-825r (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982), as amended.

2. In § 292.101, paragraphs (b)(8), (b)(9), (b)(10), and (b)(11) are revised and (b)(12) is added to read as follows:

**§ 292.101 Definitions.**

* * * * *

(b) *Definitions* * * *

(8) "Supplemantary Power" means electric energy and capacity supplied by an electric utility regularly used by a qualifying facility in addition to that which the facility generates itself.

(9) "Back-up power" means electric energy and capacity supplied by an electric utility to replace energy ordinarily generated by a qualifying facility's own generation equipment during an unscheduled outage of the facility.

(10) "Maintenance power" means electric energy and capacity supplied by an electric utility to replace energy ordinarily generated by the qualifying facility's own generation equipment during scheduled outages of the qualifying facility.

(11) "Interruptible service" means electric energy and capacity supplied by an electric utility subject to interruption by the electric utility under certain circumstances, such as by contractual agreement between the electric utility and the qualifying facility or as specified by a state regulatory authority.

(12) "Firm service" means service that is not subject to interruption.

3. In § 292.304, paragraph (a)(2) is revised, paragraph (b)(5) is revised, paragraph (b)(6) is added, paragraphs (c))(1), (c)(2), and (c)(3)((i) are revised, paragraph (d)(2) is revised, paragraph (e) introductory text is revised, paragraphs, (e)(3) and (e)(4) are revised, paragraph (e)(5) is added, and paragraph (g) is added to read as follows:

**§ 292.304 Rates of purchases.**

(a) *Rates for purchases.* * * *

(2) Except as provided in paragraph (b)(5) of this section, a State may not require under this subpart an electric utility to purchase energy or capacity from a qualifying facility at a rate higher than the electric utility's avoided cost.

(b) *Relationship to avoided costs.* * * *

(5) Rates for purchases from a qualifying facility pursuant to a contract or other legally enforceable obligation may differ from avoided cost at the time of delivery only if the rates:

(i) Are based on estimates of avoided costs over the term of the contract or other legally enforceable obligation;

(ii) Do not result in payments in excess of the total avoided costs as calculated at the time the obligation is incurred; and

(iii) Take into account

(A) The time value of money,

(B) The qualifying facility's financing needs, and

(C) Any inequities that may result from the difference between the rate paid to the qualifying facility and the avoided cost at the time of delivery.

(6) A rate for purchase from qualifying facility must be based on the amount an electric utility would have paid another wholesale source if the purchase from the qualifying facility displaces the purchase from the other wholesale source.

(c) *Standard rates for purchases.* (1) Standard rates must be established for purchases from qualifying facilities that have a deisgn capacity of 1 megawatt or less.

(2) Standard rates may be established for purchases from qualifying facilities with a design capacity of more than 1 megawatt.

(3) * * *

(i) Must be set in accordance with paragraphs (a), (e), and (g) of this section; and

* * * * *

(d) *Purchases "as available" or pursuant to a legally enforceable obligation.* * * *

(2) To provide energy or capacity pursuant to a contract or other legally enforceable obligation for the delivery of energy or capacity over a specified term, in whch case the rates for such purchases must, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on:

(i) The avoided costs as calculated at the time of delivery; or

(ii) Any other payment schedule that meets the requirements of paragraph (b)(5) of this section.

(e) *Factors affecting rates for purchases.* A determination of avoided costs must be supported in writing and must address the following factors:

* * * * *

(3) The amount of capacity or energy needed by the utility and the qualifying facility's ability to meet those needs;

(4) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself or purchased an equivalent amount of electric energy or capacity; and

(5) The value to the electric utility of a diversity of fuel sources.

* * * * *

(g) *Adjustment of avoided capacity cost.* (1) If the amount of capacity offered by qualifying facilities exceeds an electric utility's capacity needs, a state regulatory authority or nonregulated electric utility should consider redetermining the electric utility's avoided capacity cost rate.

(2) An avoided capacity cost rate redetermined under paragraph (g)(1) of this section would not affect any existing contract or other legally enforceable obligation between an electric utility and a qualifying facility, unless the contract or legally enforceable obligation specifies otherwise.

4. Section 292.305 is revised to read as follows:

**§ 292.305 Rates for sales.**

(a) *General rules.* (1) Rates for sales:

(i) Must be just and reasonable and in the public interest; and

(ii) must not discriminate against qualifying facility in comparison to rates for sales to other customers served by the electric utility.

(2) Rates for sales do not discriminate against a qualifying facility, if those rates:

(i) Are based on accurate data; and

(ii) Use the same ratemaking principles that are used to establish rates for the utility's customers other than qualifying facilities.

(b) *Additional services to be provided to qualifying facilities.* (1) Except as provided in paragraph (b)(3), upon request of a qualifying facility, an electric utility must provide either firm or interruptible service for:

(i) Supplementary power;

(ii) Back-up power; and

(iii) Maintenance power.

(2) An electric utility must provide back-up power and maintenance power supplied under paragraph (b)(1) of this section to both the power producing equipment of a qualifying facility and any electric loads normally served by that facility.

(3) A jurisdictional State regulatory authority or the Commission, (with respect to any nonregulated electric utility) may waive the requirement in paragraph (b)(1) of this section if, after notice and an opportunity for public comment in the area served by the electric utility, the electric utility demonstrates and the appropriate regulatory authority finds that compliance would:

(i) Impair the electric utility's ability to render adequate service to its customers; or

(ii) Place an undue burden on the electric utility.

(c) *Rates for sales of back-up power.* (1) Unless supported by factual data, the rate for sales of back-up power may not be based on the assumption that:

(i) Reductions in electric output by all qualifying facilities on an electric utility's system will occur at the same time; or

(ii) Reductions in electric output by a qualifying facility will occur during the system peak.

(2) A determination of rates for back-up power must be supported in writing and include:

(i) The expected timing of forced outages of the qualifying facility, if there is any reason to expect they would not occur with random probability;

(ii) The expected frequency of forced outages of the qualifying facility;

(iii) The expected duration of forced outages of the qualifying facility;

(iv) The expected demand placed on the supplying utility's generating resources in the event of a forced outage of the qualifying facility;

(v) The expected cost of electric energy associated with the capacity used to meet the demand in the event of a forced outage of the qualifying facility;

(vi) The costs, if any, associated with transmission and distribution facilities used to meet the demand resulting from a forced outage of the qualifying facility; and

(vii) The terms of back-up service, in regard to its provision as firm or interruptible service, and the cost such terms of service impose on the supplying utility.

(d) *Rates for sales of maintenance power.* (1) Rates established for sales of maintenance power must consider the cost of producing electric energy and supplying capacity when an outage of a qualifying facility is scheduled to occur.

(2) A determination of rates for maintenance power must be supported in writing and must include:

(i) The ability of the qualifying facility to schedule outages and the associated maintenance power purchases with the utility;

(ii) The season of the year during which maintenance power is scheduled;

(iii) The ability of the qualifying facility to schedule maintenance power for a particular time of the day or days of the week;

(iv) The duration of scheduled outages of the qualifying facility;

(v) The expected demand placed on the supplying utility's generating resources if there is a scheduled outage by the qualifying facility;

(vi) The expected cost of electric energy associated with the capacity used to meet the demand in the event of a scheduled outage by the qualifying facility;

(vii) The costs associated with transmission and distribution facilities used to meet the demand that results from a scheduled outage by the qualifying facility; and

(viii) The terms of maintenance service, whether firm or interruptible, and their cost to the supplying utility.

(e) *Standard rates for sales.* A state regulatory authority or nonregulated utility must establish standard rates for sales to qualifying facilities that have a capacity of 1 megawatt or less. Rates for sales under this paragraph:

(1) Must be consistent with the requirements of this section; and

(2) May vary among qualifying facilities using different technologies and energy sources.

5. In § 292.306, paragraph (c) is added to read as follows:

**§ 292.306 Interconnection costs.**

* * * * *

(c) *Qualifying facility ownership of interconnection or transmission*

*facilities.* A qualifying facility may construct or own an interconnection or transmission facility if the interconnection or transmission facility:

(1) Is used for the transmission of energy between the qualifying facility and an electric utility purchasing energy from, or selling energy to, the qualifying facility; and

(2) Meets all applicable State regulations.

[FR Doc. 88-6216 Filed 3-21-88; 8:45 am]

BILLING CODE 6717-01-M

## POSTAL SERVICE

### 39 CFR Part 111

### Supplements and Enclosures in Second-Class Publications; Extension of Comment Period

**AGENCY:** Postal Service.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On March 3, 1988, the Postal Service published in the **Federal Register** (53 FR 6837) a proposed rule change intended to clarify and improve current postal regulations and procedures concerning the mailing of supplements to second-class publications. The Postal Service requested comments on the proposed rule change on or before April 4, 1988.

Certain mailer representatives requested a twenty-one day extension of the comment period in order to make a more complete assessment of the proposal and its potential effects.

The Postal Service believes that the requested extension is reasonable and will serve the public interest in this case. Accordingly, the Postal Service is extending the deadline for comments on the proposed rule change until April 25, 1988.

**DATE:** Comments on the proposed rule change must be received on or before April 25, 1988.

**ADDRESS:** Written comments should be mailed or delivered to the Director, Office of Classification and Rates Administration, U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, DC 20260-5360. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, in Room 8430, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Kenneth H. Young, (202) 268-5321.

**Fred Eggleston,**

*Assistant General Counsel, Legislative Division.*

[FR Doc. 88-6152 Filed 3-21-88; 8:45 am]

BILLING CODE 7710-12-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[A-1-FRL-3351-9]

### Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Reasonably Available Control Technology for Spongex International, Ltd.

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes and requires the use of reasonably available control technology (RACT) to control volatile organic compounds (VOC) emissions from Spongex International Ltd. in Shelton, Connecticut. The intended effect of this action is to propose approval of a source-specific RACT determination made by the State in accordance with commitments made in its Ozone Attainment Plan approved by EPA on March 21, 1984 (49 FR 10542).

**DATES:** Comments must be received on or before April 21, 1988.

**ADDRESSES:** Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2313, JFK Federal Bldg., Boston, MA 02203. Copies of Connecticut's submittal and EPA's Technical Support Document prepared for this revision are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2311, JFK Federal Bldg., Boston, MA 02203; and the Air Compliance Unit, Department of Environmental Protection, State Office Bldg., 165 Capitol Avenue, Hartford, CT 06106.

**FOR FURTHER INFORMATION CONTACT:** David B. Conroy, (617) 565-3252; FTS 835-3252.

**SUPPLEMENTARY INFORMATION:** On April 8, 1987, the Connecticut Department of Environmental Protection (DEP) submitted a SIP revision to EPA for parallel-processing. This revision is proposed State Order No. 8008 which defines VOC control requirements for Spongex International, Ltd. (Spongex) in Shelton, Connecticut. These control requirements constitute RACT for this facility as required by subsection 22a-174-20(ee), "Reasonably Available Control Technology for Large Sources," of Connecticut's Regulations for the Abatement of Air Pollution.

Subsection 22a-174-20(ee) requires the DEP to determine and impose RACT on all stationary sources with potential VOC emissions of one hundred tons per year (TPY) or more that are not already subject to Connecticut's regulations developed pursuant to the Control Techniques Guidelines (CTG) documents. EPA approved this regulation on March 21, 1984 (49 FR 10542) as part of Connecticut's 1982 Ozone Attainment Plan. That approval was granted with the agreement that all source-specific RACT determinations made by the DEP would be submitted to EPA as source-specific SIP revisions.

**Summary of SIP Revision**

Spongex manufactures a variety of polyvinyl chloride (PVC) foam products at its Shelton facility. Process equipment which emits VOC emissions includes mixers, injection molding presses and normalizing ovens. The first step in the foam manufacturing process involves mixing PVC resins, solvents, blowing agents and other components in the mixers to form a dough compound mix. The mixing process takes place in closed vessels at ambient temperatures and VOC emissions are estimated to be minor. The second step in the process consists of placing the dough in the injection molding presses where it is high compression molded at high temperatures. During this process, the blowing agent in the dough mix decomposes, and the dough changes to a foam which expands and fills the mold forming the completed article.

The final step involves the removal of this material from the injection molding equipment and heating the completed articles in the normalizing ovens to remove the remaining solvent from the product. From mass balance calculations it is estimated that 80 percent of the total VOC emissions emitted from this process are emitted during this final step.

State Order No. 8008 requires Spongex to reduce the overall VOC emissions from the foam manufacturing process by sixty-five percent by December 31, 1987. Spongex is required to achieve this reduction in either one of two ways. Spongex can achieve the reduction by

reformulating all of its compound dough mixtures to VOC levels equivalent to a sixty-five percent reduction based on the unformulated compound dough mixture for each product. If Spongex chooses to comply utilizing this method, it is required to submit documentation which verifies that a sixty-five percent reduction from historical levels has been achieved for each product. Additionally, Spongex will be required to institute a recordkeeping procedure to verify that each batch quantity of compound dough mix contains no more than the allowable VOC content which is equivalent to a sixty-five percent reduction from historical levels.

If Spongex chooses not to comply through reformulation of the compound dough mixtures or cannot achieve sufficient reductions with that method, then Spongex will be required to install add-on control equipment on all of its normalizing ovens. Provided that eighty percent of the overall VOC emissions from the process are emitted from the normalizing ovens, Spongex is required to achieve a ninety percent capture efficiency of the VOC emissions from the normalizing ovens and is required to reduce those emissions by ninety percent with the add-on control equipment in order to achieve the sixty-five percent overall reduction in VOC emissions required by the State Order. If it is determined that less than eighty percent of the total VOC emissions are emitted from the normalizing ovens, Spongex will be required to increase the capture and destruction efficiencies to the appropriate levels necessary for a sixty-five percent overall reduction. To verify compliance, the State Order requires Spongex to conduct an emissions test of the add-on control system in an EPA and DEP-approved manner in order to demonstrate the required destruction and capture efficiencies.

Spongex is required to achieve full compliance with the requirements of the State Order No. 8008 by December 31, 1987 which is allowed under subsection 22a-174-20(ee) of the Connecticut's federally-approved SIP. The application of RACT by Spongex as required by State Order No. 8008 will reduce Spongex's actual emissions from approximately 303 tons per year to 106 tons per year.

EPA has reviewed the requirements of State Order No. 8008 and its compliance dates, and has determined that they constitute RACT for Spongex International, Ltd.

EPA is proposing to approve DEP's proposed Order as a revision to the Connecticut SIP, and is soliciting public comments. These comments will be considered before taking final action. Interested parties may participate in the Federal Rulemaking procedure by submitting written comments to the Region I office listed in the **ADDRESSES** section of this notice.

This revision is being proposed under a procedure called parallel-processing, whereby EPA proposes rulemaking action concurrently with the State's procedures for amending its regulations. If the proposed revision is substantially changed, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made to the proposed revision, EPA will publish a final rulemaking notice. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the State of Connecticut and submitted for incorporation into the SIP.

### Proposed Action

EPA is proposing to approve Connecticut's proposed State Order No. 8008 as a revision to the Connecticut SIP. The provisions of Connecticut's proposed State Order No. 8008 define and impose RACT for Spongex International, Ltd. as required by subsection 22a-174-20(ee) of Connecticut's regulations.

Under 5 U.S.C. 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.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of section 110(a)(2) (A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

### List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

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

**Editorial Note:** This document was received by the Office of the Federal Register on March 17, 1988.

Date: June 30, 1987.

**Michael R. Deland,**

*Regional Administrator, Region I.*

[FR Doc. 88-6190 Filed 3-21-88; 8:45 am]

BILLING CODE 6560-50-M

## 40 CFR Part 52

**[A-1-FRL-3352-2]**

## Approval and Promulgation of Implementation Plans; Non-CTG RACT Determination for General Motors, Framingham, MA

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a proposed State Implementation Plan revision submitted by the Commonwealth of Massachusetts. This revision establishes and requires the use of reasonably available control technology (RACT) to reduce volatile organic compound (VOC) emissions from certain processes at General Motors in Framingham, Massachusetts. The intended effect of this action is to propose approval of a source-specific RACT determination made by the Commonwealth of Massachusetts in accordance with commitments of its approved 1982 Ozone Attainment Plan. This action is being taken under section 110 of the Clean Air Act.

**DATES:** Comments must be received on or before April 21, 1988. Public comments on this document are requested and will be considered before taking final action on these SIP revisions.

**ADDRESSES:** Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2313, JFK Federal Bldg., 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 the Department of Environmental Quality Engineering, Division of Air Quality Control, 8th Floor, One Winter Street, Boston, MA 02108.

**FOR FURTHER INFORMATION CONTACT:** Cynthia L. Greene, (617) 565-3244; FTS 835-3244.

**SUPPLEMENTARY INFORMATION:** On June 30, 1987 the Massachusetts Department of Environmental Quality Engineering (DEQE) submitted a proposed revision to its State Implementation Plan (SIP) for General Motors (GM) located in Framingham, Massachusetts. GM, Framingham has four operations that emit greater than 100 tons per year (TPY) of VOCs which are not covered by a control technique guideline (CTG).

Massachusetts requested and was granted an extension until December 31, 1987 to come into attainment with the

national ambient air quality standard (NAAQS) for ozone. The SIPs of all extension States must require the control of non-CTG sources with the potential to emit 100 TPY or more of VOCs. Massachusetts submitted a regulation, 310 CMR 7.18(17), requiring RACT on all such non-CTG sources as part of its 1982 Ozone Attainment Plan (48 FR 51480). In a November 17, 1982 letter to EPA, the DEQE committed to submit each of the 100 TPY individual RACT determinations to EPA for incorporation into the Massachusetts SIP. Each RACT determination is submitted as a source-specific SIP revision.

This revision includes a Plan Approval proposed by the DEQE to impose RACT on four processes at GM that are not covered by a CTG. This is in accordance with SIP Regulation 310 CMR 7.18(17). The Plan requires that the prephosphate cleaning operation use a specified low solvent compound to clean and remove oil, dust and grease from automotive parts; that the flexible parts operation which paints plastic fascias cease operation by August 31, 1987; and that the operations involving miscellaneous sealers, adhesives, paints and solvents be controlled by imposing emission limitations and work practice standards on the use of those materials. Additionally, GM is required to report to the DEQE on a quarterly basis the amount of miscellaneous sealers, adhesives, paint and solvents used and VOCs emitted.

EPA has reviewed the proposed Plan Approval and supporting documents submitted by the DEQE regarding this RACT determination. EPA generally concurs with the DEQE's determination that limiting emissions by requiring the use of a low solvent cleaner for the prephosphate cleaning; cessation of flexible parts operation that has the potential to emit 267 TPY; and usage controls for the miscellaneous sealers, adhesives, paints and solvents that are small operations scattered throughout the plant constitute RACT for these processes. (Justification to support the proposed RACT determination is discussed in the technical support document (TSD) available at the EPA address given above.) However, EPA is requiring through this notice that the Plan Approval itself must be amended to incorporate as enforceable conditions the items identified below:

(1) A quarterly recordkeeping and reporting requirement must be established for the prephosphate cleaning operation to ensure that GM does not use any compound other than that specified in the Plan Approval; and

(2) Emission limits and work practice standards reflecting DEQE's determination of how the use of miscellaneous sealers, adhesives, paints and solvents will be controlled must be clearly specified. These emission limits and work practice standards must be enforceable conditions of the Plan Approval.

These amendments to the Plan Approval must be addressed in the version of that document formally submitted as a revision for EPA's final approval and incorporation into the SIP. EPA is proposing to approve this SIP revision for General Motors in Framingham, which was submitted on June 30, 1987, and is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

This revision is being proposed under a procedure called "parallel processing" (47 CFR 27073). If the proposed revision is substantially changed, in areas other than those identified in this notice, EPA will evaluate those changes and may publish a revised NPR. If no substantial changes are made other than those areas cited in this notice, EPA will publish a final Rulemaking Notice on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by Massachusetts and submitted to EPA for incorporation into the SIP. "Parallel processing", it is estimated, will reduce the time necessary for final approval of this SIP revision by 3 to 4 months.

**Proposed Action**

EPA is proposing to approve the DEQE's proposed RACT determination for four non-CTG operations at General Motors Framingham automobile manufacturing plant. Final EPA approval is contingent upon the DEQE amending its Plan Approval to include quarterly recordkeeping and reporting for the prephosphate cleaning operation and emission limits and work practice standards for the miscellaneous sealers, adhesives, paints and solvents as specified in this notice of proposed rulemaking.

Under 5 U.S.C. 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 Administrator's decision to approve or disapprove this plan revision will be based on whether it meets the requirements of sections 110(a) (2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

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 52**

Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Date: November 4, 1987.

**Michael R. Deland,**

*Regional Administrator, Region I.*

[FR Doc. 88–6191 Filed 3–21–88; 8:45 am]

BILLING CODE 6560-50-M

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**40 CFR Part 52**

**[A-1-FRL-3352-3]**

## Approval and Promulgation of Implementation Plans; Massachusetts Non-CTG RACT Determination for North American Philips Lighting Co.

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a proposed State Implementation Plan revision submitted by the Commonwealth of Massachusetts. This proposed revision establishes and imposes reasonably available control technology (RACT) to reduce volatile organic compounds (VOC) from certain processes at the North American Philips Lighting Company in Lynn, Massachusetts. The intended effect of this action is to propose approval of a source-specific RACT determination made by the Commonwealth in accordance with commitments made in its approved 1982 Ozone Attainment Plan (48 FR 51480). This action is being taken under section 110 of the Clean Air Act.

**DATES:** Comments must be received on or before April 21, 1988. Public comments on this document are requested and will be considered before taking final action on these SIP revisions.

**ADDRESSES:** Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2313, JFK Federal Bldg., 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 the Department of

Environmental Quality Engineering, Division of Air Quality Control, 8th floor, One Winter Street, Boston, MA 02108.

**FOR FURTHER INFORMATION CONTACT:** Cynthia L. Greene, (617) 565-3244; FTS 835-3244.

**SUPPLEMENTARY INFORMATION:** On June 30, 1987 Department of Environmental Quality Engineering (DEQE) submitted a proposed revision to its State Implementation Plan (SIP) for North American Philips Lighting Company in Lynn, Massachusetts. North American Philips Lighting Company's three glass tube, phosphor coating lines are not controlled by a control technique guideline (CTG) regulation and emit greater than 100 tons per year (TPY) of volatile organic compounds (VOCs).

Massachusetts requested and was granted an extension until December 31, 1987 to come into attainment with the National Ambient Air Quality Standard (NAAQS) for ozone. The SIPs of all extension states must require the control of non-CTG sources with the potential to emit greater than 100 TPY of VOCs. Massachusetts submitted a regulation, 310 CMR 7.18(17), requiring RACT on all such non-CTG sources as part of its 1982 Ozone Attainment Plan. Regulation 310 CMR 7.18(17) states that the DEQE will determine and impose RACT on a case-by-case basis for all non-CTG sources with the potential to emit greater than 100 TPY of VOCs and submit each determination as a source-specific SIP revision.

This revision includes a Plan Approval proposed by the DEQE to impose RACT on North American Philips Lighting Company's three glass tube, phosphor coating lines in accordance with SIP Regulation 310 CMR 7.18(17).

North American Philips Lighting Company manufactures fluorescent light bulbs which involves washing and drying the raw glass tubes, coating them, drying them in a hot tunnel, and fitting them with electrical parts. The coating operation involves coating the insides of the glass tubes with a VOC containing phosphor coating. North American Philips Lighting Company has five such coating lines. Three lines, Units 23, 24 and 25 are subject to RACT and two lines, All Purpose (AP) and Unit 22 are subject to best available control technology (BACT) under the SIP's approved new source review regulations. Units 23, 24, and 25 coat the glass tubes in an enclosed application room which is vented to a carbon adsorption device. The RACT determination requires that the carbon adsorber achieve 81% control efficiency. The imposed 81% control efficiency represents the equivalent of 90% capture efficiency of 90% removal efficiency. These are the efficiencies considered RACT by EPA for other surface coating source categories for which EPA has published CTGs.

EPA has reviewed the proposed Plan Approval and the supporting documents the DEQE submitted regarding this RACT determination. While EPA generally concurs with the DEQE's RACT determination, the Plan Approval must be amended to incorporate as enforceable conditions monitoring, recordkeeping and reporting requirements that will ensure that the 81% control efficiency is maintained. These requirements must be included in the version of the Plan Approval formally submitted for EPA's final approval and incorporation into the SIP.

EPA is proposing to approve this SIP revision for North American Philips Lighting Company in Lynn, which was submitted on June 30, 1987, and is soliciting public comments on issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

This revision is being proposed under a procedure called "parallel processing" (47 CFR 27073). If the proposed revision is substantially changed in areas other than those identified and required by this notice, EPA will evaluate those changes and may publish a revised NPR. If no substantial changes are made other than those areas cited in this notice, EPA will publish a Final Rulemaking Notice on this revision. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by Massachusetts and submitted to EPA for incorporation into the SIP. "Parallel processing", it is estimated, will reduce the time necessary for final approval of these SIP revisions by 3 to 4 months.

## Proposed Action

EPA is proposing to approve the DEQE's proposed RACT determination for the three non-CTG glass tube, phosphor coating lines (Units 23, 24, and 25) at North American Philips Lighting Company in Lynn. Final EPA approval is contingent upon DEQE amending its Plan Approval to include enforceable monitoring, recordkeeping and reporting requirements to ensure that the 81% control efficiency is maintained.

Under 5 U.S.C. 605(b), I certify that the 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.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of sections 110(a)(2)(A)-(K) and 110 (a)(3) of the Clean Air Act, as amended, and EPA regulations in CFR Part 51.

## List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

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

Date: October 7, 1987.

**Michael R. Deland,**

*Regional Administrator, Region I.*

[FR Doc. 88-6192 Filed 3-21-88; 8:45 am]

BILLING CODE 6560-50-M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

### 42 CFR Parts 405, 412, 413, and 489

[BERC-462-P]

### Medicare Program; Miscellaneous Changes Affecting Payment for Inpatient Hospital Services

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to make several revisions to the regulations governing payment for inpatient hospital services. These proposed changes, which, in general, are necessary to conform the regulations to current policy, include—

- Clarifying in regulations when the changes in urban/rural designations are recognized for purposes of the prospective payment system;
- Clarifying in the regulations the effective date of the revised payment rate for a hospital that is classified as a sole community hospital;
- Adding to the regulations a definition of patient days used in computing a hospital's disproportionate share patient percentage as well as clarifying how we calculate the Supplemental Security Income/Medicare percentage based on Medicare patient days; and
- Clarifying in the regulations that the provisions that govern requests for

exceptions to and exemptions from a hospital's rate-of-increase ceiling also govern requests for adjustments to the ceiling and that we grant a hospital's request for an exception or adjustment only if its costs exceed its rate-of-increase ceiling.

In addition, we are making two technical and conforming changes to the regulations.

**DATES:** Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on May 23, 1988.

**ADDRESSES:** Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-462-P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC.

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC-462-P. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

**FOR FURTHER INFORMATION CONTACT:** Paul Olenick, (301) 966-4534.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Under section 1886(d) of the Social Security Act (the Act), the prospective payment system for Medicare payment of inpatient hospital services was established effective with hospital cost reporting periods beginning on or after October 1, 1983. Under this system, Medicare payment is made at a predetermined, specific rate for each hospital discharge. The regulations governing this inpatient hospital prospective payment system are located in 42 CFR Part 412.

The inpatient operating costs of those hospitals and hospital units excluded from the prospective payment system are subject to rate-of-increase limits established under the authority of section 1886(b) of the Act, which is implemented in § 413.40 of the regulations. Under these limits, an annual target amount (stated as inpatient operating cost per discharge) is set for each hospital, based on the hospital's own cost experience in a base period. This target amount is applied as a ceiling on the allowable costs per discharge for the hospital's next cost reporting period.

In this document, we are proposing to make the following changes in the regulations that govern payment for inpatient hospital services:

- We would clarify that, for purposes of paying hospitals under the prospective payment system, changes in Metropolitan Statistical Area (MSA) and New England County Metropolitan Area (NECMA) designations are recognized only at the beginning of a Federal fiscal year.
- We would clarify that a hospital classified as a sole community hospital would receive a revised payment rate effective with discharges occurring on or after 30 days after the date of HCFA approval of the classification.
- We would revise the regulations to provide that, for purposes of determining a hospital's qualification for payment as a disproportionate share hospital, the Supplemental Security Income (SSI)/Medicare percentage is calculated based on Medicare patient days associated with discharges occurring during the Federal fiscal year. In addition, we would add to the regulations a definition of patient days.
- The regulations governing hospital requests regarding applicability of the rate-of-increase ceiling would be revised to make it clear that they apply to a hospital's request for an adjustment to the rate of increase ceiling as well as to the currently included requests for an exemption or exception. We would also clarify that a request for an exception or adjustment is granted only in those cases in which the hospital's costs exceed its rate-of-increase ceiling.
- Two technical, conforming changes would be made to the regulations as follows:

—We would add payment adjustments for hospitals that serve a disproportionate share of low-income patients to the list of additional payments to hospitals set forth at § 412.2(e).

—We would delete from the regulations the special provision for hospitals that provides for waiver of requirements concerning Part A billing and cross-references to that deleted section, since the authority to provide such waivers expired with cost reporting periods beginning on or after October 1, 1986.

These proposals are discussed below in detail.

## II. Discussion of Proposed Changes

### *A. Recognition of Changes in Urban/Rural Redesignations (§§ 412.63 and 412.210)*

Sections 1886(d) (2)(D) and (3)(A) of the Act requires that the average standardized amounts per discharge, which are used to determine payment to hospitals subject to the prospective payment system, be determined for hospitals located in rural and urban areas. Thus, a hospital's payment rate is dependent, to some degree, on whether the county in which the hospital is located is designated as an urban area or a rural area. The term "urban" area is defined in section 1886(d)(2)(D) of the Act and in regulations at §§ 412.62(f)(1)(ii), 412.63(b), and 412.208(f)(1)(i) (which pertains to the prospective payment system in Puerto Rico that was adopted at 52 FR 33034 (September 1, 1987) and 52 FR 35350 (September 18, 1987), in accordance with the Executive Office of Management and Budget's (EOMB's) designations, as an MSA, a NECMA, or certain New England counties deemed to be urban areas under section 601(g) of the Social Security Amendments of 1983 (Pub. L. 98-21) (42 U.S.C. 1395ww (note)). A "rural" area is any area outside an urban area.

Periodically, EOMB revises the list of MSA/NECMA designations based on a continuing analysis of factors such as changes in population. In addition, Congress occasionally directs EOMB to change an MSA or NECMA designation. Depending on the changes, a county may be reclassified as urban and thus hospitals located in the county would receive a higher urban payment rate, or a county may lose its urban area status, and thus hospitals located in the county would receive the lower, rural payment rate.

In the preamble to the August 31, 1984 prospective payment final rule, we stated that for purposes of determining payment, we recognize these MSA reclassifications beginning with the start of the Federal fiscal year following the announcement of the change (49 FR 34736). We restated this policy in the September 3, 1985 and September 3, 1986 final rules and most recently in the June 10, 1987 proposed rule (52 FR 22104). However, we have never included this policy in the regulations. Therefore, we are proposing to revise §§ 412.63(b) and 412.210(b) to state specifically that any changes in MSA designations are recognized for purposes of payment beginning on the October 1 (that is, the start of the Federal fiscal year) following the announcement of the change.

*B. Sole Community Hospitals (§ 412.92)*

Section 1886(d)(5)(C)(ii) of the Act requires that the special needs of sole community hospitals (SCHs) be taken into account under the prospective payment system. SCHs are defined as those hospitals that, by reason of factors such as isolated location, weather conditions, travel conditions, or absence of other hospitals (as determined by the Secretary), are the sole source of inpatient hospital services reasonably available to Medicare beneficiaries in a geographic area. Regulations governing the Special Treatment of SCHs under the prospective payment system are set forth in § 412.92.

A hospital that is classified as an SCH is paid in accordance with the method of establishing payment for the first year of the transition period under the prospective payment system. Thus, the payment rate for an SCH is composed of 75 percent of the hospital-specific rate and 25 percent of the Federal regional rate.

We have stated in the preamble to two Federal Register documents that the effective date of the payment for an SCH is 30 days after the date of HCFA's approval of the hospital's request. (See the September 1, 1983 interim final rule (48 FR 39781) and January 3, 1984 final rule (49 FR 271).) However, we continue to receive requests from hospitals that the effective date of the revised payment rate for an SCH should be the date that the hospital first met the classification criteria for an SCH, rather than 30 days after the date of HCFA's approval.

We stated in the January 3, 1984 final rule that to set the effective date as the day the hospital first met the SCH classification criteria would *not* be in keeping with the basis of the prospective payment system. We maintain that our prospective payment policy continues to be an appropriate method of paying an SCH, and are proposing to revise § 412.92(b) to clearly state that the effective date of the payment adjustment for an SCH is 30 days after the date of HCFA's approval of the hospital's request.

*C. Hospitals That Serve a Disproportionate Share of Low-Income Patients (§ 412.106)*

Section 1886(d)(5)(F) of the Act requires that we make an additional payment to hospitals that serve a disproportionate share of low-income patients. Sections 1886(d)(5)(F) (i) and (v) of the Act provide that, for discharges occurring before October 1, 1989, an additional payment must be made for each prospective payment hospital that meets one of the following criteria:

- During the hospital's cost reporting period, the hospital has a disproportionate patient percentage that is at least equal to—
  - — 15 percent if the hospital is located in an urban area and has 100 or more beds;
  - — 40 percent if the hospital is located in an urban area and has fewer than 100 beds; or
  - — 45 percent if the hospital is located in a rural area.
- The hospital is located in an urban area, has 100 or more beds, and can demonstrate that, during its cost reporting period, more than 30 percent of its total inpatient care revenues are derived from State and local government payments for indigent care furnished to patients not covered by Medicare or Medicaid.
- The hospital is located in a rural area, has 500 or more beds, and, during its cost reporting period, the hospital has a disproportionate patient percentage that equals or exceeds a percentage specified by the Secretary. Through regulation (§ 412.106(b)(2)), the Secretary has specified the percentage as 15 percent.

The criteria for qualification as a disproportionate share hospital are set forth in regulations at § 412.106(b).

Under the authority of section 1886(d)(5)(F)(vi) of the Act, § 412.106(a)(1) defines the term "disproportionate patient percentage" as the sum of the following two fractions, which is expressed as a percentage:

$$\frac{\text{Number of covered patient days of those patients entitled to both Medicare Part A and SSI (excluding those patients receiving State supplementation only)}}{\text{Number of patient days of those patients entitled to Medicare Part A}}$$

$$\frac{\text{Number of patient days of those patients entitled to Medicaid but not to Medicare Part A}}{\text{Total number of patient days}}$$

As we stated in the May 6, 1986 interim final rule (51 FR 16777), which added this provision to the regulations, the number of patient days of those patients entitled to both Medicare Part A and SSI will be determined by matching data from the Medicare hospital billing file with the Social Security Administration's SSI file. The match of SSI eligibility records to Medicare inpatient hospital days for a hospital consists of counting the days in which Medicare inpatient hospital services are furnished during each month to patients entitled to both Medicare Part A and SSI, summing those days, and dividing by the total number of days for which Medicare inpatient hospital services are furnished to all Medicare Part A beneficiaries in the hospital.

Since patient days used in computing the SSI/Medicare percentage are taken from the Medicare bills for discharges occurring during the Federal fiscal year, all of the inpatient days associated with those discharges may not have occurred during the same Federal fiscal year. For example, if a patient was admitted at the end of the prior fiscal year and discharged in the current fiscal year, all days associated with the stay would be counted in the current fiscal year. Similarly, if a patient is admitted at the end of the current fiscal year but is not discharged until the following fiscal year, those days would not be counted until the date of discharge. We are revising § 412.106(a)(1) to clearly state that this is how we count patient days in making the computation of the SSI/Medicare percentage.

We are also proposing to add a definition of patient days to the regulations. For purposes of computing a hospital's disproportionate patient percentage, patient days, whether total days or Medicare, Medicaid, or SSI days, are determined by counting those inpatient days attributable only to those areas of the hospital subject to the prospective payment system. Patient days attributable to excluded distinct part units of the hospital, such as psychiatric and rehabilitation units, are not counted. We do not believe it is appropriate to consider patient days from excluded units of the hospital since the disproportionate share adjustment is a prospective payment system adjustment and is not available to hospitals or units that are excluded from the prospective payment system.

Section 1886(d)(5)(F)(i) of the Act specifically provide that an additional payment amount is made for each subsection (d) hospital that serves a significantly disproportionate number of low-income patients. Section 1886(d)(1)(B) of the Act defines a subsection (d) hospital as "a hospital located in one of the fifty States or the District of Columbia * * * and * * * does not include a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital * * *." Since section 1886(d)(5)(F)(i) of the Act incorporates the definition of hospital by reference to subsection (d), we believe that all further references in that subparagraph to hospital, unless stated otherwise, should be taken to mean a

subsection (d) hospital. We believe that this interpretation of the statute produces the most consistent application of the disproportionate share adjustment, since data from only prospective payment hospitals (or the portions of the hospital subject to the prospective payment system) are used in determining both the qualifications for and the amount of additional payments to those hospitals.

Currently, the regulations do not specifically define patient days for purposes of calculating a hospital's disproportionate patient percentage. Therefore, we are proposing to revise § 412.106(a) to state that only those days attributable to parts of the hospital paid under the prospective payment system—that is, to the subsection (d) hospital as defined in section 1886(d)(1)(B) of the Act—would be counted in determining a hospital's eligibility for a disproportionate share adjustment.

*D. Adjustments to the Rate-of-Increase Ceiling and Hospital Cost Limits (§§ 413.40 and 413.30)*

As discussed above, hospitals that are excluded from the prospective payment system are subject to the rate-of-increase limits under section 1886(b) of the Act. Each hospital has a target amount that is applied as a ceiling on its allowable inpatient operating costs per discharge. A hospital that has inpatient operating costs in excess of its target amount is paid no more than that amount. However, a hospital that has costs less than its target amount is paid its costs plus the lower of—

- Fifty percent of the difference between the inpatient operating cost per discharge and the target amount; or
- Five percent of the target amount.

Section 1886(b)(4) of the Act provides for exemptions from, and exceptions and adjustments to, the rate-of-increase ceiling. Currently, § 413.40(e) describes how a hospital may request an exemption from, or exception to, the ceiling. Section 413.40(e) also states that the time required for HCFA to review a hospital's request for an exception is considered good cause for the granting of an extension of the time limit to apply for review by the Provider Reimbursement Review Board (PRRB), as specified in § 405.1841(b). The following three paragraphs, § 413.40(f) through (h), detail the conditions under which an exemption, exception, and adjustment, respectively, will be granted.

Since § 413.40(e) does not specifically refer to requests for adjustments to the rate-of-increase ceiling, even though § 413.40(h) describes when HCFA will make an adjustment, it is unclear whether a hospital's right to a PRRB review is protected while HCFA reviews an adjustment request. Therefore, we are proposing to revise § 413.40(e) to clarify that a request for an adjustment would be treated the same as a request for an exemption or exception.

Similarly, we are proposing to revise § 413.30(c) concerning provider requests regarding applicability of cost limits. Hospitals have been subject to cost limits since 1974. Under § 413.30(h), for cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983, HCFA may make an adjustment to a hospital's cost limits. Like the current § 413.40(e), § 413.30(c) does not include a hospital's request for an adjustment to its cost limits, even though § 413.30(h) describes when HCFA makes an adjustment. In the interest of clarity, we would revise § 413.30(c) so that the provisions of that section apply to a hospital's request for an adjustment to its cost limits.

In summary, we are proposing to revise §§ 413.30(c) and 413.40(e) to clarify that the time it takes HCFA to review a request for an exception, exemption, or adjustment (and, in the case of § 413.30(c), a request for reclassification) is good cause for extending the period allowed for requesting PRRB review.

We are also proposing to revise § 413.40(g) and (h) to clearly state that we would not grant an exception or adjustment to a hospital's rate-of-increase ceiling if the hospital's costs do not exceed its target amount. We believe that an actual disallowance of costs as a result of the application of the rate-of-increase ceiling is a necessary precondition to HCFA's granting an exception or adjustment under § 413.40(g) or (h) and that the exceptions and adjustments provided under section 1886(b)(4) of the Act should be used to increase a hospital's incentive payment under section 1886(b)(1)(A) of the Act.

The rate-of-increase ceiling provision was added to the Act by section 101 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248). The Conference Report that accompanied Pub. L. 97–248 (H.R. Rep. No. 760, 97th Cong., 2d Sess. 419–421 (1982)) does not contain any explicit expression of congressional intent with regard to whether an exception or adjustment should be granted only if a hospital exceeds its target amount. Rather, the report states, "The Secretary of HHS would be required to provide for appropirate exemptions, exceptions, and adjustments as in the Senate provision." Thus, it appears that Congress deferred to the Secretary's judgment in implementing the exemption, exception, and adjustment process.

We also note that the report does state that it was the Senate provision the Conference Committee adopted with regard to this process. The Senate amendment did not provide for incentive payments to hospitals with costs below the target amount. Thus, the language in the statute authorizing the exemptions, exceptions, and adjustments was added by the Senate without its contemplating that this process would apply in cases in which the hospital's costs do not exceed the target amount and the hospital receives an incentive payment. Based on this evidence, we believe that our policy is consistent with congressional intent.

Even though the current regulations do not specifically state that we will not grant an exception of adjustment to increase incentive payments, there are references to this policy in the preamble to the interim final rule (45 FR 43282, September 30, 1982) and final rule (48 FR 39412, August 30, 1983) that first added § 413.40 (then § 405.463) to the regulations. In the interim final rule, in defining the exceptions process, we stated, "An exception allows a hospital to have its ceiling adjusted to take costs into account that would otherwise be disallowed by application of the ceiling." (See 47 FR 43288.) In addition, in the final rule, in addressing a comment concerning when an exception request may be filed, we stated, "Under both the rate-of-increase ceiling and the total cost limits, a hospital may request an exception whenever it has a reasonable basis for estimating that its costs will exceed its rate-of-increase target amount or cost limit." (See 48 FR 39419.)

We believe that these statements make it clear that it has always been our policy not to award exceptions or adjustments under the rate-of-increase ceiling if there has been no disallowance of a hospital's actual costs. Therefore, we are proposing to revise § 413.40(g) and (h) to clearly state our current policy concerning the granting of exceptions and adjustments.

*E. Additional Payments to Hospitals (§ 412.2(e))*

In addition to payments based on the prospective payment rates, hospitals receive additional payments for the following:

- Outlier cases.
- The indirect cost of graduate medical education.
- Costs excluded from the prospective payment rate.
- Medicare bad debts.

• End-Stage Renal Disease beneficiary discharges if these discharges are 10 percent or more of the hospital's total Medicare discharges.

• Serving a disproportionate share of low-income patients.

Currently, § 412.2(e) lists all these additional payments except the payments to disproportionate share hospitals. Therefore, we are proposing to revise that section to include those payments.

*F. Special Provision for Waiver of Certain Inpatient Hospitals Services Requirements (§§ 405.310(m), 412.50(b), and 489.23)*

When the original prospective payment system was enacted by Congress through the Social Security Amendments of 1983 (Pub. L. 98–21), section 602(k) of that law (42 U.S.C. 1395y (note)) authorized a temporary waiver, in certain circumstances, of the requirement set forth in sections 1862(a)(14) and 1866(a)(1)(H) of the Act that hospitals bill for all nonphysician inpatient hospital services under Medicare Part A. This waiver authority is implemented through our regulations governing provider agreements (§ 489.23). The waiver was authorized for cost reporting periods begining before October 1, 1986.

Since the waiver authority has now expired, we are proposing to delete § 489.23 from the regulation. We would also make a conforming change to §§ 405.310(m) and 412.50(b), which contain a reference to § 489.23. In addition, we are proposing to make a change in § 412.50(b), regarding inpatient hospital services of an anesthetist employed by a physician, to conform it with § 405.310(m).

## III. Impact Analysis

*A. Executive Order 12291*

Executive Order 12291 (E.O. 12291) requires us to prepare and publish an initial regulatory impact analysis for any proposed regulation that meets one of the E.O. criteria for a "major rule"; that is, that would be likely to result in: an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We are proposing to amend §§ 412.2, 412.63, 412.92, 412.106, 412.210, 413.30, and 413.40 only to bring them into conformity with existing policy. The changes to §§ 405.310, 412.50, and 489.23 reflect the statutory expiration of authority under section 602(k) of Pub. L. 98–21 governing payments to certain hospitals under the prospective payment system. Thus, these regulations would not implement either new statutory provisions or new policies, and, for this reason, we believe it is unnecessary to prepare or publish a regulatory impact analysis.

*B. The Regulatory Flexibility Act*

In addition, we generally prepare an initial regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a proposed regulation would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat all hospitals as small entities.

In addition, section 1102(b) of the Social Security Act requires the Secretary to prepare an initial regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must also conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside a metropolitan statistical area.

For the same reasons stated above in connection with E.O. 12291, we have determined that a regulatory impact analysis not required. Further, we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on a substantial number of small entities or on the operations of a substantial number of small rural hospitals, and we have therefore not prepared a regulatory flexibility analysis or an impact analysis for small rural hospitals.

## IV. Other Required Information

*A. Responses to Public Comments*

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or repond to them individually. However, we will consider all comments that we receive by the date and time specified in the "Date" section of this preamble, and, if we proceed with a final rule, we will respond to the comments in the preamble of that rule.

*B. Paperwork Reduction Act*

The proposed rule does not impose information collection requirements. Consequently, it need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3511).

**List of Subjects**

*42 CFR Part 405*

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

*42 CFR Part 412*

Health facilities, Medicare, Reporting and recordkeeping requirements.

*42 CFR Part 413*

Health facilities, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

*42 CFR Part 489*

Health facilities, Medicare.

42 CFR Chapter IV would be amended as follows:

**CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES**

I. Part 405, Subpart C is amended as follows:

## PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

**Subpart C—Exclusions, Recovery of Overpayments, Liability of a Certifying Officer and Suspension of Payment**

A. The authority citation for Subpart C continues to read as follows:

Authority: Secs. 1102, 1815, 1833, 1842, 1862, 1866, 1870, 1871, and 1879 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395l, 1395u, 1395x, 1395y, 1395cc, 1395gg, 1395hh, and 1395pp) and 31 U.S.C. 3711.

B. In § 405.310(m)(2) is revised to read as follows:

**§405.310 Particular services excluded from coverage.**

* * * * *

(m) *Services to hospital inpatients.*

* * * * *

(2) *Exception.* Physicians' services that meet the criteria of § 405.550(b) for payment on a reasonable charge basis, and services of an anesthetist employed by a physician that meet the conditions of § 405.553(b)(4), are not excluded.

* * * * *

II. Part 412 is amended as follows:

## PART 412—PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT HOSPITAL SERVICES

A. The authority citation for Part 412 continues to read as follows:

**Authority:** Secs. 1102, 1122, 1871, and 1886 of the Social Security Act, as amended (42 U.S.C. 1302, 1320a-1, 1395hh, and 1395ww).

B. In Subpart A, § 412.2, the introductory text in paragraph (e) is republished and a new paragraph (e)(6) is added to read as follows:

### Subpart A—General Provisions

**§ 412.2 Basis of payment.**

* * * * *

(e) *Additional payments to hospitals.* In addition to payments based on the prospective payment rates, hospitals will receive payments for the following:

* * * * *

(6) Serving a disproportionate share of low-income patients, as provided in § 412.106.

C. In Subpart C, § 412.50(b) is revised to read as follows:

### Subpart C—Conditions for Payment Under the Prospective Payment System

**§ 412.50 Furnishing of inpatient hospital services directly or under arrangements.**

* * * * *

(b) HCFA does not pay any provider or supplier other than the hospital for services furnished to a beneficiary who is an impatient, except for physicians' services reimbursable under § 405.550(b) of this chapter and services of an anesthetist employed by a physician reimbursable under § 405.553(b)(4) of this chapter.

* * * * *

D. In Subpart D, § 412.63 is amended by adding a new paragraph (b)(4) to read as follows:

### Subpart D—Basic Methodology for Determining Federal Prospective Payment Rates

**§ 412.63 Federal rates for fiscal years after Federal fiscal year 1984.**

* * * * *

(b) *Geographic classifications.* * * *

(4) For purposes of this section, any change in an MSA or NECMA designation is recognized on the October 1 following the effective date of the change.

* * * * *

E Subpart G is amended as follows:

### Subpart G—Special Treatment of Certain Facilities

1. In § 412.92, a new paragraph (b)(1)(iv) is added to read as follows:

**§ 412.92 Special treatment: Sole community hospitals.**

* * * * *

(b) *Classification procedures*—(1) *Request for classification as sole community hospital.* * * *

(iv) A hospital classified as a sole community hospital receives a payment adjustment, as described in paragraph (d) of this section, effective with discharges occurring on or after 30 days after the date of HCFA's approval of the classification.

* * * * *

2. § 412.106, the introductory text of paragraph (a)(1) is republished, paragraph (a)(1)(i) is revised, and a new paragraph (a)(5) is added to read as follows:

**§ 412.106 Special treatment: Hospitals that serve a disproportionate share of low-income patients.**

(a) *Basic rule.* (1) Unless a hospital elects the option concerning the period of time used for counting the number of patient days (that is, the hospital's cost reporting period rather than the Federal fiscal year), as described in paragraph (a)(2) of this section, a hospital's disproportionate patient percentage is the sum of the following, expressed as a percentage:

(i) Number of covered patient days associated with discharges occurring during each month of the Federal fiscal year in which the hospital's cost reporting period begins of those patients who are entitled during that month to both Medicare Part A and Supplemental Security Income benefits under title XVI of the Act (excluding those patients receiving State supplementation only), summed for the months of the Federal fiscal year, and divided by the number of patient days associated with discharges occurring during that same Federal fiscal year of those patients entitled to Medicare Part A.

* * * * *

(5) For purposes of making the calculation in paragraph (a)(1) of this section, patient days are determined by counting those days attributable only to areas of the hospital subject to the prospective payment system. Patient days attributable to areas or units of the hospital excluded from the prospective payment system are not included in the count of patient days.

* * * * *

F. In Subpart K, § 412.210(b) is revised to read as follows:

### Subpart K—Prospective Payment System for Hospitals Located in Puerto Rico

**§ 412.210 Puerto Rico rates for fiscal years after Federal fiscal year 1988.**

* * * * *

(b) *Geographic classifications.* For purposes of this section—

(1) The definitions set forth in § 412.208(f) apply; and

(2) Any change in an MSA designation is recognized on the October 1 following the effective date of the change.

* * * * *

III. Part 413 is amended as follows:

## PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT: PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

A. The authority citation for Part 413 continues to read as follows:

**Authority:** Secs. 1102, 1122, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, and 1886 of the Social Security Act as amended (42 U.S.C. 1302, 1302, 1320a-1, 1395f(b), 1395g, 13951(a), 1395x(v), 1395hh, 1395hh, 1395rr, and 1395ww).

B. Subpart C is amended as follows:

### Subpart C—Limits on Cost Reimbursement

1. In § 413.30, paragraph (c) is revised to read as follows:

**§ 413.30 Limitations on reimbursable costs.**

* * * * *

(c) *Provider requests regarding applicability of cost limits.* A provider may request a reclassification, exception, or exemption from the cost limits imposed under this section. In addition a hospital may request an adjustment to the cost limits imposed under this section. The provider's request must be made to its fiscal intermediary within 180 days of the date on the intermediary's notice of program reimbursement. The intermediary makes a recommendation on the provider's request to HCFA, which makes the decision. HCFA responds to the request within 180 days from the date HCFA receives the request from the intermediary. The intermediary notifies the provider of HCFA's decision. The time required for HCFA to review the request is considered good cause for the granting of an extension of the time limit to apply for a Board review, as specified in § 405.1841 of this chapter. HCFA's decision is subject to review under Subpart R of Part 405 of this chapter.

* * * * *

2. In § 413.40, paragraphs (e), (g)(1), and (h)(1)(iii) are revised to read as follows:

**§ 413.40 Ceiling on rate of hospital cost increases.**

* * * * *

(e) *Hospital requests regarding applicability of the rate of increase ceiling.* A hospital may request an exemption from, or exception or adjustment to, the rate of cost increase ceiling imposed under this section. The hospital's request must be made to its fiscal intermediary no later than 180 days from the date on the intermediary's notice of program reimbursement. The intermediary makes a recommendation on the hospital's request to HCFA, which makes the decision. HCFA responds to the request within 180 days from the date HCFA receives the request from the intermediary. The intermediary notifies the hospital of HCFA's decision. The time required for HCFA to review the request is considered good cause for the granting of an extension of the time limit to apply for review by the Provider Reimbursement Review Board, as specified in § 405.1841(b) of this chapter. HCFA's decision is subject to review under Subpart R of Part 405 of this chapter.

* * * * *

(g) *Exceptions*—(1) *General procedure.* HCFA may adjust a hospital's operating costs (as described in paragaph (b)(1) of this section) upward or downward, as appropriate, under circumstances as specified in paragraphs (g) (2) and (3) of this section. HCFA makes an adjustment only to the extent that the hospital's operating costs are reasonable, attributable to the circumstances specified, separately identified by the hospital, and verified by the intermediary. HCFA may grant an exception only if a hospital's operating costs exceed the rate of increase ceiling imposed under this section.

* * * * *

(h) *Adjustments.* * * *

(iii) HCFA may adjust the amount of operating costs, under paragraph (c)(1) of this section, to take into account factors such as a change in the inpatient hospital services that a hospital provides, that are customarily provided directly by similar hospitals, or the manipulation of discharges to increase reimbursement. A change in the inpatient hospital services provided could result from changes that include, but are not limited to, opening or closing a special care unit or changing the arrangements under which such services may be furnished, such as leasing a department. HCFA may grant an adjustment only if a hospital's operating costs exceed the rate of increase ceiling imposed under this section.

* * * * *

IV. Part 489 is amended as follows:

## PART 489—PROVIDER AGREEMENTS UNDER MEDICARE

A. The authority citation for Part 489 is revised to read as follows:

**Authority:** Secs. 1102, 1861, 1864(m), 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395aa(m), 1395cc, and 1395hh).

B. The table of contents of Part 489 is amended by removing the title for §489.23.

**§ 489.23 [Removed]**

C. Subpart B is amended by removing § 489.23.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: January 11, 1988.

**William L. Roper,**

*Administrator, Health Care Financing Administration.*

Approved: February 10, 1988.

**Otis R. Bowen,**

*Secretary.*

[FR Doc. 88-6124 Filed 3-21-88; 8:45 am]

BILLING CODE 4120-01-M

# Notices

Federal Register
Vol. 53, No. 55
Tuesday, March 22, 1988

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

### Agricultural Stabilization and Conservation Service

### List of Warehouses and Availability of List of Cancellations and/or Terminations

**AGENCY:** Agricultural Stabilization and Conservation Service, USDA.

**ACTION:** Notice of publication of list of warehouses licensed under the U.S. Warehouse Act and availability of list of cancellations and/or terminations occurring during calendar year 1987.

Notice is hereby given that the Agricultural Stabilization and Conservation Service has published a list of warehouses licensed under the U.S. Warehouse Act (7 U.S.C. 241 *et seq.*) as of December 31, 1987, as required by section 26 of that Act (7 U.S.C. 266). Also available is a list of cancellations and/or terminations that occurred during calendar year 1987. A copy of the list of warehouses as of December 31, 1987, will be distributed to all licensed warehousemen. Other interested parties may obtain a copy of either list from: Mrs. Judy Fry, ASCS, Warehouse Division, Warehouse Licensing Branch, U.S. Department of Agriculture, P.O. Box 2415, Room 5968, South Agriculture Bldg., Washington, DC 20013, Telephone: 202-447-3822.

Signed at Washington, DC, March 15, 1988.

**Milton Hertz,**

*Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc. 88-6206 Filed 3-21-88; 8:45 am]

BILLING CODE 3410-05-M

## DEPARTMENT OF COMMERCE

### Office of the Secretary

### Privacy Act of 1974—Revision of Four Existing Systems of Records

**AGENCY:** Office of the Secretary, Commerce.

**ACTION:** Notice; request for comments.

**SUMMARY:** In accordance with the requirements of the Privacy Act, (5 U.S.C. 552a) and OMB Circular A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals", this notice announces revision of four existing systems of records entitled: COMMERCE/DEPT-3, Conflict of Interest Records, Appointed Officials; COMMERCE/DEPT-10, Executive Correspondence Files; COMMERCE/NOAA-3, Commissioned Officer Official Personnel Folders; and COMMERCE/NOAA-8, Individuals Engaged in Weather Modification Activities. These revisions reflect minor administrative changes, and do not require a report to Congress and OMB.

**EFFECTIVE DATE:** April 21, 1988.

**ADDRESS:** Please address or deliver written comments to Ms. Geraldine P. LeBoo, Office of Management and Organization, Department of Commerce, Room 6628, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Ms. Geraldine P. LeBoo, Office of Management and Organization, (202) 377-3630.

**SUPPLEMENTARY INFORMATION:** The minor changes to the systems are as follows: COMMERCE/DEPT-3, Conflict of Interest Records, Appointed Officials—change in location of records as a result of organizational realignment, change in retention and disposal period, system manager, and address for notification procedures; COMMERCE/DEPT-10, Executive Correspondence Files—deletion of one category of records covered, and change in filing system for the records; COMMERCE/NOAA-3, Commissioned Officer Official Personnel Folders—change of address under notification procedures; COMMERCE/NOAA-8, Individuals Engaged in Weather Modification Activities—change in system location, and notification procedures because of organizational realignment.

These systems were last published in the **Federal Register** on December 31, 1981, 46 FR 63498.

Dated: March 15, 1988.

**J. Randall Blumenschein,**

*Chief, Management Support Division, Office of Management and Organization.*

### COMMERCE/DEPT-3

**SYSTEM NAME:**

Conflict of Interest Records, Appointed Officials—COMMERCE/DEPT-3

**SYSTEM LOCATION:**

Office of General Counsel, Room 5897, U.S. Department of Commerce, Washington, DC 20230.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals, past and present, appointed by the President to Commerce Department offices and other senior level officers of the Department.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Statement of personal and family shareholding and other interests in business enterprises; copies of blind trust and other agreements pertaining to such interests; correspondence as to insulation of control of such interests; opinions of counsel; and confirmation materials.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, 18 U.S.C. 208, 28 U.S.C. 533-535, 44 U.S.C. 3101, E.O. 10450, and E.O. 11222.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

See routine use paragraphs of Prefatory Statement, except paragraphs 6, 8, and 10.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders.

**RETRIEVABILITY:**

Filed alphabetically by name.

**SAFEGUARDS:**

Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

**RETENTION AND DISPOSAL:**

Disposed of 6 years after separation of employee.

**SYSTEM MANAGERS AND ADDRESS:**

Assistant General Counsel for

Administration, Room 5883, U.S. Department of Commerce, Washington, DC 20230.

**NOTIFICATION PROCEDURE:**

Information may be obtained from: Assistant General Counsel for Administration, U.S. Department of Commerce, Washington, DC 20230. Requester should provide name, and date of appointment pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

**RECORD ACCESS PROCEDURES:**

Requests from individuals should be addressed to: Same address as stated in the Notification section above.

**CONTESTING RECORD PROCEDURES:**

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

**RECORD SOURCE CATEGORIES:**

The subject individual, financial institutions involved, counsel, and those authorized by the individual to furnish information.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Pursuant to 5 U.S.C. 552a(k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5) is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine suitability for employment.

## COMMERCE/DEPT-10

**SYSTEM NAME:**

Executive Correspondence Files—COMMERCE/DEPT-10.

**SYSTEM LOCATION:**

a. For Office of the Secretary correspondence: Executive Secretariat and Office of Information Management (Computer Services Division); U.S. Department of Commerce; 14th & Constitution Avenue, NW., Washington, DC 20230.

b. For EDA correspondence: Executive Secretariat, EDA, Room 7227, 14th and Constitution Avenue, NW., Washington, DC 20230.

c. For MBDA correspondence: MBDA Secretariat, Room 5083, 14th and Constitution Avenue, NW., Washington, DC 20230.

d. For NOAA correspondence: Executive Secretariat, Office of the Administrator, NOAA, Room 5807, 14th and Constitution Avenue, NW., Washington, DC 20230. Records on magnetic tape are also temporarily located at the contractor's installation: Dialcom Inc., 1104 Spring Street, Silver Spring, MD. 20910.

e. For PTO correspondence: Office of the Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(a) Individuals who correspond with the Secretary of Commerce, and the Deputy Secretary, and individuals whose correspondence has been referred by the White House, other Executive agencies or Members of Congress to the Secretary or Deputy Secretary for response.

(b) Individuals who correspond with top level officials in EDA, MBDA, NOAA, and PTO. In these categories the individuals include only those who express views or seek information or assistance. Freedom of Information Act or Privacy Act requests are not indexed in this system (See Freedom of Information and Privacy Request Records—COMMERCE/DEPT-5).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system may include the name and address or correspondent, summary of subject matter, original correspondence, official response, referral letters, memoranda or notes concerning the subject of the correspondence, or copies of any enclosures. The records in the system are arranged numerically by control number assigned to each item of correspondence. Authority for maintenance of the system: 5 U.S.C. 301 and 44 U.S.C. 3101.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Used by personnel in the Office of the Secretary, Executive Secretariat, and administrative offices of each operating unit of the Department to assure that each request receives an appropriate and timely reply and to prepare statistical reports for management on correspondence volume or topics of public interest. Information from or copies of the records may be provided to the original addresses of the original correspondence. General routine uses of the Prefatory Statement also apply.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Maintained in paper form and on diskettes and magnetic tape.

**RETRIEVABILITY:**

By agency responsibility, by control number, by correspondent's name, by subject, by addressee, by category of writer (e.g., Member of Congress, White House staff, Cabinet member, mayor, citizen) by category of correspondence, by Executive Secretariat analysts' identification code, by type of priority for response time, by date, or possibly by city and state of correspondent's address.

**SAFEGUARDS:**

Paper records, disk, and magnetic tape as stored in file cabinets on secured premises with access limited to personnel whose official duties require access.

**RETENTION AND DISPOSAL:**

Records are disposed of in accord with the appropriate records disposition schedule approved by the Archivist of the United States.

**SYSTEM MANAGER(S) AND ADDRESS:**

For records at location a.: Director, Executive Secretariat, Office of the Secretary, U.S. Department of Commerce, Washington, DC 20230. for records at location b.: Chief, Executive Secretariat, EDA, Room 7227, 14th and Constitution Avenue NW., Washington, DC.

For records at location c.: Chief, MBDA Secretariat, Room 5083, 14th and Constitution Avenue NW., Washington, DC 20230. For records at location d.: Director, Executive Secretariat, Office of the Administrator, National Oceanic and Atmospheric Administration, Washington, DC 20230. For records at location e.: Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

**NOTIFICATION PROCEDURE:**

For records at location a., information may be obtained from the Director, Office of Management and Organization, U.S. Department of Commerce, Washington, DC 20230. For records at location b., information may be obtained from the Director, Office of

Public Affairs, EDA, U.S. Department of Commerce, Washington, DC 20230.

For records at location c., information may be obtained from the Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, DC 20230.

For records at location d., information may be obtained from the Assistant Administrator for Management and Budget, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. For records at location e., information may be obtained from the Solicitor, U.S. Patent and Trademark Office, Washington, DC 20231.

All requests for information should provide the correspondent's name as included in original correspondence, or provide any items listed under the retrievability section above pursuant to the inquiry provisions of the Department's rules that appear in 15 CFR Part 4b.

**RECORD ACCESS PROCEDURES:**

Request for access and disclosures should be addressed to the same address as stated in the Notification section above. Contesting record procedures:

The Department's rules for access, for contesting contents, and for appealing initial determination by the individual concerned appear in 15 CFR Part 4b. Requests for correction should be addressed to manager as shown above.

**RECORD SOURCE CATEGORIES:**

The correspondent, referral source, Department employees involved in processing the correspondence, and other individuals, as required to prepare an appropriate response.

## COMMERCE/NOAA-3

**SYSTEM NAME:**

Commissioned Officer Official Personnel Folders—

## COMMERCE/NOAA-3

**SYSTEM LOCATION:**

Office of the Director, NOAA Corps (NC), National Oceanic and Atmospheric Administration, Rockville, Maryland 20852.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Commissioned Officers of the NOAA Corps (active, retired, and deceased) and former commissioned officers separated within previous six months.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, social security number; selective service number; promotion history; history of assignments; performance evaluations; date of birth; education; prior employment history; prior uniformed service; pay and allowance data; relatives; references; commendations; discipline; insurance; medical evaluations; and similar personal information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

33 U.S.C. 853a-t, 854a-a2, 855, 856, 857, 857-1-5, 857a, 858, 864, 865, 872, 873, 874, 875, 876; 5 U.S.C. 301; 28 U.S.C. 533-535; 44 U.S.C. 3101; and, E.O. 10450.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

See routine use paragraphs of the Prefatory Statement. Users are Selective Service System, Veteran's Administration, Federal Housing Administration, Social Security Administation, Public Health Service, Department of Defense elements, Taxing authorities (Federal, State and local), unemployment compensation authorities, and the organization to which officer is assigned such as branches of U.S. Military Service, branches of foreign military services, World Weather Organizations, etc.

Selected information is disseminated to determine eligibility for retention, promotion, retirement, separation, and other personnel actions; physical fitness; entitlement to pay and various allowances; report taxes withheld; entitlement to social security benefits, Veteran's benefits, unemployment compensation, waivers for repayment of student loans, death benefits, survivor benefits, and FHA in-service loans; assignments; and selective service status.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders (selected data elements in this system are duplicated on word processing equipment for ease of retrieval).

**RETRIEVABILITY:**

Filed alphabetically by name.

**SAFEGUARDS:**

Records ar maintained in secured area. Access only on the authority of the Director, NOAA Corps or the Chief/Deputy Cheif, Commissioned Personnel Division.

**RETENTION AND DISPOSAL:**

Records are retained indefinitely on active, retired, and deceased officers; discharged officers' records are retained for approximately 6 months, then transferred to the National Personnel Records Center, St. Louis, Missouri 63118.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, NOAA Corps, see above address.

**NOTIFICATION PROCEDURE:**

Information may be obtained from: Director; Office of Administration, NOAA, Room 6863, Herbert C. Hoover Building, Washington, DC 20230.

Requester should provide name, address, social security number, and date of birth pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

**RECORD ACCESS PROCEDURES:**

Requests from individuals should be addressed to: Same address as stated in the notification section above.

**CONTESTING RECORD PROCEDURES:**

The Department's rules for access, for contesting contents, and appealing initial determinations by the individuals concerned appear in 15 CFR Part 4b. Use above address.

**RECORD SOURCE CATEGORIES:**

Subject individual, official correspondence and forms generated by routine personnel actions; previous employers, prior military service, Selective Service System, Federal Housing Administration, Social Security Administration, and similar sources.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

Pursuant to 5 U.S.C. 552a(k)(5), all investigatory material in the record which meets the criteria of 5 U.S.C. 552a(k)(5), is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f)) of the agency regulations in order to fulfill commitments made to protect the confidentiality of sources, and to maintain access to sources of information which are necessary to determine employee's suitability for employment in the NOAA Corps.

## COMMERCE/NOAA-8

**SYSTEM NAME:**

Individuals Engaged in Weather Modification Activities, COMMERCE/NOAA-8

**SYSTEM LOCATION:**

Assistant Administrator for Oceanic and Atmospheric Research NOAA, U.S. Department of Commerce, 6010 Executive Boulevard, Rockville, Md. 20852.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals and associations involved in weather modification operations.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Individual's name and address; type of weather modification activity; location and duration of project; and equipment used. Authority for maintenance of the system: Pub. L. 92-205; 15 CFR Part 908.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

See routine use paragraphs in the Prefatory Statement. Also information is made available to anyone who so requests to comply with Pub. L. 92-205.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Electronic data base.

**RETRIEVABILITY:**

Filed sequentially by name.

**SAFEGUARDS:**

Records are located on an electronic data base with full public access upon request to comply with Pub. L. 92-205.

**RETENTION AND DISPOSAL:**

Records are maintained indefinitely.

**SYSTEM MANAGER(S) AND ADDRESS:**

Office of the Director, Office of Weather Modification, see above address.

**NOTIFICATION PROCEDURE:**

Information may be obtained from: Director, Office of Administration, NOAA, Room 6863, Herbert C. Hoover Building, Washington, DC 20230. Requester should provide name, address, date(s) of project etc., pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

**RECORD ACCESS PROCEDURES:**

Requests from individuals should be addressed to: same address as stated in the notification section above.

**CONTESTING RECORD PROCEDURES:**

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

**RECORD SOURCE CATEGORIES:**

Subject individual or association involved and those authorized by the foregoing to furnish information.

[FR Doc. 88-6242 Filed 3-21-88; 8:45 am]

BILLING CODE 3510-CW-M

## National Bureau of Standards

### Electromagnetic Properties of Materials Consortium Workshop

**AGENCY:** National Bureau of Standards, Commerce.

**ACTION:** Notice of public workshop.

**SUMMARY:** The National Bureau of Standards will host an informal workshop on May 3 and 4 to organize a research consortium on the electromagnetic properties for materials in 2-300 GHZ applications. The focus of the research consortium is on development of measurement techniques and reference materials. During this workshop, NBS would like to discuss industry's needs, a research program to address these needs, consortium member benefits, and business issues related to participating in the research consortium.

**DATE:** The workshop will be held on May 3 and 4, 1988, from 9:00 a.m. to 4:30 p.m. both days.

*Place:* The workshop will be held in the Radio Building (Building 1), National Bureau of Standards, Boulder, Colorado.

**FOR FURTHER INFORMATION CONTACT:** William Kissick, Electromagnetic Fields Division, National Bureau of Standards, Boulder, CO 80303; telephone (303) 497-3339 for reservations.

Dated: March 17, 1988.

**Ernest Ambler,**

*Director.*

[FR Doc. 88-6172 Filed 3-21-88; 8:45 am]

BILLING CODE 3510-13-M

## National Oceanic and Atmospheric Administration

### Alaska Coastal Management Program; North Slope Borough

**ACTION:** Notice of Preliminary Approval of Amendment.

**SUMMARY:** The Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA) received a request from the State of Alaska to amend the Alaska Coastal Management Program (ACMP) to incorporate the North Slope Borough Coastal Management Program (NSBCMP). The State's request was made pursuant to section 306(g) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 14559(g) and implementing regulations at 15 CFR 923.81. The NSBCMP creates a new coastal boundary for the ACMP in the region and establishes goals and policies for activities taking place in the Borough. The NSBCMP follows the guidelines and standards for local program development set in the ACMP and will be administered both by the Borough and the State.

The Director of the Office of Ocean and Coastal Resource Management has reviewed the amendment request and has made a preliminary finding that the ACMP as amended will still constitute an approvable program and that the procedural requirements of section 306(c) of the CZMA have been met.

The Director also determined that approval of the proposed change does not constitute a major Federal action having a significant effect on the environment. Therefore, an environmental impact statement on the approval of the amendment under the National Environmental Policy Act of 1969, as amended, is not required. Copies of the Finding of No Significant Impact (FONSI), including the supporting Environmental Assessment (EA) and the Director's Preliminary Findings of Approvability, are available at the address below.

Comments on the Preliminary Findings to approve the Alaska amendment request and on the EA and FONSI should be made within 30 days from the date of this notice. Address comments to: Peter L. Tweedt, Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Avenue NW., Washington, DC 20235, (202) 673-5111.

**James P. Blizzard,**

*Acting Director, Office of Ocean and Coastal Resource Management.*

[FR Doc. 88-6231 Filed 3-21-88; 8:45 am]

BILLING CODE 3510-08-M

### Evaluation of State/Territorial Coastal Management Programs, Coastal Energy Impact Programs and National Estuarine Research Reserves

**AGENCY:** National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management, Commerce.

**ACTION:** Notice of Availability of Evaluation Findings.

**SUMMARY:** Notice is hereby given of the availability of the evaluation findings for the Oregon, Massachusetts, South Carolina and Connecticut Coastal Management Programs. Section 312 of the Coastal Zone Management Act of 1972, as amended, (CZMA) requires a continuing review of the performance of each coastal state with respect to funds authorized under the CZMA and to the implementation of its federally approved Coastal Management Program. The states evaluated were found to be adhering both to the programmatic terms of their financial assistance awards and/or to their approved coastal management programs; and to be making progress on award tasks, special award conditions, and significant improvement tasks aimed at program implementation and enforcement, as appropriate. Accomplishments in implementing coastal zone management programs were occurring with respect to the national coastal management objectives identified in section 303(2)(A)-(I) of the Coastal Zone Management Act. A copy of the assessment and detailed findings for these programs may be obtained on request from: John H. McLeod, Evaluation Officer, Policy Coordination Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235 (telephone: 202/673-5104).

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Date: March 11, 1988.

**James P. Blizzard,**

*Acting Director, Office of Ocean and Coastal Resource Management.*

[FR Doc. 88-6181 Filed 3-21-88; 8:45 am]

BILLING CODE 3510-08-M

## Coastal Zone Management; Invitation To Evaluate

**AGENCY:** National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management.

**ACTION:** Notice of Intent to Evaluate.

**SUMMARY:** The National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management (OCRM), announces its intent to evaluate the performance of the Maryland Coastal Management Program; the Hawaii (Waimanu) National Estuarine Research Reserve (NERR); Maine (Wells) NERR; New York (Hudson) NERR; and Rhode Island (Narragansett) NERR through June 30, 1988. The review of the coastal management program will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended, (CZMA) which requires a continuing review of the performance of coastal states with respect to coastal management, including detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary of Commerce, addressed the coastal management needs identified in section 303(2) (A) through (I) of the CZMA, and adhered to the terms of any grant, loan or cooperative agreement funded under CZMA. The reviews of National Estuarine Research Reserves are conducted pursuant to section 315(f) of the CZMA, as amended by Pub. L. 99-272, which requires the Secretary of Commerce to evaluate periodically the operation and management of each Reserve, including education and interpretive activities, and the research being conducted within the reserve. The reviews involve consideration of written submissions, a site visit to the state, and consultations with interested Federal, state and local agencies and members of the public. Public meetings will be held as part of the site visits. The state will issue notice of these meetings. Copies of each state's most recent performance report, as well as the OCRM's notification letter and supplemental information request letter to the state are available upon request from the OCRM. Written comments from all interested parties on each of these programs to the contact listed below are encouraged at this time. OCRM will place subsequent notice in the **Federal Register** announcing the availability of the Final Findings based on each evaluation once these are completed.

**FOR FURTHER INFORMATION CONTACT:** John H. McLeod, Evaluation Officer, Policy Coordination Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1825 Connecticut Avenue NW., Washington, DC 20235 (telephone: 202/673-5104).

(Federal Domestic Assistance Catalog 11.419)

Date: March 11, 1988.

**James P. Blizzard,**

*Acting Director, Office of Ocean and Coastal Resource Management.*

[FR Doc. 88-6182 Filed 3-21-88; 8:45 am]

BILLING CODE 3510-10-M

**[Modification No. 1 to Permit No. 573]**

## Marine Mammals; Modification of Permit Dr. William Watkins (P70C)

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 573 issued to Dr. William Watkins, Woods Hole Oceanographic Institution, Woods Hole, Massachusetts 02543, on November 21, 1986, (51 FR 311793) is modified in the following manner:

Section B.5 is replaced by:

4. The authority to take by harassment, tagging, or other activities authorized herein, shall extend from the date of issuance through December 31, 1990.

This modification became effective on December 31, 1987.

Documents submitted in connection with the above modification are available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, D.C.:

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida, 33702.

Dated: March 16, 1988.

**Nancy Foster,**

*Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Services.*

[FR Doc. 88-6179 Filed 3-21-88; 8:45 am]

BILLING CODE 3510-22-M

## Marine Mammals; Issuance of Permit: Horizons West, Ltd. (P158C)

On December 23, 1987, Notice was published in the **Federal Register** (52 FR 48558) that an application had been filed by Horizons West, Ltd., dba Marine Life Aquarium, Keystone Route Box 365, Rapid City, South Dakota 57701, to take two (2) Atlantic bottlenose dolphins (*Tursiops truncatus*) for public display.

Notice is hereby given that on March 14, 1988, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and

Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE, BIN C15700, Seattle, Washington 98115.

Dated: March 14, 1988.

**Nancy Foster,**

*Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.*

[FR Doc. 88-6180 Filed 3-21-88; 8:45 am]

BILLING CODE 3510-22-M

## North Pacific Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council and its advisory bodies will convene separate public meetings at the Sheraton Hotel, Anchorage, AK, as follows:

*Council*—on April 13, 1988, at 9 a.m., will decide which of the proposed amendments to the groundfish fishery management plans (FMPs) for the Gulf of Alaska and Bering Sea and Aleutian Islands will be sent for public review; a draft of the FMP for king and Tanner crab in the Bering Sea/Aleutian Islands will be considered for public review, and there may be a new draft Salmon FMP for review. In addition to the regular reports on domestic and foreign fisheries, enforcement, and legislation, the Council will also hear the results of a recent survey of pollock in the southern half of the international waters in the Bering Sea, and discuss the annual meeting of the International Pacific Halibut Commission. The Council will also convene a closed session (not open to the public) at least once to review ongoing litigation, and other appropriate matters. The public meeting will adjourn at approximately noon on April 15.

*Advisory bodies*—The Council's Scientific and Statistical Committee, and its Advisory Panel will convene April 11 at 10 a.m. Other Plan Team and workgroup meetings may be convened on short notice also.

For more information contact the North Pacific Council, P.O. Box 103136, Anchorage, AK 99501; telephone: (907) 271-2809.

Date: March 16, 1988.

**Richard H. Schaefer,**

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

[FR Doc. 88-6223 Filed 3-21-88; 8:45 am]

BILLING CODE 3510-22-M

## Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Groundfish Fishery Management Plan (FMP) Rewrite Oversight Group will convene a public meeting, March 29, 1988, at 1 p.m., at the Red Lion Inn—Portland Center, Coos Bay Room, 310 SW., Lincoln Street, Portland, OR, to review progress on development of Amendment 4 to the FMP. The public meeting will adjourn on March 31.

For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2000 SW., First Avenue, Suite 420, Portland, OR 97201; telephone: (503) 221-6352.

Date: March 16, 1988.

**Richard H. Schaefer,**

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

[FR Doc. 88-6224 Filed 3-21-88; 8:45 am]

BILLING CODE 3510-22-M

## South Atlantic Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council and its Committees will convene separate public meetings at the Sheraton Brickell Point Hotel, Miami, FL, as follows:

*King and Spanish Mackerel Advisory Panel*—Will convene April 11, 1988, from 1 p.m. to 6 p.m., to review the mackerel stock assessment, and make recommendations for modifications to the Total Allowable Catch (TAC), and bag limits.

*Snapper/Grouper Advisory Panel*—Will convene April 12, 1988, from 9 a.m. to noon, to review and offer input on the trawl prohibition contained in Amendment #1 to the Snapper/Grouper Fishery Management plan (FMP). They also will offer input regarding the concept of Special Management Zones (SMZs), to assist the Council as it begins reevaluation of the SMZ concept.

*Scientific and Statistical Committee*—Will convene April 12, 1988, from 1 p.m. to 5 p.m., to review and make recommendations on the trawl prohibition contained in Amendment #1 to the Snapper/Grouper FMP. They also will offer input regarding the concept of SMZs, to assist the Council as it begins reevaluation of the SMZ concept. The SSC will also review and make recommendations regarding the draft Summer Flounder FMP. Detailed agendas for these three meetings will be available to the public on or about April 1, 1988.

For further information contact Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (803) 571-4366.

Date: March 16, 1988.

**Richard H. Schaefer,**

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

[FR Doc. 88-6225 Filed 3-21-88; 8:45 am]

BILLING CODE 3510-22-M

# COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

## Amendment to the List of Exempt Traditional Folklore and Handicraft Textile Products From Pakistan

March 17, 1988.

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 March 23, 1988. For further information contact Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, DC, (202) 377-4212.

### Background

A CITA directive dated May 27, 1983 (48 FR 25257), as further amended on June 2, 1987, established an export visa arrangement and exempt certification for certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Pakistan. Under the terms of the Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated May 20, 1987 and June 11, 1987, the Governments of the United States and Pakistan have exchanged letters amending the bilateral agreement to include additional folklore

and handicraft textile products made in the cottage industry of Pakistan which are exempt from the limits of the agreement and visa requirements when properly certified by the Government of Pakistan prior to exportation. All "Pakistan items" must be cut, sewn, or otherwise fabricated by hand in the cottage industry of Pakistan in order to qualify for exemption. A list of these additional exempt products is published as an enclosure to the letter to the Commissioner of Customs which follows this notice.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

**James H. Babb,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

March 17, 1988.

Commissioner of Customs,
*Department of the Treasury, Washington, DC 20229*

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on May 27, 1983, as amended on June 2, 1987, by the Chairman, Committee for the Implementation of Textile Agreements, which established export visa requirements for cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Pakistan.

Effective on March 23, 1988, you are directed to include the items described in the enclosure to this letter among the folklore and the handicraft products which are exempt from the limits of the bilateral agreement when properly certified by the Government of Pakistan prior to exportation. All "Pakistan items" must be cut, sewn, or otherwise fabricated by hand in the cottage industry of Pakistan in order to qualify for exemption.

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(a)(1).

Sincerely,

James H. Babb,

*Chairman, Committee for the Implementation of Textile Agreements.*

Enclosure

*List of Pakistan Items*

Shalwar—Loose baggy pants at waist with drawstring. Narrows down to ankle which has cuffs or elastic.

Pyjama—A pair of trousers, loose at waist, with either drawstring or hooks and tapering to a tight fit at ankle. It is traditionally a Moghul costume worn by Punjabi women since the 16th century along with a kurta and dupatta (an oblong scarf)

Chaddi—Plain shorts worn by young and old as the national outfit while playing Kabadi games. Worn in plain or printed fabric, has drawstring at waist and two side pockets.

Plain Kurta—Strip susi shirt made in full sleeve, has front pocket, worn in short and ankle length.

Punjab Kamiz—Sargodha ladies tunic. Worn by the native of district Sargodha; comes with embroidery; knee length.

Roomal—Headwear made up of printed or embroidered fabrics. Worn by Muslim devout, both by men and by women.

Sleeveless Kurta—Shisha top from Peshawar made from natural khaddar with mirror work and embroidery.

Ghagra—Koprapar Langha. It's a drawstring skirt with Bandni printed design worn by people living in Koprapar suburb of Karachi. Comes in knee and ankle length.

[FR Doc. 88-6241 Filed 3-21-88; 8:45 am]

BILLING CODE 3510-DR-M

## DEPARTMENT OF DEFENSE

### Public Information Collection Requirement Submitted to OMB for Review

**ACTION:** Notice.

The Department of Defense 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).

*Title, Applicable Form and Applicable OMB Control Number:* Application (Request) for DoD/Armed Forces Community Relations Support; No Form; and No OMB Control Number.

*Type of Request:* New.

*Annual Burden Hours:* 4,000.

*Annual Responses:* 8,000.

*Needs and Uses:* The Armed Services frequently are asked to support community events with aerial demonstrations, musical support, and speakers. To evaluate these requests, certain information is required which is summarized in the formats. Information is requested about the event, the sponsor, the exact nature of the desired support, and safety considerations.

*Affected Public:* Individual, State and local governments, Federal agencies, Nonprofit institutions.

*Frequency:* On Occasion.

*Respondent's Obligation:* Required to obtain government support.

*OMB Desk Officer:* Mr. Edward Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Edward Springer at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Ms. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from, Ms. Rascoe-Harrison WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone (202) 746-0933.

**L.M. Bynum,**

*Alternate OSD Federal Register Liason Officer, Department of Defense.*

March 17, 1988.

[FR Doc. 88-6228 Filed 3-21-88; 8:45 am]

BILLING CODE 3810-01-M

## Office of the Secretary

### Strategic Defense Initiative Advisory Committee; Meeting

**ACTION:** Notice of Advisory Committee Meetings.

**SUMMARY:** The Strategic Defense Initiative (SDI) Subcommittee (Ground Based Free Electron Laser Technology Integration Experiment Technical Advisory Group) will meet in closed session in Washington, DC, on April 15, 1988.

The mission of the Subcommittee is to provide the SDI Advisory Committee an independent analysis and assessment of the plans and approaches for the ground based free electron laser technology integration experiment. At the meeting on April 15, 1988 the subcommittee will discuss status of laser research and management issues.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C., App II, (1982)), it has been determined that this SDI Advisory Subcommittee meeting, concerns matters listed in 5 U.S.C., 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

March 17, 1988.

[FR Doc. 88-6229 Filed 3-21-88; 8:45 am]

BILLING CODE 3810-01-M

### Strategic Defense Initiative Advisory Committee; Meeting

**ACTION:** Notice of Advisory Committee Meeting.

**SUMMARY:** The Strategic Defense Initiative (SDI) Advisory Committee will meet in closed session in Washington, DC, on April 12-14, 1988.

The mission of the SDI Advisory Committee is to advise the Secretary of

Defense and the Director, Strategic Defense Initiative Organization on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting on April 12–14, 1988, the committee will discuss status of SDI research and management issues.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C., App II, (1982)), it has been determined that this SDI Advisory Committee meeting, concerns matter listed in 5 U.S.C., 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

March 17, 1988.

[FR Doc. 88–6230 Filed 3–21–88; 8:45 am]

BILLING CODE 3810-01-M

## DEPARTMENT OF EDUCATION

### National Advisory and Coordinating Council on Bilingual Education; Meeting

**AGENCY:** Department of Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory and Coordinating Council on Bilingual Education. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of the opportunity to attend.

**DATE:** April 7 and April 8, 1988—9:00 a.m. until 5:00 p.m.

The meeting will be conducted at the Radisson Hotel, 1550 Court Place, Denver, Colorado 80202.

**FOR FURTHER INFORMATION CONTACT:** Anna Maria Farias, Designated Federal Official, Office of Bilingual Education and Minority Languages Affairs, Reporter's Building, Room 421, 400 Maryland Avenue SW., Washington, DC 20202 (202 732–5063.

**SUPPLEMENTARY INFORMATION:** The National Advisory and Coordinating Council on Bilingual Education is established under section 752(a) of the Bilingual Education Act (20 U.S.C. 3262). NACCBE is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the limited English proficient populations. The meeting of the Council is open to the public.

The proposed agenda includes the following:

I Roll Call
II Approval of Minutes of Previous Meeting
III Introduction of Visitors
IV Presentation of Information by OBEMLA Director or Designee
V Presentation of information by Members of General Public or Organizations on Agenda Items (Limited to 5 minutes per person from any one group)
VI Committee Reports
VII Old Business
VIII New Business
IX Meetings of Individual Committees
X Reconvening of Council
XII Adjournment

Records are kept of all Council proceedings and are available for public inspection at the Office of Bilingual Education and Minority Languages Affairs, Reporter's Building, Room 421, 400 Maryland Avenue SW., Washington, DC 20202, Monday through Friday from 9:00 a.m.—5:30 p.m.

**Alicia Coro,**

*Director, Office of Bilingual Education and Minority Languages Affairs.*

[FR Doc. 88–6208 Filed 2–21–88; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. ER88-286-000 et al.]**

### Arizona Public Service Co. et al.; Electric Rate and Corporate Regulation Filings

March 17, 1988.

Take notice that the following filings have been made with the Commission:

**1. Arizona Public Service Company**

[Docket No. ER88–286–000]

Take notice that on March 10, 1988, Arizona Public Service Company (APS) tendered from filing a Certificate of Concurrence with San Diego Gas and Electric Company's filing of February 5, 1988. The aforementioned filing provides for an amendment to the Mutual Assistance Transmission Agreement (Amendment) between APS and San Diego Gas and Electric Company, Southern California Edison Company and Imperial Irrigation District (collectively the "Parties").

The Amendment modifies the methodology of the Mutual Assistance Transmission Agreement to conform to the "Transmission System Operating Principles" executed as of October 7, 1986 between the parties, Los Angeles Department of Water and Power, Nevada Power Company and the Western Area Power Administration.

Copies of this filing were served on San Diego Gas & Electric Company and the Arizona Corporation Commission.

*Comment date:* March 31, 1988, in accordance with Standard Paragraph E at the end of this notice.

**2. New England Power Company Public Service Company of New Hampshire**

[Docket No. ER88–218–000]

Take notice that on March 11, 1988, New England Power Company (NEP) and Public Service Company of New Hampshire (PSNH) tendered for filing an amendment to their January 28, 1988 submittal in the above-referenced docket. NEP and PSNH state that the amendment consists of three pages to Exhibit B to the Seabrook Transmission Support Agreement which were inadvertently omitted from the original filing.

*Comment date:* March 31, 1988, in accordance with Standard Paragraph E at the end of this notice.

**3. Idaho Power Company**

[Docket No. ER88–285–000]

Take notice that on March 10, 1988, Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during January 1988, along with cost justification for the rate charged. This filing includes the following supplements:

Pacific Gas & Electric Co—Supplement No. 30
City of Glendale—Supplement No. 34
Sierra Pacific Power Co.—Supplement No. 72
Utah Power & Light Co.—Supplement No. 74

*Comment date:* March 31, 1988, in accordance with Standard Paragraph E at the end of this notice.

**4. Iowa Power and Light Company**

[Docket No. ES88–32–000]

Take notice that on March 2, 1988, Iowa Power and Light Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue not more than $100 million of First Mortgage Bonds.

*Comment date:* April 1, 1988, in accordance with Standard Paragraph E at the end of this notice.

**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.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-6222 Filed 3-21-88; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket Nos. ER87-387-002 et al.]**

## Pennsylvania Power & Light Co. et al.; Electric Rate and Corporate Regulation Filings

March 16, 1988.

Take notice that the following filings have been made with the Commission:

### 1. Pennsylvania Power & Light Company

[Docket No. ER87-387-002]

Take notice that on March 9, 1988, Pennsylvania Power & Light Company tendered for filing a compliance refund report.

Comment date: March 28, 1988, in accordance with Standard Paragraph E at the end of this document.

### Allegheny Power Service Corporation on behalf of Monongahela Power Company

[Docket No. ER86-379-003]

Take notice that on March 8, 1988, Allegheny Power Service Corporation on behalf of Monongahela Power Company tendered for filing Tenth Revision of Sheet No. 14, Monongahela Power Company FERC Electric Tariff, Original Volume No. 1.

The new tariff page reduces the demand charge on the Company's rate schedule for sales to the City of Philippi and Town of New Martinsville, West Virginia, the Harrison Rural Electric Association, the Potomac Edison Company, and West Penn Power Company in accordance with the provisions of the Settlement Agreement in this docket to reflect the change in return on equity of Allegheny Generating Company effective March 1, 1988, ordered by the Commission in Docket Nos. EL86-37-002 and EL86-38-002. The Company has requested that the change in the rate be effective March 1, 1988, in accordance with the provisions of the Settlement Agreement.

Copies of the filing have been served upon all the jurisdictional customers and the West Virginia Public Serivice Commission.

Comment date: March 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

### Kansas Power and Light Company

[Docket No. ER88-24-000]

Take notice that on March 9, 1988, Kansas Power and Light Company (KPL) tendered for filing an amendment to its filing in Docket No. ER88-24-000 pursuant to a deficiency letter dated February 5, 1988. KPL states that the purpose of the filing is to revise the appropriate rate schedules to exclude the adjustment intended to track changes in revenue credits.

Comment date: March 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

### Allegheny Power Service Corporation on behalf of West Penn Power Company

[Docket No. ER87-156-001]

Take notice that on March 8, 1988, Allegheny Power Service Corporation on behalf of West Penn Power Company tendered for filing West Penn Power Company FERC Electric Tariff, Original Volume No. 1, Sixth Revised Sheet No. 11, and Original Volume No. 2, Sixth Revised Sheet No. 9, Fifth Revised Sheet No. 10, and Sixth Revised Sheet No. 12.

The new tariff pages reduce the demand change on the Company's rate shedules for sales to the Allegheny Electric Cooperative, Inc., and the Boroughs of Chambersburg and Mount Alto, Pennsylvania, and reduce the energy charge to Metropolitan Edision Company in accordance with the provisions of the Settlement Agreements in this docket to reflect the change in return on equity of Allegheny Generating Company effective March 1, 1988, ordered by the Commission in Docket Nos. EL86-37-002 and EL86-38-002. The Company has requested that the change in the rate by effective March 1, 1988, in accordance with the provisions of the Settlement Agreements.

Copies of the filing have been served upon all the jurisdictional customers and the Pennsylvania Public Utility Commission.

Comment date: March 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

### 4. Western Area Power Administration

[Docket No. EF88-5011-000]

Take notice that on March 7, 1988, the Under Secretary of the Department of Energy, by Rate Order No. WAPA-38, did confirm and approve on an interim basis, to be effective on May 1, 1988, that being the first day of the May 1988 billing period, Western Area Power Administration (Western) tendered for filing Power Rate Schedule CV-F6 and Transmission Rate Schedule CV-FT1, CV-NFT1, and CV-TPT2 for the Central Valley Project (CVP). The power and transmission rates will be in effect on an interim basis pending the Commission's approval of them, or substitute rates, on a final basis, or until superseded.

The power repayment study, on which the power rates are based, indicated that the rates are adequate to recover the full cost of service. A brief summary comparing the provisional rates to the previous rates follows.

| | Capacity ($/kW-Mo) | Energy (mills/kWh) | Composite (mills/kWh) |
|---|---|---|---|
| Previous rates | 3.75 | 31.44 | 39.40 |
| Provisional rates: | | | |
| May 1, 1988, through September 30, 1989 | 6.86 | 14.43 | 28.86 |
| Oct. 1, 1989, through Sept. 30, 1991 | 7.49 | 15.76 | 31.53 |
| Oct. 1, 1991, through Apr. 30, 1993 | 7.74 | 16.30 | 32.60 |

The provisional rates for the CVP will cover all annual operating expenses and repay the federal investment allocated to the commercial power function. The provisional firm power rates are composed of capacity and energy charges that initially represent approximately a 17.5 percent decrease from the previous composite power rate, and then increase in two steps over the 5-year cost evaluation period of May 1, 1988, through March 30, 1993. The rate step increases are necessary to track projected escalation in annual purchased power and wheeling expenses and result in a composite rate in 1993 that is approximately 7 percent below the previous rate (Schedule CV-F5). The previous power rate for CVP firm power service to commercial customer loads was: $3.75/kW-month for capacity and $31.44 mills/kWh for energy. If calculated on a composite basis, the previous rate would be 39.40

mills/kWh for energy (assuming the average projected customer load factor of 64.55 percent for the cost evaluation period). However, the previous power rate included cost recovery for third-party wheeling expenses as well as the expense of Western's provisions for certain voltages and direct service discounts. The provisional power rates have been modified in design to exclude cost recovery for third-party transmission expenses, thus eliminating the need for any discounts. If the previous rates were modified consistent with this provisional rate design, then on a composite basis, it would be 34.98 mills/kWh.

Revenues from CVP power sales under the previous rate (adjusted to parallel the proposed rate design) would have produced annual revenue amounts ranging from $253 million in FY 1988 to $259 million in FY 1993. These power sales revenue figures reduce to about $211 million in FY 1989 and $241 million in 1993 with the provisional power rates.

Two adjustment clauses incorporated in the provisional CVP power rates that have not been included in previous CVP power rate schedules are: the power factor adjustment clause (PFAC), and the revenue adjustment clause (RAC). The PFAC is characteristic of standard utility practice and requires that CVP commercial power customers maintain a minimum power factor level during peakload period to avoid a revenue surcharge. The RAC has been developed to provide greater stability in the repayment of the CVP investment. The RAC provides this stability by tracking certain projected major expenses and revenue categories used in developing the provisional rates, and "balancing" them periodically against actual incurred expenses and revenues.

In addition to the proposed CVP power rates, three provisional CVP transmission rate schedules are being proposed for approval and implementation on a final basis effective May 1, 1988. These schedules provide for the direct passthrough recovery from CVP power customers of third-party transmission expenses incurred by Western in the delivery of CVP commercial power (Rate Schedule CV-TPT2); and for firm and nonfirm transmission rates for transmission services provided by Western over the CVP transmission system for non-CVP power (Rate Schedules CV-FT1 and CV-NFT1, respectively). Rate Schedule CV-TPT2, which provides for the recovery of all third-party wheeling charges, will supersede Rate Schedule CV-TPT1, which provided for the recovery of all third-party wheeling expenses above the high-voltage wheeling charges and losses assessed by the Pacific Gas and Electric Company; the high-voltage wheeling charges and losses were previously included in the power rate design revenue recovery. No charge is proposed in the assessment of losses; however, the new rate schedule will provide for the direct pass through of all wheeling charges assessed by Western's wheeling agents.

The previous firm and nonfirm transmission rates were $0.35/kW-month and 1.0 mill/kWh, respectively. The provisional firm transmission rate of $0.481/kWh represents a 37.4 increase. The provisional 1.022 mill/kWh nonfirm transmission rate represents a 2.2 percent increase. The disproportionate increase in the firm transmission rate reflects an appropirate change in the rate calculation methodology. Both of the provisional CVP transmission rates reflect slight increases due to minor escalation over the past 5-year in the transmission system's operation, maintenance, replacements, additions, and administrative overhead expenses.

The Administrator of Western certifies that the rates are consistent with applicable law and that they are the lowest possible rate to customers consistent with sound business principles. The rate schedules are submitted by the Under Secretary for confirmation and approval on a final basis beginning May 1, 1988, and extending through April 30, 1993, pursuant to authority vested in the Federal Energy Regulatory Commission by Amendment No. 1 to Delegation Order No. 0204-108.

Comment date: March 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

**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.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-6214 Filed 3-21-88; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket Nos. CP88-261-000 et al.]**

## United Gas Pipe Line Company et al. Natural Gas Certificate Filings

March 15, 1988.

Take notice that the following filings have been made with the Commission:

### 1. United Gas Pipe Line Company

[Docket No. CP88-261-000]

Take notice that on February 29, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478 filed in Docket No. CP88-261-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act, as amended, requesting a certificate of public convenience and necessity authorizing construction and operation of facilities and for issuance of an order permitting and approving abandonment of other, older facilities, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Specifically, United is seeking Commission approval to replace a portion of its 12-inch Barataria-New Orleans Main Line with 3.77 miles of 6-inch pipeline. It is stated that this facility is located along the bank of a canal in Jefferson Parish, Louisiana and the tide and boat traffic in the canal has resulted in the line losing its cover. It is also stated that the new pipeline would be laid approximately 100 feet behind the canal in order to eliminate this problem and it would cost $671,000, which will be paid from funds on hand.

*Comment date:* April 5, 1988, in accordance with Standard Paragraph F at the end of this notice.

### 2. Transcontinental Gas Pipe Line Corporation

[Docket No. CP84-336-002]

Take notice that on February 29, 1988, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP84-336-002 a petition to amend the order issued in Docket No. CP84-336-000, on October 3, 1984, pursuant to section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for storage (injection/withdrawal) for Elizabethtown Gas Company (Shipper) from additional sources of supply, all as more fully set

forth in the petition to amend which is on file with the Commission and open to public inspection.

Transco states that the purpose of the instant petition to amend is to secure Commission authorization permitting Applicant to transport quantities of gas for Shipper that Shipper may purchase from National Fuel Gas Supply Corporation (National Fuel) or from local production. Transco, it is said, would receive such alternative supply from National Fuel at the existing interconnection between National Fuel and Transco near the Wharton Storage Field and redeliver equivalent quantities to Shipper.

Transco states that such transportation of alternative quantity would involve no additional facilities or capacity.

*Comment date:* April 5, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

**Southern Natural Gas Company**

[Docket No. CP88-268-00]

Take notice that on March 2, 1988, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563 filed in Docket No. CP88-268-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorities to consolidate the operation of two delivery points under its blanket certificate issued in Docket No. CP82-406-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that it currently provides natural gas service to Southeast Alabama Gas District (Southeast) at delivery points in Elmore and Lee Counties, Alabama. Southern proposes to consolidate these two delivery points into one area delivery point containing two meter stations. Southern states that Southeast has informed Southern that the consolidation would enable it to more efficiently nominate volumes for distribution to its customers.

Southern states that in order to consolidate the delivery point it would not have to construct any new facilities or operate the meter stations in a different manner. Southern states that the total Contract Demand to be delivered to Southeast after the proposed consolidation would not exceed the total volumes authorized prior to the rearrangement.

*Comment date:* April 29, 1988, in accordance with Standard Paragraph G at the end of this notice.

**4. Arkla Energy Resources, a division of Arkla, Inc.**

[Docket No. CP88-263-000]

Take notice that on March 1, 1988, Arkla Energy Resources, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP88-263-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a sales tap and meter for delivery of natural gas to Arkansas Louisiana Gas Company, a division of Arkla, Inc. (ALG), all as more fully set forth in the request on file with the Commission and open to public inspection.

Arkla proposes to construct and operate a 4-inch tap and meter on its Line T in Jefferson County, Arkansas, to enable ALG to establish alternative means of providing natural gas service to two existing retail customers, the Natural Center for Toxicological Research, and an office of the Environmental Protection Agency, Arkla states that the estimated cost of the facilities is $54,720. These two customers are presently served from ALG's distribution system in the Pine Bluff area, it is explained. Arkla states that increasing requirements in the Pine Bluff area make it more efficient for ALG to serve the two customers from R.E. 1235, a new 6-inch, 3.5 mile pipeline to be constructed by ALG. It is explained that natural gas usage by the two customers would be about 436,000 Mcf per year and 1,650 Mcf on a peak day.

*Comment date:* April 29, 1988, in accordance with Standard Paragraph G at the end of this notice.

**Standard Paragraphs**

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's 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 mattter 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.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-6226 Filed 3-21-88; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CI88-310-000]**

## Consolidated Oil & Gas, Inc., et al.; Application for Permanent Abandonment and Pregranted Abandonment for Sales Under Small Producer Certificate

March 17, 1988.

Take notice that on February 19, 1988,

as supplemented on March 3, 1988, Consolidated Oil & Gas, Inc. *et al.* [1] (Consolidated, *et al.*) filed an application pursuant to section 7(b) of the Natural Gas Act and § 2.77 of the Commission's Regulations requesting permission to permanently abandon sales of gas to Sunterra Gas Gathering Company (Sunterra) pursuant to four gas purchase contracts dated August 24, 1956, January 1, 1958, September 6, 1960, and November 26, 1960. Consolidated, *et al.*, also request pregranted abandonment for sales for resale in ineterstate commerce under Consolidated's small producer certificate in Docket No. CS72-694. Consolidated, *et al.*, state that while such pregranted abandonment is requested on a permanent basis, Consolidated, *et al.*, will accept a three-year limited-term authorization. Consolidated, *et al.*, state that they recognize that the Commission has undertaken dramatic revision of its abandonment procedures in Order No. 490 issued on February 5, 1988. However, Consolidated, *et al.*, state that Order No. 490 does not become effective until, at the earliest, 60 days following publication in the **Federal Register** (April 12, 1988), and the order will be subject to rehearing, possible administrative stay, judicial review, and possible judicial stay. Therefore, Consolidated, *et al.*, request that permanent abandonment and pregranted abandonment be granted under the current Commission regulations and procedures.

Consolidated, *et al.*, state that the abandonment involves sales obligations under four gas purchase contracts between Consolidated and Sunterra, successor to Southern Union Gathering Company. Consolidated, *et al.*, state that their obligations arose when Sunterra sold surplus volumes of gas, including gas covered by these four contracts, to El Paso Natural Gas Company (El Paso). Consolidated, *et al.*, state that deliveries of their gas to El Paso by Sunterra were authorized by certificates issued by the Commission to Consolidated in 1959 and 1963, which were subsequently terminated when Consolidated's small producer certificate was issued. According to Consolidated, *et al.*, the Commission determined, over Consolidated's objection, that because of the deliveries by Sunterra to El Paso, all of Consolidated's sales pursuant to all four contracts were subject to the jurisdiction of the Commission under the Natural Gas Act.[2]

Consolidated, *et al.*, state that El Paso has been unable or unwilling to purchase any gas from Sunterra since 1985. Consolidated, *et al.*, state that Sunterra submitted its application to abandon all sales to El Paso and for a blanket limited-term certificate in Docket Nos. CI88-119-000 and CI88-140-000. Consolidated, *et al.*, state that the applications which Sunterra filed in Docket Nos. CI88-119-000 and CI88-140-000 set forth in full the facts and support for the requested abandonment. Consolidated, *et al.*, state they will not restate the substance of that pleading; rather Consolidated, *et al.*, subscribe to and incorporate by reference that discussion and justification. Notice of the Sunterra applications was published in the **Federal Register** on January 5, 1988 (53 FR 170). Consolidated, *et al.*, state that four specific matters require amplification herein.

First, Consolidated, *et al.*, state that their obligation under the four contracts to El Paso does not arise directly from the four sales contracts but rather indirectly through Sunterra's gas sales contract with El Paso, and Consolidated, *et al.*, state that contract has been terminated by its terms.

Second, Consolidated, *et al.*, state that El Paso has indicated no opposition to the request for abandonment by Sunterra, and because Consolidated's gas under the four contracts comprises part of the gas committed by Sunterra to El Paso, neither Sunterra nor El Paso can object to permanent abandonment of Consolidated's obligation.

Third, Consolidated, *et al.*, state that when abandonment is granted to Sunterra, delivery of gas to El Paso by Consolidated will become unlawful and physically impossible because Consolidated delivers the gas covered by the four contracts to Sunterra and Sunterra then delivers the gas pursuant to its obligations and opportunities.

Fourth, Consolidated, *et al.*, state that the gas covered by the fourth contracts may be sold to end-users, local distribution companies, intrastate pipelines, and interstate pipelines. Therefore, Consolidated, *et al.*, request pregranted abandonment for sales under Consolidated's small producer certificate. Consolidated, *et al.*, state that they seek such authority for as long as permitted by the Commission, but they are willing to accept a three-year limitation on pregranted abandonment in order to expedite the grant of permanent abandonment as requested. Due to the circumstances described herein and in the Sunterra applications, Consolidated, *et al.*, request that their application be considered on an expedited basis under procedures established by Order No. 436, Docket No. RM85-1-000, at 18 CFR 2.77.[3]

Consolidated, *et al.*, state that the deliverability is 2,124 Mcf/d and that the gas is NGPA section 104 small producer flowing gas.

Since Consolidated, *et al.*, state that they satisfy the requirements of § 2.77 of the Commission's Regulations and have requested that their application be considered on an expedited basis, all as more fully described in the application which is on file with the Commission and open to public inspection, any person desiring to be heard or to make any protest with reference to said application should, on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Consolidated, *et al.*, to appear or to be represented at the hearing.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-6213 Filed 3-21-88; 8:45 am]

BILLING CODE 6717-01-M

[1] Consolidated states the application is submitted on its own behalf and on behalf of other signatory and nonsignatory parties to the subject contracts.

[2] *Southern Union Gathering Company*, 28 FERC ¶ 61,225 at p.61,426 (1984), *reh. denied* 30 FERC ¶ 61,350 at p.61,709 (1985), *affirmed* 806 F.2d 275 (D.C. Cir. 1986).

[3] The United States Court of Appeals for the District of Columbia vacated the Commission's Order No. 436 on June 23, 1987. In vacating Order No. 436, the Court rejected challenges to the Commission's statement of policy in § 2.77 of its Regulations. Section 2.77 states that the Commission will consider on an expedited basis applications for certificate and abandonment authority where the producers assert they are subject to substantially reduced takes without payment or where the parties have entered into a take-or-pay buy-out pursuant to § 2.76. On August 7, 1987, the Commission issued Order No. 500 which promulgated interim regulations in response to the court's remand (40 FERC ¶ 61,172 (1987)). These interim regulations became effective on September 15, 1987.

[Docket No. CI86-267-001 et al.]

## Howell Gas Management Co. et al.; Applications for Extension of Blanket Limited-Term Certificates With Pregranted Abandonment [1]

March 17, 1988.

Take notice that each Applicant listed herein has filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for amendment of its blanket limited-term certificate with pregranted abandonment previously issued by the Commission for a term expiring March 31, 1988, to extend such authorization for the term listed herein, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said applications should on or before March 29, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

**Lois D. Cashell,**

*Acting Secretary.*

| Docket No. and date filed | Applicant | Requested term of extension |
|---|---|---|
| CI86-267-001: 3-9-88 | Howell Gas Management Company, 1011 Lamar, Suite 1800, Houston, Texas 77002. | 3 years. |
| CI86-377-001, CI86-378-001: 3-9-88 | Arkla Energy Marketing Company, P.O. Box 21734, Shreveport, Louisiana 71151. | Do. |
| CI87-703-001: 3-11-88 | Western Kentucky Gas Resources Company, d/b/a NRG CORP.[2] c/o Energas Company, P.O. Box 650205, Dallas, Texas 75265-0205. | Unlimited. |

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[2] Applicant also requests authorization to include sales made on behalf of third parties.

[FR Doc. 88-6212 Filed 3-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-3-12-000]

## Distrigas Corp., Distrigas of Massachusetts Corp.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision and Request for Waiver

March 16, 1988.

Take notice that on March 10, 1988, Distrigas Corporation ("Distrigas") tendered for filing 22nd Revised Sheet No. 1 to its FERC Gas Tariff to reflect rate decreases for LNG from five cargoes delivered pursuant to amended import authorization granted by the Economic Regulatory Administration, and Distrigas of Massachusetts Corporation ("DOMAC") tendered for filing 22nd Revised Sheet No. 3A of its FERC Gas Tariff also to reflect rate decreases.

Distrigas' 22nd Revised Sheet No. 1 is being filed pursuant to the Purchased LNG Cost Adjustment provision set forth in its FERC Gas Tariff. The Distrigas rate changes are being filed to reflect decreases in its current sales rates to DOMAC of approximately $.80 for the first three cargoes and approximately $1.30 for the last two cargoes. The first three cargoes are priced at $2.50 plus approximately 6 cents for bunkers and port charges plus approximately .5 cent for custom user and harbor maintenance fee. The last two cargoes are priced at $2.00 plus approximately 6 cents for bunkers and port charges and approximately .4 cent for the custom user and harbor maintenance fee.

DOMAC's 22nd Revised Sheet No. 3A is being filed under Section 15 of the General Terms and Conditions of its FERC Gas Tariff to reflect the Distrigas rate changes in DOMAC's rates for sale to its distribution customers, a losses and uses factor and the GRI surcharge. The resulting sales prices are $2.681199 and $2.160107 respectively per MMBtu. This reflects decreases of approximately $.80 for the first three cargoes and approximately $1.30 for the last two cargoes. No surcharge is filed to recover outstanding balances in DOMAC's unrecovered purchased LNG cost account.

Distrigas and DOMAC request a waiver of all applicable notice requirements so that the proposed tariff sheets become effective on the date of delivery of the first LNG cargo imported from Sonatrach pursuant to Amendment No. 2, which reflects these reduced prices.

A copy of Distrigas' and DOMAC's filing is being served on all affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests should be filed on or before March 23, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-6164 Filed 3-21-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-291-000]

## Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

March 16, 1988.

Take notice that on March 9, 1988, Natural Gas Pipeline Company of America (Natural) tendered for filing the following tariff sheets to be a part of its FERC Gas Tariff, Third Revised Volume No. 1:

Thirth-seventh Revised Sheet No. 5A
Eighth Revised Sheet No. 8
Fourth Revised Sheet No. 13
First Revised Sheet Nos. 126 through 132
Original Sheet Nos. 157 through 162

Natural states that the purpose of these sheets is to: (1) Institute a Gas Supply Charge provision (section 31) in Natural's Tariff, and (2) change the effective dates for the nomination procedure pursuant to section 22 of the

General Terms and Conditions. The Gas Supply Charge provision when accepted and permitted to become effective will apply to Natural's customers purchasing gas under Rate Schedules DMQ-1 and G-1. It will provide a mechanism whereby Natural can recover from these customers the costs of maintaining a gas supply inventory to meet the levels of sales service they nominate. Natural further states that the proposed Gas Supply Charge mechanism submitted adheres to the principles which the Commission outlined in Order No. 500 to be used as a guide in structuring such a charge.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective April 15, 1988, and the charge to go into effect subject to refund on June 1, 1988.

A copy of this filing is being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214. All such motions or protests must be filed on or before March 23, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-6165 Filed 3-21-88; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP88-75-000]**

## Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

March 15, 1988.

Take notice that on March 9, 1988, Natural Gas Pipeline Company of America (Natural) tendered for filing tariff sheets to be a part of its FERC Gas Tariff, Third Revised Volume No. 1.

Natural states that the tariff sheets were submitted pursuant to § 284.10(3)(A) of the Commission's Regulations. They reflect the changes necessary to effectuate the sales contract conversions to firm transportations as requested by four (4) of Natural's Rate Schedule DMQ-1 sales customers.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the proposed tariff sheets to become effective on their indicated effective dates.

A copy of this filing was mailed to Natural's jurisdictional sales customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before March 22, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-6166 Filed 3-21-88; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP87-26-025]**

## Tennessee Gas Pipeline Co.; Filing Revised Tariff Sheets

March 16, 1988.

Take notice that on March 11, 1988, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff to be effective August 21, 1987:

Third Substitute First Revised Sheet No. 114

Third Substitute First Revised Sheet No. 346

Tennessee states that the purpose of this filing is to refile tariff sheets with modifications in accord with the Commission's February 25, 1988 Letter Order.

Tennessee states that copies of the filing have been mailed to all affected customers and state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Steet, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before March 23, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-6167 Filed 3-21-88; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP88-76-000]**

## Tennessee Gas Pipeline Co.; Filing Revised Tariff Sheets

March 16, 1988.

Take notice that on March 11, 1988, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff to be effective as indicated:

| Tariff sheet | Effective date |
|---|---|
| Substitute Original Sheet Nos. 12 through 19. | Dec. 10, 1986 |
| Second Revised Sheet No. 114 | Apr. 10, 1988 |
| Second Substitute Second Revised Sheet No. 116. | Aug. 21, 1987 |
| Substitute Original Sheet No. 214 | Dec. 10, 1986 |
| Substitute Original Sheet No. 227 | Dec. 10, 1986 |
| First Revised Sheet No. 237 | Jan. 1, 1988 |
| Second Revised Sheet Nos. 350 through 357. | Apr. 10, 1988 |
| Second Revised Sheet No. 359 | Apr. 10, 1988 |
| First Revised Sheet No. 360 | Apr. 10, 1988 |

Tennessee states that the purpose of the filing is to: (1) Revised Rate Schedule FT-A to reflect an increase in reservation and commodity rates if a shipper elects to change receipt points for its firm transportation, (2) conform language in Rate Schedule FT-A to indicate that the reservation charge is made up of two components—$R_1$ and $R_2$, (3) correct typographical errors, (4) change headings on the system maps, and (5) update the Index of Purchasers.

Tennessee states that copies of the filing have been mailed to all affected customers and state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before March 23, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-6168 Filed 2-21-88; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP87-33-007]**

## Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

March 15, 1988.

Take notice that Williams Natural Gas Company (WNG) on March 9, 1988, tendered for filing to become a part of its FERC Gas Tariff to be effective April 15, 1988:

**Original Volume No. 1**

Revised First Revised Sheet No. 1
First Revised Third Revised No. 7
First Revised Original Sheet Nos. 42, 47 and 48
First Revised Sheet Nos. 143 and 149

**Original Volume No. 2**

First Revised Sheet Nos. 249, 252-255, 258 and 259

WNG states that these pages comprise a general maintenance filing to update WNG's FERC Gas Tariff, Original Volume Nos. 1 and 2.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

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 §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 22, 1988. 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.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 88-6169 Filed 3-21-88; 8:45 am]

BILLING CODE 6717-01-M

# ENVIRONMENTAI PROTECTION AGENCY

**[FRL-3352-1]**

## Announcement of a Request for Applications for Superfund Research

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of availability.

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**SUMMARY:** A Request for Applications (RFA), RFA #NPIR-002-88 is available. The purpose of the request is to solicit grant proposals which will result in the development of innovative, cost-effective methods for the treatment of hazardous wastes in situ at Superfund sites. The Agency expects to fund 5 to 10 proposals for two years at a total cost of $1 million.

[Section 209, Superfund Amendments and Reauthorization Act 1986]

**DATES:** Applications must be received no later than May 1, 1988 to be considered for funding.

**ADDRESS:** Copies of the RFA may be obtained from: U.S. Environmental Protection Agency, ORD Publications, 26 West St. Clair Street, Cincinnati, Ohio 45268 (513) 569-7562

**FOR FURTHER INFORMATION CONTACT:** Questions relating to the RFA may be directed to Mr. Donald Carey at: U.S. Environmental Protection Agency, Research Grants Staff (RD-675), 401 M Street SW., Washington, DC 20460, (202) 382-7445.

**George R. Simon,**

*Acting Director, Research Grants Staff.*

**Roger S. Cortesi,**

*Director, Office of Exploratory Research.*

March 16, 1988.

[FR Doc. 88-6193 Filed 3-21-88; 8:45 am]

BILLING CODE 6560-50-M

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**[FRL-3352-4]**

## Hazardous Substance Research Centers; Solicitation for Applications

**AGENCY:** Environmental Protection Agency.

**ACTION:** Solicitation for Applications.

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**SUMMARY:** This notice sets forth the eligibility and submission requirements, evaluation criteria, and implementation schedule for establishing five university-based hazardous substance research centers, as authorized by section 311(d) of Superfund, as amended by section 209 of the Superfund Amendments and Reauthorization Act of 1986. These centers will be competitively awarded and will be equitably distributed around the United States. The primary purpose of these centers is to perform long-term and short-term research relating to key hazardous substance problems in the geographic area served by the center. An important secondary focus of each center is to provide training, technology transfer, and information dissemination services aimed at local personnel interested in the manufacture use, transportation, or disposal of hazardous substances.

**DATE:** All applications must be received at the contact point by June 27, 1988.

**FOR FURTHER INFORMATION CONTACT:** Karen Morehouse, Director, Hazardous Substance Research Centers Program, Office of Exploratory Research (RD-675), U.S. Environmental Protection Agency 401 M Street SW., Washington, DC 20460 (202/382-5750).

**SUPPLEMENTARY INFORMATION:**

**TABLE OF CONTENTS**

*Topic*

I. Introduction
- A. Announcement
- B. The Hazardous Substance Problem
- C. Authorization and Appropriation
- Definition of Hazardous Substances

II. General Description
- A. Mission of the Centers
- B. Disciplines
- C. Personnel
- D. Region-Pairs
- E. Administrative and Operating Requirements
  - 1. Lead Institution
  - 2. Research
  - 3. Training and Technology Transfer
  - 4. Committees
    - a. Science Advisory Committee
    - b. Training and Technology Advisory Committee
  - 5. Annual Meeting of Center Directors
  - 6. Annual Report
  - 7. Regional Liaison
- F. Funding Requirements

III. Eligibility Requirements

IV. Submission Requirements
- A. Where and When to Submit
- B. Format for submission
  - 1. Administrative Proposal
    - a. Cover Letter
    - b. Table of Contents
    - c. Eligibility Requirements
    - d. Administrative Requirements
    - e. Legislative Requirements
  - 2. Technical Proposal
    - a. Center Director
    - b. Center Staff
    - c. Discussion of Hazardous Substance Problems in the Region-Pair
    - d. Research Plan
    - e. Training, Technical Support, and Technology Transfer Plan
    - f. Coordination
    - g. Facilities and Equipment
    - h. Non-Federal Support
    - i. Budegtary Justification
  - 3. Page Limitation

V. Schedule
VI. Proposal Evaluation
A. Review and Awards Selection Process
B. Evaluation Criteria
1. Qualifications of Center Director and Staff
2. Quality of Discussion of Region-Pair's Problems
3. Quality of the Research Plan
4. Quality of Training, Technical Support, and Technology Transfer Plan
5. Quality of Plan to Coordinate Research and Training with User Needs and other Organizations Engaged in Related Activities
6. Availability and Adequacy of Facilities and Equipment
7. Amount, Sources and Kinds of Non-Federal Support
8. Budgetary Justification
VII. Mechanism of Support
VIII. Duration of Agreement
IX. Inquiries
X. Tables
Table 1
Table 2
Table 3

## I. Introduction

### *A. Announcement*

The Environmental Protection Agency (EPA) is seeking proposals for the establishment of five university-based Hazardous Substance Research Centers (HSRC). The purpose of these centers is to conduct research and training relating to the manufacture, use, transportation, disposal, and management of hazardous substances.

### *B. The Hazardous Substance Problem*

One of the most important environmental issues to emerge in the 1980's is the management of hazardous substances, from manufacture to treatment and disposal. Health and environmental risks associated with hazardous substances have become the concern of environmental managers, regulators of numerous industries, and the public at large. Since 1980, numerous abandoned hazardous waste sites have been discovered, and a National Priorities List for cleanup of many sites has shown that in many cases, air, soils, and ground and surface waters have been contaminated by a wide variety of organic and inorganic compounds which have been improperly disposed of. In many instances, remedial actions are very costly, and conventional cleanup procedures are unsatisfactory. At the same time, there has been a growing recognition of the risks associated with transportations of hazardous materials and of the failure of conventional methods of disposal, such as landfills, container burial, impoundments, and deep well injection to contain and immobilize hazardous wastes. There is also a greater awareness of the need to develop more advanced methods of waste stabilization, incineration, chemical, biological or physical alteration, and waste volume reduction to address the growing inventory of waste disposal problems associated with both historical sites and future waste production. Further, more reliable and efficient methods to assess the degree of risk associated with hazardous substances must be found. Finally, there has been an increasing recognition that the most satisfactory approach to managing hazardous substances is to produce less of them through industrial process changes, alternative materials, and in-plant recycling and recovery.

### *C. Authorization and Appropriation*

In recognition of the fact that current scientific knowledge and existing science-based technologies are inadquate to fully address the identification, remediation, and management of hazardous substance problems, Congress enacted section 209 of the Superfund Amendments and Reauthorization Act (SARA). This section amends the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) to include section 311, entitled Research, *Development and Demonstration*. The broad purpose of section 311 is to establish a comprehensive Federal program of research, development, demonstration, and training to promote alternative and advanced treatment technologies and to improve the scientific capability to detect, assess, and mitigate risks associated with all major aspects of the manufacture, use, and disposal of hazardous substances.

In support of these broad objectives, section 311(d) of Superfund authorizes EPA to provide Federal assistance to at least five university-based centers, equitably distributed throughout the United States, to conduct research and training relating to the manufacture, use, transportation, disposal, and management of hazardous substances, and publish and disseminate the results of such research. EPA's 1988 appropriation provides five million dollars of Superfund for the first year of this program with the requirement that no more than five centers be competitively selected and established.

### *D. Definition of Hazardous Substances*

For purposes of this solicitation, "hazardous substances" is defined according to section 101(14) of Superfund, as amended by SARA. This definition is quoted below:

> The term "hazardous substance" means (A) any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of [Superfund], (c) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act, (E) any hazardous air pollutant listed under section 112 of the Clean Air Act, and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synethetic gas).

## II. General Description

### *A. Mission of the Centers*

Five hazardous substance research centers will be established in the United States to provide the following services:

- Long-term and short-term research on the manufacture, use, transportation, diposal, and management of hazardous substances.
- Dissemination of research results and coordination of efforts with other institutions active in related areas
- Training, technology transfer, and technical support which would benefit personnel and organization involved in the regulation of hazardous substances or their manufacture, handling, or diposal.

### *B. Disciplines*

Research areas supported by the HSCRs may cover all relevant scientific and technological subjects except health effects research (toxicology, dose-response, epidemiology). Risk assessment studies are not prohibited, provided the HSRC does not perform the health effects research needed to support the risk assessment studies. If health effects data are needed, they

must be obtained from other sources at no cost to the HSRC. Since other institutions are specifically authorized to perform health effects research on hazardous substances [SARA, section 311(a)(c)] it is the view of EPA that the resources of the HSRCs are best spent on activities other than health effects research.

*C. Personnel*

Each HSRC will be headed by a center director who will be responsible for management, staffing, and budgeting for the center. He will provide intellectual leadership and guidance for the center, and is responsible for coordinating the efforts of the center with those of other institutions engaged in similar pursuits.

The director will devote at least 50% of his time to the operation of the HSRC, and will be a member of the faculty or a full-time member of the administrative staff of the designated lead institution of an HSRC in the event that it is a consortium arrangement. Other personnel that are associated with the center on a full- or party-time basis are:

- A secretary for the center or an administrative assistant who will report to the center director
- Principal investigators on all research projects supported entirely or partly by HSRC funds. Principal investigators should be full-time staff members of the HSRC institution(s)
- Training staff, who consist of one or more individuals who devote at least 50% of their time to the design, development, and administration of the HSRC training program.

*D. Region-Pairs*

Two adjoining Federal regions will be served by each center, according to a region pairing plan designed to provide equitable distribution of resources over the United States and to better address the hazardous substance problems experienced in the various sections of the country. Pairings are based on contiguity and, to the extent possible, on a reasonable similarity in regional profiles. The ten EPA regions and the States and territories which comprise them are listed below:

*Region 1*

Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

*Region 2*

New Jersey
New York
Puerto Rico
Virgin Islands

*Region 3*

Delaware
Maryland
Pennsylvania
Virginia
Washington, DC
West Virginia

*Region 4*

Alabama
Florida
Georgia
Kentucky
Mississippi
North Carolina
South Carolina
Tennessee

*Region 5*

Illinois
Indiana
Michigan
Minnesota
Ohio
Wisconsin

*Region 6*

Arkansas
Louisiana
New Mexico
Oklahoma
Texas

*Region 7*

Iowa
Kansas
Missouri
Nebraska

*Region 8*

Colorado
Montana
North Dakota
South Dakota
Utah
Wyoming

*Region 9*

Arizona
California
Guam
Hawaii
Nevada

*Region 10*

Alaska
Idaho
Oregon
Washington

Regions are paired in the following way:
Region-Pair 1 and 2
Region-Pair 3 and 5
Region-Pair 4 and 6
Region-Pair 7 and 8
Region-Pair 9 and 10

*E. Administrative and Operating Requirements*

1. Lead Institution

HSRCs may be either single institutions or consortiums. (See Section III for additional information on consortium arrangements.) If a consortium arrangement is proposed, a lead institution must be identified. The lead institution must be a university, and the center director must be at that institution.

2. Research

At least once per year the center director will solicit for technical proposals for research within all of the institutions of the HSRC, indicating subject areas of interest. Proposals will be evaluated by a science advisory committee (see item 4.a. below) for technical quality and relevance to the HSRC's research plan. The center director will select proposals for funding based on the recommendations of the science advisory committee and the availability of research funds.

3. Training and Technology Transfer

Training courses and technology transfer activities must be conducted by the HSRC. *Training as used here does not include work leading to a baccalaureate or advanced degree.* Training and technology transfer as defined in this solicitation include, but are not limited to: (1) seminars, (2) workshops, (3) demonstrations, (4) handbooks, (5) user manuals, (6) bibliographies, (7) data bases, (8) newsletters, (9) professional exchange programs, (10) information clearinghouses, or (11) non-academic courses of a length less than one academic term. Within the context of this broad definition, the applicant is free to determine whether a proposed activity is training or technology transfer. Courses should be directed toward State and local regulators, manufacturers, disposers, other handlers of hazardous substances, or the public at large.

4. Committees

To ensure that the center continues to fulfill its mission in ensuing years, the following bodies must be established upon initiation of a center and maintained throughout the life of the center:

a. *Science Advisory Committee.* This committee is chaired by the center director, who is also responsible for selecting members, within certain limitations established by this announcement. The membership of this

committee will consist of approximately 15 technical peers drawn from the public and private sectors and academia. Approximately one-third of the membership will consist of appropriate personnel from EPA's regional offices and laboratories. At least one-third of the membership must be drawn from the academic community. The remaining members may come from academia, industry, or Federal, State, or local government. Appointments to this committee are subject to approval by the EPA project officer. Duties include annual development of a list of relevant research topics and recommendations regarding the relevance and technical merit of project proposals, and review of ongoing projects. Meetings will be held twice a year. Members must be chosen from outside of the institutions of the HSRC.

b. *Training and Technology Advisory Committee.* This committee is chaired by the center director. Mandatory membership will include representatives from the relevant EPA regional offices, EPA's Office of Solid Waste and Emergency Response, ORD's Office of Technology Transfer and Regulatory Support, and States or localities. Others may be added by the center director with approval by the EPA project officer. Duties include annual meetings to recommend training, technology transfer, and technical support plans for the next year, review progress, and recommended changes in current year programs.

5. Annual Meeting of Center Directors

All center directors will meet annually with the EPA project officer and other EPA personnel to discuss progress, coordination, and future directions.

6. Annual Report

Not more than 30 days after the end of each fiscal year, the center director must submit an annual report to the project officer in a format to be specified by the project officer. This report will include accomplishments for the fiscal year immediately ending, plans for the next fiscal year, and listings of publications, courses given, workshops, seminars, conferences, and other quantifiable outputs.

7. Regional Liaison

Each regional office in the region-pair will assign a contact person to advise the project officer on center operations and to advise the center in its efforts to address regional needs. The center must agree to work directly and closely with regional personnel in a manner which will be negotiated among the two regional representatives and the center director.

*F. Funding Requirements*

EPA plans to contribute approximately one million dollars annually to each center to support the center's research and training activities. These funds will be provided through a Federal assistance agreement with the recipient. The amount of funds the recipient may provide is unlimited. However, the Federal share must not exceed 80% of the total budget. Matching funds may be provided by the university, State or local contributions, foundations, individuals, or the private sector. Not less than 10% and not more than 20% of the total resources available to the center must be devoted to training, technical support, and technology transfer.

No Federal funds provided for this program may be used to purchase, build, or renovate any buildings or to purchase land.

**III. Eligibility Requirements**

U.S. academic institutions with significant research and training programs in areas relating to hazardous substances are invited to submit proposals. Proposals involving consortiums—limited to universities and two and four year colleges—are encouraged.

However, a single institution in a consortium, designated as the lead institution, must accept overall management responsibilities for the center. The lead institutions must be a university. In accordance with requirements established in section 311(d) of SARA, the institution (or the lead institution in the case of a consortium) must meet the following additional requirements in order to be eligible for HSRC status:

Section 311(d)(4)(A):

The Hazardous Substance Research Center must be located in a State which is representative of the needs of the region in which such State is located for improved hazardous waste management.

Section 311(d)(4)(B):

The recipient shall be located in an area which has experienced problems with hazardous substance management.

For purposes of this solicitation, "region" is defined in the sections quoted above as "region-pair" and "area" is interpreted to mean "State". Each institution which applies may only compete for selection in the region-pair in which it is located. *No member of a center consortium may be located outside the particular region-pair which the applicant is proposing to serve.*

Contracts with other institutions to perform research or training tasks are allowed.

However, the total amount of funds contracted for these purposes cannot exceed 10% of the total HSRC budget for any fiscal year. Normal contractual services, such as equipment rental, purchase or supplies, etc., are not subject to this limitation. Contract institutions are not considered part of the HSRC.

Within the constraints imposed by region-pairing, any university may be listed on more than one consortium proposal.

**IV. Submission Requirements**

*A. Where and When to Submit*

In order to be considerd for award of an HSRC, an original and 15 copies of a proposal must be submitted to: Karen Morehouse, Office of Exploratory Research (RD–675), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

*The original proposal and 15 copies are due at this contact point no later than June 27, 1988. Please provide a stamped, self-addressed envelope so that receipt of your proposal can be acknowledged.*

*B. Format for Submission*

Each proposal must adhere to the format and limitations specified below, in order to be construed for funding. *Do not append additional material to the proposal, as it will not be considered and will not be forwarded to reviewers.* Each proposals must be submitted in final form. Requests to add or correct material to a submitted proposal will not be considered, unless the additional material is requested by EPA.

1. Administrative Proposal

Each proposal must contain the following separate items, that will be used primarily in an administrative review of the proposal to determine eligibility of the proposer and compliance with administrative and legislative requirements:

a. A cover letter from the proposer
b. A table of contents
c. A justification of eligibility
d. Proof that administrative requirements will be met
e. Proof that legislative requirements will be met

a. *Cover Letter:* A one to two page cover letter must accompany the proposal. This letter must be signed by the chief executive officer of the institution (or, in the case of a consortium arrangement, the lead

institution). This letter must begin by stating that the proposal is submitted in response to the solicitation for Hazardous Substance Research Centers to serve the region-pair in which the institution or consortium is located.

In addition, the letter must indicate the willingness of each institution to provide the necessary resources for successful implementation of the center. Finally, the letter must state that the institution will meet all administrative, management, legislative, and operational requirements and restrictions laid out in this solicitation.

b. *Table of Contents:* To assist in the administrative and technical processing of proposals, a complete table of contents must be included which refers to clearly numbered pages.

c. *Eligibility Requirements:* Each proposal must include a section which addresses the eligibility requirements as specified in section III of this solicitation and which clearly demonstrates the institution's eligibility to compete for an HSRC.

d. *Administrative Requirements:* Each proposal must include a section which addresses the administrative and operational requirements as specified in section 11.E. of this solicitation and which clearly and completely describes how the institution will adhere to these requirements.

e. *Legislative Requirements:* Section 311(d) of Superfund requires that certain conditions must be met for an institution to qualify for funds under the HSRC program. Specific conditions are discussed below.

Section 311(d)(4)(E):

> The grant recipient shall make a commitment to support ongoing hazardous substance research programs with budgeted institutional funds of at least $100,000 per year.

For a consortium arrangement, the total commitment from all institutions in the consortium need not exceed $100,000 per year. The proposal must explain how this requirement is being met.

Section 311(d)(5):

> MAINTENANCE OF EFFORT.—No grant may be made under this subsection in any fiscal year unless the recipient of such grant enters into such agreements with the Administrator as the Administrator may require to ensure that such recipient will maintain its aggregate expenditures from all other sources for establishing and operating a regional hazardous substance research center and related research activities at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of this subsection.

(SARA was enacted in October 1986).

For purposes of this solicitation, a single maintenance of effort justification may be provided to cover all institutions in the consortium.

2. Technical Proposal

In addition to the Administrative Proposal, each proposal must include the following items, which will be used in its technical evaluation:

a. Center director
b. Center staff
c. Region-Pair problems
d. Research plan
e. Training and technology transfer plan
f. Coordination
g. Facilities and equipment
h. Non-Federal support
i. Budget

a. *The Center Director:* The proposal must describe the technical and administrative qualifications of the center director and his plans for developing an administrative structure which will enable the center to operate efficiently and effectively. This description must clearly demonstrate that the center director possesses the necessary expertise to guide such a center's research, training, and information dissemination activities. A resume for the center director, not to exceed two pages in length, must be appended to the proposal.

b. *Center Staff:* The proposal must clearly indicate the skills and abilities of all key personnel who will conduct research or training for the center. This description must clearly demonstrate that the center staff possess the necessary expertise to carry out the duties which they were hired to perform. A resume which does not exceed two pages must be appended for each key member of the research or training staff associated with the center.

c. *Discussion of Hazardous Substance Problems in the Region-Pair:* The proposal must include a comprehensive description of the major hazardous substance problems experienced by each region in the region-pair and provide quantitative as well as qualitative descriptions of problems wherever possible. To the extent that it is possible to specify individual compounds of concern, this should be done.

When the proposal specifies a hazardous substance by chemical or physical class, that substance must be shown to be consistent with the definition of hazardous substances as provided under Section 101(14) of Superfund. Specific reference to the appropriate acts and sections cited under Superfund section 101(14) will be sufficient to establish the consistency of the definition with this solicitation. For example, if a study of benzene is proposed (or benzene-containing mixtures, in any environmental medium) it is sufficient to say that benzene is identified as a hazardous substance under Section 112 of the Clean Air Act. Any mixture or combination of compounds which contains one or more substances so referenced can be established as a hazardous substance according to the procedures outlined above. Refer to Section I. D. of this solicitation for the legal definition of hazardous substances.

d. *Research Plan:* Based on the discussion of the region-pair problems, the proposal must present a plan for the conduct of research, briefly indicating the technical issues, research approach, and expected results. The discussion should indicate how results would address problems of the region-pair. The research plan must cover a three-year period, emphasizing the first year's work. It is understood that since the operation of centers would continually bring in new (and currently unknown) proposals, significant uncertainties are necessarily contained in the initial research plan. For that reason, emphasis should be placed on a description of the specific projects that would be initiated in the first year, the way this work would be conducted, and the expected results. To provide a context for future research, a discussion of the general approach to research should also be included. This section must also address the center's plan for disseminating these results.

e. *Training, Technical Support, and Technology Transfer Plan*: Plans must be presented for the development and dissemination of training courses and technology transfer to be conducted by the HSRC, emphasizing specific activities to be conducted during the first year of operation. To the extent possible, this plan should specify the activity (training course, workshop, handbooks, etc.). For each activity, include subject matter, target audience, recruitment procedures, instructors, and other information of use in evaluating the quality of the training and technology transfer plans. Refer to section II.E.3. of this solicitation for a definition of training and technology transfer.

*Do not append copies of proposed course material, syllabuses, etc.* Tie the prescribed training and technology transfer plans as closely as possible to the description of the needs of the region-pair.

f. *Coordination*: The proposal must include a plan for coordinating the activities of the center with those of

organizations engaged in similar or related pursuits. This plan must identify other organizations and the ways in which coordination is to be achieved.

g. *Facilities and Equipment*: The proposal must identify the facilities and equipment which will be available to the center and, to the extent possible, the ways in which these items will be used.

h. *Non-Federal Support*: A description of the precise amounts and forms of non-Federal support proposed must be included. This should be categorized as clearly as possible, and must include the sources of support, the kind (cash, salaries, equipment, supplies, etc.), and the amount of each kind of support identified.

i. *Budgetary Justification*: An estimate of expenses and personnel must be provided for the first three years of operation, using the formats shown in Tables 1–3 (appended). As in the case of the research and training plans, more detailed budget information for the research and training programs is requested for the first year of operations (Table 1) than for the out-years (Table 2). Table 3 provides the format for showing estimated personnel allocations for the first three years of the center's operation. Explanations of entries in the tables are given below:

Table 1

• "Direct Costs" refers to estimated costs of salaries, fringe benefits, travel, equipment, supplies, contractual services (except for contracts to institutions outside of the HSRC to conduct research or training tasks (projects) for the HSRC), and miscellaneous costs.

• "Contracts" refers to dollars allocated via agreements with other research or training institutions outside of the HSRC to conduct all or part of an HSRC's project or projects.

• "Indirect Costs" means the total of overhead payments made to all institutions of the HSRC.

• "Project 1, Project 2 . . . Project N" refers to the individual major research or training projects proposed. Identify these by project title. Include here projects conducted outside the HSRC under contract.

• "Unallocated Resources" means all funds reserved for research or training projects in the first year of operation which have not yet been chosen. This category is an indication of the degree to which the first year of the research or training programs have been planned.

• As indicated in section II.E.3. of this solicitation, the proposer may use his own classification system to determine whether a specific activity is training or technology transfer.

• "Tech. Transfer" refers to all costs in the given budget category (direct costs, contracts, etc.) associated with technical transfer activities.

• "Management" refers to those costs strictly associated with day-to-day operation of the center, such as the salaries and benefits of administrative employees and travel strictly associated with administration and management of the center.

Table 2

• "Direct Costs," "Contrasts," and "Indirect Costs" are the same as defined for Table 1.

• "Ongoing Projects" refers to total research costs for all research projects in place that were in place the preceding year.

• "New Projects" refers to total research costs for all research projects initiated in the year under consideration.

• "Design/Development" refers to total costs associated with all training work except the actual conduct of training programs.

• "Delivery" refers to total costs associated with the actual conduct of training.

• "Training", "Technology Transfer", and "Management" have the same meanings as in Table 1.

Table 3

• "% of Time" refers to the percentage of time the person identified is expected to spend on HSRC-related activities for the year indicated. Key investigators on contracted tasks must also be identified.

• "Est. Cost" refers to the estimated amount of salary and fringe benefits for the person identified for the year indicated.

• "Center Director" is self explanatory.

• "Person 1, 2 . . . N" means any administrative employee other than the center director who can be identified or whose function is clearly known.

• "Principal Investigator" signifies that, where possible, each key investigator should be identified by name.

• "T/T Person 1, 2 . . . N" refers to training or technology transfer specialists who will perform key functions for the center.

3. Page Limitation

The body of the proposal, exclusive of cover page, table of contents, cover letter, resume, and budget description, *must not exceed 40 double-spaced, 8½ by 11 inch pages, including graphs, tables, and pictures.* Typeface must be standard 10–12 characters per inch. (Do not reduce.) The cover letter and each resume must not exceed two pages apiece. Response to Items IV.B.2.h. and i. of this solicitation together *cannot* exceed a total of nine pages.

*If any of these limitations are exceeded, the proposal will be returned without further consideration.*

## V. Schedule

The following schedule will be followed for solicitation, review, and selection of the HSRCs.

| Event | Date |
|---|---|
| ● Solicitation | 3/21/88 |
| ● Closing date for proposals received in EPA | 6/27/88 |
| ● Review of proposals | 7/8/88 |
| ● Selection of awardees | 9/88 |
| ● Five HSRCs in place | 12/88 |

## VI. Proposal Evaluation

### *A. Review and Awards Selection Process*

The first step in the review and selection process will consist of an administrative review by OER to determine eligibility and compliance with administrative and legislative requirements. Following that, proposals will be divided into five groups corresponding to the five region-pairs identified in Section II.D. of this solicitation. For each region-pair, a panel will be convened, consisting of experts from the fields of engineering, physics, chemistry, hydrology, geology, environmental biology, and related subspecialties. Each panel will also include experts in training and technology transfer. Not more than 20% of the total membership of any panel will consist of training and technology personnel.

All reviewers for a given region-pair competition will come from institutions located outside that region-pair. All proposals in each of the five region-pair competitions will be evaluated for technical merit. Those proposals which pass an initial technical review will be scored. In the case of a run-off, a site visit by the review panel to each of the top scoring institutions may be necessary. Each of the five panel chairmen will make recommendations for funding based on the established scores. These scores and recommendations will be transmitted to EPA. The Assistant Administrator for EPA's Office of Research and Development will make the final selection.

*B. Evaluation Criteria*

The following criteria will be used to evaluate proposals:

1. Qualifications of Center Director and Staff

This criterion will be used to determine the level of expertise of the center director and staff, and to determine whether the proposed skills mix is appropriate and satisfactory.

2. Quality of Discussion of Region-Pair's Problems

This criterion will be used to judge both the depth and breadth of the applicant's knowledge of the hazardous substance problems associated with his region-pair.

3. Quality of the Research Plan

The research plan will be judged on the basis of its technical merit, innovation, and applicability to regional needs. Ability to disseminate research results will be a factor in evaluating this part of the proposal.

4. Quality of Training, Technical Support, and Technology Transfer Plan

Judgment of the proposal against this criterion will be based on specificity, completeness and quality of the plan, and applicability to the needs of the region-pair.

5. Quality of Plan to Coordinate Research and Training with User Needs and Other Organizations Engaged in Related Activities

Each applicant will be judged on the extent to which the proposal provides for integration and coordination of the center's activities with related efforts, including activities at the same institution, other universities and HSRCs, State and local efforts, or other relevant organizations. Judging will be based both on demonstrated knowledge of the mission and activities of other organizations and on the mechanisms proposed for achieving coordination.

6. Availability and Adequacy of Facilities and Equipment

This criterion relates to the physical adequacy of the institution or institutions to carry out the proposed work. This includes the presence of required buildings and equipment, and the extent to which they are available for use by the center.

7. Amount, Sources, and Kinds of Non-Federal Support Available

While the solicitation requires that at least 20% of the center's total support be provided through non-Federal contributions, proposals will be judged on the specific amount of matching funds which they can provide, the reliability of the sources of those resources, and the kind of support which is being proposed.

8. Budgetary Justification

This criterion will be used to determine the adequacy of the proposed budget and personnel allocation (as indicated in table 1–3) based on the research and training plan and the relative proportion of operating to management costs. EPA believes that management costs for each HSRC should be kept to a minimum.

**VII. Mechanism of Support**

Support will take the form of a Federal assistance agreement as provided for by the Federal Grant and Cooperative Agreement Act of 1977. Such agreements are subject to provisions of EPA's General Grant Regulations (40 CFR Parts 30 and 40, Research Grants) and to special conditions to be established in each specific agreement. Each of the five winners will be requested to submit a full Application for Federal Assistance (EPA Form 5700–12 rev. 4/78). Application kits with full instructions may be obtained by writing to: U.S. Environmental Protection Agency, Office of Exploratory Research (RD–675), 401 M Street, Southwest, Washington, DC 20460.

*It is emphasized that proposals responding to this solicitation do not constitute a formal application to EPA for Federal assistance.* Only winners of the competition will be asked to submit formal applications as indicated above.

**VIII. Duration of Agreement**

EPA plans to support each HSRC for a maximum period of eight years. The project period of the initial agreement will be three years. During the second year of the agreement, a peer review panel, convened by EPA, will conduct a site visit at the center, and report its findings and recommendations to EPA. This review will be used to determine whether support of the center will continue with a five-year agreement following the completion of the three-year agreement. The five-year renewal agreement, if awarded, is provided with the understanding that no further agreements can be awarded without another competition for HSRC status.

Continued support of the HSRCs by EPA is contingent upon the availability of funds to support this activity.

**IX. Inquiries**

Inquiries about the EPA Hazardous Substance Research Centers Program should be made to:

Karen Morehouse, Office of Exploratory Research (RD–675), U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, DC 20460, (202) 382–5750,

or

Robert Papetti, Office of Exploratory Research (RD–675), U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, DC 20460, (202) 382–7473.

Approved for Publication:

**Erich Bretthauer,**

*Acting Assistant Administrator for Research and Development.*

March 17, 1988.

BILLING CODE 6560-50-M

## TABLE 1
## FORMAT FOR FIRST-YEAR BUDGET
(do not exceed 3 pages)

| | Direct Costs (within HSRC) | Contract (outside HSRC) | Indirect Costs | Total |
|---|---|---|---|---|
| A. RESEARCH | | | | |
| Project 1 | | | | |
| Project 2 | | | | |
| • | | | | |
| • | | | | |
| • | | | | |
| Project N | | | | |
| Unallocated Resources | | | | |
| Total | | | | |
| B. TRAINING | | | | |
| Project 1 | | | | |
| Project 2 | | | | |
| • | | | | |
| • | | | | |
| • | | | | |
| Project N | | | | |
| Unallocated Resources | | | | |
| Total | | | | |
| C. TECH. TRANSFER | | | | |
| D. MANAGEMENT | | | | |
| E. GRAND TOTAL * | | | | |
| | | | | |

* Should equal total budget for the center from all sources.

## TABLE 2
## FORMAT FOR OUT-YEAR BUDGETS
(one page per year for years 2 & 3)

| Operating year: _____ | Direct Costs (within HSRC) | Contracts (outside HSRC) | Indirect Costs | Total |
|---|---|---|---|---|
| A. RESEARCH | | | | |
| Ongoing projects | | | | |
| New projects | | | | |
| Total | | | | |
| B. TRAINING | | | | |
| Design/Development | | | | |
| Delivery | | | | |
| Total | | | | |
| C. TECHNOLOGY TRANSFER | | | | |
| D. MANAGEMENT | | | | |
| E. GRAND TOTAL * | | | | |
| | | | | |

* Should equal total budget for the center from all sources.

# TABLE 3
## FORMAT FOR PERSONNEL TABLE
(do not exceed 2 pages)

PERSONNEL ALLOCATIONS

| POSITION | YEAR 1 % of time / est. cost | YEAR 2 % of time / est. cost | YEAR 3 % of time / est. cost |
|---|---|---|---|
| A. ADMINISTRATIVE | | | |
| Center Director | / | / | / |
| Person 1 | / | / | / |
| Person 2 | / | / | / |
| • | / | / | / |
| • | / | / | / |
| Person N | / | / | / |
| B. RESEARCH PERSONNEL | | | |
| Principal Investigator 1 | / | / | / |
| Principal Investigator 2 | / | / | / |
| • | / | / | / |
| • | / | / | / |
| • | / | / | / |
| Principal Investigator N | / | / | / |
| C. TRAINING/ TECH TRANSFER | | | |
| T/T Person 1 | / | / | / |
| T/T Person 2 | / | / | / |
| • | / | / | / |
| • | / | / | / |
| • | / | / | / |
| T/T Person N | / | / | / |
| | | | |

[FR Doc. 88-6194 Filed 3-21-88; 8:45 am]
BILLING CODE 6560-50-C

## FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-803-DR]

### Federated States of Micronesia; Amendment To Major-Disaster Declaration

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the Federated States of Micronesia (FEMA-802-DR), dated November 25, 1987, and related determinations.

**DATED:** March 14, 1988.

**FOR FURTHER INFORMATION CONTACT:** Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3614.

*Notice*: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint David P. Grier, IV of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Alfred A. Hahn as Federal Coordinating Officer for this disaster.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

**Julius W. Becton, Jr.,**

*Director, Federal Emergency Management Agency.*

[FR Doc. 88-6171 Filed 3-21-88; 8:45 am]

BILLING CODE 6718-02-M

## FEDERAL MARITIME COMMISSION

### Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No:* 224-010969-002

*Title:* Maryland Port Administration Marine Terminal Agreement

*Parties:*

Maryland Port Administration (MPA)

Maher Terminals, Inc. (Maher)

*Synopsis:* The proposed agreement amends the terms of the basic agreement and lease between MPA and Maher to eliminate Farrell Lines' participation thereunder.

By Order of the Federal Maritime Commission.

Dated: March 16, 1988.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 88-6157 Filed 3-21-88; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notice, Acquisition of Shares of Banks or Bank Holding Companies; Elmer H. Austermann, Jr. et al.

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The 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 must be received not later than April 7, 1988.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St louis, Missouri 63166:

1. *Elmer H. Austermann, Jr.*, Florissant, Missouri; to acquire 100 percent of the voting shares of Mathes Bancshares, Inc., Ellington, Missouri, and thereby indirectly acquire Farmers State Bank of Ellington, Missouri.

Board of Governors of the Federal Reserve System, March 16, 1988.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 88-6153 Filed 3-21-88; 8:45 am]

BILLING CODE 6210-01-M

### Baer Holding Ltd.; 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 April 13, 1988.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Baer Holding Ltd.*, Zurich, Switzerland; to acquire Harbor Capital Management Company, Inc., Boston, Massachusetts, and thereby engage in providing portfolio investment advice to investment companies, trusts, estates, religious and other charitable organizations, pension and profit-sharing plans and wealthy individuals pursuant to § 225.25(b)(4) of the Board's Regulation Y. As party of the propsoal, Applicant intends to provide investment

advisory services to one or more de novo open-end investment companies through its existing subsidiary, Julius Baer Investment Management, Inc.

Board of Governors of the Federal Reserve System, March 16, 1988.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 88-6154 Filed 3-21-88; 8:45 am]

BILLING CODE 6210-01-M

## 1889 Bankcorp 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 section 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 April 13, 1988.

**A. Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *1889 Bankcorp*, North Branch, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Pioneer Bank, North Branch, Michigan.

2. *Waymar Bancorporation*, Spirit Lake, Iowa; to become a bank holding company by acquiring 98.52 percent of the voting shares of First Bank and Trust, Spirit Lake, Iowa. Comments on this application must be received by April 1, 1988.

**B. Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Bancorp II, Inc.*, Kansas City, Kansas; to become a bank holding company by acquiring 97.87 percent of the voting shares of The Citizens Bank of Pilot Grove, Pilot Grove, Missouri.

Board of Governors of the Federal Reserve System, March 16, 1988.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 88-6155 Filed 3-21-88; 8:45 am]

BILLING CODE 6210-01-M

## Omnibancorp; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increase 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.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 13, 1988.

**A. Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas city, Missouri 64198:

1. *Omnibancorp*, Denver, Colorado; to engage *de novo* in providing management consulting services to depository organizations pursuant to § 225.25(b)(11) of the Board's regulation Y.

Board of Governors of the Federal Reserve System, March 16, 1988.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 88-6156 Filed 3-21-88; 8:45 am]

BILLING CODE 6210-01-M

# FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

## Open Season; Thrift Savings Plan Elections

**AGENCY:** Federal Retirement Thrift Investment Board.

**ACTION:** Notice.

**SUMMARY:** The Federal Retirement Thrift Investment Board (Board) in its regulation at 5 CFR 1600.2 provides that 30 days advance notice will be given of the beginning and ending dates of all open seasons (as defined at 5 CFR 1600.1) which are subsequent to the open season ending on July 31, 1987. The Board's next open season will commence on May 15, 1988 and end on July 31, 1988. The election period (as defined at 5 CFR 1600.1) covered by this open season extends from July 1 to July 31, 1988.

**FOR FURTHER INFORMATION CONTACT:** James B. Petrick, (202) 523-6367.

Dated: March 15, 1988.

**Francis X. Cavanaugh,**

*Executive Director.*

[FR Doc. 88-6173 Filed 3-21-88; 8:45 am]

BILLING CODE 6760-01-M

# DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Health Care Financing Administration

## Medicaid Program; Hearing on Reconsideration of Disapproval of Michigan State Plan Amendment

**AGENCY:** Health Care Financing Administration (HCFA), HHS

**ACTION:** Notice of hearing.

**SUMMARY:** This notice announces an administrative hearing on April 19, 1988, in Chicago, Illinois to reconsider our decision to partially disapprove Michigan State Plan Amendment 86-7.

**CLOSING DATE:** Requests to participate in the hearing as a party must be received by the Docket Clerk April 6, 1988.

**FOR FURTHER INFORMATION CONTACT:** Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 966-4470.

**SUPPLEMENTARY INFORMATION:** This notice announces an administrative hearing to reconsider our decision to disapprove a Michigan State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The State of Michigan has submitted a plan amendment which revises its DRG plan for Medicaid reimbursement of inpatient hospital services effective April 1, 1986. One portion of the amendment proposes the elimination of the blending of hospital specific rates with statewide average rates. The issue in this matter is whether the elimination of the blended rate provision violates Federal regulations at 42 CFR 447.250-447.271.

HCFA considers the elimination of the provision for blending hospital specific and statewide rates a significant change to the methods and standards used to determine payment rates. While aggregate State payments may not be affected, the change is significant since it affects the rate of each provider in the State. The Federal regulations at 42 CFR 447.250-250.271 specify the requirements with which a State must comply for approval of significant plan changes. The State has not provided an adequate assurance as required by 42 CFR 447.253(b)(2) that it has made a finding that the payments are not expected to exceed the amount that would have been paid under the Medicare principles of reimbursement. The State's submission dated May 15, 1987, contains an upper limit finding that HCFA believes is not acceptable since it compares the average Medicare rate in the State to the average State Medicaid rate. HCFA believes the finding does not comply with the regulation at 447.253(b)(2) which requires the State to apply, for purposes of cost comparison, the Medicare principles of reimbursement to Medicaid services when making an upper limit determination. In addition, the State did not publish public notice timely as required by 42 CFR 447.253(f). Since the State did not publish public notice until August 11, 1987, the earliest effective date, if the amendment were otherwise approvable, would be August 12, 1987.

The notice to Michigan announcing an administrative hearing to reconsider our disapproval of portions of its State plan amendment reads as follows:

Mr. C. Patrick Babcock,
*Director, Department of Social Services, P.O. Box 30037, Lansing, Michigan 48909*

Dear Mr. Babcock: This is to advise you that your request for reconsideration of the decision to disapprove Michigan State Plan Amendment 86-7 was received on February 18, 1988.

Michigan SPA 86-7 would amend the Michigan reimbursement plan for payment of inpatient hospital services by eliminating the blending of hospital specific rates with statewide average rates.

You have requested a reconsideration of whether this plan amendment conforms to the requirements for approval under the Social Security Act and pertinent Federal regulations.

There are two issues in this matter. The first issue is whether the State has provided an adequate assurance as required by 42 CFR 447.253(b)(2) that it has made a finding that the payments are not expected to exceed the amount that would have been paid under the Medicare principles of reimbursement. The second issue is whether the State published timely public notice as required by 42 CFR 447.253(f).

I am scheduling a hearing on your request to be held on April 19, 1988, at 10:00 a.m. in Room A-824, 175 West Jackson Boulevard, Chicago, Illinois. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 966-4470.

Sincerely,

William L. Roper, M.D.,

*Administrator.*

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: March 15, 1988.

**William L. Roper,**

*Administrator, Health Care Financing Administration.*

[FR Doc. 88-6209 Filed 3-21-88; 8:45 am]

BILLING CODE 4120-03-M

## Health Resources and Services Administration

### Public Health Service; Program Announcement and Proposed Funding Priority and Proposed Review Criteria for Grants for Faculty Training Projects in Geriatric Medicine and Dentistry

The Health Resources and Services Administration announces the acceptance of applications for Fiscal Year 1988 for Grants for Faculty Training Projects in Geriatric Medicine and Dentistry authorized by section 788(e) of the Public Health Service Act, as amended by the Omnibus Health Act of 1986, Pub. L. 99-660 enacted on November 14, 1986, and Pub. L. 100-177, the Public Health Service Amendments of 1987, and invites comments on the proposed funding priority and proposed review criteria set out below.

Section 788(e) authorizes the award of grants to accredited public or private nonprofit schools of medicine or osteopathy, public or private nonprofit teaching hospitals or graduate medical education programs to provide support, including traineeships and fellowships, to train physicians and dentists who plan to teach geriatric medicine or geriatric dentistry. One-year retraining programs, one-year fellowship programs and two-year fellowship programs are eligible for support.

Approximately $2.7 million is available for Grants for Faculty Training Projects in Geriatric Medicine and Dentistry in Fiscal Year 1988. It is expected that 15 projects averaging $180,000 will be supported with these funds.

The Public Health Act requires that geriatrics training be provided through one or both of the following training options:

(1) A one-year retraining program in geriatrics for physicians who are faculty

members in departments of internal medicine, family medicine, gynecology, geriatrics, and psychiatry at schools of medicine and osteopathy, and dentists who are faculty members at schools of denistry or at hospital departments of dentistry; and

(2) A one-year or two-year internal medicine or family medicine fellowship program with emphasis in geriatrics, which shall provide training in clinical geriatrics and geriatric research for physicians who have completed graduate medical education programs in internal medicine, family medicine, psychiatry, neurology, gynecology, or rehabilitation medicine, and dentists who have completed postdoctoral dental education programs.

The Act further requires each project for which a grant is made under this provision to include the following:

(a) Be staffed by full-time teaching physicians who have experience or training in geriatric medicine;

(b) Be staffed by full-time or part-time teaching dentists who have experience or training in geriatric dentistry;

(c) Be based in a graduate medical education program in internal medicine or family medicine, or a department of geriatrics in existence as of December 1, 1987;

(d) Provide participants in the project with exposure to a diversified population of elderly individuals; and

(e) Provide training in geriatrics and exposure to the physical and mental disabilities of elderly individuals through a variety of service rotations, such as geriatric consultation services, acute care services, dental services, geriatric psychiatry units, day and home care programs, rehabilitation services, extended care facilities, geriatric ambulatory care and comprehensive evaluation units, and community care programs for elderly mentally retarded individuals.

**Proposed Review Criteria**

The Secretary, after consultation with the National Advisory Council on Health Professions Education will approve or disapprove all applications, taking into consideration the following proposed review criteria:

(1) The extent to which the proposed training program will prepare physicians and dentists to perform the research, teaching, administrative and clinical duties of a faculty member specializing in geriatrics;

(2) The degree to which the project plan adequately provides for meeting the project requirements including (a) through (e) as set forth above;

(3) The administrative, management and resource capability of the applicant to carry out the proposed project in a cost-effective manner;

(4) The potential for the applicant to continue the program without Federal support after completion of the approved project period; and

(5) The extent to which the project will increase the number of training opportunities available for individuals who want to prepare for academic careers in geriatric medicine and dentistry.

The proposed general criteria are consistent with other Title VII programs. The criteria specific to the program are designed to meet the legislative intent for increased opportunities for physicians and dentists to acquire skills and knowledge necessary to teach geriatric medicine and dentistry.

**Proposed Funding Priority**

The Department is proposing to give funding priority in the review process to applicants who propose substantial specific efforts to recruit minority trainees. The need to increase training opportunities for minorities in health professions continues to be a top national priority. This proposed priority is consistent with funding considerations in other Title VII programs.

Interested persons are invited to comment on the proposed funding priority and proposed review criteria. Normally, the comment period would be 60 days. However, due to the need to implement any changes for the Fiscal Year 1988 award cycle, this comment period has been reduced to 30 days. All comments received on or before April 21, 1988, will be considered before the final funding priority and review criteria are established. No funds will be allocated or final selections made until a final notice is published indicating whether the funding priority and review criteria will be applied.

Written comments should be addressed to:

Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C-25, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Medicine, Bureau of Health Professions, at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Application materials will not be automatically mailed to prospective applicants. Thus, requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer (D-31), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C-22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6880.

Should additional programmatic information be required, please contact:

Multidisciplinary Programs Section, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C-25, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6817.

The standard application form and general instructions Form PHS 6025-1 HRSA Competing Training Grant Application have been approved by the Office of Management and Budget. The supplemental instructions have been submitted for OMB approval.

To receive consideration, applications must meet the deadline of May 6, 1988, which means they must either be:

(1) *Received* on or before the deadline date, or

(2) *Postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

This program is listed at 13.156 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR Part 100).

Dated: March 15, 1988.

**David N. Sundwall,**

*Administrator, Assistant Surgeon General.*

[FR Doc. 88-6159 Filed 3-21-88; 8:45 am]

BILLING CODE 4160-15-M

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## Public Health Service

### Availability of Grants for Minority Community Health Coalition Demonstration Projects

**AGENCY:** Office of Minority Health/ Office of the Assistant Secretary for Health, PHS, DHHS.

**ACTION:** Notice of availability of funds and request for applications under the Office of Minority Health's Program of

Grants for Minority Community Health Coalition Demonstration Projects.

**SUMMARY:** The Office of Minority Health announces the availability of grants to provide support, for a period which will not exceed two years, for projects which demonstrate methods of developing community health coalitions which can effectively promote disease risk factor reduction within minority populations.

**Background**

The Report of the Secretary's Task Force on Black and Minority Health identified six health problems that account for 80 percent of the excess deaths among minorities. Excess deaths are the difference between actual minority deaths and the number of deaths which would have been expected if the minority population had the same age- and sex-specific death rates as the white population. Every minority group does not suffer from excess deaths in each category. However, the six health problems became priority issue areas for Task Force study. Listed in alphabetical order, they are:

- Cancer
- Cardiovascular disease and stroke
- Chemical dependency
- Diabetes
- Homicide, Suicide, and Accidents (unintentional injuries)
- Infant mortality.

*AIDS*

In recognition of the severity of the problem of Acquired Immunodeficiency Syndrome (AIDS) among the minority populations, Congress appropriated funds in Fiscal Year 1988 for the Office of Minority Health to use in ways specifically targeted at AIDS in minority populations. One mechanism by which the Office of Minority Health will target AIDS is to add AIDS as a seventh health problem to the above list of topic areas for this demonstration grants program in Fiscal Year 1988. *For applicant organizations that plan to submit AIDS demonstration applications*, it is important to describe existing efforts in AIDS education and prevention in their local community (e.g., by the local or State health department or community-based organization), and how the applicants' proposed interventions to prevent AIDS or HIV infection would complement those existing efforts.

Please note that these Minority Community Health Coalition Demonstration Projects are but one mechanism by which the Office of Minority Health intends to utilize its Fiscal Year 1988 AIDS appropriation. For more information on the Office of Minority Health AIDS initiative, please call Jacqueline Bowles, M.D., at (202) 245-0020.

The risk factors for these seven priority areas involve behavior or preventable conditions which are potentially modifiable but are in some cases resistant to change. In order to effect health behavior change, an individual must be motivated beyond that typically achieved as the result of health information or media campaigns alone. In addition, conventional health promotion activities are frequently not effective in reaching minority populations. It appears that change can be achieved by community-based information dissemination, awareness, support, and exhortation, particularly if such a community health campaign is carried out using familiar, aas well as influential institutions such as churches and schools, and organized by recognized community leaders.

Moreover, in many cases it may be insufficient to simply pressure individuals to change behavior without offering positive alternatives. For example, if teens are being encouraged to avoid use and abuse of drugs and alcohol, it may also be important to organize and offer constructive alternatives such as career-oriented activities.

The following is a list of the major health problems with their associated modifiable risk factors, some of which are implicated in more than one health problem:

Cancer: Tobacco, Diet, Alcohol, Environment.

Cardiovascular Disease and Stroke: Hypertension, Diet, Tobacco, Sedentary life style, Obesity.

Chemical Dependency: Direct behavioral outcome of alcohol and other drugs of abuse.

Diabetes: Obesity, Diet.

Infant Mortality: Smoking, Alcohol, Drugs, Late or no prental care, Teen pregnancy, Nutrition.

Homicide: Alcohol, Drugs, Poor conflict resolution skills.

Suicide: Alcohol, Drugs, Depression.

Unintentional Injuries: Alcohol, Drugs, Environmental hazards.

AIDS: Intravenous drug use, and High risk sexual practices, (e.g., unprotected intercourse, with multiple partners).

Many of the above noted risk factors are of interest to, and within the purview of, a number of organizations within communities. In addition, community organizations have different and varying levels of influence over the behavior of individuals.

This announcement is the third annual notice for this grant program. In the past Fiscal Year 1987, the Office of Minority Health received 138 applications of which 38 were approved and six (6) grants awarded for a total of $1.15 million. One hundred applications were disapproved because of a variety of deficiencies. Several applications may have been in the approval range with some technical assistance. Others would have required much more work in the pre-application stage. Given the time and resources typically involved in researching, developing, and writing an application, potential applicants should seriously consider whether or not they should apply at this time or wait until they establish stronger linkages with other community organizations and/or develop greater expertise in planning and writing their proposals. Applicants wishing to improve their chances for approval should pay *particular attention to both the Supplemental and General Instructions provided with the grant application* to ensure that their applications are responsive to each of the following concerns under the following headings:

*Project Objectives*

1. Clearly describe the goals and objectives of the proposed project;

2. Identify, describe, and document health problem areas and related risk factors in the target population;

3. Include realistic timetables for accomplishing the objectives;

*Target Population*

4. Define the target population(s) and identify which interventions are proposed for which minority groups;

*Coalition*

5. Provide evidence that a valid community-based coalition exists or that organization, which have worked together in the past, are now proposing to focus their energies on these risk reduction activities;

6. Describe in detail the organization of the coalition and the respective roles of coalition members and other participants;

*Intervention*

7. Describe plans for implementing the intervension(s), presenting in step-by-step fashion the specific efforts to be undertaken by each key component of the coalition, and how these various efforts will address the problems identified;

8. Provide a detailed description of intervention strategies that address the broad concept of the application rather than just an analysis of medical records of minority individuals, as in a limited clinical trial;

*Project Management and Staffing*

9. Provide detailed management plans that clearly delineate each coalition member's area of responsibility and how specified key staff of member organizations will be accountable for carrying out their responsibility;

10. Describe the duties and requisite qualifications of current staff, and of any staff and consultant positions to be filled after the grant award; and

11. Identify and provide supporting documentation (e.g., curriculum vitae) for each individual proposed for key staff positions to show appropriate experience and qualifications. Particularly suitable will be experience in community-based programs and/or health promotion programs, as well as related treatment and research experience.

*Evaluation*

12. In the evaluation section, specify the overall evaluation plans and the particular process and outcome objectives, indicating how each of these will be measured, including the results of the interventions.

**Authority:** This program is authorized under section 301 of the Public Health Service Act, as amended.

**Program Objectives**

The objectives of the program are to fund projects which:

(1) Provide epidemiological evidence of the health problem(s) and risk factor(s) of the minority population(s) which are the targets of the applicant's proposal.

(2) Provide detailed and specific methods for risk factor reduction through the use of a community coalition targeted to a specific minority population and to identified risk factors.

(3) Demonstrate a sound organizational scheme for the coalition which assures adequate involvement and representation of both coalition members and community leaders.

(4) Evaluate the process of establishing and operating the coalition and how its activities will impact on the risk factors and health problem areas identified in the target population through the community coalition.

(5) Demonstrate experience of the applicant and some coalition members with community-based projects, either focused on health or other community concerns.

**Definitions**

For the purpose of this grant program, the following definitions are provided:

(1) *Health Problem Areas*—One of the seven priority issue areas identified in the Secretary's Task Force report or by the Office of Minority Health. They are: (a) cancer; (b) cardiovascular disease and stroke; (c) chemical dependency; (d) diabetes; (e) homicide, suicide and unintentional injuries; (f) infant mortality; and (g) AIDS.

(2) *Risk Factors*—The environmental and behavioral influences capable of causing ill health with or without previous predisposition. The term "risk factor" is also used to denote an aspect of personal lifestyles and behavior known, on the basis of epidemiological evidence, to be associated with one or more diseases or health conditions considered important to prevent.

These include use of tobacco, poor dietary habits, obesity, severe emotional stress, depression, poor conflict resolution skills, abuse of alcohol and drugs, intravenous drug use, late or no prenatal care, teen pregnancy, high risk sexual practices, (e.g., unprotected intercourse, with multiple partners), environmental hazards, and others.

(3) *Community*—A defined geographical area in which persons live, work, and recreate and is characterized by: (1) formal and informal communication channels; (2) formal and informal leadership structures for the purpose of maintaining order and improving their conditions; and (3) its capacity to serve as a focal point for addressing societal needs including health needs.

(4) *Community Coalition*—The coming together of individuals from and representatives of organizations and institutions in a community for the purpose of collaborating on specific community concerns, and seeking resolution of those concerns. For purposes of this grant program, community coalitions are characterized by the six elements listed below.

A community coalition:

- Assumes a variety of interests converging on an agreed upon mission.
- Requires resource participation. Each coalition member organization brings a certain resource to the coalition to enable the coalition to accomplish its mission.
- Requires that each member organization has a specific role within the coalition. This role, defined by the individual member, is distinctive among the other members. Use of resources may be one way of defining each role.
- Requires that each member organization establish both a relationship with the coalition as an entity (vertical relationship) and with other members of the coalition (horizontal relationship). Members must be able and willing to work with one another. Formalizing these relationships to make explicit the specified roles may be achieved through development of memoranda of understanding/agreement between each member organization and the coalition, and between members as necessary.
- Requires a long term commitment on the part of each member organization since the problem to be addressed is not usually amenable to short term solutions.
- Must document its activities to ensure a written history of and, thus, a continuity to its work that is not dependent upon the active participation of any single person. Such documentation can include the memoranda of understanding/agreement mentioned above.

(5) *Minority Populations*—As defined by the Report of the Secretary's Task Force on Black and Minority Health, they include: Asian/Pacific Islanders, Blacks, Hispanics, and Native Americans/Alaska Natives (which include Native Hawaiians).

**Availability of Funds**

The Office of Minority Health intends to make available approximately $1.6 million to be expended by grantees over a two-year project period. It is anticipated that eight individual grants of up to $200,000 (total costs including indirect costs) each for the two-year project period will be awarded from these funds. OMH hopes to award two of the eight grants in the AIDS area, one targeted to the Black population and one targeted to the Hispanic population. Such awards, however, like all award decisions will be based on the types and quality of the applications received.

**Applicant Eligibility**

Eligible applicants are public and private nonprofit organizations and for-profit organizations *except for all current grantees under this program*, since these grantees are considered not eligible. The applicant organization is the lead agency for the coalition and is responsible for management of the Project and will serve as the fiscal agent for the Federal funds awarded.

Federal demonstration grant support is not expected to result in more than one award in any Standard Metropolitan Statistical Area (SMSA) unless an additional project in an SMSA was to be targeted to another of the four major minority groups—Asian/Pacific Islanders, Blacks, Hispanics, and Native Americans/Alaska Natives. Efforts will be made to achieve geographic and ethnic distribution of awards as well as cover the various health problems identified above. There is no lower limit

for the size of the population targeted by the applicant, but there must be a reasonable relationship between the level of effort involved in the coalition and the size of the target population and the health problem(s) to be addressed. Similarly, the geographic distribution of the target population must be such that effecting risk factor reduction is feasible.

The target risk factor(s) must be epidemiologically justified on the basis of health problem patterns in the population. It is suggested that applicants limit the number of disease or health problem areas to a primary one with one secondary problem area (with their associated risk factors) on which a coalition plans to focus, as opposed to being all-inclusive, in order to maximally utilize resources to achieve the greatest reduction in the selected risk factor(s).

**Applications**

*1. Copies*

The forms used for applying for grants under this program are either Form PHS 5161-1 for State and local governments or Form PHS 398 for all others. Copies of the application kit may be obtained from the Grants Management Branch, Room 18A10, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

*2. Deadlines*

Applications shall be considered meeting the deadline if they are received on or before 5:30 pm on June 8, 1988.

*3. Late Applications*

Applications which do not meet the criterion in paragraph 2 immediately above will be considered late applications and will be returned to the applicant.

*4. Reviews*

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs. Applications for funding will be subject to State review. All comments from a State office must be received by 60 days after the due date by the program grants management office. Applicants should contact State Single Points of Contact (SPOC) early in the application preparation process. A list of addresses of the SPOCs is enclosed with the application material.

*5. Project Budget*

Funds may be used to cover the cost of personnel to coordinate the coalition's activities, for consultants, support services and materials. Funds may not be used for building construction costs or building alterations and renovations. Also, funds may not be used to purchase equipment except as may be acceptably justified in relation to conducting the project.

*6. Cost Participation*

It is expected that a portion of the program's costs will be borne by coalition members or by other non-federal sources such as business, labor, local government, or community funds. Cost participation for those grants in FY 1987 ranged between $60,000 and $134,000, and was either in-kind or direct funds contributions.

*7. Review Criteria*

Applications will be reviewed and evaluated in terms of the evidence presented in the application regarding the ability of the applicant to meet program objectives. Of specific importance will be the following criteria under the listed headings. (An indication of the qualitative weight appears in parentheses after each criterion.):

Project Objectives

(1) The scientific and technical merit of the described proposed project, and the consistency of the project's goals and objectives with those of the Demonstration Grant Program and the Office of Minority Health. (high)

Target Disease(s), Risk Factor(s), and Minority Group

(2) The justification for the choice of disease(s) and risk factor(s) to be targeted, and their direct relationship to the epidemiologic characterization(s) of the target minority population(s). (high)

Coalition

(3) The degree to which the composition of coalition members is a logical choice based on target population, target risk factor(s) and intervention(s) to be demonstrated. (high)

(4) The degree of commitment of each coalition member to the coalition and to the proposed implementation plan, including the amount or extent of support indicated by coalition members to cover a portion of project needs. (medium)

Intervention

(5) Coherence, feasibility, and realistic approach of the intervention strategy of the implementation methods described. The specificity of the methods to address the target risk factor(s) in the target population(s) will be given significant weight in the review of the application. (high)

Project Management and Staffing

(6) Adequacy of qualifications and time allocations of proposed regular staff, both paid and voluntary, and of the proposed program and technical management of the project. (high)

(7) Relevant experience and qualifications of the managers of the applicant organization to provide administrative and fiscal management of the grant. (medium).

(8) Adequacy of medical/scientific/public health technical expertise available to the coalition for its use. (low)

Evaluation

(9) Appropriateness of the process and outcome objectives, and adequacy of the evaluation plan to measure the development of the coalition as well as indicators and trends of outcome changes based on the goals and objectives of the application. (medium)

(10) Likelihood that the project will demonstrate whether or not community health coalitions can effectively promote risk factor reduction among minority populations (medium)

(11) Likelihood that the project will continue beyond the two year funded project period. (medium)

*8. Information and Technical Assistance Contacts*

Information on application procedures and copies of application forms may be obtained from Ralph Sloat, Grants Management Officer, Room 18A10, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (phone (301) 443-4033).

Technical assistance on the programmatic content of the application may be obtained from J. Henry Montes, Office of Minority Health, Room 118-F, HHH Bldg., Washington, D.C. 20201 (telephone /202/ 245-0020). For additional information on the OMH AIDS Program, please contact Jacqueline Bowles, M.D., at the same address and telephone number.

(The Catalog of Federal Domestic Assistance Number for the program is 13.137)

Dated: February 23, 1988.

**Herbert W. Nickens,**

*Director, Office of Minority Health.*

[FR Doc. 88-6175 Filed 3-21-88; 8:45 am]

BILLING CODE 4160-17-M

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## Social Security Administration

## Social Security Disability Program Demonstration Projects

**SUMMARY:** The Commissioner of Social Security announces the following

demonstration projects to be conducted under the authority of Pub. L. 96–265, section 505(a), as amended by Pub. L. 99–272, section 12101. Fifteen projects, which will focus on vocational assessment, rehabilitation and placement into competitive employment, will be funded under this section of the law. Section 222(a) of the Social Security Act will be waived to conduct these projects, permitting direct referral of Social Security disability insurance (SSDI) beneficiaries from the Social Security Administration (SSA) or the State agencies that make disability determinations for SSA, to the organizations conducting the demonstration. Each project will develop selection criteria, but participation by beneficiaries is totally voluntary. We are publishing this notice to comply with 20 CFR 404.1599, which requires publication of a notice in the **Federal Register** before starting certain demonstration projects.

**FOR FURTHER INFORMATION CONTACT:** Malcolm H. Morrison, Ph.D., Social Security Administration, Office of Disability, 2223 Annex Building, 6401 Security Boulevard, Baltimore, Maryland 21235, Phone (301) 965–0091.

**Background Information**

The Social Security Disability Amendments of 1980, Pub. L. 96–265, section 505(a), as amended by Pub. L. 99–272, section 12101, directs the Secretary of Health and Human Services to develop and carry out experiments and demonstration projects designed to: (1) Encourage disabled beneficiaries to return to work, and (2) accrue trust fund savings or otherwise promote the objectives or facilitate the administration of Title II of the Social Security Act. Section 505 of Pub. L. 96–265, as amended by Pub. L. 99–272, section 12101, also authorizes the Secretary to waive certain provisions of the Social Security Act as is necessary to conduct these experiments and demonstration projects. This includes waive of section 222(a) of the Act which requires SSA to refer disability beneficiaries to State vocational rehabilitation (VR) agencies unless the State is unwilling or does not have an approved VR plan.

**Overall Objectives**

SSA wished to assist SSDI beneficiaries in returning to competitive employment. SSA hopes to achieve significantly improved integration and use of VR and other employment program resources providing for more employment opportunities, better mechanisms for identifying and referring candidates for rehabilitation and other employment sevices, more effective incentives for rehabilitation and employment, increased access to employment service system and networks, and more effective and efficient employment intervention for beneficiaries.

**Description of the Demonstration Projects**

(1) *Ability Information Systems, (AIS) Inc.;* Spokane, Washington; "Rapid Referral Program (RRP) for Individuals Over 50 in the Olympia, Washington, Disability Determination Services (DDS);" Projected duration: 14 months.

The Washington DDS will work with AIS to identify approximately 1000 SSDI applicants over age 50 who have transferable work skills. AIS will then use a computerized job matching system to match applicant skills to jobs that exist in the labor market in significant numbers. Participants will be provided with information about labor market conditions affecting employment, possible employment opportunities, potential employers, vocational training and rehabilitation resources, and adaptive devices. AIS will follow up with participants to find out if they have returned to work, and will use this and other data collected to determine the effectiveness of their RRP.

(2) *Aging in America, (AIA), Inc.;* Bronx, New York; "Placement Outcomes of Aging in America's Employment Program for Older Disabled Adults: A Comparison of Recent and Long-Term SSDI and Non-SSDI Beneficiaries;" Projected duration: 24 months.

AIA will employ aggressive marketing and outreach efforts to identify and recruit 100 SSDI beneficiaries over the age of 45. After an employment assessment interview, all participants will be provided training in job-seeking skills and placement services, utilizing AIA's established network of 400 businesses in the New York area. Client profiles will be developed featuring the sociodemographic, economic, and health characeristics of SSDI beneficiaries who do return to work, and the rate at which they return to work will be compared to that of a sample of 100 "non-beneficiaries" who have received idential services.

Analyses of client characteristics, placement rates, and employment success will be featured in a monograph guide to rehabilitation and re-employment programs targeting older SSDI beneficiaries. Of the beneficiaries served, it is expected that 50 will be placed in employment and that 40 of these will be employed for at least 12 months.

(3) *Baltimore County Economic Development and Rehabilitation Alliance, Inc.; Baltimore, Maryland; "Comprehensive Job Placement Model through Rehabilitation Engineering;" Projected duration: 24 months.*

Using selection criteria that will be established with the asssitance of a private-sector rehabiliation consultant, the Maryland Disability Determination Service (DDS) will refer 50 SSDI beneficiaries to the grantee. Project clients will be provided with a variety of VR services, including evaluation, job development and analysis, computerized job matching, counseling, training, and placement. Job sites will be modified with customized low-cost adaptions, all of which will have immediate and practical utility in the workplace. In-home employment opportuntiies will be created for some SSDI beneficiaries having impairments that would ordinarily prevent placement in competitive employment. Seventy-five percent of all clients served will be placed in jobs that will provide gainful employment for at least 6 months.

(4) *Comprehensive Rehabilitation Services (CRS);* Sierra Madre, California; "Cast Management and Placement Project (CMPP);" Projected duration: 24 months.

The Oregon, Minnesota, and Pennsylvania DDSs will each refer 100 SSDI beneficiaries to CRS each month for telemarketing of SSA work incentives which is expected to increase the percentage of referred beneficiaries who accept VR services. CRS will encourage SSDI beneficiaries to apply for and utilize a broad spectrum of VR services, including State VR, private nonprofit VR, independent living services, and any additional services that might expedite a particular beneficiary's return to work. CRS will also use an expert system to idenfity transferable skills, in order to expedite case acceptance and management. Early referrals for job placement and the presence of full-time job developing is expected to promote early return to gainful employment for about 100 clients during the 2 years that CMPP is in operation. Major products will include a replication kit including program procedures and as staff training manual, a protocol for telemarketing work incentives, and a complete project evaluation including tables and graphs summarizing project outcomes, and journal article(s).

(5) *Goodwill Industries of Southeastern Wisconsin, Inc.;* Milwaukee, Wisconsin; "Vocational Options Project (VOP);" Projected duration: 12 months.

The Wisconsin DDS will refer SSDI beneficiaries to the VOP and at least 100 of these beneficiaries will participate in a 5-day seminar which incorporates vocational testing, self-appraisal exploration, and training in decisionmaking. Goodwill Industries of Southeastern Wisconsin will determine the ability of their VOP to increase as SSDI beneficiary's ability to make appropriate vocational decisions by analyzing the results of tests administered to participants before and after the seminar.

(6) *International Rehabilitation Associates (IRA);* Wayne, Pennsylvania; "Private Insurance Rehabilitation Techniques and the Development of a Predictive Model;" Projected duration: 24 months.

The Florida and Colorado DDSs will refer new SSDI beneficiaries to IRA which will select 100 candidates for intensive VR services, including job skills assessment, training in job seeking skills, couseling, and assistance in job placement. IRA will compare the placement rate and the work activity/history of its test group to the placement rate and the work activity/history of a control group. A 30 percent placement rate is projected for the experimental group. Using descriptive data obtained during this study, IRA will also develop a model predictive of SSDI beneficiaries' probability of returning to work. The early intervention and screening of referrals employed in this project are expected to result in cost-effective rahabilitiation. This project will also enhance SSDI beneficiaries' access to private-sector VR services.

(7) *Jewish Employment and Vocational Service (JEVS);* Philadelphia, Pennsylvania; "Early Vocational Rehabilitation Assessment Prototype (EVRAP);" Projected duration: 20 months.

JEVS will modify its existing Early Vocational Rehabilitation Assessment system to include data on physical and mental capacities and environmental tolerances. JEVS also will add new job titles to its database, so that EVRAP results can be compared to the requirements of those occupations listed in the Department of Labor's *Dictionary of Occupational Titles*, to determine which occupations an individual client might be capable of performing. Clients will then be counseled and encouraged to consider occupations they may not have worked in previously. JEVS will provide a working prototype capable of providing detailed reports quickly enough so that it can, if SAA desires, be incorporated into the disability determination process.

(8) *Karr Rehabilitation Services, Inc.;* Minneapolis, Minnesota; "Alternative VR Resources;" Projected duration: 24 months.

The Minesota DDS will refer to Karr 100 recently entitled SSDI beneficiaries who have been scheduled for medical reexaminations. These beneficiaries will then be evaluated by a rehabilitation specialist and considered for vocational assessment and job placement. Karr expects to place 40 project participants with former employers. Throughout this project, Karr will pursue the development, testing, and refinement of screening criteria to more accurately determine the rehabilitation potential of SSDI beneficiaries and the coordination of medical case management with VR services. Karr will also establish a supplemental funding base through co-payment arrangements with other disability insurance carriers involved with participants in its project.

(9) *Menninger Foundation;* Topeka, Kansas; "Expanding Disabled Worker SSDI Applicant Access to Return-to-Work Services through Independent Case Manager;" Projected duration: 24 months.

Using the Menninger Return-to-Work Scale, SSA field offices and the Menninger Foundation will work together to identify SSDI beneficiaries who have good potential for returning to work and who would be likely to benefit from rehabilitation services. Participants will be assigned randomly for pre- and post-adjudicative referral to case managers, who will provide referrals for various rehabilitation services. The Menninger Foundation will determine any difference in the return-to-work rate of persons who are counseled regarding the availability of VR services and the possibility of returning to work before they are awarded disability benefits and persons who are counseled after they are awarded benefits.

(10) *Set Industries;* Hardwick, Vermont, "Transitional Employment through the Use of a Voucher for SSA Beneficiaries;" Projected duration: 24 months.

Set Industries will develop a voucher system which will permit self-referral of SSDI beneficiaries for a variety of VR services. This system will give beneficiaries greater control over the allocation of the rehabilitation resources that are available to them. Set will provide services to 30 SSDI beneficiaries over the course of the project, and expects to place approximately 65 percent (19) of them in employment. Set will also provide, through public relations and training seminars for employers and line supervisors, the skills and training technologies needed to manage the training of SSDI beneficiaries and maintain them in employment. Support and training team models will be offered to deal with individual problems in returning to work, and should increase the average length of employment of those SSDI beneficiaries who are placed in jobs.

(11) *S.L. Start and Associates, Inc.;* Spokane, Washington; "Rapid Intervention and Employment Project;" Projected duration: 12 months.

The Washington DDS will work with Start to select SSDI beneficiaries for comprehensive vocational assessment. Start will use a computerized labor market survey to identify prospective employers for project participants. All participants will attend a 3 or 4-day job-search workshop and counseling seminar to help them find employment in suitable occupations, as identified through skills analysis and job-search techniques. A job club will be organized for all participants and used to locate and maintain employment.

(12) *Tampa General Rehabilitation Center;* Tampa, Florida; "Job Re-Entry for Traumatically Brain Injured;" Projected duration: 24 months.

The Florida DDS will refer to the grantee SSDI beneficiaries who have sustained brain injuries. The grantee will provide individual assistance through the development of rehabilitation plans and a supported employment system. The usual transitional gaps between disciplines and program components will be reduced by vocational specialists who will work with each individual as he/she moves through the program. Clients will *not* be "passed around" among professionals. This project will integrate medical and vocational information in an evaluation system addressing the cognitive, social/psychological, personality, family support, and functional skills required for job re-entry. Thirty SSDI beneficiaries will be returned to gainful employment over the life of the program.

(13) *University of Cincinnati, Department of Physical Medicine and Rehabilitation;* Cincinnati, Ohio; "Disability Management of Social Security Beneficiaries: A Physical Medicine and Vocational Rehabilitation Work Return Demonstration Project;" Projected duration: 24 months.

This project will demonstrate a medical-allied health-VR team approach in the evaluation, case management, and job placement of SSDI beneficiaries. Two hundred SSDI beneficiaries will be recruited from lists provided by SSA and will then receive physical

capacities, work capacities, vocational, and psychosocial evaluations followed by individual and group counseling on an as-needed basis. Individualized placement plans will be developed for all participants, and a pilot recruitment effort and job placement plans will be developed with the University of Cincinnati. Referrals will be made also to public and private employment services. The primary criterion for judging the project's success will be effective and sustained job placement.

(14) *Valpar International Corporation;* Tucson, Arizona; "An Early Intervention Assessment Model for the Vocational Rehabilitation of SSDI Beneficiaries;" Projected duration: 17 months.

The Arizona DDS will work with Valpar to select SSDI beneficiaries for vocational assessment. Valpar will conduct comprehensive vocational testing and computerized job searches for all participants in the project, and will cooperate with the State VR agency in constructing rehabilitation plans and providing additional services that might be needed to help SSDI beneficiaries find employment in the occupations to which they have been matched. The data obtained in this study will also be used to identify appropriate vocational assessment procedures for various applicant profiles.

(15) *Vision Center of Central Ohio;* Columbus, Ohio; "Vocational Assessment for Early Rehabilitation Intervention Among SSI/SSDI Applicants;" Projected duration: 24 months.

Three different assessment models (ranging from a simple screening model to an in-depth, comprehensive evaluation) will be developed and tested during the first year. The model which is found to be most predictive of rehabilitation potential will then be applied to the participants and refined based on analyses of data generated from followup and validation periods. Participants will be assigned randomly to one of the three methods of assessment, and each participant will be followed up to assess vocational development. The skills, abilities, and motivation of the participants will be analyzed to identify those variables which are most predictive of future vocational success.

**Statutory and Regulatory Provision To Be Waived**

Section 222(a) of the Social Security Act is being waived for the purpose of conducting these demonstration projects. This section requires that SSA refer disabled persons to State VR agencies. This waiver authorizes SSA to refer SSDI beneficiaries to the funded organizations.

**Authority:** Sec. 505(a) of the Social Security Disability Amendments of 1980, Pub. L. 96-265, as amended by Pub. L. 99-272, section 12101.

(Catalogue of Federal Domestic Assistance Programs No. 13.812-Assistance Payment-Research)

Dated: January 25, 1988

**Dorcas R. Hardy,**

*Commissioner of Social Security.*

[FR Doc. 88-6163 Filed 3-21-88; 8:45 am]

BILLING CODE 4190-11-M

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[CA-060-08-4212-11; CA 20237]

### California: Realty of Action, Classification of Public Lands for Recreation and Public Purposes in San Bernardino County, CA

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Realty Action, Lease of Public Lands for Recreation and Public Purposes, CA 20237.

**SUMMARY:** The following described public land has been examined and found suitable for recreation and public purposes. The land is hereby classified as suitable for recreation and public purposes under the Recreation and Public Purposes Act (R&PP) of June 14, 1926, as amended (44 Stat. 741; 43 U.S.C. 869 et. seq.) and the regulations thereunder (43 CFR 2912):

**Mount Diablo Meridian, California**

*T. 30 S., R. 41 E.,*

Section 6: Lot 87;

Containing .415 acres ±

**SUPPLEMENTARY INFORMATION:** The County of San Bernardino has filed an application to lease the above described public land under authority of the Act of June 14, 1926, as amended. The proposed public use is for the construction of a community fire station, which will enhance the existing fire protection services for the community of Red Mountain.

The effective date of this classification is sixty (60) days from the date of publication of this notice in the **Federal Register.** The classification is consistent with the regulations set forth in 43 CFR Parts 2410 and 2430. The land is located adjacent to Highway 395 in the town of Red Mountain, California and is physically suitable for the proposed use.

The lease, when issued, will be subject to the provisions of the R&PP Act, applicable regulations of the Secretary of the Interior and will contain the following reservations to the United States:

1. All mineral deposits in the land so leased, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits from the same under applicable law and regulations as the Secretary of the Interior may proscribe.

2. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, (26 Stat. 391; 43 U.S.C. 945).

3. A right-of-way for a buried natural gas pipeline granted to Pacific Gas and Electric Company pursuant to Sec. 28 of the Act of February 25, 1920, as amended (30 U.S.C. 185); BLM Serial No. LA-0139393.

4. A right-of-way for a water pipeline granted to Randsburg Water Company pursuant to the Act of February 15, 1901 (43 U.S.C. 959); BLM Serial No. LA-0164135.

Third Party Reservations:

The following public lands are currently encumbered by mining claims:

1. Claim No. CAMC 48442; located by Mines Exploration, Inc. on September 15, 1975 in T. 30 S., R. 41 E., MDM, Section 6: NE¼, San Bernardino County, California.

2. Claim No. CAMC 151475; located by A-Able Plumbing Et. al., on March 25, 1984 in T. 30 S., R. 41 E., MDM, Section 6: NE¼, San Bernardino County, California.

BLM policy requires that public lands encumbered by mining claims upon which a validity determination has not been made may not be leased under the provisions of the R&PP Act. The BLM will not spend any of its funds to undertake a validity determinations for the sole purpose of conveying property under the provisions of the R&PP Act. If the County of San Bernardino wishes to expend funds to undertake validity contests of the above mining claims, they may make a request for such action of the Authorized Officer (BLM) and such contest may proceed if the BLM deems it appropriate after considering all of the issues. The County of San Bernardino will be responsible for the full expense of any contest proceedings.

Until such time as the County of San Bernardino requests validity determinations and contests, the public land encumbered by the above described mining claims will be omitted from any future R&PP lease offering to the County of San Bernardino.

The land is not required for any federal purposes. The lease is consistent with the objectives and recommendations of the California Desert Plan.

Publication of this notice in the **Federal Register** shall segregate the subject public land from appropriation under any other public land laws, including locations under the mining laws. If after 18 months following the publication of this notice in the **Federal Register**, a lease has not been issued for the purpose for which the lands have been classified, the segregative effect of the classification shall automatically expire and the public lands classified in this notice shall return to their former status without further action by the authorized officer.

Detailed information concerning this action is available for review at the California Desert District Office, Bureau of Land Management. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507. Objections will be reviewed by the State Director, Bureau of Land Management, who may sustain, vacate or modify this realty action. In the absence of any objection, this realty action will become the final determination of the Department of the Interior.

Dated: March 15, 1988.

**Dennis B. McLane,**

*Acting, District Manager.*

[FR Doc. 88-6184 Filed 3-21-88; 8:45 am]

BILLING CODE 4310-40-M

## Moab District Advisory Council; Meeting

**AGENCY:** Bureau of Land Management, Moab, Interior.

**ACTION:** Moab District Advisory Council Meeting.

**SUMMARY:** The Moab District Advisory Council will meet Tuesday, April 19, beginning at 6 p.m. in the Tamarisk Inn in Green River. Following a no-host dinner, there will be a briefing on the field trip that will take place the next day. A field trip of the San Rafael Resource Area will take place on Wednesday, April 20. The tour will leave the Tamarisk Inn in Green River at 8 a.m. and arrive in Price, Utah at approximately 5 p.m. The purpose of the field trip is to review part of the area being discussed in the draft San Rafael Resource Management Plan and Draft Environmental Impact Statement (RMP/EIS). Anyone may attend the meeting and field trip, but must provide their own transportation and lunch. On Thursday, April 21, an office meeting will be held at Emery County Courthouse, second floor, room 211. The agenda is as follows:

1. Election of Chairperson and Vice Chairperson for 1988.
2. San Rafael Resource Area Draft Resource Management Plan
3. Selected program updates
4. New Business
5. Opportunity for public comment
6. Finalization of resolutions
7. Adjourn

All Advisory Council meetings are open to the public. Persons wishing to make a comment to the Council must notify the BLM by April 18. Depending on the number of people desiring to make a statement, a per-person time limit may be established. For further information, contact: Mary Plumb, Public Affairs Officer, P.O. Box 970, Moab, Utah 84532. Phone (801) 259-6111.

**Brent Northrup,**

*Acting District Manager.*

[FR Doc. 88-6285 Filed 3-21-88; 8:45 am]

BILLING CODE 4310-DQ-M

## National Park Service

## National Register of Historic Places; Pending Nominations; Alaska et al.

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 12, 1988. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by April 6, 1988.

**Carol D. Shull**

*Chief of Registration, National Register.*

ALASKA

**Anchorage County**

Anchorage, *KENI Radio Building*, 1777 Forest Park Dr.

**Ketchikan Gateway**

Ketchikan, *Grant Street Trestle*, 600 blk. Grant St.

**Yukon-Koyukuk County**

Nenana vicinity, *Tolovana Roadhouse*, Sled Rd.

ARIZONA

**Maricopa County**

Phoenix, *Victoria Place Historic District*, 700 blk. E. McKinley St.

INDIANA

**Tippecanoe County**

Lafayette, *Ward, James H., House*, 1116 Columbia St.

MAINE

**Cumberland County**

Bridgton, *Cleaves, Benjamin, House*, S. High St.

Gorham, *South Street Historic District*, South St. between Green and Morrill

**Franklin County**

Wilton, *Bass Boarding House*, Canal St.

**Oxford County**

Norway, *Norway Historic District*, Roughly bounded by Pearl St., Danforth St. and Greenleaf Ave., Pennesseewassee Stream, and Main and Whitman Sts.

**Penobscot County**

Bangor, *Bangor Fire Engine House No. 6*, 284 Center St.

**Somerset County**

Skowhegan, *Bigelow-Page House*, 20 High St.

**Waldo County**

Stockton Springs, *Hichborn, Nathan G., House*, Church St.

**Washington County**

Machias, *Washington County Jail*, Court St.

**York County**

Limington, *Libby-MacArthur House*, ME 11

MISSOURI

**Saline County**

Marshall vicinity, *Free Will Baptist Church of Pennytown*, Off MO UU 8 mi. SE of Marshall

OKLAHOMA

**McIntosh County**

Eufaula, *Eufaula Business District*, Main St. between Pine and Grand Sts.

TENNESSEE

**Stewart County**

Bellwood Furnace (40SW210) (Iron Industry on the Western Highland Rim 1790s—1920s MPS)

LaGrange Furnace (40SW214) (Iron Industry on the Western Highland Rim 1790s—1920s MSP)

UTAH

**Box Elder County**

Brigham City, *Box Elder County Courthouse*, N. Main St.

Brigham City, *Brigham City Fire Station/City Hall*, 6 N. Main St.

Brigham City, *Compton, Alma, House*, 142 S. 100 East

Deweyville, *Fryer Hotel*, 3274 W. 11300 North

**Summit County**

Park City, *Rogers, John H. and Margaretta, House (Mining Boom Era Houses TR)*, 455 Park Ave.

**Washington County**

Toquerville, *Steele, John, House*, 263 N. Toquerville Blvd.

[FR Doc. 88-6151 Filed 3-21-88; 8:45 am]

BILLING CODE 4310-70-M

## Recreation Entrance Fees

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of intent to raise entrance fees at two park areas and add vehicle fees at two other park areas of the 127 units of the National Park System currently charging fees. Entrance fees will also be established at an additional 14 parks. A total of 141 of the existing 341 park areas are proposed for the 1988 entrance fee program. Current per person fee rates are $2 and $1 and will increase to $4 per person only in Yellowstone National Park and Grand Teton National Park. Current vehicle fee rates are $3 and $5 and will increase to $10 per vehicle only in Yellowstone National Park and Grand Teton National Park. The single-visit entry permit is reciprocal for these two parks. Single-visit vehicle fees of $3 and $5 will be in effect at Harpers Ferry National Historical Park and Fort Pulaski National Monument, respectively. With the exception of the four identified parks, 1987 entrance fee rates will remain unchanged in 1988 for the other 123 parks. The entrance fee parks are listed below.

### List Parks

The cost of a Golden Eagle Pass remains at $25. This annual pass, valid on a calendar-year basis, will admit the permittee (and any accompanying persons in a single, private, noncommercial vehicle, or alternatively, the permittee, accompanying spouse, children, and parents where entry is by any means other than private, noncommercial vehicle to any designated entrance fee park within the National Park System. The pass does not cover recreation use fees, such as camping, or fees for special recreation permits.

The Annual Park-Specific Pass will again be available at each designated entrance fee park for $10 or $15. This pass conveys the same privileges as the Golden Eagle Pass, but only for the specific park for which the Annual Park-Specific Pass is purchased.

The Golden Age Passport (for persons 62 years of age and older) and the Golden Access Passport (for persons blind or permanently disabled) provide for free entrance and a 50 percent discount for user fees (camping, parking, cave tours, etc.) charged by the National Park Service.

There are no entrance fees for children 16 years of age and under or for organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

August 25 is designated annually as a fee-free day when entrance fees will not be charged. This date celebrates the establishment of the National Park Service in 1916. For those parks whose high visitation season does not encompass this date, the respective park Superintendent shall designate a fee-free day during the high visitation season in lieu of August 25.

**DATES:** The entrance fee rates are effective April 23, 1988.

**ADDRESSES:** A listing of entrance fee parks may be obtained from: National Park Service, Branch of Resource and Visitor Protection (650), Main Interior Building, P.O. Box 37127, Washington, DC, 20013-7127.

**FOR FURTHER INFORMATION CONTACT:** Weston P. Kreis, Recreation Fee Coordinator, at the address given above, telephone (202) 343-2205 or FTS 343-2205.

**SUPPLEMENTARY INFORMATION:** Public Law 100-203, approved December 22, 1987, which amended the Land and Water Conservation Fund Act of 1965 provided the National Park Service authority to charge entrance fees at units of the National Park System until the year 2015. This law supplants the temporary authority granted by Pub. L. 99-591 that expired September 30, 1987, and a series of Continuing Resolutions between that date and enactment of Pub. L. 100-203.

**William Penn Mott, Jr.,**

*Director, National Park Service.*

Date: March 17, 1988.

NATIONAL PARK SERVICE—SINGLE VISIT RATES FISCAL YEAR 1987 AND FISCAL YEAR 1988

| Park | Fiscal year 1987 | | Fiscal year 1988 | |
|---|---|---|---|---|
| | Vehicle | Person | Vehicle | Person |
| 1 Acadia NP | $5.00 | $2.00 | $5.00 | $2.00 |
| 2 Adams NHS | | 2.00 | | 2.00 |
| 3 Andersonville NHS | | 1.00 | | 1.00 |
| 4 Andrew Johnson NHS | | 1.00 | | 1.00 |
| 5 Antietam NB | | 1.00 | | 1.00 |
| 6 Appomattox Courthouse NHP | | 1.00 | | 1.00 |
| 7 Arches NP | 5.00 | 2.00 | 3.00 | 1.00 |
| 8 Assateague Island NS | 3.00 | 1.00 | 3.00 | 1.00 |
| 9 Aztec Ruins NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 10 Badlands NP | 3.00 | 1.00 | 3.00 | 1.00 |
| 11 Bandelier NM | 5.00 | 2.00 | 5.00 | 2.00 |
| 12 Bent's Old Fort NHS | 3.00 | 1.00 | 3.00 | 1.00 |
| 13 Big Bend NP | 5.00 | 2.00 | 5.00 | 2.00 |
| 14 Big Hole NB | 3.00 | 1.00 | 3.00 | 1.00 |
| 15 Black Canyon of the Gunnison NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 16 Booker T Washington NM | | | | 1.00 |
| 17 Bryce Canyon NP | 5.00 | 2.00 | 5.00 | 2.00 |
| 18 Cabrillo NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 19 Canaveral NS | 3.00 | 1.00 | | |
| 20 Canyonlands NP | 5.00 | 2.00 | 3.00 | 1.00 |
| 21 Cape Cod NS | 3.00 | 1.00 | 3.00 | 1.00 |
| 22 Capitol Reef NP | 3.00 | 1.00 | 3.00 | 1.00 |
| 23 Capulin Mountain NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 24 Carl Sandburg NHS | | 1.00 | | 1.00 |
| 25 Casa Grande NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 26 Castillo De San Marcos NM | | 1.00 | | 1.00 |
| 27 Cedar Breaks NM | 3.00 | 1.00 | 3.00 | 1.00 |

NATIONAL PARK SERVICE—SINGLE VISIT RATES FISCAL YEAR 1987 AND FISCAL YEAR 1988—Continued

| Park | Fiscal year 1987 | | Fiscal year 1988 | |
|---|---|---|---|---|
| | Vehicle | Person | Vehicle | Person |
| 28 Chaco Culture NHP | 3.00 | 1.00 | 3.00 | 1.00 |
| 29 Chickamauga and Chattanooga NMP | | 1.00 | | 1.00 |
| 30 Chiricahua NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 31 Christiansted NHS | | 1.00 | | 1.00 |
| 32 Colonial NHP | 5.00 | 2.00 | 5.00 | 2.00 |
| 33 Colorado NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 34 Cowpens NB | 3.00 | 1.00 | 3.00 | 1.00 |
| 35 Crater Lake NP | 5.00 | 2.00 | 5.00 | 2.00 |
| 36 Craters of the Moon NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 37 Cumberland Island NS | | 2.00 | | |
| 38 Custer Battlefield NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 39 De Soto NMEM | | | 3.00 | 1.00 |
| 40 Death Valley NM | | | 5.00 | 2.00 |
| 41 Denali NP | | | 5.00 | 2.00 |
| 42 Devils Tower NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 43 Dinosaur NM | 5.00 | 2.00 | 5.00 | 2.00 |
| 44 Edison NHS | | 2.00 | | 2.00 |
| 45 Effigy Mounds NM | | 1.00 | | 1.00 |
| 46 Eisenhower NHS | | 1.00 | | 1.00 |
| 47 El Morro NM | | 1.00 | | 1.00 |
| 48 Everglades NP | 5.00 | 2.00 | 5.00 | 2.00 |
| 49 Florissant Fossil Beds NM | | 1.00 | | 1.00 |
| 50 Ford's Theater NHS | | 1.00 | | |
| 51 Fort Clatsop NMEM | | 1.00 | | 1.00 |
| 52 Fort Davis NHS | | 1.00 | | 1.00 |
| 53 Fort Donelson NMP | 3.00 | 1.00 | 3.00 | 1.00 |
| 54 Fort Frederica NM | | 1.00 | | 1.00 |
| 55 Fort Laramie NHS | | 1.00 | | 1.00 |
| 56 Fort Larned NHS | | | | 1.00 |
| 57 Fort McHenry NM & Historic Shrine | | 1.00 | | 1.00 |
| 58 Fort Necessity NB | | 1.00 | | 1.00 |
| 59 Fort Pulaski NM | | 1.00 | 3.00 | 1.00 |
| 60 Fort Scott NHS | | 1.00 | | 1.00 |
| 61 Fort Smith NHS | | 1.00 | | 1.00 |
| 62 Fort Stanwix NM | | 1.00 | | 1.00 |
| 63 Fort Union NM | | | | 1.00 |
| 64 Fort Vancouver NHS | | 1.00 | | 1.00 |
| 65 Fort Washington | 3.00 | 1.00 | 3.00 | 1.00 |
| 66 George Rogers Clark NHP | | | | 1.00 |
| 67 George Washington Birthplace NM | | | | 1.00 |
| 68 George Washington Carver NM | | 1.00 | | 1.00 |
| 69 Glacier NP | 5.00 | 2.00 | 5.00 | 2.00 |
| 70 Golden Spike NHS | 3.00 | 1.00 | 3.00 | 1.00 |
| 71 Grand Canyon NP | 5.00 | 2.00 | 5.00 | 2.00 |
| 72 Grand Portage NM | | 1.00 | | 1.00 |
| 73 Grand Teton NP | 5.00 | 2.00 | 10.00 | 4.00 |
| 74 Grant-Kohrs Ranch NHS | | 1.00 | | 1.00 |
| 75 Great Falls Park (GWMP) | 3.00 | 1.00 | 3.00 | 1.00 |
| 76 Great Sand Dunes NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 77 Gulf Islands NS | 3.00 | 1.00 | 3.00 | 1.00 |
| 78 Haleakala NP | 3.00 | 1.00 | 3.00 | 1.00 |
| 79 Harpers Ferry NHP | | 2.00 | 5.00 | 2.00 |
| 80 Harry S Truman NHS | | 1.00 | | 1.00 |
| 81 Hawaii Volcanoes HP | 5.00 | 2.00 | 5.00 | 2.00 |
| 82 Herbert Hoover NHS | | 1.00 | | 1.00 |
| 83 Home of Franklin D Roosevelt NHS | | 2.00 | | 2.00 |
| 84 Hopewell Furnace NHS | | 1.00 | | 1.00 |
| 85 Isle Royale NP | | 2.00 | | |
| 86 Jefferson Nat'l Expansion Mem NHS | | | | 1.00 |
| 87 John F Kennedy NHS | | 1.00 | | 1.00 |
| 88 John Muir House NHS | | 1.00 | | 1.00 |
| 89 Joshua Tree NM | 5.00 | 2.00 | 5.00 | 2.00 |
| 90 Lassen Volcanic NP | 5.00 | 2.00 | 5.00 | 2.00 |
| 91 Lava Beds NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 92 Lincoln Boyhood NMEM | | 1.00 | | 1.00 |
| 93 Longfellow NHS | | 1.00 | | 1.00 |
| 94 Manassas NBP | | 1.00 | | 1.00 |
| 95 Martin Van Buren NHS | | | | 1.00 |
| 96 Mesa Verde NP | 5.00 | 2.00 | 5.00 | 2.00 |
| 97 Minute Man NHP | | 1.00 | | 1.00 |
| 98 Montezuma Castle NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 99 Morristown NHP | | 1.00 | | 1.00 |
| 100 Mound City Group NM | | | | 1.00 |
| 101 Mount Rainier NP | 5.00 | 2.0 | 5.00 | 2.00 |
| 102 Natural Bridges NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 103 Ocmulgee NM | | 1.00 | | 1.00 |
| 104 Olympic NP | 3.00 | 1.00 | 3.00 | 1.00 |
| 105 Organ Pipe Cactus NM | 3.00 | 1.00 | 3.00 | 1.00 |

NATIONAL PARK SERVICE—SINGLE VISIT RATES FISCAL YEAR 1987 AND FISCAL YEAR 1988—Continued

| Park | Fiscal year 1987 | | Fiscal year 1988 | |
|---|---|---|---|---|
| | Vehicle | Person | Vehicle | Person |
| 106 Padre Island NS | 3.00 | 1.00 | 3.00 | 1.00 |
| 107 Pea Ridge NMP | | 1.00 | | 1.00 |
| 108 Pecos NM | | 1.00 | | 1.00 |
| 109 Perry's Victory & Int'l Peace Mem | | 1.00 | | 1.00 |
| 110 Petersburg NB | | 1.00 | | 1.00 |
| 111 Petrified Forest NP | 5.00 | 2.00 | 5.00 | 2.00 |
| 112 Pinnacles NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 113 Pipe Spring NM | | 1.00 | | 1.00 |
| 114 Pipestone NM | | 1.00 | | 1.00 |
| 115 Prince William Forest Park | | | 3.00 | 1.00 |
| 116 Pu'Uhonua O Honaunau NHP | | 1.00 | | 1.00 |
| 117 Rocky Mountain NP | 5.00 | 2.00 | 5.00 | 2.00 |
| 118 Sagamore Hill NHS | | 1.00 | | 1.00 |
| 119 Saguaro NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 120 Saint-Gaudens NHS | | 1.00 | | 1.00 |
| 121 Salinas NM | | 1.00 | | 1.00 |
| 122 San Juan NHS | | 1.00 | | |
| 123 Saratoga NHP | 3.00 | 1.00 | 3.00 | 1.00 |
| 124 Scotts Bluff NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 125 Sequoia Kings Canyon NP | 5.00 | 2.00 | 5.00 | 2.00 |
| 126 Shenandoah NP | 5.00 | 2.00 | 5.00 | 2.00 |
| 127 Shiloh NMP | | 1.00 | | 1.00 |
| 128 Statue Of Liberty NM | | 1.00 | | |
| 129 Stones River NB | | 1.00 | | 1.00 |
| 129 Sunset Crater NM | | | 3.00 | 1.00 |
| 131 Theodore Roosevelt Birthplace NHS | | 1.00 | | 1.00 |
| 132 Theodore Roosevelt NP | 3.00 | 1.00 | 3.00 | 1.00 |
| 133 Tonto NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 134 Tumacacori NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 135 Tuzigoot NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 136 Valley Forge NHP | 3.00 | 1.00 | 3.00 | 1.00 |
| 137 Vanderbilt Mansion NHS | | 2.00 | | 2.00 |
| 138 Vicksburg NMP | 3.00 | 1.00 | 3.00 | 1.00 |
| 139 Walnut Canyon NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 140 White Sands NM | 3.00 | 1.00 | 3.00 | 1.00 |
| 141 Whitman Mission NHS | | 1.00 | | 1.00 |
| 142 Wilson's Creek NB | 3.00 | 1.00 | 3.00 | 1.00 |
| 143 Wright Brothers NMEM | 3.00 | 1.00 | 3.00 | 1.00 |
| 144 Wupatki NM | | | 3.00 | 1.00 |
| 145 Yellowstone NP | 5.00 | 2.00 | 10.00 | 4.00 |
| 146 Yosemite NP | 5.00 | 2.00 | 5.00 | 2.00 |
| 147 Zion NP | 5.00 | 2.00 | 5.00 | 2.00 |

[FR Doc. 88-6207 Filed 3-21-88; 8:45am]

BILLING CODE 4310-70-M

## INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

### Agency for International Development

*Public Information Collection Requirements Submitted to OMB for Review*

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875-1608, IRM/PE, Room 1100B, SA-14, Washington, DC 20523.

*Date Submitted:* March 11, 1988.

*Submitting Agency:* Agency for International Development.

*OMB Number:* 0412-0514.

*Type of Submission:* Renewal.

*Title:* Rules and Procedures Applicable to Commodity Transactions.

*Purpose:* A.I.D. finances transactions under Commodity Import Programs and needs to assure that the transaction complies with applicable statutory and regulatory requirements. In order to assure compliance and request refund when appropriate, information is required from host country importers, suppliers receiving A.I.D. funds, and banks making payments for A.I.D.

*Reviewer:* Francine Picoult (202) 395-7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Date. March 11, 1988.

**John H. Elgin,**

*Planning and Evaluation Division.*

[FR Doc. 88-6183 Filed 3-21-88; 8:45 am]

BILLING CODE 6116-01-M

## INTERSTATE COMMERCE COMMISSION

**[Finance Docket No. 31243]**

### Declaratory Order—Control—Rio Grande Industries, Inc.

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of procedural schedule.

**SUMMARY:** The Commission sets a procedural schedule for replies and rebuttal to the Petition for Declaratory Order filed by Morgan Stanley.

**DATES:** Replies are due on April 11, 1988. Rebuttal is due by April 21, 1988.

**ADDRESSES:** Send pleadings referring to Finance Docket No. 31243 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Send five additional copies to: Office of Proceedings, Room 2118, Interstate Commerce Commission, Washington, DC 20423
(3) Petitioner's representative: Dennis G. Lyons, Arnold & Porter, 1200 New Hampshire Avenue, NW., Washington, DC 20036

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar (202) 275-7245. [TDD for hearing impaired: (202) 275-1721]

**SUPPLEMENTARY INFORMATION:** By petition filed February 26, 1988, the Morgan Stanley Group, Inc., and its affiliates (Morgan Stanley) seek a declaratory order, under 49 CFR 1117.1 and 5 U.S.C. 554(e). They request a declaration that none of them will be in control, under the Interstate Commerce Act (the Act), of Rio Grande Industries or its subsidiaries (Rio Grande) after consummation of the transaction proposed in Finance Docket No. 32000.

By agreement, Morgan Stanley will provide a significant portion of the financing for the acquisition by Rio Grande of the Southern Pacific Transportation Company (SPT). Because some elements of the agreement may give rise to the question of whether Morgan Stanley will have control under the Act, Morgan Stanley seeks assurance that its interest does not constitute control.

We believe the record will benefit by public participation. Consequently, we will establish the schedule below, for replies and rebuttal, on the question of control. Replies must be served on counsel for Morgan Stanley: Dennis G. Lyons, Arnold & Porter, 1200 New Hampshire Ave., NW., Washington, DC 20036. Copies of the petition are available from the same source.

This decision will not significantly affect the quality of the human environment or energy conservation.

*It is ordered:*

1. Replies to Morgan Stanley's Petition for Declaratory Order must be filed by April 11, 1988.
2. Rebuttal must be filed by April 21, 1988.
3. This decision is effective on the date of service.

Decided: March 14, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley. Commissioner Sterrett did not participate in the disposition of this proceeding.

**Noreta R. McGee,**
*Secretary.*

[FR Doc. 88-6245 Filed 3-21-88; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Voluntary Agreement and Plan of Action To Implement The International Energy Program; Amendment

The Assistant Attorney General of the Antitrust Division has amended the Voluntary Agreement and Plan of Action to Implement the International Energy Program to incorporate the approved "Second Plan of Action to Implement the International Energy Program" and to make conforming technical changes to the Voluntary Agreement. The Agreement was amended pursuant to powers granted to the Attorney General by section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, and delegated to the Assistant Attorney General by regulation, 28 CFR 0.41(i). The test of the amendments and notice of our intention to adopt them were published on February 2, 1988 (53 FR 2866). The amendments were effective February 22, 1988. The Voluntary Agreement, prior to amendment, is published at 2 CCH Federal Energy Guidelines, ¶15,845.

**Charles F. Rule,**
*Assistant Attorney General, Antitrust Division.*

[FR Doc. 6160 Filed 3-21-88; 8:45 am]

BILLING CODE 4410-01-M

### Immigration and Naturalization Service

[INS Number: 1104-88]

### Direct Mail of Applications and Petitions to the Regional Service Center in San Ysidro, CA.

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Correction in notice.

**SUMMARY:** This corrects the notice (INS document number 1104-88) published on February 24, 1988, 53 FR 5480, by adding the Immigration and Naturalization Service Form I-129F to the list of forms to be Direct Mailed to the Regional Service Center in San Ysidro, California.

**EFFECTIVE DATE:** April 1, 1988.

**FOR FURTHER INFORMATION CONTACT:** Lloyd Sutherland, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633-3946.

Add the Form I-129F, Petition to Classify Status of Alien Fiance(e) for Issuance of Immigrant Visa; in the list of forms included under the heading "Applications and Petitions included in This Direct Mail Notice."

**James A. Puleo,**
*Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.*

[FR Doc. 88-6178 Filed 3-21-88; 8:45 am]

BILLING CODE 4410-10-M

## DEPARTMENT OF LABOR

### The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy

*Meeting*

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

*Date, time and place:* April 12, 1988, 9:30 a.m., Rm. S4215 A&B Frances Perkins, Department of Labor Building, 200 Constitution Avenue NW., Washington, DC 20210.

*Purpose:* To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

**FOR FURTHER INFORMATION CONTACT:** Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Signed at Washington, DC this 11th day of March 1988.

**Eugene K. Lawson,**
*Deputy Under Secretary, International Affairs.*

[FR Doc. 88-6219 Filed 3-21-88; 8:45 am]

BILLING CODE 4510-28-M

### Employment and Training Administration

### Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; CSX Transportation et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has

instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 1, 1988.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 1, 1988.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW, Washington, DC 20213.

Signed at Washington, DC, this 14th day of March 1988.

**Marvin M. Fooks,**

*Director, Office of Trade Adjustment Assistance*

APPENDIX

| Petitioner (Union/Workers/Firm) | Location | Date received | Date of petition | Petition No. | Articles produced |
|---|---|---|---|---|---|
| CSX Transportation (UTU) | Jacksonville, FL | 3/14/88 | 2/28/88 | 20,519 | Transport Coal. |
| Dieterich Standard (Company) | Boulder, CO | 3/14/88 | 3/3/88 | 20,520 | Flow Measurement. |
| Hanover Quarry of Bethlehem Mines Corp. (USWA). | Hanover, PA | 3/14/88 | 2/26/88 | 20,521 | Limestone. |
| Hofmann Industries, Inc. (USWA) | Sinking Spring, PA | 3/14/88 | 2/29/88 | 20,522 | Iron Castings. |
| Razor Ridge, Inc. (Workers) | Sporta, NC | 3/14/88 | 3/4/88 | 20,523 | Wood Trim for dinette Sets. |
| Rico Fashions (ILGWU) | Union City, NJ | 3/14/88 | 2/29/88 | 20,524 | Ladies' Suits & Coats. |
| Sigri Carbon Corp. (OCAW) | Hickman, KY | 3/14/88 | 2/23/88 | 20,525 | Graphite Electrodes. |
| Smokador, International (Company) | Edison, NJ | 3/14/88 | 3/2/88 | 20,526 | Desk and Office Accessories. |
| U.S. Steel Mining Co., (UMWA) | Kanawha, WV | 3/14/88 | 3/4/88 | 20,527 | Metallurgical Coal. |
| U.S. Steel Mining Co.,(UMWA) | Boone Counties WV | 3/14/88 | 3/4/88 | 20,528 | Metallurgical Coal. |

[FR Doc. 88-6221 Filed 3-21-88; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,213]

## National Aluminum Corp., Murrysville, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CRF 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at National Aluminum Corporation, Murrysville, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-20.213; National Aluminum Corporated Murrysville, Pennsylvania (March 7, 1988.)

Signed at Washington, DC this 15th Day of March 1988.

**Marvin M. Fooks,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 88-6220 Filed 3-21-88; 8:45 am]

BILLING CODE 4510-30-M

## Mine Safety and Health Administration

## Extension of Advisory Committee Charter

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice of extension of Advisory Committee Charter.

**SUMMARY:** After consultation with the General Services Administration, the Department of Labor has extended the Charter for the Mine Safety and Health Administration's Advisory Committee on Standards and Regulations for Diesel-Powered Equipment in Underground Coal Mines for the period April 27, 1988 through July 17, 1988.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, Virginia 22203; phone (703) 235-1910.

**SUPPLEMENTARY INFORMATION:** Notice is given that, after consultation with the General Services Administration, the Department of Labor has extended the Charter of the Advisory Committee on Standards and Regulations for Diesel-Powered Equipment in Underground Coal Mines for the period April 27, 1988, through July 17, 1988. The Charter was to expire on April 27, 1988. This action is necessary and in the public interest.

The Committee will provide recommendations on proposed standards for diesel-powered equipment in underground coal mines. The Committee consists of nine members and includes two representatives from labor, and two representatives of the coal mining industry. The Committee's statutorily mandated majority is composed of five individuals who have no economic interests in the coal or other mining industry and who are not operators, miners or officers or employees of the federal government or any state or local government. The Committee's Charter will be filed with the General Services Administration and the appropriate Congressional Committees.

Signed at Washington, DC, this 17th day of March, 1988.

**Ann McLaughlin,**

*Secretary of Labor.*

[FR Doc. 88-6218 Filed 3-21-88; 8:45 am]

BILLING CODE 4510-43-M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment on The Arts; Music Advisory Panel, Jazz Fellowship Prescreening; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Jazz Fellowship Prescreening) to the National Council on the Arts, will be held on April 4-6, 1988 from 9:00 a.m.-5:30 p.m. in Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

**Yvonne M. Sabine,**

*Acting Director, Council and Panel Operations, National Endowment for the Arts.*

March 14, 1988.

[FR Doc. 88-6162 Filed 3-21-88; 8:45 am]

BILLING CODE 7537-01-M

### National Endowment on the Arts; Museum Advisory Panel, Professional Development Section; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Professional Development Section) to the National Council on the Arts, will be held on April 7, 1988 from 9:00 a.m.-5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

**Yvonne M. Sabine,**

*Acting Director, Council and Panel Operations, National Endowment for the Arts.*

March 14, 1988.

[FR Doc. 88-6161 Filed 2-21-88; 8:45 am]

BILLING CODE 7537-01-M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published February 24, 1988 (53 FR 5482). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the April 1988 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 202/634-3265, ATTN: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

**ACRS Subcommittee Meetings**

*Occupational and Environmental Protection Systems,* March 22 and 23, 1988, Washington, DC—POSTPONED.

*Instrumentation and Control Systems,* March 24, 1988, Washington, DC. The Subcommittee will review the NRC Staff's analysis and study to limit the scope of USI A-47, "Safety Implications of Control Systems."

*Human Factors,* March 28, 1988, Washington, DC. The Subcommittee will review; (1) The Human Factors Research Program Plan, (2) the Fitness for Duty Rule, and (3) Policy Statement on Training and Qualification.

*Structural Engineering,* March 30, 1988, Culver City, CA. The Subcommittee will review the Piping and Fitting Reliability Program.

*Babcock and Wilcox Reactor Plants,* March 30 and 31, 1988, Washington, DC—POSTPONED to May 3-4, 1988.

*Advanced Pressurized Water Reactors,* April 5, 1988, Washington, DC. The Subcommittee will discuss and hear presentations from Westinghouse representatives and the NRC Staff regarding the PRA for *W*APWR (RESAR SP/90) design.

*Babcock and Wilcox Reactor Plants (Rancho Seco),* April 6, 1988, Washington, DC. The Subcommittee will discuss issues relating to the restart of Rancho Seco following its December 1985 shutdown.

*Thermal Hydraulic Phenomena,* April 19, 1988, Washington, DC. The Subcommittee will review the draft Models and Correlations Document for the RELAP/5 thermal hydraulic code.

*Thermal Hydraulic Phenomena,* April 20, 1988, Washington, DC. The Subcommittee will discuss a proposed report on thermal hydraulic research for consideration by the ACRS.

*Reliability Assurance,* April 21, 1988, Washington, DC. The Subcommittee will be briefed on the final outcome of the Equipment Qualification-Risk Scoping Study. The Subcommittee will review also the final version of Regulatory Guide 1.100, "Seismic Qualification of Electrical and Mechanical Equipment."

*Thermal Hydraulic Phenomena,* April 21, 1988 (a.m. only), Washington, DC. The Subcommittee will review the final version of the proposed ECCS Rule.

*Babcock & Wilcox Reactor Plants,* May 3 and 4, 1988, Washington, DC. The Subcommittee will continue its review of the long-term safety review of B&W reactors.

*Thermal Hydraulic Phenomena,* May 18, 1988, Washington, DC. The Subcommittee will review the *W* revised

ECCS Model for 2-loop Upper Plenum Injection (UPI) plants.

*Regional Programs*, May 24, 1988, Atlanta, GA. The Subcommittee will review the activities under the control of the NRC Region II Office.

*Improved LWRs*, May 25, 1988, Washington, DC. The Subcommittee will discuss Chapters 3, 4, and 5 of the EPRI ALWR Requirements document.

*Metal Components*, May 26, 1988, Washington, DC. The Subcommittee will discuss the quality of fasteners in nuclear power plants, and BWR reactor pressure vessel in-service inspections.

*Advanced Boiling Water Reactors*, June 1, 1988, Washington, DC. The Subcommittee will begin its review of the GE ABWR. This meeting will concentrate on the first review module consisting of SAR Chapters 4, 5, 6, and 15-1.

*Waste Management*, June 7-8, 1988, Washington, DC. The Subcommittee will review pertinent nuclear waste management topics to be determined conjointly with the NRC Staff during an agenda planning session on April 15, 1988.

*Thermal Hydraulic Phenomena*, June 21, 1988 (tentative), Location to be determined. The Subcommittee will review the status of ithe MIST Phase III and IV Programs and the proposed OTSG Follow-on Program.

*Advanced Pressurized Water Reactors*, Date to be determined (April/May), Washington, DC. The Subcommittee will review the licensing review bases document being developed for Combustion Engineering's Standard Safety Analysis Report-Design Certification (CESSAR-DC).

*Safety Philosophy, Technology and Criteria*, Date to be determined (April/May), Washington, DC. The Subcommittee will review the status of NUREG-1251 (Implications of Chernobyl) and the NRC Staff's program (at BNL) to address the implications of Chernobyl in regard to severe reactivity transients. The Subcommittee may review also the Staff's final version of a proposed generic letter on USI A-17, "Systems Interactions."

*Generic Items*, Date to be determined (April/May), Washington, DC. The Subcommittee will discuss: (1) ISAP-II Program and associated Policy Statement, and (2) Integration of Related Generic Issues.

*Decay Heat Removal Systems*, Date to be determined (mid-May), Washington, DC. The Subcommittee will continue its review of the NRC Staff's resolution position of USI A-45.

*Advanced Pressurized Water Reactors*, Date to be determined (May), Washington, DC. The Subcommittee will discuss the comparison of WAPWR (RESAR SP/90) design with other modern plants (in U.S. and abroad).

*Advanced Pressurized Water Reactors*, Date to be determined (May/June), Washington, DC. The Subcommittee will review the draft SER in regard to the reactor, reactor coolant system, and regulatory conformance for the WAPWR RESAR SP/90 design.

*Containment Requirements*, Date to be determined (May/June), Washington, DC. The Subcommittee will review the NRC Staff's document on interim recommendations for containment performance and improvements (BWR Mark I only).

*Occupational and Environmental Protection Systems*, Date to be determined (May/June), Washington, DC. The Subcommittee will review: (1) The "hot particle" problem, (2) monitoring the quality and quantity of airborne radionuclides in/out of containment following an accident, (3) the emergency planning rule, (4) the control room habitability report by ANL, and (5) other related matters.

*Severe Accidents*, Date to be determined (May/June), Washington, DC. The Subcommittee may review the hydrogen control measures for BWRs and Ice Condenser PWRs (USI A-48) (tentative). The Subcommittee will review also the final version of the NRC Staff's proposed generic letter on Individual Plant Examinations (IPEs).

*Decay Heat Removal Systems*, Date to be determined (June/July), Washington, DC. The Subcommittee will review the proposed resolutions of Generic Issue 23, "RCP Seal Failures," and Generic Issue 99, "Loss of RHR Capability in PWRs."

*Decay Heat Removal Systems*, Date to be determined, Washington DC. The Subcommittee will explore the issue of the use of feed and bleed for decay heat removal in PWRs.

*Systematic Assessment of Experience*, Date and location to be determined, Washington, DC. The Subcommittee will review the Diagnostic Evaluation Program and other related staff plant review efforts.

*Thermal Hydraulic phenomena*, Date to be determined, Washington, DC. The Subcommittee will discuss the status of Industry best-estimate ECCS Model submittals for use with the revised ECCS Rule.

*Auxiliary Systems*, Date to be determined, Washington, DC. The Subcommittee will discuss the: (1) Criteria being used by utilities to design Chilled Water Systems, (2) regulatory requirements for Chilled Water Systems design, and (3) criteria being used by the NRC Staff to review the Chilled Water Systems design.

**ACRS Full Committee Meeting**

April 7-9, 1988—Items are tentatively scheduled.

*A. *Beaver Valley Nuclear Power Station (Open)*—Briefing and discussion regarding proposed restart of the Beaver Valley nuclear station.

*B. *Nuclear Power Plant Safety (Open)*—Briefing regarding proposed IAEA General Principles for reactor safety.

*C. *Generic Issues (Open)*—Discuss proposed ACRS comments/recommendations regarding the effectiveness of the NRC Staff process that deals with generic issues and unresolved safety issues.

*D. *Fitness for Duty (Open)*—Briefing regarding proposed NRC's Fitness for duty Rule.

*E. *ACRS Policies and Procedures (Open)*—Discuss ACRS practices regarding activities of ACRS members.

*F. *Important Safety-Related Issues (Open)*—Discuss proposed hierarchical structure for important safety-related issues.

*G. *Advanced Reactors (Open)*—Review proposed key design features for advanced gas-cooled and liquid-metal-cooled nuclear power plants.

*H. *Meeting with NRC Commissioners (Open) (tentative)*—Meeting to discuss the basis for a proposed NRC rule for maintenance of nuclear power plants.

*I. *Training and Qualification of Reactor Operators (Open)*—Review of proposed NRC policy statement regarding training and qualification of nuclear power plant operators.

*J. *Meeting with Director, NRC Office of Reactor Regulation (Open) (tentative)*—Discuss matters of mutual interest.

*K. *Human Factors (Open)*—Review and comment regarding proposed NRC research program.

*L. *Future ACRS Activities (Open)*—Discuss anticipated subcommittee activities and items proposed for consideration by the full Committee.

*M. *ACRS Subcommittee Activities (Open)*—Reports and discussion regarding designated ACRS subcommittee activities including safety implications of control systems, nuclear radwaste management and disposal, and committee activities related to radwaste management and disposal.

N. *Appointment of New Members (Closed)*—Discuss qualification of persons proposed for appointment to the Committee and the internal allocation of resources.

May 5-7, 1988—Agenda to be announced.
June 2-4, 1988—Agenda to be announced.
Date: March 16, 1988.

John C. Hoyle,
*Advisory Committee Management Officer.*

[FR Doc. 88-6233 Filed 3-21-88; 8:45 am]
BILLING CODE 7590-01-M

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[Docket No. 50-320]

## Meeting of the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 GPU Nuclear Corp.

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 (TMI-2) will be meeting on April 14, 1988, from 7:00 p.m. to 10:00 p.m. at the City of Lancaster Council Chambers, 100 South Queen Street, Lancaster, PA. The meeting will be open to the public.

At this meeting, the Panel will receive a status report on the progress of defueling from the licensee, General Public Utilities Nuclear Corporation. The licensee will also provide the Panel with current design information describing the accident-generated water evaporator. Members of the Panel will discuss the current offsite radiological monitoring program. Representatives of the NRC will describe the NRC funded research program to obtain and examine test specimens from the bottom of the TMI-2 reactor vessel. Members of the public will be given the opportunity to address the Panel.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-1373.

Dated: March 17, 1988.

For the Nuclear Regulatory Commission.

John C. Hoyle,
*Advisory Committee, Management Officer.*

[FR Doc. 6232 Filed 3-21-88; 8:45 am]
BILLING CODE 7590-01-M

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## Cleveland Electric Illuminating Co. et al.; Request To Suspend The Perry Nuclear Power Plant Antitrust License Conditions; Time For Filing Comments Extended

On September 18, 1987, the Ohio Edison Company (Ohio Edison) requested the Director of the Office of Nuclear Reactor Regulation to amend the antitrust license conditions that are attached to the Perry Nuclear Power Plant (Perry) operating license, No. NPF-58. Although the Perry operating license was issued to Cleveland Electric Illuminating Co., Toledo Edison Co., Duquesne Light Co. and Ohio Edison, Ohio Edison's amendment requested suspension of the antitrust license conditions only as they apply to Ohio Edison.

Notification of receipt of this amendment request was published in the **Federal Register** (Vol. 52 p. 48473) on December 22, 1987 and comments were sought from the public within 45 days. By motion dated January 29, 1988, American Municipal Power-Ohio, Inc. (AMP-Ohio) requested an extension of time until March 7, 1988 in which to file its comments on Ohio Edison's amendment request. Staff granted AMP-Ohio's initial request for a time extension on February 4, 1988. By letter to the Director of the Office of Nuclear Reactor Regulation dated February 29, 1988, AMP-Ohio has requested another time extension to file its request that its comments in the captioned proceeding. Counsel for AMP-Ohio indicated in its request that its client and Ohio Edison "* * * were close to a comprehensive, long-term power supply and interconnection agreement which would significantly alter the relationship between Ohio Edison and many of AMP-Ohio's municipal electric members (and thus the nature of AMP-Ohio's comments in this docket)." The agreement in question has yet to be finalized and AMP-Ohio has requested a 30-day extension until April 6, 1988, in which to file its comments.

Given the apparent progress in the AMP-Ohio/Ohio Edison negotiations to date and the prospects for resolution of the issues that exist between these two parties if the comment period is extended, staff hereby grants AMP-Ohio's request (which is unopposed by Ohio Edison) and extends the time for comments from the public on Ohio Edison's amendment until April 6, 1988. Staff hopes this time extension will contribute to a timely resolution of the issues that remain outstanding between AMP-Ohio and Ohio Edison.

Any person who wishes to express views pursuant to the antitrust issues raised in this amendment request, should submit said views by April 6, 1988 to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,
*Chief, Policy Development and Technical Support Branch Program Management, Policy Development and Analysis Staff, Office of Nuclear Reactor Regulation.*

[FR Doc. 88-6201 Filed 3-21-88; 8:45 am]
BILLING CODE 7590-01-M

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[Docket No. 50-302]

## Florida Power Corp. et al.; Consideration of Issuance of Amendment To Facility Operating License and Opportunity For Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-72, issued to Florida Power Corporation, et al. (the licensee), for operation of the Crystal River Unit 3 Nuclear Generating Plant located in Citrus County, Florida.

The amendment would revise Technical Specification (TS) 3.8.1.1 to provide more appropriate actions to be taken when one of the batteries or battery chargers supplying DC control power to the 230 KV switchyard breakers is inoperable. It would also increase the allowable outage time to allow surveillance testing of the batteries within the Action Statement time interval while Units 1 and 2 (where the battery is located) are shutdown, rather than operating as is presently done. Thus, the DC systems will not have to be removed from service while those units are operating.

The revision to TS 4.8.1.2 would clarify the surveillance and equipment required to be operable in Modes 5 and 6, and would not result in changes from the current surveillance requirements.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By April 21, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license 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 request for a hearing and a petition for leave to intervene. Requests 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 fifteen (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 fifteen (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 that 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 amendment 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, United States 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 ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union ast (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: (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 R. W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733.

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 the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its intent to make a no significant hazards consideration finding in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated January 20, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Crystal River Public Library, 668 N. W. First Avenue, Crystal River, Florida 32629.

Dated at Rockville, Maryland, this 16th day of March, 1988.

For the Nuclear Regulatory Commission.

**Herbert N. Berkow,**

*Director, Project Directorate II-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 88-6202 Filed 3-21-88; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket Nos. 50-387 and 50-388]**

## Pennsylvania Power and Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating Licenses Nos. NPF-14 and NPF-22 issued to Pennsylvania Power and Light Company (the licensee) for operation of the Susquehanna Steam Electric Station Units 1 and 2, located in Luzerne County, Pennsylvania.

The proposed amendment would change Technical Specification Section 4.8.2.1.d.2.b to increase the load profiles for batteries 2D612 and 2D622 and decrease the load profiles for batteries 2D632 and 2D642. These changes are deemed necessary to accommodate the installation of ATWS Alternate Rod Injection solenoid valves, and to recognize increased loads associated with emergency lighting for batteries 2D612 and 2D622 and decreased loads associated with emergency lighting for batteries 2D632 and 2D642. In addition, the licensee requests deletion of page ¾ 8-14 in the Unit 2 Technical Specifications as it represents redundant information presented on page ¾ 8-13a.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By April 21, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license 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 request for hearing and a petition for leave to intervene. Requests 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 fifteen (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 fifteen (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 amendment 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 shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for 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). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Walter R. Butler: 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 General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, 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 the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes an additional notice for public comment of its intent to make a no significant hazards consideration finding in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated January 8, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Ousterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Rockville, Maryland, this 15th day of March 1988.

For the Nuclear Regulatory Commission.

**Walter R. Butler,**

*Director, Project Directorate I-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 88-6203 Filed 3-21-88; 8:45 am]

BILLING CODE 7590-01-M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-25462; File No. SR-Amex-88-3]**

## Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.; Repeal of the Special Listing Criteria for Real Estate Investment Trusts

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 January 22, 1988, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("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 Exchange is proposing to repeal section 114 of the Company Guide which requires that Real Estate Investment Trusts be evaluated against special listing criteria.

The text of the proposed rule change is available at the Office of the Secretary, American Stock Exchange, Inc. and at the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the purposed 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 organizations 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 the Statutory Basis for, the Proposed Rule Change*

(1) Purpose

In 1971, the Amex, alone among the major marketplaces, adopted special financial and corporate governance related listing criteria for Real Estate Investment Trusts ("REITs"). REITs were then a relatively new form of business entity, and it was perceived that they posed risks to investors that were not evident in other business entities.

Since these guidelines were adopted, some 17 years ago, the environment has changed significantly. The market today is well acquainted with the REIT format, and industry-wide governance standards have evolved. Moreover, these are now a variety of publicly available real estate investment vehicles, the listing eligiblity of which would be determined by application of the Exchange's basis listing criteria. Given these changes, and since the same fundamental analysis is required for evaluating a real estate entity—whether or not organized as a REIT—there appears little, if any, justification

for continuing to require special criteria for REITs.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that the Exchange's basis listing criteria are adequate to protect investors and the public interest.

*B. Self-Regulatory—Organization's Statement on Burden on Competition*

The proposed rule change will remove or lessen existing burdens on competition in that no other marketplace has special evaluative criteria for REITs.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Time of 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 its find such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 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 April 12, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

Dated: March 15, 1988.

[FR Doc. 88-6234 Filed 3-21-88; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 34-25474; File No. SR-NASD-88-4]**

## Self-Regulatory Organizations; Proposed Amendment to the Rules of Fair Practice of the National Association of Securities Dealers, Inc.; Testimonial Advertisements

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 8, 1988, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. 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 NASD is proposing to amend Article III, section 35(d)(2)(D) of its Rules of Fair Practice to limit the application of the NASD's current rule only to testimonials concerning the quality of a member's investment advice and to require disclosure of compensation paid to the person making the testimonial only if it is more than a nominal amount.

**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 NASD 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 NASD 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 NASD is amending Article III, section 35(d)(2)(D) to conform its terms to those of New York Stock Exchange ("NYSE") Rule 472.40(8) (which was amended subsequent to the adoption of the NASD rule), for purposes of consistency and reduction of unnecessary regulatory burdens on dual NASD/NYSE members.

The proposed amendment is consistent with the provisions of section 15A(b)(6) of the Act, in that the amendment will provide information to investors concerning the source of information provided in testimonial advertisements concerning the quality of a member's investment advice.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The NASD does not believe that the proposed amendment will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Rule Change Received from Members, Participants, or Others*

The proposed amendment was published for comment in NASD Notice to Members 87-40 (June 22, 1987). Four comment letters were received regarding the proposed amendment. One commentator was in favor of the proposed amendment without reservation. The other three commentators favored adopting the amendment but recommended that the amendment's provisions include more explicit standards, e.g., that the term "nominal sum" be defined. The NASD considered the comments received and determined that, in the interest of consistency, the terms of the amendment should conform to those of NYSE Rule 472.40(8).

**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 NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-88-4 and should be submitted by April 12, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

**Jonathan G. Katz,**

*Secretary.*

Dated: March 16, 1988.

[FR Doc. 88-6235 Filed 3-21-88; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 34-25461; File No. SR-NASD-88-7]**

## Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Filing and Order Granting Accelerated Approval to Proposed Rule Change

On February 23, 1988, The National Association of Securities Dealers, Inc. ("NASD") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder, [2] a proposed rule change to amend section 4(a)(4) of Appendix A, Article III, Section 30 of the NASD's Rules of Fair Practice to increase the initial and maintenance margin requirements for short positions in market index options.

The NADS's rules to establish a premium-based customer margin system for "short" options positions were approved by the Commission on September 26, 1985 and became effective in January 1986.[3] Filed in conjunction with all the options exchanges, the rules provide for a uniform margin system applicable to all options products based on the option premium plus a specified percentage of the current value of the underlying product. In pertinent part, the current requirements for index option products were based upon volatility studies conducted to determine margin requirements that would be sufficient to cover index option price changes. The NASD's current margin requirement for each short put or call option on a market index is 100% of the current market value of the option contract (*i.e.*, the current option premium value) plus 5% of the aggregate value of the underlying index reduced by the amount the option is out-of-the money, with a minimum of 100% of the current market value of the option contract plus 2% of the aggregate value of the underlying index.

Based upon recent events in the stock markets and volatility studies conducted during the week of October 19, 1987, however, the NASD has determined that these margin requirements should be increased. Therefore, the NASD proposes to increase initial and maintenance customer margin requirements for short options positions in market index options to 100% of the option's premium plus 10% of the underlying index's aggregate value, reduced by the amount the option is out-of-the money, but not less than the premium plus 5% of the aggregate value of the underlying index.

The requirement is designed to protect both investors and firms by assuring that these broad-market index option positions are adequately covered. In addition, the new margin requirements maintain for investors a reasonable cushion of protection in line with increased market volatility.

Because the proposed rule amendments will provide increased margin protection for customer options positions under current market conditions, the proposed rule change is consistent with section 15A(b)(6) under the Act,[4] which provides in pertinent part that the rules of a registered securities association be designed to promote just and equitable principles of trade and to protect investors and the public interest.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations applicable to a national securities association, and, in particular, the requirements of section 15A(b)(6),[5] which provides, in pertinent part, that the rules of the association must be designed to protect investors and the public interest. The increased margin requirements for market index options will provide more financial protection to the securities industry at a time of increased market volatility. The 5%/2% margin levels are based on historical volatility levels that are no longer valid in light of the events of the week of October 19, 1987. Hence, at a minimum, higher margin levels are needed to ensure the financial stability of member firms. At this time the NASD has determined to raise the initial margin level for market index options to premium plus 10%. The Commission believes this action is necessary as an interim step in assuring the adequacy of margin levels in light of recent market events. Because of concerns raised in the Commission's Report on the October 1987 Market Break about the effect on market volatility of margin levels on derivative products, however, the Commission reserves judgment both on the sufficiency of the level of margin set by the proposed rule change as well as the method of determining adequate margin.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication in the **Federal Register** in light of the increased stock market volatility during the week of October 19 and its effect on margin adequacy. In addition, the Commission notes that the American, Pacific, Philadelphia, and New York Stock Exchanges and the Chicago Board Options Exchange have adopted identical changes to their margin requirement rules.[6]

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 submissions, 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

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1987).

[3] *See* Securities Exchange Act Release No. 22469 (September 26, 1985), 50 FR 40633.

[4] 15 U.S.C. 78o-3(b)(6) (1982).

[5] *Id.*

[6] *See* Securities Exchange Act Releases No. 25081 (November 2, 1987), 52 FR 42751 and 25178 (December 8, 1987), 52 FR 47654.

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 NASD. All submissions should refer to the file number in the caption above and should be submitted by April 12, 1988.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

**Jonathan G. Katz,**

*Secretary.*

Dated: March 15, 1988.

[FR Doc. 88-6236 Filed 3-21-88; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 34-2565; File No. SR-NASD-88-1]**

## Self-Regulatory Organizations; Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Amendments to the Rules of Practice and Procedures for the Small Order Execution System and Part VI, Schedule D to the NASD By-Laws

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 February 2, 1988 the National Association of Securities Dealers, Inc. ("NASD") 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. On March 9, 1988, the NASD filed a revised **Federal Register** exhibit. 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 NASD is proposing amendments to Part VI, Schedule D to the NASD By-Laws ("Schedule D") and to the Rules of Practice and Procedures for the Small Order Execution System ("SOES or SOES Rules").

### II. Self-Regulatory Organization's Statement of The Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.*

Background

The Small Order Execution System was established to permit small orders in National Association of Securities Dealers Automated Quotation System ("NASDAQ") securities to be executed efficiently at the best price for the public customer. SOES average weekly volume doubled during the week of October 19, 1987. Notwithstanding the extraordinary volume during that and subsequent weeks, SOES remained open and operating and continues to provide investors an effective means for the execution of smaller orders. Problems were experienced, however. As a result, the NASD has concluded that certain improvements should be made to NASDAQ and SOES in particular in relation to the NASDAQ/National Market System ("NASDAQ/NMS") securites to assure that investors have access to an even more efficient and liquid market, especialy during periods of high volume. The Board of Governors believes that the most effective way to assure greater investor access is through enhancements to SOES and NASDAQ that will help alleviate the need for firms to rely on telephone contact.

Therefor, the NASD Board of Governors has approved amendments to Schedule D of the NASD By-Laws and the SOES Rules that would implement these changes. To summarize, the proposed rule change would:

1. Prohibit a firm that withdraws, on a unexcused basis, as a NASDAQ market maker in a security from re-entering NASDAQ as a market maker in that security for 20 business days;
2. Limits the acceptable reasons for an excused withdrawal from NASDAQ;
3. Make SOES participation mandatory for all market makers in NASDAQ/NMS securities;
4. Enable the NASD to establish different levels of maximum order size limits (e.g., 200, 500 and 1,000 shares) for SOES orders in NMS securities, depending on the characteristics of different securities;
5. Provide that SOES executions up to a specified limit will continue in a NASDAQ/NMS security when quotes are locked or crossed, with executions occurring at the best price; and
6. Eliminate preferencing of market makers during an NMS security locked or crossed market situation.

Description of Proposed Rule Changes

*Penalty for Withdrawal as a NASDAQ Market Maker*—The NASD is proposing to amend Schedule D to the NASD By-Laws (containing rules on the NASDAQ System) to prohibit a firm that withdraws from making a market in any NASDAQ security in an unexcused basis from reentering as a market maker in that security for 20 business days. Currently, market makers may withdraw from and reenter SOES without penalty and as a NASDAQ market maker after a two business day delayed. The NASD has concluded, however, that it is necessary to increase the penalty for unexcused withdrawals from the NASDAQ system from two business days to twenty business days to help assure that investors in those securities have access to a continuous, liquid market supported by as many market makers as possible. Unexcused withdrawal from SOES participation as market makes in a NASDAQ/NMS security shall constitute unexcused withdrawal of quotes from NASDAQ and shall subject market makers to the twenty business day penalty.

As in the past, market makers will continue to be able to obtain excused withdrawals. The conditions under which those withdrawals will be permitted would be limited under the proposal, however, to withdrawals due to physical circumstances beyond the market maker's control but would not include illness (*e.g.* equipment malfunction or relocation) or legal or regulatory considerations (*e.g.* compliance with SEC Rule 10b-6) or, with five business days advance notice to and approval by the NASD, religious holidays. A market maker obtaining an excused withdrawal could reenter NASDAQ according to the conditions of the withdrawal (*e.g.*, withdrawals for purposes of equipment relocation would permit market makers to reenter upon installation at the new location). The withdrawal of quotations because of pending news, a sudden influx of order or price changes, or to effect

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[7] 15 U.S.C. 78s(b)(2) (1982).

[8] 17 CFR 200.30-3(a)(12) (1987).

transactions with competitors shall not constitute acceptable reasons for granting excused withdrawal status.

*Mandatory Participation in SOES*—The SOES Rules and Schedule D are proposed to be amended to require that every market maker in every NASDAQ/NMS security also be a market maker in that security in SOES. SOES participation for market makers in NASDAQ securities that are not NASDAQ/NMS securities would continue to be voluntary. Further, transactions in SOES will be required to be cleared and settled through a registered clearing facility.

This change will facilitate the automatic execution of customers' small orders for every NASDAQ/NMS security without the need for telephone contact between the order entry and executing firm. Every firm making a market in a NASDAQ/NMS security will be participating in the automatic execution system. By mandating wider participation in SOES, the Board believes that the NASD will significantly improve investor access to the NASDAQ/NMS market, particularly in times of high volume.

*Tiered Order Limits*—The SOES Rules are proposed to be amended to provide that the NASD may establish different maximum order size limits of different NMS securities. As a small order system, SOES is available for retail agency orders of limited size. Most recently, the size limits have been 1,000 shares for NASDAQ/NMS securities and 500 shares for other NASDAQ securities. On the basis of experience, however, the Board of Governors has concluded that the efficiency and liquidity of SOES could be improved by refining order size limits of NMS securities so that different categories of securities having certain trading characteristics would be subject to different size limits. For example, orders in some securities may be restricted to a maximum size of 200 shares, others 500 shares, and still others, 1,000 shares. The NASD is developing a formula for three different ties of NASDAQ/NMS securities based on criteria such as share volume of non-block trading activity, price and number of market makers in the particular security.

*SOES Executions in Locked or Crossed Markets*—The SOES Rules are proposed to be amended to provide that order in NASDAQ/NMS securities will continue to be executed in a security notwithstanding the fact that NASDAQ/NMS quotations for that security are locked (*i.e.* at least one market maker is willing to buy for the same price as at least one market maker is willing to sell) or crossed (*i.e.* at least one market maker is willing to buy at a higher price than another is willing to sell). Under current procedures, SOES orders are executed in rotation against all market makers offering the "inside" or best quotation,[1] but automatic executions in a security cease if quotations as to that security become locked or crossed. In rapidly changing markets, it is more likely that quotations will be inadvertently locked or crossed as the use of telephones limits access to the market.

Under the proposal, automatic SOES executions in NASDAQ/NMS securities would continue even with locked or crossed quotes. All executions would be made against the firm causing the locked or crossed situation if its price is the best for the customer. In the event the market maker causing the locked or crossed market does not have the best price for the customer, the market maker with the best price will have its price executed. An order entry firm's indication of a preference for a particular market maker would not be recognized so that no other market maker would be required to execute at another dealer's locket or crossed quote. Although this charge may create greater potential exposure for firms and whose quotes are locked or crossed, it will help assure that investors have continuous access to SOES throughout periods of high volume and rapid price movement. The change will also provide an economic incentive for firms to keep their quotations current.

The proposal contains a provision to protect market makers in NASDAQ/NMS issues from open end liability and repeated executions in the event they are unable to respond and update their quotes and eliminate a locked or crossed market. The proposal defines "exposure limit" as the number of shares for which a market maker is willing to be exposed, i.e. have orders executed against it. SOES currently permits each market maker to set an exposure limit, i.e., specify the number of shares of any security on either side of the market that the system will execute against the firm's account. The proposal, however, contains a new concept, a "minimum exposure limit" which is defined as the number of shares equal to five times the maximum permitted order size for a given security. Each SOES market maker will be exposed in SOES for the minimum exposure limit but is free to set a higher limit at any time.

In the case of a locked or crossed market in a NASDAQ/NMS security, SOES will execute orders amounting to either the minimum exposure limit or the firm's then remaining exposure limit, whichever is greater, against the firm locking or crossing the market. Unless the firm's limit is changed, that firm's exposure is restricted, however, to the specified limits. Similarly, in a normal trading environment, the system will execute orders against a market maker in an amount equivalent to its exposure limit or the minimum exposure limit, whichever is greater. In either instance, when a firm's exposure limit has been reached, the firm will be suspended from SOES and subject to being automatically withdrawn by the system.

In view of the fact that withdrawal as a SOES market maker in NASDAQ/NMS securities would now carry a 20-business-day penalty, the Board of Governors concluded that any NASDAQ/NMS market maker subject to automatic removal because its exposure limit has been reached should be given a grace period within which to renew its limit or reenter a quote. The grace period is proposed to be a standard period established by the NASD from time to time depending upon market conditions and other factors.[2] The grace period initially will be five minutes, although under emergency conditions, for example, the Association could specify a different period. If a market maker fails to renew its exposure limit within the grace period, it will be automatically removed from SOES and prohibited from re-entering for 20 business days. Should a market maker be unable to respond because of equipment failure, it normally will be permitted to reenter when the equipment failure is removed.

SOES market makers subject to mandatory withdrawal from SOES and the 20-business-day penalty period discussed above, shall have the right to have their exclusion from SOES reviewed pursuant to the provisions of Article IX of the NASD Code of Procedure. These appeals are currently in place with respect to grievances concerning the NASDAQ system.

The proposed amendments are consistent with the provisions of sections 11A(a)(2) and 15A(b)(6) as the amendments to SOES would result in the fair and orderly handling of customer orders and, in general, would

[1] An order entry firm can send an order to the SOES market maker of its choice. This is referred to as "preferencing". If this is done, the order is executed at the best price for that market maker's account even if its quote is not the best.

[2] The NASD must submit a proposed rule change pursuant to section 19(b) of the Act prior to altering the grace period.

promote the protection of investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The NASD does not believe that the proposed rule amendments impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on the Proposed Rule Change Received from Members, Participants, or Others*

The Association requested comments on the proposed amendments in the NASD Notice to Members, dated November 20, 1987 ("Notice"). In response to the Notice, the Association received 46 comment letters. Seventeen comment letters generally favored the proposed rule amendments, ten commentators favored a limited number (but not all) of the proposed rule amendments, and 19 commentators generally opposed the proposed rule changes, citing various reasons for so doing.

Many of the commentators opposing the rule amendments indicated their belief that the rule changes as proposed would impact negatively on market liquidity and have a disproportionate impact on smaller firms. In discussing specific aspects of the proposed rule amendments, several of the commentators in opposition focused on the proposed rule change that would make participation in SOES mandatory. In part, these commentators believed that mandatory SOES participation may expose market makers to undesirable risk and result in a substantial widening of spread positions to handle the increased risk. A number of commentators in opposition also focused on the proposed 30 day penalty for unexcused withdrawal from NASDAQ discussed in the Notice.[3] For the most part, these commentators argued that the penalty was far too burdensome. Finally, several commentators in opposition to the proposed amendments indicated their belief that the proposed requirement that a market be continuously made during times of illness or vacation places a burden on the resources of the trading desk as it results in the need for increased staffing.

In response to the comments in opposition to the rule amendments, the Board has amended its original proposal to provide for a review procedure under which members could appeal denials of requests for excused withdrawals expeditiously and seek to reenter SOES prior to the expiration of the penalty period. The Association also has established a minimum exposure limit of a market maker in SOES to five times the established trading size of that security (limited size) rather than ten executions (as originally proposed) unless the firm sets a higher limit. The Association has also added the occurrence of religious holidays as an acceptable excused withdrawal under specified circumstances.

**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 self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-88-1 and should be submitted by April 12, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

**Jonathan G. Katz,**

*Secretary.*

Dated: March 15, 1988.

[FR Doc. 88-6204 Filed 3-21-88; 8:45 am]

BILLING CODE 8010-01-M

[3] A penalty period of 30 calendar days was put forth in the Notice. The Association has determined, however, that a 20 business day period, which is generally equivalent to 30 calendar days, should be imposed instead because other time periods in Schedule D are expressed in business days. The rule filing, thus, proposes a 20 business day penalty period.

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**[Release No. 34-25471; File No. SR-NSCC-87-10]**

## Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change

On September 30, 1987, the National Securities Clearing Corporation ("NSCC") filed a proposed rule change (File No. SR-NSCC-87-10) with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] to authorize a service to reconfirm and reprice fails. On November 18, 1987, the Commission published notice of this proposed rule change in the **Federal Register** to solicit comments from interested persons.[2] One comment was received expressing support for the proposed rule change.[3] As discussed below, this order approves the proposal.

**I. Description**

The proposed rule change will authorize NSCC to provide a new service to members, to be known as the Reconfirmation and Pricing Service ("RECAPS"). RECAPS would enable members to reconfirm and reprice transactions which were originally compared trades, but which did not settle, *i.e.*, failed trades.

RECAPS will be available to all NSCC members and will be offered to NSCC members for municipal, equity, and other securities (such as zero coupon instruments). RECAPS will be offered on a periodic basis, as needed. At this time, NSCC anticipates that RECAPS will be run no more often than quarterly.

In general, RECAPS will operate as follows: Participants will submit RECAPS input on a designated day, currently anticipated to be a Friday; NSCC will compare member trade submissions on the following day, Saturday; and, for compared trades, final contract sheets and settlement

[1] 15 U.S.C. 78(b)(1).

[2] Securities Exchange Act Release No. 25113 (November 10, 1987), 52 FR 44258 (November 18, 1987). ("Notice of Filing").

[3] *See* letter from Herbert I. Levitt, General Partner, Spear, Leeds & Kellogg, to Michael A. Macchiaroli, Assistant Director, Division of Market Regulation, SEC, received January 20, 1988.

instructions will be issued on the next day, Sunday. Securities eligible for Continuous Net Settlement (CNS) will settle through CNS on a day NSCC specifies, currently anticipated to be two days after issuance of settlement instructions, or Tuesday. For non-CNS eligible securities issues, NSCC will issue to members using RECAPS balance orders or receive and deliver tickets designating settlement obligations. Members would settle money differences at NSCC on the same day. RECAPS will not be a guaranteed service and the proposed rule change would authorize NSCC to reverse any money credit given to a participant if the *contra* party fails to pay.

In calculating payment obligations on RECAPS trade submissions, NSCC will use a variety of pricing sources. NSCC will use its current sources to price equity securities traded on national securities exchanges, through NASDAQ facilities or the over the counter market. Municipal securities will be priced according to information provided to NSCC under contract by Kinney Information Services.

The proposal also establishes fees for member use of the RECAPS service. NSCC has proposed RECAPS fees of $0.25 per submission per CUSIP to price securities and $0.50 per item submitted for recomparison.

## II. NSCC's Rationale

NSCC believes the rule change is consistent with the requirements of the Act because RECAPS will help facilitate the resolution of fails, and thus will enhance the national clearance and settlement system.

## III. Discussion

The Commission believes that the proposal is consistent with section 17A of the Act, among other things, because RECAPS promotes the prompt and accurate clearance of settlement of trades. As described above, RECAPS is designed to convert failed trades into completed trades. Failed trades which participants submit into the RECAPS system are re-priced and re-submitted to participants on RECAPS contract sheets for settlement.[4]

NSCC has conducted two RECAPS pilot programs to determine the effectiveness of the system. The first pilot program [5] included only municipal bonds. Of the 4,162 sides submitted, 2,126 sides (51%) were matched and 2,036 sides (49%) were unmatched.[6] The second pilot program included equities, municipals, and zero coupon bonds. Of 13,111 sides submitted, during the second pilot, 65% were compared.[7] As the result of both pilot programs, the compared trades were processed for settlement. The pilot programs have shown that RECAPS can successfully convert failed trades into completed trades by bringing the failed trades to the firms' attention and providing a mechanism for firms to work to resolve the failed trades.

The Commission also believes RECAPS promotes prompt and accurate clearance and settlement of securities transactions by reducing broker-dealer financing costs associated with outstanding failed trades. Fails increase broker-dealers' financing costs because when the delivering broker-dealer fails to deliver the securities, the receiving broker-dealer must incur financing costs to borrow stock in order to deliver the securities to its customer.

The Commission also believes that the fees NSCC proposes to charge for its RECAPS service are consistent with section 17A(b)(3)(D) as they provide for the equitable allocation of reasonable dues, fees and other charges among NSCC's participants. The fees consist of a fee per CUSIP number submitted to price the securities and a fee per item submitted for recomparison. As stated in NSCC's filing, these fees are intended to recover NSCC's costs of operating the system.

## IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act and, in particular, section 17A.

*It is therefore ordered,* pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-NSCC-87-10) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: March 15, 1988.

Jonathan G. Katz,

*Secretary.*

[FR Doc. 88-6237 Filed 3-21-88; 8:45 am]

BILLING CODE 8010-01-M

[4] *See generally,* Securities and Exchange Commission *The October 1987 Market Break: A Report by the Division of Market Regulation,* 10-1 to 10-5, February 1988.

[5] RECAPS was approved on a pilot basis and was conducted on June 19-22, 1987. Securities Exchange Act Release No. 24519 (May 27, 1987), 52 FR 21140 (June 4, 1987).

[6] *See* letter from Michael J. Simon, Vice President and Associate General Counsel, NSCC, to Michael A. Macchiaroli, Assistant Director, Division of Market Regulation, SEC, dated July 13, 1987.

[7] *See* letter from Michael J. Simon, Vice President and Associate General Counsel, NSCC, to Jonathan Kallman, Assistant Director, SEC, dated November 27, 1987. *See also, RECAPS: A Second Pilot Conducted in December,* NSCC Participant Report, No. 35 (Jan. 1988) p. 7.

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**[Release No. 34-25466; File No. SR-NYSE-88-05]**

## Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc., Opening Price Settlement of Expiring Options on the NYSE Composite Index

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 March 14, 1988, the New York 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

On March 13, 1987 the Exchange filed a proposed rule change to change the settlement pricing of expiring stock index options to the opening prices on expiration Friday. (*See* SR-NYSE-87-06 and 3/16/87 Letter to Sharon M. Lawson, Branch Chief, SEC, from Daniel P. Odell, Assistant Secretary, NYSE (collectively, the "Temporary Rule Filing") and Release No. 34-24276 (March 27, 1987).) In particular, the Exchange modified the definition of "Current Index Group Value" in Rule 700(b)(17) to permit the Exchange to specify that the value upon exercise of options on the NYSE Composite Index and the NYSE Beta Index on expiration Friday is to be calculated from the opening prices for the constituent stocks on that day. The Exchange made conforming changes to the contract specifications for options on both indexes to make clear that trading ceases on the Thrusday before expiration Friday.[1]

[1] The NYSE Beta Index was delisted by the Exchange effective December 31, 1987. Therefore, references to the Beta Index in these and subsequent Exchange Filings on the settlement pricing of expiring stock index options are no longer pertinent.

The Temporary Rule Filing was effective only with respect to contracts expiring in June, 1987. On April 3, 1987, the Exchange filed a proposed rule change to make permanent the rule changes proposed in the Temporary Rule filing. (*See*, SR-NYSE-87-11 (the "Permanent Rule Filing").) Thereafter, it became evident that the publication, comment and approval procedures for the permanent Rule Filing would not be completed before the Exchange opened for trading its contracts expiring in July, 1987. Accordingly, on April 10, 1987, the Exchange filed a proposed rule change that extended the Temporary Rule Filing to the July expiration date. (SR-NYSE-87-13.)

On May 15, 1987, the Commission approved the Permanent Rule Filing, but only in relation to contracts expiring in August and September. (Release No. 34-24466.) This was intended to permit the Commission to evaluate the June expiration before deciding on permanent approval. The Exchange subsequently learned that the Commission wished to evaluate the September expiration as well before acting on the Exchange's permanent approval request. Therefore, on August 13, 1987, the Exchange filed another proposed rule change that extended the Permanent Rule Filing to the December expiration date. (SR-NYSE-87-26.) The Commission approved the extension on August 24, 1987. (Release No. 34-24847.) Because the Commission required additional time in which to evaluate the September expiration, on October 16, 1987, the Exchange filed another proposed rule change to extend the Permanent Rule Filing to the March expiration date. (SR-NYSE-87-34.) The Commission approved that extension on October 16, 1987 (Release No. 34-25040).

The Exchange understands that owing to the market break of October, 1987, and the ensuing demands on the Commission staff, the Commission now needs additional time in which to evaluate the Exchange's permanent approval request. Accordingly, the proposed rule change extends to all option contracts on the NYSE Composite Index that are listed on or prior to the September, 1988, expiration date the Commission's approval of the Permanent Rule Filing on a temporary basis.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B, and C below.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the rule extended by the proposed rule change is to ameliorate the impact of the concurrent expiration of index options and futures on the markets for individual stocks and on the stock market as a whole. The Exchange believes that settling index futures and options based upon the opening prices of the constituent stocks, and thereby permitting use of the Exchange's opening procedures in handling the accompanying stock volume, is the best strategy for addressing widely-held concerns about the actual and potential impact of the derivative products on the pricing mechanism and integrity of the stock market.

The basis under the 1934 Act for the proposed rule change is section 6(b)(5), which requires that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance on the purposes of the 1934 Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interest parties.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the 1934 Act. As noted above, the Commission's most recent approval on a temporary basis of the Exchange's Permanent Rule Filing permitted the Exchange to change the settlement pricing of expiring stock index options to opening prices only through March, 1988. The Commission finds that accelerated approval of the proposed rule change will permit the Exchange to continue using expiration valuation based upon the opening prices of the underlying stocks for contracts on the NYSE Composite Index listed on or prior to the September expiration, thus maintaining the continuity and order of the Exchange's marketplace while the Commission further considers the Exchange's permanent request.

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 self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 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 April 12, 1988.

It therefore is ordered, pursuant to section 19(b)(2) of the 1934 Act, [2] that the proposed rule change is approved.

[2] 15 U.S.C. 78s(b)(2) (1982).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

Dated: March 15, 1988.

[Fr Doc. 88-6239 Filed 3-21-88; 8:45 am]

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**[Release No. 34-25472; File No. SR-PSE-88-03]**

## Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by Pacific Stock Exchange, Inc.; Pilot Program for Display of Multiple-Series and Stock/Option Orders

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 March 3, 1988, the Pacific Stock Exchange, Incorporated ("PSE" or the "Exchange") 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 PSE, pursuant to Rule 19b-4 under the Securities Exchange Act (the "Act") of 1934, hereby proposes to extend a test of the dissemination of certain indications of market interest through the Autex Trading Information System ("AUTEX"). By Release dated May 29, 1987, (No. 34-24528; SR-PSE-87-07) the Securities and Exchange Commission approved a six-month test of a system by which PSE options members could display certain indications of interest for mutiple options series orders and/or stock/option orders through AUTEX. To complete the test of this program the Exchange requests an extension of three months.[1]

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. 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*

This proposal is for a continuation of a test to electronically disseminate indications of interest for certain types of options orders. The Exchange believes that three additional months are required to provide for ample input from members and customers as to the desirability of the system. The proposal is consistent with section 6(b)(5) of the Securities Exchange Act of 1934 in that it is intended to facilitate transactions in securities and will provide a greater ability to eliminate impediments in the marketplace.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change imposes a burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

Written comments on the proposed rule change were neither solicited nor 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 [2] and the rules and regulations thereunder. The Commission understands that use of the AUTEX system to date has been extremely limited. The three-month pilot program extension requested by the PSE should enable the Exchange to better educate its members as to the availability and advantages of the AUTEX system and guage more closely the potential demand for such a system.

The Exchange requests that the proposed rule change be granted accelerated effectiveness pursuant to section 19(b)(2) of the Act. The purpose of this rule filing is simply to extend for three months the operation of a pilot program approved previously pursuant to standard notice and comment procedures.

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 relates to a pilot program already published for comment and in operation for nine months. Based on its experience during the three-month pilot extension, the Commission anticipates that by the conclusion of this period (*i.e.*, May 29, 1988), the PSE will be able to make a determination as to whether to seek permanent status for the AUTEX program.

### 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, 450 Fifth Street, NW., Washington, DC. 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 sould refer to the file number in the caption above and should be submitted by April 12, 1988.

*It therefore is ordered,* pursuant to section 19(b)(2) of the Act,[3] that the proposed rule change is approved. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

Dated: March 15, 1988.

[FR Doc. 88-6240 Filed 3-21-88; 8:45 am]

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[1] For a more detailed description of the AUTEX pilot program, *see* Securities Exchange Act Release No. 24366 (April 20, 1987), 52 FR 13782. The Commission previously approved a three month extension of the pilot program running through February 29, 1988 in Securities Exchange Act Release No. 25237 (January 4, 1988), 53 FR 980.

[2] 15 U.S.C. 78f (1982).

[3] 15 U.S.C. 78s(b)(2) (1982).

[Release No. 34-25473; File No. PHLX 88-8]

## Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc.; Elimination of Odd-Lot Differentials on the Equity Floor

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 March 7, 1988, 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. (the "PHLX" or the "Exchange"), pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 (the "Act") hereby proposes to abolish most odd-lot differentials charged on it equity floor.

The text of the proposed rule change is set forth below. [Brackets] indicate deletions; *italics* indicates additions.

**Odd-Lot Orders Must be Given to Specialist**

Rule 205. (a) Odd-lot orders shall be shown to the regular specialist before being shown to the alternate specialist. [Best execution is to be competitively determined based upon price as well as commissions, allowances, discounts or other fees, if any are charged.] If the regular specialist's offered execution of odd-lot orders, as so determined, will equal or better that of the alternate specialist, he shall purchase or sell for his own account such odd-lot orders in the security in which he is registered in accordance with the Provisions of Rules 225, [and] 227 *and 229, as applicable.*

**Odd-Lot Orders in Securities for Which Another Exchange is the Primary Market**

Orders before opening sale.

Rule 227.(a)—unchanged.

(i) *Market* [O]orders, *including the odd-lot portion of partial round-lot (PRL) orders,* accepted by a specialist before [9:55] *9:25* o'clock a.m. shall be executed on the opening sale for such security in the primary market. [, plus or minus the odd-lot differential if any is charged.] *Market* [O]orders, *including the odd-lot portion of partial round-lot (PRL) orders,* accepted after [9:55] *9:25* o'clock a.m., and prior to the opening sale of the security in the primary market, shall be executed on the opening sale, provided such opening sale shall take place at a time which would reasonably effect such orders, otherwise they shall be executed on succeeding sales as the time thereof shall warrant.

*Limit orders accepted by a specialist prior to the opening sale for such security in the primary market shall be executed at the limit price when a sale takes place in the primary market through the limit price.*

Orders after opening sale.

(ii) After the opening transaction, specialists shall execute odd-lot[s] *market orders* on [the next transaction of such security in the primary market plur or minus the odd-lot differential if any is charged] *the PACE quote as defined in Rule 229.*

*After the opening transaction, specialists shall execute the odd-lot portion of PRL orders at the same price as the round-lot portion. In the case of a PRL, the round-lot portions(s) of which is executed at more than one price, the odd-lot portion shall be executed at the same price as the last round-lot portion is executed.*

*After the opening transaction, specialists shall execute odd-lot limit orders at the limit price when a sale takes place in the primary market throughout the limit price.* Committee to decide disputed price

(iii) The Committee shall determine the price of executed orders which are in dispute; and in the case of orders dependent on sales in the primary market before [10:10] *9:40* o'clock a.m. and after [3:20] *3:50* o'clock p.m. shall determine a fair and reasonable price for such orders regardless of the time such sales appeared on the tape.

**Philadelphia Stock Exchange Automated Communication and Execution (PACE) System**

Rule 229.—Unchanged.

. . . Supplementary Material.

General

.01 through and including .07(a)—unchanged.

.07(b) Market orders (round-lots of 600 to 1000 shares and PRL's of 601 to 1099 shares) entered after the opening shall not be subject to the execution parameters set forth in Rule 229 and shall be executed in accordance with other applicable rules of the Philadelphia Stock Exchange [.]; *provided, however, that the odd-lot portion of PRL's of 601 to 1099 shares shall be executed at the same price as the round-lot portion. In the case of a PRL order, the round-lot portion(s) of which is executed at more than one price, the odd-lot portion shall be executed at the same price as the last round-lot portion is executed.*

.08 Odd-lot market orders entered after the opening will be executed on the [next sale in the New York market plus or minus a differential if any is charged.] *PACE quote.*

.09 Odd-lot limit orders [and the odd-lot portion of PRL limit orders] will be executed at the limit price when a sale takes place on the New York market through the limit price. *The odd-lot portion of PRL limit orders up to 1099 shares will be executed at the same price as the round-lot portion. In the case of a PRL, the round-lot portion(s) of which is executed at more than one price, the odd-lot portion shall be executed at the same price as the last round-lot portion is executed.* An odd-lot stop [or stop limit] order which becomes a market order will be executed on the *PACE quote.* [next sale in the New York market plus or minus a differential if any is charged.] *An odd-lot stop limit order which becomes a limit order will be executed on the next sale in the New York Market at the limit price plus or minus a differential if any is charged.*

.10(a)—unchanged.

(b) Round-lot limit orders of 600 to 1000 shares and PRL's of 601 to 1099 entered after the opening shall not be subject to the execution parameters set forth in rule 229 and shall be executed in accordance with other applicable rules of the Philadelphia Stock Exchange; [.] *provided, however, that the odd-lot portion of PRL's of 601 to 1099 shares shall be executed at the same price as the round-lot portion. In the case of a PRL, the round-lot portion(s) of which is executed at more than one price, the odd-lot portion shall be executed at the same price as the last round-lot portion is executed.*

.11 through and including .15—unchanged

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change*

The purpose of the proposed rule change is to abolish all differentials on odd-lot market orders and the odd-lot portion of partial round-lot ("PRL") market orders received by PHLX equity specialists through PHLX's automated execution system PACE or otherwise in any securities for which the PHLX is not the primary market. The rule change also makes clear that such differentials may not be charged for any limit orders received through PACE. Finally, while the rule change abolishes differentials for PACE odd-lot stop orders, differentials may be charged for executing PACE odd-lot stop limit orders.

The proposed rule change will reduce transaction costs of executing odd-lot orders and is, therefore, consistent with Section 6(b)(5) of the Act in that it removes "impediments to and perfect[s] the mechanism of a free and open market and a national market system" and promotes the protection of investors and the public interest. The proposal also is consistent with Section 11A of the Act in that it provides for "economically efficient execution of securities transactions" and assures the "practicability of brokers executing investors' orders in the best market."

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposed rules changes 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 were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

With 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 or such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whethere the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 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 be submitted by April 12, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

Dated: March 16, 1988.

[FR Doc. 88-6238 Filed 3-21-88; 8:45 am]

BILLING CODE 8010-010M

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**[Rel. No. IC-16317; 812-5466]**

## FB MTP Partners; Application

March 15, 1988.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

*Applicant:* FB MTP Partners.

*Relevant 1940 Act Sections:* Exemption requested under sections 6(b), 6(e) and 45(a) from all provisions of the 1940 Act or, in the alternative, from all provisions except section 9, sections 17(a) and 17(d) (with certain exceptions), sections 36(a) and 36(b), and sections 37 through 53.

*Summary of Application:* Applicant, organized as an employees' security company, seeks an order exempting it from the above enumerated provisions of the 1940 Act to permit it to operate as a tax-advantaged investment program offered to eligible employees of, and certain persons providing services on retainer to, First Boston, Inc.

**FILING DATE:** The application was filed on March 2, 1983 and amended on April 26, 1984, October 17, 1984, and February 11, 1987.

*Hearing or Notification of Hearing:* If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on April 11, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certficate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Park Avenue Plaza, 55 East 52nd Street, New York, New York 10055.

**FOR FURTHER INFORMATION CONTACT:** H.R. Hallock, Jr., Special Counsel (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

*Applicant's Representation:* 1. Applicant is a general partnership organized under New York partnership law, and was conceived by senior management of First Boston, Inc. ("FBI"), to meet the desire of key employees for an in-house tax oriented investment program. FBI is a publicly-owned holding company whose principal affiliates, including The First Boston Corporation ("FBC"), are engaged in various facets of the investment banking securities business. FBI and its affiliates are collectively referred to as "First Boston".

2. All of Applicant's partners are "accredited investors" as defined under Rule 501 of Regulation D under the Securities Act of 1933, as amended ("1933 Act") and key persons who are employees or persons providing substantial services on retainer to First Boston. Additional partnership interests will be offered in the future only to persons who are employees or persons on retainer to First Boston and who will, at a minimum, meet the present standards of Rule 501(5), (6) or (7) under

Regulation D of the 1933 Act ("Eligible Persons"). Applicant states that it qualifies as an "employees' security company" under section 2(a)(13) of the Act.

3. FB MPT Inc., a Delaware corporation and a wholly-owned subsidiary of FBI, is the Managing Partner ("Managing Partner") of Applicant. Under their partnership agreement management authority is delegated to the Managing Partner, and the other partners may not participate in management except as an officer or director of the Managing Partner. Each director of the Managing Partner must be an investor in Applicant, on at least the same minimum terms and conditions as all other investors.[1] Each of Applicant's partners will have access to the Managing Partner's directors and support staff who will oversee the Applicant's activities.

4. Applicant requests an exemption from section 17(a) and the rules thereunder to the extent necessary to permit Applicant to (a) invest in, sell or resell, as appropriate, securities of companies or investment vehicles and other investment properties offered from or to First Boston or an affiliated entity of First Boston on a principal basis, including interests previously acquired for the account of First Boston of the type which are consistent with the investment objectives of Applicant; (b) purchase interests or property in, or lend money to, a company or other investment vehicle in which First Boston, an affiliated partnership of First Boston, or individual directors, officers, or employees of First Boston already own 5% or more of the voting securities of the company or vehicle, or where such company or vehicle is otherwise affiliated with First Boston or Applicant (including through the Applicant's ownership of 5% or more of the voting securities of such entity); (c) sell, tender, or grant options in securities or interests in a company or investment vehicle back to such entity, where that entity is affiliated with First Boston, a First Boston affiliated partnership or individual directors, officers or employees of First Boston otherwise than as a result of Applicant's ownership of voting securities; and (d) participate as a selling security holder in a public offering that is underwritten by First Boston or in which First Boston acts as a member of the underwriting or selling group.

5. These transactions will only be effected upon a determination of the board of directors of the Managing Partner that the terms of the transaction are reasonable and fair to the partners of the Applicant involved in the transaction and do not involve overreaching of Applicant or its partners on the part of any person concerned. Moreover, in any case where purchases or sales are made to or from an entity affiliated with Applicant's by reason of a 5% or more investment by a First Boston director, officer or employee, such individual will not participate in the Managing Partner's determination of whether or not to effect such purchase or sale.

6. Applicant requests an exemption from section 17(d) and Rule 17d-1 to permit it to engage in transactions in which First Boston or affiliated persons of Applicant may also be participants (arising from coinvestment, the receipt of fees for structuring, negotating or managing an investment in the manner described in Applicant's application for exemption, or as a result of the participation of a subsidiary providing limited liability or other services to or for the benefit of the Applicant, or otherwise), on the undertaking that the Applicant will not make any joint investment in which First Boston, another First Boston affiliated partnership, or any officer, director or employee of the Managing Partner is a participant, directly or indirectly (otherwise than through an investment in or relationship with the Applicant or in a transaction with a participating subsidiary for the purpose of providing limited liability or sevices), *provided, however,* that this undertaking shall not apply (a) to 40% of the total assets of the Applicant, and (b) as to the remaining 60% of the total assets of the Applicant, to other investments by the Applicant in any other companies, partnerships or investment vehicles or property which are not sponsored, managed or underwritten on a principal basis by First Boston or its affiliates. Compliance with the foregoing will be determined at the time of the investment. Where the coinvestment by Applicant is on terms different than that made by the affiliated co-investor, the board of directors of the Managing Partner will make a determination at the time of such investment that such participation in such investment is not less advantageous than any other participant with respect to the making of such investment, maintaining its investment position or disposing of such position.

7. The undertaking not to make joint investments will not apply, however, to limit or prevent joint investment by Applicant and individual officers, directors or employees of First Boston making their own individual investment decisions apart from First Boston or an affiliated partnership, subject to the following limitations;

(a) the asset limitations on joint investments would apply to situations where one or more directors or principal executive officers of FBI, FBC or the Managing Partner who hold outstanding shares of common stock of FBI, aggregating 15% or more of the outstanding shares of common stock of FBI, make a joint investment with the Applicant (otherwise than through an investment by First Boston or an affiliated partnership); and

(b) in the case of a joint investment by Applicant and (i) any officer, director or employee of the Managing Partner, (ii) directors or principal executive officers of FBI or FBC who hold outstanding shares of common stock of FBI aggregating 15% or more of the outstanding common stock of FBI, or (iii) First Boston officers, directors or employees who hold individually or in the aggregate 15% or more of the equity interest of any joint investment, (in the case of (i), (ii) or (iii) above, otherwise than through an investment in an affiliated partnership) the Managing Partner undertakes to obtain a commitment from each such person that he or she will not dispose of his or her interest in such joint investment without giving sufficient, but not less than one day's, notice to the Managing Partner so that Applicant has the opportunity to dispose of its interest in the joint investment prior to or concurrently with such person.

8. In connection with the exemptions requested under Sections 17(a) and 17(d), the Managing Partner undertakes to use reasonable efforts to ascertain, prior to making any investment, whether First Boston, any Managing Director of First Boston, or any officer, director, or employee of the Managing Partner owns more than 5% of the equity of any entity in which Applicant plans to invest.

[1] The minimum commitment under the Applicant's 1984 offering obligated each Eligible Person to make payments totalling up to $150,000, plus mandatory overcalls. By letter dated March 9, 1988, Applicant's counsel confirmed that Applicant is not currently making any new investments. Counsel also acknowledged the view of the staff that under the circumstances, Applicant will not be required to file with the Commission a copy of its annual report to its partners as a condition to granting the application and, accordingly, that the requested exemptive relief from section 45(a) of the Act for confidential treatment of such reports is no longer necessary.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

*Secretary.*

[FR Doc 88-6205 Filed 3-21-88; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF STATE

**[Public Notice CM-8/1175]**

## Shipping Coordinating Committee; Meeting

The Shipping Coordinating Committee will conduct an open meeting at 0930 on Tuesday, 5 April 1988 in Room 2415 of U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593. The purpose of the meeting is to review the 58th Session of the International Maritime Organization (IMO) Legal Committee held in October 1987, and to consider U.S. positions for the 59th Session scheduled for 25-29 April 1988 in London.

The 59th session of the IMO Legal Committee is an extra regular session agreed to by the IMO Council for the express purpose of considering possible revision of the 1974 Athens Convention relating to the Carriage of Passengers and their Luggage by Sea. Additional topics which will be considered after the Athens Convention are: (1) Liability and compensation for damage caused by the maritime carriage of Hazardous and Noxious Substances (HNS); and (2) the legal implications of United Nations work regarding illicit drug trafficking.

With respect to possible revision of the 1974 Athens Convention, this initiative derives from concern in the aftermath of the recent Herald of Free Enterprise disaster over what a number of nations have now come to regard as extremely low limits of liability. Shortly after the March 1987 ferry sinking, the United Kingdom submitted a proposal urging a priority Legal Committee review of the Athens Convention. Given the review mandate transmitted to the Legal Committee by the IMO Council last November, it is expected that the only aspects of the Athens Convention which will be considered are the actual limits of liability and the development of a rapid amendment mechanism.

While the U.S. took an active part in the preparatory work at IMO, the U.S. is not a party to the 1974 Athens Convention. In principle the U.S. supports this revision initiative as consistent with our overall desire to raise international liability limits to acceptable levels.

Work on the Athens Convention is expected to take two or three days at most. The Legal Committee should therefore have sufficient time at its 59th Session to begin deliberations on HNS, and also to give brief consideration to the implications for the Committee of ongoing United Nations work regarding illicit drug trafficking.

By way of background concerning HNS, in 1982 the Legal Committee completed a draft Convention which provided a two-tier regime of strict liability for the carriers and shippers of certain HNS transported in bulk on tank vessels. The proposed scheme, which entailed compulsory insurance coverage for owners and shippers, would have applied to those HNS which presented severe fire and explosion, toxicity, and/or marine pollution hazards.

In May 1984, IMO sponsored a Diplomatic Conference which took up the draft HNS Convention, as well as draft Protocols updating both the 1969 and 1971 Oil Spill Conventions. An HNS Convention was not adopted because no clear consensus could be achieved on the fundamental liability issues.

The starting point for the resumption of HNS negotiations will be an options paper submitted to the Legal Committee last October. The ten-nation submission proposed that the two liability schemes most worth exploring are: (1) Shipowner liability supplemented by compulsory cargo insurance; and (2) shipowner liability in the context of an overall revision of the 1976 International Convention on Limitation of Liability for Maritime Claims. The revision of the 1976 Convention would involve either raising the global limitation amounts to a level adequate to compensate HNS damage, or creating a special layer of HNS liability coverage available only for HNS damage.

Highlights of the Legal Committee's discussion of the HNS options paper at the October 58th Session are as follows:

1. Most delegations expressing views favored further work toward an intenational system of liability and compensation so that such a system could be in place before any major HNS catastrophe; this majority supported moving to HNS work on a priority basis early in 1988 and thus the subject was placed on the 59th Session agenda after the Athens Convention.

2. Many delegations expressed a preliminary preference for placing liability on the shipowner alone, without involving cargo or shipper interests; a number of these delegations expressed strong interest in using a revision of the 1976 Convention as the framework for an HNS regime.

3. The Committee was divided on the issue of packaged HNS, with the apparent majority in favor of their inclusion.

If an international HNS scheme is developed and implemented, the system would have significant impacts on a wide range of U.S. interests related to industry, government and the environment. These interests include, but are not limited to, owners/operators of vessels transporting bulk or packaged hazardous substances, chemical manufacturers, chemical shippers, marine terminal operators, port authorities, marine insurers, state and local governments, and environmental advocates.

In view of the significant potential impacts on U.S. maritime interests, the Shipping Coordinating Committee has held a series of four special public meetings devoted exclusively to HNS issues. This series of meetings was well attended by the broad spectrum of affected interests, and contributed significantly to the ongoing development of U.S. positions for the 59th Session. The outcome of this special series of HNS meetings will be reviewed at the 5 April 1988 meeting.

With respect to the legal implications of United Nations work regarding illegal drug trafficking, it is expected that the Legal Committee will give brief consideration to two important United Nations documents. The first is a Comprehensive Multidisciplinary Outline of Future Activities in Drug Abuse Control recently adopted by a United Nations Conference in Vienna, Austria, in June 1987. Target 28 of this Outline relates to the specific question of the exercise of control over ships on the high seas. The second document is the Draft Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances being developed by an intergovernmental group of experts convened under the auspices of the United Nations Economic and Social Council. This Convention is intended to promote international cooperation and coordination among national authorities, such as customs, police and judicial bodies, and to provide them with legal mechanisms to enhance their efficiency in interdicting illicit trafficking in all its phases. The Legal Committee has been asked to review both documents, with a view to deciding whether further work is required by the Committee.

The Shipping Coordinating Committee will also discuss the status of the proposed Resolution on Cooperation in Maritime Casualty Investigations first submitted to the IMO Legal Committee by Liberia and the United States at the 56th Session. This proposed Resolution,

which is considered an important safety initiative by both the National Transportation Safety Board and the Coast Guard, was debated extensively at the 57th and 58th Sessions, but final action has yet to be taken.

Members of the public are invited to attend the 5 April 1988 Shipping Coordinating Committee meeting, up to the seating capacity of the room.

For further information pertaining to the issues to be discussed at the Shipping Coordinating Committee meeting, contact Captain Frederick F. Burgess, Jr. or Lieutenant Commander Frederick M. Rosa, Jr., U.S. Coast Guard (G-LMI), Washington, DC 20593, telephone (202) 267-1527.

Date: March 4, 1988.

**Richard C. Scissors,**

*Chairman, Shipping Coordinating Committee.*

[FR Doc. 88-6185 Filed 3-21-88; 8:45 am]

BILLING CODE 4710-07-M

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**[Public Notice CM-8/1176]**

## Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea Working Group on Radiocommunications; Meetings

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea will conduct open meetings at 0930 on the following dates: June 16, 1988; November 17, 1988; and December 15, 1988. These meetings will be held in room 9230 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20950-0001.

The purpose of these meetings is to discuss the Global Maritime Distress and Safety System (GMDSS), and to prepare for the 35th Session of the International Maritime Organization Subcommittee on Radiocommunications which will be held in March of 1989.

Members of the public may attend these meetings up to the seating capacity of the room.

For further information contact Mr. Ronald J. Grandmaison, U.S. Coast Guard Headquarters (G-TTS-3), 2100 Second Street, SW., Washington, DC 20593-0001. Telephone: (202) 267-1389.

Date: March 4, 1988

**Richard C. Scissors,**

*Chairman, Shipping Coordinating Committee.*

[FR Doc. 88-6186 Filed 3-21-88; 8:45 am]

BILLING CODE 4710-07-M

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# DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## Proposed Advisory Circular; Powerplant Installation and Propulsion System Component Fire Protection Test Methods, Standards, and Criteria

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed advisory circular and request for comments.

**SUMMARY:** This notice announces the availability of and requests comments on a proposed advisory circular (AC) concerning methods for fire testing of materials and components used in the powerplant fire zone areas of aircraft, as well as the rationale for these methods.

**DATE:** Comments must be received on or before July 20, 1988.

**ADDRESS:** Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Transport Standards Staff, ANM-110, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Patricia Siegrist, Transport Standards Staff, at the above address, telephone (206) 431-2126.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

A copy of the AC may be obtained by contacting the person named above under "FOR FURTHER INFORMATION CONTACT." Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters must identify the subject of the AC and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Transport Standards Staff before issuing the final AC.

### Discussion

Since about 1947 the basic powerplant fire protection compliance guidelines have been Safety Regulation Release (SRR) #259. This document outlined acceptable test methods to be used in showing compliance with the fire prevention requirements in the early Civil Air Regulations. Since that time, additional fire test standards, requirements, and methods have been developed and used with SRR #259. These include applicable Technical Standard Orders (TSOs) and later fire test burners and apparatus for evaluating flexible hoses and fire detectors, etc.

Appendix F to Part 25 of the Federal Aviation Regulations was issued only to provide acceptable fire testing methodology for showing compliance of materials used in passenger, cargo, and baggage compartments and for electrical components and wiring.

Powerplant installation fire test methodology (SRR #259) and other related data were available only in various documents and not very well assimilated and consolidated. This has caused some confusion on the part of the applicants and the FAA certification engineers as to what procedures to use when, and with what apparatus. The purpose of this AC is to provide, in a single document, the information necessary to show compliance with the applicable powerplant fire protection requirements of Parts 23, 25, 27, 29, and 33 of the Federal Aviation Regulations (FAR).

Issued in Seattle, Washington, on March 9, 1988.

**Leroy A. Keith,**

*Manager, Aircraft Certification Division, Northwest Mountain Region.*

[FR Doc. 88-6150 Filed 3-21-88; 8:45 am]

BILLING CODE 4910-13-M

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## Research and Special Programs Administration

## Application for Renewal or Modification of Exemptions or Applications To Become Party to An Exemption

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of applicants for renewal or modification of exemptions or application to become a party to an exemption; correction.

**SUMMARY:** This document corrects a notice published in the **Federal Register** on Friday, March 11, 1988 on page 8021. Footnote for application number 9788-X, Certified Cylinder, Inc. was omitted and should have read as follows: To amend the application for the pending exemption to authorize repair, rebuilding, retesting and recertification of DOT Specification 4E aluminum cylinders.

Issued in Washington, DC, on March 10, 1988.

**J. Suzanne Hedgepeth,**

*Chief, Exemptions Branch, Office of Hazardous Materials Transportation.*

[FR Doc. 88-6158 Filed 3-21-88; 8:45 am]

BILLING CODE 4910-60-M

## DEPARTMENT OF THE TREASURY

### Public Information Collection Requirements Submitted to OMB for Review

Dated: March 16, 1988.

The Department of the Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) 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 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

**Internal Revenue Service**

*OMB Number:* 1545-0146.

*Form Number:* IRS Form 2553.

*Type of Review:* Resubmission.

*Title:* Election by a Small Business Corporation.

*Description:* Form 2553 is filed by qualifying corporation to elect to be an S corporation as defined in Code section 1361. The information obtained is necessary to determine if the election should be accepted by IRS. When the election is accepted, the qualifying corporation is classified as an S corporation and the corporation's income is taxed to the shareholders of the corporation.

*Respondents:* Farms, Businesses or other for-profit, Small businesses or organizations.

*Estimated Burden:* 50,905 hours.

Clearance Officer: Carrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

**Dale A. Morgan,**

*Departmental Reports, Management Officer.*

[FR Doc. 88-6210 Filed 3-21-88; 8:45 am]

BILLING CODE 4810-25-M

# Sunshine Act Meetings

Federal Register
Vol. 53, No. 55
Tuesday, March 22, 1988

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).

## CONSUMER PRODUCT SAFETY COMMISSION

**TIME AND DATE:** 10:00 a.m., Thursday, March 24, 1988.

**LOCATION:** Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

**STATUS:** Closed to the Public.

**MATTERS TO BE CONSIDERED:**

*Compliance Status Report*

The staff will brief the Commission on issues related to the Compliance Status Report.

For a recorded message containing the latest agenda information, call: 301-492-5709.

**CONTACT PERSON FOR ADDITIONAL INFORMATION:** Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD. 20207 301-492-6800.

**Sheldon D. Butts,**

*Deputy Secretary.*

March 17, 1988.

[FR Doc. 88-6284 Filed 3-18-88; 12:33 pm]

BILLING CODE 6535-01-M

## FEDERAL COMMUNICATIONS COMMISSION

March 17, 1988.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 24, 1988, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

*Agenda, Item No., and Subject*

Private Radio—1—*Title:* Reorganization and Deregulation of Part 97 of the Rules Governing the Amateur Radio Services. *Summary:* The Commission will decide whether to initiate a rule making action in this matter.

Common Carrier—1—*Title:* In the Matter of Policy for the Distribution of United States International Carrier Circuits Among Available Facilities During the Post-1988 Period. *Summary:* The Commission will consider whether to adopt a Report and Order concerning worldwide circuit distribution for the post-1988 period.

Common Carrier—2—*Title:* In the Matter of Access to Telecommunications Equipment and Services by the Hearing Impaired and Other Disabled Persons. *Summary:* The Commission will consider further action in this docket.

Common Carrier—3—*Title:* In the Matter of An Inquiry Relating to Preparation for the International Telecommunication Union World Administrative Radio Conference on the Use of the Geostationary-Satellite Orbit and the Planning of the Space Services Utilizing It. *Summary:* The Commission will consider whether to adopt a Report and Order in this proceeding.

Mass Media—1—*Title:* Amendment of Part 74 of the Commission's Rules regarding Satellite and Terrestrial Microwave Feeds to Noncommercial Educational FM Translators. *Summary:* The Commission will consider a Report and Order to amend certain rules pertaining to noncommercial educational FM translators.

Mass Media—2—*Title:* Amendment of Part 74 of the Commission's Rules regarding Satellite and Terrestrial Microwave Feeds to Noncommercial Educational FM Translators. *Summary:* The Commission will consider a Further Notice of Proposed Rule Making to amend certain rules pertaining to noncommercial FM Translators.

Mass Media—3—*Title:* Amendment of Part 74 of the Commission's Rules Concerning FM Translator Stations. *Summary:* The Commission will consider whether to initiate a proceeding to consider FM translator matters including those proposed in several petitions for rule making.

Mass Media—4—*Title:* Amendment of § 73.658(i) of the Commission's Rules, Concerning Network Representation of TV Stations in National Spot Sales; Request of Spanish International Network (SIN) For Waiver of § 73.658(i). *Summary:* The Commission will consider a *Further Notice of Proposed Rule Making* to seek further comment with respect to possible modifications to the television "network representation rule."

Mass Media—5—*Title:* Amendment of Parts 1, 63, and 76 of the Commission's Rules to Implement the Provisions of the Cable Communications Policy Act of 1984. *Summary:* The Commission will consider a Second Report and Order with respect to possible modifications to the signal availability measures in the cable rate regulation rules.

Mass Media—6—*Title:* Television Signal Availability on Cable Systems. *Summary:* The Commission will consider a Notice of Inquiry regarding the availability of TV signals on cable systems.

Mass Media—7—*Title:* Inquiry into § 73.1910 of the Commission's Rules and Regulations Concerning Alternatives to the General Fairness Doctrine Obligations of Broadcast Licensees. *Summary:* The Commission will consider a petition for reconsideration filed by Henry Geller and Donna Lampert concerning fairness doctrine alternatives.

Mass Media—8—*Title:* In re Complaint of Syracuse Peace Council against Television Station WTVH, Syracuse, New York. *Summary:* The Commission will consider petitions for reconsideration filed by Henry Geler and Donna Lampert and by Freedom of Expression Foundation with respect to its August 4, 1987, order in this proceeding regarding a fairness doctrine complaint against Meredith Corporation.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Sara Lawrence, Office of Public Affairs, telephone number (202) 632-5050.

**H. Walker Feaster III,**

*Acting Secretary, Federal Communications Commission.*

[FR Doc. 88-6312 Filed 3-18-88; 3:16 pm]

BILLING CODE 6712-01-M

## FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:20 p.m. on Wednesday, March 16, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice 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 pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: March 17, 1988.

Federal Deposit Insurance Corporation.

**Margaret M. Olsen,**

*Deputy Executive Secretary.*

[FR Doc. 88-6269 Filed 3-18-88; 11:17 am]

BILLING CODE 6714-01-M

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**FEDERAL MARITIME COMMISSION**

**TIME AND DATE:** 9:15 a.m.—March 24, 1988.

**PLACE:** Room 12126—1100 L Street, NW., Washington DC 20573.

**STATUS:** Closed.

**MATTER TO BE CONSIDERED:** Agreement No. 203-011171: Trans Freight Lines/Nedlloyd/Sea-land Agreement.

**CONTACT PERSON FOR MORE INFORMATION:** Joseph C. Polking, Secretary, (202) 523-5725.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 88-6273 Filed 3-18-88; 11:17 am]

BILLING CODE 6730-01-M

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**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

March 17, 1988.

**TIME AND DATE:** 10:00 a.m., Thursday, March 24, 1988.

**PLACE:** Room 600, 1730 K Street, NW., Washington, DC.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following:

1. *Secretary of Labor, MSHA, v. Texasgulf, Inc.*, Docket No. WEST 85-148-M, etc. (Issues include whether the judge erred in finding that Texasgulf's violations of 30 CFR 57.21078 were not significant and substantial.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

**CONTACT PERSON FOR MORE INFORMATION:** Jean Ellen, (202) 653-5629/(202) 566-2673 for TDD Relay.

**Jean H. Ellen,**

*Agenda Clerk.*

[FR Doc. 88-6247 Filed 3-18-88; 10:32 am]

BILLING CODE 6735-01-M

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**FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS**

**TIME AND DATE:** 12 Noon, Monday, March 28, 1988.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 18, 1988.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 88-6328 Filed 3-18-88; 3:31 pm]

BILLING CODE 6210-01-M

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**NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES, INSTITUTE OF MUSEUM SERVICES**

**SUMMARY:** This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (Pub. L. 94-409) and the regulations of the Institute of Museum Services, 45 CFR 1180.84.

**TIME AND DATE:** 9:00 a.m, Friday, April 22, 1988.

**STATUS:** Open and closed.

**ADDRESS:** 1100 Pennsylvania Avenue, NW., Room MO-9, Washington, DC 20506, (202) 786-0536.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine Forbes, Executive Assistant to the National Museum Services Board, Room 510, 1100 Pennsylvania Avenue, NW., Washington, DC. 20506, (202) 786-0536.

**SUPPLEMENTARY INFORMATION:** The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Pub. L. 94-462. The Board responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under this Title. Grants are awarded by the Institute of Museum Services after review by the Board.

The meeting of April 22, 1988 will be open to the public from 9:00 a.m. until the closed session portion of item IV, section C and open again to the public from item IV, section D through discussion of item VI. The meeting will be closed to the public for the portion relating to discussion of grant applications in agenda item IV, section C pursuant to paragraphs 6, 9(B), and other relevant provisions of subsection (c) of section 552b of Title 5, United States Code and pursuant to 45 CFR 1180.88, because the Board will consider information that may disclose: Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of privacy; and information the disclosure of which might significantly impede implementation of proposed agency actions related to the grant award process.

If you need special accommodations due to a disability, please contact: Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202) 786-0536, TDD (202) 682-5496 at least seven (7) days prior to the meeting.

**National Museum Services Board**

*April 22, 1988 Meeting Agenda*

I. Approval of Minutes of October 21, 1987 Meeting
II. Director's Report
III. Legislative and Regulatory Update
IV. Program Report
  A. Museum Assessment Program
  B. Conservation Support Program
  C. General Operating Support Program—There will be a closed session portion of this agenda item.
  D. Professional Services Program
V. Presentation of Reports
VI. Other Business

Dated: March 18, 1988.

**Lois Burke Shepard,**

*Director.*

[FR Doc. 88-6288 Filed 3-18-88; 12:54 pm]

BILLING CODE 7036-01-M

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**NATIONAL TRANSPORTATION SAFETY BOARD**

**TIME AND DATE:** 9:30 a.m. Tuesday, March 29, 1988.

**PLACE:** Board Room (812A), Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

**STATUS:** The first two items are open to the public. The last two are closed under Exemption 10 of the Government in the Sunshine Act.

**MATTERS TO BE CONSIDERED:**

1. Marine Accident Report: Collision of USS RICHARD L. PAGE and the U.S. Fishing Vessel CHICKADEE, Atlantic Ocean, April 21, 1987.

2. Railroad Summary Reports: Southeastern Pennsylvania Transportation Authority (SEPTA) Philadelphia (12/10/86) and Ardmore (1/26/87), Pennsylvania. (Calendered by Vice Chairman Kolstad)

3. Opinion and Order: Administrator v. Connaire, Inc., Docket SE-7973; disposition of the appeals of both parties. (Calendared by Chairman Burnett)

4. Opinion and Order: Administrator v. Swanson, Docket SE-7830; disposition of

respondent's appeal. (Calendared by Member Nall)

**FOR MORE INFORMATION CONTACT:** Bea Hardesty, (202) 382-6525.

**Bea Hardesty,**

*Federal Register Liaison Officer.*

March 5, 1988.

[FR Doc. 88-6339 Filed 3-18-88; 8:45 am]

BILLING CODE 7533-01-M

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**NEIGHBORHOOD REINVESTMENT CORPORATION**

**TIME AND DATE:** 2 p.m.—Wednesday, March 23, 1988.

**PLACE:** Neighborhood Reinvestment Corporation, 1325 G Street, NW., Suite 800, Washington, DC 20005.

**STATUS:** Open.

**CONTACT PERSON FOR MORE INFORMATION:** Bonnie Nance Frazier, Director of Communications, 376-2623.

**AGENDA:**

I. Call to Order and Remarks of Chairman
II. Approval of Minutes, January 27, 1988
III. Approval of Minutes, February 2, 1988
IV. Executive Director's Activity Report
V. Policy Pursuant to Statutory Amendment Governing Board Membership: Proposed Resolution
VI. Budget Committee Report
VII. Treasurer's Report
VIII. Personnel Committee Report

**Carol J. McCabe,**

*Secretary.*

[FR Doc. 88-6289 Filed 3-18-88; 1:31 pm]

BILLING CODE 7570-01-M

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**NUCLEAR REGULATORY COMMISSION**

**DATE:** Weeks of March 21, 28, April 4, and 11, 1988.

**PLACE:** Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

**STATUS:** Open and Closed.

**MATTERS TO BE CONSIDERED:**

**Week of March 21**

*Monday, March 21*

2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for South Texas (Public Meeting)
4:00 p.m.
Discussion of Pending Investigations (Closed—Ex. 5 and 7)

*Tuesday, March 22*

10:00 a.m.
Discussion/Possible Vote on Rancho Seco Restart (Public Meeting)
2:00 p.m.
Briefing on Status of Proposed Rulemaking on Basic QA in Radiation Therapy and Related Activities (Public Meeting)
4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting—
a. Sequoyah Restart (Tentative) (*Postponed* from March 17)
b. Proposed Final Rule Revising Agency Procedures Governing Ex Parte Communications and Separation of Functions

**Week of March 28 (Tentative)**

*Monday, March 28*

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 and 6)

*Thursday, March 31*

10:00 a.m.
Briefing on Proposed Final Rule on Station Blackout (Public Meeting)
2:00 p.m.
Briefing on High Priority AEOD Issues (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Week of April 4 (Tentative)**

*Thursday, April 7*

2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for Braidwood-2 (Public Meeting) (*postponed* from March 17)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

**Week of April 11 (Tentative)**

*Thursday, April 14*

11:00 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

**ADDITIONAL INFORMATION:** Affirmation of "NRC Staff's Application for a Stay of the Effectiveness of Licensing Board Memorandum and Order Concerning Licensee's Discovery Requests and Objections to That Order (In the Matter of Finlay Laboratories, Inc., ASLBP No. 88-559-01-SC)" (Public Meeting) was held on March 17.

**Note:** Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (recording)—(202) 634-1498.

**CONTACT PERSON FOR MORE INFORMATION:** William Hill, (202) 634-1410.

**William M. Hill, Jr.,**

*Office of the Secretary.*

March 17, 1988.

[FR Doc. 88-6332 Filed 3-18-88; 3:38 pm]

BILLING CODE 7590-01-M

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**SECURITIES AND EXCHANGE COMMISSION**

Notice is hereby given, pursuant ot the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of March 21, 1988:

A closed meeting will be held on Tuesday, March 22, 1988, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Peters, as duty officer, voted to consider the items listed for the closed meeting in closed session.

the subject matter of the closed meeting scheduled for Tuesday, March 22, 1988, at 2:30 p.m., will be:

Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Formal orders of investigation.
Opinion.

At times changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Amy Kroll at (202) 272-2092.

**Jonathan G. Katz,**

*Secretary.*

March 16, 1988.

[FR Doc. 88-6307 Filed 3-18-88; 2:14 pm]

BILLING CODE 8010-01-M

# Corrections

Federal Register
Vol. 53, No. 55
Tuesday, March 22, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 308

### Rules of Practice and Procedures

*Correction*

In proposed rule document 88-3683 beginning on page 5392 in the issue of Wednesday, February 24, 1988, make the following corrections:

1. On page 5395, in the first column, in the second complete paragraph, in the sixth line, "south" should read "sought".

2. On the same page, in the second column, in the fourth complete paragraph, in the third line, "severed" was misspelled.

### PART 308—[CORRECTED]

3. On page 5402, in the third column, the section heading for § 308.90 should read "Investigations confidential.".

**§ 308.11 [Corrected]**

4. On page 5405, in the first column, in § 308.11(a), in the second line, "(a)" should read "(1)".

**§ 308.13 [Corrected]**

5. On the same page, in the second column, in § 308.13(a)(1), the third line should read "served by the Board or its designee upon any party shall be served by the Executive Secretary or by".

**§ 308.24 [Corrected]**

6. On page 5408, in the first column, in § 308.24, in the section heading, "severance" was misspelled.

**§ 308.25 [Corrected]**

7. On the same page, in the same column, in § 308.25(a), in the first line, "of" should read "on".

**§ 308.29 [Corrected]**

8. On page 5410, in the second column, in § 308.29(a)(2), in the sixth line, "country" should read "county".

**§ 308.33 [Corrected]**

9. On page 5412, in the first column, in § 308.33, the second paragraph designated "(c)" and "(d)", should read "(d)" and "(e)" respectively.

**§ 308.37 [Corrected]**

10. On page 5413, in the third column, in § 308.37, in the first line, "(1)" should read "(a)" and in § 308.37(a)(1), in the 15th line, "Administrative" was misspelled.

**§ 308.38 [Corrected]**

11. On page 5414, in the second column, in § 308.38(e), in the fifth line, "party" should read "party may".

**§ 308.95 [Corrected]**

12. On page 5424, in the second column, in § 308.95(a)(1)(ii), in the fourth line, "any" should read "may".

**§ 308.102 [Corrected]**

13. On page 5426, in the first column, in § 308.102(c), the 12th line should read "participate in any further proceedings on the application unless the administrative law judge determines".

**§ 308.103 [Corrected]**

14. On same page, in the second column, in § 308.103(b)(1), in the first line, "new" should read "net".

BILLING CODE 1505-01-D

federal register

Tuesday
March 22, 1988

## Part II

# Department of Education

34 CFR Parts 706, 707, and 708
Regional Educational Laboratories and Research and Development Centers Program; Proposed Rule and Notices

**DEPARTMENT OF EDUCATION**

**34 CFR Parts 706, 707, and 708**

## Regional Educational Laboratories and Research and Development Centers Program

**AGENCY:** Department of Education.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Secretary proposes to amend the regulations governing the Regional Educational Laboratories and Research and Development Centers Programs. These amendments are needed to implement certain provisions of the General Education Provisions Act (GEPA), as amended by Title XIV of the Higher Education Amendments of 1986, and to improve the operation of the programs.

**DATE:** Comments must be received on or before May 6, 1988.

**ADDRESSES:** All comments concerning these proposed regulations should be addressed to Dr. Lawrence Bussey, Jr., Office of Research, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue NW., Suite 610, Washington, DC 20208-1633.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

**FOR FURTHER INFORMATION CONTACT:** Dr. Lawrence Bussey, Jr. (202) 357-6249.

**SUPPLEMENTARY INFORMATION:** The Regional Educational Laboratories Program makes financial assistance available to regional educational laboratories established by public agencies or private nonprofit institutions. Each laboratory, under the sole guidance of a regionally representative governing board, serves the education needs of a specific geographic region of the Nation. The Research and Development Centers Program provides financial assistance, to conduct educational research and development, to institutions of higher education, institutions of higher education in consort with public agencies or nonprofit organizations, and interstate agencies established by compact that operate subsidiary bodies to conduct postsecondary educational research and development.

The Secretary is proposing changes in these regulations to comply with the provisions of GEPA, as amended by the Higher Education Amendments of 1986 and to improve the operation of the program. The major proposed changes are:

*Sections 706.1, 706.5(b), and 708.12*

A new type of award, special activities, is proposed. Only laboratories or centers that receive an institutional operations award are eligible to apply for an award for special activities. These awards would provide a mechanism for currently funded laboratories or centers to compete for funds to conduct additional educational research and development activities. Selection criteria for the special activities awards are also proposed.

*Section 706.3*

The Secretary proposes to select funding priorities from a list of biennial research priorities published for public comment in the **Federal Register** in accordance with section 405(b)(4) of GEPA, as amended.

The Secretary also proposes to amend the list of funding priorities to reflect the list of priority research and development needs in section 405(a)(3) of GEPA, as amended. The proposed amendments were also developed in consultation with researchers, practitioners, civic and business leaders, policymakers, interested citizens, and professional associations, some of whom participated in a series of regional forums sponsored by the Department.

*Section 706.4(b)*

Technical amendments concerning the applicability of these program regulations to contracts are proposed. The current regulations and the Federal Acquisition Regulation (FAR) in 48 CFR Chapter 1 apply to contracts under this program. The Secretary proposes to incorporate the sections of these regulations listed in 34 CFR 706.4(b)(2), to the extent they are consistent with the FAR, into any solicitation for a contract under these programs.

*Section 706.23*

The Secretary proposes additional factors to be considered in selecting applications for institutional operations awards for laboratories and centers.

*Section 707.20(a)*

The Secretary proposes amendments to clarify the role of the regionally representative governing boards of the laboratories. Section 405(d)(A)(i) of GEPA, as amended, specifies that a governing board shall guide each laboratory and establish the regional agenda of the laboratory, consistent with the priority research and development needs of the Secretary. The Secretary proposes that the regionally representative governing board of each laboratory serve as the sole entity that guides the laboratory's activities and determines the regional agenda of the laboratory.

*Section 707.20(g)*

A new post award requirement, peer review, is proposed for laboratory awards. The Secretary proposes to require that a laboratory establish a peer review process to evaluate its products, research instruments, and self-evaluation designs.

*Section 708.10(b)*

The Secretary also proposes a new selection criterion for center planning awards. The purpose of this criterion, potential to influence practice, is to ensure that planning activities will address the needs of practitioners.

*Section 708.11(d)*

A new selection criterion for institutional operations awards for centers is proposed. The purpose of this criterion, technical soundness, is to ensure that the research design of a center is adequate to carry out the proposed activities.

*Section 708.21*

The Secretary proposes criteria, in addition to those in the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.253, for continuation awards. The additional criteria address the quality of the project already completed by a center and the proposed activities to be conducted under the continuation award.

### 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.

### Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. None of the proposed changes will place unnecessary burden on small entities submitting applications. The proposed changes will remove obsolete provisions from the regulations and create greater flexibility in administering the program. These changes will reduce unnecessary burden imposed by existing regulations and will benefit all applicants.

### Paperwork Reduction Act of 1980

Sections 706.11, 707.10, 707.11, 707.12, 708.10, 708.11 and 708.12 contain information collection requirements. As required by the Paperwork Reduction

Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h)).

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: James D. Houser.

**Invitation to Comment**

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Suite 610, 555 New Jersey Avenue NW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

**Assessment of Educational Impact**

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

**List of Subjects**

*34 CFR Part 706*

Colleges and universities, Education, Educational research, Grant programs—education, Local educational agencies, Nonprofit organizations, Reporting and recordkeeping requirements, State educational agencies.

*34 CFR Part 707*

Colleges and universities, Education, Educational research, Grant programs—education, Local educational agencies, Nonprofit organizations, Reporting and recordkeeping requirements, State educational agencies.

*34 CFR Part 708*

Colleges and universities, Education, Educational research, Grant programs—education, Local educational agencies, Nonprofit organizations, Reporting and recordkeeping requirements, State educational agencies.

(Catalog of Federal Domestic Assistance Number 84.117: Educational Research and Development)

Dated: February 24, 1988.

**William J. Bennett,**

*Secretary of Education.*

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by revising Parts 706, 707 and 708 to read as follows:

## PART 706—REGIONAL EDUCATIONAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS PROGRAMS: GENERAL PROVISIONS

**Subpart A—General**

Sec.
706.1 What are the Regional Educational Laboratories and Research and Development Centers Programs?
706.2 Who is eligible for an award?
706.3 What priorities may the Secretary establish?
706.4 What regulations apply?
706.5 What definitions apply?

**Subpart B—How Does One Apply for an Award?**

706.10 What assurances must an applicant make?
706.11 What information is needed for a multi-year project for institutional operations?

**Subpart C—How Does the Secretary Make an Award?**

706.20 How does the Secretary evaluate an application?
706.21 What additional procedures may the Secretary use to determine which applications will be selected for funding?
706.22 What additional factors may the Secretary consider in selecting an application for a planning award?
706.23 What additional factors does the Secretary use to select an application for an institutional operations award?

**Authority:** 20 U.S.C. 1221e, unless otherwise noted.

### Subpart A—General

**§ 706.1 What are the Regional Educational Laboratories and Research and Development Centers Programs?**

Under the Regional Laboratories and Research and Development Centers Programs, the Secretary provides support for planning, institutional operations, and special activities of regional educational laboratories and research and development centers.

(Authority: 20 U.S.C. 1221e)

**§ 706.2 Who is eligible for an award?**

(a) The following parties are eligible to apply for awards for the planning of a laboratory or center:

(1) Public or private organizations, institutions or agencies.

(2) Individuals.

(b) The following parties are eligible to apply for awards for institutional operations:

(1) For regional educational laboratories, public agencies or private nonprofit organizations.

(2) For research and development centers, institutions of higher education, institutions of higher education in consort with public agencies or private nonprofit organizations or interstate agencies established by compact that operate subsidiary bodies established to conduct postsecondary educational research and development.

(c) In any fiscal year, the Secretary may make grants for special activities to regional educational laboratories or research and development centers that receive institutional operations awards in the same fiscal year.

(Authority: 20 U.S.C. 1221e)

**§ 706.3 What priorities may the Secretary establish?**

(a) The Secretary may select funding priorities from a list of biennial research priorities published in the **Federal Register** for public comment pursuant to section 405(b)(4) of the Act, and published in final form in the **Federal Register.** These biennial research priorities may include one or more priorities from paragraph (b) of this section.

(b) The Secretary may also select one or more funding priorities by choosing from the following list of individual priorities or a combination of these priorities:

(1) Learning.

(2) Teaching.

(3) Technology in education.

(4) Instructional processes and materials, including textbooks and computer software for instruction.

(5) Education and staff development for teachers, administrators and other education staff.

(6) Organization and management of schools, including effective education leadership.

(7) Evaluation and indicator measures, including testing, measurement, and standards of performance.

(8) Governance of education, including school board policies and practices.

(9) Educational finance and productivity.

(10) Education and the law.

(11) Dissemination and knowledge utilization in education.

(12) Improvement in education, including State and local reform initiatives.

(13) Student achievement, including students' motivation to learn, their failure to learn, and their failure to attend school and graduate.

(14) Home, family, cultural, and community influences on education, including parental choice and involvement in schooling.

(15) Education, work, and careers.

(16) Equity and excellence, including the effects of ability grouping.

(17) Guidance and counseling.

(18) International education.

(19) English literacy, including reading, writing, and language skills:

(20) Mathematics.

(21) Science.

(22) Foreign languages.

(23) Early childhood education.

(24) History and social sciences, including economics, geography, political science, sociology, anthropology, and psychology.

(25) Physical and health education.

(26) Humanities, including music, art, literature and dance.

(27) Citizenship and character education.

(28) Elementary education.

(29) Secondary education.

(30) Early adolescent education.

(31) Adolescent education.

(32) Postsecondary education.

(33) Adult and continuing education.

(34) Teachers.

(35) School professionals and personnel.

(36) Public and private educational institutions.

(37) School discipline and crime in the schools.

(38) Education of special populations, including the educationally disadvantaged or students-at-risk, those with limited English proficiency, the handicapped, immigrants, and the academically gifted and talented.

(Authority: 20 U.S.C. 1221e)

### § 706.4 What regulations apply?

(a) *Grants.* The following regulations apply to grants under this program:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), Part 77 (Definitions That Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(2) The regulations in this Part 706 and in 34 CFR Parts 707 and 708.

(b) *Contracts.* (1) The following regulations apply to contracts under this program:

(i) The Federal Acquisition Regulation (FAR) in 48 CFR Chapter 1.

(ii) The Eduction Department Acquisition Regulation (EDAR) in 48 CFR Chapter 34.

(2) Requirements substantially similar to the following sections of the regulations in this Part 706 and 34 CFR Parts 707 and 708 will be incorporated into the solicitation for a laboratory or center contract, to the extent that these sections are consistent with applicable regulations in the FAR and EDAR:

(i) *Part 706.* Sections 706.1, 706.5, 706.10, 706.11, 706.22 and 706.23.

(ii) *Part 707.* Sections 707.1, 707.2, 707.10, 707.11, 707.12, and 707.20.

(iii) *Part 708.* Sections 708.1, 708.10, 708.11, 708.12, and 708.20.

(Authority: 20 U.S.C. 1221e)

### § 706.5 What definitions apply?

(a) *Definitions in EDGAR.* The following terms used in these regulations are defined in 34 CFR 77.1:

Applicant
Application
Award
Department
EDGAR
Grant
Nonprofit
Private
Public
Secretary
State

(b) *Other definitions.* The following definitions also apply to this part:

"Act" means the General Education Provisions Act, as amended.

"Center" means an educational research and development center authorized under section 405(d)(4)(A)(ii) of the Act.

"Contract" means a procurement contract entered into by the Federal government to purchase, rent, lease or otherwise obtain supplies or services from nonfederal sources.

"Educational research" means basic and applied research, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations in the field of education and related fields.

"Institution of higher education" means an institution of higher education as defined in section 1201 of the Higher Education Act of 1965, as amended.

"Institutional operations" means the activities of a laboratory or center conducted under a long-term plan approved by the Secretary.

"Laboratory" means a regional educational laboratory authorized under section 405(d)(4)(A)(i) of the Act.

"Mission" means the priority or priorities for the laboratory or center established by the Department in accordance with § 706.3.

"Planning" means activities related to preparing an application for institutional operations of a laboratory or center.

"Special activities" means activities carried out by a Regional Educational Laboratory or a Research and Develoment Center in addition to those included in its institutional operations award.

(Authority: 20 U.S.C. 1141; 1221e)

## Subpart B—How Does One Apply for an Award?

### § 706.10 What assurances must an applicant make?

In its application for an award for institutional operations, an applicant shall make assurnces that the laboratory or center involved will—

(a) Be responsible for the conduct of the research and development activities in its approved application;

(b) Prepare a long-range plan relating to the conduct of those research and development activities;

(c) Ensure that information developed as a result of those research and development activities, including new educational methods, practices, techniques, and products, are appropriately disseminated;

(d) Provide technical assistance to the appropriate educational agencies and institutions; and

(e) To the extent practicable, providing training for individuals, emphasizing training opportunities for women and members of minority groups, in the use of new educational methods, practices, techniques and products developed in connection with those activities.

(Authority: 20 U.S.C. 1221e)

### § 706.11 What information is needed for a multi-year project for institutional operations?

In addition to the information required in 34 CFR 75.117, an application for a multi-year project for institutional operations must contain a mission statement for the proposed laboratory or center as a whole. The mission statement must describe goals and objectives for each year of the proposed project and discuss how they relate to the specific activities described in the application.

(Authority: 20 U.S.C. 1221e)

## Subpart C—How Does the Secretary Make an Award?

### § 706.20 How does the Secretary evaluate an application?

(a) For each competition the Secretary uses the applicable selection criteria in 34 CFR 707.10, 707.11, 707.12, 708.10, 708.11 or 708.12 to evaluate applications for new awards under this program.

(b) The maximum score for all the criteria in each section is 100 points, including any reserved points to be distributed in accordance with paragraphs (d) and (e) of this section.

(c) Subject to paragraphs (d) and (e) of this section, the maximum possible score for each criterion is indicated in parentheses.

(d) For any competition for laboratory awards, the Secretary distributes 5 additional points to the criterion on budget and cost effectiveness in the applicable section (34 CFR 707.10, 707.11, or 707.12).

(e) For any competition for center awards, the Secretary assigns 10 additional points to one or more of the criteria described in the applicable section (34 CFR 708.10, 708.11, or 708.12).

(Authority: 20 U.S.C. 1221e)

### § 706.21 What additional procedures may the Secretary use to determine which applications will be selected for funding?

In addition to the review procedures in 34 CFR 75.217, the Secretary may use the following procedures to determine which applications will be selected for funding:

(a) After review of applications and preparation of a rank order of the applications in accordance with 34 CFR 75.217(b) and (c) and § 706.20, the Secretary may select applications for further consideration on the basis of the rank order and the factors in 34 CFR 75.217(d). The Secretary informs each applicant whether its application has been chosen for further consideration.

(b)(1) Each applicant chosen for further consideration shall submit any additional information requested by the Secretary.

(2) In requesting additional information of applicants chosen for further consideration, the Secretary—

(i) Provides applicants with a reasonable opportunity to revise and resubmit their applications; and

(ii) Does not provide information to any applicant about the contents of other applications chosen for further consideration, or otherwise provide any information that could give an applicant a competitive advantage over other applicants.

(c) The Secretary may conduct site visits to all or some of the applicants to obtain further information on the activities described in an application and an applicant's capability to perform those activities.

(Authority: 20 U.S.C. 1221e)

### § 706.22 What additional factors may the Secretary consider in selecting an application for a planning award?

In addition to the selection criteria in 34 CFR 707.10 or 708.10 and the additional information in accordance with § 706.21, the Secretary considers the following in making awards for planning of a laboratory or center:

(a) The relationship between the technical merit of the proposed educational research and development program and its cost in comparison to other proposed programs.

(b) The extent to which funding an application would contribute to a collection of laboratory and center activities that are both diverse and balanced.

(Authority: 20 U.S.C. 1221e)

### § 706.23 What additional factors does the Secretary use to select an application for an institutional operations award?

In addition to the criteria in 34 CFR 707.11 and 708.11 and the additional information obtained in accordance with § 706.21, the Secretary considers the following in making awards for institutional operations of a laboratory or center:

(a) The extent to which funding an application would contribute to a collection of laboratory and center activities that are both diverse and balanced; and

(b) The relationship between the technical merit of the proposed program and its cost in comparison to other proposed programs.

(Authority: 20 U.S.C. 1221e)

# PART 707—REGIONAL EDUCATIONAL LABORATORIES

## Subpart A—General

Sec.
707.1 What regulations apply?
707.2 What geographic regions do the laboratories serve?

**Subpart B—How Does the Secretary Make an Award?**

707.10 What are the selection criteria for laboratory awards for planning?
707.11 What are the selection criteria for laboratory awards for institutional operations?
707.12 What are the selection criteria for laboratory awards for special activities?

**Subpart C—What Conditions Must Be Met by a Grantee?**

707.20 What requirements must be met by a grantee?

Authority: 20 U.S.C. 1221e, unless otherwise noted.

## Subpart A—General

### § 707.1 What regulations apply?

The regulations in this part and the regulations cited in 34 CFR 706.5 apply to awards for regional educational laboratories.

(Authority: 20 U.S.C. 1221e)

### § 707.2 What geographic regions do the laboratories serve?

(a) A laboratory established under this program serves one of the following geographic regions:

(1) Connecticut, Maine, Massachusetts, New Hampshire, New York, Puerto Rico, Rhode Island, Vermont, Virgin Islands.

(2) Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania.

(3) Kentucky, Tennessee, Virginia, West Virginia.

(4) Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina.

(5) Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, Wisconsin.

(6) Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

(7) Colorado, Kansas, Missouri, Nebraska, North Dakota, South Dakota, Wyoming.

(8) Arizona, California, Nevada, Utah.

(9) Alaska, Idaho, Montana, Oregon, Washington.

(10) American Samoa, Guam, Hawaii, Palau (only to the extent authorized by section 104 of Pub. L. 99–658 and until the effective date of the Compact of Free Association with the Government of Palau), and, to the extent approved by the Secretary, the Marshall Islands and the Federated States of Micronesia (in accordance with section 226 of the Compact of Free Association as set forth in section 201 of Pub. L. 99–239).

(b) For each competition for a laboratory award, the Secretary announces which one or more of the geographic regions designated in § 707.2(a) will be served.

(c) In the event that funding of a particular laboratory serving a region under this program is discontinued, the Secretary may provide additional funds to another laboratory for continuation of laboratory services to States in that region.

(Authority: 20 U.S.C. 1221e)

## Subpart B—How Does the Secretary Make an Award?

### § 707.10 What are the selection criteria for laboratory awards for planning?

The Secretary uses the following criteria to evaluate applications for laboratory awards for planning:

(a) *Understanding of the educational settings and issues in the region* (25 points). The Secretary reviews each application to determine the extent to which the applicant—

(1) Understands the educational settings and issues in the region;

(2) Demonstrates knowledge of the strengths and needs of the educational systems—public and private, elementary, secondary, and postsecondary—in the region;

(3) Understands significant trends expected to influence education in the region over the next five years;

(4) Demonstrates knowledge of the capabilities of existing organizations that provide research, dissemination, training, and assistance to educational agencies in the region and how a laboratory can complement their work; and

(5) Understands the barriers and challenges facing a laboratory in the region and ways of overcoming them.

(b) *Organizational ability to conduct planning and design tasks* (20 points). The Secretary reviews each application to determine the organizational ability of the applicant to conduct the required planning and design tasks, including—

(1) The extent to which the applicant has successful experience in planning or conducting multi-State activities related to educational research and development; and

(2) Whether the existing relationships in the region give the applicant access to important groups of clients in the region and contribute to cooperative planning activities.

(c) *Plan of operation* (20 points). The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the management plan ensures proper and efficient administration of the project;

(3) The degree to which the objectives of the project relate to the purpose of the program;

(4) The adequacy of the applicant's plans to use its resources and personnel to achieve each objective; and

(d) *Quality of key personnel* (20 points).

(1) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use in the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(1)(i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping conditions.

(2) To determine personnel qualifications under paragraphs (d)(1)(i) and (ii) of this section, the Secretary considers—

(i) Experience and training, in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(e) *Budget and cost-effectiveness* (0 points). The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives and activities of the project.

(f) *Evaluation plan* (5 points). The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate for the project; and

(2) To the extent possible, are objective and produce data that are quantifiable.

(g) *Adequacy of resources* (5 points). The Secretary reviews each application to determine the adequacy of the resources to be devoted to the project, including facilities, equipment and supplies.

(Authority: 20 U.S.C. 1221e)

### § 707.11 What are the selection criteria for laboratory awards for institutional operations?

The Secretary uses the following criteria to evaluate applications for laboratory awards for institutional operations:

(a) *Understanding of and responsiveness to regional needs* (10 points). The Secretary reviews each application to determine the applicant's understanding of and responsiveness to the needs of the region, including—

(1) The degree to which the applicant demonstrates an understanding of current and projected educational conditions and needs in the region;

(2) The extent to which the applicant proposes adequate mechanisms and procedures for assessing the educational research and development needs and capabilities of the region and for determining laboratory priorities; and

(3) The quality of the applicant's analysis of strategic options and a plan for responding to regional needs.

(b) *Strength of relationships with the region* (15 points). The Secretary reviews each application to determine the strength of the applicant's relationship with the region to be served, including—

(1) The extent to which the proposed governing board's membership reflects regional interests and constituencies;

(i) The quality of the applicant's plans for a governing board designed to take an active role in setting policy and determining the regional agenda of the laboratory;

(ii) The extent to which the applicant's plans for a governance structure provide the organizational autonomy necessary for neutrality, balance, and equity in the selection of clients and the delivery of services;

(2) The quality, extent, and feasibility of proposed collaborative relationships with appropriate organizations, such as—

(i) Public education agencies at State, intermediate, and local levels;

(ii) Educational research and development agencies;

(iii) Organizations providing assistance in the use of research outcomes;

(iv) Clearinghouses, including those compromising the Education Resources Information Clearinghouse system;

(v) Professional associations;

(vi) Institutions of higher education;

(vii) Community-based organizations;

(viii) Business and industry; and

(ix) National Diffusion Network: State and Private School Facilitators; and

(3) Evidence of successful work in the past with organizations listed in paragraph (b)(2) of this section.

(c) *Institutional capability* (15 points). The Secretary reviews each application to determine the qualifications of the applicant to sustain a long-term, high-quality, and coherent program of research and services, including—

(1) The extent to which adequate organizational mechanisms and procedures exist for managing work internally and in collaboration with other institutions:

(2) The degree to which there are adequate procedures for quality control and self-evaluation; and

(3) The degree to which there are adequate plans for effecting improvement in organizational performance and staff development during the project period.

(d) *Plan of operation* (25 points). The Secretary reviews each application to determine the quality of the plan of operation for the project; including—

(1) Quality in the design of the project;

(2) The degree to which the management plan ensures proper and efficient administration of the project;

(3) The degree to which the objectives of the project relate to the mission of the laboratory;

(4) The adequacy of the applicant's plans to use its resources and personnel to achieve each objective;

(5) The quality of the applicant's plan to provide equitable services to students and teachers in elementary and secondary public and private schools;

(6) The extent to which proposed activities relate logically to statements of regional needs and priorities;

(7) The degree of coherence of work within and among program activities;

(8) The extent to which the proposed activities complement related efforts inside and outside the region;

(9) The extent of the anticipated contribution of the work to educational improvement; and

(10) The appropriateness of provisions for sequencing and pacing work activities.

(e) *Quality of key personnel* (20 points).

(1) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use in the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (e)(1)(i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(2) To determine personnel qualifications under paragraphs (e)(1)(i) and (ii) of this section, the Secretary considers—

(i) Experience and training, in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the project.

(f) *Budget and cost-effectiveness* (0 points). The Secretary reviews each application to determine the adequacy of the budget and cost effectiveness, including the extent to which—

(1) The budget for the project is adequate to support the project activities; and

(2) Costs are reasonable in relation to the objectives of the project.

(g) *Evaluation plan* (5 points). The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the adequacy of—

(1) A peer review process for evaluating laboratory products, research instruments, and self-evaluation designs;

(2) The participation of the governing board in setting requirements and examining results of laboratory self-evaluation of activities and outcomes;

(3) The methods which document the laboratory's progress in relation to its objectives; and

(4) The methods which document the impact of the laboratory's program on the needs of those served in the designated region.

(h) *Adequacy of resources* (5 points). The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(Authority: 20 U.S.C. 1221e)

### § 707.12 What are the selection criteria for laboratory awards for special activities?

The Secretary uses the following criteria to evaluate applications for laboratory awards for special projects:

(a) *Strength of relationships with appropriate organizations and agencies in the region* (15 points). The Secretary reviews each application to determine the quality, extent and feasibility of proposed collaborative relationships of the laboratory with organizations listed in § 707.11(b)(2) to the focus and purpose of the special activity.

(b) *Institutional capability* (15 points). The Secretary reviews each application to determine the adequacy of the laboratory's organizational capacity for implementing the special activity.

(c) *Plan of operation* (30 points). The Secretary reviews each application to determine the quality of the plan for implementing the special activity.

(d) *Quality of key personnel* (25 points). The Secretary reviews each application to determine the qualifications of the key personnel, including experience and training related to the objectives of the activity.

(e) *Budget and cost-effectiveness* (0 points). The Secretary reviews each application to determine the adequacy and cost effectiveness of the budget for the special activity.

(f) *Evaluation plan* (5 points). The Secretary reviews each application to determine the quality of the evaluation plan to document accomplishment of the activity's objectives.

(g) *Adequacy of resources* (5 points). The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the activity, including facilities, equipment, and supplies.

(Authority: 20 U.S.C. 1221e)

## Subpart C—What Conditions Must Be Met by a Grantee?

### § 707.20 What requirements must be met by a grantee?

An applicant receiving a laboratory award for institutional operations shall meet the following post-award requirements:

(a) Establish a governing board that—

(1) Is the sole entity that—

(i) Guides and directs the laboratory in satisfying the terms and conditions of the award; and

(ii) Determines the regional agenda of the laboratory, consistent with the priority research and development needs established by the Secretary; and

(2) Reflects a balanced representation of the States in the region, as well as the interests and concerns of regional constituencies.

(b) Facilitate communication among educational agencies and individuals in the region.

(c) Identify concerns and priorities through regionally representative governing and advisory structures and activities that help regional clients define their needs.

(d) Conduct applied research, development, and related activities to address regional needs.

(e) Promote the use in the region of research and development results from all sources inside and outside the region, including the laboratory.

(f) Collaborate with centers, other laboratories, the Education Resources Information Clearinghouses, and the National Diffusion Network: State and Private School Facilitators.

(g) Establish a peer review process for evaluating laboratory products, research instruments, and self-evaluation designs.

(Authority: 20 U.S.C. 1221e)

## PART 708—RESEARCH AND DEVELOPMENT CENTERS

**Subpart A—General**

Sec.
708.1 What regulations apply?

**Subpart B—How Does the Secretary Make an Award?**

708.10 What are the selection criteria for awards for center planning?
708.11 What are the selection criteria for center awards for institutional operations?
708.12 What are the selection criteria for center awards for special activities?

**Subparts C—D [Reserved]**

**Subpart E—What Conditions Must Be Met After an Award?**

708.20 What requirements must be met by a grantee?
708.21 What additional factors does the Secretary consider in making continuation awards?

Authority: 20 U.S.C. 1221e, unless otherwise noted.

### Subpart A—General

#### § 708.1 What regulations apply?

The regulations in this part and the regulations cited in 34 CFR 706.4 apply to awards for research and development centers.

(Authority: 20 U.S.C. 1221e)

### Subpart B—How Does the Secretary Make an Award?

#### § 708.10 What are the selection criteria for awards for center planning?

The Secretary uses the following criteria to evaluate applications for awards for center planning:

(a) *Mission and strategy* (40 points). The Secretary reviews each application to determine the extent to which the applicant understands the state of knowledge and practice with respect to the problem area and priorities of the center for which the applicant is applying, including the extent to which the applicant shows—

(1) An understanding of the mission of the proposed center;

(2) Knowledge of relevant research and theory;

(3) Knowledge of relevant problems in educational practice;

(4) Familiarity with relevant strategies of research, development, and dissemination; and

(5) Familiarity with strategies for relating to other organizations in educational research, development, and practice.

(b) *Potential to influence practice* (20 points). The Secretary reviews each application to determine if the planning process will address strategies for influencing educational practice, including—

(1) The extent to which the project will address practitioners' needs as identified; and

(2) The extent to which the planning process will result in a design that will yield knowledge that can be used in an educational setting.

(c) *Plan of operation* (10 points). The Secretary reviews each application to determine the qualify of the plan of operation for the project, including—

(1) The quality in the design of the project;

(2) The effectiveness of the management plan; and

(3) The degree to which the research needs of both public and private elementary and secondary schools or institutions of higher education will be addressed.

(d) *Quality of key personnel* (20 points).

(1) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the center's key personnel to be involved in the center's planning;

(iii) The time that each person referred to in paragraphs (d)(1) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(2) To determine personnel qualifications, under paragraphs (d)(1) (i) and (ii) of this section the Secretary considers—

(i) Experience and training, in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(Authority: 20 U.S.C. 1221e)

#### § 708.11 What are the selection criteria for center awards for institutional operations?

The Secretary uses the following criteria to evaluate applications for center awards for institutional operations:

(a) *Mission and strategy* (15 points). The Secretary reviews each application to determine the extent to which the applicant understands the state of knowledge and practice related to the priorities established by the Secretary for the center's mission, including—

(1) The extent of the applicant's understanding of the mission of the proposed center;

(2) How the activities of the proposed center will contribute to the advancement of relevant theory and practice;

(3) The quality of plans to establish effective working relations with other organizations in educational research, development, and practice;

(4) The quality of the plans to address the problems of special populations and of both public and private institutions in terms of the mission of the proposed center; and

(5) The quality of long-range plans for developing an appropriate, coherent, and effective program of educational research, development, and dissemination.

(b) *Institutional capability* (15 points). The Secretary reviews each application to determine the capabilities of the host institution to sustain a long-term, high-quality, and coherent program of research, development, and dissemination, in the mission area, including the extent to which the application shows evidence of—

(1) An appropriate organizational structure and commitment to provide the services of appropriate faculty or staff members from the applicant's organization;

(2) An appropriate mixture of scholarly and practitioner backgrounds in the project staff of the applicant;

(3) Past successes of the applicant in collaborating with individuals and organizations to conduct educational research and development;

(4) Structure and governance arrangements likely to provide appropriate direction, quality control, and cost effective management; and

(5) Availability of appropriate resources for the effective implementation of research and development activities.

(c) *Plan of operation* (15 points). The Secretary reviews each application to determine the quality of the plan of operation for the proposed center, including—

(1) The degree to which the plan for center management ensures proper and efficient administration of the project;

(2) The effectiveness of proposed strategies for providing national leadership within the center's mission;

(3) The extent to which the applicant shows promising strategy for disseminating center products, including the identification of intended audiences and reasonable timelines for dissemination;

(4) The adequacy of the applicant's plans to use its resources and personnel to achieve each objective; and

(d) *Technical soundness* (20 points). The Secretary reviews each application to determine the technical soundness of the proposed research, including—

(1) The extent to which the applicant demonstrates a thorough knowledge of current research and development concepts, theories, and outcomes and relates these to the proposed activities and the mission of the center;

(2) The adequacy of the research design and methodologies to address the research questions posed; and

(3) Evidence that, where appropriate, the perspectives of a variety of disciplines are used.

(e) *Quality of key personnel* (15 points).

(1) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project; and

(iii) The applicant's policy, as part of its nondiscriminatory employment practices, to ensure that its personnel are selected without regard to race, color, national origin, gender, age, or handicapped condition.

(2) To determine personnel qualifications under paragraphs (e)(1)(i) and (ii) of this section the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the project.

(f) *Budget and cost-effectiveness* (5 points). The Secretary reviews each application to determine the extent to which the project has an adequate budget and is cost effective, including the extent to which—

(1) The budget for the project is adequate to support the project activities;

(2) The equipment and supplies that the applicant plans to use are adequate; and

(3) Costs are reasonable in relation to the objectives and activities of the project.

(g) *Evaluation plan* (5 points). The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the adequacy of—

(1) The peer review process for evaluating research instruments and products;

(2) The plan for advisory board evaluation of center research activities and resources;

(3) The methods which will be used to document the center's progress in relation to its objectives; and

(4) The methods which will be used to document the impact of the center's program on its target audiences.

(Authority: 20 U.S.C. 1221e)

**§ 708.12 What are the selection criteria for center awards for special activities?**

The Secretary uses the following criteria to evaluate applications for awards for special activities:

(a) *Mission and strategy* (15 points). The Secretary reviews each application to determine the extent to which the special activity contributes to the current mission of the center, including the extent to which—

(1) The program of work will contribute to the advancement of relevant theory and practice;

(2) The plans to establish working relations, as appropriate, with other organizations in educational research, development, and practice will be effective;

(3) The proposed activities will advance the center's mission;

(4) The proposed activities incorporate plans to address the problems of special populations and of both public and private elementary and secondary schools and institutions of higher education in terms of the mission of the proposed center.

(b) *Capacity of center* (10 points). The Secretary reviews each application to determine whether the institution has the appropriate organization and fiscal resources to complete the special activity, including—

(1) Strong evidence of an effective organizational structure and a commitment to provide the services of appropriate faculty or staff members from the applicant's organization;

(2) Inclusion of an appropriate mixture of scholarly and practitioner backgrounds in the project staff of the applicant;

(3) Structure and governance arrangements likely to provide appropriate direction, quality control, and cost effective management; and

(4) Adequate allotment of resources and facilities.

(c) *Plan of operation* (20 points). The Secretary reviews each application to determine the adequacy of the plan of operation for the activities and how they complement the center's current plans, including—

(1) The extent to which an effective plan of project management ensures proper and efficient administration of the activities;

(2) The extent to which the applicant plans to use its resources and personnel to achieve each objective; and

(3) The degree to which the research needs of both public and private elementary and secondary schools and institutions of higher education are addressed by the proposed research, if appropriate.

(d) *Technical soundness* (25 points). The Secretary reviews each application to determine the technical soundness of the proposed activities, including—

(1) The extent to which the application demonstrates a thorough knowledge of current research and development concepts, theories, and outcomes and relates this knowledge to the proposed activity and the mission of the center;

(2) The adequacy, as appropriate, of the research design and methodologies to address the research questions posed; and

(3) The extent to which, where appropriate, the perspectives of a variety of disciplines are used.

(e) *Quality of key personnel* (15 points). The Secretary reviews each application to determine the qualifications of the key personnel assigned to the special activities project, including the adequacy of—

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel to be used in the project; and

(3) The applicant's policy, as part of its nondiscriminatory employment practices will ensure that its personnel are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(4) To determine personnel qualifications under paragraphs (e) (1) and (2) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the project.

(f) *Budget and cost-effectiveness* (5 points). The Secretary reviews each application to determine the appropriateness of the budget in relation to the proposed activities, including the extent to which—

(1) The budget for the project is adequate to support the project activities;

(2) The facilities' equipment and supplies that the applicant plans to use are adequate; and

(3) Costs are reasonable in relation to the objectives and activities of the project.

(Authority: 20 U.S.C. 1221(e))

## Subparts C—D [Reserved]

## Subpart E—What Conditions Must Be Met After an Award

### § 708.20 What requirements must be met by a grantee?

A grantee receiving an award for institutional operations shall—

(a) Provide national research leadership with respect to the mission of its center;

(b) Establish and maintain a nationally representative advisory panel; and

(c) Collaborate with laboratories, other centers, appropriate Education Resources Information Clearinghouses, and National Diffusion Network: State and Private School Facilitators.

(Authority: 20 U.S.C. 1221e)

### § 708.21 What additional factors does the Secretary consider in making continuation awards?

In making continuation awards under 34 CFR 75.253, the Secretary considers, among other factors, whether—

(a) All products and reports that were due during the budget period that is about to end have been received by the Department;

(b) The project's activities have been carried out in a manner consistent with the previously approved application;

(c) The products and reports are of adequate technical quality; and

(d) The project plans for the subsequent budget period are likely to advance the mission of the center, including the extent to which—

(1) The potential of any new or redirected research project or other center activity within the scope of the project plan will advance the mission of the center;

(2) The center's plan of operation for managing these activities is adequate;

(3) Any new research projects or other activities are technically sound;

(4) The center's personnel are qualified to accomplish the proposed activities; and

(5) The budget is appropriate in relation to the scope of the proposed activities.

(Authority: 20 U.S.C. 1221e)

[FR Doc. 88-6139 Filed 3-21-88; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF EDUCATION

[CFDA No. 84.117F]

### Inviting Applications for New Awards Under the Research and Development Centers Program for Fiscal Year 1988

*Purpose:* To fund a research and development center to study technology in education, as it affects learning, teaching, evaluation and indicator measures, and organization and management of schools.

*Deadline for Transmittal of Applications:* June 10, 1988.

*Applications Available:* March 29, 1988.

*Available Funds:* $900,000.

*Estimated Size of Award:* $900,000 (first year).

*Number of Awards:* 1.

*Project Period:* Up to 5 years.

*Applicable Regulations:* (a) The regulations for the Regional Educational Laboratories and Research and Development Centers Programs as proposed to be codified in 34 CFR Parts 706 and 708. Applications will be accepted based on the notice of proposed rulemaking published in this issue of the **Federal Register.** If any substantive changes are made in the final regulations for these programs, applicants will be given an opportunity to revise or resubmit their applications. (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78.

*Priorities:* The Secretary has chosen from the list of priorities in proposed 34 CFR 706.3(b) the following as absolute priorities: technology in education; learning; teaching; evaluation and indicator measures, including testing, measurement, and standards of performance; and organization and management of schools, including effective education leadership. Only applications that propose a research and development center addressing all five priority areas will be considered under this competition.

Within this absolute priority the Secretary is interested in research and related activities that will increase school productivity and student achievement by applying advanced technology to problems associated with restructuring of schools, testing and assessment of students, and the teaching and learning of content subjects. However, applications meeting this invitational priority will not receive an absolute or competitive advantage over other applications within the absolute priority.

*Weighting for Selection Criteria:* The proposed program regulations at 34 CFR 706.20(e) authorize the Secretary to distribute an additional 10 points among the criteria described in the regulations at 34 CFR 708.11 to bring the total to a maximum of 100 points. The Secretary will distribute the reserved 10 points as follows: 5 additional points to the criterion at § 708.11(a) (Mission and strategy), bringing the total for this criterion to 20 points; and 5 additional points to the criterion at § 708.11(b) (Institutional capability), bringing the total for this criterion to 20 points.

*For Applications or Information Contact:* Dr. Anne E. Sweet, Office of Research, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue NW., Mail Stop 1606, Washington, DC 20208 Telephone Number (202) 357-6043.

There will be a briefing for prospective applicants on April 15, 1988 from 9:30 a.m. to 11:30 a.m. in Room 326, 555 New Jersey Avenue NW., Washington, DC 20208.

*Program Authority:* 20 U.S.C. 1221e.

Dated: March 8, 1988.

**Chester E. Finn, Jr.,**

*Assistant Secretary for Educational Research and Improvement.*

[FR Doc. 88-6140 Filed 3-21-88; 8:45 am]

BILLING CODE 4000-01-M

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[CFDA No. 84.117C-2]

### Inviting Applications for New Awards Under the Research and Development Centers Program for Fiscal Year 1988

*Purpose:* To support a research and development center to study organization and management of schools, including effective education leadership.

*Deadline for Transmittal of Applications:* June 10, 1988.

*Applications Available:* March 29, 1988.

*Available Funds:* $1,000,000.

*Estimated Average Size of Awards:* $1,000,000 (per year).

*Estimated Number of Awards:* 1.

*Project Period:* Up to 5 years.

*Applicable Regulations:* (a) The regulations for the Regional Educational Laboratories and Research and Development Centers Programs as proposed to be codified in 34 CFR Parts 706 and 708. Applications will be also accepted based on the notice of proposed rulemaking published in this issue of the **Federal Register.** If any substantive changes are made in the final regulations for these programs, applicants will be given an opportunity to revise or resubmit their applications. (b) The Notice of Proposed Biennial Research Priorities published in the **Federal Register** on November 20, 1987 (52 FR 44625). Applications will be accepted based on the Notice of Proposed Biennial Research Priorities. If any substantive changes affecting the priority chosen for this competition are made in the final biennial research priorities, applicants will be given an opportunity to revise or resubmit their applications. (c) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78.

*Priorities:* The Secretary has chosen from the notice of proposed biennial research priorities published in the **Federal Register** on November 20, 1987 (52 FR 44625) the following as an absolute priority: Management and organization of schools. This priority includes examining the dynamics of educational organizations, management and leadership strategies and how leadership practices can improve instructional programs, school discipline, and school productivity.

Within this absolute priority the Secretary invites applications proposing research and related activities based on theories and findings from disciplines complementary to education administration, such as sociology, management, and public administration. Further, the Secretary invites applications that will examine short-term as well as long-term improvement of practice in K-12 public and private schools, and the linkage of school leadership practices to increases in student achievement. However, applications that meet these invitational priorities will not receive an absolute or competitive advantage over applications within the absolute priority that do not meet these invitational priorities.

*Weighting for Selection Criteria:* The proposed program regulations at 34 CFR 706.20(e) authorize the Secretary to distribute an additional 10 points among the criteria described in the regulations at 34 CFR 708.11 to bring the total to a maximum of 100 points. The Secretary will distribute the reserved 10 points as follows: 5 additional points to the criterion at § 708.11(a) (Mission and strategy), bringing the total for this criterion to 20 points; and 5 additional points to the criterion at § 708.11(d) (Technical soundness), bringing the total for this criterion to 25 points.

*For Applications or Information Contact:* Dr. Robert Slater, Office of Research, Office of Educational Research and Improvement, U.S. Department of Education, Room 627E, 555 New Jersey Avenue NW., Washington, DC 20208. Telephone Number (202) 357-6218.

There will be a briefing for prospective applicants on April 15, 1988 from 2:00 p.m. to 4:00 p.m. in Room 326, 555 New Jersey Avenue NW., Washington, DC 20208.

*Program Authority:* 20 U.S.C. 1221e.

Dated: March 8, 1988.

**Chester E. Finn, Jr.,**

*Assistant Secretary for Educational Research and Improvement.*

[FR Doc. 88-6141 Filed 3-21-88; 8:45 am]

BILLING CODE 4000-01-M

federal register

Tuesday
March 22, 1988

## Part III

# The President

Proclamation 5777—National Agriculture Day, 1988

Executive Order 12631—Working Group on Financial Markets

Federal Register
Vol. 53, No. 55
Tuesday, March 22, 1988

# Presidential Documents

Title 3—

The President

Proclamation 5777 of March 18, 1988

## National Agriculture Day, 1988

By the President of the United States of America

A Proclamation

As a Nation we are blessed deeply and in many ways. The agriculture that sustains us is truly one of those blessings. We do well to give thanks for our bountiful crops. They are the yield of our fertile fields; of the skills and cooperation of countless Americans, including farmers, ranchers, scientists, farm organizations, commerce, and government; and, surely, of the liberty in which the American people are free to work, create, and produce for their mutual benefit.

Some of the world's best farmland is here in our country; roughly half of the land in the contiguous United States has a capacity for crop production. Our bounty supplies needs both at home and abroad; today, one American farmer produces enough food and fiber for 114 people. Our agricultural production, processing, and marketing provide jobs, generate wealth, and strengthen our economy, our standard of living, and our position in world trade markets. Thanks to our agricultural efficiency, American consumers, on average, spend less of their income on food than do citizens of any other nation.

As we give thanks for our rich harvests, let us be sure to express gratitude to all those in agriculture and its related endeavors who through the years have contributed so much to our Nation and the world and who continue to shape and to share the spirit and the heritage of the American people.

The Congress, by Senate Joint Resolution 265, has designated March 20, 1988, as "National Agriculture Day" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim March 20, 1988, as National Agriculture Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 88-6379
Filed 3-21-88; 11:22 am]
Billing code 3195-01-M

# Presidential Documents

**Executive Order 12631 of March 18, 1988**

## Working Group on Financial Markets

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish a Working Group on Financial Markets, it is hereby ordered as follows:

**Section 1.** *Establishment.* (a) There is hereby established a Working Group on Financial Markets (Working Group). The Working Group shall be composed of:

(1) the Secretary of the Treasury, or his designee;

(2) the Chairman of the Board of Governors of the Federal Reserve System, or his designee;

(3) the Chairman of the Securities and Exchange Commission, or his designee; and

(4) the Chairman of the Commodity Futures Trading Commission, or her designee.

(b) The Secretary of the Treasury, or his designee, shall be the Chairman of the Working Group.

**Sec. 2.** *Purposes and Functions.* (a) Recognizing the goals of enhancing the integrity, efficiency, orderliness, and competitiveness of our Nation's financial markets and maintaining investor confidence, the Working Group shall identify and consider:

(1) the major issues raised by the numerous studies on the events in the financial markets surrounding October 19, 1987, and any of those recommendations that have the potential to achieve the goals noted above; and

(2) the actions, including governmental actions under existing laws and regulations (such as policy coordination and contingency planning), that are appropriate to carry out these recommendations.

(b) The Working Group shall consult, as appropriate, with representatives of the various exchanges, clearinghouses, self-regulatory bodies, and with major market participants to determine private sector solutions wherever possible.

(c) The Working Group shall report to the President initially within 60 days (and periodically thereafter) on its progress and, if appropriate, its views on any recommended legislative changes.

**Sec. 3.** *Administration.* (a) The heads of Executive departments, agencies, and independent instrumentalities shall, to the extent permitted by law, provide the Working Group such information as it may require for the purpose of carrying out this Order.

(b) Members of the Working Group shall serve without additional compensation for their work on the Working Group.

(c) To the extent permitted by law and subject to the availability of funds therefor, the Department of the Treasury shall provide the Working Group with such administrative and support services as may be necessary for the performance of its functions.

Ronald Reagan

THE WHITE HOUSE,
*March 18, 1988.*

[FR Doc. 88-6380
Filed 3-21-88; 11:23 am]
Billing code 3195-01-M

# Reader Aids

Federal Register

Vol. 53, No. 55

Tuesday, March 22, 1988

## INFORMATION AND ASSISTANCE

**Federal Register**

| | |
|---|---|
| Index, finding aids & general information | 523-5227 |
| Public inspection desk | 523-5215 |
| Corrections to published documents | 523-5237 |
| Document drafting information | 523-5237 |
| Machine readable documents | 523-5237 |

**Code of Federal Regulations**

| | |
|---|---|
| Index, finding aids & general information | 523-5227 |
| Printing schedules | 523-3419 |

**Laws**

| | |
|---|---|
| Public Laws Update Service (numbers, dates, etc.) | 523-6641 |
| Additional information | 523-5230 |

**Presidential Documents**

| | |
|---|---|
| Executive orders and proclamations | 523-5230 |
| Public Papers of the Presidents | 523-5230 |
| Weekly Compilation of Presidential Documents | 523-5230 |

**The United States Government Manual**

| | |
|---|---|
| General information | 523-5230 |

**Other Services**

| | |
|---|---|
| Data base and machine readable specifications | 523-3408 |
| Guide to Record Retention Requirements | 523-3187 |
| Legal staff | 523-4534 |
| Library | 523-5240 |
| Privacy Act Compilation | 523-3187 |
| Public Laws Update Service (PLUS) | 523-6641 |
| TDD for the deaf | 523-5229 |

## FEDERAL REGISTER PAGES AND DATES, MARCH

6115-6552 ..... 1
6553-6782 ..... 2
6783-6964 ..... 3
6965-7176 ..... 4
7177-7324 ..... 7
7325-7488 ..... 8
7489-7722 ..... 9
7723-7874 ..... 10
7875-8140 ..... 11
8141-8420 ..... 14
8421-8610 ..... 15
8611-8744 ..... 16
8745-8858 ..... 17
8859-9098 ..... 18
9099-9280 ..... 21
9281-9422 ..... 22

## CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**3 CFR**

**Proclamations:**
5774 ..... 7323
5775 ..... 7723
5776 ..... 8863
5777 ..... 9420

**Executive Orders:**
12587 (Superseded by EO 12629) ..... 7875
12607 (Amended by EO 12627) ..... 6553
12627 ..... 6553
12628 ..... 7725
12629 ..... 7875
12630 ..... 8859
12631 ..... 9421

**5 CFR**

595 ..... 8141
630 ..... 7325, 8301
831 ..... 6555
1650 ..... 8421

**Proposed Rules:**
339 ..... 9121
890 ..... 7763

**7 CFR**

1 ..... 7177
2 ..... 6783, 7877
272 ..... 6556
273 ..... 6556
301 ..... 6783, 6965, 7877
354 ..... 7489
401 ..... 6559, 6561, 6965, 7878, 9099, 9100
413 ..... 9102
420 ..... 9103
421 ..... 6563
422 ..... 6115
424 ..... 6564
428 ..... 6565
438 ..... 6565
440 ..... 9104
448 ..... 6566
452 ..... 6567
455 ..... 6115, 6568
719 ..... 6119
907 ..... 6968, 7328, 7879, 8865
908 ..... 7328
910 ..... 6969, 7490, 7879, 8422, 8866
917 ..... 6128
925 ..... 6572
927 ..... 7880
946 ..... 8142
948 ..... 8145
959 ..... 7329
982 ..... 8423
985 ..... 6129
1139 ..... 6916
1240 ..... 8147
1421 ..... 6131, 8745
1610 ..... 6969
1823 ..... 7330
1900 ..... 7330
1924 ..... 8738
1940 ..... 7330
1941 ..... 8738
1942 ..... 6784
1944 ..... 7178, 7491
1951 ..... 7330
1955 ..... 7330
1962 ..... 7330, 8738
1965 ..... 7330, 7491, 8738
1980 ..... 7330, 8148
3015 ..... 8034
3016 ..... 8034

**Proposed Rules:**
51 ..... 7531
52 ..... 7532
252 ..... 7188
401 ..... 6652-6654
449 ..... 6655
800 ..... 8921
917 ..... 8460
933 ..... 7194
946 ..... 7369
1030 ..... 8205
1032 ..... 7210
1106 ..... 6158
1126 ..... 7942
1425 ..... 7370
1772 ..... 8219
1822 ..... 9318
1823 ..... 9318
1910 ..... 9318
1924 ..... 7532
1941 ..... 9318
1942 ..... 9318
1943 ..... 9318
1944 ..... 9318
1945 ..... 9318
1951 ..... 9318
1955 ..... 9318
1965 ..... 9318

**8 CFR**

212 ..... 9281
241 ..... 9281
242 ..... 9281
245a ..... 9274
274a ..... 8611
287 ..... 9281
292 ..... 7727

**9 CFR**

51 ..... 7881
97 ..... 7492
317 ..... 7493
318 ..... 7493
319 ..... 8425
381 ..... 7493

**Proposed Rules:**
92 ..... 6656, 6791, 8301

307 ... 8922
350 ... 8922
351 ... 8922
352 ... 8922
354 ... 8922
355 ... 8922
362 ... 8922
381 ... 8922

**10 CFR**

4 ... 6137
15 ... 6137
19 ... 6137
20 ... 6137
21 ... 6137
50 ... 6137, 8845
53 ... 6137
55 ... 6137
73 ... 6137
75 ... 6137
81 ... 6137
140 ... 6137
150 ... 6137
170 ... 6137
430 ... 8304
600 ... 8034

**Proposed Rules:**

Ch. 1 ... 7534
2 ... 6666
34 ... 8460
50 ... 6159, 7534, 8924
73 ... 7534
430 ... 7110

**11 CFR**

**Proposed Rules:**

102 ... 6916
106 ... 6916

**12 CFR**

4 ... 6573
21 ... 7881
29 ... 7885
30 ... 7885
34 ... 7885
310 ... 7339
545 ... 6792
561 ... 6792
563 ... 6792
563c ... 6792
564 ... 8167
570 ... 6792
620 ... 7340
621 ... 7340
1101 ... 7340

**Proposed Rules:**

3 ... 8550
225 ... 8500
308 ... 9406
325 ... 8500

**13 CFR**

120 ... 7343
143 ... 8034

**14 CFR**

21 ... 6793, 7728, 8866
25 ... 8866
36 ... 6793, 7728
39 ... 6793, 6794, 7074, 7346–7348, 7729–7732, 8614, 8615, 8730, 8868–8870, 9284
71 ... 6140–6142, 6219, 6795, 6796, 6918, 7349–7352, 8172, 8173, 8301, 8616, 9285
73 ... 6796, 7352, 7353, 8173, 8175
95 ... 6573
97 ... 6592, 8872
121 ... 8726
150 ... 8722

**Proposed Rules:**

Ch. 1 ... 6830
25 ... 8742
27 ... 7479, 9190
29 ... 7479, 9190
39 ... 7371–7373, 7764, 7765, 8220, 8633, 8634, 8926–8928, 9322
61 ... 8368
63 ... 8368
65 ... 8368
71 ... 6160–36162, 6666, 6830, 6832, 7374–7377, 7468, 8635, 8929, 9124, 9323
73 ... 7377, 7378, 9124
91 ... 7096, 8930
107 ... 9094
121 ... 8368
133 ... 9190
135 ... 7096, 8368, 8930

**15 CFR**

4 ... 6972
18 ... 6797
24 ... 8034
370 ... 6143
372 ... 6143
399 ... 7733

**Proposed Rules:**

379 ... 8221

**16 CFR**

13 ... 9104, 9108
1016 ... 6593

**Proposed Rules:**

Ch. II ... 6833
13 ... 6667

**17 CFR**

1 ... 7178, 7179
3 ... 8428
5 ... 7179
31 ... 7179
145 ... 8428
211 ... 7892
230 ... 7866

**Proposed Rules:**

31 ... 8932
230 ... 7870
400 ... 8598
402 ... 8598
403 ... 8598
404 ... 8598
450 ... 8598

**18 CFR**

154 ... 7495
157 ... 7503, 8176
284 ... 7893, 8439
380 ... 8176
389 ... 7364

**Proposed Rules:**

35 ... 9324
38 ... 9327
292 ... 9331
293 ... 9324
382 ... 9327

**19 CFR**

4 ... 6143, 9285, 9315
6 ... 9285
10 ... 9285
18 ... 9285
24 ... 9110, 9285
101 ... 8746
122 ... 9285
123 ... 9285
162 ... 9285

**Proposed Rules:**

6 ... 7766
146 ... 6996

**21 CFR**

5 ... 8617
60 ... 7298
81 ... 6983
172 ... 6595
176 ... 8618
178 ... 8440
193 ... 8873
349 ... 7076
369 ... 7076
524 ... 7504
561 ... 8873

**Proposed Rules:**

182 ... 8301
201 ... 8845
349 ... 6997
356 ... 8845
357 ... 7073
369 ... 8845

**22 CFR**

40 ... 9110, 9172
41 ... 9110, 9172
42 ... 9110, 9172
135 ... 8034
303 ... 8178

**23 CFR**

655 ... 8620

**Proposed Rules:**

659 ... 7943

**24 CFR**

44 ... 8034
85 ... 8034
111 ... 8034
115 ... 6964
200 ... 6600
201 ... 6922, 8874
203 ... 6922, 8626, 8874
204 ... 8874
205 ... 8874
207 ... 8874
213 ... 8874
215 ... 6600
220 ... 8874
221 ... 6600, 8874
231 ... 8874
232 ... 8874
234 ... 6922, 8874
235 ... 6600
236 ... 6600
240 ... 8874
241 ... 8874
242 ... 8874
244 ... 8874
247 ... 6600
250 ... 8874
251 ... 8874
255 ... 8874
300 ... 6601
511 ... 8034
570 ... 8034
571 ... 8034
575 ... 8034
590 ... 8034
812 ... 6600
850 ... 8034
880 ... 6600
881 ... 6600
882 ... 6600, 7734, 8034
883 ... 6600
884 ... 6600
885 ... 8874
886 ... 6600
888 ... 8888
904 ... 6600
905 ... 6600, 8034
912 ... 6600
941 ... 8034
960 ... 6600
968 ... 8034
970 ... 8034
990 ... 8034
3280 ... 6600

**25 CFR**

176 ... 6145

**26 CFR**

1 ... 6602, 6603, 6614, 6670, 6800, 7504, 8302, 8747
5h ... 6146
26 ... 8441
26a ... 8441
41 ... 6625
48 ... 6518, 8302
51 ... 6626
55 ... 6146
602 ... 6146, 6518, 6603, 6614, 6770, 6800, 7504, 8441

**Proposed Rules:**

1 ... 6670, 6681, 8773
26 ... 8469
26a ... 8469
48 ... 6524
602 ... 8469

**27 CFR**

25 ... 8626

**28 CFR**

16 ... 7734
32 ... 8451
50 ... 8452
66 ... 8034
701 ... 8895

**29 CFR**

97 ... 8034
452 ... 8750
1470 ... 8034
1910 ... 6628, 8322
2619 ... 8454, 9024
2676 ... 8455

**30 CFR**

202 ... 8181
203 ... 8181
206 ... 8181
207 ... 8181
210 ... 8181
241 ... 8181
914 ... 9316
917 ... 7735

935 ... 7737
946 ... 7180
**Proposed Rules:**
75 ... 6162, 6512
906 ... 7211
914 ... 8469
917 ... 7212
918 ... 8222
934 ... 8933

**31 CFR**

500 ... 7354
535 ... 7355
540 ... 7355
545 ... 7355
550 ... 7355
**Proposed Rules:**
103 ... 7948

**32 CFR**

40a ... 9317
278 ... 8034
295 ... 7358, 8629
518 ... 8901

**33 CFR**

117 ... 6984, 8751, 8848
161 ... 7738
334 ... 6942
**Proposed Rules:**
110 ... 7949, 8773, 8774
117 ... 8850
165 ... 7949

**34 CFR**

74 ... 8034
80 ... 8034
304 ... 6944
333 ... 6952
**Proposed Rules:**
300 ... 8390
330 ... 8608
331 ... 8608
350 ... 6958
357 ... 6958
612 ... 7312
653 ... 8397
696 ... 7953
700 ... 9088
706 ... 9408
707 ... 9408
708 ... 9408
779 ... 9246

**35 CFR**

60 ... 7894

**36 CFR**

1207 ... 8034
1256 ... 6821
**Proposed Rules:**
7 ... 7466

**37 CFR**

203 ... 8456
**Proposed Rules:**
201 ... 7073

**38 CFR**

2 ... 7183
3 ... 7902
17 ... 7185
21 ... 7183
43 ... 8034
**Proposed Rules:**
1 ... 8934
2 ... 8471
3 ... 8471
14 ... 8471
21 ... 9125

**39 CFR**

111 ... 6985
946 ... 6986
**Proposed Rules:**
111 ... 6837, 9334

**40 CFR**

30 ... 8034
31 ... 8034
33 ... 8034
60 ... 7514, 8182
61 ... 8182
81 ... 8182, 9112
180 ... 7739, 8845, 9024
228 ... 6987, 8183
261 ... 6822, 7903
264 ... 7740
265 ... 7740
266 ... 7516
270 ... 7740
425 ... 9176
**Proposed Rules:**
52 ... 6842, 6845, 9334-9336
81 ... 6845, 7113
86 ... 7676
116 ... 6762
117 ... 6762
122 ... 7642
123 ... 7642
124 ... 7642
180 ... 6671, 7539-7543
300 ... 8223
302 ... 6762, 7073
501 ... 7642
763 ... 8636
795 ... 8638
799 ... 8638

**41 CFR**

50-201 ... 7741
**Proposed Rules:**
51-7 ... 8225

**42 CFR**

57 ... 9114
405 ... 6525, 6629
406 ... 6629
409 ... 6629
410 ... 6629
413 ... 6525, 6629, 9172
416 ... 6629
421 ... 6629
424 ... 6629
441 ... 6525
482 ... 6525
485 ... 6525, 9172
489 ... 6629
498 ... 6525, 6629
**Proposed Rules:**
405 ... 8654, 9337
412 ... 9337
413 ... 6672, 9337
431 ... 8654
433 ... 8654
434 ... 8654
456 ... 8654
462 ... 8654
466 ... 8654
473 ... 8654
476 ... 8654
489 ... 8654, 9337
1003 ... 9260

**43 CFR**

4 ... 8752
12 ... 8034
20 ... 8186
**Public Land Orders:**
6664 ... 7186
6665 ... 7187
6666 ... 7520
**Proposed Rules:**
3000 ... 9214
3100 ... 9214
3110 ... 9214
3120 ... 9214
3130 ... 9214
3160 ... 9214
3180 ... 9214
3200 ... 9214
3280 ... 9214

**44 CFR**

13 ... 8034, 9317
64 ... 6148, 6150, 8457
67 ... 7915
**Proposed Rules:**
67 ... 6676

**45 CFR**

12 ... 7744
16 ... 7832
74 ... 8034
92 ... 8034
96 ... 6824
402 ... 7832
602 ... 8034
1157 ... 8034
1174 ... 8034
1183 ... 8034
1234 ... 8034
1602 ... 6151
2015 ... 8034
**Proposed Rules:**
60 ... 9264

**46 CFR**

2 ... 7745
31 ... 7745
34 ... 7745
58 ... 7745
71 ... 7745
76 ... 7745
91 ... 7745
95 ... 7745
107 ... 7745
108 ... 7745
109 ... 7745
146 ... 7745
147 ... 7745
167 ... 7745
176 ... 7745
181 ... 7745
189 ... 7745
193 ... 7745
308 ... 8186
572 ... 7520
586 ... 7361
**Proposed Rules:**
581 ... 8775
588 ... 7379

**47 CFR**

0 ... 6916
2 ... 8459
22 ... 8459
25 ... 8459
64 ... 7753, 8629, 8630
73 ... 6828, 7754, 8189, 8190, 8902-8904
80 ... 8904
87 ... 8904
**Proposed Rules:**
2 ... 8225, 8667
22 ... 8472
69 ... 7214
73 ... 6163-6165, 6677, 7216-7218, 8225-8228, 8472, 8473, 8667, 8935-8937
74 ... 6677, 8667
78 ... 8667

**48 CFR**

26 ... 6219
52 ... 6219
215 ... 8906
222 ... 6155
225 ... 9118
242 ... 8906
252 ... 8906, 9118
501 ... 7365
532 ... 7365
552 ... 7365
701 ... 6828
750 ... 6828
752 ... 6828
810 ... 7755
836 ... 7755
852 ... 7755
2401 ... 7187
2402 ... 7187
**Proposed Rules:**
14 ... 8734
32 ... 8734
970 ... 7318

**49 CFR**

18 ... 8034
172 ... 8846
571 ... 7931, 8190, 8202, 8755
572 ... 8755
1001 ... 6155
1320 ... 6990
**Proposed Rules:**
395 ... 8228
531 ... 8668
571 ... 6998, 7074, 8782
572 ... 8783

**50 CFR**

10 ... 6649
14 ... 8765
216 ... 8910
285 ... 8631
301 ... 7528
380 ... 8766
611 ... 7756
652 ... 8632
653 ... 7368
655 ... 6991
672 ... 6649, 7756, 7938
675 ... 7756, 7941
**Proposed Rules:**
18 ... 8473
20 ... 6853, 7702
91 ... 6938
228 ... 8473
301 ... 8938
380 ... 8784

402 ..... 8473
661 ..... 8234
672 ..... 8789

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

**Last List March 17, 1988**