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Tuesday
February 16, 1988

Briefing on How To Use the Federal Register—
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: February 19; at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Roy Nanovic, 202-523-3187

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Presidential Documents

Title 3—

The President

Proclamation 5771 of February 10, 1988

Save Your Vision Week, 1988

By the President of the United States of America

A Proclamation

To have healthier eyes, one needs the healthy attitude of caring for those eyes—and of recognizing how much they contribute to life, learning, independence, work, recreation, and the enjoyment of visual beauty. Thanks to recent advances in the treatment and prevention of eye diseases, the possibility of keeping good vision for life is now excellent.

Regular eye checkups are a must. With improved diagnostic techniques and new treatments, we can now stop many potentially blinding diseases even before they begin to affect vision. But many treatments can save vision only if problems are detected early, often before a person notices any symptoms.

Ensuring a lifetime of healthy eyes begins at infancy. Even an infant with healthy-looking eyes may have an unsuspected vision problem that only an eye specialist can detect. We now know that parts of the brain involved in vision cannot develop without early stimulation. If children are to see normally, congenital cataracts, lazy eye, or misaligned eyes must be treated early.

Other eye diseases usually begin in middle age. For example, if glaucoma is detected before any vision is lost, an eye doctor can prescribe one of the new drugs that can check the disease's impact.

The many eye diseases associated with aging need not be disabling. For instance, in cataracts, the cloudy lens can be surgically removed and an artificial lens implanted. In another age-related disease, leaky blood vessels develop in the back of the eye, often doing irreparable damage in only weeks or months. Laser treatment can usually stop the destruction and save the remaining vision.

Laser treatment can also save the sight of some people who risk visual loss due to diabetes. The earlier the intervention, the less the potential vision loss.

To encourage our citizens to cherish and protect their sight, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 629, 36 U.S.C. 169a), has authorized and requested the President to proclaim the first week in March of each year as "Save Your Vision Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning March 6, 1988, as Save Your Vision Week. I urge all Americans to participate in this observance by making eye care and eye safety an important part of their lives. I also invite eye care professionals, the communications media, and all public and private organizations committed to the goal of sight conservation to join in activities that will make Americans more aware of the steps they can take to protect their vision.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of February, 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. 88-3324
Filed 2-11-88; 2:46 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5772 of February 11, 1988

Lithuanian Independence Day, 1988

By the President of the United States of America

A Proclamation

Seventy years ago, on February 16, 1918, the Lithuanian National Council declared the independence of Lithuania and established the Republic of Lithuania. This restoration of Lithuania's sovereignty was recognized around the world—even by the Soviet Union, in 1920. Lithuania joined the League of Nations in 1921, and for the next two decades Lithuanians enjoyed liberty and self-determination under a government that fostered political and religious freedom for all citizens.

Then, in June 1940, the year after the signing of the Molotov-Ribbentrop Pact, the Soviet Union invaded and illegally occupied Lithuania and the other Baltic States. The United States unequivocally condemned this violation of national sovereignty and national integrity, and ever since then our policy has remained consistent. We have never recognized the forcible incorporation of Lithuania into the Soviet Union, and we never will.

Observance of the anniversary of Lithuania's Declaration of Independence is natural for Americans, who faithfully celebrate our own Independence Day each year. America has long been a beacon of hope to Lithuania, because Americans cherish their self-determination, individual liberty, and independence—the God-given rights the Lithuanian people seek to reclaim in the face of religious and political persecution, forced Russification, and ethnic dilution. It is therefore fitting to show our solidarity with the people of Lithuania.

We join in Lithuania's proud and solemn remembrance of the 70th anniversary of its independence, and together with people the world over we share the spirit and the hope of the Lithuanian people as they commemorate that day. Among the Lithuanian people the spirit of liberty remains unbroken—the spirit of a true leader of her people, Nijole Sadunaite, whose sacrifices for country and conscience continue so courageously to the present day, and who wrote from the Gulag, "Our brief days on earth are not meant for rest, but to participate in the struggle for the happiness of numerous hearts"; the spirit of the freedom marchers of Vilnius, Lithuania's capital, and of Kaunas; the spirit of every time and place where bold sons and daughters remember their heritage and their highest ideals.

To demonstrate our common commitment to the cause of freedom, the Congress, by Senate Joint Resolution 39, has designated February 16, 1988, as "Lithuanian Independence Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim February 16, 1988, as Lithuanian Independence Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities in reaffirmation of their devotion to the just aspirations of all peoples for self-determination and liberty.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of February, 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. 88-3373
Filed 2-12-88; 10:18 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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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 AGRICULTURE

Food and Nutrition Service

7 CFR Part 210

[Amdt. No. 72]

Revision of Maximum Annual Renewals for Food Service Management Company Contracts

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends 7 CFR Part 210, the National School Lunch Program (NSLP) regulations, to increase the number of allowable annual renewals of contracts between school food authorities and food service management companies (FSMCs). Under this rule, school food authorities will be able to annually renew their 1 year contracts with FSMCs four times for a maximum contract term of 5 years. Only new contracts signed after the effective date of this final rule are covered by this change. All existing contracts are subject to the 2 year renewal maximum that was in effect when those contracts were negotiated. This rule will provide a more stable environment for school food service operations that are being conducted satisfactorily under contracts with FSMCs. Additionally, this rule will decrease the paperwork and administrative burden of school food authorities with such contracts and of State agencies that are responsible for monitoring and providing technical assistance for such contracts.

EFFECTIVE DATE: February 16, 1988.

FOR FURTHER INFORMATION CONTACT: Lou Pastura, Branch Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, telephone (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under Executive Order 12291 and has been classified as not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Furthermore, it will not have 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.

The National School Lunch Program is listed in the catalog of Federal Domestic Assistance under No. 10.555 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (See 7 CFR Part 3015, Subpart V, 48 FR 29122, June 24, 1983).

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Administrator of the Food and Nutrition Service has certified that this rule will not have a significant economic impact on a substantial number of small entities.

No new reporting or recordkeeping requirement is included which would require Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3520). The National School Lunch Program has been approved for operation by OMB under control number 0584-0006.

The Administrator of the Food and Nutrition Service has determined, in accordance with 5 U.S.C. 553(d), that it is in the public interest to make this rule effective upon publication because it relieves a regulatory restriction.

Background

On September 1, 1987, the Department published a proposed rule in the **Federal Register** (52 FR 32930) to amend the NSLP regulations to increase the number of allowable annual renewals of FSMC contracts from 2 to 4. The proposal responded to a number of comments on FSMC contract renewals which were received by the Department in connection with the interim rule that revised and reorganized Part 210 (51 FR 34864, September 30, 1986). Since that interim rulemaking contained no change to existing contract renewal requirements, the Department published the September 1, 1987 proposal to provide specific notice of its intent to address the matter.

During the 60-day comment period on the proposed rule, the Department received 167 comment letters. The majority of these letters (112) were from school food authorities (SFAs). Thirty-five letters were received from school food service directors or employees, nine were from State agencies and six were from FSMCs. The remaining five letters were from interested organizations or parents. The overwhelming majority of commenters (151) expressed support for the proposal while 15 expressed opposition. One commenter expressed neither support nor opposition. Of the 112 comment letters from SFAs, 107 were from school districts that had contracts with FSMCs. Furthermore, 25 of the 35 school food service directors and employees who commented on the proposal were employed in school districts with FSMC contracts. The Department would like to express its thanks to all who commented on this proposal.

Comments in support of the proposed rule generally fell into three categories: reduction of administrative burden at all levels, impact on school food service staff, and impact on FSMC contract provisions and operations. School administrators and school business officials pointed out that an additional 2-years between bidding cycles could save them a substantial amount of time and money if they were satisfied with their FSMC's performance. FSMCs also indicated that the preparation of frequent bid proposals detracts from other activities deemed more beneficial to SFAs and generates additional costs that are passed on to SFAs. Three State agencies advised that longer bidding cycles would reduce State technical assistance and monitoring burdens associated with the procurement of FSMC services.

With respect to impact on food service employees, many commenters stated that longer term contracts would prove beneficial to both supervisory and non-supervisory employees by

promoting job security for FSMC employees and by stabilizing the working environment for all food service employees involved with FSMC contracts. Commenters also cited the ability of FSMCs to provide better pay and benefits for FSMC employees under longer term contracts. For example, two labor organizations representing food service workers felt that FSMCs would be more willing to recognize collective bargaining agreements previously negotiated between the SFA and another FSMC or to negotiate more favorably with food service worker if they anticipated a longer contract term.

Supporting commenters also believed that FSMCs would be able to provide better service to SFAs under longer term contracts. They noted that since it takes a considerable amount of time (up to a year or more) for a FSMC to reach peak performance under a new contract, longer term contracts would result in better overall performance. Some commenters also felt that longer term contracts would allow the development of better relationships between SFAs and FSMCs which are necessary for optimum performance under these contracts. One FSMC indicated that it could offer more competitive prices to SFAs if it could anticipate longer term contracts and, two other companies indicated that they would be more willing to budget and expend funds for research and development and/or capital improvements to benefit local programs if such expenditures could be amortized over a longer period of time.

Most of the commenters who supported the proposal also recommended that SFAs with existing FSMC contracts be given the option of extending those contracts for 2 additional years. Many of these also suggested that the Department's contract term limitations be eliminated altogether. Interestingly, of the six FMSCs who responded to the proposal, only one suggested that it should be applied to existing contracts. One FSMC expressed clear opposition to the "grandfathering" of existing contracts since it would compromise competition.

The concerns of commenters who were opposed to the proposal generally fell into two categories. First, these commenters felt that extended term contracts would result in less review or monitoring of FSMC contract operations by State agencies and SFAs alike. They felt that the thorough review of these contracts on a frequent basis contributes to fiscal accountability and reduces the likelihood of fraud or abuse. Secondly, these commenters were concerned that longer contract terms would reduce competition between FSMCs to the detriment of the SFAs and students that these companies serve. In a related comment, one respondent felt that FSMCs faced with potentially longer bidding cycles would perform just well enough to have their contracts renewed. It was presumed by the commenter that a SFA would likely renew a contract that delivered mediocre performance rather than take on the administrative burden and cost associated with rebidding.

In response to the concerns of opposing commenters, the Department would like to emphasize that State agency review and monitoring responsibilities relative to FSMC contracts remain unchanged. Under § 210.18(d) of the NSLP regulations, State agencies are required to annually review each FSMC contract (including any revisions or amendments thereto) and to perform an on-site review of each SFA contracting with a FSMC at least once every 4 years. The Department believes that these reviews together with the Assessment, Improvement and Monitoring System (AIMS) reviews or audits required under OMB Circular A-128 will provide sufficient State and 128 will provide sufficient State and Federal oversight to preclude any additional incidence of fraud or abuse that could be attributed to longer FSMC contract terms. With respect to the second concern of opposing commenters, the Department recognizes that the quality of school food service is determined at the local level regardless of whether or not a FSMC is involved. The Department does not believe that the quality of food service would be more likely to deteriorate over 5 years than over 3 years if the SFA maintains a commitment to quality. Annual FSMC contract renewals are not automatic. All interested parties—students, parents and teachers as well as school officials—can and should have an impact on food service quality and consequently, on whether or not a FSMC contract is renewed or terminated mid-year under the 60-day termination provision.

The Department agrees with the majority of commenters that the benefits that can be derived from authorizing FSMC contracts to operate for a maximum of 5 years far outweigh any disadvantages. As stated in the preamble to the proposed rule, the Department is sensitive to reducing the administrative burden and paperwork for SFAs and State agencies and views this change as a step in that direction. The additional security to food service workers that would result from longer term contracts and the potential for improvement in FSMC performance due to a more stable operating environment are also important program benefits that will result from this change.

The Department would like to caution readers that this rule does not authorize the negotiation of 5 year FSMC contracts. Rather, these contracts, as in the past, are to be negotiated on a 1 year duration basis. Annual renewals of these contracts are at SFA option. This rule simply authorizes, subject to any State requirements, up to a maximum of four annual renewals. State agencies and SFAs should ensure that FSMC contracts do not contain any multi-year provisions that would compromise the 1-year nature of these instruments. Furthermore, as in other program matters, States may wish to impose additional or more restrictive requirements regarding the renewal of FSMC contracts.

Finally, the Department reaffirms its intention that this rule apply only to FSMC contracts signed after the effective date of the rule. While many commenters asked that the rule apply to existing contracts, the Department is unable to accommodate that request for two reasons. First and most importantly, it would compromise the procurement of existing contracts which were bid under the 2-year maximum renewal provisions. Unsuccessful bidders could reasonably argue that their bids would have been different if the potential for four annual renewals had been in place. Secondly, it is the policy of the Department not to apply a rule retroactively unless it is required by law or unless there is an overwhelmingly compelling reason to do so. Since FMSC contracts have been bid under the 2-year maximum renewal provision for the past 10 years such a reason is not apparent.

List of Subjects in 7 CFR Part 210

Food assistance programs, National School Lunch Program, Commodity School Program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, Part 210 is amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for Part 210 continues to read as follows:

Authority: Secs. 2–12, 60 Stat. 230, as amended; sec. 10, 80 Stat. 889, as amended; 84 Stat. 270; 42 U.S.C. 1751–1760, 1779, unless otherwise noted.

2. In § 210.16, the first sentence of paragraph (d) is revised to read as follows:

§ 210.16 Food service management companies.

* * * * *

(d) *Duration of contract.* The contract between a school food authority and food service management company shall be of a duration of no longer than 1 year; and options for the yearly renewal of a contract signed after February 16, 1988, may not exceed 4 additional years. * * *

Dated: February 10, 1988.

Anna Kondratas,

Administrator.

[FR Doc. 88-3231 Filed 2-12-88; 8:45 am]

BILLING CODE 3410-30-M

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 6; Doc. No. 4982S]

General Crop Insurance Regulations; Flaxseed Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new subpart, 7 CFR 401.116 to be known as the Flaxseed Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on flaxseed in an endorsement to the General Crop Insurance policy which contains the standard terms and conditions common to most crops.

EFFECTIVE DATE: December 31, 1987.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as October 1, 1992.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith adds to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.116, the Flaxseed Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring flaxseed.

The provisions for insuring flaxseed contained in 7 CFR 401.116 will supersede those provisions contained in 7 CFR Part 423, the Flaxseed Crop Insurance Regulations, effective with the beginning of the 1988 crop year. The present policy contained in 7 CFR Part 423 will be terminated at the end of the 1987 crop year and later removed and reserved. FCIC will amend the title of 7 CFR Part 423 by separate document so that the provisions therein are effective only through the 1987 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding the new Flaxseed Endorsement to 7 CFR Part 401, FCIC is changing the provisions for insuring flaxseed as follows:

1. Section 5—Add unit division guidelines and add a clause to specify that division of units may result in the insured paying additional premium for guideline unit division in accordance with actuarial studies which show an increased risk when units are divided. Add language to specify that nonirrigated corners of a center pivot irrigation system are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your unit yield for the purpose of determining the guarantee for the unit.

2. Section 10—Add definitions for "Harvest" and "Section."

On Monday, September 14, 1987, FCIC published a notice of proposed rulemaking in the **Federal Register** at 52 FR 34662 to amend 7 CFR Part 401 by adding a new subpart, 7 CFR 401.116 to be known as the Flaxseed Endorsement. The public was given 30 days in which to submit written comments, data, and opinions on the rule, but none were received. Therefore, FCIC adopts the rule published at 52 FR 34662 as a final rule.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Flaxseed endorsement.

Final rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation amends the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. CFR Part 401 is amended to add a new section to be known as 7 CFR 401.116 Flaxseed Endorsement, effective for the 1988 and Succeeding Crop Years, to read as follows:

§ 401.116 Flaxseed endorsement.

The provisions of the Flaxseed Crop Insurance Endorsement for the 1988 and subsequent crop year are as follows:

Federal Crop Insurance Corporation Flaxseed Endorsement

1. Insured crop

a. The crop insured will be flaxseed planted for harvest as seed

b. In addition to the flaxseed not insurable in section 2 of the general crop insurance policy, we do not insure any flaxseed if the seed has not been mechanically incorporated into the soil in rows unless another method of planting is specifically allowed by the actuarial table.

2. Causes of loss

The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

a. Adverse weather conditions;

b Fire;

c. Insects;

d. Plant disease;

e. Wildlife;

f. Earthquake;

g. Volcanic eruption; or

h. If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

3. Annual premium

a. The annual premium amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. If you are eligible for a premium reduction in excess of 5 percent based on your insurance experience through the 1983 crop year under the terms of the experience table in the flax policy in effect for the 1984 crop year, you will continue to receive the benefit of the reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction amount will not increase because of favorable experience;

(3) The premium reduction amount will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

4. Insurance period

The calendar date for the end of the insurance period is October 31 following planting.

5. Unit division

Flaxseed acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay additional premium as provided by the actuarial table and if for each proposed unit you maintain written, verifiable records of planted acreage and harvested production for at least the previous crop year and either;

a. Acreage planted to the insured flaxseed is located in separate, legally identifiable sections or, in the absence of section descriptions the land is identified by separate ASCS Farm Serial Numbers, provided:

(1) The boundaries of the sections or ASCS Farm Serial Numbers are clearly identified, and the insured acreage can be easily determined; and

(2) The flaxseed is planted in such a manner that the planting pattern does not continue into an adjacent section or ASCS Farm Serial Number; or

b. The acreage planted to the insured flaxseed is located in a single section or ASCS Farm Serial Number and consists of acreage on which both irrigated and nonirrigated practices are carried out, provided:

(1) Flaxseed planted on the irrigated acreage does not continue into nonirrigated acreage in the same rows or planting pattern (Nonirrigated corners of a center pivot irrigation system planted to insurable flaxseed are part of the irrigated unit. The production from the total unit, both irrigated and nonirrigated, is combined to determine your yield for the purpose of determining the guarantee for the unit.); and

(2) Planting, fertilizing and harvesting are carried out in accordance with recognized good irrigated and nonirrigated farming practices for the area.

If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between optional units will cause those units to be combined.

6. Notice of damage or loss.

For purposes of Section 8 of the general crop insurance policy the representative sample of the unharvested crop must be at least 10 feet wide and the entire length of the field.

7. Claim for indemnity.

a. An indemnity will be determined for each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of flaxseed to be counted (see subsection 7.b.);

Multiplying the remainder by your price election; and

(4) Multiplying this result by your share.

b. The total production (bushels) to be counted for a unit will include:

(1) All harvested production and may be adjusted for moisture or quality as follows:

(a) Mature flaxseed production which, due to insurable causes, has a test weight or less than 47 pounds per bushel or, as determined by a grain grader licensed by the Federal Grain Inspection Service or licensed under the United States Warehouse Act, contains more than 15 percent damaged flaxseed, will be adjusted by:

(i) Dividing the value per bushel of the insured flaxseed by the price per bushel of U.S. No. 2 flaxseed; and

(ii) Multiplying the result by the number of bushels of insured flaxseed.

(b) The applicable price for No. 2 flaxseed will be the local market price on the earlier of the day the loss is adjusted or the day the insured flaxseed is sold.

(2) All appraised production will include:

(a) Unharvested production on harvested acreage and potential production lost due to an uninsured causes and failure to follow recognized good flaxseed farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use (other than harvest) without our prior written consent or damaged solely by an uninsured cause;

(c) Appraised production on unharvested acreage; and

(d) Appraised production on insured acreage for which we have given written consent to be put to another use unless such acreage is:

(i) Not put to another use before harvest of flax becomes general in the county and reappraised by us;

(ii) Further damaged by an insured cause and reappraised by us; or

(iii) Harvested.

8. Cancellation and termination date.

The cancellation and termination date for all states is April 15.

9. Contract changes.

Contract changes will be available at your service office by December 31 prior to the cancellation date.

10. Meaning of terms.

a. *"Harvest"* of flaxseed on the unit means combining, or removal from the field.

b. *"Section"* is a unit of measure under the rectangular survey system describing a tract of land generally one mile square, usually consisting of approximately 640 acres.

Done in Washington, DC, on February 9, 1988.

Edward D. Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 88-3224 Filed 2-12-88; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 422

[Docket No. 5368S]

Potato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of extension of sales closing date.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extension of the sales closing date for accepting applications for potato crop insurance in Delaware and Maryland, effective for the 1988 crop year only. This action is necessary because the State of Delaware has enacted a resolution to match the FCIC subsidy for spring-planted acreage to include the 1988 potato crop. The sales closing date in the Potato Crop Insurance Regulations is currently December 31, 1987. The intended effect of this action is to extend the sales of potato crop insurance to March 15, 1988, and to advise all interested parties of the extension of the sales closing date and to comply with the provisions of the potato crop insurance program with respect to the Manager's authority to extend sales closing dates.

Similar consideration is herewith extended to potato producers in the adjacent State of Maryland, since growing conditions and sales closing dates are similar and agents selling crop insurance in Delaware may also have potential producer-insureds in Maryland. Additional time is hereby accorded agents to market new and existing potato contracts in those states.

EFFECTIVE DATE: February 16, 1988.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: Under the provisions contained in 7 CFR 422.7, the sales closing date for accepting applications for potato crop insurance in Delaware and Maryland is December 31. Because of the circumstances outlined above, FCIC is extending the sales closing date in these states. No adverse risk exists because the potato crops have yet to be planted in these states.

Under the provisions of 7 CFR 422.7, the sales closing date for accepting applications may be extended by placing the extended date on file in the service office and by publishing a notice in the **Federal Register** upon determination that no adverse selectivity will result from such extension. If adverse conditions develop during such period, FCIC will immediately discontinue acceptance of applications.

Notice

Accordingly, pursuant to the authority contained in 7 CFR 422.7, the Federal Crop Insurance Corporation herewith gives notice that the sales closing date for accepting applications for potato insurance in Delaware and Maryland, is hereby extended through the close of business on March 15, 1988, effective for the 1988 crop year only.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Done in Washington, D.C., on February 8, 1988.

Edward D. Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 88-3225 Filed 2-12-88; 8:45 am]

BILLING CODE 3410-08-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 87-158]

Validated Brucellosis-Free States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of swine to include Oregon in the list of validated brucellosis-free states. This action is necessary because we have determined that Oregon now meets the criteria for classification as a validated brucellosis-free state. This action relieves certain restrictions on moving breeding swine from Oregon.

DATES: Interim rule effective February 16, 1988. Consideration will be given only to comments postmarked or received on or before April 18, 1988.

ADDRESSES: Send an original and two copies of written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsille MD 20782. Please state that your comments refer to Docket Number 87-158. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Mitchell A. Essey, Senior Staff Veterinarian, Program Planning Staff, VS, APHIS, USDA, Room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-5961.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella*.

The brucellosis regulations in 9 CFR Part 78 (referred to below as the regulations) prescribe conditions for the interstate movement of cattle, bison, and swine. States, areas, herds, and individual animals are classified according to their brucellosis status. Interstate movement requirements for animals are based upon the disease status of the herd, area, or state from which the animal originates.

We are amending § 78.43 of the regulations, which lists validated brucellosis-free states, to include Oregon. After reviewing its brucellosis program records, we have concluded that Oregon meets the criteria for validated brucellosis-free states. Therefore, we are adding Oregon to the list of states in § 78.43. This action relieves certain restrictions on moving breeding swine from Oregon.

Emergency Action

James W. Glosser, Acting Administrator of the Animal and Plant Health Inspection Service, has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for public comment. It is necessary to make this interim rule effective immediately to reflect the current brucellosis status of Oregon and eliminate unnecessary restrictions on the interstate movement of breeding swine from Oregon.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these circumstances, there is good cause under 5 U.S.C. 553 for making this interim rule effective upon publication of this document in the **Federal Register**. We will consider comments postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. Any amendments we make to this interim rule as a result of these comments will be published in the **Federal Register** as soon as possible following the close of the comment period.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

This action will allow breeding swine to move interstate from Oregon without being tested for brucellosis. The groups affected by this action will be herd owners in Oregon. We expect the economic effect to be minimal however: of the approximately 4,000 herd owners nationwide who ship breeding swine interstate, no more than 2 or 3 ship breeding swine from Oregon.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR 3015, Subpart V.)

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 78

Animal Diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, 9 CFR Part 78 is amended as follows:

1. The authority citation for Part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 78.43 is revised by adding Oregon to the list of validated brucellosis-free states as follows:

§ 78.43 Validated brucellosis-free States.

Alaska, Arizona, California, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Maine, Maryland, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Dakota, Utah, Vermont, Virgin Islands, Virginia, Washington, Wisconsin, Wyoming.

Done in Washington, DC, this 9th day of February, 1988.

James W. Glosser,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–3145 Filed 2–12–88; 8:45 am]

BILLING CODE 3410–34–M

[Docket No. 87–172]

9 CFR Part 97

Commuted Traveltime Periods

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Veterinary Services (VS) by adding or removing commuted traveltime allowances in Illinois and Oregon. A commuted traveltime allowance is the time necessary for VS employees to travel from their headquarters to their place of duty, and return. The Government charges a fee for certain overtime services provided by VS employees and, under certain circumstances, the fee may include the cost of commuted traveltime.

EFFECTIVE DATE: February 16, 1988.

FOR FURTHER INFORMATION CONTACT: Louis Rakestraw Lothery, Assistant Director, Resource Management Staff, VS, APHIS, USDA, Room 857, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8511.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR, Chapter I, Subchapter D, and 7 CFR, Chapter III, require inspection, laboratory testing, certification, or quarantine of certain animals, animal products, plants, plant products, or other commodities intended for importation into or exportation from the United States. When these services must be provided by an employee of VS on a Sunday or holiday, or at any other time outside the VS employee's regular duty hours, the Government charges a fee for the services in accordance with 9 CFR Part 97. Under circumstances described in § 97.1(a), this fee may include the cost of commuted traveltime. Section 97.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as is practicable, the time required for VS employees to travel to and from their headquarters and the place where they perform the overtime duty.

We are amending § 97.2 of the regulations by adding or removing commuted traveltime allowances between certain locations in Illinois and Oregon. (The amendments are set forth in the rule portion of this document.) This action is necessary to inform the public of the commuted traveltime between these locations.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The number of requests for overtime services of a VS employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register.**

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock and livestock products, Poultry and poultry products, Transportation.

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Accordingly, 9 CFR Part 97 is amended as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 7 U.S.C. 2260, 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(d)

2. Section 97.2 is amended by removing or adding, in alphabetical order, the information as shown below:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from—	Metropolitan area	
		Within	Outside
Remove:			
Illinois:			
Bloomington	Pana		3
Bloomington	Springfield		3
Bloomington	Tolono		3
Camp Grove	El Paso		3
Camp Grove	Springfield		5
*	*	*	*
Peoria	El Paso		2
Peoria	Springfield		3
Peoria	Tolono		4
Springfield	El Paso		3
Springfield	Nebo		3
Springfield	Pana		2
Springfield	Tolono		3
*	*	*	*
Add:			
Oregon:			
Portland	Sunny Valley		6
*	*	*	*

Done in Washington, D.C., this 9th day of February, 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-3232 Filed 2-12-88; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-CE-06-AD; Amendment 39-5848]

Airworthiness Directives; Piper Models PA-34-200, PA-34-200T, and PA-34-220T Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This Amendment adopts a new Airworthiness Directive (AD), applicable to certain Piper Models PA-34-200, PA-34-200T, and PA-34-220T airplanes which supersedes AD 79-34-01 (Amendment 39-3601 as amended by 39-3701) and AD 81-10-03 (Amendment 39-4100). This AD requires inspection, rigging, repairs, and modification of the forward baggage compartment door. The FAA has received several reported incidents in which the baggage door opened inflight resulting in pilot distraction and possible structural damage to the airplane. The inspections, rigging, and repairs of the forward baggage compartment door, plus the installation of the forward baggage compartment door latch spring kit will provide a positive latching of the door.

EFFECTIVE DATES: February 16, 1988. Comments for inclusion in the Rules Docket must be received on or before April 18, 1988.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD.

ADDRESSES: Piper Service Bulletin (SB) No. 872, dated November 9, 1987, applicable to this AD may be obtained from Piper Aircraft Corporation, 29265 Piper Drive, Vero Beach, Florida 39360, telephone number 305-567-4361. A copy of this information may also be examined at the Rule Docket at the address below. Send comments on the AD in Triplicate to FAA, Central Region, Attention: Rules Docket, No. 88-CE-06-AD, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Charles L. Perry, Engineer, Airframe Branch, ACE-120A, Atlanta Aircraft Certification Office, Suite 210, 1669 Phoenix Parkway, Atlanta, Georgia 30349; Telephone (404) 991-2910.

SUPPLEMENTARY INFORMATION:

Since 1974, there have been 10 reported accidents or incidents on Piper PA-34 series airplanes involving the forward baggage compartment door in addition to 34 other reports regarding forward baggage compartment door conditions. Piper has issued SB No. 447, "Inspection and Modification of the Seneca Forward Baggage Door and Installation of a Door Restraint Kit," dated February 7, 1975. Piper has also issued SB No. 633A, "Forward Baggage Door Inspection and Modification," dated September 20, 1979, which revises the Serial Numbers affected, adds the replacement of the push rod and revises the material required. On October 3, 1980, Piper issued SB 633B to provide for safety wiring of the roll pin. Piper SB 633A and 633B were subsequently the subject of AD 79-23-01 and AD 81-10-03. The above noted SB's were applicable to Models PA-34-200 and PA-34-200T airplanes. An equivalent to these SB's was incorporated during production on Piper Model PA-34-220T airplance.

Subsequently, the NTSB issued safety recommendations concerning the forward baggage compartment door system, including a recommendation for a design modification to improve the locking mechanism of the baggage door (NTSB Recommendation A-87-23).

On November 9, 1987, Piper issued SB No. 872, "Forward Baggage Compartment Door Latch Spring Installation and Door Assembly Inspection." This latest SB requires an inspection for positive latching and locking of the forward baggage compartment door, an inspection of the overall condition and rigging of the door, and announces the availability of a baggage compartment door latch spring kit. The modification will help insure positive latching of this door.

In the accidents and incidents previously noted, the airplanes were controllable although in some instances the door or the contents of the baggage compartment struck the airplance structure. More recently, the FAA was advised of an instance of degradation of the pitch control with the inflight opening of the door. Baggage door detachment or loss of the compartment contents at high cruise or descent speeds can result in loss of control, structural damage or overload.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring an inspection of the forward baggage compartment door for positive latching and locking, an inspection of overall forward baggage compartment door condition and rigging, and the installation of a forward baggage compartment door latch spring kit on certain Piper Models PA-34-200, PA-34-200T, and PA-34-220T airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a Final Rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications

received on or before the closing date for comments will be considered by the Director. This rule may be amended in the light of comments received. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effectiveness of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket at the address given above. A report summarizing each FAA public contact concerned with the substance of this AD, will be filed in the Rules Docket.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the 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 the following new AD:

Piper: Applies to Model PA-34-200 (S/Ns 34-7250001 through 34-7450220), PA-34-200T (S/Ns 34-7570001 through 34-8170092), and PA-34-220T (S/Ns 34-8133001 through 34-8633031, and 3433001 through 3433088) airplanes certificated in any category.

Compliance: Required within the next 50 hours time-in-service from the effective date of this AD unless already accomplished.

To prevent the forward baggage compartment door from opening in flight, accomplish the following:

(a) For Model PA-34-200 (S/N 34-7520001 through 34-7450220) and Model PA-34-200T (S/N 34-7570001 through 34-7970075, 34-7970077 through 34-7970105, 34-7970107 through 34-7970109, 34-7970111, 34-7970113 through 34-7970117, 34-7970120, 34-7970121, 34-7970123 through 34-7970135, 34-7970137, 34-7970141, 34-7970143, 34-7970145, and 34-7970164), unless previously accomplished per AD 79-23-01, modify the forward baggage door in accordance with the instructions in Part III of Piper Service Bulletin No. 633A, dated September 20, 1979.

(b) For Model PA-34-200 (S/N 34-7520001 through 34-7450220) and Model PA-34-200T (S/N 34-7570001 through 34-8070367), unless previously accomplished per AD 81-10-03, modify the forward baggage door in accordance with Part IV of Piper Service Bulletin No. 633B, dated October 3, 1980.

(c) For all affected airplanes, visually inspect, repair as necessary, and modify the forward baggage compartment door and latching mechanism in accordance with Piper Service Bulletin No. 872, dated November 9, 1987.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An equivalent means of compliance with this AD may be used if approved by the Manager of the Atlanta Aircraft Certification Office, FAA, Central Region, Suite 210, 1669 Phoenix Parkway, Atlanta, Georgia 30349.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Piper Aircraft Corporation, 29265 Piper Drive, Vero Beach, Florida, 39360, or may examine the documents at the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri, 64106.

This AD supersedes AD 79-23-01 (Amendment 39-3601, 44 FR 62882, November 1, 1979, as amended by 39-3701, 45 FR 12213, February 25, 1980) and AD 81-10-03 (Amendment 39-4100, 46 FR 24932, May 4, 1981).

This amendment becomes effective on February 16, 1988.

Issued in Kansas City, Missouri, on February 1, 1988.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 88-3105 Filed 2-12-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 84G-0384]

Cocoa Butter Substitute Prima i.y From Palm Oil; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the document that amended its regulations on substances that are generally recognized as safe (GRAS) to include an alternate method of manufacture for cocoa butter substitute primarily from palm oil (52 FR 47918; December 17, 1987). A statement concerning an address for written objections was inadvertently included as an "ADDRESS" paragraph to the final rule. This document corrects that error by removing the "**ADDRESS**" paragraph.

DATE: Effective December 17, 1987.

FOR FURTHER INFORMATION CONTACT: T. Rada Proehl, Regulations Editorial Staff (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 87-28959, appearing on page 47918 in the **Federal Register** of Thursday, December 17, 1987, on page 47919, in the first column, the "**ADDRESS**" paragraph is removed. Interested persons were given an opportunity to comment on this petition in the **Federal Register** of December 28, 1984 (49 FR 50477).

Dated: February 8, 1988.

George R. White,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-3182 Filed 2-12-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. R-88-1311; FR-2193]

Single Family Mortgage Insurance, Deficiency Judgments

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule authorizes the FHA Commissioner to require mortgagees to obtain a deficiency judgment in connection with the foreclosure of mortgages insured pursuant to firm commitments issued on or after its effective date. With respect to other insured mortgages, the Commissioner may *request* a mortgagee to obtain a deficiency judgment. This rule is promulgated as a part of the Department's overall effort to strengthen its debt collection activities; minimize losses to the FHA insurance funds; and deter and prevent program fraud and abuse.

FOR FURTHER INFORMATION CONTACT: Robert E. Falkenstein, Jr., Director, Single Family Servicing Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-6672. (This is not a toll-free number.).

EFFECTIVE DATE: March 28, 1988.

SUPPLEMENTARY INFORMATION: In the past, the Department had no policy which required or encouraged mortgagees to seek deficiency judgments since it was deemed impracticable under the existing statutory and regulatory structure. Relatively recent statutory enactments and the publication, on January 13, 1987, of a regulation authorizing the payment of insurance claims without the conveyance of title (52 FR 1320), now make it feasible to require or request mortgagees to seek deficiency judgments against defaulting mortgagors in certain cases.

On February 12, 1987, at 52 FR 4507, the Department published a proposed rule providing that, under the recently promulgated claims without conveyance procedure (cited above), mortgagees holding mortgages insured pursuant to firm commitments issued on or after the rule's effective date would, if directed by the Department, seek a deficiency judgment in connection with any foreclosure action. In any case in which the mortgagee seeks a deficiency judgment in response to the Secretary's demand or request, the Department would reimburse the mortgagee for the full additional costs of seeking the judgment.

As part of its overall program to strengthen debt collection efforts, and in order to help deter abuses of FHA single family programs by a small minority of mortgagors, the Department has determined that deficiency judgments should, and will, actively be sought under appropriate conditions. In determining whether a deficiency judgment should be sought in conjunction with a single family foreclosure, the Department will take the following factors into account:

1. Whether the mortgagor has defaulted on one or more other HUD insured mortgages or loans, resulting in the payment of insurance claims.
2. Whether the mortgagor treats its ownership as an investment and the mortgagor, or persons or entities with which it has been affiliated, have defaulted on one or more other FHA insured mortgages or loans, resulting in the payment of insurance claims.
3. Whether it is feasible under State law to seek a deficiency judgment.
4. The cost-effectiveness of seeking a deficiency judgment, considering, among other factors, the probable amount of the deficiency judgment obtainable, the additional costs attributable to seeking a deficiency judgment and the likelihood of successfully recovering on any judgment.
5. Such other factors as the Commissioner may deem appropriate.

With respect to foreclosures carried out in connection with mortgages insured pursuant to firm commitments issued on or after the effective date of this rule, the Commissioner would have the discretion to require a mortgagee diligently to pursue a deficiency judgment. Similarly, the Department could require compliance in the case of mortgages insured as a result of direct endorsement processing where the credit worksheet was signed by the mortgagee's approved underwriter on or after the effective date of the rule. In the case of mortgages not within the mandatory scope of the rule as described above, the rule simply affirms that the Commissioner may make a timely request that the mortgagee obtain a deficiency judgment in appropriate cases. In all cases in which the Department either directs or requests that the mortgagee pursue a deficiency judgment, the Commissioner will fully reimburse the mortgagee for any additional costs incurred in seeking the judgment.

This rule adopts as final, without change, the proposed rule published by the Department on February 12, 1987. Public comment on the proposed rule was requested at the time of publication. A description of, and Departmental response to, the public comments received follows.

Public Comments on Proposed Rule

Forty-four public comments were received. Two were from national trade associations; six from mortgage servicers with portfolios of FHA-insured loans; one from a large mortgage-holding institution; and thirty-five from individuals, mostly realtors situated in the Houston, Texas area.

The comments of the individual realtors were brief and general in nature. They expressed a fear for the demise of the FHA if the rule were implemented but generally provided no detailed reasons or further explanation. We believe these fears are unfounded. They are probably based upon a misunderstanding of the intent of the rule and a failure to note that HUD would actually be seeking deficiency judgments only in a limited number of cases (see item numbered 7 below).

The other (institutional) commenters understand and support HUD's need to diminish the current level of abuses in the FHA's system of providing mortgage insurance. They did, however, express reservations about the cost effectiveness of a more vigorous pursuit of deficiency judgments, and expressed concern about the impact the rule might have on participating lenders. The concerns comprised legal, administrative, and practical considerations. It was also recommended that HUD adopt an indemnification provision (similar to that used by the Veterans Administration), instead of utilizing deficiency judgments as a principal means of collecting deficiency amounts from mortgagors whose loans are foreclosed but who still have significant assets (see item numbered 8 below).

The Department has under active consideration an indemnification proposal similar to that in use by the Veterans Administration. Such a provision, if and when proposed and adopted, could be used in conjunction with the authority to seek deficiency judgments provided in this rule. In all probability seeking deficiency judgments would then be a supplementary, rather than a primary, means to protect the Government's financial interest in this area.

What follows is a statement of specific questions and issues raised by the public commenters, and the Department's response.

1. Reimbursement of Expenses Arising from the Seeking of Deficiency Judgments

Several commenters believed that the Department would be able to *require* lenders to pursue deficiency judgments without itself being required to "make whole" the mortgagees for extra expenses incurred in carrying out the Department's directives. This is not correct. Section 203.402(o), a paragraph that is revised in this final rule, provides

that mortgagees are to be fully reimbursed by HUD for additional attorney fees and other costs of seeking deficiency judgments beyond merely foreclosing on the property.

2. Required Notification of HUD by Mortgagees of Pending Foreclosure, and Timely Notice from HUD to Mortgagees of Intent to Pursue Deficiency Judgments

Two commenters raised the question of the required timely notification by a mortgagee to HUD that it was about to foreclose on an FHA loan, and the attendant expense to mortgagees of doing so in every instance. The Department plans to utilize various existing internal reports as well as its Single Family Default Monitoring System, to which lenders have been required to provide default data on their FHA loan portfolios for some time, to retrieve this information. HUD will then determine whether to pursue deficiency judgments against mortgagors to be foreclosed and will notify lenders in ample time that it intends to do so. The Department foresees little additional paperwork generated for lenders by this new regulation. Use of deficiency judgments will be limited to worst-case offenders, and the added burden (for lenders with mortgages from those States where pursuit of deficiency judgments is generally feasible) is expected to be slight.

The Department declines to establish a formal standard of "timeliness" or a specific deadline with respect to notification of lenders on deficiency judgments. It will communicate its decisions on deficiency judgments in all cases early enough to be fair and reasonable to lenders.

3. Establishment of an Appeal Process for Mortgagees; Sanctions for Lender Non-Cooperation

One commenter suggested that mortgagees instructed by HUD to seek deficiency judgments against particular mortgagors be able to contest the Department's decision through a formal administrative process. At this time, no formal appeal process is included in the regulation. The Department expects to utilize deficiency judgments in a sparing manner, however, and only in those jurisdictions, and under those circumstances, where the action would be feasible and productive. Section 203.369(a) of the rule enumerates the factors to be taken into account in deciding whether to pursue a deficiency judgment, such as multiple previous defaults on HUD-insured mortgages, investor status of mortgagors, cost-effectiveness, and applicable State laws.

A mortgagee who differs with HUD's decision to pursue a particular deficiency judgment will be able to voice those concerns to the field office making the initial determination in an effort to bring additional facts to light and possibly cause the Department to reverse its decision. Inasmuch as the regulations now provide for full reimbursement of the additional costs incurred by lenders pursuing deficiency judgments, and the regulations also authorize the Department to *require* pursuit of deficiency judgments, HUD sees little to be gained by specifying what sanctions will be utilized against lenders refusing to accede to the Department's requirements. Should there be a significant lack of cooperation, the Department will respond appropriately in light of that problem.

4. Specifying the Mortgagee Responsible for Pursuing Deficiency Judgments: Instances Where Mortgages Have Been Sold

One commenter indicated that references contained in proposed § 203.369, paragraphs (a) and (b), did not specify what was meant by the term "mortgagee" in an instance where a loan was directly endorsed and the credit worksheet was signed by the originating mortgagee's approved underwriter, and the loan was later sold to another mortgagee. The term "mortgagee" is defined in section 201 of the National Housing Act and in 24 CFR 203.251 as including the original lender and his successors and assigns approved by the Secretary. Accordingly, where the context relates to loan origination, (as in clause numbered (2) of the first sentence of § 203.369(a)) the term means the original lender. On the other hand, where the context relates to loan servicing—*i.e.*, the mortgagee pursuing the deficiency judgment, the term "mortgagee" means the current owner of the loan.

5. Legal "Objection" to HUD Pursuing Deficiency Judgments Against Mortgagors Insured by FHA

One commenter questioned the legality of the Department's pursuing and collecting a deficiency judgment from a mortgagor who had paid FHA insurance premiums on his now-forclosed mortgage. The pursuit of a deficiency judgment as a means of recouping the losses incurred through foreclosure and payment of the lender's claim has always been available to the Department. In Form HUD-92900, "Mortgagee's Application for Mortgagor Approval and Commitment for Mortgage Insurance," a *Notice to Borrowers* is contained in paragraph 31B which reads:

> Some home buyers have the mistaken impression that if they sell their home when they move to another locality, or dispose of it for any other reason, they are no longer liable for the mortgage payments and that liability for these payments is solely that of the new owners. Even though the new owners may agree in writing to assume liability for your mortgage payments, this assumption agreement will not relieve you from liability to the holder of the note which you signed when you obtained the loan to buy the property. Also, unless you are able to sell the property to a buyer who is acceptable to the VA or to HUD/FHA and who will assume the payment of your obligation to the lender, *you will not be relieved from liability to repay any claim which the VA or HUD/FHA may be required to pay your lender on account of default in your loan payments. The amount of any such claim payment will be a debt owed by you to the Federal Government. This debt will be the object of established collection procedures.* (emphasis added)

Mortgage insurance is protection that is extended to the mortgagee in the event of default and foreclosure, even though this coverage is purchased, and the premium is paid, by the mortgagor. There are some additional benefits of FHA insurance that accrue to the mortgagor (such as the right to apply for assignment of the mortgage to HUD), but they do *not* include a bar on the Department's collection, from the mortgagor, of any deficiency amount resulting from HUD's payment of any FHA claim to an insured lender. This collection option is set forth in section 204 of the National Housing Act as follows:

> (g) . . . [T]he Secretary shall also have power to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the secretary as provided in this section. . . .

Pursuing and collecting deficiency judgments is therefore already authorized under the law. This final rule sets forth the Department's authority to require lenders to seek deficiency judgments against particular mortgagors, and assign these judgments to the Department. The rule also provides notice of the criteria HUD will use in determining which mortgagors will be the object of collection efforts.

6. Legal Liability for Errors in Information Reported by Lenders

One commenter was concerned that lenders could be considered legally liable for incorrect information they inadvertently transmit to HUD, which the Department might use as justification to pursue deficiency judgments against particular mortgagors.

The Department has the power to "pursue to final collection" *all* claims against mortgagors that are assigned by mortgagees to HUD. Information from lenders will customarily be provided on a routine basis to the Single Family Default Monitoring System (SFDMS) and via other existing lines of communication. The Department will rely mainly upon these existing systems, including their safeguards, in making decisions with respect to deficiency judgments.

7. Fear that the Demise of FHA Will Result from Greater Enforcement of Deficiency Judgments by HUD

Most of the thirty-five comments received from individuals came from realtors in the Houston area who believe that the proposed rule on deficiency judgments was a signal that the FHA mortgage insurance system was about to break down amidst wholesale, and very disruptive, pursuit by the Department of deficiency judgments against ordinary single-family mortgagors. Some of the commenters emphasized that average single-family mortgagors, after losing their homes through foreclosure, were hardly in a financial position to meet deficiency judgment obligations. The Department is aware of this, and reiterates that this rule, while making it possible to require lenders to seek deficiency judgments, will *not* be used routinely against "average" mortgagors whose loans have been foreclosed. The Department intends to seek deficiency judgments (in those States where pursuit of deficiency judgments is feasible) against mortgagors who still retain significant assets after foreclosure and who fall into such categories as repeat defaulters and non-owner occupants (investors). Thus, the nature, and the public's perception, of the FHA mortgage insurance program will not change appreciably after implementation of this Final Rule.

8. "Indemnification" Option to Deficiency Judgments

One commenter suggested "an alternative that would eliminate many of the operational problems, as well as the state law constraints, without abridging HUD's right to recover foreclosure losses from certain borrowers. HUD and MBA could consider seeking a statutory change that would give HUD a separate cause of action against borrowers who cause losses for the government. By statute, the FHA borrower could be required to indemnify HUD for any deficiency on an FHA-insured mortgage. This would be similar to the provision of the Veterans Administration's (VA's) Home Loan Guaranty Program, which provides that 'any amounts paid by the (VA) Administrator on account of the liabilities of any veteran guaranteed or insured under the provisions of 38 U.S.C. Ch. 37 shall constitute a debt owing to the U.S. by such veteran.'

"Such indemnification would enable HUD to recover losses on those cases deemed appropriate, without regard to state law restrictions on the collection of deficiency judgments. Thus, HUD's acquisition of foreclosed properties and HUD's ability to market acquired properties would not be delayed."

As stated earlier in this Preamble, the Department is actively considering this "Indemnification" proposal, but does not regard it as an alternative to this final rule—at least not at this time.

9. Responsibility for "Collection" of Deficiency Judgments

Several commenters stated they would strenuously oppose any attempt to impose upon lenders the burden of tracking the deficiency judgment through to ultimate collection.

Deficiency judgments will be assigned to HUD and the Department will have responsibility for ultimate collection.

Procedural Requirements

This rule does not constitute a "major rule" as that term is defined in § 1(b) of Executive Order 12291 on Federal Regulation issued by the President of February 17, 1981. Analysis of the proposed rule indicates that it does not have an annual effect on the economy of $100 million or more; cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. In only a limited number of cases will deficiency judgments be pursued under the rule and those are likely to be cases where program abuse could be inferred.

This rule was listed as item H-6-86 [Sequence Number 981] under the Office of Housing in the Department's Semiannual Agenda of Regulations published on October 26, 1987 (52 FR 40358) under Executive Order 12291 and the Regulatory Flexibility Act.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, at the above address.

The mortgage insurance programs listed in the Catalog of Federal Domestic Assistance under the following numbers would be covered under this rule: 14.108, 14.117, 14.119, 14.120, 14.121, 14.122, 14.123, 14.132, 14.133, 14.140, 14.152, 14.159, 14.161, 14.165, 14.166, 14.172 and 14.175.

Information collection requirements contained in this rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). The OMB control number assigned to the new § 203.369 is 2535-0093.

List of Subjects in 24 CFR Part 203

Mortgage insurance, Insurance of single family mortgages.

Accordingly, 24 CFR Part 203 is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for 24 CFR Part 203 continues to read as follows:

Authority: Secs. 203, 204 and 211, National Housing Act (12 U.S.C. 1709, 1710, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d). In addition, Subpart C is also issued under sec. 230, National Housing Act (12 U.S.C. 1715(u)).

2. 24 CFR Part 203 is amended by adding immediately after § 203.368 the following new § 203.369:

§ 203.369 Deficiency judgments.

(a) With respect to claims for insurance benefits filed in connection with mortgages insured pursuant to firm commitments issued on or after March 28, 1988, or pursuant to direct endorsement processing under §§ 200.163-200.164a of this chapter where the credit worksheet was signed by the mortgagee's approved underwriter on or after March 28, 1988, the Commissioner may, upon giving timely notice, require the mortgagee diligently to pursue a deficiency judgment in connection with the foreclosure and to assign the judgment to the Commissioner. In determining whether a deficiency judgment should be sought in connection with a single family foreclosure, the

Commissioner will take the following factors into account:

(1) Whether the mortgagor has defaulted on one or more other HUD insured mortgages or loans, resulting in the payment of insurance claims;

(2) Whether the mortgagor treats its ownership as an investment and the mortgagor, or persons or entities with which it has been affiliated, have defaulted on one or more other FHA insured mortgages or loans, resulting in the payment of insurance claims;

(3) Whether it is feasible under State law to seek a deficiency judgment;

(4) The cost-effectiveness of seeking a deficiency judgment, considering, among other factors, the probable amount of the deficiency judgment obtainable, the additional costs attributable to seeking a deficiency judgment and the likelihood of successfully recovering on any judgment; and

(5) Such other factors as the Commissioner may determine appropriate. In cases where the Commissioner requires the pursuit of a deficiency judgment and provides the mortgagee with the Commissioner's estimate of the fair market value of the property, less adjustments, in accordance with § 203.368(e), the mortgagee shall tender a bid at the foreclosure sale in that amount, and shall take all other appropriate steps in accordance with State law to obtain a deficiency judgment.

(b) With respect to claims for insurance benefits filed in connection with mortgages insured pursuant to firm commitments issued before March 28, 1988, or pursuant to direct endorsement processing under § 200.163–200.164a of this chapter where the credit worksheet was signed by the mortgagee's approved underwriter before March 28, 1988, the Commissioner may, in accordance with the criteria set forth in paragraph (a) of this section and upon giving timely notice, request that the mortgagee diligently pursue a deficiency judgment in connection with the foreclosure. Any judgment obtained shall be assigned to the Commissioner.

(c) In cases where pursuit of a deficiency judgment is requested or required under this section, the Commissioner, where the Commissioner determines it appropriate under State law requirements, may extend the otherwise applicable period of time within which a deficiency judgment (and other claims against the mortgagor) and related credit documents must be assigned to the Commissioner under § 203.360, § 203.367 or § 203.368 of this subpart.

(d) In addition to meeting the requirements of § 203.356, in cases where the Commissioner determines it necessary because of State law requirements, the Commissioner may also require (or request, as the Commissioner may determine) the mortgagee to provide the Commissioner with notice of the mortgagee's intent to institute foreclosure proceedings a reasonable amount of time before proceedings are instituted, in order that the Commissioner may be able effectively to require or request the mortgagee, in appropriate cases, to seek a deficiency judgment.

(The information collection requirements contained in this section have been approved by the Office of Management and Budget and assigned control number 2535–0093.)

3. In § 203.402, paragraph (o) is revised to read as follows:

§ 203.402 Items included in payment—conveyed and non-conveyed properties.

* * * * *

(o) In any case in which the Commissioner, pursuant to § 203.369, requires or requests that the mortgagee seek a deficiency judgment, an amount necessary to reimburse the mortgagee for those additional costs incurred that exceed the costs of foreclosure. In those jurisidictions that require the initiation of a judicial foreclosure action in order to obtain a deficiency judgment, a mortgagee shall receive full reimbursement for the costs of the foreclosure action, where, but for the requested deficiency judgment, judicial foreclosure would not have been necessary.

Date: February 8, 1988.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 88–3205 Filed 2–12–88; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Part 882

[Docket No. R-88-1205; FR 1829]

Shared Housing in the Section 8 Existing Housing Certificate Program; Amendment to Final Rule

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends a final rule that appeared in the **Federal Register** on June 11, 1986 (51 FR 21300), for which corrections were published on July 3, 1986 (51 FR 24324), on August 18, 1986 (51 FR 29463), and on November 21, 1986 (51 FR 42090). The purposes of this amendment are to allow the use of "exception rents" in determining the maximum initial rent for a unit in Shared Housing (under § 882.320(b)), to require each sharing family initially to lease space of appropriate size (under § 882.315(b)(1)), and to remove a dollar limit on the gross rent payable for each family (under § 882.320(d)), which becomes unnecessary with the addition of the unit size requirement. The changes to § 882.320 will make the Shared Housing component of the Section 8 Certificate program like the rest of the program where there is no reason to make a distinction. The change to § 882.315 will require an appropriate portion of a unit to be leased, so that the limit stated in § 882.320(b) on the Fair Market Rent acts as an appropriate dollar limit.

EFFECTIVE DATE: March 28, 1988 for the June 11, 1986 rule, as amended by this rule. (Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress that occurs after the date of the rule's publication. The final rule that this rule amends has not yet been made effective, although 30 days of continuous session of Congress have expired since its publication in June 1986. The Department is now ready to implement the program. Therefore, the June 1986 rule as amended by this rule will become effective on March 15, 1988, a date by which the rquired waiting period for this rule will have expired.)

FOR FURTHER INFORMATION CONTACT: Susan Loritz, Existing Housing Division, Office of Multifamily Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–8000, telephone (202) 755–6887. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 882.320(b), a section added for Shared Housing to correspond to § 882.106 for the regular Certificate program, would provide that the initial gross rent for a family may not exceed the pro rata portion of the "published" Fair Market Rent (FMR) for the entire unit. This rule amends that section to provide that the initial gross rent may not exceed the pro rata portion of the published Fair Market Rent or other rent approved in accordance with § 882.106(a) for the entire unit ("exception rent"). An "exception rent" is an initial gross rent (rent to owner plus allowance for tenant-paid utilities) higher than the published FMR that is approved for an

area or a unit in accordance with § 882.106(a).

Section 882.320(d) as published on June 11, 1986, would limit the gross rent paid on behalf of a sharing family by stating that it may not exceed the FMR (or exception rent) for the bedroom size stated on the family's Certificate. If the FMRs applicable to each family based on the number of bedrooms stated on its Certificate were added together, the result could be quite out of proportion to the value received. Since the FMRs are developed to correspond to the value of an individual unit containing a specified number of bedrooms plus a separate kitchen, bathroom and living areas rather than a specified number of bedrooms and a shared kitchen, bathroom, and living areas, the Department has determined that this gross rent restriction is inappropriate to Shared Housing, where the rent paid buys each family only limited private space, with the remainder of the space used in common with another family. Therefore, this rule removes paragraph (d) from § 882.320 before its implementation.

To assure that the amount paid on behalf of an assisted family is not out of proportion to the needs of the family or the value of the space occupied by the family, paragraph (b) of § 882.315 (which corresponds to § 882.209(i) for the regular Certificate program) is being amended to require that the private space of a sharing family initially contain the number of bedrooms stated on the family's Certificate (except for two individuals sharing a one-bedroom unit). Combined with the limit stated in § 882.320(b) on the amount payable for the unit, this restriction will assure that the amount paid on behalf of assisted families sharing a unit will not be excessive—either with respect to the unit as a whole, or with respect to a particular family. However, nothing in the regulatory requirement that at initial occupancy the tenant may not lease more bedroom space than it is entitled to under its Certificate precludes an owner from permitting the tenant to use additional space, provided that use of additional space is and continues to be discretionary and the owner may deny use of such space at any time.

This change to § 882.315 will apply to a sharing family both at initial occupancy (the topic of § 882.320) and to replacement of a departed family (see § 882.335(c)). Thus, the requirement of § 882.335(c)(2)(iii) that a successor family have the same Contract Rent as the family it is replacing will be particularly fitting, because both the departed family and the successor family—at the time of initial occupancy of the unit—will have needed the same number of bedrooms.

Findings and Certifications

Final Rule. It is the policy of this Department to publish for comment, rules relating to public property, loans, grants, benefits, or contracts, despite the exemption for these rules contained in 5 U.S.C. 553 from the requirement to solicit public comment. However, under 24 CFR Part 10, in a particular case, the Department may omit solicitation of public comment before publishing a final rule if such comment is not required by statute and HUD determines that solicitation and consideration of public comment are "impracticable, unnecessary or contrary to the public interest."

In this case, no statute requires the solicitation and consideration of public comment. The amendment does not impose a burden on the intended beneficiaries of the program, or on the public housing agencies that administer the program. Rather, the amendment will permit a PHA to approve a higher rent for Shared Housing (in situations where exception rents are appropriate), and thus may increase the availability of Shared Housing for assisted families. Adding the authority for a PHA to use exception rents in the Shared Housing component of the Certificate program makes this part of the program consistent with the rest of the program (see § 882.106). At this time, the Department finds no reason for denying the option of exception rent limits for families that elect to rent units in Shared Housing. We note that the maximum initial rent for one sharing family under § 882.320(b), based on its pro rata share of the FMR for a larger shared unit, combined with the amendment requiring assisted families to lease space containing the same number of bedrooms for the family as is stated on its Certificate, will produce a reasonable rent limit for sharing families. The removal of paragraph (d) from § 882.320—a paragraph added solely for Shared Housing—relieves PHAs from making an additional calculation that would have no impact after the addition of the matching of bedroom size. The Department has determined that it is unnecessary and contrary to the public interest to solicit public comment before making these changes to the Shared Housing component of the Certificate program before its implementation.

Environment. An environmental assessment is not required under the National Environmental Policy Act of 1969, 42 U.S.C. 4332, since the Section 8 Existing Housing program is categorically excluded from the environmental review requirement under HUD regulations implementing that Act (24 CFR 50.20(d)).

Regulatory Impact Analysis. This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicated that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions, or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act. Under 5 U.S.C. 605(b), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, because it makes only a minor clarification in a rule that is not yet effective—in favor of extension of current policy where appropriate, and in favor of assuring occupancy of space of appropriate size.

Semiannual Agenda of Regulations. This rule was not listed in the HUD Semiannual Agenda of Regulations published on October 26, 1987 (52 FR 40358), under Executive Order 12291 and the Regulatory Flexibility Act.

Catalog. The Catalog of Domestic Assistance Number is 14.156, Lower Income Housing Assistance Program (Section 8).

List of Subjects in 24 CFR Part 882

Grant programs—housing and community development, Low and moderate income housing, Manufactured homes, Rent subsidies.

Accordingly, 24 CFR Part 882 is amended as follows:

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

1. The authority citation for Part 882 continues to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 882.315(b)(1) is revised to read as follows:

§ 882.315 Occupancy of a shared housing unit.

* * * * *

(b) *Size of unit and Family space.* (1) The number of bedrooms in the Private Space of an assisted Family initially must be the same as the number stated on the Family's Certificate, except in the case of two individuals sharing a one bedroom unit. The PHA may not approve a Lease or execute a Contract for Shared Housing unless the unit, and the portion of the unit available for use by the assisted Family under its Lease, meet the housing quality standards under § 882.109.

* * * * *

3. Section 882.320 is amended by removing paragraph (d) and by revising paragraph (b) to read as follows:

§ 882.320 Initial contract rent.

* * * * *

(b) *Fair Market Rent limitation.* The PHA applies the Fair Market Rent limitation in § 882.106(a) by not permitting the initial Gross Rent for a Family to exceed the Pro Rata Portion of the published Fair Market Rent or of a higher rent, as approved by the PHA in accordance with § 882.106(a), for the entire unit.

* * * * *

Dated: February 3, 1988.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 88-3206 Filed 2-12-88; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 251

Geological and Geophysical Exploration of the Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: This rule revises the timeframes for protection of proprietary geological and geophysical (G&G) data and information collected under a permit. The terms of protection are increased from 10 years to 25 years for geophysical information and from 10 years to 50 years for geophysical data. In addition, the maximum protection for information from a deep stratigraphic test well in the absence of a lease being issued within 50 miles of the test well has been increased from 10 years to 25 years. This notice also removes a temporary rule which has suspended the release of geophysical data and information collected under a permit and updates the addresses for filing locations given in § 251.5-3.

DATES: This rule is effective March 17, 1988.

FOR FURTHER INFORMATION CONTACT: Gerald D. Rhodes, telephone: (703) 648-7816.

SUPPLEMENTARY INFORMATION: Section 26(c) of the Outer Continental Shelf (OCS) Lands Act requires that—

> The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained, and (2) set forth time periods and conditions which shall be applicable to the release of such information * * *.

Current regulations of § 251.14 provide a 10-year period of time during which G&G data and information collected under a permit are not available to the public without the consent of the permittee.

The Minerals Management Service (MMS) has issued proposed rules which addressed this situation in the **Federal Register** on June 30, 1983 (48 FR 30147), on February 20, 1986 (51 FR 6133), and on September 29, 1987 (52 FR 36435). The notice published on September 29, 1987, addressed the comments received in response to the two earlier notices and requested comments on two proposed rules which were designated as Alternative Rule 1 and Alternative Rule 2.

Changes proposed in Alternative Rule 1 provided a means to protect data and information for at least one lease sale. This approach guarantees a minimum return to investors who generated the data and information. Alternative Rule 1 also provided additional protection in areas where moratoria left portions of the OCS unavailable for leasing.

Changes proposed in Alternative Rule 2 provided longer terms of protection for all proprietary geophysical data and information collected under a permit. This approach expands timeframes for protection recognizing the longer periods that geophysical data and information remain of commercial value. The longer period of commercial value may be due to moratoria, subarea deferrals, delayed lease sales, or other factors which have delayed lease sales thus reducing the commercial value of data and information during the first 10 years of protection and increasing their commercial value during subsequent years. In addition, Alternative Rule 2 provided for a 5-year extension of the protection upon request of the permittee.

Interested parties were invited to submit written comments concerning whether the rule should be amended and, if so, which of the two alternative approaches should be followed in the final rule.

Discussion of Comments

Timely comments were received from 22 commenters. Commenters were uniformly in favor of longer terms of protection and many expressed the belief that data and information should be protected as long as they are of commercial value. The commenters also provided comments relative to specific provisions of the proposed rules. The comments received were considered in developing the final rule and are summarized and discussed below.

Several commenters supported the approach of Alternative Rule 1, although most of these commenters suggested a minimum term of 25 years rather than the proposed 10-year minimum term. Many of the commenters supported Alternative Rule 2 as superior to the current rule and to Alternative Rule 1. Many of the commenters supporting one of the proposed alternative rules expressed the opinion that the preferred approach would be to protect data and information as long as they had commercial value.

The final rule uses the framework in Alternative Rule 2. The MMS has used this approach to provide added protection in all cases and believes this longer period of protection will respond to the need for added protection, regardless of the reason that a lease sale might be delayed or cancelled.

Many comments were received concerning the use of a lease sale as a trigger for release of data and information. Commenters expressed the opinion that data and information remain of value after a lease sale and, in some cases, increase in value after a lease sale. Others commented that a planning area was too large an area to allow a lease sale to trigger the release of data and information and that if any unleased acreage existed in an area, then data and information should continue to be protected.

The MMS recognizes the merit of many of the comments received and has opted to use a framework which does not rely on a lease sale as a trigger for the release of data and information.

Several comments were received concerning extensions of terms of protection. Commenters favored extensions in cases of moratoria as proposed in Alternative Rule 1 and suggested that the criteria for extension be broadened to include other reasons that acreage is unavailable for leasing. Commenters favored extensions when

blocks were unavailable for leasing for reasons such as subarea deferrals, sale cancellation, and litigation. Several commenters also favored extensions at the option of the permittee. Some commenters suggested that in addition to extensions at the option of the permittee, further extensions should be available for good cause. Other commenters expressed the opinion that an extension at the request of the permittee would uniformly be requested and suggested that such extensions be added to the original term of protection. In view of the wide array of reasons for which commenters believe that extensions are justified and, since MMS agrees that extensions at the option of the permittee would be uniformly requested, MMS has built a longer timeframe into the basic term of protection and further extensions are not included. The longer timeframes recognize that there are many reasons why lease sales may be delayed.

Many commenters objected to provisions for discretionary release of prelease data and information. Under the proposed discretionary release, information would have been released as a result of announcements resulting from existence of hydrocarbons or existence of an environmental hazard or when necessary to establish unitization. In each of the cases, commenters expressed the opinion that the release was either unnecessary or unfair to the permittee.

The proposed discretionary authority to release geophysical information under certain criteria was dropped from the final rule.

Several commenters recommended that terms of protection be based on the date of submission of data and information rather than the date of the permit. Current regulations use the date of the permit for geophysical data and the date of submittal for geophysical information. Commenters noted that if data are reprocessed 8 years after a permit is obtained and, if MMS requests and obtains the reprocessed information, then 8 years of protection would have past before the information was even submitted.

In the final rule, MMS has based the term of both geophysical data and geophysical information on the date of submittal.

Two commenters addressed changes proposed for protection of data and information from deep stratigraphic test wells. One commenter recommended that deep stratigraphic test well data and information be protected a minimum of 25 years. The other commenter recommended that the data and information be protected a minimum of 3 years and that the criteria of release be changed from the issuance of a lease within 50 miles of the well to the issuance of a lease containing the land on which the well was drilled.

The MMS did not adopt these comments. The current rules governing protection of deep stratigraphic test well data and information do not provide for a minimum protection period beyond the lease sale criteria and no guaranteed minimum protection period was proposed. The MMS does not believe that the criteria of leasing the land on which the well was drilled is an appropriate trigger for release of deep stratigraphic test well data and information. A deep stratigraphic test well is normally drilled off structure and in many cases would not be on the lease to which its data and information are most applicable. The maximum protection period for deep stratigraphic test well data and information was proposed to be increased and in the final rule it is increased to match the term provided for geophysical information.

Description of Final Rule

The final rule provides a fixed term of protection of 25 years after the date of submittal for geophysical information. This reflects the 20-year period proposed in Alternative Rule 2 plus the 5-year extension which would have been available to the permittee under the proposed rule. Since the additional 5 years on the extension has already been added to the term of protection, the final rule does not provide for extensions. This approach was considered to be superior to providing protection for 10 years or until the first lease offering because, in most cases, the 25-year period will provide for several lease sales in a planning area and allow the permittee repeated use of the information. The 25-year term also takes into account the fact that for various reasons, certain portions of a planning area may be unavailable for leasing. As discussed earlier, the rule does not create any new discretionary authority.

The MMS has treated data differently from information in the final rule. In most cases, MMS obtains geophysical information rather than data (unprocessed). However, for cases where data are submitted, a term of 50 years is established. This recognizes that data can be reprocessed many years after they are collected and provides the company that acquires the data an opportunity to reprocess the data using new techniques and to retain a proprietary right to the data.

For the purpose of streamlining the rule and improving the clarity of the rule, all provisions governing protection of data and information related to deep stratigraphic tests were proposed to be moved into a new paragraph (e). This new paragraph (e) was retained in the final rule. In addition, the maximum term of protection of data and information from a deep stratigraphic test well and G&G data and information submitted in support of a deep stratigraphic test well was increased to 25 years. This maximum term is only applicable when a lease has not been issued within 50 miles of the well during the 25 years after the test is completed.

Environmental and Regulatory Analysis

The Department of the Interior (DOI) has determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, an environmental impact statement is not required.

The DOI has also determined that this document is not a major rule under Executive Order 12291 because the annual economic effect is less than $100 million.

The DOI also certifies that the rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) as the entities that engage in offshore activities are not considered small due to the technical complexity and financial resources necessary to conduct offshore activities.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Author

The document was prepared by John V. Mirabella; Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Minerals Management Service.

List of Subjects in 30 CFR Part 251

Continental shelf; Freedom of information, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements, Research.

Date: January 15, 1988.

Wm. D. Bettenberg,

Director, Minerals Management Service.

For the reasons set forth above, 30 CFR Part 251 is amended as follows:

PART 251—[AMENDED]

1. The authority citation for Part 251 is revised to read as follows:

Authority: Outer Continental Shelf Lands Act, 43 U.S.C. 1331 *et seq.*, as amended, 92

Stat. 629; National Environmental Policy Act of 1969, 42 U.S.C. 4332 *et seq.* (1970).

2. Section 251.5-3 is revised to read as follows:

§ 251.5-3 Filing locations for permits to conduct exploration for mineral resources.

Each application for a permit to conduct geological or geophysical exploration for mineral resources in the OCS shall be filed, in duplicate, at the following locations:

(a) For the OCS off the Atlantic Coast—the Regional Supervisor for Resource Evaluation, Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Vienna, Virginia 22180.

(b) For the OCS in the Gulf of Mexico—the Regional Supervisor for Resource Evaluation, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Blvd., New Orleans, Louisiana 70123.

(c) For the OCS off the coast of the States of California, Oregon, or Washington—the Regional Supervisor for Resource Evaluation, Minerals Management Service, Pacific OCS Region, 1340 West Sixth Street, Los Angeles, California 90017.

(d) For the OCS off the State of Alaska—the Regional Supervisor for Resource Evaluation, Minerals Management Service, Alaska OCS Region, 949 East 36th Avenue, Anchorage, Alaska 99508.

3. Section 251.14-1 is amended by removing paragraph (c)(3).

4. Section 251.14-1 is amended by revising paragraphs (d) (1) and (2) and (e), and removing paragraph (d)(3) to read as follows:

§ 251.14-1 Disclosure of information and data to the public.

* * * * *

(d) * * *

(1) The Director shall make geophysical data available to the public 50 years after the date which the data are submitted.

(2) The Director shall make processed geophysical information, reprocessed geophysical information, and interpreted geophysical information available to the public 25 years after the date which the information is submitted.

(e) The Director shall make available to the public all geological and geophysical data and information and geophysical interpretations obtained from drilling a deep stratigraphic test or submitted in support of an application for a permit to drill a deep stratigraphic test, or which the permittee is required to obtain in order to conduct the drilling of a deep stratigraphic test, at the earliest of the following times: (1) 25 years after completion of the test, or (2) for a lease sale held after the test well is completed, 60 calendar days after the Department of the Interior executes the first lease for a block, any part of which is within 50 geographic miles (92.6 kilometers) of the site of the completed test.

[FR Doc. 88-3149 Filed 2-12-88; 8:45 am]
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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 in 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 amendment will modify the Indiana Surface Mining Law to: (a) Exempt hearings under the State Surface Mining Law from the limitations imposed by IC 4-21.5-3-25(d); (b) establish application and permit fees by statute instead of by regulation, and raise permit fees from $100 for each acre described in the application to $125 for each acre described; (c) establish a post-1977 abandoned mine reclamation fund; (d) provide that all civil penalties collected under the law be deposited in the newly established post-1977 fund; and (e) provide that any money remaining in a pre-SMCRA State fund be withdrawn and deposited in the post-1977 fund.

EFFECTIVE DATE: April 30, 1987.

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 program submission and the approval process, as well as the Secretary's findings, the disposition of comments and an explanation of the approval can be found in the August 19, 1983 **Federal Register** (48 FR 37631). Other actions on conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Discussion of Proposed Amendment

On June 11, 1986, the Indiana Department of Natural Resources submitted to OSMRE pursuant to 30 CFR 732.17, proposed State program amendments for approval. The amendments included House Enrolled Act No. 1339, which established the new State Administrative Adjudication Act at IC 4-21.5. On July 3, 1986, OSMRE published a notice in the **Federal Register** announcing receipt of the proposed program amendments and procedures for the public comment period and for requesting a public hearing on the substantive adequacy of the proposed amendments (51 FR 24388). The public comment period ended August 4, 1986. The public hearing scheduled for July 28, 1986, was not held because no one requested the opportunity to testify.

On October 6, 1986, OSMRE sent a letter to Indiana identifying concerns with certain provisions of the amendments. Indiana responded on November 7, 1986, by submitting additional information and explanation concerning the proposed amendments. On December 15, 1986, OSMRE reopened the comment period for 15 days, ending December 30, 1986, to provide for public comments on the additional information (51 FR 44926). In response to a request for additional response time from a commenter, OSMRE again reopened the comment period for an additional 15 days, ending January 29, 1987 (January 13, 1987, 52 FR 1339).

On April 1, 1987, OSMRE published a final rule notice in the **Federal Register** (52 FR 10369) approving the amendments with the exception of two provisions on which action was deferred. The two deferred provisions were IC 4-21.5-3-6(d) and IC 4-21.5-3-25(d).

The deferred provision concerning IC 4-21.5-3-25(d) allowed the limitation of "the party's use of discovery, cross-examination, and other procedures so as to promote the orderly, prompt, and just conduct of the proceeding." Under 43 CFR 4.1121, although the administration law judge has great latitude during pre-trial procedures, such latitude would not extend to the trial itself and a Federal administrative law judge could not limit cross-examination. Since cross-examination is itself limited to matters raised during direct examination,

attempts to further limit the right to cross-examination may infringe on a party's right to due process, resulting in reversible error.

Further, paragraph (3) of IC 4-21.5-3-25(d) authorized a State administrative law judge to order two or more parties to combine their presentations of evidence and argument, cross-examination, discovery and other participation in a proceeding. By doing so, the judge could adversely affect the due process rights of the litigants, thereby also creating reversible error. Under the Federal procedures, although a judge may limit the presentation time of the parties involved, a judge does not have the authority to force litigants to combine their arguments and presentations (see 43 CFR 4.1121).

By letter dated May 4, 1987 (Administrative Record No. IND-0483), the Indiana Department of Natural Resoures submitted a proposed State program amendment (Senate Enrolled Act No. 42) to modify the Indiana Surface Mining Law at Indiana Code 13-4.1. On June 11, 1987, OSMRE published a notice in the **Federal Register** (52 FR 22346) announcing receipt of the amendment and inviting public comment on its adequacy. The public comment period ended July 13, 1987. The public hearing scheduled for July 6, 1987 was not held because no one requested an opportunity to testify. Indiana Senate Enrolled Act No. 42 is comprised of six separate sections which are summarized below.

1. Section 1 adds to the law new Section IC 13-4.1-1-8, which exempts hearings under the State Surface Mining Law from the limitations imposed on the Indiana program by IC 4-21.5-3-25(d) (one of the provisions of the Administrative Adjudication Act enacted by the 1986 Indiana General Assembly). The limitations originally imposed by IC 4-21.5-3-25(d) would have allowed an administrative law judge (ALJ), after issuance of a prehearing order, to impose conditions upon a party to avoid presentations by the party considered by the ALJ to be unreasonably burdensome or repetitious. IC 4-21.5-3-25(d) would also have allowed an ALJ to prohibit interveners from recalling any witness who had been heard, or reopening any matter that has been resolved. The limitations being exempted were considered by the Director as being less effective than Federal rules under 43 CFR 4.1121 by being too limiting on litigants during hearings (52 FR 13069).

2. Section 2 amends IC 13-4.1-3-2 and establishes application and permit fees by statute instead of by regulation as had previously been the case; it also raises the permit fee from one hundred dollars ($100) to one hundred twenty-five dollars ($125) for each acre described in an application.

3. Section 3 amends IC 13-4.1-6-8 by establishing a post-1977 abandoned mine reclamation fund and provides that interest on the fund remains in the fund. The post-1977 abandoned mine reclamation fund is to be used to correct mine site problems resulting from operator abandonment of operations since passage of SMCRA in 1977.

4. Section 4 adds IC 13-4.1-12-6 to provide that all civil penalties collected under the Indiana Surface Mining Law shall be desposited in the newly established post-1977 fund.

5. Section 5 provides that any money remaining in a fund created by the pre-SMCRA State Surface Mining Law, IC 13-4-6-5, shall be withdrawn and deposited in the post-1977 abandoned mine reclamation fund.

6. Section 6 provides that Senate Enrolled Act No. 42 takes effect immediately upon passage by the State Legislative (April 30, 1987).

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment submitted to OSMRE by the State of Indiana on May 4, 1987. Only those revisions of particular interest are discussed below. Any revisions not specifically discussed below are found to be no less stringent than SMCRA and no less effective than the Federal regulations. Revisions which are not discussed below contain language similar to the corresponding Federal rules, concern nonsubstantive wording changes, or provide for recodification of the Chapter and do not adversely affect other aspects of the program.

Section 1 of the amendment addresses limitations concerning hearings that were imposed on the Indiana program by the State's passage of IC 4-21.5-3-25(d). The Director determined in the April 1, 1987, **Federal Register** (52 FR 10369) that IC 4-21.5-3-25(d) rendered the Indiana program less effective than the Federal regulations at 43 CFR 4.1121, and deferred a decision concerning IC 4-21.5-3-25(d). The amendment at Section IC 13-4.1-1-8, however, exempts hearings under the State Surface Mining Law from the limitations imposed by IC 4-21.5-3-25(d). The Director finds, therefore, that the proposed Indiana revision at IC 13-4.1-1-8 is no less effective than the Federal regulations, and that the Director's deferral of IC 4-21.5-3-25(d) at 30 CFR 914.15(p) should be removed.

Section 2 of the amendment increases permit fees, and establishes application and permit fees by statute instead of by regulation. Section 507(a) of SMCRA provides that permit fees are to be determined by the regulatory authority as long as such fees do not exceed the actual or anticipated cost of reviewing, administering and enforcing such permits. The Director finds, therefore, that this Section is in accordance with, and is no less stringent than SMCRA section 507(a).

Sections 3 through 5 of the amendment establish a post-SMCRA State abandoned mine reclamation fund to be funded from an existing pre-SMCRA State reclamation fund, collected civil penalties, and interest accrued by the fund. The fund does not duplicate the OSMRE Title IV Abandoned Mined Lands program which addresses mine sites mined and abandoned before August 3, 1977. Approval of these Sections, although similar provisions are not addressed in SMCRA, does not lessen the effectiveness of SMCRA and the Federal regulations. The Director finds, therefore, that these rules are not inconsistent with SMCRA, nor are they less effective than the Federal regulations.

IV. Public Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies. No substantive comments were received.

The Director announced receipt of the proposed amendment and invited public comment on the adequacy of the proposed amendment in the June 11, 1987 **Federal Register** (52 FR 22346). The notice stated that a public hearing would be held only if requested. Since there were no requests for a hearing, a hearing was not held. The comment period closed on July 13, 1987, with no public comments received.

V. Director's Decision

Based on the above findings, the Director is approving the amendment to the Indiana program as submitted by letter dated May 4, 1987. The Federal Rules at 30 CFR Part 914 are being amended to implement this decision. The Director is approving the amendment retroactive to April 30, 1987, to coincide with the effective date of Indiana's Legislative passage of the Act as specified by the amendment submitted on May 4, 1987.

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 environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

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

List of Subjects in 30 CFR Part 914

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

Dated: February 8, 1988.

James W. Workman,

Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below.

PART 914—INDIANA

1. The authority citation for Part 914 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Paragraph (p) of § 914.15 is revised to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(p) The following amendments are approved effective April 1, 1987: Revisions to the Indiana Code as contained in Senate Enrolled Act No. 41 and House Enrolled Act No. 1339 submitted June 11, 1986, as modified on November 7, 1986, with the exception of the provision at IC 4-21.5-3-6(d) on which action is deferred. Senate Enrolled Act No. 41 amends provisions at IC 13-4-6-9, IC 13-4.1-1-3, IC 13-4.1-1-5, IC 13-4.1-3-3, IC 13-4.1-3-4, IC 13-4.1-3-6, IC 13-4.1-4-1, IC 13-4.11-4-3, IC 13-4.1-4-7, IC 13-4.1-7-1, IC 13-4.1-7-5, IC 13-4.1-7-6, IC 13-4.1-8-1, IC 13-4.1-11-5, IC 13-4.1-11-6, IC 13-4.1-11-8, IC 13-4.1-11-12, and IC 13-4.1-14-1. House Enrolled Act No. 1339, effective July 1, 1987, replaces IC 4-22-1 with the new State Administrative Adjudication Act at IC 4-21.5.

3. Paragraph (s) is added to § 914.15 to read as follows:

* * * * *

(s) The following amendments to the Indiana permanent regulatory program, as submitted to OSMRE on May 4, 1987, are approved effective April 30, 1987: Revisions to the Indiana Code (IC) as contained in Senate Enrolled Act No. 42 as submitted on may 4, 1987. Senate Enrolled Act No. 42 amends provisions at IC 13-4.1-1-8, hearings exemption; IC 13-4.1-3.2, permit fees; IC 13-4.1-6-8, post-1977 reclamation fund; and IC 13-4.1-12-6, post-1977 reclamation fund.

[FR Doc. 88-3135 Filed 2-12-88; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7-87-45]

Drawbridge Operation Regulations; Savannah River, GA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Georgia Department of Transportation, the Coast Guard is changing the regulations governing the Houlihan Bridge (US 17) at Savannah Georgia by requiring that advance notice of opening be given. This change is being made because of a very low volume of requests for opening the draw. This action will relieve the bridgeowner of the burden of having a person constantly available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on March 17, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, telephone (305) 536-4103.

SUPPLEMENTARY INFORMATION: On Nov. 13, 1987, the Coast Guard published proposed rule (52 FR 43624) concerning this amendment. The Commander, Seventh Coast Guard District, also published the proposal as a Public Notice dated November 23, 1987. In each notice, interested persons were given until December 28, 1987 to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Comments

The Georgia State Clearinghouse Office of Planning and Budget advised on November 26, 1987 that the project would be considered consistent with State goals, policies, plans, objectives, programs, and budgetary restraints. No other comments were received.

The final rule is unchanged from the proposed rule published on November 13, 1987.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because bridge openings are infrequent. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.371(a) is revised to read as follows:

§ 117.371 Savannah River.

(a) The draw of the Houlihan bridge (US 17) mile 21.6 at Savannah shall open on signal if at least three hours advance

notice is given to the Georgia Department of Transportation Area Engineer in Savannah.

* * * * *

Dated: January 26, 1988.

H.B. Thorsen,

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

[FR Doc. 88-3187 Filed 2-12-88; 8:45 am]

BILLING CODE 4910-14-M

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

Tariff of Tolls

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Tariff of Tolls for the use of the St. Lawrence Seaway which is established and administered jointly by the Saint Lawrence Seaway Development Corporation, United States, and The St. Lawrence Seaway Authority, Canada, was formally revised on December 22, 1987, by means of an international agreement in the form of an exchange of diplomatic notes between the Governments of the United States and Canada. This agreement further amended the agreement dated March 9, 1959, between the two governments.

The effect of this revision is to raise the level of tolls assessed on all commodities and vessels transiting the Welland Canal section of the St. Lawrence Seaway. Increases were scheduled to become effective at the beginning of the 1987 navigation season and are necessary because of the increased costs encountered by The St. Lawrence Seaway Authority. In view of the fact that this final rule is being promulgated after the close of the 1987 nevigation season, the Tariff will be revised to reflect the tolls in effect for 1988.

Under the terms of the 1987 exchange of notes the Corporation received, during the 1987 navigation season, 27% of the revenues generated on the Montreal-Lake Ontario section of the Seaway.

EFFECTIVE DATE: March 21, 1988.

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC 20590, (202) 366-0101.

SUPPLEMENTARY INFORMATION: On February 6, 1987, the Saint Lawrence Seaway Development Corporation published in the **Federal Register** (52 FR 3826) a notice of the proposed changes to the commodity and vessel charges for the use of the Welland Canal which are prescribed in 33 CFR Part 402.

The proposed action was to increase the level of the tolls at the Welland Canal by approximately 8 percent for 1987 and approximately 8 percent for 1988 and the proposal included the level of tolls which were to be assessed starting at the beginning of the 1987 navigation season.

In the notice of February 6, 1987, interested parties were invited to submit written views and data regarding the proposal on or before March 20, 1987. No comments were received regarding the proposed revision to the joint Tariff of Tolls.

After consideration of the proposal, the Administrator of the Corporation and the President of the Authority executed an agreement between the Saint Lawrence Seaway Development Corporation of the United States and The St. Lawrence Seaway Authority of Canada on March 24, 1987, in which the two Seaway agencies recommended to their governments that the St. Lawrence Seaway Tariff of Tolls be modified as proposed in the February 6, 1987, notice.

Although the charges and tolls applicable to the Montreal-Lake Ontario section are not changed by this revision, § 402.8 is revised by changing the "1986" heading to "1988" which is presently contained under the column entitled "Montreal to or from Lake Ontario." Furthermore, the heading "1986" is to be changed to "1988" which is located under the column entitled "Lake Ontario to or from Lake Erie (Welland Canal)."

Regulatory Evaluation

This revision involves a foreign affairs function of the United States, and therefore, Executive Order 12291 does not apply. This regulation has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the regulation is not considered significant under those procedures and its economic impact is expected to be so minimal that a full economic evaluation is not warranted.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this regulation does not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls relates to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne by foreign vessels.

Environmental Impact

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major Federal action significantly affecting the quality of human environment.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

Accordingly, Part 402—Tariff of Tolls (33 CFR 402) is amended as follows:

PART 402—[AMENDED]

1. The authority citation for 33 Part 402 continues to read as follows:

Authority: 68 Stat. 93-96, 33 U.S.C. 981-990, as amended.

2. Section 402.8 is revised to read as follows:

§ 402.8 Schedule of tolls.

	Tolls	
	Montreal to or from Lake Ontario)—1988	Lake Ontario to or from Lake Erie (Welland Canal)—1988
(a) For transit of the Seaway, a composite toll, comprising:		
(1) A charge in dollars per gross registered ton, according to national registry of the vessel, applicable whether the vessel is wholly or partially laden, or is in ballast. (All vessels shall have an option to calculate gross registered tonnage according to prescribed rules for measurement in either Canada or the United States)	0.08	0.10
(2) A charge in dollars per metric ton of cargo as certified on ship's manifest or other document, as follows:		
—Bulk cargo	0.85	0.42
—General cargo	2.06	0.68
—Containerized cargo	0.85	0.42
—Government aid cargo	0.52	0.42
—Food grains	0.52	0.42
—Feed grains	0.52	0.42
(3) A charge in dollars per passenger per lock	1.00	1.00
(4) A charge in dollars per lock for complete or partial transit of the Welland Canal in either direction by cargo or passenger vessels, which may be shared by vessels in tandem:		
(i) Loaded: Per Lock	N/A	340.00
(ii) In ballast: Per Lock	N/A	250.00
(b) For partial transit of the Seaway:		
(1) Between Montreal and Lake Ontario, in either direction 15 percent per lock of the applicable toll.		
(2) Between Lake Ontario and Lake Erie, in either direction (Welland Canal), 13 percent per lock of applicable toll.		
(c) Minimum charge in dollars per vessel per lock transited for full or partial transit of the Seaway:		
—Pleasure craft	5.00	7.00
—Other vessels	10.00	13.00

Issued at Washington, DC on February 5, 1988.

Saint Lawrence Seaway Development Corporation,

James L. Emery,

Administrator.

[FR Doc. 88-3122 Filed 2-12-88; 8:45 am]

BILLING CODE 4910-61-M

VETERANS ADMINISTRATION

38 CFR Part 21

Temporary Program of Vocational Training for Certain New Pension Recipients

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: The Veterans Administration (VA) is publishing regulations to implement the provisions of the Veterans' Benefits Improvement Act of 1984, Pub. L. 98-543. Title III, section 301 of the Act establishes a temporary program under 38 U.S.C. chapter 15, section 524, to provide vocational training and other services to veterans in receipt of VA pension for nonservice-connected disability. The purpose of the program is to enable such veterans to achieve an income from work sufficient to provide a level of economic independence which would not require the receipt of the VA pension. This temporary program will be in effect from February 1, 1985, through January 31, 1989. A report on the program must be prepared and submitted to Congress by April 15, 1988.

DATES: These final rules are retroactively effective February 1, 1985, the date on which the provisions of law on which these regulations are based became effective.

FOR FURTHER INFORMATION CONTACT: Mr. Morris Triestman, Rehabilitation Consultant, Vocational Rehabilitation and Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2886.

SUPPLEMENTARY INFORMATION: At pages 30178 through 30189 of the **Federal Register** of August 13, 1987, the VA published proposed regulations concerning this temporary program. Interested persons were given 30 days in which to submit their comments, suggestions, or objections to the proposed regulations. Since no comments, suggestions or objections were received, the proposed rules are adopted as final rules without change.

This temporary program is limited to 2,500 of the veterans who are awarded pension in any 12-month period beginning on and after February 1, 1985, through January 31, 1989. A determination of the feasibility of the veteran for training and employment is required for veterans under age 50 and may be requested by veterans age 50 and older. If training and employment are found reasonably feasible for the veteran, he or she will be offered an opportunity to pursue a vocational training program similar in nature to the program provided the service-disabled veteran under chapter 31. The VA will pay for the training and other services in a manner similar to the manner in which they are provided under 38 U.S.C. chapter 31, with certain exceptions, but the veteran does not receive any loan, automobile adaptive equipment or a monthly subsistence allowance. The duration of training provided is 24 months with an extension up to 24 months in certain circumstances. The recipient of benefits under this temporary program for nonservice-disabled veterans is not, however, to be considered as being a participant in the vocational rehabilitation program for service-disabled veterans under 38 U.S.C. chapter 31.

The regulations contained herein will better acquaint eligible veterans, vocational training and rehabilitation facilities, and the public at large with the way these provisions will be implemented.

The VA has made these regulations retroactively effective to February 1, 1985, because these are interpretive rules which construe the meaning of 38 U.S.C. 524, or are general statements of policy. Moreover, the VA finds that good cause exists for making these regulations, like the sections of law they implement, retroactively effective to

February 1, 1985. To achieve the maximum benefit of this legislation for the affected individuals it is necessary to implement these provisions of law as soon as possible. A delayed effective date would be contrary to statutory design; would complicate administration of these provisions of law; and might result in denial of a benefit to a veteran who is entitled by law to it.

These regulations to not meet the criteria for major rules as contained in Executive Order 12291. The regulations will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effect on the economy.

The Administrator hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these regulations are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that these regulations concern the rights and responsibilities of individual VA beneficiaries, and essentially restate 38 U.S.C. 363. Thus, no new regulatory burdens are imposed on small entities by these regulations.

The catalog of Federal Domestic Assistance Program number is 64.116.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: January 13, 1988.

Thomas K. Turnage,

Administrator.

PART 21—[AMENDED]

Subpart I (§§ 21.6501 through 21.6525) is redesignated as Subpart J and a new Subpart I, Temporary Program of Vocational Training for Certain New Pension Recipients, is added to 38 CFR Part 21, Vocational Rehabilitation and Education, to read as set forth below:

Subpart I—Temporary Program of Vocational Training for Certain New Pension Recipients

General

Sec.
21.6001 Temporary vocational training program for certain new pension recipients.
21.6005 Definitions.
21.6010 Applicability of rules and administrative procedures under 38 U.S.C., chapter 31.
21.6015 Claims and elections.
21.6021 Nonduplication—38 U.S.C., chapters 30, 31, 32, 34 and 35.

Basic Eligibility Requirements

21.6040 Eligibility for vocational training and employment assistance.
21.6042 Entry, reentry and completion.

Evaluation

21.6050 Participation of eligible veterans in an evaluation.
21.6052 Evaluations.
21.6054 Criteria for determining good employment potential for veterans age 50 or older.
21.6056 Cooperation of the veteran in an evaluation.
21.6058 Consequences of evaluation.
21.6059 Limitations on the number of evaluations.

Services and Assistance to Program Participants

21.6060 Services and assistance.

Duration of Training

21.6070 Basic duration of a vocational training program.
21.6072 Extending the duration of a vocational training program.
21.6074 Computing the period of vocational training program participation.

Individualized Written Rehabilitation Plan

21.6080 Requirement for an individualized written rehabilitation or employment assistance plan.
21.6082 Completing the plan.

Counseling

21.6100 Counseling.

Educational and Vocational Training Services

21.6120 Educational and vocational training services.

Evaluation and Improvement of Rehabilitation Potential

21.6140 Evaluation and improvement of rehabilitation potential.

Independent Living Services

21.6160 Independent living services.

Case Status System

21.6180 Case status system.

Supplies

21.6210 Supplies.

Medical and Related Services

21.6240 Medical treatment, care and services.
21.6242 Resources for provision of medical treatment, care and services.

Financial Assistance

21.6260 Financial assistance.

Entering Vocational Training

21.6282 Effective dates of induction into and termination of vocational training.
21.6284 Reentrance into a training program.
21.6290 Training resources.

Rate of Pursuit

21.6310 Rate of pursuit.

Authorization of Services

21.6320 Authorization of services under chapter 31 rules.

Leaves of Absence

21.6340 Leaves of absence.

Satisfactory Coduct and Cooperation

21.6362 Satisfactory conduct and cooperation.

Transportation Services

21.6370 Authorization of transportation services.

Additional Applicable Regulations

21.6380 Additional applicable chapter 31 regulations.

Delegation of Authority

21.6410 Delegation of authority.

Coordination with the Adjudication Division

21.6420 Coordination with the Adjudication Division.

Authority: Public Law 98–543, 38 U.S.C. 210 and chapter 15, sections specifically cited.

Subpart I—Temporary Program of Vocational Training for Certain New Pension Recipients

Note: This subpart includes regulations governing the determination of eligibility, and the services which may be provided to veterans under this program. The numbering of the regulations follows the numbering of regulations under 38 U.S.C. chapter 31 to the extent possible. Additional regulations affecting this program are found in Part 3 and Part 17, Title 38 Code of Federal Regulations.

General

§ 21.6001 Temporary vocational training program for certain new pension recipients.

This program, with certain limitations, provides veterans awarded pension during the period beginning February 1, 1985, and ending January 31, 1989, with an evaluation and, if feasible, with vocational training, employment assistance and other services to enable them to achieve a vocational goal.

(Authority: 38 U.S.C. 524)

§ 21.6005 Definitions.

(a) *Temporary program.* The term "temporary program" means the program of vocational training for certain new pension recipients, authorized by section 524, chapter 15, title 38, United States Code, as added by Pub. L. 98–543.

(Authority: 38 U.S.C. 524)

(b) *Program period.* The term "program period" means the period

beginning on Februrary 1, 1985, and ending on January 31, 1989.

(Authority: 38 U.S.C. 524(a)(4))

(c) *Program participant.* The term "program participant" means any veteran who is awarded disability pension as provided by chapter 15, title 38, United States Code, during the program period and who, following an evaluation in which the VA finds achievement of a vocational goal is reasonably feasible for the veteran, elects to participate in a vocational training program.

(Authority: 38 U.S.C. 524(a))

(d) *Vocational training program.* The term "vocational training program" means vocationally oriented services and assistance of the kind provided under chapter 31 of the title 38 United States Code and such other services and assistance of the kind provided under that chapter as are necessary to enable the veteran to prepare for, and participate in, vocational training or employment.

(Authority: 38 U.S.C. 524(b))

(e) *Employment assistance.* The term "employment assistance" means employment counseling and placement and postplacement services, and personal and work adjustment training.

(Authority: 38 U.S.C. 524(d)(3))

(f) *Program of employment services.* The term "program of employment services" is used when the veteran's entire program is limited to employment assistance as that term is defined in paragraph (e) of this section.

(Authority: 38 U.S.C. 524(b)(4))

(g) *Job development.* The term "job development" means comprehensive professional services to assist the individual veteran to actually obtain a suitable job, and not simply the solicitation of jobs on behalf of the veteran. Continuing and mutually beneficial relationships with employers should be established by VA staff through the referral of suitable employees and the provision of supportive services, e.g., adjustment counseling and job modification. Job development activities by VA staff are intended to provide disabled veterans with a chance for suitable employment with cooperating employers.

(Authority: 38 U.S.C. 524(b)(3))

(h) *Institution of higher learning.* The term "institution of higher learning" shall have the same definition as is provided in § 21.4200(a) of this part.

(Authority: 38 U.S.C. 524(b)(2))

(i) *Other terms.* The following terms shall have the same meaning or explanation provided in § 21.35 of this part.

(1) Vocational goal.
(2) Program of education.
(3) Rehabilitation to the point of employability.
(4) Counseling psychologist.
(5) Vocational rehabilitation specialist.
(6) School, educational institution or institution.
(7) Training establishment.
(8) Rehabilitation facility.
(9) Workshop.

(Authority: 38 U.S.C. 524)

§ 21.6010 Applicability of rules and administrative procedures under 38 U.S.C., Chapter 31.

(a) *General.* Title 38, United States Code, section 524(b)(2)(A) provides, in part, that a vocational training program shall consist of vocationally oriented services and assistance of the kind provided service-disabled veterans under chapter 31, Title 38, United States Code, and other services and assistance of the kind provided under that chapter as are necessary to enable the veteran to prepare for and participate in vocational training or employment.

(Authority: 38 U.S.C. 524(b)(2)(A))

(b) *Applicable chapter 31 rules—general.* The rules and procedures in force for administration of the chapter 31 program (§ 21.1–§21.430) are deemed to be applicable to administration of this program in so far as their use shall not conflict with 38 U.S.C. 524 or the rules under this subpart. Where a particular grouping of chapter 31 rules are generally applicable, without modification, the rules under this subpart will be deemed to incorporate the chapter 31 rules. The chapter 31 rules may be read as written, but terms such as "chapter 31" and "service-connected disability" shall be understood to read "chapter 15" and "disabilities" whenever used. References in the chapter 31 rules to benefits (subsistence allowances, loans) or eligibility (dependents, service-connection, serious employment handicap) are to be considered inapplicable to this program and do not confer benefits or rights not provided by 38 U.S.C. 524.

(Authority: 38 U.S.C. 524)

§ 21.6015 Claims and elections.

(a) *Claims by veterans under age 50.* A veteran under age 50 who is awarded pension during the program period will be scheduled for an evaluation to determine whether achievement of a vocational goal is reasonably feasible, unless it is determined that the veteran is unable to participate in an evaluation for reasons beyond his or her control. If the VA, as a result of the evaluation, determines that achievement of a vocational goal is reasonably feasible, the veteran may elect to pursue a vocational training prgoram. To make this election, the veteran must file a claim, in a form prescribed by the VA, for services under this temporary program.

(Authority: 38 U.S.C. 524(b))

(b) *Claims by veterans age 50 or older.* A veteran age 50 or older who is awarded pension during the program period must file a claim in the form prescribed by the VA in order to be considered for an evaluation of his or her ability to achieve a vocational goal and participate in this temporary program. The veteran's claim is considered a request for both the evaluation and, if found reasonably feasible for training, participation in a vocational training program.

(Authority: 38 U.S.C. 524(b))

(c) *Claims following failure to timely pursue a vocational training program.* (1) If a veteran for whom achievement of a vocational goal is found reasonably feasible does not undertake a vocational training program within the time limits specified in § 21.32, he or she must file an original or reopened claim, as appropriate, in a form prescribed by the VA in order to be considered for such services to determine if achievement of the previous vocational goal or a new vocational goal is reasonably feasible.

(2) If a veteran has been placed in discontinued case status by the VA, he or she must file a new claim in a form prescribed by the VA to reopen the case.

(Authority: 38 U.S.C. 524(b))

(d) *Informal claims.* Informal claims shall be governed by § 21.31 of this part.

(Authority: 38 U.S.C. 524(a))

(e) *Time limit.* The time limit for making a claim to pursue a vocational training program shall be governed by § 21.32 of this part.

(Authority: 38 U.S.C. 524(a))

§ 21.6021 Nonduplication—38 U.S.C. chapters 30, 31, 32, 34 and 35.

(a) *Election between this temporary program and chapter 31 required.* A service-disabled veteran awarded VA pension during the program period who is offered a vocational training program under 38 U.S.C. ch. 15, and is also eligible for such assistance under

chapter 31, must elect which benefit he or she will receive. The veteran may reelect at any time if he or she is still eligible for the benefit desired.

(Authority: 38 U.S.C. 524(b)(2))

(b) *VA educational assistance programs.* A veteran who is eligible under this program may receive an educational assistance allowance under chapter 30, 32, 34 or 35 if he or she is otherwise eligible under one of these programs.

(Authority: 38 U.S.C. 524(b)(2))

(c) *Prior training under VA programs.* If a veteran has pursued an educational or training program under chapter 30, 32, 34 or 35, or a vocational rehabilitation program under chapter 31, the training received in the earlier program shall be considered, to the extent feasible, in determining the character and duration of the services to be furnished under this program.

(Authority: 38 U.S.C. 524(b)(1))

(d) *Other prior training.* If a veteran has pursued other significant training under non-VA programs or on his or her own, such training will be considered in determining the character and duration of services to be furnished.

(Authority: 38 U.S.C. 524(b)(1))

(e) *Not limited by use of other entitlement.* The number of months of services provided under this program are not subject to the provisions of § 21.4020 of this Part which limit the aggregate months of VA benefits to be provided.

(Authority: 38 U.S.C. 524(b)(2))

Basic Eligibility Requirements

§ 21.6040 Eligibility for vocational training and employment assistance.

(a) *Basic eligibility requirements.* A veteran may be provided vocational training, employment assistance and related services to achieve a vocational goal under this program, if the following basic requirements are met:

(1) The veteran is awarded pension under chapter 15, title 38, U.S.C., on or after February 1, 1985, and before February 1, 1989;

(2) The veteran participates in a VA evaluation of his or her rehabilitation potential to determine whether achievement of a vocational goal is reasonably feasible;

(3) Achievement of a vocational goal is found reasonably feasible, following evaluation by the VA;

(4) The veteran elects to pursue a vocational training program;

(5) The veteran and the VA develop and agree to an Individualized Written Rehabilitation Plan (IWRP) identifying the vocational goal and the means through which this goal will be achieved.

(Authority: 38 U.S.C. 524(a)(1))

(b) *Eligibility for employment assistance.* (1) As provided in this paragraph, a veteran who is a participant in this program shall be eligible to receive counseling, placement, postplacement, work and personal adjustment services furnished under § 21.6060(a)(2) of this part for a period not to exceed 18 months. These services are further described in §§ 21.140(d)(2), 21.250(a), (b)(2), (c)(3), and (4), and 21.252, 21.254, 21.256, 21.257, and 21.258 of this part.

(2) The participants who qualify for the services described in paragraph (a) of this section include a veteran who:

(i) Has completed a vocational rehabilitation training program;

(Authority: 38 U.S.C. 524(b)(3))

(ii) Undertakes a vocational training program, but voluntarily terminates training. If the VA determines the veteran to be employable at the time participation in training ends, the veteran shall be deemed to have completed the vocational training program and may be provided the employment services described in paragraph (b)(1) of this section if he or she requests such assistance;

(Authority: 38 U.S.C. 524(b)(3))

(iii) Does not require a vocational training program because the VA determines as a result of an evaluation that he or she already possesses the training necessary for suitable employment and is able to achieve a vocational goal without further training; and

(Authority: 38 U.S.C. 524(b)(2))

(iv) Has been a prior participant in a vocational training program, is currently employable, but needs employment assistance to obtain employment in a suitable occupation.

(Authority: 38 U.S.C. 524(b)(2))

(3) The 18-month period of employment services allowed under this section shall begin upon the date that a veteran under paragraph (b)(2)(i) of this section completes the vocational training program or in the case of a veteran under paragraphs (b)(2)(ii), (iii), and (iv) of this section is found to be employable. If a veteran has been provided such services and obtains suitable employment, but is later found to require additional services of this kind, the veteran may be provided such additional services during any portion of the original 18-month period remaining.

(Authority: 38 U.S.C. 524(b))

(c) *Eligibility if pension is terminated.* A veteran awarded pension during the program period shall remain eligible for the temporary program, subject to the rules of this subpart and section 524 of 38 U.S.C. ch. 15, even if his or her pension award is subsequently terminated, except when the veteran's award of VA pension was the result of fraud or administrative error.

(Authority: 38 U.S.C. 524(a))

§ 21.6042 Entry, reentry and completion.

(a) *Dates of entry.* A veteran found eligible under the provisions of § 21.6040 of this part may not begin pursuit of a vocational training program before February 1, 1985, or later than January 31, 1989, except under the following circumstances which make timely entry impracticable:

(1) The veteran receives a pension award less than 120 days before January 31, 1989;

(2) Illness or other circumstance beyond the veteran's control prevent earlier entry.

(Authority: 38 U.S.C. 524(b)(4))

(b) *Entry precluded.* In no event may a veteran begin a vocational training program after August 1, 1989.

(Authority: 38 U.S.C. 524(b)(4))

(c) *Reentry.* The provisions of paragraphs (a) and (b) of this section are also applicable to veterans reentering a vocational training program following a redetermination of eligibility.

(Authority: 38 U.S.C. 524(b)(4))

(d) *Final termination of services.* No veteran may receive assistance under this temporary program after January 31, 1994.

(Authority: 38 U.S.C. 524(b)(4))

Evaluation

§ 21.6050 Participation of eligible veterans in an evaluation.

(a) *Veterans under age 50.* A veteran under age 50 awarded a pension during the program period shall be provided an evaluation of his or her rehabilitation potential to determine whether achievement of a vocational goal is reasonably feasible. The veteran must report for and participate in the evaluation unless the failure to do so is for reasons beyond the veteran's control. Failure to report for and participate in the evaluation, for reasons other than those beyond the veteran's control, will result in suspension of the

veteran's pension under § 3.342 of this chapter. See § 21.6056.

(Authority: 38 U.S.C. 524(a)(1))

(b) *Veterans age 50 or older.* An evaluation shall be accorded each veteran age 50 or older, who seeks to become a program participant, provided the VA first determines the veteran has good potential for achieving employment. Failure to choose to participate in an evaluation shall have no adverse effect upon the veteran's continued receipt of pension under § 3.342 of this chapter.

(Authority: 38 U.S.C. 524(a)(2))

(c) *Notice to eligible veteran.* (1) A qualified veteran under age 50 for whom participation in an evaluation is not clearly precluded by reasons beyond the veteran's control shall be sent a notice at the time he or she is awarded a pension. The notice will inform the veteran of the provisions of this temporary program, the conditions under which participation in an evaluation is required, and the consequences of nonparticipation;

(2) A qualified veteran age 50 or older will be informed of the provisions of this temporary program and the procedure for requesting an evaluation.

(Authority: 38 U.S.C. 524(a))

(d) *Scheduling the evaluation.* (1) An evaluation will be arranged as promptly as practicable for each qualified veteran:

(i) Under age 50 who is sent the notice required under paragraph (c)(1) of this secton; and

(ii) Age 50 and over who has failed a claim and is found to have good employment potential under § 21.6054 of this part;

(2) The veteran shall be provided reasonable notice of the date and time for which the evaluation is initially scheduled.

(Authority: 38 U.S.C. 524(a))

(e) *Followup of qualified veterans who do not complete an evaluation.* The case of each qualified veteran under age 50 for whom an evaluation was not scheduled or who does not complete an evaluation shall be reviewed for followup action by Vocational Rehabilitation and Counseling (VR&C) staff as provided in § 21.197(c)(4) and § 21.198(d) of this part.

(Authority: 38 U.S.C. 524(a))

(f) *Limitation on the number of evaluations.* Notwithstanding the provisions of paragraphs (a) through (e) of this section, the number of evaluations which may be provided under this temporary program is subject to the limitations contained in § 21.6059 of this part.

(Authority: 38 U.S.C. 524(a)(3))

§ 21.6052 Evaluations.

(a) *Scope and nature of evaluation.* The scope and nature of the evaluation under this program shall be the same as for an evaluation of the reasonable feasibility of achieving a vocational goal under the procedures described for chapter 31 benefits. *See § 21.50(b)(5) and § 21.53 (d) and (f).*

(Authority: 38 U.S.C. 524(a)(1)(2))

(b) *Specific services which may be provided in the course of evaluation in determining the reasonable feasibility of achieving a vocational goal.* The following specific services may be provided as a part of the evaluation of reasonable feasibility of achieving a vocational goal, as appropriate:

(1) Assessment of feasibility by a counseling psychologist;

(2) Review of feasibility assessment and of need for special services by the Vocational Rehabilitation Panel;

(3) Provision of medical and other diagnostic services;

(4) Evaluation of employability, for a period not to exceed 30 days, by professional staff of an educational or rehabilitation facility.

(Authority: 38 U.S.C. 524(b))

(c) *Responsibility for evaluation.* All determinations as to the reasonable feasibility of vocational training and entitlement to assistance under 38 U.S.C. 524 shall be made by a counseling psychologist in the Vocational Rehabilitation and Counseling Division.

(Authority: 33 U.S.C. 524(b))

§ 21.6054 Criteria for determining good employment potential for veterans age 50 or older.

(a) *Determining good employment potential of veterans age 50 or older.* Before scheduling an evaluation of feasibility to pursue a vocational goal for a veteran age 50 or older, the VA will first determine whether the veteran age 50 or older has good potential for achieving employment if provided a vocational training or employment program. This determination shall be made on the basis of the information of record, including information submitted by the veteran at the time of the veteran's request to participate in this temporary program.

(Authority: 38 U.S.C. 524(a)(2))

(b) *Criteria.* The criteria contained in paragraphs (c) and (d) of this section are to be applied by Vocational Rehabilitation and Counseling professional staff members to determine whether information of record supports a determination that a veteran age 50 or older has good potential for employment. Any reasonable doubt shall be resolved in the veteran's favor.

(Authority: 38 U.S.C. 524(a)(2))

(c) *Indicators of good potential for employment.* Indicators of good potential for employment include one or more of the following:

(1) A period of stable employment prior to the onset of disability.

(2) Strong motivation to return to the work force.

(3) Successful pursuit of education or training.

(4) Cooperation in treatment of disabling conditions.

(5) Stabilization of medical conditions or substance abuse problems.

(6) Participation in therapeutic work programs.

(7) Evidence of recent sustained job-seeking.

(Authority: 38 U.S.C. 524(b)(1))

(d) *Contraindications of good potential for employment.* Contraindications of good potential for employment include one or more of the following:

(1) A lifelong history of unstable employment with long periods of employment before the onset of disability.

(2) Being out of the labor market for five years or more preceding the evaluation.

(3) Unsuccessful pursuit of education or training.

(4) Noncooperation in the treatment of disability.

(5) Need for an additional period of medical care or treatment before training would be feasible.

(6) Nonparticipation in prescribed or recommended therapeutic work programs.

(7) Failure of previous vocational rehabilitation programs to achieve employability.

(Authority: 38 U.S.C. 524(a)(2))

(e) *Negative determinations.* If the VA does not find good employment potential, the VA will notify the veteran that he or she is not eligible to receive an evaluation. Since this finding will preclude program participation, the veteran will be informed of his or her appellate rights as described in § 21.59 of this part.

(1) If the determination cannot be made on the evidence of record, the VA shall advise the veteran and may provide him or her with an opportunity to submit additional information within a reasonable time.

(2) A veteran's disagreement with a negative finding shall be considered evidence of motivation for employment, and may, when considered in relation to other information, provide a basis for finding that good employment potential exists;

(3) If the final VA determination, following a review of a contested negative finding, is that good potential for achieving employment does not exist, a personal interview will be scheduled, and the reasons for the VA's determination shall be discussed with the veteran.

(Authority: 38 U.S.C. 524(a)(2))

§ 21.6056 Cooperation of the veteran in an evaluation.

(a) *Cooperation of the veteran.* The cooperation of the veteran is essential to a successful evaluation. The purpose of the evaluation and the steps in the process shall be explained to the veteran, and the importance of his or her cooperation shall be stressed. If the veteran does not cooperate in the initiation or completion of the evaluation, the counseling psychologist shall make a reasonable effort through counseling to secure the veteran's cooperation.

(Authority: 38 U.S.C. 524(a)(3))

(b) *Consequences of noncooperation when evaluation is required.* If the veteran fails to report for or cooperate in a required evaluation and the counseling psychologist has made a reasonable effort to secure his or her participation, the VA shall take appropriate action, including discontinuance of the evaluation under the provisions of § 21.364 of this part. If the veteran's case is discontinued under § 21.364 of this part, the Adjudication Division will be notified. The Adjudication Division also will be informed if the reason for discontinuance is subsequently removed and the evaluation process is resumed.

(Authority: 38 U.S.C. 524(a)(1))

(c) *Consequences of noncooperation when evaluation is not required.* If the veteran fails to report for or cooperate in an optional evaluation and the counseling psychologist has made a reasonable effort to secure the veteran's participation, the VA shall take appropriate action, including discontinuance of the evaluation under the provisions of § 21.364 of this part. The evaluation may be resumed if the reason for the discontinuance is removed and the veteran is otherwise eligible.

(Authority: 38 U.S.C. 524(a)(2))

§ 21.6058 Consequences of evaluation.

(a) *Eligible veteran may choose to participate.* If the VA finds, based on the evaluation, that achievement of a vocational goal by the veteran is reasonably feasible, the veteran shall be offered and may elect to pursue a vocational training program. If the veteran elects to pursue such a program, the program shall be designed in consultation with the veteran in order to meet the veteran's individual needs, and shall be set forth in an Individualized Written Rehabilitation Plan (IWRP) under the provisions of § 21.84 of this part or an Individualized Employment Assistance Plan (IEAP) under § 21.88 of this part.

(Authority: 38 U.S.C. 524(b)(1))

(b) *Veteran ineligible to participate.* A veteran for whom achievement of a vocational goal is not found reasonably feasible shall be notified of this finding and be informed of his or her appellate rights as described in § 21.59 of this part. The veteran shall be provided the assistance described in § 21.50(b)(9) of this part.

(Authority: 38 U.S.C. 524(b)(1))

§ 21.6059 Limitations on the number of evaluations.

(a) *Number of evaluations.* No more than 2,500 evaluations of the reasonable feasibility of achieving a vocational goal may be given during any 12-month period, beginning on February 1, 1985, and each subsequent February 1 during the program period.

(Authority: 38 U.S.C. 524(a)(3))

(b) *Cases counted as evaluation.* An evaluation is deemed to be countable against the 2,500 limit permitted during each 12-month period when the following conditions are met:

(1) The veteran reports for the scheduled evaluation;

(2) The veteran is provided one or more personal interviews by a counseling psychologist; and

(3) A determination of the reasonable feasibility of achieving a vocational goal is made by the counseling psychologist.

(Authority: 38 U.S.C. 524(a)(3))

(c) *Cases not counted as evaluations.* Computation of the number of evaluations which may be provided in a 12-month period shall exclude cases in which:

(1) The veteran under age 50 is unable to participate for reasons beyond his or her control;

(2) Review of available information does not indicate good potential for employment for a veteran age 50 or older;

(3) The veteran either fails to keep a scheduled appointment to complete the evaluation or withdraws the claim for an evaluation, or

(4) The veteran who has completed an evaluation requires or requests a reevaluation.

(Authority: 38 U.S.C. 524(a)(3))

(d) *Priority.* If a veteran below age 50 for whom an evaluation is required cannot be provided an evaluation during a particular 12-month period because of the limitation on the number of evaluations, the veteran will be given first priority for evaluation during the following 12-month period, or first available subsequent 12-month period, if otherwise eligible.

(Authority: 38 U.S.C. 524(a)(3))

Services and Assistance to Program Participants

§ 21.6060 Services and assistance.

(a) *General.* The VA may provide to program participants:

(1) Vocationally oriented services and assistance of the kind provided veterans under chapter 31, title 38, United States Code;

(2) Employment assistance during the 18 month period following completion of a vocational training program, including:

(i) Educational, vocational, psychological, employment and personal adjustment counseling;

(ii) Placement services to effect suitable placement in employment, and post-placement services to attempt to insure satisfactory adjustment in employment; and

(iii) Personal adjustment and work adjustment training.

(Authority: 38 U.S.C. 524(b))

(3) Such other services and assistance of the kind provided veterans under chapter 31, except as provided in paragraph (b) of this section, as are necessary to enable the veteran to prepare for, and participate in, vocational training or employment.

(b) *Services and assistance not provided.* The VA will not provide to a participant under this program any:

(1) Loan;

(2) Subsistence allowance;

(3) Automobile adaptive equipment of the kind provided eligible veterans under 38 U.S.C., chapter 39 or chapter 31;

(4) Training at an institution of higher learning in a program of education that is not predominantly vocational in content;

(5) Employment adjustment allowance;

(6) Room and board in a special rehabilitation facility for a period in excess of 30 days;

(7) Independent living services, except those which are indispensable to the pursuit of the vocational training program during the period of rehabilitation to the point of employability under § 21.6160 of this part; or

(8) Period of extended evaluation under 38 U.S.C. 1506(e).

(Authority: 38 U.S.C. 524(b))

Duration of Training

§ 21.6070 Basic duration of a vocational training program.

(a) *Basic duration of a vocational training program.* The duration of a vocational training program may not exceed 24 calendar months of full-time training except as provided in § 21.6072 of this part.

(Authority: 38 U.S.C. 524(b)(2))

(b) *Responsibility for estimating the duration of a vocational training program.* The counseling psychologist is responsible for estimating the time needed by the veteran to complete a vocational training program. The estimate is made in consultation with the veteran and the vocational rehabilitation specialist during the preparation of the IWRP.

(Authority: 38 U.S.C. 524(b)(1))

(c) *Duration of training prescribed must meet general requirements for entry into the occupation selected.* The veterans will be provided training for a period sufficient for the veteran to reach the level generally recognized as necessary for entry into employment in a suitable occupational objective. Where a particular degree, diploma or certificate is generally necessary for entry into employment, the veteran may be trained to that level.

(Authority: 38 U.S.C. 524(b))

(d) *When duration of the training period may be expanded beyond the entry level.* If the amount of training the particular veteran needs in order to qualify for employment in a particular occupation will exceed the amount generally needed for employment in that occupation, the VA may provide the necessary additional training under one or more of the following conditions:

(1) Training requirements for employment in the area in which the veteran lives or will seek employment exceed those generally needed for employment;

(2) The veteran is preparing for a type of work in which he or she will be at a definite disadvantage in competing with nondisabled persons for a job or business, and the additional training will offset the competitive disadvantage;

(3) The choice of a feasible occupation is limited and additional training will enhance the veteran's employability in one of the feasible occupations; or

(4) The number of employment opportunities within a feasible occupation is restricted.

(Authority: 38 U.S.C. 524(b)(2))

(e) *Estimating the duration of the training period needed.* The counseling psychologist, in estimating duration of the training period needed, must determine that:

(1) The proposed vocational training program must be one which, when pursued full-time by a nondisabled person, would not normally require more than 24 calendar months of pursuit for successful completion;

(2) The program of training and other services needed by the veteran, based upon the VA's evaluation, will not exceed 24 calendar months, if training is pursued on a full-time basis, or 36 calendar months if pursued on a less than full-time basis. In making this determination the following criteria will be applied:

(i) The number of actual months and days of the period during which the veteran will pursue the training program will be counted;

(ii) Days of authorized leave and other periods during which the veteran will not be pursuing training, such as periods between terms will also be counted;

(iii) The period of evaluation prior to determination of reasonable feasibility will be excluded but the actual number of months and days needed to evaluate and improve rehabilitation potential during the training program will be included;

(iv) The time required, as determined in months and days under paragraph (e)(2) (i) through (iii) of this section, will be the total period that would be required for the veteran to accomplish the vocational program under consideration;

(v) If the total period the veteran requires exceeds 24 calendar months, when pursued on a full-time basis, and an extension of the basic training period may not be approved under § 21.6072 of this part, another suitable vocational goal must be selected for which training can be completed within that period.

(3) If the veteran's vocational training program would require more than 36 calendar months when pursued on a less than full-time basis, the program must be reevaluated to select a vocational goal for which a suitable vocational training program can be completed within that period.

(Authority: 38 U.S.C. 524(b)(2))

(f) *Effect of change in the vocational goal on duration of training period.* The veteran's vocational goal may be changed during the program in accordance with § 21.94 (a) through (d) of this part. The extent to which such changes may be made is limited by the following considerations:

(1) A change of the vocational goal from one field or occupational family to another field or occupational family may only be approved before the end of the first 24 months of training, whether training is pursued on a full-time or a less than full-time basis; and

(2) A change from one occupational objective to another within the same field or occupational family shall not be considered a change in the vocational goal identified in the veteran's IWRP.

(Authority: 38 U.S.C. 524(b)(2))

§ 21.6072 Extending the duration of a vocational training program.

(a) *Extension of the duration of a vocational training program.* An extension of a vocational training program as formulated in the IWRP may only be approved to enable the veteran to achieve a vocational goal identified before the end of the first 24 calendar months of the program.

(Authority: 38 U.S.C. 524(b)(2))

(b) *Maximum number of months for which a program for new participants may be approved.* If a veteran had never participated in this temporary program of vocational training, the originally planned period of training may be extended to a total period consisting of the number of months necessary to attain the vocational goal, but in no case will a program be extended for:

(1) More than 24 calendar months beyond the originally planned period; or

(2) A period which, when added to the originally planned period, totals more than 48 months, as provided in § 21.6074(c) of this part.

(Authority: 38 U.S.C. 524(b))

(c) *Maximum number of months by which a program may be extended for prior participants in the temporary program.* (1) A veteran who has previously participated in this program, but who was not "rehabilitated to the point of employability," may be provided additional training under this program to complete the prior vocational goal or a different vocational goal, subject to the same provisions as apply to new participants;

(2) If a finding of prior "rehabilitation to the point of employability" is set aside to enable a veteran to pursue a program of on-job training or work experience, including the provision of employer incentives under § 21.256 of this part, the number of months for which assistance may be authorized under this program shall be established as provided in § 21.256 of this part to the extent consistent with the rules of this section;

(3) If the determination of "rehabilitation to the point of employability" has been set aside under § 21.6284 (a) or (b) of this part, additional training may be provided subject to the same provisions as apply to new participants.

(Authority: 38 U.S.C. 524(b))

(d) *Who may authorize an extension to a vocational training program.* (1) The Vocational Rehabilitation Specialist (VRS) may authorize an extension of up to 3 calendar months of full-time or up to 6 calendar months of less than full-time training to the period of an existing vocational training program, if the VRS determines that the additional time is needed to successfully complete training and the following conditions are met:

(i) The veteran is in "rehabilitation to the point of employability" status under § 21.190 of this part;

(ii) The veteran has completed more than half of the prescribed training;

(iii) The veteran is making satisfactory progress;

(iv) The extension is necessary to complete training;

(v) Training can be completed with 3 months of full-time training or not more than 6 calendar months of less than full-time training; and

(vi) The extension plus the original program period will not result in a program of vocational training greater than 36 total calendar months;

(2) The counseling psychologist may approve any other extensions of the vocational training program, except as provided in paragraph (d)(3) of this section, if it is determined that the additional time is needed and the conditions for extension under paragraphs (a) and (b) of this section are met;

(3) The VR&C Officer must also concur in an extension of the vocational training program beyond 24 months when paragraphs (a) through (c) of this section are met.

(Authority: 38 U.S.C. 524(b)(2))

§ 21.6074 Computing the period of vocational training program participation.

(a) *Computing the participation period.* The number of months and days used in a vocational training program shall be computed on the basis of calendar months and days during which the program participant is receiving services under the plan developed in accordance with § 21.6080 of this part, whether training is pursued on a full-time or less than full-time basis. Leaves of absence during a period of instruction and periods in which the veteran does not pursue actual training, such as breaks between periods of instruction, are included.

(Authority: 38 U.S.C. 524(b))

(b) *Period of employment services separate.* The period during which employment services may be provided pursuant to § 21.6040(b) of this part is not included in computing the period used for vocational training under this program.

(Authority: 38 U.S.C. 524(b))

(c) *Limitations.* (1) A program participant may receive the services necessary to carry out the vocational training program during a maximum period of 48 months. The 48-month period begins to run on the day the veteran begins to receive the services needed to carry out the vocational training program as specified in the IWRP, and ends 48 months from that date.

(2) Employment services which begin before the end of the 48-month period may be continued for the period specified in the IEAP, or may be provided after the end of the 48 month period if so specified in the IWRP or IEAP, subject to the provisions of § 21.6040(b) of this part.

(Authority: 38 U.S.C. 524(b)(2), (3))

Individualized Written Rehabilitation Plan

§ 21.6080 Requirement for an individualized written rehabilitation or employment assistance plan.

(a) *General.* An Individualized Written Rehabilitation Plan (IWRP) and/or Individualized Employment Assistance Plan (IEAP) will be developed for each program participant for services under 38 U.S.C. 524. These plans shall be developed in the same manner as for chapter 31 purposes. *See §§ 21.80, 21.84, 21.88, 21.90, 21.92, 21.94 (a) through (d), 21.96 and 21.98.*

(Authority: 38 U.S.C. 524(b)(2))

(b) *Selecting the type of training to include in the plan.* The use of on-job training, including non-pay training, a combination of on-job and institutional training, or institutional training to accomplish the goals of the program should be explored in each case. On-job training, or a combination of on-job and institutional training, should generally be used:

(1) When these options are available;

(2) When these options are as suitable as institutional training for accomplishing the goals of the program; and

(3) The veteran agrees that such training will meet his or her needs.

(Authority: 38 U.S.C. 524(b))

(c) *Changes in the plan.* Any change amending the duration of a veteran's plan is subject to provisions governing duration of a vocational training program described in § 21.6070 and § 21.6072 of this part.

(Authority: 38 U.S.C. 524(b)(1))

(d) *Change in the vocational goal after 24 months of training.* If a veteran seeks to change the vocational goal after receipt of 24 months of training and the change is not permitted under § 21.6070(f) of this part, the counseling psychologist shall inform the veteran that:

(1) No change of goal may be authorized but training for the vocational goal previously established may be continued, if it is still reasonably feasible for the veteran to pursue the training under appropriate extensions of the program pursuant to § 21.6072 of this part;

(2) If the veteran elects to terminate the planned vocational training program, he or she shall be provided assistance, to the extent provided under § 21.80(d) of this part, in identifying other resources through which the training desired may be secured;

(3) If the veteran disagrees with the decision, the veteran's case shall be considered under the provisions of § 21.98 of this part.

(Authority: 38 U.S.C. 524(b)(2))

§ 21.6082 Completing the plan.

(a) *Completing the plan.* If the VA determines that the veteran is unable to complete the program within the time limits of the plan after training has begun and the conditions for extension are not met, the long-range vocational goal of the veteran must be reevaluated, and another vocational goal selected which can be completed within the limits prescribed in § 21.6054 and § 21.6072 of this part.

(Authority: 38 U.S.C. 524(b)(1))

(b) *Employment assistance when training is not completed under 38 U.S.C. chapter 15.* A plan for employment assistance may be implemented under § 21.6040(b) of this part even though the veteran's

vocational training program has not been, or will not be, completed under this temporary program, provided the other requirements for participation in the program are met.

(Authority: 38 U.S.C. 524(b)(3))

Counseling

§ 21.6100 Counseling.

General. A veteran requesting or being furnished assistance under this temporary program shall be provided professional counseling services by the Vocational Rehabilitation and Counseling (VR&C) Division and other qualified staff as necessary, and in the same manner as such services are provided veterans participating in a chapter 31 program. *See §§ 21.100, 21.380.*

(Authority: 38 U.S.C. 524(a)(1), (2) and (b)(2))

Educational and Vocational Training Services

§21.6120 Educational and vocational training services.

(a) *Purposes.* Educational and vocational training services are to be provided to a veteran eligible for services and assistance under this temporary program to enable the veteran to:

(1) Become employable in the occupational objective established in an IWRP; and

(2) Receive incidental training necessary to achieve the employment objective established in an IEAP.

(Authority: 38 U.S.C. 524(b)(1))

(b) *Selection of courses.* The VA and the veteran will select vocationally oriented courses of study and training, completion of which usually results in a diploma, certificate, degree, qualification for licensure, or employment. The educational and training services to be provided include:

(1) Remedial, deficiency and refresher training; and

(2) Training which leads to a vocational objective. All of the forms of program pursuit presented in § 21.122 through § 21.132 of this part may be authorized. Education and training programs in institutions of higher learning are authorized provided the courses are part of a program which is predominantly vocational in content. The program of education and training shall be considered to be predominantly vocational in content if the majority of the instruction offered provides the technical skills and knowledge generally regarded as specific to, and required for, entry into the vocational goal approved for the veteran. Such education and training may generally be authorized at an undergraduate or advanced degree level. However the following are excluded:

(i) An associate degree program in which the content of the majority of the instruction provided is not vocationally oriented;

(ii) The first two years of a 4-year baccalaureate degree program;

(iii) The last two or more years of a 4-year baccalaureate degree program except in degree programs with majors in engineering, teaching, or other similar degree programs with vocational content which ordinarily lead directly to employment in an occupation that is usually available to persons holding such a degree; or

(iv) An advanced degree program, except for a degree program required for entry into the veteran's employment objective, such as a master's degree in social work.

(Authority: 38 U.S.C. 524(b))

(c) *Charges for education and training services.* The cost of education and training services will be considered in selecting a facility when:

(1) There is more than one facility in the area in which the veteran resides which:

(i) Meets the requirements for approval under § 21.290 through § 21.299 of this part;

(ii) Can provide the education and training services and other supportive services specified in the veteran's plan; and

(iii) Is within reasonable commuting distance; or

(2) The veteran wishes to train at a suitable facility in another area, even though training can be provided at a suitable facility in the area in which the veteran resides. See §§ 21.120, 21.370, 21.372.

(Authority: 38 U.S.C. 524(b)(2)

(d) *Courses not available.* If suitable educational and training courses are not available in the area in which the veteran resides, or if they are available but not accessible to the veteran, other arrangements may be made. Such arrangements may include, but are not limited to:

(1) Relocation of the veteran to another area in which necessary services are available, or

(2) Use of an individual instructor to provide necessary training as provided under § 21.146 of this part.

(Authority: 38 U.S.C. 524(b))

Evaluation and Improvement of Rehabilitation Potential

§ 21.6140 Evaluation and improvement of rehabilitation potential.

(a) *General.* The services described in paragraph (d) of this section may be used to:

(1) Evaluate rehabilitation potential;

(2) Provide a basis for planning:

(i) A program of services and assistance to improve the veteran's potential for vocational rehabilitation; or

(ii) A vocational training program; and

(3) Reevaluate the vocational training potential of a veteran participating in a rehabilitation program.

(Authority: 38 U.S.C. 524(a))

(b) *Periods during which evaluation and improvement services may be provided.* Services described in paragraph (d) of this section may be provided during:

(1) An evaluation or reevaluation;

(2) Rehabilitation to the point of employability;

(3) Employment services.

(Authority: 38 U.S.C. 524(b)(2))

(c) *Duration of services.* The duration of services needed to improve rehabilitation potential, furnished on a full-time basis either as a preliminary part of the period of rehabilitation to the point of employability or as the total program, may not exceed 9 months. If these services are furnished on a less than full-time basis the duration will be for the period necessary, but may not exceed the equivalent of 9 months of full-time training. See § 21.6310.

(Authority: 38 U.S.C. 524(b)(2))

(d) *Scope of services.* Evaluation and improvement services include:

(1) Diagnostic services;

(2) Personal and work adjustment training;

(3) Medical care and treatment;

(4) Independent living services indispensable to pursuing a vocational training program;

(5) Language training, speech and voice correction, training in ambulation, and one-hand typewriting;

(6) Orientation, adjustment, mobility and related services; and

(7) Other appropriate services.

(Authority: 38 U.S.C. 524(b)(2))

(e) *Applicability of chapter 31 rules.* the provisions of § 21.140 of this part are not applicable to this temporary program. The provisions of § 21.142 through § 21.156 of this part are applicable, subject to provisions of this section.

(Authority: 38 U.S.C. 524(b)(2))

Independent Living Services

§ 21.6160 Independent living services.

(a) *Services must be part of a vocational training program.* Independent living services may be provided as a part of a veteran's IWRP when such services are indispensable to the achievement of the vocational goal, but may not be provided as the sole program of rehabilitation for the veteran, since a vocational training program for the veteran must be found reasonably feasible before the IWRP is prepared.

(Authority: 38 U.S.C. 524(b)(2))

(b) *Independent living services which may be furnished under this program.* The independent living services which may be furnished include:

(1) Training in independent living skills;

(2) Health management programs;

(3) Identification of appropriate housing accommodations; and

(4) Personal care service for a transitional period not to exceed two months.

(Authority: 38 U.S.C. 524(b))

(c) *Coordination with other VA elements and other Federal, State, and local programs.* Provision of independent living services and assistance will generally require extensive coordination with other VA and non-VA programs. The resources of VA medical centers shall be utilized as prescribed in § 21.6242 of this part. If appropriate arrangements cannot be made to provide these services through VA medical centers, other governmental and private nonprofit programs may be used to secure necessary services if the facility or individual providing services meets the requirements of § 21.294 of this part.

(Authority: 38 U.S.C. 220, 524(b))

(d) *Applicability of chapter 31 rules.* Neither § 21.160 nor § 21.162 of this part are applicable to provision of independent living services under this program.

(Authority: 38 U.S.C. 524(b))

Case Status System

§ 21.6180 Case status system.

(a) *General.* The case status system used in administering benefits under the chapter 31 program, as provided in § 21.180 through § 21.198 of this part, will be utilized in a similar manner in this program subject to the provisions of paragraph (b) of this section.

(Authority: 38 U.S.C. 524(b)(2))

(b) *Limitations of applicability of chapter 31 rules.* (1) The provisions of § 21.180(e)(2) and (3), § 21.188, and § 21.192 of this part are not applicable to this temporary program;

(2) Other incidental references to service-connected disability, chapter 31, "extended evaluation" status, or independent living status or other services precluded under § 21.6060(b) of this part, found in § 21.180 to § 21.198 of this part, are not for application to this temporary program.

(Authority: 38 U.S.C. 524(b)(2))

Supplies

§ 21.6210 Supplies.

(a) *Purpose of furnishing supplies.* Supplies are furnished to enable a veteran to pursue training, obtain and maintain employment and achieve the goals of his or her program.

(Authority: 38 U.S.C. 524(b)(2))

(b) *Definition.* The term "supplies" includes books, tools and other supplies and equipment which the VA determines are necessary for the veteran's vocational training program.

(Authority: 38 U.S.C. 1504(a))

(c) *Periods during which supplies may be furnished.* Supplies may be furnished to a veteran receiving:

(1) An evaluation or reevaluation;

(2) Rehabilitation to the point of employability; or

(3) Employment services.

(Authority: 38 U.S.C. 524(b)(2))

(d) *Applicability of 38 U.S.C. chapter 31 regulations.* The provisions of § 21.210 of this part are not applicable to veterans in this temporary program. The provisions of § 21.212 through § 21.224 of this part are applicable to veterans pursuing vocational training and employment under this program in a similar manner as under chapter 31, except the portions thereof noted as follows:

(1) Section 21.216(a)(3) of this part pertaining to special modifications, including automobile adaptive equipment;

(2) Section 21.220(a)(1) of this part pertaining to advancements from the revolving fund loan;

(3) Section 21.222(b)(x) of this part pertaining to a veteran discontinued from an independent living services program.

(Authority: 38 U.S.C. 524(b)(2))

Medical and Related Services

§ 21.6240 Medical treatment, care and services.

(a) *General.* A participant in a vocational training program or receiving employment assistance shall be furnished medical treatment, care and services which the VA determines are necessary to develop, carry out and complete the veteran's plan.

(Authority: 38 U.S.C. 524(b)(2))

(b) *Scope of services.* The services which may be furnished include the medical treatment, care and dental services described in Part 17 of this chapter. In addition, the following services may be authorized even if not included or described in Part 17:

(1) Prosthetic appliances, eyeglasses, and other corrective or assistive devices;

(2) Services to a veteran's family as necessary for the effective rehabilitation of the veteran;

(3) Special services (including services related to blindness and deafness) including:

(i) Language training, speech and voice correction, training in ambulation, and one-hand typewriting;

(ii) Orientation, adjustment, mobility and related services; and

(iii) Telecommunications, sensory and other technical aids and devices.

(Authority: 38 U.S.C. 524(b)(2))

(c) *Periods of eligibility.* A veteran is eligible for the services described in paragraph (b) of this section during:

(1) Evaluation;

(2) Rehabilitation to the point employability;

(3) Employment services; and

(4) Other periods, to the extent that services are needed to begin or continue in any of the periods described in paragraphs (c) (1) through (3) of this section. Such periods include, but are not limited to, those when services are needed to facilitate reentry into training following:

(i) Interruption; or

(ii) Discontinuance because of illness or injury.

(Authority: 38 U.S.C. 524(b)(2))

§ 21.6242 Resources for provision of medical treatment, care and services.

(a) *General.* VA medical centers are the primary resources for the provision of medical treatment, care and services for program participants which may be authorized under the provisions of § 21.6240 of this part. The availability of necessary services in VA facilities shall be ascertained in each case.

(Authority: 38 U.S.C. 524(b)(2))

(b) *Hospital care and medical services.* Hospital care and medical services provided to program participants shall only be furnished in facilities over which the VA has direct jurisdiction, except as authorized on a contract or fee basis under the provisions of Part 17 of this chapter.

(Authority: 38 U.S.C. 524(b)(2))

CROSS REFERENCES: See § 17.30(1) Hospital care. § 17.30(m) Medical services.

(c) *Provisions of § 21.240 and § 21.242.* The provisions of §§ 21.240 and 21.242 of this part are not applicable to this temporary program.

(Authority: 38 U.S.C. 524(b))

Financial Assistance

§ 21.6260 Financial assistance.

(a) *Direct financial assistance prohibited.* The provisions of § 21.260 and § 21.264 through § 21.276 of this part are not applicable to veterans pursuing training and employment under this temporary program, except as indicated in paragraph (b) of this section.

(Authority: 38 U.S.C. 524(b)(2)(B)(ii))

(b) *Training costs.* The provisions of § 21.262 of this part pertaining to reimbursement for training costs will be followed to reimburse vendors for servics provided under this temporary program.

(Authority: 38 U.S.C. 524(d))

Entering Vocational Training

§ 21.6282 Effective dates of induction into and termination of vocational training.

(a) *Induction.* Subject to the limitations set forth in § 21.6042 of this part, the date a veteran is inducted into vocational training shall be the earlier of:

(1) The date of the facility requires the veteran to report for prescribed activities; or

(2) The date the program begins at the faciliity providing services.

(Authority: 38 U.S.C. 524(b)(2))

(b) *Termination.* A veteran's training program shall be terminated under the provisions of § 21.6180. of this part.

(Authority: 38 U.S.C. 524(b)(2))

§ 21.6284 Reentrance into a training program.

(a) *Reentrance into rehabilitation to the point of employability following a determination of rehabilitation.* A veteran in a vocational training program under this temporary program who has been found "rehabilitated" under provisions of § 21.196 of this part may be provided an additional period of training or services only if the following conditions are met and the veteran is otherwise eligible.

(1) Current facts, including any relevant medical findings, establish that the veteran's disability has worsened to the extent that he or she is precluded from performing the duties of the occupation for which the veteran previously was found rehabilitated; or

(2) The occupation for which the veteran previously was found rehabilitated under this temporary program is found to be unsuitable.

(Authority: 38 U.S.C. 524(b)(1))

(b) *Reentrance into rehabilitation to the point of employability during a period of employment services.* A finding of rehabilitation to the point of employability by the VA may be set aside during a period of employment services and an additional period of training and related services provided if any of the conditions in paragraph (a) of this section or of the following conditions are met and the veteran is otherwise eligible:

(1) The services originally given to the veteran are now inadequate to make the veteran employable in the occupation for which he or she pursued training;

(2) Experience during the period of employment services has demonstrated that employment in the objective or field for which the veteran was rehabilitated to the point of employability should not reasonably have been expected at the time the program was originally developed; or

(3) The veteran, because of technological change which occurred subsequent to the declaration of rehabilitation to the point of employability, is no longer able:

(i) To perform the duties of the occupation for which he or she trained, or in a related occupation; or

(ii) To secure employment in the occupation for which he or she trained, or in a related occupation.

(Authority: 38 U.S.C. 524(b)(3))

§ 21.6290 Training resources.

(a) *Applicable 38 U.S.C. chapter 31 provisions.* The provisions of § 21.290 through § 21.299 are applicable to veterans pursuing vocational training and employment under this program in the same manner as under 38 U.S.C. chapter 31, except as specified in paragraph (b).

(Authority: 38 U.S.C. 524(b)(2))

(b) *Limitations.* The provisions of § 21.294(b)(1) (i) and (ii) of this part pertaining to independent living services are not applicable to this temporary program. The provisions of § 21.294(b)(1)(iii) of this part pertaining to authorization of independent living services as a part of an Individualized Written Rehabilitation Plan (IWRP) are applicable to this temporary program to the extent provided under § 21.6160 of this part.

(Authority: 38 U.S.C. 524(b)(2))

Rate of Pursuit

§ 21.6310 Rate of pursuit.

(a) *General requirements.* A veteran should pursue a vocational training program at a rate which is consistent with his or her ability to successfully pursue training, considering:

(1) Effects of his or her disability;

(2) Family responsibilities;

(3) Travel;

(4) Reasonable adjustment to training; and

(5) Other circumstances which affect the veteran's ability to pursue training.

(Authority: 38 U.S.C. 524(b)(1))

(b) *Continuous pursuit.* A veteran should pursue a program of vocational training with as little interruption as necessary, considering the factors described in paragraph (a) of this section.

(Authority: 38 U.S.C. 524(b)(1))

(c) *Responsibility for determining the rate of pursuit.* VR&C staff, in consultation with the veteran, will determine the rate and continuity of pursuit of training. Consultation with the medical consultant and the Vocational Rehabilitation Panel should be utilized as necessary. This determination will be made in the course of developing the plan, but may be changed later, as necessary to enable the veteran to complete his or her training.

(Authority: 38 U.S.C. 524(b)(1))

(d) *Measurement of training time used.* The rate of pursuit shall be measured on the basis of the provisions of § 21.310 of this part. A veteran may not pursue training on a less than half-time basis as measured under § 21.310 of this part, except for brief periods, after which training must be resumed on a half-time or greater basis. Brief periods are limited to all or part of a semester, term or quarter, or up to 90 days in a course not conducted on a semester, term, or quarter basis.

(Authority: 38 U.S.C. 524(b)(1))

(e) *Reduced work tolerance.* The provisions of § 21.312 of this part are not applicable to this temporary program.

(Authority: 38 U.S.C. 524(b))

(f) *Pursuit of training under special circumstances.* The provisions of

§ 21.314 of this part are not applicable to this temporary program.

(Authority: 38 U.S.C. 524(b)(2))

Authorization of Services

§ 21.6320 Authorization of services under chapter 31 rules.

(a) *General.* Sections 21.320 through 21.334 of this part are not applicable to a veteran pursuing a vocational training program except as specified in paragraph (b) of this section.

(Authority: 38 U.S.C. 524(b)(2))

(b) *Applicable rule.* Section 21.326 of this part pertaining to the beginning and ending dates of a period of employment services is applicable to veterans under this temporary program.

(Authority: 38 U.S.C. 524(b)(2))

Leaves of Absence

§ 21.6340 Leaves of absence.

(a) *General.* The VA may approve leaves of absence under vertain conditions. During approved leaves of absence, a ceteran shall be considered to be pursuing training for purposes of computing the duration of a vocational training program under §§ 21.6070 through 21.6074. Leave may only be authorized for a veteran during a period of rehabilitation to the point of employability.

(Authority: 38 U.S.C. 524(b))

(b) *Purpose.* The purpose of the leave system is to enable the veteran to maintain his or her status as an active participant and avoid interruption or discontinuance of training.

(Authority: 38 U.S.C. (b)(2))

(c) *Applicability of chapter 31 rules.* The provisions of § 21.340 of this part are not applicable to this temporary program. The provisions of § 21.342 through § 21.350 of this part are applicable except for § 21.346 of this part.

(Authority: 38 U.S.C. 524(b))

Satisfactory Conduct and Cooperation

§ 21.6362 Satisfactory conduct and cooperation.

The provisions of § 21.362 and § 21.364 of this part are applicable to veterans pursuing vocational training under this program in the same manner as under 38 U.S.C. chapter 31.

(Authority: 38 U.S.C. 524)

Transportation Services

§ 21.6370 Authorization of transportation services.

(a) *General.* The VA shall authorize transportation services necessary for a veteran to pursue a vocational training program under this temporary program. Transportation services include:

(1) Transportation for evaluation, reevaluation or counseling authorized under § 21.376 of this part;

(2) Inter- and intraregional travel which may be authorized under § 21.370 (except for (b)(2)(iii)(B)) and § 21.372 of this part;

(3) Special transportation allowance authorized under § 21.154 of this part;

(4) Commuting to and from training and seeking employment as authorized under paragraphs (c) and (d) of this section.

(Authority: 38 U.S.C. 524(b))

(b) *Reimbursement.* Payment of transportation services authorized by the VA shall normally be made in arrears and in the same manner as tuition, fees and other services authorized under this program.

(Authority: 38 U.S.C. 524(b))

(c) *Transportation payment.* A veteran may be reimbursed for the costs of commuting to and from training and seeking employment if he or she requests such assistance and the VA determines after careful examination of the veteran's situation, and subject to the limitation contained in paragraph (d) of this section, that the veteran would be unable to pursue training without such assistance. The VA may:

(1) Reimburse the facility at which the veteran is training if the facility provides transportation or related services;

(2) Reimburse the veteran for his or her actual commuting expense.

(Authority: 38 U.S.C. 524(b))

(d) *Limitations.* Payment of commuting expenses may not be made for any period:

(1) Except during the period of training and the first three months of employment services;

(2) When a program participant is employed;

(3) In which a program participant is eligible for, and entitled to, payment of commuting costs through other VA and non-VA programs;

(4) In which it becomes feasible for the veteran to commute to school with family, friends or fellow students.

(Authority: 38 U.S.C. 524(b))

(e) *Amount which may be paid.* The VA will reimburse the veteran for his or her actual cost, not to exceed $70 per month. Necessary supportive documentation must be submitted with each request for reimbursement. Payment will be made monthly or at longer intervals as may be agreed to in the IWRP.

(Authority: 38 U.S.C. 524(b))

(f) *Nonduplication.* A veteran eligible for reimbursement of transportation services under this section and § 21.154 of this part may only receive the benefit provided under § 21.154 of this part.

(Authority: 38 U.S.C. 524(b))

Additional Applicable Regulations

§ 21.6380 Additional applicable chapter 31 regulations.

The following regulations are applicable to veterans pursuing the vocational training under this program in the same manner as they apply to 38 U.S.C. chapter 31: § 21.380, § 21.390, § 21.400, § 21.402, § 21.412, § 21.414 (except (d) and (e)), § 21.420, and § 21.430 (except (a)) of this part.

(Authority: 38 U.S.C. 524)

Delegation of Authority

§ 21.6410 Delegation of authority.

(a) *General.* Authority is delegated to the Chief Benefits Director and to supervisory or non-supervisory personnel within the jurisdiction of the Vocational Rehabilitation and Education Service, to make findings and decisions under 38 U.S.C. 524 and the applicable regulations, precedents and instructions pertaining to this program. See § 2.6(b).

(Authority: 38 U.S.C. 212(a))

(b) *Applicability of §§ 21.412 and 21.414.* The provisions of §§ 21.412 and 21.414 (except for (d) and (e)) are applicable to this temporary program.

(Authority: 38 U.S.C. 212(a))

Coordination With the Adjudication Division

§ 21.6420 Coordination with the Adjudication Division.

It is the responsibility of the VR&C Division to inform the Adjudication Division in writing of the following changes in the veteran's circumstances contained in the following paragraphs.

(Authority: 38 U.S.C. 524)

(a) *Evaluation.* (1) The date an evaluation being provided a veteran under age 50 is suspended because of unsatisfactory conduct or noncooperation; and

(2) The date the evaluation is resumed.

(b) *Income information.* Any information relating to income from work or training which may affect the veteran's continued entitlement to pension, including participation in:

(1) A work adjustment program, incentive or therapeutic work program,

vocational training in a rehabilitation facility, or employment in a rehabilitation facility or sheltered workshop;

(2) On-job training;

(3) The work portion of a cooperative or combination program;

(4) Internships; and

(5) Full- or part-time employment.

(Authority: 38 U.S.C. 524)

(c) *Dependency changes.* Information regarding dependency changes if the case manager learns of such changes in the normal course of performing his or her duties.

(Authority: 38 U.S.C. 524)

[FR Doc. 88-3081 Filed 2-12-88; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6775]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective date shown in this rule because of noncompliance with the revised floodplain management criteria of the NFIP. If FEMA receives documentation that the community has adopted the required revisions prior to the effective suspension date given in this rule, the community will not be suspended and the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATE: February 17, 1988.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, Federal Center Plaza, 500 C Street SW., Room 416, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the NFIP (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures.

On August 25, 1986, FEMA published a final rule in the **Federal Register** that revised the NFIP floodplain management criteria. The rule became effective on October 1, 1986. As a condition for continued eligibility in the NFIP, the NFIP criteria at 44 CFR 60.7 require communities to revise their floodplain management regulations to make them consistent with any revised NFIP regulation within 6 months of the effective date of that revision or be subject to suspension from participation in the NFIP.

The communities listed in this notice have not amended or adopted floodplain management regulations that incorporate the rule revision. Accordingly, the communities are not compliant with NFIP criteria and will be suspended on the effective date shown in this final rule. However, some of these communities may adopt and submit the required documentation of legally enforceable revised floodplain management regulations after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**. In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

The Administrator finds that notice and public procedures under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 90- and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to adopt adequate floodplain management measures, thus placing itself in noncompliance with the Federal standards required for community participation.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	Community name	County	Community No.	Effective Date
Alabama	Unincorporated areas	Coosa	010052	Feb. 17, 1988.
Do	Fort Payne, city of	De Kalb	010067	Do.
Do	Guin, town of	Marion	010162	Do.
Florida	Defuniak Springs, city of	Walton	120318	Do.
Do	Delray Beach, city of	Palm Beach	125102	Do.
Do	Dundee, city of	Polk	120409	Do.
Do	Eatonville, city of	Orange	120182	Do.
Do	Fernandina Beach, city of	Nassau	120172	Do.
Do	Coral Springs, city of	Broward	120033	Do.
Do	Cross City, city of	Dixie	120074	Do.
Do	Dania, city of	Broward	120034	Do.
Georgia	Darien, city of	McIntosh	130131	Do.

State	Community name	County	Community No.	Effective Date
Do	Duluth, city of	Gwinnett	130098	Do.
Do	Unincorporated areas	Fayette	130432	Do.
Do	Fayetteville, city of	....do	130431	Do.
Do	Unincorporated areas	Hall	130466	Do.
Do	Lawrenceville, city of	Gwinnett	130099	Do.
Do	Peachtree City, city of	Fayette	130078	Do.
Kentucky	Unincorporated areas	Lawrence	210258	Do.
Do	Ludlow, city of	Kenton	210266	Do.
Do	Russellville, city of	Logan	210150	Do.
Do	Shively, city of	Jefferson	210124	Do.
Do	Stamping Ground, city of	Scott	210261	Do.
Mississippi	McLain, town of	Greene	280058	Do.
South Carolina	Unincorporated areas	Jasper	450112	Do.
Do	Landrum, town of	Spartanburg	450215	Do.
Do	Laurens, city of	Laurens	450122	Do.
Do	Lexington, city of	Lexington	450134	Do.
Do	Moncks Corner, town of	Berkeley	450031	Do.
Do	Newberry, town of	Newberry	450153	Do.
Tennessee	Farragut, town of	Knox	470387	Do.
Do	Unincorporated areas	Fayette	470352	Do.
Do	....do	Gibson	470359	Do.
Do	Humboldt, city of	....do	470059	Do.
Do	Jackson, city of	Madison	470113	Do.
Do	Unincorporated areas	Jefferson	470097	Do.
Do	Jefferson City, city of	....do	475430	Do.
Do	Kingsport, city of	Sullivan	470184	Do.
Do	Lawrenceburg, city of	Lawrence	475437	Do.

Issued: February 9, 1988.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 88-3127 Filed 2-12-88; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 73

Standards of Conduct—List of Some Offenses for Which Disciplinary Action May Be Taken; and the Code of Ethics for Government Service

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: This final rule amends the Standards of Conduct regulations, 45 CFR Part 73, by adding two appendixes after Subpart N to provide a specific and more readily understood listing of many of the offenses for which disciplinary action may be taken and to publish the Code of Ethics for the Government Service. Most of the offenses listed pertain to misconduct that can occur on duty. Some, however, pertain to misconduct that can also occur off duty, e.g., bribery of a public official and prohibited political activity. This final rule is provided to encourage the avoidance of such offenses and facilitate the taking of disciplinary action when such offenses occur.

EFFECTIVE DATE: February 16, 1988.

FOR FURTHER INFORMATION CONTACT: Frank Libbey, Assistant Director for Program Coordination, Office of Human Resource Programs, Office of the Assistant Secretary for Personnel Administration, Office of the Secretary, at (202) 475-0104 or (202) 245-7284.

SUPPLEMENTARY INFORMATION: Some of the offenses emphasized in the HHS Standards of Conduct regulations are described in general terms or are those that (such as conflicts of interest, prohibited outside employment, and prohibited political activity) are offenses that are unlikely to be committed by many employees. However, the Standards of Conduct are applicable to all HHS employees. In fairness to employees and to discourage employee misconduct, all employees should be aware, to the extent reasonable, of what specific actions are not allowed and may result in discipline.

This final rule would accomplish these objectives by providing a more readily understood summary listing of not only the more rare offenses but also many of the more common employee offenses, together with certain offenses specifically prohibited by statute and the Code of Ethics for Government Service.

This rule was not subject to a notice of proposed rulemaking; it pertains to internal personnel management and is exempt from the notice and comment procedures.

This final rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981.

As required by the Regulatory Flexibility Act, it is hereby certified that this final rule will not have a significant economic impact on small business entities.

List of Subjects in 45 CFR Part 73

Conduct standards, Conflict of interests, Ethical conduct, Financial disclosure, Government employees, Political activity.

For the reasons set forth in the preamble, 45 CFR Part 73 is amended as follows:

PART 73—STANDARDS OF CONDUCT

1. The authority citation for Part 73 is revised to read as follows:

Authority: 5 U.S.C. 7301, 42 U.S.C. 216; E.O. 11222, 30 FR 6469; 5 CFR 735.101 et seq.

2. Paragraph (a) of § 73.735-1201 is revised to read as follows:

§ 73.735-1201 General provisions.

(a) Violations of the regulations contained in the Part may be cause for disciplinary action which could be in addition to any penalty prescribed by law. (For a list of some offenses for which disciplinary action may be taken and "The Code of Ethics for Government Service," the violation of which may also result in disciplinary action, see Appendixes A and B of this Part).

* * * * *

3. Appendices A and B are added to Part 73 to read as follows:

Appendix A to Part 73—List of Some Offenses for Which Disciplinary Action May Be Taken

Following is a list of some offenses for which disciplinary action may be taken under this Part. When a statute applies specifically to a particular offense, either wholly or in part, the statute is cited. Neither the list of offenses nor the statutory citations are all-inclusive. The "Code of Ethics for Government Service" is not cited because of its general applicability but is published in its entirety in Appendix B.

A. *Concerning Efficiency of Operations in General.* 1. Engaging in wasteful actions or behavior in the performance of assigned duties; conducting non-Government business during official work hours; or participating in a strike (18 U.S.C. 1918), work stoppage, slowdown, sickout, or other similar action.

2. Absence without leave, failure to adhere to the rules and regulations for requesting and obtaining leave, or improper use of sick leave.

3. Deliberate insubordination or refusal to carry out lawful orders or assignments given.

4. Disruptive behavior, such as:

a. Inflicting or threatening or attempting to inflict bodily injury on another (except for necessary defense of self or others) while on the job or on Federal premises.

b. Discourtesy, disreputable conduct, or use of insulting, abusive or obscene language to or about other individuals while on the job.

5. Sexual harassment of employees or members of the public.

6. Failure to observe precautions for safety, such as failure to use safety equipment when it is provided or ignoring signs, posted rules or regulations, or written or verbal safety instructions.

7. Unauthorized use, possession, or distribution of alcoholic beverages (5 U.S.C. 7352) or controlled substances (e.g., hallucinogens, such as LSD: stimulants, such as cocaine and amphetamines; sedatives, such as barbiturates; narcotics and other drugs or substances, such as hashish and other cannabis substances).

8. Unauthorized gambling; or canvassing, soliciting, or peddling on government premises.

9. Failure to carry or show proper identification or credentials as required by competent authority; misuse of identification cards or investigative or identification credentials or badges.

10. Failure to disclose (i.e., report) information, when such disclosure is not specifically prohibited by law or Executive Order, that involves (a) violation of law, rule, or regulation, (b) mismanagement or gross waste of funds or abuse of authority, or (c) poses a substantial and specific danger to public health or safety; failure to cooperate in an official Department inquiry.

11. Failure to pay just debts, including taxes to and loans from Governmental sources.

12. Deceit or interference in a Civil Service examination (18 U.S.C. 1917) or in connection with a Government personnel action.

13. Fraud or false statements in a Government matter. (18 U.S.C. 1001 through 1003.)

14. Supervisory failure to initiate disciplinary or corrective action when the facts are known and disciplinary or corrective action is warranted.

15. Employment of a member of an organization that advocates the overthrow of our constitutional form of government. (5 U.S.C. 7311; 50 U.S.C. 784.)

B. *Concerning Government Funds, Property, Documents, and Records.* 1. Actual or attempted embezzlement or theft of Government or personal money or property either directly or through use of Government documents, automated equipment, or other means; actual or attempted embezzlement or theft of the money or property of another person in the possession of an employee by reason of his or her employment. (18 U.S.C. 641 and 654.)

2. Failure to account for public money. (18 U.S.C. 643.)

3. Deliberate falsifying of official time and attendance records; improper use of official travel or forging, counterfeiting, or otherwise falsifying official Government travel records or documents. (18 U.S.C. 508.)

4. False record entries or false reports of money or securities. (18 U.S.C. 2073.)

5. Loss or misuse of or damage to Government property or endangering persons or Government property through carelessness or by willful malicious conduct.

6. Mutilating, destroying, or concealing public records. (18 U.S.C. 2071.)

7. Misuse of penalty (postal) privilege. (18 U.S.C. 1719.)

8. Failure to safeguard administratively confidential, financial, and trade secrets information.

9. Unauthorized use of documents presented or used to procure the payment of money from or by the Government. (18 U.S.C. 285.)

10. Unauthorized use of a Government vehicle; serious or repeated violations of traffic regulations while driving a Government vehicle or a vehicle rented or leased for official Government purposes; reckless driving or improper operation of any Government owned, rented, or leased motor vehicle. (31 U.S.C. 1349[b].)

11. Violations of the Privacy Act, including:

a. Willful prohibited disclosure of individually identifiable information in violation of 5 U.S.C. 552a.

b. Willfully maintaining a system of records without meeting the notice requirements of the Privacy Act as required by 5 U.S.C. 552a.

12. Violation of regulations concerning the release of classified information, confidential, or security and investigative information. (18 U.S.C. 798 and 1905; 21 U.S.C. 331j; and 50 U.S.C. 783.)

C. *Concerning Conflicts of Interest and Related Unethical Conduct:* 1. Violations of 18 U.S.C. Chapter 11: Bribery, Graft, and Conflicts of Interest, including:

a. Having a direct or indirect financial interest (includes employee ownership of stocks, bonds, or partnership interests in an entity or employment of the employee, his or her spouse, or dependent child) that conflicts with one's Government duties because such entity is either regulated by, has or seeks to do business with the agency, or has any other particular matter with or pending before the agency that may give rise to either an actual conflict or the appearance thereof. (18 U.S.C. 208.)

b. Bribery of a public official; soliciting or accepting directly or indirectly anything of monetary value, including gifts, gratuities, favors, entertainment, or loans either as compensation for Governmental services or from individuals who are seeking contractual or other business or financial relations with the Department, are conducting operations or activities that are regulated by the Department, or have interests that may be substantially affected by the performance or nonperformance of the employee's official duties; receiving salary or any contribution to or supplementation of salary from a private source as compensation for services for the Government. (18 U.S.C. 201 and 209.)

c. Acting as the agent of a foreign principal registered under the Foreign Agents Registration Act. (18 U.S.C. 219.)

2. Engaging, directly or indirectly, in a financial transaction as a result of or primarily relying on information that is obtained through one's official duties and would not be available were the employee not an employee of the Federal Government.

3. Soliciting a contribution from another employee for a gift to an official superior, making a donation as a gift to an official superior, or accepting a gift from an employee receiving less pay than oneself. (5 U.S.C. 7351.)

4. Engaging, without required permission, in outside activities that result in or create the appearance of a conflict of interest.

5. Teaching, lecturing, or writing that depends on specific information obtained as a result of one's Government employment when that information is not otherwise available to the public.

6. Failure to obtain required clearance of an official speech or article.

7. Lobbying with appropriated funds. (18 U.S.C. 1913.)

8. Representation before a Federal agency (other than in the proper discharge of one's official duties) as an agent or attorney in a claim against the United States (or receiving any gratuity or share in any such claim in considertion for assistance given) or as an agent or attorney for anyone before any department, agency, court, or otherwise in connection with any proceeding, application, request for a ruling, or claim on any other particular matter in which the United States is a party or has a direct and substantial interest. (18 U.S.C. 205.) (Note: This section notwithstanding, an employee may, if not inconsistent with the performance of his or her official duties, act without compensation as an agent or attorney for another person who is the subject of any disciplinary or other administrative proceeding or as an agent or attorney for one's parent, spouse, child, or any person or estate for whom or which he or she serves as personal fiduciary except in those matters in which the employee has participated personally and substantially.)

D. *Concerning Prohibited Political and Election Activities.* 1. Activities prohibited by 5 U.S.C. Chapter 73, Subchapter III, including:

a. Section 7323, "Political contributions; prohibition."

b. Section 7324, "Influencing elections; taking part in political campaigns; prohibitions; exceptions."

2. Activities prohibited by 18 U.S.C. Chapter 29, including:

a. Section 594, "Intimidation of voters."

b. Section 597, "Expenditures to influence voting."

c. Section 598, "Coercion by means of relief appropriations."

d. Section 600, "Promise of employment or other benefit for political activity."

e. Section 601, "Deprivation of employment or other benefit for political contribution."

f. Section 602, "Solicitation of political contributions."

g. Section 604, "Solicitation from persons on relief."

h. Section 606, "Intimidation to secure political contributions."

E. *Concerning Prohibited Personnel Practices.* 1. Commission of a prohibited personnel practice (as defined in 5 U.S.C. 2302[b] [1–11]); that is, any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, commit any of the following practices:

a. Discriminate for or against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation.

b. Solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of (1) an evaluation of the work performance ability, aptitude, or general qualifications of such individual or (2) an evaluation of the character, loyalty, or suitability of such individual.

c. Coerce the political activity of any person (including the providing of any political contribution or service) or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity.

d. Deceive or willfully obstruct any person with respect to such person's right to compete for employment.

e. Influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment.

f. Grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

g. Appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in 5 U.S.C. 3110) when the civilian position is in the Department or under his or her jurisdiction or control.

h. Take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for the lawful disclosure of information.

i. Take or fail to take any personnel action against an employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation (including HHS Instructions and issuances).

j. Discriminate for or against any employee or applicant for employment on the basis of conduct that does not adversely affect the performance of the employee or applicant or the performance of others (except criminal conviction in determining suitability or fitness).

k. Take or fail to take any personnel action when the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning the merit system principles (as set forth in 5 U.S.C. 2301).

Appendix B to Part 73—Code of Ethics for Government Service

Any person in Government service should:

I. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

II. Uphold the Constitution, laws, and regulations of the United States and all governments therein and never be a party to their evasion.

III. Give a full day's labor for a full day's pay, giving earnest effort and best thought to the performance of duties.

IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

VI. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

VII. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.

VIII. Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.

IX. Expose corruption wherever discovered.

X. Uphold these principles, ever conscious that public office is a public trust.

Dated: November 17, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 88–3202 Filed 2–12–88; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

Amendment of the Rules Concerning Lists of Authorized Broadcast Stations and Pending Broadcast Applications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order revises § 0.434 of the FCC Rules, to update the names and types of AM and FM lists. The revisions are made to correct and clarify inaccurate, outdated, or confusing rule texts and to accommodate reader comprehension.

EFFECTIVE DATE: February 16, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rita McDonald, Policy and Rules Division, Mass Media Bureau (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Order

Adopted: January 26, 1988.

Released: February 8, 1988.

By the Chief, Mass Media Bureau:

1. In this *Order,* the Commission modifies its rules relating to information available about radio broadcast stations in order to update, clarify, and correct regulations as part of its oversight function. Specifically, § 0.434 (Lists of authorized broadcast stations and pending broadcast applications) is amended to update the names and types of AM and FM lists which are available, to describe the data bases from which the lists are generated, and to explain how to get the data bases as well as the lists. Finally, the warning and disclaimer provisions of that section are revised to provide specifically that they apply to data bases as well as lists.

2. This *Order* makes no substantive changes which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

3. These amendments are implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Because these amendments involve a rule pertaining to agency organization, do not impose any additional burdens, and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions, and public procedure on such matters are

not required under the Administrative Procedure Act, 5 U.S.C. 553.

4. Because a general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

4. Therefore, it is ordered, that pursuant to sections 4, 5, and 303, of the Commissions Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Part 0 of the FCC Rules and Regulations is amended as set forth below, effective upon publication in the **Federal Register.**

5. For further information on this *Order,* contact Rita McDonald, (202) 632-9660, Mass Media Bureau.

List of Subjects in 47 CFR Part 0

Government publications.

Federal Communications Commission.

Alex D. Felker,

Chief, Mass Media Bureau.

Amendments

47 CFR Part 0 is amended as follows:

PART 0—[AMENDED]

1. The authority citation for Part 0 continues to read as follows:

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

2. Section 0.434 is amended by revising the heading, introductory text, and paragraphs (a), (b), (e), and (f), to read as follows:

§ 0.434 Data bases and lists of authorized broadcast stations and pending broadcast applications.

Periodically the FCC makes available copies of its data bases and lists containing information about authorized broadcast stations, pending applications for such stations, and rulemaking proceedings involving amendments to the TV and FM Table of Allotments. The data bases, and the lists prepared from the data bases, contain frequencies, station locations, and other particulars. The lists are available for public inspection at the FCC's Public Reference Room, Washington, DC. Paper copies of the lists may be purchased from the FCC's duplicating contractor; see § 0.465(a). Microfiche copies of the lists and the data bases themselves may be obtained from:

National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161.

(703) 487-4763 for data bases on magnetic tape.

(703) 487-4808 for data bases on diskette.

(703) 487-4630 for monthly subscription to microfiche lists.

(703) 487-4650 for one-time purchases of microfiche lists.

(a) For AM broadcast:

(1) Lists available only on paper from the Commission's duplicating contractor:

(i) Pending construction permit applications for new stations and changes in existing facilities in order by frequency.

(ii) Pending construction permit applications for new stations and changes in existing facilities in order by state and city.

(iii) Pending construction permit applications for new stations and changes in existing facilities in order by file number.

Complete lists are prepared approximately once each month, with updates at least once each week.

(2) Lists available only on microfiche from NTIS:

(i) AM stations in order by state (U.S. only); summary listing.

(ii) AM stations in order by frequency (U.S. only); summary listing.

(iii) AM stations in order by country and state; complete listing including all countries in Region 2, tower information, etc.

Complete lists are prepared approximately once each month; there are no updates.

(3) Copies of the AM Engineering Data Base are supplied to NTIS approximately once each month. NTIS refers to this as the "Broadcast AM Data Base."

(b) For FM Broadcast:

(1) Lists available only on paper from the Commission's duplicating contractor:

(i) FM stations (including translators) in order by state; complete lists available monthly, with updates at least once each week.

(ii) FM stations (including translators) in order by frequency; complete lists available monthly, with updates at least once each week.

(iii) Vacant FM channels and applications therefor in order by state; complete lists are available monthly; there are no updates.

(2) Lists available only on microfiche from NTIS:

(i) FM stations (including translators) in order by state.

(ii) FM stations (including translators) in order by frequency.

Complete lists are prepared approximately once each month; there are no updates.

(3) Copies of the FM Engineering Data Base are supplied to NTIS approximately once each month. NTIS refers to this as the "Broadcast FM Data Base."

* * * * *

(e) Users of the data bases and the lists prepared from the data bases are cautioned that the data bases and the lists are unofficial. They have been prepared for the convenience of the FCC's staff, and should not be relied on by the public because in some instances the data bases and the lists may not agree with the primary sources of information (*e.g.*, official license documents, international notifications, actual applications, and the like). Action by the public, such as the filing of applications, should be based on the primary sources of information and not on the data bases or lists. If there are discrepancies between the primary sources of information and the data bases or lists, the former control.

(f) The United States and its officers, agents, and employees shall not be responsible or liable for any loss, expense, or damage arising from or incident to the use of either the data bases or the lists by the public.

[FR Doc. 88-2998 Filed 2-12-88; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 53, No. 30
Tuesday, February 16, 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

Federal Crop Insurance Corporation

7 CFR Part 401

[Docket No. 5046S; Amdt. No. 19]

General Crop Insurance Regulations; Northern Potato Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) publishes this notice for the purpose of withdrawing a Notice of Proposed Rulemaking (NPRM) amending the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 crop year. FCIC has determined that insufficient time remains in which to issue a final rule adding a new section § 401.128, the Northern Potato Endorsement to the General Crop Insurance Regulations.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: On Thursday, November 19, 1987, FCIC published a Notice of Proposed Rulemaking in the **Federal Register** at 52 FR 44404 which proposed to issue a new § 401.128, the Northern Potato Endorsement under the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 crop year.

In order for the Northern Potato Endorsement to be effective for the 1988 crop year, it would have necessary to publish a final rule by December 31, 1987. The time in which to publish the final rule and to file these regulations in the service offices has passed.

For the reasons stated above, FCIC has determined that the proposed rule published at 52 FR 44404 should be, and is hereby, withdrawn.

Done in Washington, DC, on Februrary 9, 1988.

Edward D. Hews,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 88-3223 Filed 2-12-88; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 440

[Amdt. No. 1, Doc. No. 4984S]

Texas Citrus Tree Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Texas Citrus Crop Insurance Regulations (7 CFR Part 440), effective for the 1989 crop year. The intended effect of this proposed rule is to maintain the effectiveness of the present Texas Citrus Tree Crop Insurance Regulations only through the 1988 crop year. It is proposed in a separate document that the provisions currently contained in this Part will be issued as an endorsement to the newly issued 7 CFR Part 401, General Crop Insurance Regulations as § 401.134, Texas Citrus Tree Endorsement, effective for the 1989 and succeeding crop years. 7 CFR Part 401 is a standard set of regulations and a master policy for insuring most crops which substantially reduces: (1) The time involved in amendment or revision; (2) the necessity of the present repetitious review process; and (3) the volume of paperwork processed by FCIC. The authority for the promulgation of this rule is the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than March 17, 1988, to be sure of consideration.

ADDRESS: Written comments, data, and opinions on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250. Written comments will be available for public inspection in the Office of the Manager, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250 during regular business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is October 1, 1990.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt for the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC has published over 40 policies to cover insurance on that many different

crops. Many of the regulations and policies contain identical language, which, if changed requires that over 40 different policies be changed, both in the Code of Federal Regulations (CFR) and the printed policy language. This repetition of effort is both inefficient and expensive. FCIC, therefore, has published in 7 CFR Part 401, one set of regulations and one master policy to contain that language which is identical in most of the policies and regulations.

As revisions on individual policies are necessary, FCIC proposes to publish a "crop endorsement" which will contain the language of the policy unique to that crop, and any exceptions to the master policy language necessary for that crop. When an endorsement is published as a section to Part 401, effective for a subsequent crop year, the present policy contained in a separate part of Chapter IV will be terminated at the end of the crop year then in effect.

In order to clearly establish that 7 CFR Part 440 will be effective only through the end of the 1988 crop year, FCIC herein proposes to amend the subpart heading of these regulations to specify that such will be the case.

It is proposed that the new Texas Citrus Tree Endorsement will be published as an endorsement to 7 CFR Part 401 (401.134, Texas Citrus Tree Endorsement), and become effective for the 1989 and succeding crop years. Upon final publication, the provisions of the Texas Citrus Tree Crop Insurance Regulations, now contained in 7 CFR Part 440, would be superseded. Therefore, FCIC proposes to amend the subpart heading to provide that 7 CFR Part 440 be effective for the 1987 and 1988 crop years only.

List of Subjects in 7 CFR Part 440

Crop insurance, Texas citrus tree.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) the Federal Crop Insurance Corporation hereby proposes to amend the Subpart heading to the Texas Citrus Tree Crop Insurance Regulations (7 CFR Part 440), as follows:

PART 440—[AMENDED]

1. The Authority citation for 7 CFR Part 440 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. The Subpart heading in 7 CFR Part 440 is revised to read as follows:

Subpart—Regulations for the 1987 and 1988 Crop Years

Done in Washington, DC on February 9, 1988

Edward D. Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 88–3222 Filed 2–12–88; 8:45 am]

BILLING CODE 3410-08-M

Farmers Home Administration

7 CFR Parts 1900, 1980

Guaranteed Business and Industrial Loan Appeals

AGENCY: FmHA, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its Business and Industrial (B&I) Loan Program regulations. This action is taken to implement certain provisions of the Food Security Act of 1985 and to reduce the frequency of financial statement required on new businesses from monthly to quarterly. The intended effect of this action is to provide for prompt handling of appeals and to reduce paperwork.

DATE: Written comments must be received on or before March 17, 1988.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives and Forms Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular working 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, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Lawrence Bowles, Loan Specialist, Business and Industry Division, Room 6321–S, Farmers Home Administration, USDA, 14th and Independence Avenue SW., Washington, DC 20250, Telephone: (202) 475–3811.

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 costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or on the ability of United States based enterprises to compete in domestic or export markets.

Program Affected

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.422 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983).

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 3015, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969 (Pub. L. 91–190), an Environmental Impact Statement is not required.

Discussion of Proposed Rule

The main purpose for amending the Business and Industrial (B&I) Loan program regulations pertaining to appeals procedures is to implement provisions of section 1313 of the Food Security Act of 1985 (Pub. L. 99–198) concerning the handling of administrative appeals. The main purpose of reducing the frequency of submission of financial reports is to comply with the objectives of the Paperwork Reduction Act of 1980 by reducing the information collection burden imposed on the public.

At present there is no general rule governing the handling of B&I administrative appeals. Section 1313 of the Food Security Act of 1985 requires a specific procedure that is found in FmHA regulations (7 CFR Part 1900, Subpart B). This action amends 7 CFR 1980.80 to add appeals involving B&I loans to the list of appeals to be handled in accordance with 7 CFR Part 1900, Subpart B. This action also amends 7 CFR 1900.51 and 7 CFR 1900.52 to eliminate the present exclusion of B&I loans from those matters to be handled under 7 CFR 1900, Subpart B. The amendment to 7 CFR 1980.80 clarifies

the status of decisions by guaranteed lenders as being non-FmHA decisions.

This action also makes such changes in 7 CFR Part 1900, Subpart B, as are necessary to add lenders and holders to the list of parties eligible to appeal an adverse decision by FmHA.

Additionally, this action amends 7 CFR 1980.454 (ADMINISTRATIVE: A) to reduce from monthy to quarterly the frequency of required submission of financial statements on new business enterprises participating in the Business and Industry Guaranteed Loan program. The existing requirement of monthly statements is seen as excessive in most cases, and as imposing a considerable expense on affected borrowers. This action does not bar lenders from requiring reports more often than quarterly if, in their judgment, that is necessary in light of their contractual requirement to prroperly service a loan. A uniform requirement of monthly reporting would be more appropriate for a program of a lender of last resort. The B&I program, by contrast, is one of quality loans.

List of Subjects

7 CFR Part 1900

Appeals, Credit, Agriculture, Loan programs—business and industry.

7 CFR Part 1980

Loan programs—business and industry—rule development assistance, Rule areas.

Therefore, Title 7, Chapter XVIII of the Code of Federal Regulations is proposed to be amended as follows:

PART 1900—[AMENDED]

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

Authority: 7 U.S.C. 1989; 42 U.S.C. 301; P.L. 99-198, section 1313; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Farmers Home Administration Appeal Procedure

§ 1900.51 [Amended]

2. In § 1900.51, paragraph (a) is removed and paragraphs (b) through (i) are redesignated as (a) through (h).

3. Section 1900.52 is amended by revising paragraph (a) to read as follows:

§ 1900.52 Definitions.

(a) *Appellant* is an applicant for FmHA assistance or an FmHA borrower, holder (only as to decisions involving the repurchase of the holder's interest) or grantee, either individual or organizational, that is directly and adversely affected by an administrative decision by FmHA. The appellant may also be a lender which is an applicant for or a recipient of a Farmer Program, Business and Industry, Emergency Livestock or Rural Housing guaranteed loan or line of credit, or a guaranteed loan applicant or borrower.

* * * * *

4. Section 1900.55 is amended by revising paragraph (c) to read as follows:

§ 1900.55 FmHA actions to limit the need for appeals.

* * * * *

(c) For Business and Industry (B&I), Rural Housing (RH), Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Rural Housing Site (RHS) and Labor Housing (LH) loans and grants, a meeting must be held between the affected parties and the decision maker to explain the adverse decision before the appeal process will begin. The required meeting may be waived by the decision maker if the decision maker previously met with or advised the affected parties of the specific reasons for the denial or the decision maker determines that a meeting would likely not avoid an appeal. The decision maker will document in the affected party's file the reasons for deciding to waive the meeting. In such cases, Exhibit B-2 with attachment Exhibit B-4 will be used without revision, except in cases involving acceleration of amounts which are provided for in 1900.56(a) of this subpart. When a meeting is required, Exhibit B-1 will be used without revision to inform the appellant. If the appellant or appellant's representative (or legal counsel), without good cause, fails to schedule/attend this meeting, there will be no appeal.

* * * * *

5. Section 1900.56 is amended by revising the introductory text of paragraph (b) and paragraph (b)(2) to read as follows:

§ 1900.56 [Amended]

* * * * *

(b) If an applicant for FmHA assistance, an FmHA guaranteed lender, a holder, a borrower (except those farmer program loan borrowers who are sent Forms FmHA 1924-25 and 1924-26) or an FmHA grantee is directly and adversely affected by an FmHA decision or action, the official taking action or making the decision will inform that person or organization by letter of the action taken within 10 calendar days of the decision. The term "directly and adversely affected" means having a request for FmHA assistance reduced, cancelled, or not renewed. Letters, as indicated in 1900.53 or 1900.55 of this subpart, as appropriate, will be used to notify the applicant. The following actions will also be taken if the adverse action is an acceleration of an FmHA loan:

* * * * *

(2) When there are pending any other related matters (such as denial of a moratorium or interest credit) at the time the appellant appeals a decision to accelerate, all such other matters will be merged into a single appeal of the decision to accelerate.

* * * * *

6. The title of Exhibit B-1 of Subpart B of Part 1900 is revised to read as follows:

Exhibit B-1 to Subpart B—Letter for Notifying Applicants, Lenders, Holders and Borrowers of Adverse Decisions Where the Decision is Appealable

(Use when meeting with Decision Maker is required)

* * * * *

7. The title of Exhibit B-2 of Subpart B of Part 1900 is revised to read as follows:

Exhibit B-2 to Subpart B— Letter for Notifying Applicants, Lenders, Holders and Borrowers of Adverse Decisions Where the Decision is Appealable

(Use when meeting with Decision Maker is not required)

* * * * *

8. The title of Exhibit B-3 of Subpart B of Part 1900 is revised to read as follows:

Exhibit B-3 to Subpart B—Letter for Notifying Applicants, Lenders, Holders and Borrowers of Unfavorable Decision Reached at the Pre-Hearing Meeting or Conference

* * * * *

9. The title of Exhibit B-7 of Subpart B of Part 1900 is revised to read as follows:

Exhibit B-7 to Subpart B—Letter for Notifying Applicants, Lenders, Holders and Borrowers or Adverse Decisions Where the Decision is Appealable

(Use when meeting with decision maker is the option of the appellant)

* * * * *

10. The Title of Exhibit C of Subpart B of Part 1900 is revised to read as follows:

Exhibit C to Subpart B—Letter for Notifying Applicants, Lenders, Holders and Borrowers of Adverse Decisions When Part of All of the Decision is not Appealable

* * * * *

PART 1980—[AMENDED]

11. The authotrity citation for part 1980 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1490; 5 U.S.C. 301; Section 10 Pub. L. 93-357, 88 Stat 392; 7 CFR 2.70.

Subpart A—General

12. Section 1980.80 is revised to read as follows:

§ 1980.80 Appeals.

Only the borrower, lender, and/or holder can appeal an FmHA decision. The borrower and lender must jointly participate in the written request by either party of review of an alleged adverse decision made by FmHA: except in cases where FmHA has denied or reduced the amount of final loss payment to the lender, the adverse decision may be appealed by the lender only. A decision by a lender, adverse to the interest of borrower, is not a decision by FmHA, whether or not concurred in by FmHA. Appeals from decision involving Rural Housing, Farmer Program, Emergency Livestock, or Economic Emergency loan guarantees or Business and Industry loans or loan guarantees, will be handled in accordance with directions set out in Subpart B of Part 1900 of this chapter.

Subpart E—Business and Industrial Loan Program

13. Section 1980.454, *Administrative* paragraph A. 1. is revised to read as follows:

§ 1980.454 Conditions precedent to issuance of the Loan Note Guarantee.

* * * * *

Administrative * * *

A. * * *

1. The loan agreement between the borrower and lender which provides for the frequency of submission of financial statements to the State Director. Quarterly financial statement should be required on new business enterprises or those needing close monitoring. However, the annual audit report will always be required. In cases of loans determined by the lender to require especially close monitoring, nothing herein shall be considered an impediment to the lender's requiring financial statements more frequently than quarterly.

* * * * *

Dated: January 21, 1988.

Vance L. Clark,

Administrator, Farmers Homes Administration.

[FR Doc. 88-3092 Filed 2-12-88; 8:45 am]

BILLING CODE 3410-07-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Organization: Reorganization Authorities for System Institutions

AGENCY: Farm Credit Administration.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Agricultural Credit Act of 1987, enacted on January 6, 1988, contains several new statutory provisions governing the authority of the Farm Credit System (System) institutions to reorganize. The legislation provides the Farm Credit Administration (FCA) with the specific authority to regulate numerous aspects of these reorganization authorities. The FCA comments relating to the exercise of these new regulatory authorities and requests comments on specific issues that must be addressed by FCA regulations.

DATE: Comments must be received on or before February 29, 1988.

ADDRESS: Comments may be mailed or delivered (in triplicate) to Anne E. Dewey, General Counsel, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

James F. Thies, Assistant Chief, Financial Analysis and Standards Division, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4475, or

Gary L. Norton, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean VA 22102-5090, (703) 883-4020, TDD(703) 883-4444.

SUPPLEMENTARY INFORMATION: The Agricultural Credit Act of 1987 (1987 Act), Pub. L. 100-233, was enacted on January 6, 1988. Title IV of that Act contains several new statutory authorities and amendments to existing authorities governing the merger, dissolution, and other forms of reorganization of System institutions. The FCA is empowered to issue regulations implementing several of these new authorities. The sections of the 1987 Act and the sections of the Farm Credit Act of 1971 (1971 Act) that are amended by the 1987 Act to these matters are contained in:

Section 412. Providing for the establishment of a special committee for developing a proposal for the consolidation of Farm Credit districts;

New section 3.21. Providing for the nomination and election of members of the board of a consolidated bank for cooperatives;

New section 7.1. Establishing the initial board of directors of a merged institution composed of a Farm Credit Bank (FCB) and bank for cooperatives (BC);

New section 7.2. Providing for the reconciliation of the powers and obligations of a merged entity composed of a FCB and BC;

New section 7.6. Authorizing the transfer of lending authority from a Federal land bank (FLB) to a Federal land bank association (FLBA);

New section 7.8. Providing for the mergers of like and unlike associations and reconciling the powers and obligations of such associations in connection with such mergers;

New section 7.9. Providing for the the special reconsideration of mergers which occurred between December 31, 1985, and the date of enactment of 1987 Act;

New section 7.10. Authorizing System insitutions to convert into lending institutions not organized under the 1971 Act;

New section 7.12. Authorizing the merger of like banks;

New section 7.13. Authorizing for the merger of like associations.

Section 4.20. Prohibiting the use of signed ballots in elections for directors of System institutions.

The FCA requests public comments on the issues raised in connection with these new authorities. Comments received will be considered in the development of proposed regulations implementing these statutory provisions. The FCA is seeking any comments members of the public deem relevant to these matters and in particular, seeks comments relating to the following specific issues:

1. New section 3.21 provides for the election of a director for the board of the National Bank for Cooperatives (NBC) by institutions that are not stockholders of the bank. By whom and how should the election be conducted and what are the appropriate mechanisms for verifying voter eligibility records? The section also provides for the election of three directors from each BC that merged to become the NBC, but only specifies procedures for the election of the first and second member. The law is silent on how the third member is elected. What mechanism should be used for electing the third board member by the NBC stockholders?

2. Various sections of the amendments authorize transfers of FLB authorities to FLBAs, dissolution of districtwide associations, and reconsideration of mergers that occurred between December 23, 1985 and January 6, 1988. What terms and conditions and approval requirements should be placed on these actions, specifically as they relate to the provision of financial assistance under the 1987 Act.

3. If unlike banks and associations merge, the 1987 Act requires FCA to adopt regulations to reconcile the powers of the merged institutions. How should the first lien requirement on real estate loans be applied to loans traditionally made by production credit associations (PCAs) of BCs? If a BC that has a national charter merges with an FCB, does the merged entity retain any aspect of the national charter? If so, does the national charter extend to all of its lending authorities or only to the BC component of those authorities?

4. The amendments authorize the transfer of FLB authorities, assets, and liabilities to the FLBAs. To what extent is there a need for staggering the effective dates of such transfers, specifically as it relates to new accounting and record keeping requirements imposed on the FLBAs?

5. The authorities for reconsideration of certain mergers occurring between December 23, 1985, and January 6, 1988 would allow for the dissolution of mergers involving a number of constitutent associations. What procedures could be used to minimize the need for multiple votes of different associations that want to withdraw from a merged association? What should be the required content and supported material for withdrawal petitioners? What is the appropriate method for verifying stockholder signatures on the petitioners? What procedures should be adopted to protect the rights of stockholders of the merged association that do not wish to withdraw?

6. Sections 413(b)(2) and (3) describe the effects of BC stockholder votes in consideration of establishing a national BC. Paragraph (3) appears to require the merger of approving banks even if the merger is approved by the stockholders of only two banks which may be in districts at opposite ends of the country. What considerations need to be addressed to deal with this situation?

7. Any other issues which the commenter believes should be addressed in these FCA regulations.

Additionally, the FCA requests commenters' views on whether holding a public hearing would facilitate consideration of these matters, and, if so, what specific issues should be addressed in such a hearing.

A notice of proposed rulemaking will be published after analysis of all the issues relevant to these new authorities and consideration of the comments received in response to this notice.

Dated: February 10, 1988.

David Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 88-3229 Filed 2-12-88; 8:45 am]

BILLING CODE 6705-01-M

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12 CFR Part 614

Loan Policies and Operations

AGENCY: Farm Credit Administration.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Agricultural Credit Act of 1987 (Pub. L. 100-233) (1987 Act), enacted on January 6, 1988, requires the Farm Credit Administration (FCA) to implement new provisions of the Farm Credit Act of 1971. Among other things, the 1987 Act establishes new borrower rights and procedures for the restructuring of loans from Farm Credit System (System) institutions, and requires FCA to issue regulations requiring System institutions to cooperate in certain State mediation programs. The FCA seeks comments on the manner and process for implementing these section.

DATE: Comments must be received on or before February 29, 1988.

ADDRESS: Comments should be submitted in writing, in triplicate, to Anne E. Dewey, General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

FOR FURTHER INFORMATION CONTACT: Nancy E. Lynch, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: Title I of the Agricultural Credit Act of 1987 (Pub. L. 100-233) (1987 Act) amended the Farm Credit Act of 1971 (1971 Act) by adding several new sections to Title IV of the 1971 Act relating to the rights of borrowers from System institutions. In particular, System institutions are directed to develop policies governing the restructuring of distressed loans, as defined in the 1971 Act, and to submit the policies to FCA. Other revised provisions specify the review available to applicants and/or borrowers who are denied credit or restructuring of their loans, provide protection for borrower stock and uninsured voluntary advance payment accounts, and clarify procedures to be used in informing borrowers about qualifying for differential interest rate programs.

The 1971 Act grants the FCA rulemaking and enforcement authority regarding the System institutions' compliance with the provisions concerning restructuring of loans and other borrower rights provisions. The FCA currently has regulations set forth in 12 CFR Part 614, Subparts K, L, and N, which address borrower rights, credit reviews and forbearance decisions. The FCA requests comments concerning how these existing regulations might be revised to accommodate the new provisions of the 1971 Act, and also requests comments on the specifics of the new regulations necessary to implement those statutory provisions.

In additional, section 503(b) of the 1987 Act requires the FCA to prescribe rules requiring System institutions to cooperate in good faith with requests for, and analysis of, information made in the course of mediation under any agricultural loan mediation program certified by the Secretary of Agriculture in accordance with section 501 of the 1987 Act. The FCA invites comments on the interrelationship, if any, between the provisions in Title IV of the 1971 Act concerning borrower rights and the requirement for cooperation in State mediation programs. For example, does participation in a State mediation program affect the processing of a request by a borrower or applicant for credit review committee action?

The FCA also requests comments concerning whether a public hearing would contribute to FCA's consideration of the issues involved in these regulations and, if so, what particular issues should be addressed at such a hearing.

A notice of proposed rulemaking will be published in due course after consideration of the comments received in response to this notice.

Dated: February 10, 1988.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 88-3230 Filed 2-12-88; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-NM-02-AD]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which would require the replacement of the aileron control cable grommets. This proposal is prompted by reports of three flight incidents of water freezing on the cable at the grommets, which caused the system to bind up. This condition, if not corrected, could lead to reduced roll controllability or erratic operation of the lateral control system.

DATES: Comments must be received no later than April 11, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-02-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commerical Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Scott F. Romer, Airframe Branch, ANM-120S; telephone (206) 431-1966. 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 receive 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 (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 88-NM-02-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Three occurrences of aileron control cable system binding have been reported. Investigation has revealed that water accumulating and freezing on the cables at the grommets in the fairlead support brackets can result in binding, due to the relatively small clearance between the cable and the grommet in the brackets. This condition, if not corrected, could lead to reduced roll controllability or erratic operation of the lateral control system.

The FAA has reviewed and approved Boeing Service Bulletin 757-27-0079, Revision 1, dated June 25, 1987, which describes a modification consisting of removing and replacing aileron cable grommets at 29 places aft of each wing rear spar.

Since this condition is likely to exist or develop on other airplanes of this same design, an AD is proposed which would require the replacement of the aileron cable grommets in accordance with the service bulletin previously mentioned.

It is estimated that 90 airplanes of U.S. registry would be affected by this AD, that it would take approximately 14 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The costs of parts is estimated to be $81.20 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $57,708.

For these reasons, 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 few, if any, Model 757 airplanes are operated by small entities. 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 (14 CFR 39.13) 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 adding the following new airworthiness directive:

Boeing: Applies to Model 757 series airplanes, listed in Boeing Service Bulletin 757-27-0079, Revision 1, dated June 25, 1987, certificated in any category. Compliance required within one year after the effective date of this AD, unless previously accomplished.

To prevent binding in the aileron control system, accomplish the following:

A. Modify the aileron control system in accordance with Boeing Service Bulletin 757-27-0079, Revision 1, dated June 25, 1987, or later FAA-approved revision.

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, Seattle Aircraft Certification Office, 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 in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA,

Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on February 5, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88-3104 Filed 2-12-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-140-AD]

Airworthiness Directives; Lockheed-California Company Model L-1011-385 Series Airplanes, Fuselage Numbers 1001 through 1250

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Lockheed Model L-1011-385 series airplanes, which would require the inspection of restraint systems at flight attendant seats, removal of defective restraints, and the modification of the seat restraint and guide mechanisms. This proposal is prompted by reports of improper restraint system installations, and chafing of the seat belt and harness. This condition, if not corrected, could result in the malfunction of seat restraints and possible injury to flight attendant crew members due to the loss of the restraints.

DATE: Comments must be received no later than April 11, 1988.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-140-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The National Transportation Safety Board report referenced in this notice can be obtained from the National Transportation Safety Board, Washington, DC 20594. The applicable service information may be obtained from Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Order Administration, Dept. 65-33, U-33, B-1. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Edward S. Chalpin, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6323.

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 (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-140-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

During its investigation of an accident involving a Lockheed Model L-1011-385 airplane, the National Transportation Safety Board (NTSB) discovered that the flight attendant shoulder harnesses and seat belts installed on the airplane were badly worn and chafed, and certain restraint systems were improperly installed. The NTSB noted in its report, NTSB/AAR-86/05, dated September 3, 1986, that seat belt straps were damaged by chafing against the seatpan retraction springs, the spring nut pivot, and/or the take-up spool locking gears positioned on each end of the spools. Some straps had twisted or jammed inside the adjuster fitting and would not function properly under decelerative (inertial) forces. Although this condition may have been caused by improper installatoin techniques and inspection procedures, product design features may also have contributed to it.

A subsequent survey of the seat belt and shoulder harness installations on other Model L-1011-385 airplanes in the U.S. fleet has revealed similar incidents of wear and other damage caused by abrasive elements within the retraction and attachment assemblies. This condition, if not corrected, could result in the malfunction of seat restraints and possible injury to flight attendant crew members due to the failure of the restraints.

The FAA has reviewed and approved Lockheed Service Bulletin 093-25-517, dated June 4, 1987, which describes the inspection and modification of Model L-1011-385 series flight attendant seat restraint systems.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require modification of the flight attendant seat belts in accordance with the service bulletin previously mentioned. In addition, the AD would require that the restraint systems continue to be inspected periodically.

It is estimated that 91 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. The actual cost of the modification parts is estimated to be $120 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $21,840.

For these reasons, 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 few, if any, Model L-1011-385 airplanes are operated by small entities. A copy of a draft regulatory evaluation 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 (14 CFR 39.13) 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 adding the following new airworthiness directive:

Lockheed—California Company: Applies to Lockheed Model L-1011-885 series airplanes, Serial Numbers 1001 through 1250, certificated in any category. Compliance is required within six months after the effective date of this Airworthiness Directive, unless previously accomplished.

To prevent injury to flight attendants resulting from the use of unairworthy seat belts and shoulder harnesses, accomplish the following:

A. Visually inspect flight attendant seat belts and shoulder harnesses for any wear, fraying, or stretching of belt webbing. Thereafter, continue to inspect the seat belts and shoulder harnesses at intervals not to exceed 1,500 hours time-in-service. Replace, prior to further flight, any unit showing excessive wear and/or damage.

B. Install two-end shroud, Heath-Techna Part Number H0161-1, to all MPD2-1100-( ) seats, in accordance with Lockheed Service Bulletin 093-25-517, dated June 4, 1987, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. 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, Los Angeles Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Order Administration, Dept. 65-33, U-33, B-1. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on February 5, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88-3106 Filed 2-12-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 71269-7269]

Direct Investment Surveys; Raising Exemption Levels for the BE-605 and BE-606B Surveys

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice sets forth proposed rules to amend 15 CFR Part 806 by raising the exemption levels for two mandatory surveys of foreign direct investment in the United States conducted by the Bureau of Economic Analysis (BEA). The two surveys are quarterly survey BE-605, Transactions of U.S. Affiliate, Except an Unincorporated Bank, with Foreign Parent, and quarterly survey BE-606B, Transactions of U.S. Banking Branch or Agency with Foreign Parent. Under these proposed rules, the exemption level for each survey would be raised from $15 million to $20 million.

These changes will reduce the number of survey reports filed, thus significantly reducing the reporting and processing burden.

DATE: Any comments on this proposed rule will receive consideration if submitted in writing on or before April 1, 1988.

ADDRESS: Please send comments to Office of the Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230. Responses to this notice will be available for public inspection from 8:00 a.m. to 4:00 p.m. in Room 607, 1401 K Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Betty L. Barker, Acting Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 523-0659.

SUPPLEMENTARY INFORMATION: The two surveys for which exemption levels would be raised under these proposed rules are part of BEA's regular data collection program for foreign direct investment in the United States. The surveys are mandatory and are conducted pursuant to the International Investment and Trade in Services Survey Act (22 U.S.C. 3101-3108).

The exemption level for a given survey is the level of a U.S. affiliate's assets, sales, or net icome below which reporting is not required. (A U.S. affiliate is a U.S. business enterprise in which a foreign person owns or controls, directly or indirectly, 10 percent or more of the voting securities if an incorporated business enterprise or an equivalent interest if an unincorporated business enterprise.) Raising the exemption level will lower the number of reports to be filed, and will significantly reduce both the reporting burden on U.S. businesses and the processing burden on BEA.

Under these proposed rules, the exemption level for the two surveys will be raised to $20 million. The current exemption level for each survey is $15 million.

The proposed level of $20 million is the same as that being used in the BE-12, Benchmark Survey of Foreign Direct Investment in the United States-1987, to determine whether a U.S. affiliate must file a long form (Form BE-12(L) or a short form (Form BE-12(SF)). BE-12 forms are scheduled to be mailed to respondents in February 1988 and completed reports are due May 31, 1988. The BE-12 is BEA's census of foreign direct investment in the United States and is intended to cover the universe of all U.S. affiliates. The BE-605 and -606B, in contrast, are sample surveys covering only the larger U.S. affiliates. The sample data reported in these surveys will be linked to data from the BE-12 benchmark survey in order to derive universe estimates for nonbenchmark years.

The new rules will be effective with the BE-605 and -606B reports covering the second quarter of 1988, which are due 30 days after the close of that quarter.

Executive Order 12291

BEA has determined that this proposed rulemaking is not "major" as defined in E.O. 12291 because it is not likely to result in:

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

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

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

Paperwork Reduction Act

The two surveys covered by these proposed rules contain collection of

information requirements subject to the Paperwork Reduction Act.

Current OMB approval of the collection of information requirements for the BE-605 and BE-606B surveys (OMB Nos. 0608-0009 and 0608-0023, respectively) will expire January 31, 1990. The collection of information requirements for the revised survey forms have been submited to OMB for approval.

Comments regarding the collection of information requirements for these surveys may be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Bureau of Economic Analysis, Washington, DC 20503.

Regulatory Flexibility Act

The General Counsel, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these proposed rules, if adopted, will not have a significant economic impact on a substantial number of small entities because they raise exemption levels, thereby reducing requirements of small entities. Therefore, a regulatory flexibility analysis was not prepared.

List of Subjects in 15 CFR Part 806

Balance of payments, Economic statistics, Foreign investment in the United States, Reporting and recordkeeping requirements.

Dated: December 8, 1987.

Allan H. Young,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 806 as follows:

PART 806—[AMENDED]

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101-3108, and E.O. 11961, as amended.

§ 806.15 [Amended]

2. In § 806.15(h)(1), the exemption level of $15,000,000 is changed to read "$20,000,000."

3. In § 806.15(h)(2), the exemption level of $15,000,000 is changed to read "$20,000,000."

[FR Doc. 88-3173 Filed 2-12-88; 8:45 am]

BILLING CODE 3510-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-88-01]

Special Local Regulations for Azalea Festival Airshow

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal that would establish permanent special local regulations for the Azalea Festival Airshow, an annual event held in April. The regulations also would apply during the airshow practice session held on the previous day. Annual notice of the precise dates and times of the airshow and airshow practice session would be published in Local Notice to Mariners and a Federal Register Notice. The special local regulations are necessary to control vessel traffic within the immediate vicinity of the airshow and practice session due to the potential dangers to waterway users under part of the aircraft flight paths, the confined nature of the waterway, and the expected spectator craft congestion during the airshow.

DATES: Comments must be received on or before March 17, 1988.

ADDRESSES: Comments should be mailed or hand delivered to Commander (bb), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705-5004. The comments will be available for inspection and copying in room 209 of that address. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Billy J. Stephenson, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford, Street, Portsmouth, Virginia 23705-5004, telephone number (804) 398-6204.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 05-88-01) and the specific section of the proposal to which their comments apply, and give reasons for each comment.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on the proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process. The receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

Drafting Information

The drafters of this notice are Mr. Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and Commander Robert J. Reining, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Proposed Regulation

The area covered by this proposal is the same as that covered by the special local regulations for 1987 Azalea Festival Airshow. The Azalea Festival Airshow is an annual weekend event designed to promote and enhance the City of Norfolk's Azalea Festival, a tribute to the North Atlantic Treaty Organization. The airshow consists of aircraft performing low level flight and aerobatics over the water. The regulations also would apply during the airshow practice session held on the previous day. The special local regulations provide for the safety of vessels, by excluding vessels from an area immediately below the flight path of some of the maneuvers. They are also needed to control vessel traffic within the immediate vicinity of the airshow due to the confined nature of the waterway and the expected spectator craft congestion during the airshow. If adopted, this proposal will apply to the 1988 airshow practice session and airshow that will be held on April 23 and 24, 1988, respectively, between 1:00 P.M. and 4:00 P.M.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulations and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Because closure of the waterway is not anticipated for any extended period, commercial marine traffic will be inconvenienced only slightly. The economic impact of this proposal is expected to be so minimal, that a full regulatory evaluation is unnecessary. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. A new § 100.506 is added to read as follows:

§ 100.506 Hampton Roads, Norfolk, Virginia.

(a) Definitions—(1) *Regulated area:* The regulated area is bounded by a line connecting the following points: latitude 36°56'52.0" North, longitude 76°16'41.0" West; latitude 36°57'26.0" North, longitude 76°16'24.5" West; latitude 36°59'05.0" North, longitude 76°21'35.0" West; and latitude 36°58'31.0" North, longitude 76°21'52.5" West.

(2) *Spectator anchorage areas.* (i) Spectator Anchorage Area A is bounded by a line connecting the following points: latitude 36°58'47.0" North, longitude 76°18'42.0" West; latitude 36°58'17.0" North, longitude 76°18'30.0" West; latitude 36°58'27.0" North, longitude 76°19'02.0" West.

(ii) Spectator Anchorage Area B is bounded by a line connecting the following points: latitude 36°57'47.0" North, longitude 76°16'57.0" West; latitude 36°57'39.0" North, longitude 76°16'30.0" West; latitude 36°57'27.0" North, longitude 76°16'34.0" West; and latitude 36°57'36.0" North, longitude 76°17'02.0" West.

(3) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer who has been designated by the Commander, Group Hampton Roads.

(b) *Special local regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the immediate vicinity of the regulated area shall:

(i) Stop the operator's vessel immediately upon being directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign, and

(ii) Proceed as directed by the officer.

(3) Spectator vessels may anchor in the spectator anchorage areas described in paragraph (a)(2) of this section.

(4) The Coast Guard Patrol Commander may stop the airshow and airshow practice session to allow for the transit of marine traffic through the regulated area.

(c) *Effective period.* This section is effective during the Azalea Festival Airshow, the airshow practice session, and for one hour before the event starts on each day. The Commander, Fifth Coast Guard District publishes a notice in the **Federal Register** and the Fifth Coast Guard District Local Notice to Mariners that announces the times and dates that the section is in effect.

Dated: February 4, 1988.

A.D. Breed,

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

[FR Doc. 88-3185 Filed 2-12-88; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 110

[CGD1-87-087]

Special Anchorage Area; Keansburg, NJ

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard is considering a proposal to establish a special anchorage area in the waters adjacent to the town of Keansburg, New Jersey. This proposal is being considered at the request of Grandal Enterprises Inc. who wishes that this area be so designated to provide for an area well away from fairways where vessels less than 65 feet in length could safely remain at anchor unlighted at night. Raritan Bay is currently experiencing a resurgence of recreational boating during the summer months. There are no such anchorage areas currently available in the immediate area.

DATES: Comments must be received on or before April 1, 1988.

ADDRESSES: Comments should be mailed to Captain of the Port, Bldg 109, Governors Island, NY 10004, Attention to: Vessel Movement Office. The comments and other materials referenced in this notice will be available for inspection and copying at the Vessel Movement Office, Bldg 109, Governors Island, New York. Normal office hours are between 8:00 am and 4:30 pm, Monday through Friday, except holidays. Comments may also be hand delivered to that address. Persons wishing to visit the Vessel Movement Office must make an appointment so that clearance onto Governors Island (a military installation) can be arranged.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) A. J. DiNinno, Vessel Movement Officer, Captain of the Port, New York, at (212) 668-7933.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD1-87-087) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The regulation may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are LTJG A. J. DiNinno, Project Officer, Captain of the Port, New York and CDR M. A. Leone, Project Attorney, First Coast Guard District Legal Office.

Discussion of Proposed Regulation

The area proposed for designation as a special anchorage is located in the waters contiguous to the town of Keansburg, New Jersey. This area is located adjacent to the amusement pier at Point Comfort. The proposed anchorage will cover approximately 0.4 square miles of space within Federal Anchorage 26. The proposed boundary follows: beginning on the Keansburg shore at latitude 40°27'19" north, longitude 74°08'25" west; to latitude 40°27'38" north, longitude 74°08'52" west; to latitude 40°27'52" north, longitude 74°08'32" west; to latitude 40°27'50" north, longitude 74°07'45" west; to latitude 74°27'14" north, longitude 74°07'46" west; and thence returning westward along the shoreline to the point of origin. The Captain of the Port, New York was contacted by Mr. Grand Cantalupo and Mr. Al Reid of Grandal Inc. regarding the establishment of a special anchorage area that would provide safe, well defined anchorages for recreational boaters. At the request of the Captain of the Port, New York, Grandal Inc. contacted the United States Corps of Engineers and the New Jersey Department of Environmental Protection regarding this project. After reviewing issues pertinent to their respective statutory authorities, those offices have responded affirmatively to the special

anchorage proposal. This rule would allow anchoring of small boats (vessels under 65 feet in length) without requiring them to display anchor lights. The area will not effect navigable channels and is located where general navigation will not endanger or be endangered by unlighted vessels. This regulation is issued pursuant to 33 USC 2030, 2035 and 2070 as set out in the authority citation for all of 33 CFR Part 110.

Environmental Impact

These proposed regulations are not expected to effect this area in any way. It has been, and will continue to be, for the anchoring of vessels.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulation policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Establishment of this special anchorage will not require any dredging and is not expected to result in any increased costs to any segment of the public. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Lists of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 USC 471, 2030, 2035 and 2071; 49 CFR 1.46(c) and 33 CFR 1.05-1(g). Section 110.1a and each section listed in 110.1a is also issued under 33 USC 1223 and 1231.

2. Section 110.60 is amended by adding a new paragraph (z) to read as follows:

§ 110.60 Port of New York and vicinity.

* * * * *

(z) *Point Comfort at Keansburg, New Jersey.* Adjacent to the amusement pier at Point Comfort on Raritan Bay and bounded as follows: beginning on the Keansburg shore at 40°27'19" north, longitude 74°08'25" west; to latitude 40°27'38" north, longitude 74°08'52" west; to latitude 40°27'52" north, longitude 74°08'32" west; to latitude 40°27'50" north, longitude 74°07'45" west; to latitude 40°27'14" north, longitude 74°07'46" west; and thence returning westward along the shoreline to the point of origin.

Dated: January 28, 1988.

R. L. Johanson,

Rear Admiral, United States Coast Guard, Commander, First Coast Guard District.

[FR Doc. 88-3189 Filed 2-12-88; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD7-87-37]

Drawbridge Operation Regulations; Okeechobee Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: At the request of Martin County, the Coast Guard is considering a change to the regulations governing the Roosevelt drawbridge at Stuart, Florida by limiting the number of times the bridge is opened during certain periods. This supplemental proposal is being made because of the number of objections to the original notice received from navigation interests. This action should accommodate the needs of highway traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before April 1, 1988.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, Brickell Plaza Federal Building, Room 400, 909 SE 1st Avenue, Miami, Florida, 33131-3050. The comments and other materials referenced in this notice will be available for inspection and copying on the 4th floor of the Brickell Plaza Federal Building, 909 SE 1st Avenue, Miami, Florida. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments also may be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Proposed Regulations

The Roosevelt bridge presently opens on signal except weekdays from 7 a.m. to 9 a.m., 11 a.m. to 1 p.m., and 4 p.m. to 7 p.m. when it opens only on the hour and half hour. On weekends and holidays from 8 a.m. to 6 p.m. it opens on the hour, 20 minutes after the hour and 40 minutes after the hour. Martin County requested a change to these regulations on January 21, 1987. On October 2, 1987, the Commander, Seventh Coast Guard District published a notice of proposed rulemaking (52 FR 36961) soliciting comments on regulations for the Roosevelt Bridge and the Evans Crary Bridge. The proposed Roosevelt Bridge regulation would have required the bridge to open only on the hour and half hour from 7 a.m. to 6 p.m. Monday through Friday. In addition the draw would not be required to open at 8 a.m., 8:30 a.m., 4:30 p.m. and 5 p.m. A significant number of objections were received from navigation interests. Many pointed out that the adjacent railroad bridge is sometimes closed on the hour and half hour, thus preventing a vessel from proceeding until the railroad bridge was opened.

The existing regulations and the proposed supplemental rules provide for an opening immediately after the railroad bridge opens if it is closed during a scheduled opening period. Over 30 commenters stated that the two proposed 90 minute closed periods were too long and potentially hazardous to vessels. After review of these objections to the Roosevelt Bridge regulations, Martin County has proposed one opening at the halfway point of both the morning and evening 90 minute closure periods. Neither opening would occur during the peak 15 minute vehicular traffic periods. Public vessels of the United States, tugs with tows, and vessels in a situation where a delay would endanger life or property would continue to be passed at any time. No objections were received to the Evans

Crary Bridge regulations contained in the Notice of Proposed Rulemaking (52 FR 36961). As a result the Final Rule for this bridge is unchanged from the proposed rule and has been published (53 FR 119) with an effective date of February 4, 1988.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as folows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.317(d) is revised to read as folllows:

§ 117.317 Okeechobee Waterway.

* * * * *

(d) *Roosevelt (US 1) bridge, mile 7.4 at Stuart.* The draw shall open on signal; except that Monday through Friday, except federal holidays, from 7 a.m. to 6 p.m. the draw need open only on the hour and half hour. However, the draw need not open between 7:30 a.m. and 9 a.m. and 4 p.m. and 5:30 p.m. except at 8:15 a.m. and 4:45 p.m. On Saturdays, Sundays, and federal holidays, from 8 a.m. to 6 p.m., the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour. When the adjacent Florida East Coast Railway bridge is in the closed position at the time of a scheduled opening, the draw need not open, but it must then open immediately upon the opening of the railroad bridge to pass all accumulated vessels. Exempt vessels shall be passed at any time.

* * * * *

Dated: January 26, 1988.

H. B. Thorsen,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard Distict.

[FR Doc. 87-3188 Filed 2-12-88; 8:45 am]

BILLING CODE 4910-14-M

PANAMA CANAL COMMISSION

35 CFR Part 103

Provisions for Length of Vessels

AGENCY: Panama Canal Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Panama Canal Commission is proposing to amend its regulations in Title 35, Code of Federal Regulations, § 103.6(e)(1) concerning the maximum overall lengths for vessels which transit the Panama Canal. This action has become necessary due to an increase in the number of vessels being accepted for transit by Canal authorities when their length exceeds that permitted by current regulations. The effect will be to recognize the increasing growth in size of commercial vessels by permitting them transit on a regular basis, thereby conforming regulations to the practice that has developed.

DATE: Written comments should be submitted on or before March 17, 1988.

ADDRESSES: Comments should be sent to Secretary, Panama Canal Commission, 2000 "L" Street NW, Suite 550, Washington DC 20036-4996 or Panama Canal Commission, Office of General Counsel, APO Miami, Florida 34011-5000.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Rhode, Jr., Secretary, Panama Canal Commission, telephone: (202) 634-6441, or Mr. John Haines, Jr., General Counsel, Balboa Heights, Republic of Panama, telephone: 011-507-52-7511.

SUPPLEMENTARY INFORMATION: Present Commission regulations in 35 CFR 103.6(e)(1) restrict regular transits to (1) commercial vessels whose overall maximum length, including bulbous bow, does not exceed 900 feet, and (2) to passenger and container ships whose overall length does not exceed 950 feet. Depending on their characteristics, vessels exceeding these limits have been authorized single transits at the discretion of Canal authorities, subject to special conditions to ensure the safety and continuity of regular Canal operations. There has been a gradual increase in the number of exceptions granted to vessels that exceed the limitations set forth above and recurring requests for these vessels to transit on a regular basis, without the need for authorization for individual transits. A study of Canal operating procedures indicates that an increase in maximum length by 50 feet, from 900 feet to 950 feet may be acceptable on certain commercial vessels. Similarly, an increase of 15 feet, from 950 feet to 965 feet is considered acceptable for transit of passenger and container ships.

In view of this determination, therefore, the Commission proposes to revise paragraph (e)(1) of § 103.6 to permit the Commission to accept for regular transit commercial vessels whose maximum length overall, including bulbous bow, is 950 feet, except that passenger and container ships may be 965 feet in overall length. To insure a safe passage, vessels greater than 900 feet in length overall, which are transiting for the first time or are newly-modified vessels or newly-constructed vessels are subject to denial of passage pursuant to § 103.2 and to the requirement of prior review and approval of vessel plans by Canal authorities.

The Commission has determined that this rule does not constitute a major rule within the meaning of Executive Order 12291 dated February 17, 1981 (47 FR 13193). The bases for that determination are, first, that the rule, when implemented, would not have an annual effect on the economy of $100 million or more per year, and second, that the rule would not result in a major increase in costs or prices for consumers, individual industries, local governmental agencies or geographic regions.

Further, the agency has determined that implementation of the rule will have no adverse effect on competition, employment, investment, productivity, innovation or the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Finally, the Commission has determined that this rule is not subject to the requirements of sections 603 and 604 of Title 5, United States Code, in that its promulgation will not have a significant impact on a substantial number of small entities, and the Administrator of the Commission so certifies pursuant to 5 U.S.C. 605(b).

List of Subjects in 35 CFR Part 103

Panama Canal, Vessels, Marine safety, Navigation.

Accordingly, it is proposed to amend Title 35, Code of Federal Regulations, Part 103, as follows:

PART 103—GENERAL PROVISIONS GOVERNING VESSELS

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

Authority: 22 U.S.C. 3811, E.O. 12215, 45 FR 36043.

2. Section 103.6 is amended by revising paragraph (e)(1), to read as follows:

§ 103.6 Size and draft limitations of vessels.

* * * * *

(e) *Maximum length.* (1) The maximum length overall, including bulbous bow, for a commercial vessel acceptable for regular transit is 950.0 feet, except passenger and container ships, which may be 965.0 feet in overall length. In order to insure a safe passage, vessels exceeding 900.0 feet in overall length, which are transiting the Canal for the first time or are newly-modified or newly-constructed vessels, are subject to denial of passage pursuant to section 103.2 and to the requirement of prior Commission review and approval of vessel plans in accordance with Canal regulations.

* * * * *

Dated: January 20, 1988.

Fernando Manfredo, Jr.,

Deputy Administrator, Panama Canal Commission.

[FR Doc. 88-3141 Filed 2-12-88; 8:45 am]

BILLING CODE 3640-04-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6920]

Proposed Flood Elevation Determinations; Pennsylvania

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 52 FR 46795 on December 10, 1987. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Township of Middle Smithfield, Monroe County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Township of Smithfield, Monroe County, Pennsylvania, previously published at 52 FR 46795 on December 10, 1987, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

THE PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS FOR SELECTED LOCATIONS ARE: PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Marshalls Creek.	Approximately 400 feet downstream of confluence of Newton Run.	*520
	Approximately 0.4 mile upstream of confluence of Newton Run.	*590
	Approximately 1.1 miles upstream of confluence of Newton Run.	*630

Harold T. Duryee,

Administrator, Federal Insurance Administration

Issued: February 8, 1988.

[FR Doc. 88-3126 Filed 2-12-88; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 85

Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Health and Human Services

AGENCY: Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Department of Health and Human Services.

DATES: To be assured of consideration, comments must be in writing and must be received on or before April 18, 1988. Comments should refer to specific sections in the regulation.

ADDRESS: Comments should be sent to: Marcella Haynes, Director, Policy and Special Projects Staff, Office for Civil Rights, Room 5034, HHS North Building, 330 Independence Avenue SW., Washington, DC 20201.

Comments received will be available for public inspection in Room 5034, 330 Independence Avenue SW., Washington, DC 20201, Monday to Friday, except Federal holidays, from 9:00 am to 5:00 pm. Copies of this notice are available in Spanish, in Braille and on tone-indexed tape. These may be obtained at the above address.

FOR FURTHER INFORMATION CONTACT: Frank E G. Weil (202) 472-4256. TDD (202) 472-2916.

SUPPLEMENTARY INFORMATION: .

Backgound

The purpose of this proposed rule is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to programs and activities conducted by the Department of Health and Human Services. As amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Sec. 119, Pub. L. 95-602, 92 Stat. 2982), section 504 of the Rehabilitation Act of 1973 states that:

> No otherwise qualified individual with handicaps in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance *or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.*

(29 U.S.C. 794) (Amendment italicized)

The substantive nondiscrimination obligations of the agency as set forth in

this proposed rule are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. *See* 28 CFR Part 41 (section 504 coordination regulation for federally assisted programs) and 45 CFR Part 84 (section 504 regulations for federally assisted programs funded by the Department of Health and Human Services). This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor, Rep. James M. Jeffords, that the Federal government should have the same section 504 obligations as recipients of federal financial assistance. (124 *Cong. Rec.* 13,901 (1978) (remarks of Rep. Jeffords); 124 *Cong. Rec.* E2668, E2670 (daily ed. May 17, 1978) *id.*, 124 *Cong. Rec.* 13,897 (remarks of Rep. Brademas); *id.* at 38,552 (remarks of Rep. Sarasin).)

There are, however, some language differences between this Notice of Proposed Rule Making and the Federal government's section 504 regulations for federally assisted programs. These changes are based on the Supreme Court's decision in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), and the subsequent circuit court decisions interpreting *Davis* and section 504. *See Dopico* v. *Goldschmidt*, 687 F. 2d 644 (2d Cir. 1982); *American Public Transit Association* v. *Lewis*, 655 F. 2d 1272 (D.C. Cir. 1981) (*APTA*); *see also Rhode Island Handicapped Action Committee* v. *Rhode Island Public Transit Authority*, 718 F. 2d 490 (1st Cir. 1983).

These changes are supported by the recent decision of the Supreme Court in *Alexander* v. *Choate*, 105 S. Ct. 712 (1985), where the Court held that the regulations for federally assisted programs did not require a recipient to modify its durational limitation on Medicaid coverage of inpatient hospital care for handicapped persons. Clarifying its *Davis* decision, the Court explained that section 504 requires only "reasonable" modifications (105 S. Ct. at 721), and explicitly noted that "the regulations implementing section 504 (for federally assisted programs) are consistent with the view that *reasonable* adjustments in the nature of the benefit offered must at times be made to assure meaningful access." *Id.* at n.21 (emphasis added).

Incorporation of these changes, therefore, makes this section 504 federally conducted regulation consistent with the Federal government's section 504 federally assisted regulations, as interpreted by the Supreme Court. Many of these federally assisted regulations were issued prior to the judicial interpretations of *Davis*, subsequent lower court cases interpreting *Davis* and *Alexander*; therefore their language does not reflect the interpretation of section 504 provided by the Supreme Court and by the various circuit courts. Of course, these federally assisted regulations must be interpreted to reflect the holdings of the Federal judiciary. Hence, there are no significant differences between this proposal for federally conducted programs and the Federal government's interpretation of section 504 regulations for federally assisted programs.

This regulation has been reviewed by the Department of Justice. It is an adaptation of a prototype prepared by the Department of Justice under Executive Order 12250 (45 FR 72995, 3 CFR, 1980 Comp., p.298) and distributed to executive agencies on April 15, 1983, and of an amended prototype distributed by the Department of Justice on April 13, 1984. This regulation has also been reviewed by the Equal Employment Opportunity Commission under Executive Order 12067 (43 FR 28967, 3 CFR 1978 Comp. p. 206).

All programs conducted by the Department are already required to be accessible to all or virtually all individuals with handicaps and virtually all of them already are so accessible. Any future compliance actions and any future modifications are likely to be infrequent and relatively inexpensive. Therefore, this is not a major rule within the meaning of Executive Order 12291 (46 FR 13193, 3 CFR, 1981 Comp. p. 127), and a regulatory impact analysis is not required.

Regulatory Impact Statement

Executive Order 12291

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulation that is likely to have an annual economic impact of $100 million or more, cause a major increase in costs or prices, or meet other thresholds specified in section 1(b) of the order. No analysis is required if a regulation applies only to the management of Federal agencies.

We have determined that no regulatory impact analysis is required for these rules because they apply only to the management of the Department of Health and Human Services. However, we have estimated that the costs of complying with this regulation will be minimal because most Department facilities and services are already in compliance.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires an analysis for any regulation that will have "a significant impact on a substantial number of small entities." This proposed regulation will not have an impact on small entities because it applies only to Department facilities and services provided directly by the Department.

Paperwork Reduction Act

This proposed regulation contains no collections of information which require the approval of the Office of Management and Budget under the Paperwork Reduction Act of 1980.

Section-by-Section Analysis of Regulation

Section 85.1 Purpose.

Section 85.1 states the purpose of the proposed rule, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by executive agencies or the United States Postal Service.

Section 85.2 Application.

The proposed regulation covers all programs and activities conducted by the Department of Health and Human Services ("the agency"). This includes the following components:

- The Office of the Secretary
  - Office of the Under Secretary
  - Office of the Deputy Under Secretary
  - Office of the Assistant Secretary for Public Affairs
  - Office of the Assistant Secretary for Legislation
  - Office of the Assistant Secretary for Planning and Evaluation
  - Office of the Assistant Secretary for Management and Budget
  - Office of the Assistant Secretary for Personnel Administration
  - Office of the Assistant Secretary for Public Affairs
  - Office of the General Counsel
  - Office of Inspector General
  - Office for Civil Rights
  - Office of Consumer Affairs
- Office of Human Development Services
  - Office of the Assistant Secretary for Human Development Services
  - Administration on Aging
  - Administration for Children, Youth and Families
  - Administration for Native Americans
  - Administration on Developmental Disabilities.
- Public Health Service
  - Office of the Assistant Secretary for Health

Agency for Toxic Substances and Disease Registry
Alcohol, Drug Abuse and Mental Health Administration
Centers for Disease Control
Food and Drug Administration
Health Resources and Services Administration
National Institutes of Health.
Health Care Financing Administration
Social Security Administration
Family Support Administration.

To facilitate public comments on these proposed rules, the *major* programs subject of this rule are listed below. Each of these components occupies facilities which the public may have occasion to visit, engages in written and oral communications with the public, and hires Federal employees. In addition, some components operate programs which involve extensive public use, as summarized below:

Office of the Secretary—No major operating programs or activities conducted directly by the Federal Government.

Office of Human Development Services—No major operating programs or activities conducted directly by the Federal Government.[1]

Public Health Service—Directly operated programs include the Indian Health Service, and intramural research conducted by the National Institutes of Health.[1]

Health Care Financing Administration—Directly operates the Medicare program.[1]

Social Security Administration—Directly operates the Old Age, Survivors, and Disability Insurance, and Supplemental Security Income for the Aged, Blind, and Disabled programs.

Family Support Administration—No major operating programs or activities conducted directly by the Federal Government.[1]

It has been suggested that a list of the major programs covered by this Part be appended to the text. Since all programs are covered, the need for such an appendix is not apparent. Comment on this point is invited.

Section 85.3 Definitions

(a) "Agency." For purposes of this Part "agency" means the Department of Health and Human Services or any component part of the Department of Health and Human Services that conducts a program or activity covered by this part. "Component agency" means any such component part.

(b) "Assistant Attorney General." "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

(c) "Auxiliary aids." "Auxiliary aids" mean services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, the agency's programs or activities. The definition provides examples of an equal opportunity to participate in and enjoy the benefits of the agency's program or activities. The definition provides examples of commonly used auxiliary aids. Although auxiliary aids are required explicitly only by § 85.51, they may also be necessary to meet other requirements of this regulation.

(d) "Complete complaint." The definition of "complete complaint" enables the agency to determine the beginning of its obligation to investigate a complaint (*see* § 85.61(d)).

(e) "Facility." The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs, 28 CFR 41.3(f), except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted to clarify its coverage. The phrase "or interest in such property" has been deleted, because the term "facility," as used in this Part, refers to structures and not to intangible property rights. It should, however, be noted that this Part applies to all programs and activities conducted by the agency regardless of whether the facility in which they are conducted is owned, leased, or used on some other basis by the agency. The term "facility" is used in § 85.42.

(f) "Individual with Handicaps." The definition of "individual with handicaps" is substantially identical to the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.31), and the HHS regulation for federally assisted programs (45 CFR 84.3(j)).

(g) "OCR." "OCR" means the Office for Civil Rights of the Department of Health and Human Services.

(h) "Qualified individual with handicaps." The definition of "qualified individual with handicaps" is a revised version of the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.32) and the HHS regulation for federally assisted programs (45 CFR 84.3(k)).

Paragraph (l) is an adaptation of existing definitions of "qualified individual with handicaps" for purposes of federally assisted preschool, elementary, and secondary education programs (*see* 45 CFR 84.3(k)(2)). It provides that an individual with handicaps is qualified for preschool, elementary, or secondary education programs conducted by the agency, if he or she is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive these services from the agency. In other words, and individual with handicaps is qualified if, considering all factors other than the handicapping condition, he or she is entitled to receive education services from the agency.

Paragraph (2) differs from existing regulations for federally assisted programs because of intervening court decisions. It defines "qualified individual with handicaps" with regard to any program other than those covered by paragraph (1) under which a person is required to perform services or to achieve a particular level of accomplishment. In such programs, a qualified individual with handicaps is one who can achieve the purpose of the program without modifications in the program that would result in a fundamental alteration in its nature. This definition reflects the decision of the Supreme Court in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979).

In that case, the Court ruled that a hearing-impaired applicant to a nursing school was not a "qualified handicapped person" because her hearing impairment would prevent her from participating in the clinical training portion of the program. The Court found that, if the program were modified so as to enable the respondent to participate (by exempting her from the clinical training requirements), "she would not receive even a rough equivalent of the training a nursing program normally gives" (*id.* at 410). It also found that "the purpose of [the] program was to train persons who could serve the nursing profession in all customary ways (*id.* at 413) and that the respondent would be unable, because of her hearing impairment, to perform some functions expected of a registered nurse. It, therefore, concluded that the school was not required by section 504 to make such modifications that would result in "a fundamental alteration in the nature of the program" (*id.* at 410).

We have incorporated the court's language in the definition of "qualified individuals with handicaps" in order to make clear that such a person must be able to participate in the program offered by the agency. The agency is required to make modifications in order to enable a handicapped applicant to participate, but is not required to offer a program of a fundamentally different nature. The test is whether, with appropriate modifications, the applicant

[1] Financial assistance programs conducted through grants to States and other recipients are covered by the section 504 rule at 45 CFR Part 84.

can achieve the purpose of the program offered, not whether the applicant could benefit or obtain results from some other program that the agency does not offer. Although the revised definition allows exclusion of some people with handicaps from some programs, it requires that an individual with handicaps who is capable of achieving the purpose of the program must be accommodated, provided that the modifications do not fundamentally alter the purpose of the program.

The agency has the burden of demonstrating that a proposed modification would constitute a fundamental alteration in the nature of its program or activity. Furthermore, in demonstrating that a modification would result in such an alteration, the agency must follow the procedures established in §§ 85.42 and 85.43, which are discussed below, for demonstrating that an action would result in undue financial and administrative burdens to the agency. That is, the decision must be made by the agency head in writing after consideration of all resources available for the program or activity and must be accompanied by an explanation of the reasons for the decision. If the agency head determines that an action would result in a fundamental alteration, the agency must consider options that would enable the handicapped person to achieve the purpose of the program but would not result in such an alteration.

We encourage comments on paragraph (2). The language we have proposed comes directly from the Supreme Court's interpretation of section 504. However, as long as the definition of "qualified individual with handicaps" remains faithful to the statute and current case law, we are receptive to alternative language.

For programs or activities which do not fall under either of the first two paragraphs, paragraph (3) adopts the existing definition of "qualified individual with handicaps" with respect to services (28 CFR 41.32(b)) in the coordination regulation for programs receiving Federal financial assistance. Under this definition, a qualified individual with handicaps is a individual with handicaps who meets the essential eligibility requirements for participation in the program or activity.

Paragraph (4) of the definition is derived from 28 CFR 41.32(a). Paragraph (4) provides that, for purposes of employment, a qualified individual with handicaps is one who, with reasonable accommodation, can perform the essential functions of the job in question.

(j) "Secretary" means the Secretary of the Department of Health and Human Services or the Secretary's designee.

(k) "Section 504". This definition makes clear that, as used in this Part, "Section 504" applies only to programs or activities conducted by the agency itself and not to programs or activities to which it provides Federal financial assistance.

Section 85.11 Self-evaluation

The agency shall conduct a self-evaluation of its compliance with section 504 within one year of the effective date of this regulation. The process shall include consultation with interested persons, including consultation with individuals with handicaps or organizations representing individuals with handicaps. The self-evaluation requirement is present in the existing section 504 coordination regulations for programs or activities receiving Federal financial assistance (28 CFR 41.5(b)(2)) and the HHS regulations for federally assisted programs (45 CFR 84.6(k)). Experience has demonstrated the self-evaluation process to be a valuable means of establishing a working relationship with individuals with handicaps that promotes both effective and efficient implementation of section 504.

Section 85.12 Notice

Section 85.12 requires the agency to disseminate sufficient information to employees, applicant, participants, beneficiaries, and other interested persons to apprise them of rights and protections afforded by section 504 and this Part. Methods of providing this information include, for example, the publication of information in handbooks, manuals, and pamphlets that are distributed to the public to describe the agency's programs and activities; the display of informative posters in service centers and other public places or the broadcasting of information by television or radio.

Section 85.21 General prohibitions against discrimination

Section 85.21 is an adaptation of the corresponding section of the section 504 coordination regulation for programs and activities receiving Federal financial assistance (28 CFR 41.51).

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in § 85.21 establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the Part. Whenever the agency has violated a provision in any of the subsequent sections, it has also violated one of the general prohibitions found in § 85.21. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of individuals with handicaps. The agency may not refuse to provide an individual with a handicap an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices include the use of irrebuttable presumptions that absolutely certain classes of disabled persons (*e.g.*, epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question. It would be permissible, therefore, to exclude without an individual evaluation all persons who are blind in both eyes from eligibility for a license to operate a commercial vehicle in interstate commerce, but it may not be permissible to automatically disqualify all those who are blind in just one eye.

Section 504, however, prohibits more than just the most obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted is inaccessible. Paragraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit afforded to an individual with handicaps be as effective as that afforded to others. The later sections on accessibility (§§ 85.42–43) and communication (§ 85.51) are specific applications of this principle.

Despite the mandate of paragraph (d) that the agency administer its programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps, paragraph (b)(1)(iv), in conjunction with paragraph (d), permits the agency to develop separate or different aids, benefits, or services when necessary to provide individuals with handicaps with an equal opportunity to participate in or benefit from the agency's programs or activities. Paragraph (b)(1)(iv) requires that different or separate aids, benefits or services be provided only when necessary to ensure that aids, benefits or services are as effective as those provided to others. Even when separate

or different aids, benefits or services would be more effective, paragraph (b)(2) provides that a qualified individual with handicaps still has the right to choose to participate in the program that is not designed to accommodate individuals with handicaps.

Paragraph (b)(1)(v) prohibits the agency from denying a qualified individual with handicaps the opportunity to participate as a member of a planning or advisory board.

Paragraph (b)(1)(vi) prohibits the agency from limiting a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit or service.

Paragraph (b)(3) prohibits the agency from utilizing criteria or methods of administration that deny individuals with handicaps access to the agency's programs or activities. The phrase "criteria or methods of administration" refers to official written agency policies, as well as the actual practices of the agency. This paragraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny individuals with handicaps effective opportunity to participate.

Paragraph (b)(4) specifically applies the prohibition enunciated in § 85.21(b)(3) to the process of selecting sites for construction of new facilities or existing facilities to be used by the agency. Paragraph (b)(4) does not apply to construction of additional buildings at an existing site.

Paragraph (b)(5) prohibits the agency from using criteria for the selection of procurement contractors that subject qualified individuals with handicaps to discrimination on the basis of handicap.

Paragraph (b)(6) prohibits the agency from discriminating against qualified individuals with handicaps on the basis of handicap in the granting of licenses or certifications. A person is a "qualified individual with handicaps" with respect to licensing or certification, if he or she can meet the essential eligibility requirements for receiving the license or certification (*see* § 85.3).

In addition, the agency may not establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with handicaps to discrimination on the basis of handicap. For example, the agency must comply with this requirement when establishing safety standards for the operations of licensees. In that case, the agency must ensure that standards it promulgates do not discriminate against the employment of qualified individuals with handicaps in an impermissible manner.

Paragraph (b)(6) does not extend section 504 directly to the programs or activities of licensees or certified entities themselves. The programs or activities of Federal licensees or certified entities are not themselves federally conducted programs or activities; nor are they programs or activities receiving Federal financial assistance merely by virtue of the Federal license or certificate. However, as noted above, section 504 may affect the content of the rules established by the agency for the operation of the program or activity of the licensee or certified entity and thereby indirectly affect limited aspects of their operations.

Paragraph (c) provides that programs conducted pursuant to Federal statute or Executive Order that are designed to benefit only individuals with handicaps or a given class of individuals with handicaps may be limited to those individuals.

Paragraph (d) provides that the agency must administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps, *i.e.* in a setting that enables individuals with handicaps to interact with individuals without handicaps to the fullest extent possible.

Section 85.31 Employment

Section 85.31 prohibits discrimination on the basis of handicap in employment by the agency. Courts have held that section 504, as amended in 1978, covers the employment practices of executive agencies. *Gardner* v. *Morris*, 752 F.2d 1271, 1277 (8th Cir. 1985); *Smith* v. *U.S. Postal Service*, 742 F.2d 257, 259–260 (6th Cir. 1984); *Prewitt* v. *United States Postal Service*, 662 F.2d 292, 302–304 (5th Cir. 1981). *Contra McGuiness* v. *U.S. Postal Service*, 744 F.2d 1318, 1320–21 (7th Cir. 1984); *Boyd* v. *U.S. Postal Service*, 752 F.2d 410, 413–14 (9th Cir. 1985).

Courts uniformly have held that, in order to give effect to section 501 of the Rehabilitation Act, which covers Federal employment, the administrative procedures of section 501 must be followed in processing complaints of employment discrimination under section 504. *Smith*, 742 F.2d at 262; *Prewitt*, 662 F.2d at 304. Accordingly, § 85.31 (Employment) of this rule adopts the definitions, requirements and procedures of section 501 as established in regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR Part 1613. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (3 CFR 1978 Comp., p. 206). Under this authority, the EEOC establishes government-wide standards on nondiscrimination in employmment on the basis of handicap.

In addition to this section, § 85.61(c) specifies that the agency will use the existing EEOC procedures to resolve allegations of employment discrimination.

Section 85.41 Program accessibility: Discrimination prohibited

Section 85.41 states the general nondiscrimination principle underlying the program accessibility requirements of Sections 85.42 and 85.43.

Section 85.42 Program accessibility: Existing facilities

This Part adopts the program accessibility concept found in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.56–.58) with certain modifications. Thus, § 85.42 requires that each of the agency's programs or activities, when viewed in their entirety, be readily accessible to usable by individuals with handicaps. The Part also makes clear that the agency is not required to make each of its existing facilities accessible (§ 85.42(a)(1)). However, § 85.42, unlike 28 CFR 41.56–.57, places explicit limits on the agency's obligation to ensure program accessibility (§ 85.42 (a)(2), (a)(3)).

Paragraph (a)(2) generally codifies recent case law that defines the scope of the agency's obligation to ensure program accessibility. This paragraph provides that in meeting the program accessibility requirement, the agency is not required to take any action that would result in a fundamental alternation in the nature of its program or activity, or in undue financial and administrative burdens. A similar limitation is provided in § 85.51(e). This provision is based on the Supreme Court's holding in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on the court's statement that section 504 does not require modifications that would result in "undue financial and administrative burdens" (442 U.S. at 412). Since *Davis*, circuit courts have applied this limitation on a showing that only one of the two "undue burdens" would be created as a result of the modification sought to be imposed under section 504.

See. e.g., Dopico v. *Goldschmidt*, 687 F.2d 644, (2d Cir. 1982); *American Public Transit Association* v. *Lewis*, 655 F.2d 1272 (D.C. Cir. 1981).

This interpretation is also supported by the Supreme Court's recent decision in *Alexander* v. *Choate*, 105 S. Ct. 712 (1985). *Alexander* involved a challenge to the State of Tennessee's reduction of in-patient hospital care coverage under Medicaid from 20 to 14 days per year. Plaintiffs argued that this reduction violated section 504 because it had an adverse impact on individuals with handicaps. The Court rejected the defendants' argument that section 504 prohibits only intentional discrimination, but held that the reduction was not "the sort of disparate impact discrimination" prohibited by section 504 or its implementing regulation" (*id.*, at 720).

Relying on *Davis*, the Court said that section 504 guarantees qualified individuals with handicaps "meaningful access to the benefits the grantee offers" (*id.*, at 721) and that "*reasonable adjustments* in the nature of the benefit being offered must at times be made to assure meaningful access." (*id.*, n.21) (emphasis added). However, section 504 does not require " 'changes,' 'adjustments,' or 'modifications' to existing programs that would be 'substantial' * * * or that would constitute 'fundamental alteration(s) in the nature of a program' " (*id.*, n.20) (citations omitted). *Alexander* supports the position, based on *Davis* and the earlier lower court decisions, that in some situations, certain accommodations for an individual with handicaps may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the accommodation is not discriminatory. Thus, failure to include such an "undue burdens" provision could lead to judicial invalidation of the regulation or reversal of a particular enforcement action taken pursuant to the regulation.

This paragraph, however, does not establish an absolute defense; it does not relieve the agency of all obligations to individuals with handicaps. Although the agency is not required to take actions that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, it nevertheless must take any other steps necessary to ensure that individuals with handicaps receive the benefits and services of the federally conducted program or activity.

It is our view that compliance with § 85.42(a) would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and administrative burdens are undue, all agency resources available for use in the program or activity in question should be considered. The burden of proving that compliance with § 85.42(a) would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration and burdens must be made by the agency head or his or her designee, and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in § 85.61.

Paragraph (b)(1) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of auxiliary aids. In choosing among methods, the agency shall give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of individuals with handicaps. Structural changes in existing facilities are required only when there is no other feasible way to make the agency's program accessible. The agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Praragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), an agency must make any necessary structural changes in facilities as soon as practicable, but in no event later than three (3) years after the effective date of this Part. Where structural modifications are required and it is not expected that these can be completed within six months, a transition plan shall be developed within six months of the effective date of this Part. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within 60 days.

Section 85.43 Program accessibility: New construction and alteration

Overlapping coverage exists with respect to new construction under section 504, section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792) and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Section 85.43 provides that those facilities that are constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered to be readily accessible to and useable by handicapped persons in accordance with 41 CFR Part 101–19, Subpart 101–19.600 to 101–19.607. This standard was promulgated pursuant to the Architectural Barriers Act of 1968 as amended (42 U.S.C. 4151–4157). We believe that it is appropriate to adopt the existing Architectural Barriers Act standard for section 504 compliance because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act and because adoption of the standard will avoid duplicative and possibly inconsistent standards.

Section 85.51 Communications

Section 85.51 requires the agency to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants, participants and members of the public. These steps shall include procedures for determining when auxiliary aids are necessary under § 85.51(a)(1) to afford individuals with handicaps an equal opportunity to participate in, and enjoy the benefits of, the agency's program or activity. They shall also include an opportunity for individuals with handicaps to request the auxiliary aids of their choice. This expressed choice shall be given primary consideration by the agency (§ 85.51(a)(1)(i)). The agency shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § 85.51(e). That paragraph limits the obligations of the agency to ensure effective communication in accordance with *Davis* and the circuit court opinions interpreting it (*see supra* preamble § 85.42). Unless not required under § 85.51(e), the agency shall provide auxiliary aids at no cost to the individual with handicaps.

It is our view that compliance with § 85.51 would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the program or activity in question should be considered. The burden of proving that compliance with § 85.51 would fundamentally alter the nature of a program or activity or would

result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in § 85.61.

In some circumstances, a notepad and written materials may be sufficient to permit effective communication with a hearing-impaired person. In many circumstances, however, they may not be, particularly when the hearing-impaired applicant or participant is not skilled in spoken or written language. Then, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the agency shall make clear to the public (1) the communications services it offers to afford individuals with handicaps an equal opportunity to participate in or benefit from its programs and activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preferences regarding auxiliary aids if it can demonstrate that several different modes are effective.

The agency shall ensure effective communication with vision-impaired and hearing-impaired persons involved in hearings conducted by the agency. Auxiliary aids must be afforded where necessary to ensure effective communication at such hearings. If sign language interpreters are necessary, the agency may require that it be given reasonable notice prior to the hearing of the need for an interpreter. Moreover, the agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature (§ 85.51(a)(1)(ii)). For example, the agency need not provide wheelchairs, eye glasses, or hearing aids to applicants or participants in its programs.

Paragraph (b) requires the agency to provide information to individuals with handicaps concerning accessible services, activities and facilities.

Paragraph (c) requires the agency to provide signs at inaccessible facilities that direct users to locations with information about accessible facilities.

Section 85.61 Complaint procedures

Paragraph (a) specifies that paragraphs (b) and (d) through (l) of this section establish the procedures for processing complaints other than employment complaints. Paragraph (c) provides that the agency will process employment complaints according to procedures established in existing regulations of the EEOC (29 CFR Part 1613) pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

The agency is required to accept and investigate all complete complaints (§ 85.61(d)). If it determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to the appropriate entity of the Federal government (§ 85.61(e)).

Paragraph (f) requires the agency to notify the Architectural and Transportation Barriers Compliance Board upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act or section 502 was designed, constructed, or altered in a manner that does not provide ready access and use to individuals with handicaps.

Paragraph (g) requires the agency to provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice of the right to appeal (§ 85.61(g)). One appeal within the agency shall be provided (§ 85.61(i)). The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance (§ 85.61(i)).

Paragraph (l) permits the agency to delegate its authority for investigating complaints to other Federal agencies. However, the statutory obligation of the agency to make a final determination of compliance or noncompliance may not be delegated.

Section 85.62 Coordination and compliance responsibilities

Section 85.62 sets out the respective responsibilities of the components of HHS and of the Director, OCR/Special Assistant in the implementation of section 504 to programs and activities conducted by HHS.

Paragraph (c) specifies the respective roles of OCR and of the HHS component in cases in which noncompliance is found.

In the event that OCR and the HHS component cannot agree on a resolution of any particular matter, such matter will be submitted to the Secretary for resolution.

List of Subjects in 45 CFR Part 85

Blind, Civil Rights, Deaf, Disabled, Discrimination against handicapped, Equal educational opportunity, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped, Social Service Programs.

Dated: January 22, 1988.

Otis R. Bowen,

Secretary.

For the reasons set forth in the preamble, Title 45 of the Code of Federal Regulations is proposed to be amended by adding a new Part 85, as follows:

PART 85—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec.
85.1 Purpose.
85.2 Application.
85.3 Definitions.
85.4–85.10 [Reserved].
85.11 Self-evaluation.
85.12 Notice.
85.13–85.20 [Reserved].
85.21 General prohibitions against discrimination.
85.22–85.30 [Reserved].
85.31 Employment.
85.32–85.40 [Reserved].
85.41 Program accessibility: Discrimination prohibited.
85.42 Program accessibility: Existing facilities.
85.43 Program accessibility: New construction and alterations.
85.44–85.5043 [Reserved].
85.51 Communications.
85.52–85.60 [Reserved].
85.61 Complaint procedures.
85.62 Coordination and compliance responsibilities.
85.63–85.99 [Reserved]

Authority: 29 U.S.C. 794.

§ 85.1 Purpose.

The purpose of this Part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by executive agencies or the United States Postal Service.

§ 85.2 Application.

This Part applies to all programs or activities conducted by the agency.

§ 85.3 Definitions.

For purposes of this Part, the following definitions are applicable:

(a) "Agency" means the Department of Health and Human Services or any component part of the Department of Health and Human Services that conducts a program or activity covered by this Part. "Component agency" means such component part.

(b) "Assistant Attorney General" means the Assistant Attorney General, Civil rights Division, United States Department of Justice.

(c) "Auxiliary aids" mean services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TDDs), interpreters, note takers, written materials, and other similar services and devices.

(d) "Complete complaint" means a written statement that contains the complainant's name and address and describes the agency's actions in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

(e) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots rolling stock or other conveyances, or other real or personal property.

(f) "Individual with Handicaps" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment.

As used in this definition, the phrase

(1) "Physical or mental impairment" includes

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) "Major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) "Has a record of such impairment" means has a history of, or is misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means:

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation.

(ii) Has a physical or mental impairment that substantially limits life activities only as a result of the attutudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the agency a shaving such an impairment.

(g) "OCR" means the Office for Civil Rights of the Department of Health and Human Services.

(h) "OCR Director/Special Assistant" means the Director of the Office for Civil Rights, who serves concurrently as the Special Assistant to the Secretary for Civil Rights, or a designee of the Director/Special Assistant.

(i) "Qualified individual with handicaps" means:

(1) With respect to preschool, elementary or secondary education services provided by the agency, an individual with handicaps who is a member of a class of persons otherwise entitled by statute, regulation or agency policy to receive educational services from the agency.

(2) With respect to any other agency program or activity under which a person is required to perform services or to achieve a particular level of accomplishment, an indivdual with handicaps who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that would result in a fundamental alteration in its nature; and

(3) With respect to any other program or activity, an individual with handicaps who meets the essential eligiblity requirements for participation in, or receipt of benefits from, that program or activity.

(4) With respect to employment, an individual with handicaps as defined in 29 CFR 1613.702(f), which is made applicable to this Part by § 85.31.

(j) "Secretary" means the Secretary of the Department of Health and Human Services or his/her designee.

(k) "Section 504" means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978 (Pub. L. 95-602, 92 Stat. 2955). As used in this Part, section 504 applies only to programs or activities conducted by the agency and not to federally assisted programs.

§ 85.4-85.10 [Reserved]

§ 85.11 Self-evaluation.

(a) The agency shall, within one year of the effective date of this Part, evaluate, with the assistance of interested persons, including individuals with handicaps or organizations representing individuals with handicaps, its current policies and practices and the effects thereof, that do not or may not meet the requirements of this Part, and, to the extent modifications of any such policies and practices are required, the agency shall proceed to make the necessary modifications. Any new operating or staff divisions established within the agency shall have one year from the date of their establishment to carry out this evaluation.

(b) The agency shall, for at least three years following completion of the evaluation required under paragraph (a) of this section, maintain on file and make available for public inspection—

(1) A list of the interested persons consulted;

(2) A description of the areas examined and any problems identified; and

(3) A description of any modifications made.

§ 85.12 Notice.

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this Part and its applicability to the programs or activities conducted by the agency, and make such information available to

them in such a manner as the agency head finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this Part.

§ 85.13-85.20 [Reserved]

§ 85.21 General prohibitions against discrimination.

(a) No qualified individual with handicaps shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified individual with handicaps the opportunity to participate in or benefit from the aid, benefit or service;

(ii) Afford a qualified individual with handicaps an opportunity to participate in or benefit from the aid, benefit or service that is not equal to that afforded others;

(iii) Provide a qualified individual with handicaps with an aid benefit or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aids, benefits, or services to handicapped persons or to any class of individuals with handicaps than is provided to others unless such action is necessary to provide qualified individuals with handicaps with aids, benefits or services that are as effective as those provided to others;

(v) Deny a qualified individual with handicaps the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified individual with handicaps in the enjoyment of any rights, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified individual with handicaps the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or differnt programs or activities.

(3) The agency may not, directly or through contractual, licensing or other arrangements, utilize criteria or methods of administration of which the purpose or effect would:

(i) Subject qualified individuals with handicaps to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with handicap.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would:

(i) Exclude individuals with handicaps from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

(6) The agency may not administer a licensing or certification program in a manner that subjects qualified individuals with handicaps to discrimination on the basis of handicap, nor may the agency establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with handicaps to discrimination on account of handicaps. However, the programs or activities of entities that are licensed or certified by the agency are not, themselves, covered by this Part.

(c) The exclusion of individuals without handicaps from the benefits of a program limited by Federal statute or Executive Order to individuals with handicaps or the exclusion of a class of individuals with specific handicaps from a program limited by Federal statute or Executive Order to a different class of individuals with handicaps is not prohibited by this Part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

§ 85.22-85.30 [Reserved]

§ 85.31 Employment.

No qualified individual with handicaps shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established in 29 CFR Part 1613, shall apply to employment in federally conducted programs and activities.

§ 85.32-85.40 [Reserved]

§ 85.41 Program accessibility: Discrimination prohibited.

Except as otherwise provided in §§ 85.42–43, no qualified individual with handicaps shall, because the agency's facilities are inaccessible to or unusable by such persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§ 85.42 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not:

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by individuals with handicaps; or

(2) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 85.42(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or designee after considering all agency resources available for use in the funding and operation of the program or activity in question, and must be accompanied by a written statement of reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such a burden but would nevertheless ensure that individuals with handicaps receive the benefits and services of the program or activity.

(b) *Methods.* (1) The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aids to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new

facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with handicaps. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it.

(2) In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified individuals with persons with handicaps in the most integrated setting appropriate.

(c) *Time period for compliance.* The agency shall comply with the obligations established under this section within 60 days of the effective date of this Part except where structural changes in facilities are undertaken; such changes shall be made within three years of the effective date of this Part, but, in an event, as expeditiously as possible.

(d) *Transition Plan.* In the event that structural changes to facilities must be undertaken to achieve program accessibility, and it is not expected that such changes can be completed within six months, the agency shall develop, within six months of the effective date of this Part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including individuals with handicaps and organizations representing individuals with handicaps. A copy of the transition plan be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to individual persons with handicaps;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period;

(4) Indicate the official responsible for the implementation of the plan; and

(5) Identify the persons or groups with whose assistance the plan was prepared.

§ 85.43 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, or on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with handicaps. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157) as established in 41 CFR 101–19.600 to 101.19.607 apply to buildings covered by this section.

§ 85.44–85.50 [Reserved]

§ 85.51 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the pubic.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford a individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the request of the individuals with handicaps.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunications devices for deaf persons (TDDs) or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities and facilities.

(c) The agency shall provide signs at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) The agency shall take appropriate steps to provide individuals with handicaps with information regarding their section 504 rights under the agency's programs and activities.

(e) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial or administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 85.51 would result in such alteration or burdens. The decision that compliance would result in such alteration and burdens must be made by the agency head or designee after considering all agency resources available for use in the funding and operation of the program or activity in question, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such a burden but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

§§ 85.52–85.60 [Reserved]

§§ 85.61 Complaint procedures.

(a) Except as provided in paragraph (c) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) Responsibility for the implementation and operation of this Part shall be vested in the OCR Director/Special Assistant.

(c) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established in 29 CFR Part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and HHS Instruction 1613–3. Part 1613 requires complainants to obtain pre-complaint counseling within 30 days of the alleged discriminatory act, and to file compliants within 15 days of the close of counseling. Responsibility for the acceptance, investigation, and the rendering of decisions with respect to employment complaints is vested in the Assistant Secretary for Personnel Administration.

(d) OCR shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. OCR may extend this time for good cause.

(e) If OCR receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to

refer the complaint to the appropriate government entity.

(f) OCR shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–157), or section 502 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 792), is not readily accessible to and usable by individuals with handicaps.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, OCR shall notify the complainant of the results of the investigation in a letter containing:

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 60 days of receipt from the agency of the letter required by § 85.61(g). OCR may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the OCR Director/Special Assistant. Decisions on such appeals shall not be heard by the person who made the initial decision.

(j) OCR shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If OCR determines that it needs additional information from the complainant, it shall have 60 days from the date it receives the additional information to make its determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to component agency or other Federal agencies, except that the authority for making the final determination may not be delegated.

§ 85.62 Coordination and compliance responsibilities.

(a) Each component agency shall be primarily responsible for compliance with this Part in connection with the programs and activities it conducts.

(b) The OCR Director/Special Assistant shall have the overall responsibility to coordinate implementation of this Part. The OCR Director/Special Assistant shall have the authority to conduct investigations, to conduct compliance reviews, and to initiate such other actions as may be necessary to facilitate and ensure effective implementation of and compliance with, this Part.

(c) If as a result of an investigation or in connection with any other compliance or implementation activity, the OCR Director/Special Assistant determines that a component agency appears to be in noncompliance with its responsibilities under this Part, OCR will undertake appropriate action with the component agency to assure compliance. In the event that OCR and the component agency are unable to agree on a resolution of any particular matter, the matter shall be submitted to the Secretary for resolution.

§§ 85.63–85.99 [Reserved]

[FR Doc. 88–3204 Filed 2–12–88; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 77, 96 and 195

[CGD 87-013]

Anchor Requirements for Certain Vessels

December 30, 1987.

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Coast Guard regulations in Subchapters H–Passenger Vessels, I–Cargo and Miscellaneous Vessels, and U–Oceanographic Research Vessels require vessels to be fitted with anchors and chains in general agreement with the current standards established by the American Bureau of Shipping (ABS). The 1973 ABS Rules for Building and Classing Steel Vessels Less Than 200 Feet in Length included standards for anchors that allowed a reduction in equipment required for ferries, supply vessels, and tugs. The Coast Guard accepted these reduced standards. In 1983, ABS revised the standards and the optional reduced standards for ferries, supply vessels, and tugs were removed. This rulemaking proposes to include the reduced anchor standards in 46 CFR Subchapters H, I, and U for vessels less than 200 feet in length with equipment numbers less than 150 as defined in ABS rules.

DATES: Comments must be submitted on or before April 1, 1988.

ADDRESSES: Comments may be mailed to Commandant (G–CMC), U.S. Coast Guard, 2100 Second St. SW., Washington, DC 20593–0001 or delivered to Room 2110 at U.S. Coast Guard Headquarters, Washington, DC between 8:00 a.m. and 3:00 p.m. Monday through Friday, except holidays. Comments received may be inspected in Room 2110 between 8:00 a.m. and 3:00 p.m. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Allen W. Penn, Ship Design Branch, Marine Technical and Hazardous Materials Division, Office of Marine Safety, Security and Environmental Protection, (202) 267–2997.

SUPPLEMENTARY INFORMATION:

Regulatory Background

The 1973 ABS Rules for Steel Vessels Under 61 Meters (200 Feet) in length contained standards (in Section 22, Equipment) for the number and sizing of anchors and chain. Subsection 22.7 relaxed these standards for certain vessels under 61 meters (200 feet) in length, including ferries, tugs, and supply vessels having an equipment number, based on the vessel's dimensions, less than 150. The Coast Guard adopted these standards, including the reduced standards. In 1975 and 1978 ABS adopted the reduced standards in Rules for aluminum and reinforced plastic hulled vessels and they were also accepted by the Coast Guard.

In 1983, a revised edition of ABS Rules for Building and Classing Steel Vessels Less Than 61 Meters (200 Feet) in Length was published. The revised rules did not contain the reduced standards. However, full compliance with the revised standards was made optional for vessels which do not require equipment classification. The current ABS rules for aluminum and reinforced plastic hulled vessels continue to allow the reduced standards.

In practice, both ABS and the Coast Guard continue to require anchors and accept those meeting the reduced standards in the 1973 rules. The purpose of this rulemaking is to include the reduced standards for anchors and chains in Title 46, CFR. The rules, as proposed, also incorporate the reduced standards in the 1975 and 1978 ABS rules that apply to aluminum and reinforced plastic hulled vessels.

Appropriate changes to regulations for anchors in Subchapters D—Tank Vessels, I–A, Mobile Offshore Drilling Units, and proposed Subchapter L—Offshore Supply Vessels, have already been made in separate regulatory projects. No changes are necessary in Subchapters T—Small Passenger Vessels, and R—Nautical School Ships, because they were not affected by the 1983 changes in the ABS Rules.

Drafting Information

The principal persons involved in drafting this rule are Mr. Allen W. Penn,

Project Manager, and Mr. William R. Register, Project Counsel, Office of Chief Counsel.

E.O. 12291 and DOT Regulatory Policies and Procedures

These proposed regulations are considered to be non-major under Executive Order 12291 and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of the proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The proposed regulations simply continue in effect relaxed anchor equipment standards which have been applied since 1973. There should be no economic impact on existing vessels because the proposal provides for acceptance of current arrangements and equipment on these vessels. Nor should there be any significant impact on new vessels since the practice is to equip vessels to meet the relaxed standards and thus minimize costs where compliance with more comprehensive standards is unnecessary.

Regulatory Flexibility Act

As stated above, the impact of these proposed regulations is expected to be minimal. Accordingly, the Coast Guard certifies that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The proposed regulations do not contain any information collection or record keeping requirements.

Environmental Assessment

The Coast Guard has considered the environmental impact of the regulations and determined that the impact will be minimal.

List of Subjects

46 CFR Part 77

Marine safety, Navigation (water), Passenger vessels.

46 CFR Part 96

Cargo vessels, Marine safety, Navigation (water).

46 CFR Part 195

Marine safety, Navigation (water), Oceanographic vessels. For reasons set out in the preamble, Title 46 of the Code of Federal Regulations is proposed to be amended as follows:

PART 77—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

1. The authority citation for Part 77 is revised to read as follows:

Authority: 46 U.S.C. 3306; 46 CFR 1.46.

2. By adding new paragraphs (b) and (c) to § 77.07–05 to read as follows:

* * * * *

§ 77.07–5 Ocean, coastwise, or Great Lakes service.

* * * * *

(b) In addition to the provisions of paragraph (a) of this section the following requirements and alternatives also apply:

(1) The American Bureau of Shipping rules relating to anchor equipment are mandatory, not a guide.

(2) Vessels under 200 feet (61 meters) in length and with an American Bureau of Shipping equipment number less than 150 may be equipped with either–

(i) One anchor of the tabular weight and one-half the tabulated length of anchor chain listed in the applicable standard, or

(ii) Two anchors of one-half the tabular weight with the total length of anchor chain listed in the applicable standard provided both anchors are in a position that allows for ready use at all times and the windlass is capable of heaving in either anchor.

(c) Standards of other recognized classification societies may be used, in lieu of those established by the American Bureau of Shipping, upon approval by the Commandant.

PART 96—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

3. The authority citation for Part 96 is revised to read as follows:

Authority: 46 U.S.C. 3306; 46 CFR 1.46.

4. By adding new paragraphs (b), (c) and (d) to § 96.07–05 to read as follows:

* * * * *

§ 96.07–5 Ocean, coastwise, or Great Lakes service.

* * * * *

(b) In addition to the provisions of paragraph (a) of this section the following requirements and alternatives also apply:

(1) The American Bureau of Shipping rules relating to anchor equipment are mandatory, not a guide.

(2) Vessels under 200 feet (61 meters) in length and with an American Bureau of Shipping equipment number less than 150 may be equipped with either—

(i) One anchor of the tabular weight and one-half the tabulated length of anchor chain listed in the applicable standard, or

(ii) Two anchors of one-half the tabular weight with the total length of anchor chain listed in the applicable standard provided both anchors are in a position that allows for ready use at all times and the windlass is capable of heaving in either anchor.

(c) Tugs, under 200 feet (61 meters) in length, shall have at least one anchor of one-half the tabular weight listed in the applicable standards.

(d) Standards of other recognized classification societies may be used, in lieu of those established by the American Bureau of Shipping, upon approval by the Commandant.

PART 195—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

5. The authority citation for Part 195 is revised to read as follows:

Authority: 46 U.S.C. 3306; 46 CFR 1.46.

6. By adding new paragraphs (b) and (c) to § 195.07–05 to read as follows:

* * * * *

§ 195.07–5 Ocean, coastwise, or Great Lakes service.

* * * * *

(b) In addition to the provisions of paragraph (a) of this section the following requirements and alternatives also apply:

(1) The American Bureau of Shipping rules relating to anchor equipment are mandatory, not a guide.

(2) Vessels under 200 feet (61 meters) in length and with an American Bureau of Shipping equipment number less than 150 may be equipped with either—

(i) One anchor of the tabular weight and one-half the tabulated length of anchor chain listed in the applicable standard, or

(ii) Two anchors of one-half the tabular weight with the total length of anchor chain listed in the applicable standard provided both anchors are in a position that allows for ready use at all times and the windlass is capable of heaving in either anchor.

(c) Standards of other recognized classification societies may be used, in lieu of those established by the American Bureau of Shipping, upon approval by the Commandant.

February 9, 1988.

J.W. Kime,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety Security and Environmental Protection.

[FR Doc. 88-3186 Filed 2-12-88; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 3

Federal Acquisition Regulation (FAR); Independent Price Determination Certificate Outside the United States

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule considering revisions to the Federal Acquisition Regulation (FAR) to require the use of a certificate of independent price determination in certain overseas procurements which was published in the **Federal Register** on January 4, 1988 (53 FR 100).

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before March 4, 1988, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th and F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 87-46 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION: In FR Doc. 87-30074 beginning on page 100 in the issue of Monday, January 4, 1988 (53 FR 100), insert the following section 3.103-1, Solicitation provisions, which was inadvertently omitted. For the convenience of the reader, the proposed rule is set out in its entirety

List of Subjects in 48 CFR Part 3

Government procurement.

Dated: February 2, 1988.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 3 be amended as set forth below:

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

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

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

§ 3.103-1 [Amended]

2. Section 3.103-1 is amended by removing and reserving paragraph (b).

3. Section 3.103-2 is amended by revising paragraph (b)(3) to read as follows:

§ 3.103-2 Evaluating the certification.

* * * * *

(b) * * *

(3) Whenever an offer is rejected under subparagraphs (b)(1) and (b)(2) of this subsection, or the certification is suspected of being false, the contracting officer shall report the situation to the Attorney General in accordance with 3.303 for domestic requirements or in accordance with overseas contracting activity instruction for offers from foreign suppliers for overseas requirements.

* * * * *

[FR Doc. 88-3124 Filed 2-12-88; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13 and 21

Migratory Bird Permits; Uniform Rules and Procedures; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of comment period.

SUMMARY: In the December 28, 1987, **Federal Register** (52 FR 48948) the Fish and Wildlife Service (Service) proposed changes in Part 13 which provides for the general administration of permits issued by the Service and in Part 21 which regulates permits issued under authority of the Migratory Bird Treaty Act (16 U.S.C. 703-711). The Service gives notice that the comment period will be extended for 60 days. Printing problems caused delays in distribution of the proposal, and extension of the comment period will allow comments on this proposal to be submitted from all interested parties.

DATES: Written comments will be accepted through April 26, 1988.

ADDRESSES: Comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 28006, Washington, DC 20038-8006. Comments and materials may be delivered to the U.S. Fish and Wildlife Service. Division of Law Enforcement, Room 300, Hamilton Building, 1375 K Street NW., Washington, DC, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Thomas L. Striegler at the above address [202/343-9242 or FTS 343-9242].

Date: February 8, 1988.

Frank Dunkle,

Director, Fish and Wildlife Service.

[FR Doc. 88-3130 Filed 2-12-88; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 53, No. 30
Tuesday, February 16, 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

Human Nutrition Board of Scientific Counselors; Board Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Office of the Secretary announces the following meeting:

Name: Human Nutrition Board of Scientific Counselors.

Date: April 7–8, 1988.

Time and Place: April 7, 1988, 9 a.m.-5 p.m. and April 8, 1988, 9 a.m.-1 p.m.; Room 104 Administration Building, United States Department of Agriculture, Independence Avenue, between 12th and 14th Streets SW., Washington, DC.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To review as appropriate and advise the Department as to the scope and quality of the human nutrition research and education carried out in the Department of Agriculture. The board also will prepare a report of its review, including evaluation and recommendations, to be submitted to the Secretary of Agriculture.

Contact Person: Anne Winslow Barcus, Confidential Assistant, Office of the Assistant Secretary for Science and Education, U.S. Department of Agriculture, Room 217–W, Administration Building, Washington, DC 20250, telephone (202) 447–5035.

Done at Washington, DC, this 9th day of February, 1988.

Orville G. Bentley,

Assistant Secretary, Science and Education.

[FR Doc. 3143 Filed 2–12–88; 8:45 am]

BILLING CODE 3410-01-M

Animal and Plant Health Inspection Service

[Docket No. 87-183]

Horse Protection, Certified Designated Qualified Person (DQP) Programs and Licensed DQP's

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of currently certified DQP (Designated Qualified Person) Programs and Licensed DQP's.

SUMMARY: This notice advises the general public and the horse industry of the Designated Qualified Person (DQP) programs currently certified by the Department and the currently licensed Designated Qualified Persons (DQP's) under each certified program.

FOR FURTHER INFORMATION CONTACT: Morley H. Cook, Senior Staff Veterinarian, Animal Care Staff, VS, APHIS, USDA, 6505 Belcrest Road, Federal Building, Room 756, Hyattsville, MD 20782, telephone (301) 436–7833.

SUPPLEMENTARY INFORMATION: Section 11.7(b) of the "Horse Protection Regulations" (9 CFR 11.7(b)) states in relevant part " . . . A current list of certified DQP programs and licensed DQP's will be published in the **Federal Register** at least once each year, and as may be further required for the purpose of deleting programs and names of DQP's that are no longer certified or licensed, and of adding the names of programs and DQP's that have been certified or licensed subsequent to the publication of the previous list."

This document lists the Designated Qualified Person (DQP) programs which are currently certified and lists the currently licensed DQP's under those programs. This list supersedes all prior lists published in the **Federal Register** pursuant to § 11.7(b) of the regulations.

This document lists the DQP programs which are currently certified and the individuals listed are currently licensed, according to the regulations in 9 CFR Part 11.

The certified DQP programs and the DQP's licensed by each certified program are as follows:

(a) American Fox Trotting Horse Breed Association, Inc., Marshfield, MO 65706.
(1) Licensed DQP:
(i) California:
Judith Clother, Sylmar, CA
Steven Herrera, Rowland Heights, CA
Sebastian C. Kolbusg, Action, CA
Frank Murphy, Sunland, CA
Ray Pridgen, Sun Valley, CA
Ellen Slaton, Santa Rosa, CA
Paul Slaton, Santa Rosa, CA
(ii) Missouri:
Deryl L. Caswell, Lebanon, MO
Lee Chick, Lebanon, MO
Paul Garton, Marshfield, MO
Billy E. Kimmons, Springfield, MO

(b) Heart of America Walking Horse Association, Inc., Eolia, MO 63344.
(1) Licensed DQP:
(i) Illinois:
Floyd Hampsmire, Barry, IL
(ii) Kansas:
Dick Brown, Paola, KS
(iii) Missouri:
Sandra Clevenger, Kansas City, MO
Robert Finley, Eolia, MO
Harold Magers, Moberly, MO
Paul Patterson, Osborn, MO
Elvin Sapp, Columbia, MO
Linda Scrivner, Strafford, MO
Sonny Scrivner, Strafford, MO
Steve Skopec, Bolivar, MO
Bobby Dean Wood, Hartville, MO

(c) Missouri Fox Trotting Horse Breed Association, Ava, Mo 65608.a
(1) Licensed DQP:
(i) Missouri:
John Belshe, Warrensburg, MO
Deryl Caswell, Lebanon, MO
Elwood Lee Frederick, Urbana, MO
Ted Nichols, Ozark, MO
Lee Yates, Lebanon, MO
Marshall Yates, Lebanon, MO
(ii) Texas:
Yvonna Shepherd, McKinney, TX
Patt Swaim, Jr., Paris, TX
Susan Thiel, Greenville, TX

(d) National Horse Show Regulatory Committee, Inc., Shelbyville, TN 37160.
(1) Licensed DQP:
(i) Alabama:
Lex Helms, Glenwood, AL
Claud E. Johnson, Goshen, AL
Grady Parsons, Bessemer, AL
Barney Porter, Cullman, AL
Edgar Dale Smith, Hollywood, AL
Ricky L. Statham, Blountsville, AL
(ii) Arkansas:
Robert C. Allen, Ward, AR
Percy Moss, Jr., El Dorado, AR
(iii) California:
William A. Hartman, Norco, CA
Sharon E. McCaleb, Fair Oaks, CA
(iv) Colorado:
Kenneth L. Willis, Aurora, CO
(v) Georgia:
W. R. New, Kingston, GA
Glenn Powell, Kennesaw, GA
Albert M. Turner, Social Circle, GA
(vi) Idaho:
John D. Petersen, Priest River, ID
(vii) Illinois:

Wendell Simmons, Creal Springs, IL
J. H. Syrcle, Barry, IL
Phillip J. Williams, Barry, IL
(viii) Indiana:
David N. Kranich, South Bend, IN
Teresa A. Upchurch, New Castle, IN
(ix) Kentucky:
Bob Flynn, Winchester, KY
Thomas E. Garland, Mayfield, KY
John Goldey, Lancaster, KY
(x) Maryland:
Joanie Erwin, Frederick, MD
(xi) Michigan:
John L. Prigg, Oxford, MI
(xii) Mississippi:
Ed Abernathy, Shannon, MS
Wallace Bishop, Meridian, MS
Earl Melton, Laurel, MS
Cary C. Myers, Corinth, MS
Darrell Pierce, Columbia, MS
Gerald Poole, Ellisville, MS
Jimmy K. Sullivan, Raymond, MS
Ronnie S. Wheless, Tylertown, MS
(xiii) Missouri:
Don Bills, Ozark, MO
Ronald F. Elkins, Jr., Ozark, MO
Bill Maack, Jr., Goodson, MO
(xiv) New Jersey:
Wayne H. Quesada Sr., Deptford, NJ
(xv) North Carolina:
David Finger, Waynesville, NC
G. K. Mease, Marion, NC
Tommy H. West, Candler, NC
(xvi) Oklahoma:
Carol Branstetter, Council Hill, OK
Ann Kuykendall, Muskogee, OK
(xvii) Oregon:
Les Hyatt, Grants Pass, OR
(xviii) South Carolina:
James A. McKnight, Bishopville, SC
Eddie Potts, Fort Mill, SC
Arnold "Sarge" Walker, Easley, SC
(xix) Tennessee:
George W. Bacon, Rockwood, TN
Gail Barron, Fall Branch, TN
Ralph E. Chaffin, Cookeville, TN
James E. (Jimmy) Cole, Jackson, TN
Joe L. Cunningham, Sr., Rockwood, TN
Frank Dawson, Pulaski, TN
Jeff Givens, Murfreesboro, TN
Roger D. Hand, Shelbyville, TN
Dana Kyte, Fall Branch, TN
Larry Landreth, Powell, TN
William (Bill) Lones, Niota, TN
Jerry McKechnie, Pikeville, TN
Chris Messick, Murfreesboro, TN
Lonnie Messick, Murfreesboro, TN
Billy R. Murray, Shelbyville, TN
Edmond (Ed) O'Neill, Pinson, TN
Jerry Plemons, Tellico Plains, TN
Ronnie Slack, Englewood, TN
Mike Swafford, Spring City, TN
Charles Thomas, Lynchburg, TN
Ken Willis, New Market, TN
(xx) Texas:
Dean Cox, Conroe, TX
Robert K. Pickard, Crosby, TX
Chris Trachier, Marshall, TX
(xxi) Virginia:
Benny Johnson, Bluemont, VA
(xxii) Washington:
Skip Bickford, Bellevue, WA
Rose Bostion, Puyallup, WA
Stephen M. Brown, Spanaway, WA
Jeff L. Curry, Maple Valley, WA
(xxiii) West Virginia:
Greg Thomason, Princeton, WV
(xxiv) Wyoming:
Fred L. Eales, Rock Springs, WY
(e) Walking Horse Owners' Association of America, Inc.
(1) Licensed DQP:
(i) California:
Robert Grantham, Healdsburg, CA
Steve Herrera, Rowland Heights, CA
Jacob Israel, Norco, CA
Bill Kellerman, Napa, CA
Mary Leydon, Half Moon Bay, CA
Yvonne Smith, Sacramento, CA
(ii) Georgia:
Jimmy House, Ringgold, CA
(iii) Kentucky:
Nolan Benton, Richmond, KY
Gene Cammack, New Liberty, KY
Harry Chaffin, Catlettsburg, KY
Eddie Davis, Nicholsville, KY
James Farris, Lexington, KY
Bobby Helton, Florence, KY
Jimmy Norris, Mt. Sterling, KY
Darrell Owens, Brodhead, KY
Harlin Pennington, Paris, KY
Terry Pennington, Jr., Paris, KY
James Robinson, Lawrenceburg, KY
Romie Sanders, Brownsville, KY
Vernon Shearer, Winchester, KY
Charlie Sims, Lexington, KY
Gary Ware, Waynesburg, KY
Johnnie Zeller, Eubank, KY
(iv) Maryland:
Robert Davenport, Clear Spring, MD
(v) Mississippi:
Lee Arnold, Mantachie, MS
(vi) Ohio:
Johnny Black, Mt. Orab, OH
(vii) Tennessee:
Ray "Tut" Brown, Hohenwald, TN
Jack Burden, Nashville, TN
Ricky DeBord, Pikeville, TN
Jesse Dotson, Thompson Station, TN
Phil Jones, Franklin, TN
Gary Kimmons, Dickson, TN
Sam Pierce, Seymour, TN
Bud Varnadore, Knoxville, TN
Harold White, Franklin, TN
(viii) Virginia:
J. A. Fields, Lebanon, VA
(ix) West Virginia:
E. J. Parsons, Ripley, WV
Ricky Rutledge, Tornado, WV
Jim Singleton, Point Pleasant, WV
(x) Wisconsin:
Charles Sears, Milwaukee, WI
Chuck Spinelli, Kansasville, WI
John Wilson, Helenville, WI
(f) Western International Walking Horse Association, Gig Harbor, WA 98335.
(1) Licensed DQP:
(i) California:
Bunny Winders, Paso Robles, CA
(ii) Oregon:
Bruce Rumpf, Wilsonville, OR
(iii) Washington:
Dennis Izzi, Enumclaw, WA
Irvin Steward, Enumclaw, WA
David Viet, Issaquah, WA

Done at Washington, DC., this 9th day of February, 1988.

James W. Glosser,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-3146 Filed 2-12-88; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 87-188]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit To Field Test Genetically Engineered Herbicide Tolerant Tomato Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document provides notice that an environmental assessment and finding of no significant impact has been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to E.I. Du Pont de Nemours & Co., Inc., to allow the field testing of genetically engineered tomato plants, designed to be tolerant to sulfonylurea herbicides. The assessment provides a basis for the conclusion that the field testing of the genetically engineered tomato plants does not present a risk of plant pest introduction or dissemination and also will not cause any significant impact to the quality of the human environment. Based upon this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESS: Copies of the environmental assessment and finding of no significant impact are available for public inspection at the Biotechnology and Environmental Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 406, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Copies of the environmental assessment are also available upon request at this same address.

FOR FURTHER INFORMATION CONTACT: Dr. Quentin B. Kubicek, Staff Biotechnologist, Biological Assessment and Support Staff, Biotechnology Permit Unit, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 625A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-5055.

SUPPLEMENTARY INFORMATION:

Background

On June 16, 1987, the Animal and Plant Health Inspection Service (APHIS) published a final rule in the **Federal Register** (52 FR 228992–22915) which established a new Part 340 in Title 7 of the Code of Federal Regulations (7 CFR 340) entitled, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests" (hereinafter "the rule"). The rule regulates the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products which are plant pests or which there is reason to believe are plant pests (regulated articles). The rule sets forth procedures for obtaining a permit for the release into the environment of a regulated article and for obtaining limited permits for the importation or interstate movement of a regulated article. A permit must be obtained before a regulated article can be introduced in the United States.

APHIS has stated that it would prepare environmental assessments and, where necessary, environmental impact statements prior to issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

E.I. Du Pont de Nemours & Co., Inc., of Wilmington, Delaware, has submitted an application for a permit for release into the environment of genetically engineered tomato plants that are designed to be tolerant to sulfonylurea herbicides. In the course of reviewing the permit application, APHIS assessed the impact to the environment of releasing the tomato plants under the conditions described in the E.I. Du Pont de Nemours & Co., Inc., application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will also not cause any significant impact on the human environment.

The environmental assessment and finding of no significant impact which is based on data submitted by E.I. Du Pont de Nemours & Co., Inc., as well as a review of other relevant literature, provides the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. A gene for herbicide tolerance has been inserted into a tomato chromosome. In nature, genetic material contained on chromosomes can only be transferred to other sexually compatible plants by cross-pollination. In this field test, the introduced gene cannot spread to other plants by cross-pollination, because the field test plot is located at a sufficient distance from any sexually compatible plants with which the experimental tomato plants could cross-polliante.

2. Neither the herbicide tolerance gene itself, nor its gene product, confers on the tomato plants any plant pest characteristcs. Traits such as weediness are polygenic and cannot be conferred to a nontransformed plant by adding a single herbicide tolerance gene. These experimental tomato plants remain sensitive to a wide range of other herbicides which could be used to kill these plants.

3. The tobacco cultivar from which the herbicide tolerance gene was obtained is not a plant pest.

4. The herbicide tolerance gene does not provide the transformed tomato plants with any measurable selective advantage over nontransformed tomato plants in their ability to be disseminated or to become established in the environment.

5. The vector used to transfer the herbicide tolerance gene to tomato plants has been evaluated for its use in this specific experiment and does not pose a plant pest risk in this experiment. The vector, although derived from a DNA sequence with known plant pathogenic potential, has been disarmed; that is, genes that are necessary for virulence have been removed from the vector. The vector has been tested and shown not to be pathogenic to plants.

6. The vector agent, the bacterium that was used to deliver the vector DNA and the herbicide tolerance gene into the tomato cells, has been shown to be killed and no longer associated with the regenerated transformed tomato plants.

7. Horizontal movement of the introduced gene is not possible. The vector acts by delivering and inserting the gene into the tomato genome (i.e., chromosomal DNA). The vector does not survive in the plants.

8. Sulfonylurea herbicides are a new class of herbicides noted for their high herbicidal activity at very low use rates, excellent crop selectivity, and low mammalian toxicity.

9. The size of the enclosed field test trial plot is small (25 feet wide by 30 feet long). The plot has good physical security. Physical isolation will be ensured and incursion by large animals and humans will be prevented by a chain-linked fence. In addition, security guards are on site permanently.

The environmental assessment and finding of no significant impact has been prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*); (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (Title 40, Code of Federal Regulations (CFR) Parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR Part 1b); and (4) APHIS guidelines implementing NEPA (44 FR 50381–50384 and 44 FR 51272–51274).

Done at Washington, DC, this 9th day of February, 1988.

James W. Glosser,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–3147 Filed 2–12–88; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Patent and Trademark Office
Title: Patent Processing
Form Numbers: Agency—Numerous OMB—0651–0011
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 125,000 respondents; 349,164 reporting hours
Needs and Uses: The information collected is used by the Patent and Trademark Office to process patent applications and assess the propriety of granting United States patents.
Affected Public: Individuals; state and local governments; farms; businesses or other for-profit organizations; non-profit institutions; small businesses or organizations
Frequency: On occasion
Respondent's Oblitation: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox 395–3785

Copies of the above information collection proposal can be obtained by calling or writing DOC Cleanance Office, Edward Michals, (202) 377–3271, Department of Commerce, Room 6622, 14th and Constitution Avenue NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room

3235, New Executive Office Building, Washington, DC 20503.

Dated: February 9, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-3174 Filed 2-12-88; 8:45 am]

BILLING CODE 3510-CW-M

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration

Title: Petition by a Firm for Certification of Eligibility to Apply for Trade Adjustment Assistance

Form Number: Agency—ITA-840P; OMB—0625-0103

Type of Request: Extension of the expiration date of a currently approved collection

Burden: 600 respondents; 4,800 reporting hours

Needs and Uses: The Trade Act of 1974 authorizes the International Trade Administration (ITA) to provide adjustment assistance to producing firms that have been certified eligible to apply for trade adjustment assistance because of the adverse effects of increased imports. The information provided is used by ITA to determine whether or not a trade-impacted producing firm qualifies for certification.

Affected Public: Farms; businesses or other for-profit institutions; small businesses or organizations

Frequency: On occasion

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: John Griffen 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: February 9, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-3175 Filed 2-12-88; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census

Title: 1988 Dress Rehearsal Census—Postcensus Local Review Recanvass

Form Number: Agency—DX-108, DX-111; OMB—NA

Type of Request: New collection

Burden: 2,694 respondents; 89 reporting hours

Needs and Uses: The Census Bureau invites local and tribal governments to actively participate in the census process through the local review program. The program is designed to provide each government at least one opportunity to review preliminary census counts and have some of their major problems-field reviewed before the completion of the census.

Affected public: Individuals or households, state or local governments

Frequency: One time

Respondent's Obligation: Mandatory

OMB Desk Officer: Francine Picoult 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622 14th and Constitution Avenue NW., Washngton, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: February 9, 1988.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 88-3176 Filed 2-12-88; 8:45 am]

BILLING CODE 3510-07-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force Subgroup to the Strategic Air Defense

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force Subgroup to the Strategic Air Defense will meet in closed session on March 8-9 and March 30-31, 1988 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will evaluate and make recommendations on the use of technology for the extension of the Strategic Air Defense mission.

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 these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 10, 1988.

[FR Doc. 88-3218 Filed 2-12-88; 8:45 am]

BILLING CODE 3810-01-M

Special Operations Policy Advisory Group: Meeting

The Special Operations Policy Advisory Group (SOPAG) will meet on 3 March 1988 in the Pentagon, Arlington, Virginia to discuss sensitive, classified topics.

The mission of the SOPAG is to advise the Office of the Secretary of Defense on key policy issues related to the development and maintenance of effective Special Operations Forces.

In accordance with section 10(d) of Pub. L. 92-463, the "Federal Advisory Committee Act," and section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison, Department of Defense.

February 10, 1988.

[FR Doc. 88-3217 Filed 2-12-88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Department of the Air Force, DOD.

ACTION: Public Information Collection Requirement Submitted to OMB for Review.

Reason for This 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: AFROTC Four-Year Scholarship Finalist Questionnaire; AFROTC Form 69A; and OMB Control Number 0701-0098.

Type of Request: Extension.

Annual Burden Hours: 4,500.

Annual Responses: 9,000.

Needs and Uses: Applicants for the AFROTC 4-year scholarship program use AFROTC From 69A to demonstrate their ability to provide a logical and grammatically correct example of their writing skills in the presence of an Air Force interviewer. The information is used by the Air Force to evaluate candidates' ability to write and is part of the scholarship selection process.

Affected Public: Individuals.

Frequency: On Occasion.

Resondent's Obligation: Required to obtain or retain a benefit.

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.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 10, 1988.

[FR Doc. 88-3219 Filed 2-12-88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the followng Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Date of Meeting: 2 March 1988

Time of Meeting: 0800-0900 hours

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board's Ad Hoc Committee on Implementing Competitive Strategies will meet to provide an update to the Army Secretariat and elements of Headquarters, USAREUR and 7th Army on the panel's findings and recommendations. Plans will be discussed regarding the panel's future briefings/meetings. Due to the classification of the report and ensuing discussions, this meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88-3236 Filed 2-12-88; 8:45 am]

BILLING CODE 3710-08-M

Notice of Policy Statement Concerning Use of Property Brokers

AGENCY: Military Traffic Management Command, Department of the Army.

ACTION: Policy statement.

SUMMARY: Motor carrier property brokers, hereafter referred to as brokers, will not be utilized in the movement of Department of Defense (DOD) freight.

ADDRESS: Military Traffic Management Command, ATTN: MT-INFF, 5611 Columbia Pike, Falls Church, VA 22041-5050.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick King, HQMTMC, 5611 Columbia Pike, Falls Church, VA 22041-5050, (202) 756-1887.

SUPPLEMENTARY INFORMATION: Because of an increased interest by brokers in doing business with DOD, we believe it is necessary to restate DOD's prohibition on their use.

In the interest of national defense, DOD, as the single largest shipper, maintains its own in-house traffic management capability. Through its own institutions, personnel, and expertise, DOD exercises the direct responsibility for acquisition of transportation services from carriers, matches DOD shippers' needs with the carrier's capability, oversees carrier selection and routing, negotiates carrier rates, fares, and charges for transportation and accessorial services, reviews carrier performance, and performs other like functions, which are the same as or similar to those ordinarily offered by brokers. MTMC, on behalf of DOD, negotiates directly with for-hire commercial carriers to obtain transportation services required to effect military movements. MTMC, in essence, acts as a broker for DOD freight shippers. It is essential that DOD deal directly with the carrier who accepts full liability for its shipments in order to maintain control over both the carrier selection process and the carrier used. On the other hand, if DOD shippers dealt with brokers, they would be dealing with an intermediary who is not liable for the shipment, and they would not have direct leverage with the carriers actually transporting their shipments.

Although brokers can not directly do business with DOD, they can contract with motor common carriers to assist them in obtaining DOD business, i.e., a broker acts as an agent of the carrier. They also have the opportunity, under the Surface Freight Forwarder Deregulation Act of 1986, to provide exempt surface freight forwarding service. As a freight forwarder, it can deal directly with DOD. This means it must file tenders with DOD, publishing its rates and charges, and assume complete responsibility and liability for the through transportation service from point of origin to the ultimate destination.

John O. Roach, II,

Army Liaison with the Federal Register.

[FR Doc. 88-3138 Filed 2-12-88; 8:45 am]

BILLING CODE 3710-08-M

Defense Logistics Agency

Privacy Act of 1974; Amendment of Record System Notice

AGENCY: Defense Logistics Agency, (DoD).

ACTION: Notice of an amendment of a record system.

SUMMARY: The Defense Logistics Agency is amending a system of records subject to the Privacy Act of 1974. The

specific changes to the amended system are set forth below followed by the amendment notice published in its entirety as changed.

DATES: This proposed action shall be effective without further notice (March 17, 1988), unless comments are received which would result in a contrary determination.

ADDRESS: Any comments may be submitted to the System Manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Henshall, Administrative Management Branch, Headquarters, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304-6100. Telephone: (202) 274-6234.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) have been published in the **Federal Register** as follows.

FR Doc. 85-10237 (50 FR 22897) May 29, 1985 (compilation)
FR Doc. 85-30123 (50 FR 51898) December 20, 1985
FR Doc. 86-17259 (51 FR 27443) July 31, 1986
FR Doc. 87-19035 (51 FR 30104) August 22, 1986
FR Doc. 87-21654 (52 FR 35304) September 18, 1987
FR Doc. 87-22481 (52 FR 37492) October 7, 1987

This proposed amendment is not within the purview of subsection (o) of the Privacy Act, 5 U.S.C. 552a, which requires the submission of a new or altered system report.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 10, 1988.

S322.10 DLA-LZ

SYSTEM NAME:

Defense Manpower Data Center Data Base, (51 FR 30104) August 22, 1986.

CHANGES:

AUTHORITY FOR MAINTENCE OF THE SYSTEM:

Add: Pub. L. 97-365

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add: "Financial Institutions: To contact employees to avoid escheatment of an employee's account or to otherwise benefit employees."

Add: "State, Local, or Territorial Governments: To return unclaimed property or assets to employees."

Veterans Administration (VA):

Delete: (on lines 18, 19, and 20) "Veterans Administration Management Sciences Staff for Reports and Statistics Service, Office of the Comptroller"

Add: (on lines 18, 19, and 20) "Veterans Administration Management Sciences Division, Statistical Policy and Research Office, Office of Information Management and Statistics"

CONTESTING RECORD PROCEDURES:

Between the words "determinations" and "may" add: "are contained in the DLA Regulation 5400.12 (32 CFR Part 1286) and"

S322.10 DLA-LZ

SYSTEM NAME:

Defense Manpower Data Center Data Base

SYSTEM LOCATION:

Primary location: W.R. Church Computer Center, Navy Postgraduates School, Monterey, CA 93920-5000.

Back-up files maintained in a bank vault in Hermann Hall, Naval Postgraduate School, Monterey, CA.

Decentralizes segments-Portions of this file may be maintained by the military personnel and finance centers of the services; selected civilian contractors with research contracts in manpower area and other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All officers and enlisted personnel who served on active duty from July 1, 1968 and after or who have been a member of a reserve component since July 1975; retired military personnel; participants in Project 100,000 and Project Transition and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later. DoD civilian employees of DoD civilian employees separated since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute, all individuals who participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969. Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services, National Longitudinal Survey. Individuals responding to recruiting advertisements since January 1987; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Veterans Administration; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors.

Individuals receiving disability compensation from the Veterans Administration or who are covered by a Veterans Administration insurance or benefit program; civilian employees of the Federal Government; dependents of active duty military retirees, selective service registrants. Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DoD contractors and are subject to the provisions of 10 U.S.C. 2397.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized records consisting of Name, Service Number, Selective Service Number, Social Security Account Number, demographic information such as home town, age, sex, race, and educational level; civilian occupational information, military personnel information such as rank, length of service, military occupation; aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training; programs, military hospitalization records and home and work addresses.

Champus claim records containing enrollee, patient and provided data such as cause of treatment, amount of payment, name and social security or tax ID of providers or potential providers of care, military compensation data, selective service registration data, Veterans Administration disability payment records, security clearance records and credit of financial data as required for security background investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136; Pub. L. 97-252; Pub. L. 97-365; 10 U.S.C. 2358; 10 U.S.C. 2397

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the manpower trends, support personnel functions, perform longitudinal statistical analysis, identify current and former DoD civilian and military personnel for purposes of detecting fraud and abuse of pay and

benefit programs and to collect debts owed to the United States Government and state and local governments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Veterans Administration (VA): To administer Veterans Administration and DoD programs for Reserve pay, VA compensation, military retired pay and active duty separation payments. To analyze the cost to the individual of military service connected disabilities, to monitor the amount of coverage under the Veterans' Group Life Insurance program, and to provide information on individuals; eligibility for GI Bill education and training benefits. To Veterans Administration and its contractor, the Prudential Insurance Company; to notify members of the Individual Ready Reserve (IRR) of their right to apply for Veterans' Group Life Insurance coverage. To the Veterans Administration Management Sciences Division, Statistical Policy and Research Office, Office of Information Management and Statistics, for the purpose of selection samples for surveys asking veterans about the use of veterans benefits and satisfaction with VA services, and to validate eligibility for VA benefits.

Internal Revenue Service (IRS): For the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for debt collection. For the purpose of conducting aggregate statistical analyses on the impact of DoD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits.

Department of Health and Human Services (DHHS): Disclosure of information from this system may be made to the Office of the Inspector General for the purpose of identification and investigation of DoD employees (military and civilian) who may be improperly receiving funds under the Aid of Families of Dependent Children Program. To the Office of Child Support Enforcement, pursuant to Pub. L. 93–647, to assist state child support offices in locating absent parents in order to establish and/or enforce child support obligations.

Social Security Administration (DHHS): To the Office of Research and Statistics for the purpose of conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings. To the Bureau of Supplemental Security Income for the purpose of verification and adjustment of payments made by the SSA to the active and retired military members under the Supplemental Security Income Program.

DoD Civilian Contractors: Disclosure of Information may be made from this system to contractors for the purpose of performing research on manpower problems for statistical analyses.

Office of Personnel Management (OPM): Disclosure of information may be made for this system for the purpose of OPM carrying out its management functions. Records disclosed concern pay, benefits, retirement deductions, and other information necessary for those management functions.

Selective Service Systems (SSS): Information from this system may be disclosed to the Director of the Selective Service System for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations.

Department of Education (DOE): Disclosure of information may be made from this system to DOE for the purpose of identifying individuals who appear to be in default of their guaranteed student loan so as to permit DOE to take action, where appropriate, to accelerate recoveries of defaulted loans.

Department of Labor (DOL): To reconcile the accuracy of unemployment compensation payments made on behalf of former DoD employees and members.

Federal Government and Quasi-Federal Agencies: To identify military retirees employees in a civilian capacity whose civilian pay must be offset as a result of increases in military retiree pay pursuant to the Budget Reconciliation Act of 1982, Pub. L. 97–252.

To Federal Agencies, Territorial, State and Local Governments: To support personnel functions requiring data on prior military service credit for their employees or for job applications. To help eliminate fraud and abuse in their benefit programs and to collect debts and overpayments owed to those programs. Information released includes name, social security number and mailing address of individuals.

Other Federal Agencies: To help eliminate fraud and abuse in the programs administered by agencies within the Federal government and to collect debts and overpayment owed to the Federal government. Information release may include aggregate data and/or individual records in the record system may be transferred to any other federal agencies having a legitimate need for such information and applying appropriate safeguards to protect data so provided. Records of debtors obligated to DoD, but currently employed by another federal agency may be referred to the employing agency under the provisions of the Debt Collection Act of 1982 for the purpose of the debt.

Consumer Reporting Agencies: Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Area (15 U.S.C. l1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

Credit Bureaus and Debt Collection Agencies: Disclosures may be referred to private contract organizations to comply with the provisions of the Debt Collection of 1982 (10 U.S.C. 136) for non-payment of an outstanding debt, and to comply with requirements to update security clearance investigations.

Defense Contractors: To monitor the employment of former DoD employees and members subject to the provisions of 10 U.S.C. 2397.

Financial Institutions: To contact employees to avoid escheatment of an employee's account or to otherwise benefit employees.

State, Local, or Territorial Government: To return unclaimed property or assets to employees.

Blanket Routine Uses: See also the blanket routine used set forth at the beginning of the Defense Logistics Agency's listing of sytems of records which are also applicable to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic computer tape.

RETRIEVABILITY:

Retrievable by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

Primary location—At W.R. Church Computer Center, tapes are stored in a locked cage in machine room, which is a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Back-up location—tapes are stored in a bank type vault and buildings are locked after hours and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Files constitute a historical data base and are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center (DMDC) 550 Camino El Estero, Monterey, CA 93940.

NOTIFICATION PROCEDURES:

Information may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager.

Written requests for information should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license, or military or other identification card.

CONTESTING RECORD PROCEDURES:

The DLA rules for access to records and for contesting contents and appealing initial determinations are contained in DLA Regulation 5400.12 (32 CFR Part 1286) and may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The Military Services, the Veterans Administration, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, federal and Quasi-federal agencies, Selective Service System, the U.S. Postal Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 88-3220 Filed 2-12-88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Construction of Navy Family Housing at Naval Weapons Station Treasure Island, San Francisco Bay Area, CA; Finding of No Significant Impact

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality Regulations (40 CFR Part 1500), the Department of the Navy announces its decision not to prepare an Environmental Impact Statement (EIS) for the construction of approximately 244 units of Family Housing to be located at Naval Weapons Station (NWS) Concord and approximately 200 units at Naval Station (NAVSTA) Treasure Island.

The growing need for affordable family housing has been recognized for several years in most urban areas. Due to the tremendous influx of people to the San Francisco Bay Area over the past ten to twenty years there has been an increased demand for housing coupled with very high rental rates. During the last few years the situation has been aggravated by a lack of suitable sites for the development of affordable housing in a reasonable proximity to major Bay Area employment centers. This project will construct 444 affordable housing units as part of the Fiscal Year (FY) 1988 program. These units will consist of 2 bedroom units designated for Junior Enlisted families.

The Navy completed an Environmental Assessment (EA) for Navy Family Housing, San Francisco Bay Area and issued a Finding of No Significant Impact (FONSI) in July 1986. In keeping with this finding, 300 family housing units were constructed at the Department of Defense Housing Facility Navato. Before constructing the remainder of the proposed family housing units, a supplement EA, the subject of this notice, was published in July 1987. The purpose of the supplement was to reverify the conclusions of the 1986 EA. By issuance of this FONSI, the Navy is providing notification of the intention to build at two of the remaining sites analyzed in the January 1986 Environmental Assessment and reassessed in the July 1987 supplement EA: Naval Weapons Station Concord and Naval Station Treasure Island.

The Concord site is located in Central Contra Costa County in the northeastern portion of the San Fransico Bay Area. This area, known as Diablo Valley, is separated from the San Francisco Bay by a major spur of the coast range which forms the East Bay Hills. The site is within the City limits of Concord, at the southern end of the Naval Weapons Station property. The 30 acre site is part of a larger 160 acre parcel that was formerly an airfield. The site is bordered on three sides by existing residential, neighborhood commercial, and parks and recreational uses.

The 13 acre site at the Naval Station Treasure Island is located on the northern end of Treasure Island. The site is bounded by 9th Street on the South, Avenue D on the East and family housing on the North and West. The site is in close proximity to the Treasure Island school, medical branch clinic, personnel support elements, and open space.

No significant resources, such as timber, minerals or prime agricultural land exist at either of the two sites. Development of the projects will have little impact on the long-term use or productivity of the environment. Because of the urban character of the area, adverse impacts on wildlife are anticipated to be inconsequential. No adverse effects on historical or cultural resources will result.

Normal construction impacts, such as fugitive dust, noise and truck traffic will be mitigated. Residents immediately adjacent to the construction site may be temporarily affected by construction. An assessment of traffic impacts suggests an increase in traffic congestion at points of ingress and egress to the NWS Concord project site. Considering the improvements currently planned for the area by the City of Concord, however, the local roads serving the site are of sufficient capacity and conditions to accommodate the additional traffic generated by the project. There will be no significant increase in traffic concerns for the Treasure Island project

The Environmental Assessment and Addendum prepared by the Navy to address this action are on file and may be reviewed by interested parties. Point of contact is Commander, Western Division, Naval Facilities Engineering Command, Attn: Ms. Diori Kreski, Code 203, telephone (415) 877-7590, P.O. Box 727, San Bruno, CA 94066-0720, or at the Environmental Protection, Safety and Occupational Health Division (OP-45), Office of the Deputy Chief of Naval Operations, CP-5 Room 654, 2211 Jefferson Davis Highway, Arlington, Virginia 22202, telephone (202) 692-5580. Additionally, a limited number of copies of the Environmental Assessment are available to fill single-copy requests.

Date: February 9, 1988.

W.R. Babington, Jr.,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 88-3116 Filed 2-12-88; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations, Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Lower Level Conflict Task Force will meet February 24-25, 1988 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to the employment of Naval forces in armed

conflict with third world adversaries and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Ann Lynn Cline, Special Assistant to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Date: February 9, 1988.

W.R. Babington, Jr.,

Commander, JAGC, U.S. Navy Federal Register Liasion Officer.

[FR Doc. 88-3113 Filed 2-12-88; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Lower Level Conflict Task Force will meet April 13-14, 1988 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to the employment of Naval forces in armed conflict with third world adversaries and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Ann Lynn Cline, Special Assistant to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Date: February 9, 1988.

W.R. Babington, Jr.,

Commander, JAGC, U.S. Navy Federal Register Liaison Officer.

[FR Doc. 88-3114 Filed 2-12-88; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Final Consent Order With Vessels Gas Processing Co. et al.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final action on proposed Consent order.

SUMMARY: The Economic Regulatory Administration (ERA) has determined that a proposed consent Order between the Department of Energy (DOE) and Vessels Gas Processing Company (VGPC), Vessels Gas Processing, Ltd. (VGPL) (sometimes collectively referred to as Vessels), and Halliburton Company (Halliburton), shall be made final as proposed. This Consent Order resolves matters relating to Vessels' and Halliburton's compliance with the Federal petroleum price and allocation regulations administered and enforced by DOE and its predecessor agencies during the period January 1, 1973 through January 27, 1981.

The Consent Order requires Halliburton to pay the sum of $750,000.00 within thirty (30) days of the effective date of the Consent Order.

VGPL is required to pay the sum of $250,000.00 plus interest at the rate of 7.5% of any unpaid principal amount as follows: $25,000 on or before thirty (30) days after the effective date of the Consent Order, $10,000 per month for a period of twenty-four months, the first monthly payment due sixty (60) days after the effective date of the Consent Order, and a final payment in the twenty-fifth month of $3,243.62.

VGPC is required to pay the sum of $500,000.00 plus interest at 7.5% on any unpaid principal amount as follows: $5,000 on or before thirty (30) days after the effective date of the Consent Order, $10,000 per month for a period of fifty-nine months, the first monthly payment due sixty (60) days after the effective date of the Consent Order, and a final payment in the sixtieth month of $4,109.68. DOE will petition the Office of Hearings and Appeals (OHA) for distribution of the settlement amount pursuant to the special refund procedures of 10 CFR Part 205, Subpart V. Persons claiming to have been harmed by Vessels' and Halliburton's overcharges will be able to present to OHA any claims for refunds.

The decision to make the Vessels and Halliburton Consent Order final was made after a full review of written comments from the public.

FOR FURTHER INFORMATION CONTACT: Jeffrey R. Whieldon, Economic Regulatory Administration, 1000 Independence Avenue SW., Room 3H-017; Mail Code RG-43, Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 28, 1987, ERA issued a Notice announcing a proposed Consent Order between DOE and Vessels and Halliburton which would resolve matters relating to their compliance with federal petroleum price and allocation regulations during the period January 1, 1973 through January 27, 1981.

The proposed Consent Order calls for Vessels and Halliburton to make payments totalling $1,500,000.00 to discharge in full all of their obligations under the price and allocation regulations for the period January 1, 1973 through January 27, 1981. The settlement includes the violations addressed in a Remedial Order issued by DOE on October 7, 1986, which found that Vessels and Halliburton had overcharged in their sales of propane and NGLs during the period from September 1, 1973 through December 31, 1977, in the amount of $1,571,671.40 plus interest of $2,983,858.55 through September 30, 1986. (15 DOE ¶ 83,002). The December 28th Notice provided in detail the basis for ERA's preliminary view that the settlement was favorable to the government and in the public interest. The Notice solicited written comments from the public relating to the adequacy of the terms and conditions of the settlement, and whether the settlement should be made final.

II. Comments Received

ERA received written comments submitted on behalf of Enron Liquids Marketing Company (Enron). The comments submitted by Enron requested that the Consent Order specifically name Enron as a payee of funds.

III. Analysis of Comments

The December 28 Notice solicited written comments in order to enable the ERA to receive information from the public relevant to whether the proposed Consent Order should be finalized as proposed, modified or rejected. To ensure greater public understanding of the basis for the proposed settlement, the December 28 Notice provided

information regarding Vessels' and Halliburton's overcharge liability and the considerations that entered into the government's preliminary agreement with the proposed terms.

The comments received from Enron did not express opposition to the finalization of the proposed Consent Order, but requested that Enron, as successor in interest to UPG, Inc., which Enron claimed was the principal purchaser of NGLs from Vessels and Halliburton during the audit period, be named specifically as a payee in the Consent Order.

10 CFR Part 205, Subpart V specifically provides for the distribution of settlement amounts. As mentioned both in the December 28 Notice and in this Notice the DOE will petition the Office of Hearings and Appeals for such distribution. At that time, pursuant to 10 CFR Part 205, Subpart V, Enron and any other person claiming to have been harmed by Vessels' and Halliburton's overcharges will be able to present any claims for refunds.

The review and analysis of the written comments did not provide any information that would support the modification or rejection of the proposed Consent Order with Vessels and Halliburton.

Accordingly, ERA concludes that the Consent Order is in the public interest and should be made final without modification.

IV. Decision

By this Notice and pursuant to 10 CFR 205.199J the proposed Consent Order between Vessels and Halliburton and DOE, executed on November 3, 1986, is made a final order of the Department of Energy, effective the date of publication of this notice in the **Federal Register.**

Issued in Washington, DC on the 8th day of February, 1988.

Chandler L. van Orman,

Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 88-3110 Filed 2-12-88; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 88-04-NG]

Amtran Gas Transmission, Inc., Application To Extend Blanket Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for extension of blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on January 19, 1988, of an application filed by Amtran Gas Transmission, Inc. (Amtran), requesting that the blanket authorization previously granted in DOE/ERA Opinion and Order No. 108 (Order No. 108), issued on January 30, 1986 (ERA Docket No. 85-37-NG), be amended to extend for a term of two years beginning on April 30, 1988, its existing blanket import authorization to import 200 MMcf per day and up to a maximum of 100 Bcf of Canadian natural gas. Amtran requests continued authority to import the gas from Maxus Energy Canada, Ltd., an affiliate, or other Canadian suppliers, either for Amtran's own account or as an agent for U.S. purchasers and/or Canadian suppliers. Amtran intends to utilize the existing facilities of U.S. pipelines.

Amtran states it will continue to file quarterly reports with the ERA. Quarterly reports filed with the ERA indicate that Amtran has imported approximately 210 MMcf of natural gas under Order No. 108 as of January 25, 1988.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene or notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than March 17, 1988.

FOR FURTHER INFORMATION CONTACT:

Frank Duchaine, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8233

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Amtran requests that this amendment be granted on an expedited basis. An ERA decision on Amtran's request for expedited treatment will not be made until all responses to this notice have been received and evaluated.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that if the ERA approves this request for extension, it may designate a total authorized volume for the term without fixing a daily or annual limit that can be imported in order to provide the applicant with maximum flexibility of operation.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. e.s.t., March 17, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference or a trial-type hearing. A request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, how that it is material and relevant to a decision in the proceeding, and demonstrate why an

oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Amtran's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 8, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-3112 Filed 2-12-88; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 87-55-NG]

Unicorp Energy, Inc.; Order Granting Blanket Authorization to Export Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order granting blanket authorization to export natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that is has issued an order granting Unicorp Energy, Inc., (Unicorp), blanket authorization to export natural gas. The order issued in ERA Docket No. 87-55-NG authorizes Unicorp to export up to 145 Bcf of natural gas to Canada over two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room in open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 8, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-3111 Filed 2-12-88; 8:45 am]

BILLING CODE 6450-01-M

Issurance of Proposed Remedial Order to DeMenno-Kerdoon (Inc.) and Tesoro Petroleum Corp., and Notice of Opportunity for Objection

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to DeMenno-Kerdoon (Inc.) (DeMenno), 2000 North Alameda Street, Compton, California 90222 and Tesoro Petroleum Corporation (Tesoro), 8700 Tesoro Drive, San Antonio, Texas 78217. This Proposed Remedial Order (PRO) charges DeMenno and Tesoro with filing erroneous Refiners Monthly Reports (Form P-102-M-1) for the months of November 1976 through July 1977. ERA determined that small refiner bias (SRB) entitlements valued at $2,047,382 for crude oil refined by Tesoro during November 1976 through May 1977 were improperly issued to DeMenno since the crude oil was purchased from the processor (Tesoro) and the refined products were indirectly sold to the processor. The PRO finds that DeMenno should have separately identified the volumes of crude oil processed pursuant to 10 CFR 211.67(e)(3), since the volumes did not qualify for small refiner bias entitlements under 10 CFR 211.67(e)(2).

ERA further finds that the substance of the transactions shows that Tesoro originally owned the crude oil and processed that oil for is own account. The PRO concludes that DeMenno's and Tesoro's crude oil processing arrangement was a joint venture entered into between them to engage in practices which resulted in the circumvention and contravention of the Entitlements Program. DeMenno's and Tesoro's misreporting and circumvention caused losses to the Entitlements Program totalling $2,047,382, before interest. The impact was spread nationwide among all refiner participants in the Entitlements Program.

A copy of the PRO may be obtained from the DOE Freedom of Information Reading Room, U.S. Department of Energy, 1000 Independence Avenue SW., Room 1E-190, Washington, DC 20585

Within fifteen (15 days) of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 1E-234, 1000 Independence Avenue SW., Washington, DC 20585, in accordance with 10 CFR 205.193. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the proposed order. If a Notice of Objection is not filed in accordance with § 205.193, the PRO may be issued as a final Remedial Order by the Office of Hearings and Appeals.

Issued in Washington, DC on the 26th day of January 1988.

Milton C. Lorenz,

Chief Counsel for Enforcement Litigation, Economic Regulatory Administration.

[FR Doc. 88-3109 Filed 2-12-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER88-131-000, et al.]

Virginia Electric and Power Co. et al., Electric Rate and Corporate Regulation Filings

February 8, 1988.

Take notice that the following filings have been made with the Commission:

1. Virginia Electric and Power Company

[Docket No. ER88-131-000]

Take notice that on February 2, 1988, Virginia Electric and Power Company (Company) tendered for filing supplementary material in support of Rate Schedule TS-M, Transmission Service for Municipal Electric Systems. The Company requests an effective date sixty days from the date of the supplementary filing.

Copies of the supplementary filing have been served on each of the Company's wholesale municipal customers in Virginia, Virginia Municipal Electric Association Number One and the Virginia State Corporation Commission.

Comment date: February 22, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Southern Indiana Gas and Electric

[Docket No. ER88-231-000]

Take notice that on Feburary 3, 1988, Southern Indiana Gas and Electric Company (Company) tendered for filing proposed changes in its wholesale

power service Rate RS which is the basis for FERC Rate Schedule Nos. 34, 35, 36 and 37 under which it sells power for resale to its four wholesale customers. The proposed changes would increase base rate revenues from jurisdictional sales and service by $982,912 based upon the twelve-month period ending July 31, 1987. The increase is requested to become effective on February 1, 1988. The affected customers are the City of Boonville, City of Tell City, City of Huntingburg and the Town of Ferdinand, Indiana.

Copies of the filing have been served upon the affected wholesale customers named above, and upon the Indiana Utility Regulatory Commission.

Comment date: February 22, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Power & Light Company, an Assumed Business Name of PacifiCorp

[Docket No. ER88-226-000]

Take notice that on Febuary 2, 1988, Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp tendered for filing, in accordance with § 35.12 of the Commission's Regulations, an Energy Storage Agreement) dated November 1, 1987 between Pacific and Public Utility District No. 1 of Cowlitz County (Cowlitz) providing for the storage of Cowlitz-owned energy in Pacific's system.

Pacific requests, pursuant to § 35.11 of the Commission's Regulations, that a waiver of prior notice be granted and that an effective date of November 1, 1987, corresponding to the commencement of service under the Agreement, be assigned to the Rate Schedule.

Copies of this filing have been supplied to Cowlitz and the Washington Utilities and Transportation Commission.

Comment date: February 22, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Puget Sound Power & Light Company

[Docket No. ER88-225-000]

Take notice that on February 2, 1988, Puget Sound Power & Light Company (Puget) tendered for filing, as an initial rate schedule, the Agreement for Standby Transmission Service and Supplement No. 1 thereto, dated as of October 12, 1987 between Puget and Public Utility District No. 1 of Snohomish County (District).

The Agreement relates to standby transmission service which may be provided by Puget to the District in the event of interruption, suspension, or curtailment of energy deliveries to the District. The District is required to pay Puget a daily charge for each calendar day or portion thereof in which transmission capacity is made available by Puget. In addition, the District is required to deliver to Puget an amount of energy to compensate for transmission losses.

Supplement No. 1 to the Agreement establishes the District's East Arlington Substation as a Point of Delivery, and Puget's Beverly Park Substation as a Point of Interconnection. The daily charge for service under Supplement No. 1 is $1,433.000 per day. Service under the Agreement and Supplement No. 1 to the Agreement commenced on October 12, 1987.

A copy of the filing was served upon the District.

Comment date: February 22, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Kansas Gas and Electric Company

[Docket No. EL88-9-000]

Take notice that on February 3, 1988, Kansas Gas and Electric Company (KG&E) tendered for filing in the above referenced proceeding a Petition For Declaratory Order. In its Petition, KG&E requested that the Commission issue a Declaratory Order authorizing it to continue to record on its books and records the deferral of certain costs associated with the Wolf Creek nuclear unit.

Comment date: February 22, 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. 88-3191 Filed 2-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI88-274-000]

Coastal States Gas Transmission Co.; Application

February 10, 1988.

Take notice that on January 29, 1988, Coastal States Gas Transmission Company (Applicant), 9 Greenway Plaza, Houston, Texas 77046, filed an application, pursuant to sections 4 and 7 of the Natural Gas Act and Part 157 of the Federal Energy Regulatory Commission's (Commission) Regulations, requesting a blanket certificate of public convenience and necessity authorizing: (i) Sales for resale in interstate commerce of gas subject to NGA jurisdiction for all NGPA pricing categories and (ii) pregranted abandonment of those sales described above, all as more fully described in the application which is on file with the Commission and open for public inspection. Applicant seeks such authorization for a three-year term.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 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 Applicant to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-3193 Filed 2-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI88-256-000 and CI88-266-000]

Exxon Corp.; Applications for Permanent Abandonment and Blanket Certificate With Pregranted Abandonment

February 10, 1988.

Take notice that on January 21, 1988, Exxon Corporation (Exxon), P.O. Box 2180, Houston, Texas 77252-2180 filed in Docket No. CI88-266-000 an application pursuant to section 7(b) of the Natural

Gas Act and 18 CFR 2.76, 2.77(a), 2.77(b) and 157.30 for authorization to abandon permanently gas sales to United Gas Pipe Line Company under 19 certificates issued in the dockets shown on the attached Appendix and requesting cancellation of the related rate schedules. Exxon also requests in Docket No. CI88-256-000 a permanent blanket certificate with pregranted abandonment for sales for resale in interstate commerce of the released gas to various purchasers and requests waiver of certain filing requirements with respect to the gas for which abandonment is sought. Exxon states that the deliverability is approximately 2,700 Mcf/day and that the gas is NGPA section 104 replacement contract or recompletion gas (83.8%), post 1974 gas (.8%), 106(a) gas (15.1%) and 108 gas (.3%).

Exxon states that Exxon and United have engaged in a take-or-pay buy-out as contemplated by § 2.76 of the Commission's Regulations. According to Exxon United has made a one-time non-recoupable payment in lieu of accrued take-or-pay and minimum take obligations. Exxon avers that it agreed to waive all claims against United for take-or-pay and minimum take obligations accrued through November 10, 1987, to reduce contractual minimum take and take-or-pay quantities, and to lower the contract price for gas taken effective November 10, 1987. Exxon states that as part of the settlement, United and Exxon agreed to terminate the contracts effective upon the granting of abandonment authorization. Exxon requests that its applications be considered on an expedited basis under procedures established by Order No. 436 at 18 CFR 2.77.[1] Exxon requests that the Commission waive reporting requirements of Parts 154 and 271 of the Commission's Regulations.

[1] 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.

Since Exxon has requested that its applications be considered on an expedited basis, all as more fully described in the applications which are 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 applications 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 proceedings. Any person wishing to become a party in 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 Exxon to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

Appendix

Exxon Corporation Rate Schedule No.	Certificate Docket No.	Field Name	County/Parish State
34	G-3116	Roanoke	Jeff Davis, MS
35	G-3112	Duck Lake	St. Mary, LA
110	G-8816	Pistol Ridge & Maxie	Forest, MS
123	G-12422	Lapeyrouse	Terrebonne, LA
124	G-13009	Halter Island	Terrebonne, LA
149	G-17570	Northeast Gibson	Terrebonne, LA
154	G-3103	Soso	Jasper, MS
155	G-3104	Baxterville	Marion, MS
158	G-18547	Chacahoula	LaFourche, LA
222	G-17472	Cotton Valley	Webster, LA
235	G-9726	Weeks Island	Iberia, LA
238	CI60-623	Belle River	St. Martin, LA
245	G-3111	Houma	Terrebonne, LA
295	CI62-542	Gwinville (Unit 112)	Jeff Davis, MS
417	CI67-952	West Bryceland	Bienville, LA
543	CI75-294	East McFaddin	Victoria, TX
599	CI77-788	Stets	Duval, TX
647	CI79-103	N.W. Rosalia	Duval, TX
677	CI81-8	Gabrysch	Jackson, TX

[FR Doc. 88-3194 Filed 2-12-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP88-42-000]

Pacific Offshore Pipeline Co.; Informal Conference

February 10, 1988.

Take notice that pursuant to a request of the Presiding Administrative Law Judge an informal conference will be convened in the above proceeding on February 23, 1988, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

Any party, as defined by 18 CFR 385.102(c), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact John C. Walley (202) 357-8458 or Anja M. Clark (202) 357-5740.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-3196 Filed 2-12-88; 8:45 am]
BILLING CODE 6717-01-M

United Gas Pipe Line Co.; Tariff Filing

[Docket No. RP88-27-002 and RP85-209-012]

February 10, 1988.

Take notice that on February 3, 1988 United Gas Pipe Line Company (United) tendered for filing revised tariff sheets, and work papers and schedules related thereto, as follows:

Eightieth Revised Sheet No. 4
First Revised Sheet Nos. 4-C
Revised Original Sheet No. 4-Cl
Revised Original Sheet No. 4-H
Revised Original Sheet No. 4-I
Revised Original Sheet No. 4-J
Revised Original Sheet No. 4-K

United states that this filing is made pursuant to ordering paragraphs (B)(1)-(B)(3) of the Order of the Federal Energy Regulatory Commission (Commission) issued in Docket No. RP88-27 on December 31, 1987.

United states that the filing amends its November 17, 1987 filing to reflect costs incurred pursuant to settlements actually executed through January 15, 1988, as well as those pending as of that date. United has also reassigned take-or-pay costs to its non-jurisdictional customers and eliminated take-or-pay costs otherwise included in Docket No. RP85-209-000.

Copies of this filing have been served upon United jurisdictional customers, state Commissions, and the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before February 18, 1988, and in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Such motion will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person desiring to become a party must move 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. 88-3199 Filed 2-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI69-231-000 et al.]

Amoco Production Co., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

February 10, 1988.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and petitions which are 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 applications should on or before February 24, 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.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
CI69-231-000, D, Feb. 1, 1988	Amoco Production Company, P.O. Box 50879, New Orleans, LA 70150.	Sea Robin Pipeline Company, East Cameron Area, Offshore, Louisiana.	(4)
CI88-262-000, F, Jan. 25, 1988	do	Northern Natural Gas Company, Division of Enron Corp., South Gage Field, Ellis County, Oklahoma.	(5)
CI88-263-000, F, Jan. 25, 1988	do	El Paso Natural Gas Company, Ignacio Blanco Field, La Plata County, Colorado.	(6)
CI76-646-005, D, Jan. 29, 1988	Texaco Producing, Inc., P.O. Box 52332, Houston, TX 77052.	Tennessee Gas Pipeline Company, a Division of Tenneco Inc., West Cameron Block 36, Offshore Louisiana.	(7)
CI88-272-000 (CI77-70), B, Jan. 21, 1988.	do	ANR Pipeline Company, Nichols Field, Kiowa County, Kansas.	(8)
G-3722-000, D, Feb. 1, 1988	do	El Paso Natural Gas Company, Sprayberry Trend Area, Glasscock County, Texas.	(9)
CI65-1267-001, D, Feb. 1, 1988	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, TX 75221.	Hugoton Field, Stevens and Grant Counties, Kansas.	(10)
G-16134-002, D, Jan. 29, 1988	Sun Exploration & Production Co., P.O. Box 2880, Dallas, TX 75221-2880.	Natural Gas Pipeline Company of America, Camrick Field, Texas County, Oklahoma.	(11)
CI88-258-000, F, Jan. 22, 1988	do	Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Seeligson Plant, Jim Wells County, Texas.	(12)
CI64-26-027, Jan. 28, 1988	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, CA 94120-7309.	Texas Eastern Transmission Corporation, Various Interconnections, Onshore Louisiana.	(13)

[1] Not used.
[2] Not used.
[3] Not used.
[4] Purchaser and Seller have agreed to release from the gas purchase and sales contract and from certificate dedication all of the dedicated lands and leaseholds, save and except the gas deliverable from the currently producing B-1 well completed in OCS Block 278.
[5] By assignment effective 4-1-87, Cities Service Oil and Gas Corporation assigned to Amoco certain acreage.
[6] By assignment effective 9-1-86, Galaxy Oil Company assigned to Amoco certain acreage lying in LaPlata County, Colorado.

[7] Federal lease OCS-G-2820 terminated on 6-27-85.
[8] TPI assigned to Vincent Oil Corporation all its rights to the H.M. Wright Gas Unit, Sec. 24-T29S-R19W, Kiowa County, Kansas, effective 9-1-87
[9] Effective 11-1-87, TPI assigned to Autry C. Stephens its rights in and to the M.L. Couey and William Howard leases in Sections 19 and 20, Block 35, T-5-S, T&P RRCo. Survey, Glasscock County, Texas, to certain depths.
[10] Applicant desires to release gas for irrigation fuel.
[11] Effective 10-1-87, Sun assigned its interest in Property No. 401536, Pierce 1-3, from surface to 7,268 feet to Vernon E. Faulconer, Inc.
[12] By assignment effective 3-1-87, Sun acquired from Texaco Inc., Doris S. Houx, H.P. Horine and A.C. Howard additional interests in the Seeligson Plant and in the Seeligson Unit. Effective 4-1-87, Sun also acquired from McCarrick, Gouger, & Mitchell, additional interests in the Seeligson Plant and in the Seeligson Unit.
[13] Applicant is filing to add delivery points.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 88-3192 Filed 2-12-88; 8:45 am]

BILLING Code 6717-01-M

[Docket No. GP87-77-000]

Lowry Exploration, Inc.; Petition for Waiver of Refund

Issued: February 10, 1988.

On September 8, 1987, Lowry Exploration, Inc. (Lowry) filed an application for abandonment of sales in Docket No. CI87-891-000. Notice of Lowry's abandonment application was published in the **Federal Register** on September 24, 1987 (52 FR 35943). The protest period expired on October 6, 1987. On November 20, 1987, Panhandle Eastern Pipeline Company (Panhandle) filed a protest and motion to intervene.

Lowry's application also requests a waiver of refund obligations under Part 273 of the Commission's regulations. The refund obligation arises from collections by Lowry's predecessor in excess of the applicable maximum lawful price for sales from the property for which abandonment authority is sought. The request for refund presents separate issues from the application for abandonment and is therefore designated and renoticed as Docket No. GP87-77-000.

Sales of the subject gas were previously made by Lowry's predecessor-in-interest, Titan Energy Corporation (Titan), under Titan's small producer certificate in Docket No. CS82-24-000. According to Lowry, the Light #1-11 well, section 11-T35N-R32W, SE Liberal Field, Seward County, Kansas, qualified for stripper well pricing under section 108 of the Natural Gas Policy Act beginning in 1981. Within the year, however, production increased and the well ceased to qualify for the section 108 price. In 1985 Titan shut in the well. By that time, Lowry states, Panhandle had paid Titan approximately $255,380 in excess of the NGPA section 104 small producer flow gas price for purchases from the subject well. Lowry states that in 1985 Titan assigned the subject well to Lowry as payment for approximately $14,000 that Titan owed Lowry for operational services on the well. Panhandle takes the position that its payments for current deliveries from Lowry should be credited, at least in part, to the outstanding refund obligation.

Lowry requests waiver of the refund obligation to Panhandle for amounts paid by Panhandle to Titan. Lowry states that it would be inequitable to hold Lowry liable for the refund obligation because Lowry had no responsibility or control over the overcharge. Lowry claims that if this relief is denied, Lowry will be placed in financial jeopardy, constituting special hardship.

On January 27, 1988, a technical conference on the abandonment application was held at the Federal Energy Regulatory Commission. It was agreed by all present that the refund issue should be decided before the parties could properly consider how to proceed on the issue of abandonment. In response to this notice, interested participants or parties should provide the Commission with arguments and authorities supporting their respective positions on: (1) The amount of refund claimed by Panhandle, (2) the legal basis of Lowry's liability for the refund obligation of Titan, (3) whether any refund obligation owed by Lowry should be wavied by the Commission.

The procedures applicable to the conduct of this waiver proceeding are found in the Commission's rules of practice and procedure, 18 CFR Part 385 (1987). Any person desiring to participate in this proceeding on the refund issue who has not already moved to intervene in Docket No. CI87-891-000 must file a motion to intervene in accordance with the provisions of Rule 214 of the Commission's rules of practice and procedure. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-3195 Filed 2-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-633-005, et al.]

Tenneco Oil Co., et al., Applications for Extension of Blanket Limited-Term Abandonments and Certificates With Pregranted Abandonment [1]

February 10, 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 abandonment and 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.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 24, 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.

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein

Docket No. and date filed	Applicant	Requested term of extension
CI85-633-005, Jan. 29, 1988	Tenneco Oil Company, Houston Oil & Minerals Corporation and Tenneco West Inc.,[2] P.O. Box 2511, Houston, TX 77252.	3 years.
CI86-535-002, Jan. 29, 1988	Zapata Exploration Company, 3100 Zapata Tower, Houston, TX 77002	3 years.
CI87-301-001, Jan. 22, 1988	Marathon Oil Company, P.O. Box 3128, Houston, TX 77253	3 years.
CI87-310-001, Jan. 19, 1988	Shell Offshore Inc., Shell Western E&P Inc. and Orlando-SOI Partnership,[3] One Shell Plaza, Room 4862, P.O. Box 2463, Houston, TX 77252-2463.	1 year.

[2] Applicant also seeks authorization to include sales for resale in interstate commerce of previously uncommitted gas.
[3] Applicant is seeking extension of existing authorizations for Shell Offshore Inc. and Shell Western E&P Inc. and is seeking blanket limited-term abandonment and certificate authorization with pregranted abandonment for Orlando-SOI Partnership.

[FR Doc. 88-3198 Filed 2-12-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI86-168-004 et al.]

Tenngasco Corp.; et al. Applications for Extension of Blanket Limited-Term Certificates with Pregranted Abandonment [1]

February 10, 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.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 24, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intevene 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.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Requested term of extension
CI86-168-004, Jan 27, 1988	Tenngasco Corporation and Tenngasco Exchange Corporation, P.O. Box 2511, Houston, TX 77252.	3 years.
CI86-255-001, Feb. 2, 1988	Hadson Gas Systems, Inc.,[2] 600 East John W. Carpenter Freeway, Suite 201, Irving, TX 75062-3990.	Unlimited.
CI86-413-002, Jan 29, 1988	ANR Gathering Company, Coastal Tower, 9 Greenway Plaza, Houston, TX 77046	3 years.
CI86-419-002, Jan 29, 1988	ANR Supply Company, Coastal Tower, 9 Greenway Plaza, Houston, TX 77046	3 years.
CI86-421-002, Jan 29, 1988	Coastal States Industrial Sales Company (Formerly Texcol Industrial Sales Company), 9 Greenway Plaza, Houston, TX 777046.	3 years.

[2] Applicant also requests certificate authority on behalf of producers seeking to sell contractually uncommitted gas to Applicant.

[FR Doc. 88-3197 Filed 2-12-88; 8:45 am]
BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in disbursing to adversely affected parties $22,355 (plus accrued interest) obtained by the DOE under the terms of a consent order entered into with Harrell A. Musco. The funds are being held in escrow following the settlement of claims and disputes arising from an Economic Regulatory Administration audit of Harrell A. Musco d/b/a Clean Machine, Inc., a retailer of motor gasoline which operated two retail outlets/care washes located in Fairfield and San Jose, California.

DATE AND ADDRESS: Comments must be filed by March 17, 1988 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should display a reference to case number KEF-0097.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, *or* Laurie Breslin, Staff Analyst, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2860 (Dugan), (202) 586-4921 (Breslin).

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order tentatively establishes procedures to distribute to eligible claimants $22,355, plus accrued interest, obtained by the DOE under the terms of a consent order entered into with Harrell A. Musco (Musco) on July 6,

1987. The funds were paid by Musco to settle all claims and disputes between Musco and the DOE regarding the manner in which Musco's firm Clean Machine, Inc. (Clean Machine), a motor gasoline retailer/car wash, applied the federal price regulations with respect to its sales of motor gasoline during the period August 8, 1979, through January 31, 1980.

The DOE has tentatively determined that the consent order funds should be distributed to firms and individuals that purchased Clean Machine motor gasoline during the consent order period. Because Clean Machine sold motor gasoline to retail consumers, only end-users, or ultimate consumers, of Clean Machine motor gasoline who were injured by the alleged overcharges will be eligible for refunds in this proceeding. In order to prove injury and obtain a refund, each claimant will be required to submit a schedule of its monthly purchases of Clean Machine motor gasoline during the period August 8, 1979 through January 31, 1980. However, Applications for Refund should *not* be filed at this time.

Appropriate public notice will be provided prior to the acceptance of claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submissions. Comments should be submitted by March 17, 1988, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, 1000 Independence Avenue, SW., Washington, DC, between the hours of 1:00 and 5:00 p.m., Mondaay through Friday, except federal holidays.

Dated: February 9, 1988.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 9, 1988.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Clean Machine, Inc.
Date of Filing: September 3, 1987.
Case Number: KEF-0097.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. On September 3, 1987, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a Consent Order which the DOE entered into with Harrell A. Musco (Musco), the owner of Clean Machine, Inc. (Clean Machine).

I. Background

Clean Machine was a "retailer" of motor gasoline as that term was defined in 10 CFR 212.31 and operated two retail outlets/car washes in Fairfield, and San Jose, California during the period of price controls. An ERA audit of Clean Machine's records revealed that between August 8, 1979 through January 31, 1980, Clean Machine committeed possible price violations with respect to its retail sales of motor gasoline in violation of 10 CFR 212.93. On April 15, 1982, the ERA issued two Proposed Remedial Orders to Musco d/b/a Clean Machine alleging that the firm had overcharged its customers and that Musco was personally liable for the violations.

In order to settle all claims and disputes between Musco, Clean Machine and the DOE regarding the firm's compliance with the Mandatory Petroleum Price and Allocation Regulations during the period August 8, 1979, through January 31, 1980, Musco and the DOE entered into a Consent Order on July 6, 1987. The Consent Order refers to the ERA's allegations of regulatory violations, but states that Musco denies that any such infractions were committed or that he is individually responsible for the activities of Clean Machine.

Under the terms of the Consent Order, Musco was required to deposit $22,355 into an interest-bearing escrow account maintained by the Department of the Treasury for ultimate distribution by the DOE. The consent order monies were paid in full on July 22, 1987 into an escrow account in the name of Clean Machine. As of December 31, 1987, the Clean Machine escrow account has earned $610.05 in interest. This Decision concerns the distribution of the funds in the Clean Machine escrow account.

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of enforcement proceedings. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Office of Enforcement,* 9 DOE ¶ 82,508 (1981), and *Office of Enforcement,* 8 DOE ¶ 82,597 (1981).

We have considered the ERA's petition that we implement a Subpart V proceeding with respect to the Clean Machine consent order fund and have determined that such a proceeding is appropriate. We will grant the ERA's request. This Proposed Decision and Order sets forth the OHA's tentative plan to distribute these funds.

III. Proposed Refund Procedures

A. *Showing of injury.* In order to be eligible for a refund, an applicant must establish that it was injured as a result of Clean Machine's alleged overcharges. *See* 10 CFR 205.280. As previously stated, Clean Machine sold motor gasoline to retail consumers. Therefore, only end-users, or ultimate consumers, of Clean Machine motor gasoline who were injured by the alleged overcharges will be eligible for refunds in this proceeding. In order to demonstrate injury, end-user applicants will be required to document the volume of motor gasoline that they purchased from Clean Machine during the period August 8, 1979 through January 31, 1980 (the consent order period). Unlike regulated firms in the petroleum industry, end-users generally were not subject to price controls during the consent order period. They were therefore not required to keep records which would show whether they passed through cost increases in sales of other products. An analysis of the impact of the alleged overcharges on the final prices of goods and services which were not covered by the petroleum price regulations would therefore be beyond the scope of a special refund proceeding. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984), and cases cited therein. Consequently, end-users of Clean Machine's motor gasoline will not be required to make a detailed demonstration of injury in order to establish eligibility for a refund. They will only be required to document their purchase volumes from Clean Machine.

B. *Calculation of Refund Amounts.* In order to determine the potential refund amounts for applicants in this proceeding, we propose to adopt a volumetric refund presumption. The volumetric refund presumption assumes that Clean Machine's alleged overcharges were spread equally over all gallons of motor gasoline that Clean Machine sold during the consent order period.

Under the volumetric method, a claimant that adequately demonstrates injury will be eligible to receive a refund equal to the number of gallons of motor gasoline that it purchased from Clean Machine during the consent order period times the volumetric factor. The volumetric factor in this case equals $0.01731 per gallon.[1] In addition, successful claimants will receive proportionate shares of the interest that has accrued in the Clean Machine escrow account.

Because we realize that the impact on an individual claimant may have been greater than the volumetric amount, we will allow any purchaser to file a refund application based upon a claim that an allocation on the basis of a specifically alleged overcharge amount should be used in considering its refund application. *See, e.g., Standard Oil Co. (Indiana)/Army and Air Force Exchange Service,* 12 DOE ¶ 85,015 (1984).

As in previous cases, we propose to establish a minimum amount of $15 for refund claims.[2] We have found through our experience in prior refund cases that the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.,* 9 DOE ¶ 82.541 at 85,225 (1982). *See also* 10 CFR ¶ 205.286(b).

Applications for Refund should not be filed at this time. Before implementing the procedures outlined in this Proposed Decision, we intend to publicize it in order to solicit comments from any interested parties. All comments must be filed with the Office of Hearings and Appeals within 30 days of the publication of this Proposed Decision in the **Federal Register.**

[1] We computed this figure by dividing the $22,355 consent order amount by the 1,291,580 gallons of motor gasoline sold by Clean Machine during the consent order period.

[2] Under the volumetric method for making refunds proposed in this proceeding, we calculate that an applicant must have purchased at least 867 gallons of motor gasoline from Clean Machine during the six-month consent order period in order to qualify for the minimum $15 refund. In contrast, according to Energy Information Administration data, the average motorist consumed approximately 301 gallons of motor gasoline per car during the consent order period. *Consumption Patterns of Household Vehicles, June 1979 to December 1980,* DOE/EAI-0319 at 12. Accordingly, we anticipate that although many individual motorists who purchased motor gasoline from Clean Machine may have legitimate claims, most of those claims will fall below the $15 threshold. However, it is possible that there are governmental entities or businesses with multiple vehicles that purchased motor gasoline from Clean Machine on a regular basis and in sufficient quantities to qualify for a refund. Although we are presently unable to identify these customers, we will make every effort to locate them and apprise them of this special refund proceeding.

Any funds that remain after all first stage claims have been decided will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), Pub. L. 99-509, Title III. *See* Fed. Energy Guidelines ¶ 11,702 et seq. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. PODRA, §§ 3003 (c) and (d). The Secretary has delegated these responsibilities to the OHA, and any funds in the Clean Machine consent order escrow account that the OHA determines will not be needed to effect direct restitution to injured Clean Machine customers will be distributed in accordance with the provisions of PODRA.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Harrell A. Musco (Clean Machine, Inc.) pursuant to the Consent Order executed on July 6, 1987 will be distributed in accordance with the foregoing decision.

[FR Doc. 88-3172 Filed 2-12-88; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-62057; FRL-3328-6]

Asbestos Inspection and Management Plan Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is announcing a second funding cycle for the Abestos Inspection and Management Plan Assistance Program (AIMPAP) to provide financial support to States (including the District of Columbia and U.S. Trust Territories), and in turn, local education agencies (LEAs) to assist with the costs of inspection for asbestos-containing material (ACM) and preparation of management plans for school buildings. The program is authorized by section 4(b)(1) of the Asbestos Hazard Emergency Response Act of 1986 (AHERA).

DATE: All complete applications must be received in EPA no later than February 26, 1988, to be considered for FY 88 funding awards.

ADDRESSES: All the necessary addresses are included in the supplementary information.

FOR FURTHER INFORMATION CONTACT: Michael Stahl, Chief, Hazard Abatement Assistance Branch (TS-794), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 382-3949.

SUPPLEMENTARY INFORMATION: AIMPAP is implemented through the Office of Pesticides and Toxic Substances with support from the EPA Regional Offices. The objective of the program is to provide financial assistance to States which may in turn pass through funds to LEAs to assist with the costs of carrying out inspections and preparing management plans for school buildings. There is a 5 percent cost-sharing requirement for State recipient agencies. Costs incurred prior to the specified Budget period start date are not allowable. The assistance program is open to all States (including the District of Columbia and U.S. Trust Territories). During this award cycle, only one grant will be made per State. States which received funding during the last award cycle will be considered for additional money; however, the total award (both cycles) may not exceed $1 million. It is expected that up to 15 million will be awarded in amounts ranging from $100,000 to $1 million and may be used by recipients to: (1) Pay LEAs directly to offset the costs they incur for hiring accredited inspectors; (2) pay LEAs directly to offset the costs they incur for hiring accredited management plan developers; (3) purchase the services of accredited persons who will perform inspections or develop management plans for schools; or (4) pay State employees (who are accredited inspectors) to perform inspections in schools.

Each State is required to establish its own organizational and management structure to formulate and implement its assistance program. EPA's Regional Asbestos Coordinators (RACs) will be the EPA project officers. Applicants must submit their completed applications to the Grants Administration Division, Grants Operations Branch (PM-216F), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. A duplicate copy of the application must be sent to the appropriate RAC. Addresses for the RACs may be obtained by contacting EPA headquarters (telephone: (202) 382-3949). A third copy of the application must be sent directly to the Hazard Abatement Assistance Branch (HAAB)

at the following address; EPA/AIMPAP, ATLIS, 6011 Executive Blvd., Rockville, MD 20852. Applications will be jointly evaluated by the HAAB staff and the RACs.

Each application submitted to EPA must include specific details on how the individual State intends to manage any federally awarded funds. The following outlines the standard program elements required of applicants.

1. Applicants must complete EPA Standard Application form (5700-33).

2. Applicants must provide an explanation of their plans for administration of the grant program. This must include identification of official(s) responsible for making award determinations and distributing funds to LEAs.

3. Applicants must include a proposal for budgeting administrative costs. Not more than 2 percent of the total award may be used for administrative purposes. Administrative costs include costs incurred by the recipient in the management or supervision of the execution of the program but do not include salaries of employees who inspect for ACM or assist in the preparation of management plans.

4. Applicants must provide an estimate of the demand for assistance (i.e., the number of LEAs and the dollar amount needed) from financially needy LEAs in their State.

5. Applicants must provide a description of the selection criteria and process they will use to determine LEAs who will receive funds. Selections must be based on financial need of the LEA. EPA strongly encourages the recipient agencies to give *both private and public schools equitable consideration when making award decisions.*

6. Applicants must identify who will be responsible for managing and overseeing their program. Program oversight includes these elements:

a. Assurance that federal funds are used specifically for inspection of, and preparation of, management plans for school buildings.

b. Assurance that accredited persons are used to conduct inspections or develop management plans.

c. Assurance that school inspection costs will be necessary and reasonable.

d. Assurance that those LEAs receiving financial assistance will perform inspections and submit management plans to State Governors by October 12, 1988, as required by AHERA, section 205. A schedule of events containing, among other elements, the announcement of awards and milestones for program oversight must be included.

e. Assurance that all federally funded inspections will be done in accordance with AHERA.

7. State recipient agencies are required to contribute 5 percent of total allowable costs of carrying out inspections and preparing management plans for school buildings.

States which were previously awarded grants under the AIMPAP program may apply for additional money by submitting an updated budget (using budget sheets from the standard application form), a justification for the increased allocation, and a request for an extension for their budget period, if necessary.

All submissions must be sent to each of the three addresses listed previously in this notice (GAD, RAC, HAAB). The Federal Application Identification number assigned to the initial application *must* accompany any submissions for funding under the second award cycle.

Dated: February 8, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 88-3168 Filed 2-12-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted To OMB For Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection: Recordkeeping and Confirmation Requirements for Securities Transactions (OMB No. 3064-0028).

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for the review and approval for continuing the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Fishman, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429.

Comments: Comments on this collection of information should be submitted on or before March 14, 1988.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-3810.

SUMMARY: The FDIC is requesting OMB approval to extend the expiration date of the recordkeeping and confirmation requirements for securities transactions contained in Part 344 of FDIC's rules and regulations (12 CFR Part 344). These requirements ensure that purchasers of securities in transactions effected by an insured state nonmember bank are provided adequate information concerning the transactions. These requirements are also designed to ensure that insured state nonmember banks maintain adequate records and controls with respect to securities transactions they effect. The aggregate annual paperwork burden imposed on insured state nonmember banks for this information collection is estimated to be 124,529 hours.

Dated: February 9, 1988.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 88-3144 Filed 2-12-88; 8:45 am]

BILLING CODE 6714-01-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, 1000 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.: Agreement No. 232-011169.

Title: Thompson Shipping Co. Ltd./ Kirk Freight Line, Ltd., Space Charter and Sailing Agreement.

Parties: Kirk Freight Line, Ltd. ("KFL") Thompson Shipping Co., Ltd. ("TSC").

Synopsis: The proposed agreement would permit KFL to charter space aboard its vessels in the trade between Miami, Florida and the port of Georgetown, Grand Cayman, B.W.I. to TSC. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: February 10, 1988.

[FR Doc. 88-3171 Filed 2-12-88; 8:45 am]

BILLING CODE 6730-01-M

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 Washington, DC Office of the Federal Maritime Commission, 1000 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: 224-003934-003.

Title: Port of Palm Beach District Terminal Agreement.

Parties: Port of Palm Beach District Florida Molasses Exchange, Inc.

Synopsis: The proposed agreement provides for an extension of the basic agreement to October 31, 1998, and grants two additional ten-year options to renew the lease agreement. The agreement also provides the rental terms and conditions for the lease of additional premises constituting approximately 3.1 acres.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: February 9, 1988.

[FR Doc. 3128 Filed 2-12-88; 8:45 am]

BILLING CODE 6730-01-M

Truck Detention at the Port of New York; The Person or Persons Responsible for Settlement of Claims

Pursuant to § 530.1(e) of 46 CFR Part 530—*Truck Detention At The Port Of New York,* the Commission publishes a current list of the person or persons responsible for the receipt and settlement of claims arising from truck detention at each terminal facility within the Port of New York (New York/New Jersey Port District).

MARINE TERMINAL FACILITIES WITHIN THE NEW YORK/NEW JERSEY PORT DISTRICT

Terminal	Facility	Person(s) responsible
Maher Terminals, Inc..	Port Newark, NJ, Buildings Nos. 290-291.	Mr. Robert Forsyth.
	Port Elizabeth, NJ, Berths Nos. 54, 56, 58, 60, 62, 64 and 66.	Mr. Peter Donofrio.
	Port Elizabeth, NJ, Berths Nos. 78, 80, 82, 84 and 86.	Mr. Gary Gross.
International Terminal Operating Company, Inc..	New York, NY, Passenger Ship Terminal.	Mr. Gary Lesnevich.
	Newark, NJ, (Bldg. 138-140).	Mr. Gary Lesnevich.
Sea-Land Service, Inc..	Port of New York/New Jersey Terminals.	Messrs. Louis V. Nappi and Peter T. Caprell.
Universal Maritime Service Corp..	New Jersey, Berths Nos. 53, 55, 57 and 59.	Ms. Dolores Romagnola.
	Brookyn, NY, Red Hook Marine Terminals.	Ms. Dolores Romagnola.
Maersk Container Service Company, Inc..	Port Newark, NJ.	Mr. Kenneth Karahuta.
Atlantic Container Line.	Port Newark, NJ, Elizabeth Terminals: Berths 68/78; and Building 2188/3000.	Messrs. William Clynes and James Melia.
Global Terminal and Container Service, Inc.	Jersey City, NJ..	Messrs. David Brady and A. Deutsch.

Joseph C. Polking,

Secretary.

[FR Doc. 88-3129 Filed 2-12-88; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Performance Review Board; Membership

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice.

Notice is hereby given in accordance with 5 U.S.C. 4314(c)(4) of the appointment of the following persons to serve as members of this agency's Performance Review Board.

John Higgins, Deputy General Counsel, National Labor Relations Board, Chairman

Charles R. Barnes, Executive Director, National Mediation Board

Edith Baum, Associate General Counsel, Federal Labor Relations Authority

Dated: February 10, 1988.

Kay McMurray,

Director.

[FR Doc. 88-3140 Filed 2-12-88; 8:45 am]

BILLING CODE 6732-01-M

FEDERAL RESERVE SYSTEM

Marine Midland Banks, Inc., Buffalo, NY; Application To Engage in Futures Commission Merchant and Securities Brokerage Activities

Marine Midland Banks, Inc., Buffalo, New York, and its parent bank holding companies, The Hongkong and Shanghai Banking Corporation, Hong Kong; Kellet N.V., Curacao, Netherlands Antilles; and HSBC Holdings B.V., Amsterdam, the Netherlands (collectively, "Applicant") have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a)(3) if the Board's Regulation Y (12 CFR 225.23(a)(3)), to expand the activities of its wholly owned subsidiary, CM&M Futures, Inc., New York, New York ("Company"), to include securities brokerage activities pursuant to § 225.23(b)(15) of the Board's Regulation Y, 12 CFR 225.25(b)(15).

Company currently engages in futures commission merchant activities pursuant to § 225.25(b)(18), 12 CFR 225.25(b)(18), as well as in the brokerage of foreign currency options pursuant to Board order. *Hongkong and Shanghai Banking Corporation,* 72 Federal Reserve Bulletin 345 (1986). Company proposes to conduct the activities on a nationwide basis.

The above combination of activities in the same subsidiary has not been previously approved by the Board. Applicant contends that the proposal

can reasonably be expected to result in benefits of the public in the form of greater convenience, increased competition and gains in efficiency. Applicant does not believe that the proposed combination of activities will result in adverse effects.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than March 9, 1988. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement 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.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, February 9, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-3108 Filed 2-12-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Grants Administration Debarment of Charles J. Glueck

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notice of Debarment.

SUMMARY: This notice announces the debarment of Charles J. Glueck, M.D. from eligibility for direct or indirect financial assistance under any discretionary program awarded or administered by the Department of Health and Human Services and the end of Dr. Glueck's previous suspension from such eligibility.

DATE: The debarment became effective February 3, 1988, and ends three years from that date.

FOR FURTHER INFORMATION CONTACT: Robert B. Lanman, Esq., Chief, National Institutes of Health Branch, Public Health Division, Office of General Counsel, 9000 Rockville Pike, Building 31, Room 2B-50, Bethesda, Maryland 20892. Telephone: (301) 496-4108.

SUPPLEMENTARY INFORMATION: Pursuant to 45 CFR Part 6, Charles J. Glueck, M.D., Director, The Cholesterol Center, The Jewish Hospital of Cincinnati, Inc., 3200 Burnet Avenue, Cincinnati, Ohio 45229, has been debarred from receiving or applying for, directly or indirectly, any form of financial assistance under any discretionary program awarded or administered by the Department of Health and Human Services. The debarment applies to assistance provided through grants, cooperative agreements, fellowships, traineeships, loan guarantees and interest subsidies as well as contracts, subcontracts and subgrants supported by such assistance. It also debars Dr. Glueck from service or participation in the conduct or performance of an assisted project. The debarment became effective on February 3, 1988 and is for a three year period. This action is being taken pursuant to the HHS Financial Assistance Debarment and Suspension Regulations pertaining to grants and other forms of financial assistance, 45 Code of Federal Regulations, Part 76. Dr. Glueck's previous suspension from eligibility from financial assistance ends upon the effective date of the debarment.

The basis for the debarment action is that there is reasonable evidence Dr. Glueck has committed irregularities of a serious nature which are grounds for debarment under 45 CFR 76.10. In published papers, he misrepresented both the design and findings of a study supported by the National Institutes of Health. In conducting the study and reporting the results, he reached conclusions on the basis of his memory of the data, misrepresented data and otherwise seriously deviated from acceptable research practices. The seriousness of this misconduct was magnified by the fact that the conclusions of the paper could influence the course of treatment for children with elevated cholesterol levels.

Dated: February 3, 1988.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

[FR Doc. 88-3203 Filed 2-12-88; 8:45 am]

BILLING CODE 4150-04-M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 52 FR 36635, September 30, 1987) is amended to reflect the following changes in the Office of the Director, NIH: (1) Retitle the Office of Program Planning and Evaluation (HNA6) to the Office of Science Policy and Legislation (HNA6); and (2) change the functional statement of the Office. These changes will more effectively represent the primary functions, responsibilities, and current work efforts of the Office.

Section HN-B, Organization and Functions is amended as follows:

(1) Under the heading *Office of Program Planning and Evaluation (HNA6)*, delete the title and functional statement in their entirety and substitute the following:

Office of Science Policy and Legislation (HNA6). (1) Advises the Director, NIH, and immediate staff on science policy, program planning, program evaluation, health economics, and the development and implementation of legislation, and represents NIH in those areas to the Department and Congress; (2) provides leadership and guidance to NIH programs on science policy and legislation; (3) facilitates and coordinates program planning and program evaluation activities carried out in the Institutes and Divisions; and (4) provides staff direction and support to the Advisory Committee to the Director, NIH.

Dated: February 2, 1988.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 88-3134 Filed 2-12-88; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-88-1771; FR-2444]

Supportive Housing Demonstration Program; Notice of Fund Availability

AGENCY: Office of the Assitant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of Fund Availablity.

SUMMARY: This notice addresses the Supportive Housing Demonstration Program (SHDP) (Title IV, Subtitle C of the Stewart B. McKinney Homeless Assistant Act (Pub. L. 100-77, aproved July 22, 1987) (McKinney Act)). This notice: (1) Announces the availability of funds for SHDP applications under the

Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (Pub. L. 100-202, approved December 22, 1987) (Fiscal Year-1988 Appropriations Act); (2) reannounces the availability of funds that were appropriated in the Supplemental Appropriations Act, 1987 (Pub. L. 100-71, approved July 11, 1987), announced in a NOFA published September 3, 1987 (52 FR 33536), but not awarded to applicants for transitional housing for deinstitutionalized homeless individuals and other homeless individuals with mental disabilities; (3) combines the application process for funds available for permanent housing for handicapped homeless persons under the Supplemental Appropriations Act, 1987 (previously announced in a notice published October 26, 1987 (52 FR 33946)) with the application process for funds made available for permanent housing under the Fiscal Year-1988 Appropriations Act. This notice also modifies previously announced application and selection procedures by requiring applicants to submit their application to HUD headquarters and to the appropriate HUD field office and makes other minor modifications to these procedures.

EFFECTIVE DATE: This notice is effective on February 16, 1988.

Applications for assistance for permanent housing for handicapped homeless persons are due March 31, 1988.

Applications for assistance for transitional housing are due May 17, 1988.

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, Director Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-5720. Hearing or speech-impaired individuals may call HUD's TDD number (202) 426-0015. (these phone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

The Transitional Housing Demonstration Program was first included in the Homeless Housing Act of 1986 (Part B of Title V of HUD's regular appropriation for fiscal year 1987).[1] HUD published final guidelines (THDP guidelines) for the operation for the program on June 9 1987 (52 FR 21743). A technical correction concerning program requirements was published on July 13, 1987 (52 FR 26187).

On July 22, 1987, the President approved the Stewart B. McKinney Homeless Assistance Act, Pub. L. 100-77 ("McKinney Act"). Title IV of the McKinney Act contained a number of housing assistance provisions to be administered by HUD. Subtitle C of Title IV authorized the Supportive Housing Demonstration Program (SHDP). This program has two components—a reauthorization (with amendments) of the Transitional Housing Demonstration Program and a new program of Permanent Housing for Handicapped Homeless Persons. The Supplemental Appropriations Act, 1987 (Pub. 100-71, approved July 11, 1987), provided $80 million in funding for the Supportive Housing Demonstration Program.

Section 426(a) of the McKinney Act contained the following requirements regarding the implementation of SHDP:

> Not later than 90 days following the date of enactment of this Act, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Until final regulations are issued under this subtitle, the regulations established by the Secretary implementing the provision made effective by section 101(g) of Public Law 99-500 or Public Law 99-591 shall govern the transitional housing provisions of this subtitle.

Consistent with section 426(a), on September 3, 1987 (52 FR 33536) HUD published a notice of fund availability (NOFA) announcing that the THDP guidelines, with certain modifications, would govern the use of funds available for *transitional housing* under the Supplemental Appropriations Act, 1987. (This notice was modified on October 16, 1987 (52 FR 38530).) In accordance with congressional intent, the September 3, 1987 NOFA established the following three funding categories: (1) Transitional housing serving homeless families with children ($20 million); (2) transitional housing serving deinstitutionalized homeless individuals and other homeless individuals with mental disabilities ($30 million); and (3) transitional housing for other homeless individuals or homeless families ($15 million). HUD did not receive a sufficient number of fundable applications to use all of the $30 million in funds available for transitional housing for deinstitutionalized homeless individuals and other homeless individuals with mental disabilities. $10,817,898 in funds has not been awarded and remains available for funding.

While section 426(a) specified that the THDP guidelines would govern the transitional housing component of SHDP pending the issuance of final regulations, the statute did not specifically address the permanent housing component in this regard. In the preamble to the SHDP proposed rule published October 26, 1987 (52 FR 39946), HUD discussed this issue. HUD determined that section 426(a) also allowed the publication of a proposed rule that established guidelines to govern the permanent housing component of the SHDP, pending issuance of final rule. HUD found that this interpretation of section 426(a) was consistent with its interpretation of substantially similar language contained in section 525(a) of the Emergency Shelter Grants Program in the Homeless Housing Act of 1986, and was responsive to the congressional concern—expressed in both the McKinney Act and the Supplemental Appropriation Act, 1987—that SHDP funds be committed as quickly as possible to assist their intended beneficiaries. Accordingly, the October 26, 1987 publication announced the availability of $15 million in funds for permanent housing appropriated under the Supplemental Appropriations Act, 1987. Applications for permanent housing funds are due on March 31, 1988.

The Department of Housing and Urban Development—Independnent Agencies Appropriations Act, 1988 (Pub. L. 100-202, approved December 22, 1987) (Fiscal Year-1988 Appropriations Act), appropriated an additional $65 million for the transitional and supportive housing demonstration program, as authorized under the McKinney Act.

II. Purpose of this Notice

This Notice:

—Announces the availability of funds under the Fiscal Year 1988 Appropriations Act, and discusses the set-aside requirements applicable to these funds.

—Reannounces the availability of $10,817,898 in funds that were appropriated in the Supplemental Appropriations Act, 1987, announced under the September 3, 1987 NOFA (52 FR 33536), but not awarded to applicants for transitional housing for deinstitutionalized homeless individuals and other homeless individuals with mental disabilities.

—Combines the application process for funds available for permanent housing for the handicapped homeless under the Supplemental Appropriations

[1] Section 101(g), Pub. L. 99-500 (approved October 18, 1986) and Pub. L. 99-591 (approved October 30, 1986), making appropriations as provided for in H.R. 5313, 99th Cong., 2d Sess. (1986) (as passed by the House of Represenatives and by the Senate) to the extent and in the manner provided for in H. Rep. No. 977, 99th Cong., 2d Sess. (1986).

Act, 1987 and the Fiscal Year 1988 Appropriations Act.

—Modifies previously announced application and selection procedures by requiring applicants to submit their applications to HUD headquarters and to the appropriate HUD field office and makes other minor modifications to these procedures.

III. Funds Appropriated for the Supportive Housing Demonstration Program

The Fiscal Year 1988 Appropriations Act provides $65 million in funds for the transitional and supportive housing demonstration program, as authorized under the McKinney Act. The Fiscal Year 1988 Appropriations Act directs HUD to transfer $750,000 of this total amount to the Interagency Council on the Homeless for operations under Title II of the McKinney Act. The remaining $64.25 million is available for projects under SHDP.

In accordance with set-asides found in section 428(b) of the McKinney Act, not less than $20 million of these funds must be allocated to transitional housing projects that serve homeless families with children, and not less than $15 million must be allocated for permanent housing for handicapped homeless persons. While HUD is not required to set aside a specified amount for funding transitional housing serving deinstitutionalized homeless individuals and other homeless individuals with mental disabilities, section 428(c) of the McKinney Act directs HUD to provide additional consideration to such projects so that they receive a significant share of funds. (Also see section 421 (a) and (b) of the McKinney Act). Accordingly, HUD has determined that $20 million in new funding should be provided for transitional housing for deinstitutionalized homeless individuals and other homeless individuals with mental disabilities.

This funding is in addition to the amounts that remain available under the Supplemental Appropriation Act, 1987 including: $10,817,898 for housing for deinstitutionalized homeless individuals and other homeless individuals with mental disabilities and $15 million for permanent housing for handicapped homeless persons.

In summary, the following amounts are available under SHDP: (1) $30 million for permanent housing for handicapped homeless persons; (2) $20 million for transitional housing projects that serve homeless families with children; (3) $30,817,898 for transitional housing projects that serve deinstitutionalized homeless individuals and other homeless individuals with mental disabilities; and (4) $9.25 million for transitional housing projects involving applications that do not compete for funds under category (2) or (3).

IV. Transitional Housing Requirements

As discussed above, section 426(a) of the McKinney Act provides that the THDP guidelines will govern the transitional housing component of the SHDP. Except as modified below, the guidelines published on June 9, 1987 (52 FR 21743) will govern the use of funds and the selection of applications for transitional housing applications under this notice.

A. Funding Category

Funding for transitional housing is available in three funding categories. The requirements for each funding category and amounts available in each category are described below.

(1) *Applications that propose to serve homeless families with children.* For the purposes of this notice, a homeless family with children means a family (consisting of at least one parent or guardian, and at least one child under the age of 18) which meets the definition of homeless person as defined in Section IV.A. of the THDP guidelines (June 9, 1987, 52 FR at 21761). The THDP guidelines define homeless person as a homeless individual or family which does not have access to traditional or permanent housing, but which is capable of living independently within a reasonable period of time, not to exceed 18 months. A person is capable of living independently if, at the time the person is reviewed for admission to transitional housing, the recipient determines that: (1) The resources reasonably expected to be available in the community after the person's anticipated departure from transitional housing will be adequate to meet the person's housing needs and requirements for continued services, and (2) the person will understand the importance, and will be capable, of using these resources after his or her departure from transitional housing.

An application will fall within this funding category if at least 75 percent of the total population of the project to be served by the proposal meets the definition of homeless families with children. $20 million will be available for these applications.

(2) *Applications that propose to serve deinstitutionalized homeless individuals and other homeless individuals with mental disabilities.* For the purposes of this notice, a deinstitutionalized homeless individual or other homeless individual with mental disabilities means an individual who meets the definition of homeless person (as defined in the guidelines cited above) and who has a mental or emotional impairment which is expected to be of long-continued and indefinite duration, is a substantial impediment to his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by a stable residential situation. This term includes a family that meets the definition of homeless person, as defined in the guidelines, if the head of the family (or the spouse of the head of the family) has an impairment as described above. Projects that will serve deinstitutionalized homeless individuals or other homeless individuals with mental disabilities who also suffer from alcoholism or drug addiction may be included in this funding category.

An application will fall within this category if at least 75 percent of the total population to be served by the proposal meets the definition of deinstitutionalized homeless individual or homeless individual with mental disabilities. A total of $30,817,898 will be available for these applications.

(3) *Applications that propose to serve homeless individuals or homeless families that meet the definition of homeless person as defined under the guidelines.* $9.25 million will be available for transitional housing applications that do not compete for funds under category (2) or (3).

HUD will require each applicant to indentify the category within which it wishes to compete. Applications in each category will compete separately for the funds available to the category. Selections will be make by applying the selection process described at 52 FR at 21764–21767 (June 9, 1987) (as modified by this notice) to applications falling within each of the three funding categories. Except for funds allocated for transitional housing for homeless families with children which are subject to a statutory set-aside funding requirement and the $10,817,898 in funds that are available under the Supplemental Appropriations Act, 1987 for transitional housing for deinstitutionalized homeless individuals and other homeless individuals with mental disabilities, if HUD does not receive a sufficient number of fundable applications within a funding category, HUD may use the remaining amounts to fund highly ranked fundable transitional housing applications in one or both of the remaining funding categories.

B. Comprehensive Homeless Assistance Plan

Subtitle A of Title IV of the McKinney Act added a new requirement for a Comprehensive Homeless Assistance Plan (CHAP). Section 401(a) prohibits assistance under the other provisions of Title IV (including SHDP) from being made available to, or within the jurisdiction of States, metropolitan cities or urban counties that are eligible for a formula grant under the Emergency Shelter Grants Program (ESG program) (contained in Subtitle B of Title IV), unless the jurisdicition has a HUD-approved CHAP. (Private nonprofit organizations seeking assistance under certain programs, including SHDP, however, are permitted to apply for and receive assistance without regard to a metropolitan city's or urban county's CHAP approval if the applicable State CHAP has been approved. Under section 401(f), applications for assistance must contain or be accompanied by a certification from the State or from the formula grant city or county, as appropriate, stating that the proposed activities are consistent with the CHAP. HUD has determined that the CHAP requirements are applicable to applications for assistance under this NOFA. (For a discussion of HUD's rationale, see the September 3, 1987 NOFA (52 FR 33536.)

When the September 3, 1987 NOFA was issued, many States and ESG formula grantees had not had an opportunity to obtain initial CHAP approval. In order to comply with congressional directives that transitional housing assistance be available at the earliest possible time, the NOFA permitted applicants to provide a certification that their proposed project was consistent with a CHAP which had been *approved by HUD or submitted to HUD for approval* by the appropriate jurisdiction. States and ESG formula grantees have now had a sufficient opportunity for CHAP approval. Accordingly, HUD will require applicants to submit a certification by the appropriate public official (described below) stating that the application is consistent with the *HUD-approved* CHAP. Potential applicants may obtain information concerning HUD-approved CHAPs by contacting the appropriate HUD field office.

As modified to require consistency with HUD-approved CHAPs, the certification requirements under this NOFA are:

—If the applicant is a State or a formula grantee under the ESG program, the public official responsible for submitting the CHAP for the applicant must certify that the proposed project is consistent with the applicant's HUD-approved plan.

—If the applicant is a governmental entity that is not a State or a formula grantee under the ESG program (for example, a Public Housing Agency) and (1) the governmental entity is applying for assistance to be used within the jurisdiction of an ESG formula grantee, the applicant must submit a certification of the public official responsible for submitting the CHAP for the ESG formula grantee, stating that the proposed project is consistent with the grantee's HUD-approved CHAP, or (2) the governmental entity is applying for assistance to be used outside of the jurisdiction of any ESG formula grantee, the applicant must submit a certification of the public official responsible for the submission of the CHAP for the State in which the assistance is to be provided, stating that the proposed project is consistent with the State's HUD-approved CHAP.

—If the applicant is a private nonprofit organization and the assistance is to be provided within the jurisdiction of an ESG formula grantee, the applicant must submit a certification of the public official responsible for submitting the CHAP for the ESG formula grantee, stating that the proposed project is consistent with the ESG formula grantee's HUD-approved CHAP. If the ESG formula grantee does not have a HUD-approved CHAP, or if the assistance will not be provided within the jurisdiction of an ESG formula grantee, the private nonprofit organization must submit a certification of the public official responsible for submitting the CHAP for the State in which the assistance is to be provided, stating that the proposed project is consistent with the State's HUD-approved CHAP.

C. Historic Preservation

In order to fulfill requirements under the National Historic Preservation Act and related authorities, the THDP guidelines, as amended July 13, 1987 (52 FR 26187) required all applicants to provide a letter from the State Historic Preservation Officer stating that the project would not involve an historic property and would not involve a structure that is immediately adjacent to an historic property. That requirement was modified in the September 3, 1987 NOFA (52 FR 33536). Today's document imposes the same historic preservation requirements as contained in the NOFA.

HUD will not prohibit the use of historic properties for transitional housing projects. Rather, HUD will meet its responsibilities under the National Historic Preservation Act and related authorities as part of its environmental review under 24 CFR Part 50. As an aid to early processing, HUD will require the applicant to indicate in its application whether the project will involve the use of, or be adjacent to, an historic property and, if so, to identify the historic property. For assistance in meeting the application requirement, the applicant should request available information on historic properties from the State Historic Preservation Officer, the local government or any local historic commission or organization.

D. Selection Procedures

Under the THDP guidelines, the selection process has four stages: (1) The application is reviewed to determine if it meets certain threshold requirements; (2) Applications meeting the threshold requirements are ranked in relation to other applications under specified ranking criteria; (3) HUD performs a compliance review on a number of highly ranked applications in accordance with environmental requirements; and (4) HUD makes final selections from those applications that pass the environmental review. This notice modifies the selection process in two ways.

As described above, the THDP guidelines provide for environmental review of highly ranked applications during stage three of the selection process. For funds made available under this NOFA, HUD will perform environmental reviews on all applications simultaneously with the threshold review (stage one). HUD believes that this change will provide a more reasonable and adequate time to perform environmental reviews. To assist in the expeditious environmental review of these applications, applicants will be required to submit applications directly to HUD Headquarters and to the appropriate HUD field office. (See Section IV.E., below.)

As noted in the modification to the September 3, 1987 NOFA (published October 16, 1987 (52 FR 38530)), HUD has found that many meritorious applications are eliminated during the threshold stage because applicants fail to understand the application requirements and selection procedures. This problem emerges largely because many applicants are inexperienced with HUD procedures. HUD believes that many promising applications can be corrected through the provision of assistance during the application processing procedure. HUD believes that this revision to the selection

procedure is essential to permit the use of all of the available funding.

Accordingly, HUD has revised its procedures. Under the revised procedures, HUD will offer assistance to applicants following the submission of their applications to aid them in meeting the following threshold criteria as described in the June 9, 1987 THDP guidelines (52 FR at 21764–65): (1) That these threshold criteria are the ones that most often are misunderstood and are most readily correctable during the time period set for threshold review.

If, during the threshold review, HUD finds deficiencies in the application under any of the cited threshold criteria and determines that the deficiencies are correctable within a reasonable time, HUD will: (1) Contact the applicant, (2) identify the deficiency and explain how the deficiency can be remedied, and (3) provide the applicant with a reasonable time period to correct the application. In addition to this assistance, HUD will continue its current practice of contacting applicants for clarification regarding ambiguities in their application submissions.

E. Application Process

HUD has developed an application package prescribing the information that applicants for transitional housing must submit. The application package will be provided upon the written or oral request of any party made to the Office of Elderly and Assisted Housing at the address set forth in the beginning of this document, or by calling (202) 755–1514 or 755–1525. Hearing or speech-impaired individuals may call HUD's TDD number (202) 426–0015. (These telephone numbers are not toll-free.)

Applications for transitional housing are due on May 17, 1988. In setting this date, HUD balanced the need for the expeditious distribution of funds for the homeless against the concern, expressed by entities developing projects for deinstitutionalized homeless individuals and other homeless individuals with mental disabilities, that HUD provides a sufficient period of time to develop applications. HUD believes that the May 17, 1988 date strikes an appropriate balance between these factors.

Applications must be on the form prescribed by HUD. Applicants will be required to submit two copies of their application to the Department of Housing and Urban Development, Room 9141, 451 Seventh Street SW., Washington, DC 20410, by 5:15 p.m. (E.D.T.), May 17, 1988. Additionally, applicants must submit a copy of the application simultaneously to the appropriate HUD field office (as described in the application package). Applications that are late-filed at HUD Headquarters will be rejected. Applicants that participated in an earlier funding competition will be required to resubmit their applications to be eligible for funding under this notice.

Following the expiration of the May 17, 1988 deadline, HUD Headquarters will review, rate and rank the applications, consistent with the selection criteria described in the THDP guidelines, as modified by this notice. As soon as possible following the submission of applications, HUD will make and announce its final selections.

V. Requirements for Permanent Housing for Handicapped Homeless Persons

The availability of $15 million in funds under the Supplemental Appropriations Act, 1987 was announced in the proposed rule published October 26, 1985 (FR 39946). Today's notice announces the availability of an additional $15 million in funds made available under the Fiscal Year 1988 Appropriations Act. Since applications for the funds made available under the Supplemental Appropriations Act, 1987 are not due until March 31, 1988, today's notice combines the two selection procedures. A total of $30 million is now available for applications for projects for permanent housing for handicapped homeless persons.

As discussed above, HUD has determined that section 426(a) of the McKinney Act authorized the issuance of a proposed rule that established guidelines to govern the permanent housing component of SHDP, pending the issuance of final SDHP rules. Accordingly, the requirements contained in the proposed rule governing permanent housing for handicapped homeless persons (proposed Part 841) (October 26, 1987, 52 FR at 39965–39974) will govern the use of the funds and the selection of applications seeking funding for permanent housing for handicapped homeless persons under both appropriation Acts. Since the requirements for permanent housing differ from those described above for transitional housing, interested persons are advised to consult the proposed rule for specific requirements.

This notice makes one minor revision to the previously announced application procedures. The October 26, 1987 notice provided for a four-stage selection process similar to the selection process used for transitional housing applications. For the same reasons described at Section IV.D. above, HUD will perform environmental reviews on all permanent housing applications simultaneously with the consideration of threshold requirements under the threshold stage of the selection process. To assist in the expeditious environmental review of these applications, applications must be submitted directly to HUD Headquarters *and* to the appropriate HUD field office.

HUD has developed a two-part application package prescribing the information that applicants (*i.e.* States) must submit on behalf of project sponsors (*i.e.* private nonprofit organizations) under the permanent housing program. This package was sent to all State governors and the mayor of the District of Columbia with instructions to designate a State agency to coordinate the application process. An interested private nonprofit organization may obtain an application package only through designated agency. The name, address, and telephone number of the contact person in the appropriate State agency may be obtained by calling (202) 755–1520 or 755–9075. Hearing or speech impaired individuals may call HUD's TDD number (202) 426–0015. (These telephone numbers are not toll free.)

Applications must be on the form prescribed by HUD. Applicants will be required to submit two copies of their application to the Department of Housing and Urban Development, Room 9141, 451 Seventh Street, SW., Washington, DC 20410, and one copy of the application to the appropriate HUD field office, by 5:15 p.m. (E.S.T.) March 31, 1988. Applications that are late-filed at HUD Headquarters will be rejected.

Following the expiration of the March 31, 1988 deadline, HUD Headquarters will review, rate and rank the applications consistent with the selection procedure described at §§ 841.207–841.225 of the proposed rule (October 26, 1987, 52 FR at 39969–39972), as modified by this Notice. HUD will make and announce its final selections as soon as possible following the submission of applications.

VI. Other Information

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implements section 102(2) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection in the Office of the General Counsel, Rules Docket Clerk, at the above address.

The information collection requirements contained in this notice have been approved by the Office of Management and Budget under the

provisions of the Paperwork Reduction Act of 1960 (44 U.S.C. 3501–3520). The OMB control number is 2502–0361.

The Catalog of Federal Domestic Assistance Number is 14.178.

Authority: Title IV, Subtitle C of the Stewart B. McKinney Homeless Assistance Act, Pub. L. 100–77, approved July 22, 1987; section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: February 8, 1988.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 88–3235 Filed 2–12–88; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-88-1648; FR-2271]

Notice Announcing the Selection of a Private Organization to Develop Model Manufactured Housing Construction and Safety Standards

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice; announcement of HUD's selection of a private organization to develop model manufactured housing construction and safety standards.

SUMMARY: HUD published a Notice in the **Federal Register** of February 13, 1987 (52 FR 4663) that requested proposals from private organizations to develop and maintain model standards that HUD would consider for adoption into the Federal Manufactured Housing Construction and Safety Standards (FMHCSS) adopted pursuant to the National Manufactured Home Construction and Safety Standards Act of 1974 (Act). HUD has selected the Council of American Building Officials (CABO) to be that organization. In response to public comments, HUD is clarifying the role of CABO to assure the development of consensus industry standards that reflect a balance of affected industry, consumer, public, and engineering interests.

HUD will retain the responsibility and authority to promulgate and enforce revisions to the FMHCSS, after notice and comment rulemaking.

FOR FURTHER INFORMATION CONTACT: Mark W. Holman, Director, Manufactured Housing and Construction Standards Division, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–8000, telephone (202) 755–5210. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Selection of CABO as a Private Organization to Develop Model Manufactured Housing Standards

This Notice announces HUD's selection of the Council of American Building Officials (CABO) of Falls Church, Virginia as an organization to develop model manufactured housing construction and safety standards.

HUD received three proposals in response to a **Federal Register** Notice that requested an organization to develop and maintain model standards for the FMHCSS. (The Notice was published in the **Federal Register** of February 13, 1987 (52 FR 4663).) Individual proposals were received from CABO and from the American Society for Testing and Materials (ASTM). A joint proposal was received from the National Conference of States on Building Codes and Standards (NCSBCS) and the National Fire Protection Association (NFPA). HUD also considered a proposal from Underwriters Laboratories, Inc. that was received in 1982 in response to a **Federal Register** Notice of July 7, 1982 (47 FR 29605) that also requested proposals to develop and maintain the FMHCSS. (Of the commenters to the July 1982 Notice that submitted proposals, Underwriters Laboratories was the only commenter that did not submit a new proposal in response to the February 1987 Notice.)

HUD wanted to ensure that some knowledgeable organization was available to suggest new standards under the Act to the Department. HUD selected CABO for several reasons. First, CABO has wide experience in model standards development. The CABO One and Two Family Dwelling Code and the CABO Model Energy Code are well-known examples of CABO's expertise in model standards development. Second, CABO has procedures for processing annual revisions. Third, CABO has demonstrated a commitment to select members to a new Model Standards committee that represents a balance of varied interests in manufactured housing regulation, including manufactured housing producers, design and engineering professionals, State and local building officials, and consumer organizations. Fourth, CABO is experienced in organizing model standards committees for all disciplines pertinent to the revision of the FMHCSS—structural, fire safety, energy, mechanical, electrical, seismic, plumbing, and transportation. Finally, CABO has experience in developing programs for the evaluation of relevant test data for all types of building materials, products, components, and systems.

In accordance with the February 13, 1987 Notice, CABO has volunteered, without compensation, to develop and submit for HUD's consideration model Manufactured Housing Construction and Safety Standards by February 1, 1989. There is no agreement between HUD and CABO obligating CABO to develop the model standards, nor for HUD to use them or to pay for their development. If any portions of the model standards are considered for incorporation into the FMHCSS, they will be reviewed by the National Manufactured Housing Advisory Council and will be published in both the proposed and final rule stages in the **Federal Register**. No responsibility to provide interpretations of the FMHCSS will be delegated to CABO.

Although CABO was selected under the notice of February 13, 1987 to develop standards, the Department will consider standards developed by other organizations on an equal basis with standards developed by CABO for incorporation into FMHCSS. The Department does not consider CABO as an exclusive or preferred source of model standards. Interested organizations may submit model standards for consideration to HUD at any time.

II. Public Comments

The Department also received 37 comments, in addition to the three proposals, in response to the February 13, 1987 Notice. This section will address these comments and discuss certain changes to the proposal that have been made in response thereto.

1. *Adoption of the CABO Model standards would comply with all applicable laws.* Several commenters contended that OMB Circular A–119 specifically excludes the use of model industry standards to replace Federal standards mandated by law. According to these commenters, HUD's incorporation by reference of model standards as a replacement for the FMHCSS would violate both the OMB Circular and section 604 of the National Manufactured Housing Construction and Safety Standards Act.

We believe that these concerns are without foundation. Neither the OMB Circular nor the Act prohibits the use of model industry standards for the revision of the FMHCSS. Section 604 of the Act sets forth various requirements that apply to revisions to the FMHCSS, such as notice and comment rulemaking. HUD intends to comply fully with all provisions of the Act if and when it

incorporates the CABO Model Standards.

With respect to the OMB Circular, paragraph 7(a)(1) of the Circular states that "[v]oluntary standards that will serve agencies' purposes and are consistent with applicable laws and regulations should be adopted and used by Federal agencies in the interests of greater economy and efficiency, unless they are specifically prohibited by law from doing so." 47 FR 49498. Any future rulemaking by HUD to revise the FMHCSS (including revisions based on portions of the CABO Model Standards) will be consistent with that provision in the OMB Circular. Additionally, on November 3, 1987 the Office of General Counsel of the Department of Commerce found no conflict between this Notice and the policy established in OMB Circulr A-119.

2. *The entire text of any portion of the CABO Model Standards included in FMHCSS revisions will be published in the* **Federal Register** *at both the proposed and final rulemaking stages.* In response to the concerns expressed in the comments, HUD has reconsidered its position set forth in the February 1987 Notice. Any portion of the CABO Model Standards that is to be incorporated in the FMHCSS will be published in the **Federal Register** in both proposed and final form.

3. *Any future HUD rulemaking for the revision of the FMHCSS (including rulemaking that incorporates portions of the CABO Model Standards) will be subject to the requirements of Executive Order 12291.* Several commenters argued that incorporation of the CABO Model Standards would violate Executive Order 12291. These commenters expressed concern that HUD would rely on CABO committee proceedings, the publication of the CABO Model Standards, and the full incorporation by reference of the CABO Model Standards into Part 3280 as a mechanism for avoiding cost-benefit analyses or the preparation of Regulatory Impact Analyses (required for "major rules") under Executive Orfer 12291.

The requirements of Executive Order 12291 (including the preparation of a Regulatory Impact Analysis) do not apply to departmental actions taken prior to the proposed rulemaking stage. If a proposed rule revising the FMHCSS that includes portions of the CABO Model Standards meets the threshold standard for a "major rule" under the Executive Order, HUD, of course, will prepare a Regulatory Impact Analysis for OMB review and approval before publication of the proposed revision in the **Federal Register**.

4. *Any future HUD revisions of the FMHCSS that include portions of the CABO Model Standards will preempt State and local manufactured housing standards.* Several commenters complained that the use of the CABO Model Standards would result in FMHCSS revisions that no longer preempt State and local manufactured housing standards.

Under section 604(d) of the Act, the FMHCSS preempts all State and local manufactured housing standards that regulate the same aspect of a performance as the Federal standards. Any FMHCSS revisions that include portions of the CABO Model Standards will continue to preempt State and local standards to the same extent.

5. *The CABO committee selected to develop model manufactured housing standards will reflect a wide range of interests and will not replace the National Manufactured Home Advisory Council.* Several commenters expressed concern that the CABO committee would not reflect various industry interests and would duplicate or supplant the functions of the National Manufactured Home Advisory Council.

Under section 605 of the Act, the Secretary of HUD must consult, to the extent feasible, the National Manufactured Home Advisory Council before establishing, amending, or revoking any manufactured home standards. Accordingly, the Advisory Council will be consulted before HUD adopts any Model Standards. The CABO committee will not function in this role.

After being selected by HUD, a new CABO Committee was established and nominations for committee members were sought by CABO from all appropriate interests involved in manufactured housing.

The CABO committee will include seventeen members and will be representative of the following interests:

1. Local or State building inspectors (three). These members will be active code enforcement personnel (building inspection or fire protection) from local or State governments whose jurisdiction includes manufactured housing.

2. Manufactured home producers (threee). These members will be employed actively by producers of manufactured homes and may be systems designers, architects, or engineers.

3. Design professionals (three). These members will be registered or licensed architects or engineers and may be employed actively by a Design Approval Primary Inspection Agency (DAPIA), a manufactured home producer, a product or component manufacturer, or an independent systems designer.

4. A labor representative, interested in manufactured housing production (one).

5. Consumer representative (one). This member will be from an association of owners of manufactured homes, the insurance industry, the American Association of Retired Persons, or a Federal, State, or local agency that procures manufactured homes.

6. Federal or State government officials involved with manufactured housing regulation (three).

7. Research or testing professional (one). This member will be from a DAPIA, architectural or engineering firm, or testing organization.

8. Distributor or installer of manufactured homes (one).

9. Insurer of manufactured homes (one).

Nominations were received by CABO from all segments of the manufactured housing industry. On November 19, 1987, CABO announced the following membership for the CABO Manufactured Home Construction and Safety Standards Committee:

1. Local or State Building Inspectors
   - J. Barry Archer, Director, Inspection Services, Prince William County, VA.
   - Gary L. Pringey, Deputy Director, Department of Codes Administration and Building Safety, Summit County, CO.
   - Owen K. Tharrington, Jr., Deputy Commissioner, Manufactured Housing Division, Department of Insurance, State of North Carolina, Raleigh, NC.
2. Manufactured Home Producers
   - Danny D. Ghorbani, President, Association for Regulatory Reform, Washington, DC.
   - William M. Hug, Chief Engineer, Cavco Industries, Inc., Phoenix, AZ.
   - John G. Sims, Federal Compliance engineer, Champion Home Builders CO., Dryen, MI.
3. Design Professionals
   - Earl A. Ferguson, P.E., President, Compliance Systems Publications, Inc., Atlanta, GA.
   - Ned C. Myers, P.E., President, Progressive Engineering, Inc, Goshen, IN.
   - Ed Starostovic, P.E., President, PFS Corporation, Madison, WI.
4. Labor
   - Michael P. Fishman, United Brotherhood of Carpenters and Joiners of America, Washington, DC.
5. Consumer
   - Leonard G. Wehrman, Vice Chairman for Government and Industry

Relations, National Mobile/Manufactured Home Owners Foundation, Daly City, CA.

6. Federal/State Government
Samuel J. Hodges III, A.I.A., Program Support Staff, Farmers Home Administration, U.S. Department of Agriculture, Washington, DC.
Mark W. Holman, Director, Manufactured Housing and Construction Standards Division, U.S. Department of Housing and Urban Development, Washington, DC.
Buck Jones, Chief, Bureau of Mobile Home and Recreational Vehicle Construction, Division of Motor Vehicles, Department of Highway Safety and Motor Vehicles, State of Florida, Tallahassee, FL.

7. Research/Testing
Walter A. Haas, P.E., Director, Codes and Technical Services, Underwriters Laboratories, Inc., Northbrook, IL.

8. Distributor/Installer
Maureen Wagner, Owner, Heritage Mobile Homes, Inc., Rockford, MN.

9. Insurance
(Member to be selected)

6. *Since the CABO committee will include a wide variety of affected organizations in the manufactured housing industry, the CABO Model Standards should reflect industry consensus standards.* Several commenters alleged that any manufactured housing standards developed by a voluntary standards organization would restrict innovation in the industry, would resemble site-built housing standards, and would add unnecessary costs to manufactured housing production.

HUD, however, believes that the prior success of CABO in developing model codes and the wide range of industry interests represented on the CABO committee will enable it to produce manufactured housing standards that represent a fair consensus among the various interests affected. Further, the opportunity for public comment on any portion of the CABO Model Standards in proposed FMHCSS revisions will provide a mechanism for public scrutiny of the CABO Model Standards.

7. *The CABO Committee will develop performance-based standards that reflect technological developments for cost-effective production.* Some commenters expressed concern that under the procedures stated in the HUD Notice, the FMHCSS, performance-based standards and the wide latitude provided in the FMHCSS for innovative designs, quick adoption of new materials and methods, and the use of less expensive products would be eliminated.

These concerns are unfounded. As described in CABO's proposal, its Model Standards will be designed to emphasize performance-based standards and to reflect recent technological developments for the cost-effective production of manufactured housing.

This Notice is listed as item 967 in the Department's Semiannual Agenda of Regulations published on October 26, 1987 (52 FR 40358, 40377) under Executive Order 12291 and the Regulatory Flexibility Act.

Authority: Section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5403.

Dated: January 29, 1988.

James E. Schoenberger,
General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 88-3207 Filed 2-12-88; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision and Update of Systems of Records Compilation

This notice updates and revises the information which the Department of the Interior has published describing systems of records maintained which are subject to the requirements of section 3 of the Privacy Act of 1974, as amended, 5 U.S.C. 552a. As noted below, all changes being published are editorial in nature, and reflect organization changes which have occurred since the previous publication of the material in the **Federal Register**.

The Appendix to the complication of the Department's systems of records notices contains the addresses of Departmental facilities which are referenced in various systems notices. Parts I through V of the Appendix (previously published in the **Federal Register** on August 21, 1980 (45 FR 55831) and May 3, 1983 (48 FR 19943)) are revised, updated, and published below.

Since these changes do not involve any new or intended use of the information in the Department's systems of records, the revisions shall be effective upon publication in the **Federal Register**. Additional information regarding these revisions may be obtained from the Department Privacy Act Officer, Office of the Secretary (PMA), Room 7357, Main Interior Building, U.S. Department of the Interior, Washingtn, DC 20240.

Dated: February 4, 1988.

Oscar W. Mueller, Jr.,
Director, Office of Management Analysis.

Appendix

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I. OFFICE OF THE SECRETARY

(All addresses are as follows unless otherwise indicated: U.S. Department of the Interior, 18th and C Streets NW., Washington, DC 20240.)

A. Immediate Office of the Secretary.
B. Office of the Under Secretary.
C. Office of the Assistant Secretary for Fish and Wildlife and Parks.
D. Office of the Assistant Secretary—Land and Minerals Management.
E. Office of the Assistant Secretary—Water and Science.
F. Office of Assistant Secretary—Policy, Budget and Administration.
G. Office of Assistant Secretary—Indian Affairs.
H. Office of Assistant Secretary—Territorial and International Affairs.
I. Office of Congressional and Legislative Affairs.
J. Office for Equal Opportunity.
K. Office of Public Affairs.
L. Office of Small and Disadvantaged Business Utilization.
M. Office of Youth Programs.
N. Office of Budget and Finance
1. Office of Budget
2. Office of Financial Management
3. Budget Execution Staff.
O. Office of Management Improvement.
1. Office of Information Resources Management
2. Office of Acquisition and Property Management
3. Office of Construction Management
4. Office of Management Analysis
5. Division of Enforcement and Security Management.
P. Office of Management Services
1. Office of Administrative Services
2. Office of Personnel
3. Office of Aircraft Services, 3905 Vista Avenue, Boise, Idaho 83705
4. Division of Personnel Services.
Q. Office of Policy Analysis.
R. Office of Environmental Project Review.

II. OFFICE OF THE SOLICITOR

A. Headquarters Office:
Office of the Solicitor, U.S. Department of the Interior, 18th and C Streets NW., Washington, DC 20240.
B. Field Offices:
Regional Solicitor, U.S. Department of the Interior, 701 C Street, Anchorage, AK 99513
Regional Solicitor, U.S. Department of the Interior, Room E-2753, 2800 Cottage Way, Sacramento, CA 95825
Regional Solicitor, U.S. Department of the Interior, P.O. Box 25007, Denver Federal Center, Denver, CO 80225
Regional Solicitor, U.S. Department of the Interior, Richard B. Russell Federal

Builing, 75 Spring Street, SW., Suite 1328, Atlanta GA 30303
Regional Solicitor, U.S. Department of the Interior, Suite 612, One Gateway Center, Newton, Corner, MA 02158
Regional Solicitor, U.S. Department of the Interior, Room 3068, Page Belcher Federal Building, 333 West 4th Street, Tulsa, OK 74103
Regional Solicitor, U.S. Department of the Interior, Lloyd 500 Building, Suite 607, 500 NE., Multnomah, Portland, OR 97232
Regional Solicitor, U.S. Department of the Interior, Suite 6201, Federal Building, 125 South State Street, Salt Lake City, UT 84138
Field Solicitor, U.S. Department of the Interior, Suite 150, 505 North Second St., Phoenix, AZ 85004
Field Solicitor, U.S. Department of the Interior, P.O. Box M, Window Rock, AZ 86515
Field Solicitor, U.S. Department of the Interior, Box 36064, 450 Golden Gate Avenue, Room 14126, San Francisco, CA 94102
Field Solicitor, U.S. Department of the Interior, Box 020, Federal Building, U.S. Courthouse, 550 West Fort Street, Boise, ID 83724
Field Solicitor, U.S. Department of the Interior, 686 Federal Building, Twin Cities, MN 55111
Field Solicitor, U.S. Department of the Interior, Room 5431, Federal Building, 316 N. 26th Street, Billings, MT 59101
Field Solicitor, U.S. Department of the Interior, P.O. Box 1042, Santa Fe, NM 87504
Field Solicitor, U.S. Department of the Interior, Osage Agency, Grandview Avenue, Pawhuska, OK 74056
Field Solicitor, U.S. Department of the Interior, Suite 502J, U.S. Post Office and Courthouse, Pittburgh, PA 15219
Field Solicitor, U.S. Department of the Interior, P.O. Box 15006, Knoxville, TN 37901
Field Solicitor, U.S. Department of the Interior, 1100 South Fillmore, Amarillo, TX 79101
Field Solicitor, U.S. Department of the Interior, 603 Morris Street, 2nd Floor, Charleston, WV 25301

III. OFFICE OF HEARINGS AND APPEALS

A. Headquarters Office:
Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203.

B. Field Offices:
Administrative Law Judge, 1111 Northshore Drive, Suite 202, Bldg. #1, Knoxville, TN 37919
Administrative Law Judges, 6432 Federal Bldg., Salt Lake City, UT 84138
Administrative Law Judge, (Indian Probate), Federal Bldg., Rm 3427, 230 N. First Ave., Phoenix, AZ 85025
Administrative Law Judge (Indian Probate), 2020 Hurley Way, Suite 150, Sacramento, CA 95825
Administrative Law Judge (Indian Probate), Federal Building, Rooms 674 and 688, Fort Snelling, Twin Cities, MN 55111
Administrative Law Judge (Indian Probate), 421 Gold SW, Rm 303, Alburquerque, MN 87102
Administrative Law Judge (Indian Probate), 215 Dean A. McGee Ave., Rm. 712, Oklahoma City, OK 73102
Administrative Law Judge (Indian Probate), 1425 NE. Irving St., Bldg. 100, Suite 112, Portland, OR 97232
Administrative Law Judge (Indian Probate), Federal Bldg. & Courthouse, 515 9th St., Suite 201, Rapid City, SD 57701
Administrative Law Judge (Indian Probate), Federal Bldg. & Courthouse, Rm 3329, 316 N. 26th St., Billings, MT 59101.

IV. OFFICE OF INSPECTOR GENERAL

Headquarters Office: Office of Inspector General, U.S. Department of the Interior, 18th & C Streets NW, Washington, DC 20240.

V. [Reserved]

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[FR Doc. 88-3118 Filed 2-12-88; 8:45 am]

BILLING CODE 4310-RK-M

Privacy Act of 1974—Revision of Notices of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise four notices describing systems of records maintained by the U.S. Geological Survey. Except as noted below, all changes being published are editorial in nature, clarify and update existing statements, and reflect organization, address, and other miscellaneous administrative revisions which have occurred since the previous publication of the material in the **Federal Register.** The four notices being revised, which are published in their entirety below, are:

1. USGS-9 (formerly EGS-9); National Research Council Grants Program—Interior, USGS-9 (formerly published on Janaury 18, 1983; 48 FR 2212).
2. USGS-16 (formerly EGS-16); office of Minerals Exploration (OME) Financial Assistance Applications—Interior, USGS-16 (formerly published on January 7, 1982; 47 FR 864).
3. USGS-23 (formerly EGS-23); Personnel Investigations Records—Interior, USGS-23 (formerly published on January 7, 1982; 47 FR 866).
4. USGS-24; Employee Work Report Edit and Individual Employee Production Rates—Interior, USGS-24 (formerly published on October 2, 1986; 51 FR 35301).

In three of the notices published below (USGS-9, USGS-16, and USGS-23), the existing routine disclosure statement for litigation purposes is revised to incorporate the clarification on such disclosures prescribed by the Office of Management and Budget (OMB) in its supplementary guidelines dated May 24, 1985, for implementing the Privacy Act. Also, in the same three notices the retention and disposal statements are amended to conform to guidelines issued by the Assistant Archivist for Records Administration, National Archives and Records Administration, in his memorandum to Agency Records Officers dated June 11, 1985.

Since these changes do not involve any new or intended use of the information in the systems of records, the notices shall be effective upon publication in the **Federal Register.** Additional information regarding these revisions may be obtained from the Department Privacy Act Officer, Office of the Secretary (PMA), Room 7357, Main Interior Building, U.S. Department of the Interior, Washington, DC 20240.

Oscar W. Mueller, Jr.,
Director, Office of Management Analysis.

Dated: February 4, 1988.

INTERIOR/USGS-9

SYSTEM NAME:

National Research Council Grants Program—Interior, USGS-9.

SYSTEM LOCATION:

Office of the Chief Geologist, Geologic Division, U.S. Geological Survey, National Center, Mail Stop 912, Reston, Virginia 22092

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals considered for grants made through the National Research Council, who perform research assignments on behalf of the Geological Survey.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, address, and office name where employed of person performing work on a research assignment for the Geological Survey. Records included are: The research proposal; internal memoranda; correspondence between the National Research Council and the applicant; travel requests, if appropriate; and includes documentation for renewal of assignment, if applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

43 U.S.C. 31 et seq., 5 U.S.C. 3101

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to evaluate individuals being considered for grants made through the National Research Council. Disclosures outside the Department of the Interior may be

made: (1) To the National Research Council for evaluation purposes; (2) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in suhc litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (3) disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (4) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (6) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual system maintained in files showing data on Research Associates who perform research assignments on behalf of the Geological Survey under this program.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are disposed of periodically as prescribed under Bureau Records Disposition Schedule RCS/Item 802–06b and 802–07.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief Geologist, Geologic Division, U.S. Geological Survey, National Center, Mail Stop 912, Reston, Virginia 22092.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority of 5 U.S.C. 552a(k)(5), the Department of the Interior has adopted a regulation (43 CFR 2.79(c)(2)) which exempts this system from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f) to the extent that the system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for federal civilian employment. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

Interior/USGS-16

SYSTEM NAME:

Office of Minerals Exploration (OME) Financial Assistance Applications—Interior, USGS–16.

SYSTEM LOCATION:

Office of Minerals Exploration, Geologic Division, U.S. Geological Survey, Denver Federal Center, Mail Stop 922, Denver, CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for financial assistance to explore mineral deposits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information furnished by the applicant in support of a loan application including financial eligibility, rights in land to be explored, operating experience and background to conduct the proposed exploration work.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 85–701, 30 U.S.C. 642.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of these records is to evaluate applications for loans to conduct exploration projects. Disclosure outside the Department of the Interior may be made (1) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) to disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders in metal filing cabinets.

RETRIEVABILITY:

Indexed by name of individual applicant and by docket number assigned to each applicant.

SAFEGUARDS:

Maintained in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Complete file is retained until decision is reached on denial or approval. If denied or after period of contract obligation for royalty payments to the Government has expired—a period of ten years or more—file should be stripped of non-technical material and placed in permanent storage. Discarded material is destroyed in accordance with the Bureau Records Disposition Schedule, RCS/Item 1900–01.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Minerals Exploration, Geologic Division, U.S. Geological Survey, Denver Federal Center, Mail Stop 922, Denver, CO 80225.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Same as the above. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Applicant on whom the file is maintained.

Interior/USGS-23

SYSTEM NAME:

Personnel Investigations Records—Interior, USGS-23.

SYSTEM LOCATION:

Security Office, Administrative Division, U.S. Geological Survey, National Center, Mail Stop 150, Reston, VA 22092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Current Geological Survey employees who (a) have been granted access to classified information; (b) are selected applicants considered for access to classified information; (c) are selected applicants found unsuitable for access to classified information because unfavorable information was developed during the conduct of their security investigations; (d) are selected employees fulfilling sensitive or critical-sensitive positions not requiring access to classified information.

2. Former Geological Survey employees who (a) have been granted access to classified information, and (b) unfavorable or questionable information was disclosed as a result of a security investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain investigative information regarding an individual's character, conduct, and behavior in the community where he or she lives or lived; arrests and convictions for any violations against the law; reports of interviews with present and former supervisors, co-workers, associates, educators, etc.; reports about the qualifications of an individual for a specific position; reports of inquiries with or from law enforcement agencies, employers, and educational institutions attended; foreign affiliations which may affect his or her loyalty to the United States; and other information developed from the above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The contents of these records and files may be disclosed and used as follows: (1) To designated officials, officers, and employees of the USGS, DOI, OPM, DOE, CIA, FBI, and all other agencies and departments of the Federal Government who in the performance of their duties have an interest in the individual for employment purposes, including a security clearance or accesss determination, and a need to evaluate qualifications, suitability, and loyalty to the United States Government; (2) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (3) to disclose pertinent information to an appropriate Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, regulation, rule, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (4) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All investigative records are maintained in file folders stored in Class 5 security containers having manipulation resistant combination locks.

RETRIEVABILITY:

All records are indexed by surname in alphabetical order.

SAFEGUARDS:

The card index for this system of records in contained in a metal cabinet with a secure key locking device; the key is secured in a Class 5 security container. All containers and cabinets are further secured in a windowless room having one doorway which is secured by a key locking device. Both the key locking devices and combinations to the Class 5 security containers are under stringent security controls.

RETENTION AND DISPOSAL:

(a) OPM background investigative files supporting secret-sensitive decompartmented information and top secret-infrequent access to sensitive compartmented information are retained until the awarded security clearance or employment is terminated. All other OPM investigative files are routinely destroyed within 90 days after receipt or upon completion of the adjudication action, which ever occurs last. Disposition of files is made in accordance with the Bureau Records Disposition Schedule, RCS/Item 306-15b.

(b) All information, supplementing the above OPM investigative files, originated by the Geological Survey, is retained for two years following termination of awarded security clearance or employment, whichever occurs first, and is then destroyed. Disposition of files is made in accordance with the Bureau Records Disposition Schedule, RCS/Item 306-15a.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer/Alternate Security Officer, Administrative Division, U.S. geological Survey, National Center, Mail Stop 150, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Written inquiries to the System Manager are required and must include the following information in order to positively identify the individual whose records are requested: (1) Full name, (2) date of birth, (3) place of birth, (4) any available information regarding the type of record requested. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

An individual can obtain information on the procedures for gaining access to and contesting the records from the above System Manager, See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

Same as above. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from the following categories of sources; (1) Applications and other personnel and security forms furnished by the individual, (2) Results of investigations and other material furnished by Federal agencies, (3) Notices of personnel actions initiated within the Geological Survey.

Interior/USGS-24

SYSTEM NAME:

Employee Work Report Edit and Individual Employee Production Rates—Interior, USGS-24.

SYSTEM LOCATION:

1. Eastern Mapping Center, National Mapping Division, U.S. Geological Survey, National Center, Mail Stop 567, Reston, Virginia 22092.

2. Mid-Continent Mapping Center, National Mapping Division, U.S. Geological Survey, 1400 Independence Road, Rolla, Missouri 65401.

3. Rocky Mountain Mapping Center, National Mapping Division, U.S. Geological Survey, Box 25046, Mail Stop 510, Denver, Colorado 80225.

4. Western Mapping Center, National Mapping Division, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California 94025.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Production employees in Mapping Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, social security number, cost and production rates, hours, and square miles mapped by individual production employee in each of the offices listed above, as well as Geological Survey professionals (geographers, cartographers, etc.) who conducted research and investigations for which results are published in Geological Survey reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3010; 43 U.S.C. 31, 1467.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for analysis of cost and production rate for individual employees and for units of National Mapping Division. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department or, when represented by the Government, an employee of the Department is party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violating or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies, responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefits; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on punched cards, magtape, and disc.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access restricted to authorized persons only from locked storage.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 102-01.

SYSTEM MANAGER(S) AND ADDRESS:

1. Chief, Branch of Program Management, Eastern Mapping Center, National Mapping Division, U.S. Geological Survey, National Center, Mail Stop 567, Reston, Virginia 22092.

2. Chief, Branch of Program Management, Mid-Continent Mapping Center, National Mapping Division, U.S. Geological Survey, 1400 Independence Road, Rolla, Missouri 65401.

3. Chief, Branch of Program Management, Rocky Mountain Mapping Center, National Mapping Division, U.S. Geological Survey, Box 25046, Mail Stop 510, Denver, Colorado 80225.

4. Chief, Branch of Program Management, Western Mapping Center, National Mapping Division, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California 94025.

NOTIFICATION PROCEDURE:

A request for notification shall be addressed to the appropriate System Manager. See 43 CFR 2.60 for submission requirements.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the appropriate System Manager. See 43 CFR 21.63 for submission requirements.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager. See 43 CFR 2.71 for submission requirements.

RECORD SOURCE CATEGORIES:

Data from work report prepared by individuals.

[FR Doc. 88-3120 Filed 2-12-88; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

[AA-620-08-4211-12-24-10]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer and to the Office of Management and Budget desk office, at (202) 395-7340.

Title: Oil and Gas Leasing—National Petroleum Reserve—Alaska

Abstract: Respondents supply information which will be used to determine the eligibility of an applicant to hold lease, to explore for, and produce oil and gas in the National Petroleum Reserve-Alaska under the authority of the Department of the Interior Appropriations Act of 1981.

Bureau Form Numbers: N/A

Frequency: On Occasion

Description of Respondents: General Public, small businesses, and oil companies.

Annual Responses: 150

Annual Burden Hours: 150

Bureau Clearance Officer: Richard Iovaine (202) 653-8853

Date: January 25, 1988

A.A. Sokoloski

Acting Assistant Director, Energy and Mineral Resources.

[FR Doc. 88-3121 Filed 2-12-88; 8:45 am]

BILLING CODE 4310-84-M

[CO-030-07-4322-10-1784]

Montrose District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of Montrose District Grazing Advisory Board.

SUMMARY: Notice is hereby given that a meeting of the Montrose District Grazing

Advisory Board will be held in Montrose, Colorado.

DATE: Friday, March 18, 1988, at 10:00 a.m., the meeting will convene in the conference room at the Montrose District Office, 2465 South Townsend, Montrose, Colorado.

SUPPLEMENTARY INFORMATION: The agenda for the meeting on March 18, 1988, will include:

1. Introduction.
2. Election of officers.
3. New or revised allotment management plan proposals.
4. Update on Gunnison and Uncompahgre RMPs.
5. Report on HRM tour.
6. Issues relating to the range management program.
7. New Advisory Board project proposals.
8. Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 10:00 a.m. and 11:00 a.m. on March 18, 1988, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 2465 South Townsend, Montrose, Colorado 81401, by March 16, 1988. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Further information on the meeting may be obtained at the above address or by calling (303) 249-7791.

Dated: February 4, 1988.

Alan L. Kesterke,

District Manager.

[FR Doc. 88-3123 Filed 2-12-88; 8:45 am]

BILLING CODE 4310-JB-M

[NM-943-08-4111-13; NM NM 55960]

Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87504. Under the provisions of 43 CFR 3108.2-3, Folson Exploration Company, petitioned for reinstatement of oil and gas lease NM NM 55960 covering the following described lands located in Lea County, New Mexico:

T. 19 S., R. 33 E., NMPM, New Mexico,

Sec. 24, NE¼NW¼.

Containing 40.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of $500.00 has been paid. Future rentals shall be at the rate of $5.00 per acre per year and commencing March 1, 1988, rental will be at the rate of $7.00 per acre, or fraction of an acre, per year pursuant to 43 CFR 3103.2-2(j). Royalties shall be at the rate of 16⅔ percent. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reimbursement of the lease will be effective as of the date of termination, March 1, 1985.

Date: February 3, 1988.

Tessie R. Anchondo,

Chief, Adjudication Section.

[FR Doc. 88-3142 Filed 2-12-88; 8:45 am]

BILLING CODE 4310-FB-M

[NV-930-08-4212-14; N-47766]

Battle Mountain District, Tonopah Resource Area, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty Action; Noncompetitive Sale of Federal Lands in Nye County, NV.

SUMMARY: This notice supersedes Federal Register document 87-29318, appearing at 52 FR 48579 on December 23, 1987. In response to a request from the Nye County Board of County Commissioners, the following described Federal lands have been identified as suitable for district sale under Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 at not less than the appraised fair market value.

Mount Diablo Meridian

T. 12 S., R. 46 E.,

Section 24, S½SW¼SW¼.

A parcel of land containing 20 acres.

Nye County plans to use these lands for an expansion of the Beatty Airport.

These lands are not required for any Federal purpose. Disposal is consistent with the Bureau's planning for this area and would be in the public interest. No conflicts with State or local plans have been identified. The grazing lessee will be given the two-year notification prescribed in Section 402(g) of the Federal Land Policy and Management Act of 1976.

Minimum bid for this parcel will be fair market value which will be determined by an appraisal and which will be made available prior to the sale.

The lands described in the Notice will not be offered for sale until all required environmental, archaeological, and mineral clearances are completed. Under no circumstances will these lands be sold sooner than 60 days after publication of this notice.

Segregation: Upon publication of this Notice in the **Federal Register** the above-described Federal lands will be segregated from all forms of appropriation under the public land laws, including locations under the mining laws.

Comments: 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, Bureau of Land Management, P.O. Box 1420, Battle Mountain, NV 89820. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Date signed: January 29, 1988.

Terry L. Plummer,

District Manager, Battle Mountain, Nevada.

[FR Doc. 88-3139 Filed 2-12-88; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Meetings of Klamath River Basin Fisheries Task Force and Klamath Fishery Management Council

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), this notice announces meetings of the Klamath River Basin Fisheries Task Force and the Klamath Fishery Management Council, both established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*) The meetings are open to the public.

DATES:

The *Task Force* meeting will be held from 9:00 A.M. to 4:00 P.M., Tuesday, March 1, 1988.

The *Management Council* meeting will be held from 9:00 A.M. to 4:00 P.M., Thursday, March 3, 1988.

ADDRESSES:

The *Task Force* meeting will held at the Brookings Inn, 1143 Chetco Avenue (Highway 101), Brookings, Oregon.

The *Management Council* meeting will be held at the Eureka Inn, 7th and F Streets, Eureka, California.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, Klamath Field Office, U.S. Fish and Wildlife Service, 1312 Fairlane Road, Yreka, California 96097, telephone (916) 842-5763.

SUPPLEMENTARY INFORMATION: For background information on the Task Force and Management Council, please refer to the notice of their initial meetings that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639). During the March 1 meeting, the Task Force will discuss proposed amendments to the Klamath River Basin Fishery Resources Restoration Act, review fishery restoration projects now in place in the Klamath River Basin, develop budget information for Fiscal Year 1989 and subsequent years, and consider options for long range planning of the Klamath River Basin Conservation Area Restoration Program, and address other pertinent topics.

During the March 3 meeting, the Management Council will review final estimates of the 1987 harvest of Klamath Basin chinook salmon and the 1987 fall chinook salmon spawning escapement, discuss management options for the 1988 harvest of Klamath Basin fall chinook salmon, and address other pertinent topics.

Dated: February 8, 1988.

Wally Steucke,

Assistant Regional Director.

[FR Doc. 88-3117 Filed 2-12-88; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Mines

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirements should be made within 30 days directly to the Bureau Clearance Officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7340.

Title: Industrial Minerals Surveys.

Abstract: Respondents supply the Bureau of Mines with domestic production and consumption data on nonfuel mineral commodities. This information is published in Bureau and Mines publications including the Mineral Industry Surveys (MIS), Minerals Yearbook Volumes I, II, and III, Mineral Facts and Problems, Mineral Commodity Summaries, Mineral Commodity Profiles, and Minerals and Materials/A Bimonthly Survey for use by private organizations and other government agencies.

Bureau Form Number: 6-1221-A ET AL (39 Forms).

Frequency: Monthly, Quarterly, Semiannual, Biennial and Annual.

Description of Respondents: Producers and Consumers of Industrial Minerals.

Annual Responses: 16,208.

Annual Burden Hours: 10,993.

Bureau Clearance Officer: James T. Hereford (202) 634-1125.

February 8, 1988.

David S. Brown,

Deputy Director.

[FR Doc. 88-3137 Filed 2-12-88; 8:45 am]

BILLING CODE 4310-53-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31186]

Midsouth Corp.; Continuance in Control; Exemption; Southeastern Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 11343, *et seq.*, the continuance in control of Southeastern Rail Corporation by MidSouth Corporation, subject to employee protective conditions.

DATES: This exemption will be effective on February 19, 1988.

ADDRESSES: Send pleadings referring to Finance Docket No. 31186 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

Petitioner's representative:

Mark M. Levin, Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 800 1350 New York Avenue NW., Washington, DC 20005-4797.

FOR FURTHER INFORMATION: Joseph H. Dettmar (202) 275-7245 (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4347/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: February 1, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley. Commissioners Simmons and Lamboley dissented with separate expressions.

Noreta R. McGee,

Secretary.

[FR Doc. 88-3150 Filed 2-12-88; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL CAPITAL PLANNING COMMISSION

Guidelines and Submission Requirements for the Installation of Microwave Antennas on Federal Property in the National Capital Region

AGENCY: National Capital Planning Commission.

ACTION: Final Guidelines and Submission Requirements.

SUMMARY: On November 18, 1987, the National Capital Planning Commission (NCPC) published Proposed Guidelines and Submission Requirements for the Installation of Satellite Antennas on

Federal Property in the National Capital Region (52 FR 44237); No comments were received as the direct result of the publication of these draft Guidelines in the **Federal Register**. However, following the elapse of the 30-day comment period, the NCPC did receive communications from the CIA and the Department of the Navy. The views expressed by these parties were considered by the NCPC in the preparation of the finalized Guidelines. The NCPC reviewed the draft Guidelines at its January 7, 1988 meeting and made the following changes:

1. Substituted the word "microwave" for "satellite" wherever it appeared in the Guidelines. This change was made to eliminate any confusion regarding the NCPC's intent to review both satellite and terrestrial microwave antenna installations.

2. Added language regarding the multiple use of antennas by adjacent Federal facilities to minimize the impact of multiple antennas.

3. Added language to indicate that any existing antenna that is moved or relocated must comply with the submission requirements of the Guidelines.

The Guidelines, with the above modifications, were adopted by the NCPC on January 7, 1988.

DATE: February 16, 1988.

FOR FURTHER INFORMATION CONTACT: Martin J. Rody, Director, Planning Services Division, National Capital Planning Commission, 1325 G Street NW., Washington, DC 20576 or by telephone at 202/724-0179.

Robert E. Gresham,

Acting Executive Director.

[FR Doc. 88-3119 Filed 2-12-88; 8:45 am]

BILLING CODE 7520-02-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786-0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

(1) *Date:* March 3-4, 1988.

Time: 8:30 a.m. to 5:00 p.m.

Room: 415.

Program: This meeting will review Interpretive Research Projects applications for Archaeology (Old World), submitted to the Division of Research Programs, for projects beginning after July 1, 1988.

(2) *Date:* March 14, 1988.

Time: 8:30 a.m. to 5:00 p.m.

Room: 415.

Program: This meeting will review State and Regional Exemplary Award proposals submitted by state humanities councils to the Division of State Programs, for projects beginning after November 1, 1988.

(3) *Date:* March 14, 1988.

Time: 9:00 a.m. to 5:30 p.m.

Room: M-14.

Program: This meeting will review applications for Regrants: Centers for Advanced Study, submitted to the Division of Research Programs, for projects beginning after October 1, 1988.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 88-3169 Filed 2-12-88; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-424]

Georgia Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of § 50.46(a)(1) to 10 CFR Part 50 to the Georgia Power Company (the licensee) for the Vogtle Electric Generating Plant, Unit 1 located on the licensee's site in Burke County, Georgia.

Environmental Assessment

Identification of Proposed Action: The exemption would allow for a temporary relief from the provisions of 10 CFR 50.46(a)(1) with respect to the requirement that the emergency core cooling system (ECCS) performance be calculated on a plant specific basis using an approved ECCS evaluation model. The current calculated ECCS performance for the facility, as referenced in the Final Safety Analysis Report (FSAR), is not based on the actual operating conditions for the facility. The temporary relief would allow continued operation of the facility until a revised calculated ECCS cooling performance has been completed with an approved ECCS model and actual facility operating conditions. During the duration of the temporary relief granted by the exemption, the heat flux hot channel factor, FO, will be limited to a value of 2.25 at 100% power as compared to a value of 2.30 used in Technical Specification 3.2.2.

The Need for the Proposed Action: The proposed exemption is required to permit the licensee to continue operation of the facility.

Environmental Impacts of the Proposed Action: With respect to the exemption, the restricted hot channel factor assures that even in the event of a large LOCA, ECCS performance will assure that calculated peak cladding temperatures will not exceed the limits of 10 CFR 50.46(b). Accordingly, the exemption will not increase the probability or consequences of any dominant reactor accident sequence and will not otherwise affect any other radiological impact associated with the facility. Consequently, the Commission concludes that there are no significant radiological impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves features located

entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action: Because the staff has concluded that there is no significant environmental impact associated with the proposed exemption, any alternative to this exemption will have either no significantly different envionmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts as a result of plant operations.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement related to the operation of the Vogtle Electric Generating Plant, Units 1 and 2" dated March 1985.

Agencies and Persons Consulted: The NRC Staff has reviewed the licensee's request that supports the proposed exemption. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant affect on the quality of the human environment.

For further details with respect to this action, see the request for the exemption dated January 29, 1988, and supplemented by letter dated January 29, 1988, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Burke County Library, 4th Street, Waynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 10th day of February, 1988.

For The Nuclear Regulatory Commission.

Kahtan Jabbour,

Acting Director, Project Directorate II-3, Division of Reactor Projects I/II.

[FR Doc. 88-3152 Filed 2-12-88; 8:45 am]

BILLING CODE 7590-01-M

Establishment of Local Public Document Room for the High-Level Waste Geologic Repository Site, Yucca Mountain, NV

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has established a local public document room (LPDR) at the University of Nevada-Las Vegas for the Department of Energy's (DOE) proposed high-level radioactive waste geologic repository site near Yucca Mountain, Nevada.

Members of the public may now inspect and copy documents and correspondence related to the licensing of the DOE high-level radioactive waste geologic repository at the James R. Dickinson Library, Special Collections Department, University of Nevada-Las Vegas, 4505 Maryland Parkway, Las Vegas, Nevada 89154. The Special Collections Department is open on the following schedule: Monday through Friday, 8 a.m. to 5 p.m., and Sunday (when classes are in session), 1 p.m. to 5 p.m.

For further information, interested parties in the Las Vegas area may contact the LPDR directly through Ms. Susan Jarvis, telephone number (702) 739-3252. Parties outside the service area of the LPDR may address their requests for records to the NRC's Public Document Room, 1717 H Street NW., Washington, DC 20555, telephone number (202) 634-3273.

Questions concerning the NRC's local public document room program or the availability of documents at the Yucca Mountain LPDR should be addressed to Ms. Jona L. Souder, Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number (800) 638-8081, toll-free.

Dated at Bethesda, Maryland, this 10th day of February, 1988.

For The Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management.

[FR Doc. 88-3153 Filed 2-12-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-313 and 50-368; License Nos. DPR-51 and NPF-6 EA 87-90]

Arkansas Power & Light Co., Arkansas Nuclear One, Units 1 and 2; Order Imposing Civil Monetary Penalty

I

Arkansas Power & Light Company (licensee) is the holder of facility Operating Licenses No. DPR-51 issued by the Nuclear Regulatory Commission (NRC) on May 21, 1974 and No. NPF-6 issued by the NRC on September 1, 1978. The licenses authorize the licensee to operate Arkansas Nuclear One, Units 1 and 2 in accordance with the conditions specified therein.

II

A special inspection of the licensee's activities was conducted on December 8-11, 1986, and February 25, 1987. The results of this inspection indicated that the licensee had not conducted its activities in full compliance with NRC requirements. A Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated July 2, 1987. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed for the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalty by letter dated August 3, 1987.

III

After consideration of the licensee's response and the statements of fact, explanation, and argument for mitigation of the Civil Penalty contained therein, the Deputy Executive Director for Regional Operations has determined as set forth in the Appendix to this Order that the violations for which a civil penalty was assessed occurred as stated and that the penalty proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Seventy-Five Thousand Dollars ($75,000) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commisison, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, U.S.

Nuclear Regulatory Commission, Region IV.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

Having admitted that violations I.A and I.B occurred as set forth in Section I of the Notice of Violation and Proposed Imposition of Civil Penalties, in the event the licensee requests a hearing as provided above, the issue to be considered at such hearing shall be whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, this 4th day of February 1988.

For the Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

[FR Doc. 88-3154 Filed 2-12-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-12965 License No. 47-17564-01 EA 87-96]

Kermit Butcher, Elkins, WV; Order Imposing Civil Monetary Penalty

I

Kermit Butcher (licensee) is the holder of Materials License No. 47-17564-01 issued by the Nuclear Regulatory Commission (NRC/Commission) on July 18, 1977, and renewed April 20, 1983. The license authorizes the use of moisture density gauges in accordance with the conditions specified therein.

II

A routine inspection of the licensee's activities was conducted on May 27, 1987. The results of this inspection indicated that the license had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated July 17, 1987. The Notice states the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed for the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalty by letters dated August 7 and November 10, 1987.

III

After consideration of the licensee's responses and the statements of fact, explanation, and argument for mitigation contained therein, the Deputy Executive Director for Regional Operations has determined as set forth in the Appendix to this Order that one example of violation E is withdrawn, that the other examples of violation E and the remaining violations occurred as stated, and that the penalty proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (ACT), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Five Hundred Dollars ($500) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region II.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issue to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the NRC requirements as set forth in Violation E of the Notice of Violation and Proposed Imposition of Civil Penalty in Section II above as amended by section III of this Order, and

(b) Whether, on the basis of such violation and the other admitted violations set forth in the Notice of Violation, this Order should be sustained.

Dated at Bethesda, Maryland, this 2nd day of February 1988.

For The Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

Appendix—Evaluations and Conclusions

On July 17, 1987, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations identified during a routine NRC inspection. Kermit Butcher (licensee) partially responded to the Notice on August 7, 1987, and a request for a supplemental response was issued on September 23, 1987. Kermit Butcher completed its response by letter dated November 10, 1987. In these responses, the licensee requested that the entire civil penalty be mitigated, denied the occurrence of a portion of violation E, submitted records to verify this denial, and admitted the occurrence of the remaining six violations. The NRC's evaluations and conclusions regarding the licensee's arguments are as follows:

Restatement of Violation E

License Condition 13(b) requires that records of leak tests be maintained for inspection by the NRC.

Contrary to the above, on May 27, 1987, the licensee did not have records of leak tests that were performed on a Troxler gauge serial no. 4935 during March 1985 and October 1985, and on Troxler gauge serial no. 9741 during March 1985, April 1985, and October 1986.

Summary of Licensee Response

The licensee denied that no records existed for leak tests performed on Troxler gauge nos. 4935 and 9741 during March 1985 and provided copies of these records in its November 10, 1987, response. Although the licensee admitted that records did not exist for leak tests performed on Troxler gauge no. 4935 during October 1985 and on Troxler gauge no. 9741 during April 1986 and October 1986, the licensee assumed that these leak tests were being performed in an appropriate manner.

NRC Evaluation

Based on information provided in the licensee's November 10, 1987, response, the NRC staff agrees that leak test records did in fact exist for leak tests performed on Troxler gauge nos. 4935 and 9741 during March 1985. Records did not exist for leak tests performed on Troxler gauge no. 4935 during October 1985 and on Troxler gauge no. 9741 during April 1986 and October 1986.

Summary of Licensee Request for Mitigation

In its initial response, the licensee addressed the violation involving the failure to store a Troxler gauge containing two sealed sources in a locked area which resulted in the theft of the gauge and described its investigation to determine how the gauge was lost and eventually found. The licensee also stated that it should not be liable for a fine because the gauge was

recovered, no injury resulted, and all said violations had been addressed.

NRC Evaluation of Licensee Request for Mitigation

The licensee's explanation for Violation A fails to establish that the loss of the gauge was not caused by inadequate security. Although the storage building was often unlocked, there was insufficient grounds for concluding that the gauge was not stolen by an outsider. In this regard, even though the gauge did not appear to be stolen following forcible entry, it was not possible to conclude, as the licensee believes, that a trusted employee took it.

Moreover, the proposed civil penalty was assessed for several violations, not just the failure to secure licensed material from unauthorized removal. While the other violations were not as serious as the improper storage violation, they contributed significantly to the conclusion that a breakdown of management control over your Radiation Safety Program occurred. Although the gauge was successfully recovered and no injury occurred, the evidence continues to support a management breakdown, and there were multiple occurrences of several of the violations. Therefore, based on review of the information submitted in the licensee's responses, the NRC staff believes that the licensee did not provide an adequate basis for mitigation of the proposed civil penalty.

NRC Conclusion

After careful consideration of your responses; the NRC staff has concluded that the March 1985 example of violation E is withdrawn, that the other examples of violation E and the remaining violations occurred as stated, and that an adequate basis for mitigation of the civil penalty was not provided by the licensee. Consequently, the proposed civil penalty in the amount of $500 should be imposed.

[FR Doc. 88-3155 Filed 2-12-88; 8:45 am]

BILLING CODE 7590-01-M

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. In light of the fact that (1) AMP-Ohio has alleged that "* * * Ohio Edison's filing represents significant potential obstacles to AMP-Ohio's future and its members survival", (2) both AMP-Ohio and Ohio Edison are actively engaged in negotiations that may mitigate some of the issues raised in Ohio Edison's amendment request and (3) Ohio Edison has given its consent to the instant request for a time extension, the staff hereby grants AMP-Ohio's request and extends the time for comments from the public on Ohio Edison's amendment request until March 7, 1988.

Any person who wishes to express views pursuant to the antitrust issues raised in this amendment request, should submit said views by March 7, 1988 to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation.

Dated at Rockville, Maryland, this 4th day of February, 1988.

For The Nuclear Regulatory Commission.

Cecil O. Thomas,

Policy Development and Technical Support Branch, Program Management, Policy Development and Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 88-3156 Filed 2-12-88; 8:45 am]

BILLING CODE 7590-01-M

Docket No. 50-461

Illinois Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to Illinois Power Company (the licensee), for operation of Clinton Power Station, Unit 1 located in DeWitt County, Illinois.

This amendment includes three proposed changes to Technical Specification Table 3.3.2-2 concerning time-limit values specified for timers. The first proposed change consists of deletion of the "≥" sign for the TRIP SETPOINT so that only a value of 45 seconds is sepcified for the Reactor Water Cleanup System Isolation Differential Flow Timer (Item 3.b of Table 3.3.2-2). The second proposed change consists of deletion of the "≥" sign for the TRIP SETPOINT so that only a value of 3 seconds is specified and a change to the ALLOWABLE VALUE column such that "3+10, −0 sec." is specified. The third proposed change consists of deletion of the "≥" sign for the TRIP SETPOINT so that only a value of 25 minutes remains for the RCIC Main Steam Line Tunnel Temperature Timer (Item 4.i of Table 3.3.2-2).

The purpose of these proposed changes is to reconcile the format of the time limits as they appear in the Technical Specification table with the design documents and bases which specify those limits. The time-limit values specified for the timers remain unchanged. The timers will continue to be tested and calibrated according to plant surveillance procedures in the same manner as before.

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 March 17, 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 petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's

property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 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 will 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 Nulcear 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 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 Daniel R. Muller: 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—Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Sheldon Zable, Esq., of Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental pertition 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).

For further details with respect to this action, see the application for amendment dated October 30, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Bethesda, Maryland this 8th day of February 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-3157 Filed 2-12-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-461]

Illinois Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to Illinois Power Company (the licensee), for operation of Clinton Power Station, Unit 1 located in DeWitt County, Illinois.

This amendment consists of a proposed change to Technical Specification Section 4.8.2.1 concerning emergency DC battery loads. During the review of a Plant Modfication, the licensee determined that the emergency DC battery loads had changed. As a result, changes were made to the low power operating license Technical Specifications in order to reflect the revised loading. Based upon subsequent review by the licensee, it has been determined that a Division II load (Fire Protection distribution Panel) had not originally been taken into account. Thus a change is proposed to Specification 4.8.1.d.2.b in order to accurately reflect the 4-hour Division II battery emergency loading profile.

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 March 17, 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 petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 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: Docketing and Service Brance, 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 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 Daniel R. Muller: 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— Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Sheldon Zable, Esq, of Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petition 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 balacing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 30, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington DC 20555, and at the Vespasian Waner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Bethesda, Maryland this 8th day of February 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-3158 Filed 2-12-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-461]

Illinois Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to Illinois Power Company (the licensee), for operation of Clinton Power Station, Unit 1 located in DeWitt County, Illinois.

This amendment consists of a proposed change to Technical Specification Table 4.3.6-1 concerning control rod block instrumentation surveillance requirements. The licensee has proposed a change to this table in order to simplify the CHANNEL FUNCTIONAL TEST requirements for the Low and High Power Setpoint (turbine first-stage pressure channels) associated with the Rod Pattern Control System (RPCS). The proposed change would delete notes "(d)" and "(e)" as well as note "(c)" and the corresponding "(D)" testing such that only "S/U(b),M" would remain under the CHANNEL FUNCTIONAL TEST column for both the low and high power setpoint functions. The proposed change would also revise note "(b)" by replacing the existing words "within 24 hours prior to startup, if not performed within the previous 7 days," with "within 7 days prior to startup." The licensee has indicated that the existing words are potentially confusing and that the proposed revision would ensure that the instrumentation is OPERABLE for its intended function to the same degree of confidence as with the current note.

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 March 17, 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 petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly 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: 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 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 Daniel R. Muller: 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—Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Sheldon Zable, Esq., of Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petition 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).

For further details with respect to this action, see the application for amendment dated October 30, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Bethesda, Maryland this 8th day of February 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-3159 Filed 2-12-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-461]

Illinois Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to Illinois Power Company (the licensee), for operation of Clinton Power Station, Unit 1 located in DeWitt County, Illinois.

This amendment consists of a proposed change to Technical Specification Section 4.11.2.7.2 concerning the radioactivity rate of noble gases from the off-gas recombiner effluent. Specification 4.0.4 states that entry into an OPERATIONAL CONDITION or other specified applicable condition shall not be made unless the Surveillance Requirement(s) associated with the Limiting Condition for Operation have been performed within the applicable surveillance interval or as otherwise specified. Specification 4.11.2.7.2 requires the radioactivity rate of noble gases from the off-gas recombiner effluent to be determined at two specified frequencies: (1) At least once per 31 days, and (2) within 4 hours following an increase of 50% in the indicated nominal steady state fission gas release from the primary coolant (with certain provisions). The APPLICABILITY of this Specification (i.e., the applicable OPERATIONAL CONDITION) is "during operation of the main condenser air ejector."

Although it is readily apparent that Surveillance 4.11.2.7.2 cannot be performed until after entering the special applicable OPERATIONAL CONDITION, an exemption to Specification 4.0.4 has been proposed for this surveillance in order to ensure compatibility between Specifications 4.04 and 4.11.2.7.2. The exemption formally allows the plant to enter the applicable OPERATIONAL CONDITION without having first performed the required surveillances.

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 March 17, 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 petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 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 considera'ion. 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: 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 duirng 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 Daniel R. Muller: 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—Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Sheldon Zable, Esq., of Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petition 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).

For further details with respect to this action, see the application for amendment dated October 30, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555; and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Bethesda, Maryland this 8th day of February 1988.

For The Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III-2 Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-3160 Filed 2-12-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-19025, License No. 04-19644-01, EA 87-28]

Radiation Sterilizers, Inc., Schaumburg, IL and Westerville, OH; Order Amending August 18, 1987 Order Imposing Civil Monetary Penalty

I

On August 18, 1987 an Order Imposing Civil Monetary Penalty (Order) was issued to Radiation Sterilizers, Inc. (Licensee). The Order imposed a civil monetary penalty in the amount of $7,500 upon the Licensee for the violations set forth in a Notice of Violation issued to the Licensee on March 17, 1987, as amended by the Order.

II

By letter dated September 8, 1987 the Licensee requested a hearing on the Order. At the Licensee's request, a meeting was held on October 1, 1987 to discuss the civil penalty action. Thereafter, discussions were held with the Licensee concerning settlement of this civil penalty case. By letter dated December 23, 1987 the Licensee offered to pay a civil penalty of $5,000 and to withdraw its request for a hearing

III

The NRC has reevaluated this civil penalty action in light of information provided by the Licensee. As a result of its review, the NRC has determined that Violations F and H of the Notice of Violation in comparison with the other violations comprising the Severity Level III problem for which the civil penalty was imposed are clearly of minor significance and should be categorized as separate Severity Level IV violations with no civil penalty. Accordingly, the Staff is remitting the civil penalty for these two violations. This results in an adjusted civil penalty of $5,000.

IV

In view of the above and pursuant to 10 CFR 2.205(g) of the Commission's regulations, I am hereby amending the August 18, 1987 Order by remitting the civil penalty for violations F and H. The Licensee is hereby ordered to pay a civil monetary penalty in the amount of $5,000 within 30 days of the date of this Order.

For the Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

Dated at Bethesda, Maryland this 8th day of February 1988.

[FR Doc. 88-3161 Filed 2-12-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp.; Consideration of Issuance of Amendent to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DRP-43, issued to Wisconsin Public Service Corporation, (the licensee), for operation of Kewaunee Nuclear Power Plant, located in Kewaunee County, Wisconsin.

The proposed amendment would add a paragraph to the Kewaunee Nuclear Power Plant (KNPP) operating license to allow a plant modification to the steam generator upper lateral supports. Specifically, WPSC proposes to reduce the number of hydraulic snubbers on the support from four to one. The technical justification for this modification is based on (1) the elimination of dynamic effects of postulated pipe rupture in the primary reactor coolant loop from the design basis by applying leak-before-break technology as authorized by General Design Criterion (GDC) 4, 10 CFR Part 50, Appendix A; (2) the high margin of safety of the modified steam generator support under revised loading conditions; and (3) the elimination of arbitrary intermediate breaks in the main steam line piping as described in the Standard Review Plan 3.6.2, Revision 2. The anticipated benefits of this modification include reduced worker radiation exposures and lower maintenance costs.

Before 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.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or

consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee provided a discussion regarding the above three criteria as summarized below:

Criterion 1: It has been determined that the probability or consequences of an accident are not increased when leak-before-break technology is properly applied. Through proper application of leak-before-break technology, it has been demonstrated that advanced fracture mechanics analysis is an acceptable alternative to maintaining structures and components solely to mitigate the consequences of the dynamic effects of postulated pipe ruptures. Analysis has verified that high safety margins are maintained in the modified steam generator supports under all now postulated loading conditions, including normal loads, Design Basis Earthquake loads, pipe breaks at the branch line nozzles (Residual Heat Removal, Accumulator, and Surge line) of the main coolant loops, and terminal end pipe breaks at the main steam and feed water line nozzles. Because adequate safety factors, based on Updated Safety Analysis Report (USAR) allowable stresses, are maintained in the modified design, neither the probability nor the consequences of an accident, previously evaluated, are increased. Finally, the Emergency Core Cooling System design basis, reactor containment and compartment design basis, equipment qualification basis, and engineered safety system response are unaffected by this change.

Criterion 2: Dynamic effects of postulated ruptures in the main coolant loop piping have been eliminated from the plant's design basis through application of leak-before-break technology as authorized by GDC-4. In the safety analysis submitted to the NRC, it was demonstrated that the snubbers to be removed from the steam generator upper lateral supports were required only to mitigate pipe rupture dynamic effects. The evaluation of the Reactor Coolant System with modified steam generator upper lateral supports shows that the support continues to have high margins of safety, which exceed USAR design basis requirements, under all licensed loading conditions excluding the main loop pipe ruptures and the main steam line arbitrary intermediate breaks.

Criterion 3: The structural evaluation of the revised steam generator upper lateral support establishes that the piping, components and supports are stressed within the allowable limits. The modification of the steam generator upper lateral supports involves no reduction in the margin of safety under any of the new postulated loading conditions.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice.

By March 17, 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 interested may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene must be filed to 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 Panel will rule on the request and/or petiton, 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 must 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 the petitioner wishes to intervene. Any person who has filed a petitioner for leave to intervene or who has been admitted as a party may amend the petitioner 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 petitioner must be 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.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazard consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for hearing. Any hearing held would take place after issuance of the amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and state comments received.

Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Kenneth E. Perkins: 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-Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to David Baker, Esq., Foley and Lardner, P.O. Box 2193, Orlando, Florida 32082.

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 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).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Dated at Rockville, Maryland, this 9th day of February, 1988.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Acting Director, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-3162 Filed 2-12-88; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Request for Approval Under the Paperwork Reduction Act of Revised Information Collection Request No. 1212-0030

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation has requested approval by the Office of Management and Budget for a revision of a currently approved information collection request (1212-0030). Current approval of the information collection is scheduled to expire on March 31, 1988. The information collection, which is not contained in a regulation, is survey of insurance company rates for pricing annuity contracts that is conducted under the auspices of the American Council of Life Insurance. The effect of this notice is to advise the public of the PBGC's request for OMB approval of this extension.

ADDRESSES: All written comments (at least three copies) should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, 3208 New Executive Office Building, Washington, DC 20503. The request for extension will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street, NW., Washington, DC 20006, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202-778-8820 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The title of the information collection for which extension of approval is requested is: Survey of Nonparticipating Single Premium Group Annuity Rates.

The Pension Benefit Guaranty Corporation (PBGC) has promulgated regulations prescribing actuarial valuation methods and assumptions to be used in determining the actuarial present value of benefits under single-employer plans that terminate and under multiemployer plans that undergo mass withdrawal of contributing employers. The PBGC calculates interest rates under those regulations each month. In order that the rates may reflect current conditions in the investment and annuity markets, the PBGC gathers data from those markets that are used in setting the rates. The Survey of Nonparticipating Single Premium Group Annuity Rates is necessary to provide the PBGC with information about the annuity market so that its rates will reflect conditions in that market. The information gathered through the survey is used by the PBGC in determining those rates.

The survey is directed at insurance companies that have volunteered to participate, most or all of which are members of the American Council of Life Insurance (ACLI). The survey is conducted quarterly. The PBGC estimates that the total annual burden of responding to the survey is 117 hours.

Issued at Washington, DC, this 9th day of February 1988.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88-3208 Filed 2-12-88; 8:45 am]

BILLING CODE 7708-01-M

Request for Extension of Approval Under the Paperwork Reduction Act of the Information Collection Request Contained in 29 CFR Part 2677

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval of extension.

SUMMARY: The Pension Benefit Guaranty Corporation has requested approval by the Office of Management and Budget for an extension of the expiration date of a currently approved information collection request (1212-0031) without any change in the substance or method of collection. The PBGC's regulation on Procedure for PBGC Approval of Plan Amendments, 29 CFR Part 2677, contains this information collection request. The current OMB approval expires on March 31, 1988. This notice advises the public of the PBGC's request for OMB approval of this extension.

ADDRESSES: All written comments (at least three copies) should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer of the Pension Benefit Guaranty Corporation, 3208 New Executive Office Building, Washington, DC 20503. The request for an extension will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street, NW., Washington, DC 20006, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: John Foster, Attorney, Office of the General Counsel (22500), 2020 K Street, NW., Washington, DC 20006; telephone 202-778-8850 (202-778-8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The PBGC is requesting that the Office of Management and Budget extend for three years the approval of the information collection request contained in the PBGC's regulation "Procedures for PBGC Approval of Plan Amendments." The regulation applies only to plan sponsors of multiemployer pension plans covered by Title IV of the Employee Retirement Income security Act of 1974, as amended ("ERISA"). Section 4220(a) of ERISA requires a plan to request the PBGC's approval of certain plan amendments. Section 44220(c) states that the PBGC shall disapprove a plan amendment if the amendment creates an unreasonable risk of loss to plan participants and beneficiaries or the PBGC.

The regulation provides that request for approval of a plan amendment must include a copy of the amendment, the most recent actuarial valuation of the plan, any other information the plan sponsor believes demonstrates the absence of risk, and a statement that notice of the adoption of the amendment was given to contributing employers and to employee organizations representing employees covered by the plan (as required by ERISA section 4214(b)). The PBGC needs this information to make the risk determination required under section 4220(c).

Based on its analysis of submissions received since the regulation was rpomulgated, the PBGC estimates that it will receive three requests from multiemployer plans annually. Assuming each request will take the requestor two hours to prepare, the annual burden imposed on the public by this information collection request will be six hours.

Issued at Washington, DC on this 9th day of February, 1988.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 88-3209 Filed 2-12-88; 8:45 am]

BILLING CODE 7708-01-M

PRESIDENTIAL COMMISSION ON THE HUMAN IMMUNODEFICIENCY VIRUS EPIDEMIC

Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the Presidential Commission on the Human Immunodeficiency Virus Epidemic will hold a public meeting on Monday, Tuesday, Wednesday, and Thursday, February 29, March 1, 2, and 3, 1988 at the Interstate Commerce Commission Building, Hearing Room B, 12th & Constitution Avenue NW., (Constitution Avenue Entrance) from 9:00 a.m. to 5:00 p.m. each day.

The Meeting on the 29th will be an executive session to discuss interim recommendation on : (1) Streamlining drug and vaccine development, (2) the shortage of intravenous drug abuse treatment programs, (3) the need for more home and out-of-hospital care facilities, and (4) obstacles to getting reliable data on the incidence and prevalence of HIV.

The Meeting on March 1, 2 and 3 will consist of individual and panel presentations on the prevention efforts surrounding AIDS and the HIV epidemic through education and public health measures.

Records shall be kept of all Commission proceedings and shall be available for public inspection at 655 15th Street NW., Suite 901, Washington, DC 20005.

Polly L. Gault,

Executive Director.

[FR Doc. 88-3288 Filed 2-11-88; 1:06 pm]

BILLING CODE 4160-15-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25332; File No. SR-NSCC-87-15]

Self-Regulatory Organizations; Proposed Rule Change by National Securities Clearing Corp. Concerning the Funds Only Settlement Service ("FOSS")

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 31, 1987, NSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change is attached as Exhibit 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, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this filing is to make a number of changes to FOSS. FOSS permits members to charge the accounts of other members for a variety of purposes, usually related to stock loans. FOSS is a non-guaranteed service of NSCC, meaning that in the event of the default of a member, NSCC currently has the discretion to reverse all FOSS charges against the defaulting member due for settlement on the day of default.

Recent events involving FOSS indicate that there are a number of changes that could be made to FOSS to limit the risk that FOSS poses to NSCC and its membership in general while, allowing NSCC to continue to offer a service that allows for the efficient passing of money charges between members. Accordingly, after reviewing the nature of FOSS and its interrelationship with other NSCC services, NSCC has determined to institute the following changes:

- NSCC will prohibit next-day reclamations of FOSS charges. Currently you can reclaim FOSS charges the day of the charge or the following day. This change will encourage participants to review FOSS charges in a timely manner and reverse inappropriate charges the same day. Accordingly, participants will no longer be exposed to loss if the participant charging them via FOSS defaults before a next-day reclamation.
- No original deliveries will be allowed during the reclaim period. Any member submitting original charges during the reclaim period will be subject to disciplinary action; in the event an original delivery is made during the reclaim period, the receiving party will be given until 4:00 p.m. to contact NSCC to reverse the unallowable charge.
- In the event of a member default, NSCC automatically will reverse all FOSS debits and credits of the member on the day of the default. This will put members back to the position where

they were at the start of the day. There will be no discretionary ability for NSCC to allow the charges to stand.

• FOSS fees are being increased from $.35 per receive, deliver or reclaim, to $1.00 per delivery and $.50 per receive or reclaim. Such fees will more closely reflect the actual cost of providing the service.

In addition to these changes, NSCC will be enforcing strictly its policy of prohibiting the submission of money-only charges through the Envelope Settlement System ("ESS"). Members submitting money-only charges through ESS will be subject to disciplinary action; in addition, in the event of a default of a member, NSCC automatically will reverse all money-only charges submitted through ESS against the Member.

Because the proposed rule change will limit NSCC's exposure to loss while permitting NSCC to continue to offer the FOSS service, and will result in fees more closely related to the costs of the service, the proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions and is consistent with the Securities Exchange Act of 1934, as amended ("Act").

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No Comments on the proposed rule change have been solicited or received. NSCC will notify the Securities and Exchange Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 Refernce Section, 450 Fifth Street, NW., Washington, DC. Copies of such filings 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 March 8, 1983.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: February 9, 1988.

Exhibit 1

Italic indicate additions [Brackets] indicate deletions

1. Amend NSCC Rules as follows:

* * * * *

Funds Only Settlement Service

* * * * *

Sec. 10. The Corporation when it stamps a FOSS credit list, is authorized to and will, credit the delivering Settling Member's account with the total amount of the FOSS charges shown on such stamped FOSS credit list and debit the receiving Settling Member's (Members') account(s) with the corresponding amount(s). *FOSS charges are not guaranteed by the Corporation and are subject to reversal. (see Addendum D to the Corporations Rules and Procedures.)*

Sec. 11. In the case of any irregularity or error in a FOSS charge, the Settling Member receiving the FOSS charge may adjust the FOSS charge directly with the charging Settling Member or, *on the same day*, may reclaim the FOSS charge against the Settling Member making the charge by completing a Reclamation Notice (in the manner and form prescribed by the Corporation) setting forth the reason for the reclamation. The Reclamation Notice is to be delivered to the Corporation, within such time as specified from time to time by the Corporation [either] on the same day the FOSS charge is received [or on the following business day]. The reclaiming Settling Member is to deliver the Reclamation Notice in a FOSS Reclamation envelope accompanied by a FOSS Reclamation credit list detailing the amount of the FOSS charge to be reclaimed and the Settling Member to whom the FOSS charge is being reclaimed. *Original charges may not be submitted as part of a Reclamation Notice; Settling Members may effect reversal of such an unallowable charge on the day received by providing notice to the Corporation by the time and in the manner established by the Corporation.*

2. Amend NSCC Fee Schedule as follows:

III. *DELIVERY SERVICE FEES*

* * * * *

B. Funds Only Settlement Service: (5)	
1. Deliveries	*$1.00* [.35] per envelope.
2. Reclamations (*except for reclamations of original deliveries made in the reclaim zone, for which three is no charge to the reclaiming participant*).	*$0.50* [.35] per envelope.
3. Receives	*$0.50* [35] per envelope.

* * * * *

3. Amend Addendum D to NSCC's Rules and Procedures Follows:

* * * * *

In reviewing the protections available to the corporation and its assumption of responsibility for envelope deliveries, the Corporation has determined that, concurrent with the implementation of the FOSS service, it will not continue to permit Settling Members to utilize the envelope system pursuant to Section 1 of Rule 9 as a debiting and crediting vehicle for charges arising other than for securities delivered in the envelopes to which the credit list, which includes the charge, is attached except for charges for due bills (which are contained in the envelopes) related to securities. The Corporation will, however, continue to permit Settling Members to utilize the envelope service pursuant to Section 2 of Rule 9 for such *inter-city deliveries* debiting and crediting purposes. Nevertheless, the Corporation will not stand behind any charges appearing on a credit list attached to envelopes delivered by a Settling Member pursuant to Rule 9, Sections 1 and 2 which are not

for securities contained in such envelopes nor will the Corporation stand behind any charges appearing on a credit list attached to envelopes delivered through the Funds Only Settlement Service, Commission Bill Service or Dividend Settlement Service. *In the event of the default of a Settling Member, NSCC will revise all FOSS debits and credits of that Settling Member due for settlement on the day of default.*

* * * * *

[FR Doc. 88-3215 Filed 2-12-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25325; File No. SR-NYSE-87-49]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Rate Increases Affecting Financial Operation Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 15, 1987 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

The Exchange is instituting rate increases affecting selected Financial Operation fees including the Capital Management fee, the Focus Feedback fee, the Rule Interpretation Handbook fee and the NYSE Guide fee.

REGULATORY FEES

	1987 price	Proposed price
Financial Operations		
Capital Management Fee:		
Licensure Subscribers:	$8,400	$12,000
Fixed amount	25.00	50.00
Single issues	.25	.30
Multiple issues	.50	.60
Combinations	.125	.15
Key entry charge (per record)	.11	.25
Focus Feedback:		
Single copy	200	250
Volume discount—4 quarters	800	900
Lipper Analysis	2,000	2,500
Rule Interpretation Handbook (20% Sales Practices)	200	300
NYSE Guide (25% Sales Practices):		
Paperback edition	6.25	10.00
Looseleaf edition	50.00	75.00

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

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

(1) *Purpose.* The revenues generated by the Financial Operation fees increase will be used to offset in part the increase costs of supplying services provided by the Exchange. These costs include manpower, systems and utilities associated with providing marketplace services.

(2) *Statutory Basis.* The basis under the Act for the proposed rule change is the requirement under section 6(b)(4) that an Exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

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 interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 19(b)(3)(A) of the Securities Exchange Act of 1934 ("Act") permits a proposed rule change to take effect upon filing with the Commission if it establishes or changes a due, fee, or other charge imposed by the self-regulatory organization. Section 6(b)(4) of the Act requires that the rules of the exchange provide for the equitable allocation of dues, fees, and other charges among its members and other persons using its facilities. Because the increased fees and charges reflect the increased cost of providing such services to those members who choose to benefit from them, this rule change has become effective pursuant to section 19(b)(3) of the Act and subparagraph (c) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such action if it appears to the Commission that such action is

necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 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 should refer to File Number SR-NYSE-87-49 and should be submitted by March 8, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Date: February 8, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-3216 Filed 2-12-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25333; File No. SR-OCC-87-23]

Self-Regulatory Organization; Options Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change

The Options Clearing Corporation ("OCC") filed with the Commission on December 23, 1987, a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") concerning an increase in clearing fees on all classes of options that are issued, cleared, and settled by OCC. The Commission is publishing this notice to solicit public comment on the proposal.

Under the proposal, OCC, pursuant to Article III, Section 8 and Article IX, Section 9 of its By-Laws (which govern fees), would raise by one-third the clearing fees it charges to its participants. Specifically, the fee increase would include: (1) An increase of $0.005, from $0.015 to $0.020, per option contract on Market Maker/Specialist scratch trades, [1] and (2) an increase of $0.025, from $0.075 to $0.100, per option contract on all other trades.

OCC states in its filing that it derives over 90% of its operating revenues from these claring fees. OCC further states that its revenues from this source have declined substantially in recent months due to a decline in options trading volume. OCC believes that the proposed fee increases are necessary to permit OCC to maintain its high levels of service both to its clearing members and to its participant exchanges. OCC also believes that the proposed fee increases would restore OCC's revenues to their necessary levels.

OCC states in its filing that the proposed rule change is consistent with the Act, particularly section 17A(b)(3)(D) of the Act, in that the proposal would provide for the equitable allocation of reasonable fees among OCC's members.

This rule change has become effective, pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

You may submit written comments within 21 days after notice is published in the **Federal Register.** Please file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, with accompanying exhibits, and all written comments, except for material that may be withheld from the public under 5 U.S.C. 552 are available at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-87-23 and should be sumitted by March 8, 1988.

[1] "Scratch trades" are trades by a market maker or specialist that are opened or closed at the same price on the same day. For clearing purposes, such trades essentially are wash transactions. Consequently, OCC accords them lower rates than other trades. During December 1987, scratch trades accounted for about 5.9% of OCC's volume. Telephone conversation between Lori R. Burns, Associate General Counsel, OCC, and Thomas C. Etter, Attorney, Securities and Exchange Commission, January 27, 1988.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: February 9, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-3214 Filed 2-12-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16257; 812-6877]

Canadian Dollar Portfolio L.P., et al.; Notice of Application

February 9, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

Applicants: Canadian Dollar Portfolio L.P., Deutsche Mark Portfolio L.P., Pound Sterling Portfolio L.P., Yen Portfolio L.P. and Multi-Currency Portfolio L.P. (each a "Portfolio," and collectively, the "Portfolios" or "Applicants").

Summary of Application: Applicants seek an order: (i) Exempting the Independent General Partners of each Portfolio from the provisions of section 2(a)(19) of the Act to the extent that the latter would be deemed "interested persons" of each Portfolio and its other partners (the "Partners"), solely by virtue of their status as general partners, and (ii) exempting the limited partners of each Portfolio (the "Limited Partners") owning less than 50 of the Portfolio's outstanding voting securities from the provisions of section 2(a)(3) of the Act to the extent that these Limited Partners would be deemed "affiliated persons" of the Portfolio and its Partners solely by virtue of their status as Limited Partners.

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of sections 2(a)(3) and 2(a)(19) of the Act.

Filing Date: The Application was filed on September 17, 1987 and amended and restated on February 2, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the Application will be granted. Any interested person may request a hearing on the Application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m., on March 4, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants 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 certificate. 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; Applicants, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Regina N. Hamilton, Staff Attorney, (202) 272-2856, or Karen L. Skidmore, Special Counsel, (202) 272-3023, 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 (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Each Portfolio is an open-end, non-diversified, management investment company that was organized as a limited partnership under the laws of the State of Delaware on August 14, 1987. On August 17, 1987, each Portfolio filed with the Commision: (1) A Notification of Registration on Form N-8A pursuant to section 8(a) of the Act and (2) a Registration Statement on Form N-1A under the Act and the Securities Act of 1933, as amended. Multi-Currency Portfolio L.P.'s investment objective is to obtain maximum total return, consisting of current income and gains from currency exchange fluctuations through the investment of its assets in short-term securities denominated in currencies believed by its investment adviser to be likely to appreciate relative to the U.S. Dollar. The investment objective of each Portfolio other than Multi-Currency Portfolio L.P. is to earn a reasonable level of current income to the extent consistent with relative stability of principal in terms of the currency indicated by its name. At all times, at least 80% of the net assets of each Portfolio other than Multi-Currency Portfolio L.P. will be invested so as to be subject to changes in the value of the Portfolio's underlying currency.

2. Shearson Lehman Global Asset Management S.A. ("Asset Management"), an indirect, wholly owned subsidiary of Shearson Lehman Brothers Holdings Inc., which also wholly owns Shearson Lehman Hutton Inc. ("Shearson Lehman Hutton"), serves as each Portfolio's investment adviser. The Boston Company Advisors, Inc. ("Boston Advisors"), an indrect, wholly-owned subsidiary of Shearson Lehman Hutton, serves as each Portfolio's sub-investment adviser and administrator. Both Asset Management and Boston Advisers are registered investment advisers under the Investment Advisers Act of 1940. Shearson Lehman Hutton acts as the distributor of shares representing each Portfolio's partnership interests ("Shares"). The corporate general partner of each Portfolio is proposed to be Shearson Lehman Hutton, Boston Advisors, Asset Management or an affiliate thereof (the "Corporate General Partner").

3. Each Portfolio was structured as a partnership, rather than as a corporation or business trust, to afford it the flexibility to pursue its investment objective, while enabling each Portfolio and its Partners to receive, in effect, the "pass-through" tax treatment typically available to mutual funds under Subchapter M of the Internal Revenue Code of 1986.

4. Each Portfolio has two classes of Partners: general partners (the "General Partners") and Limited Partners. The General Partners of each Portfolio will consist of five individuals (the "Individual General Partners") and the Corporate General Partner. Partners will vote upon the approval of and election of General Partners at a meeting to be held after the Portfolio commences operations. A General Partner will continue to serve until his successor is approved, elected and qualified following his removal by the Partners in accordance with the terms of the Portfolio's Agreement of Limited Partnership, as proposed to be amended and restated (the "Agreement"), or his resignation as a General Partner. A majority of the Individual General Partners of each Portfolio will be "Independent General Partners" (defined as natural persons who are not "interested persons" of the Portfolio within the meaning of section 2(a)(19) of the Act, except by reason of being general partners of the Portfolio) and/or any natural person who may become an additional or successor Independent General Partner as provided under the terms of the Portfolio's Agreement.

5. The Individual General Partners will perform the same functions for each Portfolio as do the directors of a mutual fund organized as a corporation and will act only by majority vote. The Individual General Partners will assume all of the responsibilities and obligations imposed by the Act on directors of an incorporated investment company and the Independent General Partners will assume all of the responsibilities and obligations imposed by the Act on directors of an incorported investment company that are not "interested persons" of the company, as defined in the Act. The Individual General Partners will have complete and exclusive control over the management, conduct and operation of each Portfolio's business. Under each Agreement, the Corporate General Partner is permitted to participate in the management of the Portfolio as a General Partner only in the event that no Individual General Partner remains to elect to continue the business of the Portfolio and then only for the limited period of time (not in excess of 60 days) necessary to convene a meeting of the Partners for the purpose of making such an election. In accordance with Delaware law, the General Partners will be in a fiduciary relationship with the Limited Partners similar to that of the directors of a corporation with its shareholders.

6. Each Agreement provides that the General Partners are not personally liable to any holder of Shares or any Limited Partner for losses suffered by the Portfolio, so long as the General Partners did not act in bad faith or in reckless disregard of the duties involved in the conduct of their office and that the General Partners' conduct did not constitute gross negligence or willful misfeasance (the "Standard of Conduct"). Each Agreement also provides that the General Partners will not be liable to any Limited Partner by reason of any change in any federal or state income tax laws applicable to the Portfolio or to the Limited Partners, so long as the General Partners have acted consistently with the Standard of Conduct. A General Partner is entitled to indemnification from each Portfolio against liabilities and expenses to which he may be subject in his capacity as a General Partner, so long as he has acted consistently with the Standard of Conduct. Each Agreement's provisions dealing with the liability and indemnification of General Partners may be supplemented by Shearson Lehman Hutton's obtaining a standard, commercially-available, errors and ommissions insurance policy, which would cover the General Partners, including the Independent General Partners, against liabilities and expenses to which they may be subject in their capacity as General Partners, so long as the General Partners have not violated the Standard of Conduct.

7. To preserve each Portfolio's tax status as a partnership, rather than as an association taxable as a corporation, the Individual General Partners and the Corporate General Partner of each Portfolio will at all times own as a group not less than 1% of the Shares outstanding of the Portfolio. Under each Agreement, the Corporate General

Partner may not voluntarily withdraw or otherwise voluntarily terminate its status as the Corporate General Partner until the earliest of (i) 180 days from the date that the Corporate General Partner gives the other Partners its written notice of its intention to withdraw as a Corporate General Partner, (ii) the date that a successor Corporate General Partner, who has agreed to assume the obligation with respect to the 1% requirement, is approved and elected by the Partners or (iii) the date that another General Partner assumes the obligation with respect to the 1% requirement.

8. Under each Agreement, each Share held by a General Partner is not assignable except to another person who is a General Partner, and then only with the consent of the Individual General Partners. Shares held by General Partners are redeemable by a Portfolio only in the event that (i) the holder of the Shares has ceased to be a General Partner or (ii) in the opinion of the Portfolio's counsel, redemption of the Shares held by a General Partner would not jeopardize the status of the Portfolio as a partnership for federal income tax purposes.

9. Each Agreement provides that Limited Partners are not personally liable for obligations of a Portfolio unless they take part in the control of the Portfolio's business. Under the terms of each Agreement, the Limited Partners do not have the right to take part in the control of a Portfolio's business, but they may exercise the right to vote on matters requiring approval under the Act and on certain other matters, including amendments to the Agreement and the approval or disapproval and termination of administration and custodial contracts. Applicants represent that they will obtain an opinion of Delaware counsel for each Portfolio prior to the effective date of each Portfolio's Registration Statement that the existence or exercise of these voting rights will not subject Limited Partners to liability as general partners under Delaware Law.

10. When matters are submitted to Limited Partners for a vote, Limited Partners will have one vote for each full Share owned and proportionate, fractional votes for fractional Shares held. At an initial meeting of the Limited Partners of each Portfolio the Limited Partners will vote upon the approval and election of the Portfolio's Individual General Partners. Thereafter, no meetings of Limited Partners will be required for the purpose of approving and electing Individual General Partners, unless and until less than a majority of Individual General Partners (including the Independent General Partners) holding office have been approved and elected by the Limited Partners. Limited Partners of record of no less than two-thirds of the outstanding Shares may remove an Individual General Partner through an approval in writing or by an approving vote cast in person or by proxy at a meeting called for the purpose of removing the Individual General Partner. A meeting will be called for the purposes of voting on the removal of an Individual General Partner at the written request of holders of 10% of the Portfolio's outstanding Shares.

11. Each Agreement provides that, if an action is brought against a Limited Partner to satisfy an obligation of the Portfolio, the Portfolio, upon written notice from the Limited Partner about the action, will either pay the claim itself or, if the Portfolio believes the claim to be without merit, will undertake the defense of the claim itself at its own expense. Each Portfolio intends to include in its contracts a provision limiting the claims of creditors to the Applicant's assets. Each Portfolio may carry insurance in such amounts as the Individual General Partners consider reasonable to cover potential liabilities of the Portfolio and the Individual General Partners will periodically review the question of the appropriateness of obtaining errors and omissions insurance for each Portfolio.

12. Limited Partners have the right to transfer or assign Shares voluntarily in accordance with the provisions of the Agreement. Limited Partners also have the right to redeem their Shares in accordance with the Act and the redemption procedures described in the prospectus and statement of additional information included as part of each Portfolio's Registration Statement.

Applicants' Legal Conclusions

1. Each of the Individual General Partners is a Partner of each Portfolio and a co-partner of each Portfolio's Corporate General Partner (which may be Asset Management, Boston Advisors or Shearson Lehman Hutton) and, thus, under section 2(a)(3), each may be deemed an affiliated person of a Portfolio and its Corporate General Partner (and, thus, possibly of the Portfolio's investment adviser or principal underwriter). As an affiliated person of each Portfolio and its Corporate General Partner, each of the Individual General Partners, including each Independent General Partner, is an interested person of each Portfolio and its Corporate General Partner under sections 2(a)(3)(A) and 2(a)(19)(B) of the Act. Further, each person who becomes a Limited Partner of a Portfolio will be a Partner of the Portfolio and a co-partner thereof with each Individual General Partner and the Corporate General Partner. Therefore, each Limited Partner could be deemed to be an "affiliated person" of the Portfolio as well as of each other Limited Partner and General Partner merely by virtue of having purchased a Share and becoming a Limited Partner. That all of the Individual General Partners would be deemed interested persons of each Portfolio and its Corporate General Partner would preclude each Portfolio from meeting a number of requirements imposed on a registered investment company by the Act and various rules under the Act. That all of the Limited Partners of each Portfolio would be deemed affiliated persons of the Portfolio and its other Partners could deprive the Portfolio of the ability to transact with its Limited Partners in a manner that an incorporated investment company could transact with its shareholders.

2. To enable each Portfolio to comply with the requirements of the Act relating to an investment company's non-interested directors and to permit relations among Applicants and their respective Limited Partners comparable to those permitted among incorporated investment companies and their shareholders, the Applicants, in accordance with section 6(c), seek an exemption (the "Exemption") from (i) section 2(a)(19) of the Act so that the Independent General Partners of each Portfolio will not be considered interested persons of the Portfolio or its other Partners solely by virtue of their status as General Partners, and (ii) from section 2(a)(3) of the Act so that the Limited Partners of each Portfolio owning less than 5% of the Portfolio's outstanding voting securities will not be considered affiliated persons of the Portfolio or its other Partners solely because of their position as Limited Partners. Each Portfolio agrees, as a condition of the Exemption, that the Corporate General Partner of each Portfolio, and any successor Corporate General Partner, must fulfill its obligation under the Agreement to contribute to the Portfolio through the purchase of Shares from time to time an aggregate amount sufficient to enable the General Partners to own as a group not less than 1% of the Shares outstanding of each Portfolio.

3. Applicants believe that granting the Exemption is clearly consistent with the policies of section 2(a)(19) as reflected in the express language of that Section which contains a proviso stating "no person shall be deemed to be an interested person of an investment company solely by reason . . . . his being a member of its board of directors or advisory board or an owner of its securities . . ." Individual General Partners, including the Independent General Partners, will perform the same functions for each Portfolio as do the directors of a mutual fund organized as a corporation. Applicants assert that, as a result, the Individual General Partners generally should be subject, for purposes of the Act, to treatment analogous to their corporate functional equivalents—corporate directors of mutual funds—and that the Independent General Partners should be considered not to be interested persons of each Portfolio solely by virture of being General Partners. Applicants also submit that persons investing in a corporate entity as mere shareholders would have substantially the same rights that are accorded to Limited Partners, but would not be "affiliated persons" unless they held five percent or more of the corporation's outstanding voting securities or were otherwise in a control relationship with the corporation. Applicants assert that the question of affiliation and the accompanying prohibitions should not turn on the mere form of organization of the investment vehicle. The request exemption from the provisions of section 2(a)(3) of the Act will place investments in a Portfolio on a footing more comparable to investments in companies organized as corporations.

4. Applicants also submit that it is in the interest of each Portfolio and its Partners to grant the requested exemption as it would enable each Portfolio to pursue its investment objective while receiving pass-through tax treatment and permit relations among the Portfolios and their respective Limited Partners of the kind enjoyed by incorporated investment companies and their shareholders.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-3177 Filed 2-12-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16256; (812-6798)]

Leader Funding Corporation I and Leader Federal Savings and Loan Association; Notice of Application

Date: February 9, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Leader Funding Corporation I ("Leader Funding"), Leader Federal Savings and Loan Association ("Leader Federal") on behalf of themselves and any future subsidiary of Leader Federal with a capital structure substantially similar to Leader Funding ("Similar Subsidiary").

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicants seek an order exempting Leader Funding and any Similar Subsidiary (each an "Issuing Applicant") and any trust established by an Issuing Applicant (each an "Issuer Trust") from all provisions of the 1940 Act in connection with the issuance and sale of mortgage related securities ("Bonds") and residual equity interests.

Filing Dates: The application was filed on July 21, 1987, and amended on November 24, 1987, and January 28, 1988.

Hearing or Notification of Hearing: If no hearing is orderd, 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 March 4, 1988. Request a hearing in writing, giving the nature of your intereset, the reason for the request, and the issues you contest. Serve the Applicants 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, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; Applicants, c/o Randolph H. Elkins, Esq., McKenna, Conner & Cuneo, 1575 Eye Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Thomas Mira, Staff Attorney (202) 272-3033, or Brion Thompson, Special Counsel (202) 272-3016.

SUPPLEMENTARY INFORMATION: The 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 (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Leader Funding was incorporated under Delaware law on May 2, 1986, as a wholly-owned, limited purpose finance subsidiary of Leader Federal. Leader Funding was established in conformity with the regulations of the Federal Home Loan Bank Board ("FHLBB") pertaining to finance subsidiaries of federally chartered savings and loan associations and savings banks. The Issuing Applicants and Issuer Trusts, as the case may be, will not engage in any business other than (i) issuing and selling the Bonds under an indenture or indentures (each an "Indenture") and acquiring, owning, holding and pledging mortgage collateral in connection therewith; and (ii) engaging in other activities (including the sale of residual equity interests) which are necessary, suitable or convenient to accomplish the foregoing or are incidental thereto or connected therewith. In addition to the limitations imposed by the indentures, as subsidiaries of a federally charterd savings and loan association, Leader Funding and any Similar Subsidiary are subject to regulation and examination by the FHLBB.

2. Leader Federal is a federally chartered mutual savings and loan association headquartered in Memphis, Tennessee. Leader Federal is subject to regulation and supervision by the FHLBB. Leader Federal is also subject to regulation by the Federal Savings and Loan Insurance Corporation and the regulations of the Board of Governors of the Federal Reserve System governing required reserves and certain other matters. Leader Federal is primarily engaged in the business of attracting deposits from the general public and using such deposits, together with other borrowings, to make real estate and other loans.

3. Leader Funding was formed, and each Similar Subsidiary will be formed, for the purpose of issuing Bonds secured by one or more types of Mortgage Certificates and/or by Mortgages (each as defined below). The Mortgage Certificates will consist of "fully modified pass-through" mortgage-backed certificates guaranteed by the Government National Mortgage Corporation ("GNMA Certificates"), guaranteed mortgage pass-through certificates of stripped mortgage-backed securities issued by the Federal National Mortgage Association ("FNMA

Certificates"), mortgage participating certificates or stripped mortgage-backed securities issued by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"), and mortgage-backed securities evidencing an undivided interest in pools of mortgages that are first liens on one-to-four family residences ("Private Mortgage Certificates"). The Mortgages will consist of mortgage loans and their related mortgages that are first liens on one-to-four family residences. In addition to Mortgage Certificates and Mortgages the collateral may also include a debt service reserve fund and other accounts (collectively with Mortgage Certificates and Mortgages, "Mortgage Collateal")

4. Each series of Bonds will be secured separately by Mortgage Collateral and will be issued pursuant to an Indenture (which will be qualified under the Trust Indenture Act of 1939) between an Issuing Applicant or owner trustee ("Owner Trustee") acting on behalf of an Issuer trust and an independent trustee ("Trustee"). The Bonds will be structured so that the schedule cash flow on the Mortgage Collateral will be sufficient to provide for full and timely payment of principal and interest on the Bonds for the life of such Bonds.

5. In addition to the issue and sale of the Bonds, Applicants intend to sell equity certicates representing the beneficial ownership interest in each Issuer Trust ("Trust Certificates") to one or more banks, savings and loan associations, pension funds, insurance companies or other sophisticated institutional investors that customarily engage in the purchase of Mortgages or other types of mortgage collateral ("Eligible Institutions"). The offer and sale of such Trust Certificates will be subject to condition B (1–7) below.

Applicants' Legal Conclusion

1. The requested order is necessary and appropriate in the public interest because: (a) The Issuing Appicants and Issuer Trusts are not the type of entities that the provisions of the 1940 Act are intended to regulate; (b) the Applicants may be unable to proceed with their proposed activities if the uncertainties concerning the applicability of the 1940 Act are not removed; (c) the Applicants' activities are intended to serve a recognized and critical public housing need; (d) the granting of the requested order is consistent with the protection of investors because they will be protected during the offer and sale of the Bonds by registration under the Securities Act of 1933 ("1933 Act") or the private placement exemption therein and thereafter by the Trustee representing their interests under the Indenture; and (e) the Eligible Institutions that will be the owners of Trust Certificates have suitable investment experience so as to be able to understand and evaluate the risks associated with such investments.

Applicants' Conditions

Applicants expressly consent to the following conditions with respect to the requested order:

A. Conditions Relating to Mortgage Bond Collateral

(1) Each series of Bonds will be registerd under the 1933 Act, unless offered in a transaction exempt from registration pursuant to Section 4(2) of the 1933 Act

(2) The Bonds will be "mortgage related securities" within the meaning of Section 3(a)(41) of the Securities Exchange Act of 1934. In addition, the collateral directly securing the bonds will be limited to (i) Mortgages; (ii) Private Mortgage Certificates; and (iii) GNMA, FNMA or FHLMC Certificates.

(3) If new Mortgage Collateral is substituted for existing collateral, the substitute collateral will: (i) be of equal or better quality than the Mortgage Collateral replaced; (ii) have similar payment terms and cash flow as the Mortgage Collateral replaced; (iii) be insured or guaranteed to the same extent as the Mortgage Collateral for which it was substituted; and (iv) meet the conditions set forth in paragraphs (2) (4), and (6). In addition, new collateral may not be substituted for more than 20% of the aggregate face amount of the Mortgages initially pledged as Mortgage Collateral or for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged. New Mortgages may be substituted for Mortgages initially pledged as Mortgage Collateral only in the event of default, late payments or defects in the Mortgage Collateral being replaced. New Private Mortgage Certificates may be substituted for Private Mortgage Certificates initially pledged as Mortgage Collateral only in the event of default, late payments or defects in the Mortgage Collateral being replaced. In no event may any new Mortgage Collateral be substituted for any substitute Mortgage Collateral.

(4) All Mortgage Collateral will be held by the Trustee or on behalf of the Trustee by an independent custodian. Neither the Trustee nor the custodian may be an affiliate (as the term "affiliate" is defined in the 1933 Act, Rule 405, 17 C.F.R. 230.405) of the Applicants, or of the master servicer or originating lender of any Mortgages that are pledged as Mortgage Collateral. The Trustee will be provided with a first priority perfected security or lien interest in and to all Mortgage Collateral.

(5) Each series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating agency that is not affiliated with the Applicants. The Bonds will not be considered redeemable securities within the meaning of Section 2(a)(32) of the 1940 Act.

(6) The master servicer of any Mortgages (including Mortgages underlying Private Certificates) that are pledged as Mortgage Collateral may not be an affiliate of the Trustee. If there is no master servicer, no servicer of such Mortgages may be an affiliate of the Trustee. Any master servicer or servicer of any such Mortgages will be approved by FNMA or FHLMC as an "eligible seller/servicer" of conventional, residential mortgage loans. The agreement governing the servicing of such Mortgages shall obligate the servicer to provide substantially the same services with respect to those Mortgages as it is then currently required to provide in connection with the servicing of mortgage loans insured by the FHA, guaranteed by VA or eligible for purchase by FNMA or FHLMC.

(7) No less often than annually, an independent public accountant will audit the books and records of each Issuing Applicant and Issuer Trust and will report on whether the anticipated payments of principal and interest on the Mortgage Collateral continue to be adequate to pay the principal and interest on the Board in accordance with their terms. Upon completion, copies of the auditor's report(s) will be provided to the Trustee.

B. Conditions Relating to Equity Interests

(1) The holders of the Trust Certificates will agree to be bound by the terms of the applicable Trust Agreement.

(2) Trust Certificates will be offered and sold only to one or more Eligible Institutions. Trust Certificates will be sold only with respect to series of Bonds secured by GNMA, FNMA or FHLMC Certificates.

(3) Each sale of Trust Certificates to an Eligible Institution will qualify as a transaction not involving a public offering within the meaning of Section 4(2) of the 1933 Act.

(4) Initially, the Applicants intend to sell the Trust Certificates of each Issuer

Trust to no more than twenty-five Eligible Institutions. The Trust agreement relating to each Issuer Trust will prohibit the transfer of any Trust Certificate of such Issuer Trust if there would be more than one hundred beneficial owners of such Trust Certificates at any time.

(5) The Trust Agreement will require that each purchaser of a Trust Certificate represent that it is purchasing the Trust Certificate for investment purposes only and not with a view to distribution, and that it will hold the Trust Certificate in its own name and not as nominee for undisclosed investors.

(6) The Trust Agreement will provide that (i) no holder of a Trust Certificate may be affiliated with the Trustee, (ii) no holders of a controlling interest in an Issuer Trust (as the term "control" is defined in Rule 405 under the 1933 Act) will be affiliated with either any custodian that may hold Mortgage Collateral on behalf of the Trustee or any nationally recognized statistical rating agency rating the series of Bonds issued through the Issuer Trust, and (iii) the Owner Trustee will not purchase any Trust Certificates but will function as a legal stakeholder for the assets of the Issuer Trust.

(7) Applicants undertake to secure from each Issuer Trust its consent to compliance with all of the applicable representations and conditions set forth above and more specifically in the application.

C. Conditions Relating to Variable Rate Bonds

(1) Each class of adjustable or floating interest rate Bonds will have a set maxium rate of interest or a set minimum rate of interest in the case of an inverse-floating rate Bond (interest rate caps), which may vary from period to period as specified in the related prospectus or private placement memorandum.

(2) The collateral initially pledged to secure a series of Bonds, including a series of Bonds that contains a class or classes of adjustable or floating rate Bonds, will be sufficient to pay the maximum amount of interest and principal due on such Bonds for the life of such Bonds.

(3) In addition to those mechanisms referred to in the application, Applicants may utilize additional mechanisms to ensure the adequacy of the collateral notwithstanding the issuance of variable rate bonds. Applicants will give the Staff of the SEC notice by letter of any such additional mechanisms before they are utilized, in order to give the Staff an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of paragraph (2) and will be adequate to meet the standards required for a rating of the Bonds in one of the two highest bond rating categories, and no Bonds will be issued for which this is not the case.

D. Conditions Relating to REMIC Election

(1) The election of any Issuer Trust to be treated as a real estate mortgage investment conduit ("REMIC") will have no material effect on the level of expenses that will be incurred by such Issuer Trust. Any Issuer Trust that elects to be treated as a REMIC will provide that all fees and expenses incurred in connection with the administration of the Issuer Trust will be paid or provided for in a manner satisfactory to the nationally recognized statistical rating agency or agencies rating the Bonds. Applicants will provide for the payment of administrative fees and expenses by one or more of the methods set forth in the application.

(2) The method or methods adopted by each Issuer Trust will be sufficient to provide for the timely payment of the anticipated fees and expenses of the Issuer Trust.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-3178 Filed 2-12-88; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-17972]

Application and Opportunity for Hearing; Signal Capital Corporation

February 9, 1988.

Notice is hereby given that Signal Capital Corporation (the "Company") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Continental Illinois National Bank and Trust Company of Chicago (the "Bank") under an indenture dated June 15, 1972 (the "June Indenture") between Pullman Transport Leasing Company ("Pullman") and the Bank which was heretofore qualified under the Act and under an indenture dated as of February 1, 1988 ("the February Indenture") between the Company and the Bank which is to be qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under either indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, wihin ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of that section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

The Company alleges:

(1) Pursuant to the June Indenture, Pullman, predecessor in interest to the Company, has issued $20,000,000 aggregate principal amount of its Equipment Trust Certificates Due June 15, 1992 (Series 3) (the "1972 Certificates") under an Equipment Trust Agreement dated as of June 15, 1972 (the "1972 Agreement"). The 1972 Certificates were registered under the Securities Act of 1933 ("1933 Act") and the June Indenture was qualified under the Act.

(2) Each of the 1972 Certificates represents an interest in the trust created by the 1972 Agreement, and payment of principal and interest on the 1972 Certificates is unconditionally guaranteed by the Company.

(3) The net proceeds from the sale of the 1972 Certificates were deposited with the Bank, together with a sum which, when added to such net proceeds, made the total sum deposited equal to the aggregate principal amount of the 1972 Certificates. Upon the delivery to the Bank of certain railroad equipment described in Schedule A to the 1972 Agreement, the manufacturers or owners of such equipment were paid by the Bank in accordance with the terms of 1972 Agreement.

(4) The 1972 Equipment Trust Agreement provides for lease to the Company of the 1972 Equipment at a rental sufficient to pay the principal and interest on outstanding 1972 Certificates.

(5) Pursuant to the February Indenture, the Company proposes to issue $100,000,000 aggregate principal amount of its Equipment Trust Certificates Due February 1, 2006 (Series 1) ("Current Certificates") under an Equipment Trust Agreement dated as of February 1, 1988 (the "1988 Agreement"). The Company filed simultaneously with its Application a registration statement under the 1933 act for the Current

Certificates and the February Indenture has been submitted for qualification under the Act.

(6) Each of the Current Certificates will represent an interest in the trust created by the 1988 Agreement, and the payment of principal and interest on the Current Certificates will be unconditionally guaranteed by the Company.

(7) The net proceeds from the sale of the Current Certificates will be deposited with the Bank, together with a sum which, when added to such net proceeds, will make the total sum deposited equal to the aggregate principal amount of the Current Certificates. Upon the delivery to the Bank of certain railroad equipment described in Schedule A to the 1988 Agreement, the Bank shall pay the Company in accordance with the terms of the 1988 Agreement.

(8) The 1988 Agreement provides for lease to the Company of the 1988 Equipment at a rental sufficient to pay the principal and interest on the Current Certificates.

(9) The Company is not in default under the June indenture or the February Indenture.

(10) The 1972 Certificates and the Current Certificates will be issued pursuant to separate indentures, will represent interests in wholly separate trusts including wholly separate and distinct equipment, and will be secured by separate security interests in wholly separate and distinct property. Should the trustee have occasion to proceed against the trust assets or the security under the 1972 Agreement or the 1988 Agreement, such action would not affect the assets or security, or the use of either, under the other indenture or prejudice the rights of any of the holders of the separate series of trust certificates.

(11) The provisions of the June Indenture and the February Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under either of such indentures.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to the application which is on file in the Offices of the Commission's Public Reference Section, File No. 22-17972, 450 Fifth Street NW., Washington, DC 20549.

Notice Is Further Given that any interested person may, not later than March 4, 1988, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of law or fact raised by the application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-3179 Filed 2-12-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25331; File No. SR-Amex-87-31]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Notice and Order Granting Partial Accelerated Approval to Proposed Rule Change

On December 18, 1987 the American Stock Exchange, Inc. ("Amex"), 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 seeking permanent approval of a six-month pilot program which authorized specialists to accept market-at-the-close ("MOC") orders and to report executions of certain MOC orders as stopped stock transactions.

In June 1987, the Commission approved a six-month pilot program to permit Amex specialists to accept MOC orders.[3] The pilot also permitted specialists to execute "stopped stock"[4] transactions in those stocks which are included in a stock index on the last business day prior to options and futures contracts expiration. Amex Rule 109(d) specifically provides that when the aggregate volume of MOC buy and MOC sell orders is equal, such orders may be stopped against each other and executed at the last sale price on the Exchange just prior to the close of trading. Where there is an imbalance of shares to buy (sell) over shares to sell (buy) in MOC orders, the imbalance may be executed, at the close of trading, against the prevailing offer (bid) just prior to the close. The member then may stop the remaining buy and sell orders against each other and pair them off at the price at which the imbalance was executed. By reporting paired-off trades as "stopped stock" transactions, the specialist will be able to alert limit order customers that stopped market orders holding priority over their limit orders have been executed in the market.[5]

The Amex states that the proposed rule change is designed to improve the efficient execution of orders during periods of high volume since floor brokers would no longer be required to remain in the trading crowd during one of the busiest times of the day to represent MOC orders. In addition, the Amex notes that it is not aware of any problems associated with the use of these procedures during the pilot program. Furthermore, since the proposed rule requires the reporting of paired-off trades as "stopped stock" transactions, customers with limit orders are informed that this transaction was executed outside of the regular auction market and that, therefore, their orders may not have participated.

The Amex has requested that, pending final approval of the rule change, the pilot be extended for 120 days.[6] The Commission finds good cause for approving the proposed rule change as it relates solely to an extension of the pilot, prior to the thirtieth day after the date of publication of the proposal in the **Federal Register** for several reasons. First, the pilot was approved previously by the Commission, no comments on the proposal have been received, and the pilot has run smoothly since its inception. Second, approval at the present time will allow for the permanent, uninterrupted continuation of the pilot program. Third, requiring

[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b-4 (1986).

[3] *See* Securities Exchange Act Release No. 24616 (June 19, 1987) 52 FR 23909. A market-at-the-close order is a market order which is to be executed at or as near to the close as practicable. *See* Amex Rule 131.

[4] A "stopped stock" transaction is one in which a floor broker or specialist pairs-off buy and sell market-at-the-close orders when holding those orders simultaneously in the same stock.

[5] The New York Stock Exchange ("NYSE") has a comparable rule, NYSE Rule 116.40.

[6] Telephone conversation between Michael Cavalier, Assistant General Counsel, Amex, and Joseph Furey, Branch Chief, Division of Market Regulation, February 8, 1988.

paired off MOC transactions to be reported as stopped stock informs customers with limit orders on the book that market orders with priority have been executed.

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 [insert date 21 days from date of publication].

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change referenced above be, and hereby is, approved, as it relates to extension of the pilot.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Dated: February 9, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-3180 Filed 2-12-88; 8:45 am]

BILLING CODE 8010-01-M

[7] 15 U.S.C. 78s(b)(2) (1982).

[8] 17 CFR 200.30-3(a)(12) (1986)

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended February 5, 1988

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45417

Date Filed: February 1, 1988.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 29, 1988.

Description: Application of Florida National Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations requests the issuance of a certificate of public convenience and necessity which would authorize it to engage in the scheduled transportation of persons, property and mail; Between the following points, Copenhagen Denmark, Oslo, Norway, Stockholm, Sweden, and Fort Lauderdale, Florida; Fort Lauderdale, Florida, —New York, New York, —Belfast, Ireland and Lutton, England.

Docket No. 45419

Date Filed: February 1, 1988.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 29, 1988.

Description: Application of Tropical Airways, Inc. pursuant to section 401(d)(1) of the Regulations, requests authority to engage in foreign scheduled air transportation of cargo between the following points: Miami—Venezuela; Miami—Brazil; Miami—Equador; Miami—Columbia; Tropical also requests authority to engage in scheduled foreign air transportation of persons, property and mail between the following points: New York—Granada; Miami—Granada; Miami—Guyana.

Docket No. 45422

Date Filed: February 1, 1988.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 29, 1988.

Description: Application of Sun Country Airlines, Inc., pursuant to section 401 of the Act and Subpart Q of the Regulations requests permanent authority to engage in scheduled foreign air transportation of persons, property and mail on a permissive basis: Between Minneapolis/St. Paul, Minnesota and Oslo, Norway.

Docket No. 45428

Date Filed: February 3, 1988.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 2, 1988.

Description: Application of Transportes Aereos Portugueses, E.P. for an amendment to its foreign air carrier permit pursuant to section 402 of the Act and Subpart Q of the Regulations, to engage in foreign air transportation of persons, cargo and mail, separately or in combination.

Docket No. 45430

Date Filed: February 4, 1988.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 3, 1988.

Description: Application of Northwest Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for an amendment to its certificate of public convenience and necessity for Route 3-F or a new certificate authorizing it to provide non-stop service between Los Angeles, California, and Mexico City, Mexico.

Docket No. 45433

Date Filed: February 5, 1988.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 4, 1988.

Description: Application of Federal Express Corporation, pursuant to section 401 of the Act and Subpart Q of the Regulations requests issuance of a new or amended certificate of public convenience and necessity authorizing Federal Express to provide foreign air transportation of property and mail between a point or points in the United States, on the one hand, and Monterrey, Guadalajara and Mexico City (Toluca), Mexico on the other hand.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 88-3170 Filed 2-12-88; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-88-5]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections.

The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before March 7, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No._____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on February 9, 1988.

Denise D. Hall,

Acting Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23488	Amway Corporation	14 CFR 61.58(c)	To extend Exemption No. 4566, which allows pilots of petitioner to complete the 24-month pilot-in-command check in an airplane simulator provided that the pilot taking the check has completed three takeoffs and three landings within the preceding 90 days in the BAC 1-11 aircraft. Exemption No. 4566 expired 12/3/87.
25517	Skydive Arizona, Inc	14 CFR 105.43	To allow a foreign parachutist to operate his or her equipment in the United States under approval by a recognized national authority from his or her country.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
15590	Embry-Riddle Aeronautical University	14 CFR Part 141, Appendixes A, C, D, F, and H.	To extend Exemption No. 2329, as amended, to allow petitioner to graduate students when they have been trained to a performance standard instead of requiring minimum total flight time. This exemption does not allow a reduction of the minimum solo cross-country flight time. *GRANT, January 25, 1988.*
19651	Gates Learjet Corporation	14 CFR 21.197	To extend Exemption No. 4593, which permits issuance of special flight permits to petitioner for ferrying aircraft between Wichita, Kansas, and Tucson, Arizona, for the purpose of completion, subject to certain conditions and limitations. *GRANT, January 29, 1988.*
23647	Embry-Riddle Aeronautical University	14 CFR 141.65	To extend Exemption No. 3859, as amended, to allow petitioner to continue to recommend graduates of its certificated flight instructor courses for flight instructor certificates and ratings without taking the Federal Aviation Administration written or flight tests. *GRANT, January 25, 1988.*
24770	FlightSafety International	14 CFR 61.57(a)(11)) and 61.58(c)	To allow pilots contracting with petitioner to substitute an approved helicopter training program using petitioner's training facilities for the requirements of §§ 61.57(a)(1) and 61.58(c) for the Sikorsky S-76 aircraft and § 61.57(a)(1) for the Bell 222 aircraft. *GRANT, January 26, 1988.*
25087	Hughes Aircraft Company	14 CFR 91.213 and 91.31	To allow petitioner to operate its NA 265 aircraft with one pilot without a second in command for the conduct of ferry flights, aircraft flight tests, and airborne equipment evaluations where no persons or property other than as necessary for the operation are carried. *DENIAL, January 19, 1988.*
038CE	Porsche Aviation Products, Inc.	14 CFR 23.991(a)(1)	To permit supplemental type certification of a Cessna Model 172 Airplane with a Porsche PRM3200No0 Engine, PFM3200No1 Engine, or PFM3200No3 Engine installed. *GRANT, January 19, 1988.*
053CE	Ayres Corporation Products, Inc.	Section 3.83 of the Civil Air Regulations.	To permit certification of the Ayres Model S2R-HG-T65 Airplane with a stall speed greater than the 70-mile-per-hour maximum stall speed limit recommended by § 3.83. *GRANT, January 21, 1988.*

[FR Doc. 88-3103 Filed 2-12-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: February 9, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2244, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Departmental Offices

OMB Number: 1505-0016
Form Number: International Capital Form BQ-1
Type of Review: Extension
Title:
Part 1.—Reporting Bank's Own Claims, and Selected Claims of Broker or Dealer, on "Foreigners"
Part 2.—Domestic Customers' Claims on "Foreigners" Held by Reporting Bank, Broker or Dealer, Payable in Dollars
Description: This report is required by law (12 U.S.C. 95a, 22 U.S.C. 286f and 3103). It is designed to gather timely and reliable information on international capital movements including data on dollar claims of banks, other depository institutions, brokers, dealers and of their domestic customers *vis-a-vis* foreigners.
Respondents: Business or other-for profit
Estimated Burden: 14,400 hours

OMB Number: 1505-0017
Form Number:
International Capital Form BC
International Capital Form BC (SA)
Type of Review: Extension
Title: Reporting Bank's Own Claims, and Selected Claims of Broker or Dealer, to "Foreigners," Payable in Dollars
Description: This report is required by law (22 U.S.C. 95a, 286f and 3103) for timely and accurate information on U.S. international capital movements including data on the dollar claims of banks, other depository institutions, brokers and dealers *vis-a-vis* foreigners.
Respondents: Businesses or other for-profit
Estimated Burden: 81,000 hours

OMB Number: 1505-0018
Form Number:
International Capital Form BL-2
International Capital Form BL-2(SA)
Type of Review: Extension
Title: Custody Liabilities of Reporting Banks, Brokers and Dealers to "Foreigners," Payable in Dollars
Description: The report is required by law (22 U.S.C. 95a, 286f and 3103) for timely and accurate information on U.S. international capital movements including data on the custody liabilities of banks, other depository institutions, brokers and dealers *vis-a-vis* foreigners, payable in dollars.
Respondents: Businesses or other for-profit
Estimated Burden: 6,900 hours

OMB Number: 1505-0019
Form Number:
International Capital Form BL-1
International Capital Form BL-1(SA)
Type of Review: Extension
Title: Reporting Bank's Own Liabilities, and Selected Liabilities of Broker or Dealer, to "Foreigner," Payable in Dollars
Description: The report is required by law (12 U.S.C. 95a, 22 U.S.C. 286f and 3103) for timely and accurate information on U.S. international portfolio capital movements, including data on the dollar liabilities of banks, other depository institutions, brokers and dealers *vis-a-vis* foreigners.
Respondents: Businesses or for -profit
Estimated Burden: 75,600 hours

OMB Number: 1505-0020
Form Number: International Capital Form BQ-2
Type of Review: Extension
Title:
Part 1.—Liabilities to, and Claims on, "Foreigners" of Reporting Bank, Broker or Dealer
Part 2.—Domestic Customers' Claims on "Foreigners" Held by Reporting Bank, Broker or Dealer, Payable in Foreign Currencies
Description: This report is required by law (12 U.S.C. 95a; 22 U.S.C. 286f and 3103). It is designed to gather timely and accurate information on international capital movements by including data on liabilities and claims, denominated in foreign currencies, of banks, other depository institutions, brokers and their customers *vis-a-vis* foreigners.
Respondents: Businesses or for-profit
Estimated Burden: 3,200 hours
Clearance Officer: Dale A. Morgan, (202) 343-0263, Departmental Offices, Room 2224, Main Treasury Building, 15th & Pennsylvania Avenue, NW., Washington, DC 20220,
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. 88-3131, Filed 2-12-88; 8:45 am]
BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: February 9, 1988.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, 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: 1545-1002
Form Number: 8621
Type of Review: Resubmission
Title: Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund
Description: Form 8621 is used by shareholders of foreign investment companies. Shareholders of passive investment companies use Form 8621 to report distributions from the fund, and a deferred tax amount when an excess distribution is made. Shareholders of qualified electing funds are taxed on current income from the fund. The IRS uses Form 8621 to verify that shareholders have included the correct amount of income from these entities.
Respondents: Individuals or households, Businesses or other for-profit
Estimated Burden: 12,742 hours
Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution

Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,
Departmental Reports, Management Officer.
[FR Doc. 88-3132 Filed 2-12-88; 8:45 am]
BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: February 10, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0666
Form Number: 673(IN)
Type of Review: Extension
Title: Statement for Claiming Benefits Provided by section 911 of the Internal Revenue Code
Description: Form 673(IN) is completed by a citizen or resident of the United States and furnished to his or her employer so the employer can exclude from income tax withholding all or part of the wages paid the citizen or resident for services performed outside the United States.
Respondents: Individuals or households
Estimated Burden: 1,000 hours

OMB Number: 1545-0917
Form Number: None
Type of Review: Extension
Title: Effective Dates of the Economic Performance Requirement
Description: The regulations provide the time and manner of making certain elections relating to the effective date of the economic performance requirement. The information is needed and will be used to assure compliance with the effective date provisions. All accrual basis taxpayers that make an election are affected by the reporting and recordkeeping requirements of the regulations.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 75,417 hours
Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,
Departmental Reports, Management Officer.
[FR Doc. 88-3212 Filed 2-12-88; 8:45 am]
BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: February 10, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasurer Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0151
Form Number: ATF F 2928 (5120.24)
Type of Review: Revision
Title: Prepayment Tax Return—Wine (Puerto Rico)
Description: ATF F 2928 (5120.24) is used to identify taxpayers, amount of tax due, tax return period, type of payment for each return period. The Government uses the information to ensure that the correct tax has been timely paid and received into the Puerto Rican Treasury.
Respondents: Business or other for-profit, Small businesses or organizations
Estimated Burden: 96 hours

OMB Number: 1512-0153
Form Number: ATF F 2930 (5130.21)
Type of Review: Revision
Title: Prepayment Tax Return—Beer (Puerto Rico)
Description: ATF F 2930 (5130.21) documents the liability of tax and the tax payment on beer that is brought into the United States. This tax liability is received by ATF by having the taxpayer prepay the tax before leaving Puerto Rico. The form identified the taxpayer, tax to be paid, method of payment, shipment of beer and receipt.
Respondents: Business or other for-profit, Small businesses or organizations
Estimated Burden: 96 hours
Clearance Officer: Robert Masarsky, (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226
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. 88-3213 Filed 2-12-88; 8:45 am]
BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Advisory Committee on Health-related Effects of Herbicides; Meeting

The Veterans Administration gives notice under the provisions of Pub. L. 92-463 that a meeting of the Advisory Committee on Health-Related Effects of Herbicides will be held in Room 119 of the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC on April 15, 1988 at 8:30 a.m.

The committee will (1) review and make appropriate recommendations relative to the Veterans Administration's programs to assist Vietnam veterans who were exposed to herbicides; such recommendations may concern the information delivery system and outreach efforts, scheduling of Agent Orange-related examinations, essential follow-up activities, and other related matters; (2) advise the Administrator on VA Agent Orange-related programs, programs of the Federal Government, and State programs which are designed to assist veterans exposed to herbicides, and simultaneously, will minimize duplication of VA and other federal programs concerned with the Agent Orange issues; (3) receive and review information from veterans service organizations regarding services provided by the Veterans Administration to Vietnam veterans concerned about the possible adverse health effects of exposure to herbicides; (4) review and comment on proposals for research on the possible health

effects of exposure to herbicides; and (5) serve as a forum for individual veterans to inform the Veterans Administration of their views on policy issues and on the operation of Agency programs designed to assist veterans exposed to herbicides and dioxins in Vietnam. The meeting will be open to the public up to the seating capacity of the room.

Minutes of the proceedings and rosters of the Committee members may be obtained from Mr. Donald Rosenblum, Agent Orange Projects Office (10B/AO), Department of Medicine and Surgery, Veterans Administration Central Office, Washington, DC 20420. (Telephone: (202) 233-4117).

Dated: February 8, 1988.

By direction of the Administrator.

Rose Maria Fontanez,

Committee Management Officer.

[FR Doc. 88-3201 Filed 2-12-88; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 30
Tuesday, February 16, 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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time) Tuesday, February 21, 1988.

PLACE: Clarence M. Mitchell, Jr., Conference Room, No. 200-C on the Second Floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, DC 20507.

STATUS: The Meeting will be Closed to the Public.

MATTERS TO BE DISCUSSED:

Closed Session

1. Agency Adjudication and Determination on the Record of Federal Agency Discrimination Complaints Appeals
2. Litigation Authorizations: General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-7249 at all times for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Hilda D. Rodriguez, Acting Executive Officer on (202) 634-7249.

Date: February 4, 1988.

Hilda D. Rodriguez,

Executive Officer (Acting), Executive Secretariat.

This Notice Issued February 4, 1988.

[FR Doc. 83-3339 Filed 2-11-88; 3:57 pm]

BILLING CODE 6750-06-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 2:03 p.m. on Tuesday, February 9, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider: (1) Matters relating to the possible failure of certain insured banks; and (2) a recommendation relating to an assistance agreement 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 Chairman L. William Seidman, concurred in by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters 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 matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsection (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: February 10, 1988.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 88-3269 Filed 2-11-88; 11:34 am]

BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

February 10, 1988.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B:

TIME AND DATE: February 17, 1988, 10:00 a.m.

PLACE: 825 North Capitol Street NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice. The items at this meeting will be considered only for discussion purposes.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Acting Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

Miscellaneous Agenda, 871th Meeting—February 17, 1988, Special Meeting (10:00 a.m.)

M-1.
Docket No. RM88-5-000, Regulations Governing Bidding Programs. Notice of Proposed Rulemaking.

M-2.
Docket No. RM88-4-000, Independent Power Producers. Notice of Proposed Rulemaking.

M-3.
Docket No. RM88-6-000, Administrative Determination of Full Avoided Costs, Rates for Sales of Power to Qualifying Facilities, and Interconnection Facilities. Notice of Proposed Rulemaking.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-3340 Filed 2-11-88; 3:56 pm]

BILLING CODE 6717-01-M

Corrections

Federal Register
Vol. 53, No. 30
Tuesday, February 16, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

Irish Potatoes Grown in Colorado, Areas II and III; Amendment of the Rules and Regulations

Correction

In rule document 87-8657 beginning on page 12513 in the issue of Friday, April 17, 1987, make the following correction:

§ 948.150 [Corrected]

On page 12515, in the second column, in § 948.150(a), insert the following below the first line: "One (1) producer from all other counties in Area No. 2;".

BILLING CODE 1505-01-D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-87-1357, FR-2382]

Mortgage Insurance for the Allegany Reservation of the Seneca Nation of Indians

Correction

In the issue of Tuesday, February 9, 1988, on page 3807, in the third column, a correction to FR Doc. 87-29092 appeared. The correction to § 200.163 was inaccurate and should have appeared as follows:

§ 200.163 [Corrected]

On page 48201, in the first column, in § 200.163(a)(2), in the seventh line, "203(g)" should read "203(q)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ 020-41-5410-10-ZAED; A-23150]

Receipt of Conveyance of Mineral Interest Application; Albert J. Goulder

Correction

In notice document 88-2258 appearing on page 3269 in the issue of Thursday, February 4, 1988, make the following correction:

In the second column, under T. 11 N., R. 3 W., in Sec. 8, in the first line, "NE¼SW¼" should read "NW¼SW¼".

BILLING CODE 1505-01-D

federal register

Tuesday
February 16, 1988

Part II

Environmental Protection Agency

40 CFR Part 372

Toxic Chemical Release Reporting; Community Right-to-know; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPTS-400002A; FRL 3298-2]

Toxic Chemical Release Reporting; Community Right-to-know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule contains the uniform toxic chemical release reporting form as required by section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986. Section 313 requires that owners and operators of certain facilities that manufacture, import, process, or otherwise use certain toxic chemicals report annually their releases of those chemicals to each environmental medium. This rule also requires certain suppliers of toxic chemicals to notify recipients of such chemicals in mixtures and trade name products.

DATE: This rule is effective March 17, 1988.

FOR FURTHER INFORMATION CONTACT: Sam K. Sasnett, Deputy Project Coordinator (TS-779), Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Room. WH 562A, 401 M Street. SW. (Washington, DC 20460, (800-535-0202), In Washington, DC and Alaska, 202-479-2449).

SUPPLEMENTARY INFORMATION:

I. Authority

The Agency is promulgating this rule pursuant to sections 313 and 328 of Title III of the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 (42 U.S.C. 11013 and 11028). Title III is also titled "The Emergency Planning and Community Right-To-Know Act of 1986." Section 313 of Title III requires owners and operators of covered facilities to report annually their releases of listed toxic chemicals. Section 313 also specifies that EPA must publish a uniform toxic chemical release form. In addition, section 328 provides EPA with the authority to promulgate such regulations as may be necessary to carry out the purposes of Title III.

II. Background

A. Regulatory History and Summary of Public Participation

On October 17, 1986, the President signed into law the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99-499. The major function of this legislation is to amend and reauthorize provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). However, Title III of SARA is a free-standing statute (not part of CERCLA) that is titled "The Emergency Planning and Community Right-To-Know Act of 1986." In general, Title III contains authorities relating to emergency planning, emergency notification, community right-to-know on chemicals, and a toxic chemical release inventory.

The focus of this rule is the toxic chemical release inventory provision contained in section 313 of Title III of SARA. Section 313 requires owners and operators of certain facilities that manufacture, process, or otherwise use a listed chemical to report annually their releases of such chemicals to any environmental medium. The reports are to be sent to both EPA and the State in which the facility is located. The basic purpose of this provision is to make available to the public information about releases of certain toxic chemicals that result from operations of certain facilities in their community.

EPA issued a proposed rule, published in the **Federal Register** of June 4, 1987 (52 FR 21152). The proposed rule contained the toxic chemical release inventory reporting form and interpretive requirements for reporting. The preamble of the proposed rule outlined the public participation activities that led up to the development of the proposal. After publication, EPA received over 100 written comments on the proposed rule. In addition, EPA held public meetings in Washington, DC, Chicago, Il, and San Francisco, CA. Attendees at these meetings presented oral comments representative of wide range of interests including the affected industry, environmental and other public interest groups, State and local governments, and individual citizens.

In addition, EPA has held other meetings with, and received other communications from, interested parties.

B. Overview of Final Rule Requirements

The reporting requirements of this rule apply to owners and operators of covered facilities that manufacture, process, or otherwise use listed toxic chemicals. A covered facility is one that:

Has 10 or more full-time employees.

Is in SIC codes 20 through 39.

Exceeds an applicable manufacture, process, or use threshold.

EPA interprets "in SIC codes 20 through 39" to relate to the primary SIC code of the facility. If the facility is comprised of multiple establishments, facility coverage is based on a relative comparison of the value of products shipped and/or produced at 20 through 39 establishments versus non-20 through 39 establishments in that facility.

EPA has included a definition of "full-time employee" and guidance on determining SIC coverage.

EPA has not included a small business exemption in this rule different from that provided by section 313. However, the Agency is allowing reporting in ranges for releases to an environmental medium and for off-site transfers of wastes that are below 1,000 pounds per year. EPA expects that small businesses will benefit most from this provision. The range reporting is for calendar years 1987, 1988, and 1989 only.

The thresholds are those provided by the statute:

For manufacturing or processing as defined—75,000 pounds for 1987, 50,000 pounds for 1988, 25,000 pounds per year for 1989 and thereafter.

For toxic chemicals otherwise used the threshold is 10,000 pounds per year for all years.

Reports must be submitted annually on or before July 1 for the preceding year's data.

The chemicals subject to reporting initially are those chemicals as provided by section 313(c), with certain technical modifications.

Additions or deletions of chemicals from the list may result from petitions or EPA's own review of the list. Any such changes will be by notice and comment rulemaking, and EPA will identify the reporting years which they apply.

Mixtures and trade name products imported, processed, or used at a facility must be evaluated for the presence of listed toxic chemicals. However, EPA has applied a *de minimis* concentration limitation of 1 percent (or 0.1 percent if the chemical is a carcinogen) consistent with the Occupational Safety and Health Administration (OSHA) Hazard Communications Standard (HCS) in 29 CFR 1910.1200. Toxic chemicals present in concentrations below the *de minimis* limit do not have to be factored into threshold and release reporting calculations.

In relation to reporting on mixtures, EPA has developed a supplier requirement. Owners or operators of facilities in SIC codes 20 through 39 who supply mixtures or trade name products containing listed toxic chemicals must notify their customers about the presence and concentration of those chemicals in their products. However, the *de minimis* limit as described above also applies to this requirement. The supplier notification requirement takes effect with the first product shipment in 1989.

Certain definitions have been modifed. The definition of "article" has been revised to more closely parallel the OSHA HCS article definition. In addition, article processing or use is exempt from threshold and release determinations under this rule. However, respondents must pay careful attention to the non-release criteria in this definition.

The definition of "manufacture" retains the interpretation that coincidentally produced impurities and other byproducts must be accounted for. However, the consideration of an impurity is subject to the above-referenced *de minimis* limitation. This *de minimis* limitation does not apply to the byproducts produced coincidentally as a result of manufacturing, processing, use, waste treatment, or disposal.

EPA has attempted to clarify the differences between processing and use. Processing activities are basically those that incorporate a chemical into a product for distribution in commerce. Use activities are primarily non-incorporative activities.

A new part of the rule is an exemptions section. The major function of this section is to outline activities that are not subject to certain requirements. In particular, this section exempts activities in laboratories from threshold and release determinations.

There are a number of specific changes from the proposed rule in Form R, the Toxic Chemical Release Inventory Reporting Form. The form is more modular in design in order to reduce the frequency of the same information having to be filled in for each chemical-specific submission. Other specific changes are as follows:

1. The certification statement (Part I, Section 2) has been modified.

2. The facility identification section of the form (Part 1, Section 3) contains the name and telephone number of a public contact person for the facility. In the first reporting year, if this information is available, the facility must provide its latitude and longitude. In subsequent years, if this information is not readily available, the facility must develop it and provide it.

3. In the chemical identity section of the form (Part III, Section 1) one change in the reporting requirements affects the generic chemical identity to be provided in cases where the specific chemical identity is claimed trade secret. The respondent is to develop its own generic chemical name rather than using a predefined generic name as EPA had proposed. The generic name is to be structurally descriptive of the chemical.

Reporting may also be based on a generically identified mixture or trade name product component. (See Part III, Section 2 of the form.) This reporting would occur in cases where a user has information that a generically identified component of a mixture or trade name product is a section 313 chemical that, by itself, exceeds a threshold but the user does not know the specific identity.

4. The release reporting section of the form (Part III, Section 5) contains several modifications. As mentioned above, for calendar years 1987, 1988, and 1989, facilities may take advantage of range reporting check boxes for releases of a toxic chemical to an environmental medium of less than 1,000 pounds per year. The releases to water portion of the form has been disaggregated by stream and respondents must indicate what percentage of the release was contributed by stormwater runoff if they have monitoring data. In addition, underground injection of wastes at a facility must be entered on a specific line in the release section.

The proposed columns indicating section 304 releases or that a permit applies to releases have been deleted from the final form.

5. EPA has included the reporting of transfers of section 313 toxic chemicals in waste to off-site locations. However, these transfers are to be reported in a separate section of the form (Part III, Section 6).

6. The waste treatment section of the form remains unchanged from the proposal except that EPA has provided for reporting sequential waste treatment.

7. The optional section on waste minimization has been retained but the narrative part of this section has been removed. A 3-year sunset provision will apply to this form section.

8. The form also contains a preformatted supplemental information sheet (Part IV).

III. Issues Relating to Facility coverage

A. Interpretation of SIC Code Coverage

Standard Industrial Classification (SIC) code coverage is one of three criteria specified in section 313(b) for determining whether a facility is subject to reporting. The preamble of the proposed rule stated that "in SIC codes 20–39" meant that the primary SIC code for the facility is within the 20 through 39 designations. The proposed rule also included facilities that engage in one or more activities in SIC codes 20 through 39 even if the primary SIC code for the facility itself is not SIC 20 through 39.

Many commenters argued against including "secondary" SIC activities. First, commenters stated that the definition of a facility is the whole collection of buildings, not parts thereof. Second, they argued that SIC codes are used to define the primary purpose of an establishment, not all activities. Therefore, including facilities that engage in activities in SIC code 20 through 39 but for which the primary SIC code for the facility is outside SIC code 20 through 39 is in direct contradiction to the established assignment and usage of SIC codes. Third, commenters stated that it exceeded the intent of the legislation and stretched the capabilities of the industrial classification system. Finally, the commenters stated that any increase in SIC code coverage should be through discrete and more focused rulemakings, as prescribed in section 313(b)(1)(B) and (b)(2), with substantial sector-by-sector justification to warrant increased reporting on non-manufacturing sectors.

The SIC code system was developed to calssify establishments by type of economic activity. A SIC code applies to an establishment, which was defined as an economic unit, generally at a single physical location, where business is conducted or where services or industrial operations are performed. SIC codes are not directly applicable to facilities as defined in section 329(4) of Title III and this rule. A "facility" is defined as all buildings, equipment, structures, and other stationary items which are located on a single site or adjacant contiguous sites owned or operated by the same person. Therefore, a facility can be a much larger, more complex operation than an establishment. The definition of primary SIC code is generally considered to be the code related to the types of products distributed from an establishment that have the highest dollar value added.

Based on the public comments received on the proposed rule, the Agency has revised its interpretation of "in SIC Codes 20 through 39." The revision is designed to remove the confusion and ambiguity in the proposed rule caused by linking the concepts of facility and primary SIC code. The final rule provides that a facility is in SIC codes 20 through 39 based on the SIC codes for the one or more establishments that comprise the facility.

EPA has identified the following three possible scenarios relating establishments, SIC codes, and facilities:

1. *The establishment is the same as the facility.* Where an establishment is the same as a facility, given that the other eligibility criteria are met, and the establishment's primary SIC code is in 20 through 39, the facility is covered for purposes of reporting. Because there is

no distinction between the establishment and the facility, reporting of releases from the facility is straightforward.

2. *The facility is comprised of two or more establishments, all of which have a primary SIC code of 20 through 39.* For multi-establishment facilities, when all of the establishments' primary SIC codes are in 20 through 39, given that the other eligibility criteria are met for the facility, the facility is covered for purposes of reporting.

3. *The facility is comprised of two or more establishments, one or more of which have a primary SIC code of 20 through 39.* For multi-establishment facilities when one or more of the establishments' primary SIC codes are in 20 through 39, the facility is covered for purposes of reporting if either of the following criteria apply for the reporting year:

a. The sum of the value of products shipped from and/or produced at all establishments with primary SIC codes in 20 through 39 is greater than 50 percent of the total value of products shipped from and/or produced at all establishments that comprise the facility.

b. One establishment whose primary SIC code is in 20 through 39 has a value of products shipped and/or produced that is larger than that of any other establishment in the facility.

Facilities may refer to data they submitted to the U.S. Department of Commerce, Bureau of the Census, for the Annual Census of Manufacturers (Form MA-1000) to calculate the relative values of products shipped and/or produced.

Once a facility is covered in either of the above cases, all releases of listed toxic chemicals must be accounted for, even from individual establishments in the facility that fall outside of the 20 through 39 SIC codes.

B. Reporting by Multi-Establishment Facilities

Several commenters raised the concern that it will be difficult for facilities consisting of more than one establishment to submit a single report covering the entire facility. Commenters noted that individual establishments, owned by the same parent company, often have different management lines of authority within the company. In these cases, commenters noted, it would be difficult to combine information into one reporting form.

As explained in A. of this unit, the facility is the unit that is responsible for reporting. While EPA could continue to require a single submission for multi-establishment facilities, EPA has decided to require a compliance determination by the whole facility covering all its establishments, but to allow individual establishments or groups of establishments to report separately, provided all releases and waste treatment methods are accounted for. However, if individual establishments or groups of establishments report separately for one chemical they must continue to report separately for all other chemicals at the facility.

Under this approach the entire facility must determine compliance as a single unit. Thus the Agency ensures no reporting will be missed because certain individual establishments do not meet thresholds for employees or chemical activities. For example, a facility is comprised of two establishments, with combined employment totaling 60 full-time workers. Establishment A uses 5,000 pounds of benzene and establishment B uses 8,000 pounds of benzene. The facility as a whole exceeds 10 full-time employees and combined use by both establishments exceeds the 10,000 pound threshold for the use of benzene at the facility. Therefore this facility must report for benzene. It has two options. It can file a report that represents the combined data associated with all activities with benzene at both establishments. Alternatively, both establishments can file separate reports accounting for their individual releases and other related data. If both establishments file separate reports, then they must submit separate reports for all chemicals subject to reporting. However, if, for example, a toxic chemical is used at one establishment but is not present at all at the other establishment, only the establishment that uses the chemical must report for that chemical.

The form provides a way for users of the data to know whether all or only part of a facility is included in a specific report. Check boxes correspond to (1) the entire covered facility or (2) one or more establishments within a covered, multi-establishment facility.

A second issue regarding multi-establishment facilities relates to the requirement that the owner or operator of a facility must report. EPA proposed that if no report was filed, both the owner and operator (if different) would be liable. Commenters requested clarification on the liabilities and obligations of an owner of leased property, where the owner's interest is solely one of real estate. These commenters believe that such an owner should not have obligations to report because it is not in a position which would allow it to determine compliance or report the required information. The owner would not be able to submit a report without the cooperation of the operator.

EPA recognizes these difficulties. The final rule exempts certain owners of leased property from reporting requirements. These exemptions apply only to those owners of property who have no business interest in the property other than real estate. Owners who are part of the same business organization as the operators would not be exempt, nor would owners of businesses that contract out the operations of a particular site. In these cases, the owner has a business interest beyond that of the real estate and has the ability to exert some control over the operator.

A commenter identified an additional problem that occurs when the establishments in a multi-establishment facility are operated by different persons which have no common corporate relationship, such as in an industrial park. EPA identified two possible scenarios. In the first scenario, the owner of the facility operates an establishment in the facility but leases a portion of the facility to another person who operates another establishment. The owner and this other operator do not have any business relationship other than landlord and tenant. Also, the owner does not know what chemicals are manufactured, processed, or used in that operator's establishment. In the second scenario, the owner of the facility, having only a real estate interest in the facility, does not operate any establishment in the facility and leases all of the facility to two or more persons who operate establishments in the facility. Under the exemption discussion above, the owner would not be subject to reporting. However, in both scenarios, the operators would be subject to reporting, but they have no common corporate or business interest and do not know what chemicals are manufactured, processed, or used in each other's establishments.

In neither of these situations is one person in a position to know all of the information necessary to make a determination whether the facility as a whole is a covered facility and whether a toxic chemical is manufactured, processed, or used at the facility in excess of an applicable threshold. Accordingly, EPA has decided that, in such a situation, each operator should treat the establishments it operates as a facility for purposes of reporting. These operators must make the determinations under the rule for SIC code coverage, number of full-time employees, and whether a toxic chemical is

manufactured, processed, or otherwise used in excess of an applicable threshold, but only for those establishments they operate. Appropriate provisions have been added to the rule, form, and instructions to provide for this approach. To ensure that related companies do not avoid reporting for multi-establishment facilities, EPA has limited use of this approach to operators of separate establishments in the same facility who do not have any common corporate or business interest, i.e. they are not engaged in partnerships, joint ventures, ownership of a controlling interest in one by the other, or ownership of a controlling interest in both by a third person.

Another situation may arise where a person owns a parcel of land on which it operates one or more establishments and also leases land immediately adjacent to it on which that same person operators one or more additional establishments. Section 329(4) of Title III defines "facility" to include "a single site or * * * contiguous or adjacent sites * * * which are owned or operated by the same person * * *." Thus in this situation the "facility" would be the total site including the land owned by the person and the adjacent land leased by the person. To make the SIC code determinations and reporting threshold determinations, the person is required to consider the activities at all the establishments he or she operates on the total site. Having made the determinations that the total facility is a covered facility and that an applicable reporting threshold has been met, the person may submit separate reports for the establishments as described above.

C. Auxiliary Facilities—Laboratory Activity Exemption

Commenters requested that EPA clarify whether auxiliary operations which have primary SIC codes within 20 through 39 (manufacturing) are covered for purposes of section 313 reporting.

Auxiliary establishments are defined under the SIC code system as operations which primarily support other establishments. Common types of auxiliary operations are research and development laboratories, warehouses, storage facilities, and waste treatment facilities. The SIC code system assigns these facilities SIC codes according to the establishment they service; thus, auxiliary establishments tied to manufacturing establishments are given a manufacturing SIC code.

Commenters argued that the statute did not contemplate including establishments that do not engage in manufacturing. They stated further that EPA has the discretion to modify the facility coverage criteria to correct such anomalies.

1. *Auxiliary facilities must make a compliance determination.* EPA has determined that the most consistent way to treat a stand-alone auxiliary establishment (i.e. one that is not a part of a larger facility) is to require that it make a compliance determination. If such an establishment is classified in SIC codes 20 through 39 because it supports a manufacturing activity, it must review its chemical activities and the level of such activities to determine if it must report. It is possible that an establishment such as a warehouse standing alone will not be subject to reporting. If no manufacture (including importation), processing (including repackaging), or use of covered toxic chemicals occurs, the facility is not subject.

Similarly, persons who own or operate auxiliary establishments that are within the defined boundaries of a larger multi-establishment facility must review the manufacture, processing, or use activities involving listed toxic chemicals at all the establishments in the facility. Such auxiliary establishments must be factored into the "value of shipments and/or production" calculation to the extent it is applicable, and must be counted toward the employee threshold. The activity of manufacturing, processing, or using a toxic chemical in the auxiliary establishment counts toward the chemical thresholds for the facility.

2. *Exemption of laboratory activities.* Commenters stated that it would be burdensome to require laboratories to determine whether they must comply because of the potentially large number of mixtures and chemicals on-site in small volumes and the relatively rapid turnover of such chemicals and mixtures in the laboratory setting.

EPA agrees with comments that manufacturing, processing, or use of chemicals in a laboratory under the supervision of a technically qualified individual should be exempt from the provisions of this rule. This exemption is consistent with the exemption provided in rules implementing sections 311 and 312 of Title III, and the OSHA HCS. The exemption does not apply to specialty chemical production or pilot plant scale operations.

The Agency believes that this exemption provides a consistent and necessary reduction in the reporting burden. For example a stand-alone laboratory is classified in SIC codes 20 through 39 because it is an auxiliary facility supporting a manufacturing operation of a company. This laboratory is, in essence, exempt from the threshold determination and reporting requirements of this rule. Also a covered facility will not have to review chemical manufacture, processing, or use in a laboratory within that facility, provided such operation is not conducting specialty chemical production or pilot plant scale activities.

If a toxic chemical is removed from such a laboratory for further processing or use in the facility, the facility must factor such amounts into threshold determinations and release reporting.

The Agency does retain certain concerns about releases of toxic chemicals from laboratories. Therefore, EPA will review laboratories as part of its overall review of the types of facilities that should be covered by amendments to this rule.

D. The Rule Contains no Modification of Facility Coverage

EPA has discretionary authority to modify the coverage of facilities under section 313(b)(1)(B). The report of the congressional conference committee for Title III states that any such modifications are limited "* * * to adding SIC codes for facilities which, like facilities within the manufacturing sectors SIC codes 20 through 39, manufacture, process or use toxic chemicals in a manner such that reporting by these facilities is relevant to the purposes of this section." (H.R. Rep. No. 962, 99th Cong., 2nd sess. 292—hereafter referred to as the conference report.) The conference report further states that section 313(b)(1)(B) is given to provide EPA with the authority to adjust coverage but that "it does not provide EPA the authority to change the overall scope of the reporting program for Toxic Chemical Release Forms." Id. at 293.

The Agency proposed that facilities within SIC codes 20 through 39 be required to report. Comments from trade associations, private companies, State agencies, public interest groups and academia requested that EPA use its authority under section 313(b)(1)(B) to include other facilities. These commenters noted that other kinds of facilities beyond those in the manufacturing sector can have significant releases of toxic chemicals. They contend that if the current scope of reporting is not expanded, the public will not realize that manufacturing releases constitute only a part of the total releases of these chemicals into the environment.

Most commenters provided specific examples of facilities that they would like to see added. They include:

Commercial waste treatment facilities, transportation sites, federal facilities, municipal waste treatment facilities and publicly owned treatment works, disposal sites, petroleum and chemical bulk stations and terminals, tank farms, electrical services, petroleum wholesalers, farm suppliers, paint and varnish suppliers, and industrial launderers. Commenters suggested that SIC codes should not be a primary determinant of coverage and that EPA should consider the intent of the law to provide citizens information about releases from all important sources of emissions.

Modification of facility coverage could also involve deletions of certain industries from the currently covered SIC codes. In deleting SIC codes the Agency will consider to what extent certain manufacturing operations produce or use toxic chemicals in a manner more similar to operations outside the manufacturing sector. The conference report includes an example of such an operation for facilities within SIC code 2875 that mix or blend fertilizer products for sale at the retail level. It is also possible that certain manufacturing operations, for example those that conduct simple article assembly, may not produce, import, process, use, or release significant amounts of covered toxic chemicals. If by the inherent nature of their activities such facilities are unlikely to otherwise be subject to reporting, then it would serve no purpose to continue to include them in the SIC code designations.

The Agency is choosing not to modify the facility coverage of the rule at this time. The issues raised in the comments are important ones for EPA to consider in exercising its authority to modify coverage. Such issues should be dealt with through full notice and comment rulemaking. The Agency must carefully evaluate additional types of facilities that may be manufacturing, processing, or using listed toxic chemicals as well as facilities in SIC codes 20 through 39 that do not handle such chemicals. EPA is planning to initiate an evaluation of facility coverage in 1988. As part of this analysis, EPA will examine the predominant activities in SIC codes 20 through 39. The results of this evaluation and any recommended additions or deletions to the scope of covered facilities will be published as a proposed amendment to this rule.

As part of this analysis EPA will also look at the concept of value of products shipped and/or produced from designated SIC code establishments. Another potentially more equitable approach of determining multi-establishment facility coverage is by using "value added" instead of the value of products shipped and/or produced. The value-added approach may create less distortion and duplication when comparing the contribution by individual establishments for purposes of the overall facility coverage determination. However, value-added information may be less available and more burdensome to determine than value of shipments and/or production. EPA will review the first few years of reported data and will attempt to evaluate how the value of shipments and/or products approach affects overall facility coverage.

IV. Definitional Issues

A. Definition of Manufacture

1. *Coincidental production of toxic chemicals.* EPA proposed to interpret "manufacture" to include coincidental production of a listed toxic chemical as a byproduct or impurity during the manufacture, processing, use, or disposal of any other chemical substance or mixture. Congress adopted the definition of "manufacture" used in regulations under the Toxic Substances Control Act (TSCA) where such an approach is used. The proposed rule's approach was intended to cover those situations in which a listed toxic chemical is created (intentionally or unintentionally) and then passed on in commerce or disposed of, but never otherwise accounted for.

Commenters objected to this interpretation of the manufacture definition on grounds that it exceeded the statutory authority of Title III. They also stated that having to make such determinations would require expensive, detailed monitoring that most facilities do not do and would not be required to do under section 313. Other commenters stated that, if such a determination were required, a *de minimis* cut-off should apply, consistent with OSHA HCS requirements, to reduce the burden on the facility.

EPA believes that the definition of manufacture in section 313 includes the coincidental production of toxic chemicals. Section 313(b)(1)(C) states that "[t]he term 'manufacture' means to produce, prepare, import, or compound a toxic chemical." There is no limitation in this definition that would exclude manufacture of a toxic chemical coincidental to the production, processing, use, or disposal of another chemical, nor is there any indication in the legislative history of Title III that Congress intended to exclude toxic chemicals produced coincidentally. Accordingly, EPA believes that such production is included in the definition of manufacture under section 313. For purposes of the rule however, EPA has distinguished between toxic chemicals which are impurities that remain with another chemical that is processed, distributed, or used, from toxic chemicals that are byproducts either sent to disposal or processed, distributed, or used in their own right. EPA also considers that it would be reasonable to apply a *de minimis* concentration limitation to toxic chemicals that are impurities in another chemical or mixture. In essence, the *de minimis* cut-off adopted for mixtures (see Unit VI.) would apply to the presence of impurities created as a result of making that mixture, or a component of the mixture. Because the covered toxic chemical as an impurity ends up in a product, most producers of the product will frequently know whether the chemical is present in concentrations that exceed the *de minimis* level, and, thus may be listed on the Material Safety Data Sheet (MSDS) for that product under the OSHA HCS.

This final rule does not adopt a *de minimis* concentration limitation in connection with the production of a byproduct. EPA believes that the facility should be able to quantify the annual aggregate pounds of production of a byproduct which is not an impurity because the substance is separated from the production stream and used, sold, or disposed of, unlike an impurity which remains in the product.

The major problem with applying a *de minimis* exemption to a toxic chemical produced as a result of use or disposal of another chemical is the difficulty of determining where and how to make a precentage determination. For example, there may be various points in a treatment process at which a percentage determination could be taken. Also, those doing a better job of treatment could be unfairly penalized because such treatment may concentrate the chemical in waste prior to disposal. Therefore, the conscientious facility may exceed the *de minimis* concentration of the toxic chemical in a waste whereas another facility having much more dilute waste would not be subject to reporting. Therefore, EPA believes that the estimation of a total annual mass quantity for such coincidental production during use or disposal is a fair approach.

In any case, EPA wishes to emphasize that the determination of such coincidental production should be based on the facility's existing production records, monitoring, or analytical data,

and reasonable judgment on the part of the facility's management. No further monitoring or analysis of production, process, use, or disposal streams is required, consistent with section 313.

2. *Import of toxic chemicals.* Section 313(b)(1)(c) defines "manufacture" to include import. Thus the owner or operator of a facility that manufactures or imports a toxic chemical is potentially subject to the reporting and supplier notification provisions of the final rule. If a toxic chemical is both manufactured and imported at a facility, the total amount manufactured and imported is aggregated for purposes of determining whether the reporting threshold for manufacturing has been met. Thus it is important for a facility to determine whether it is importing a toxic chemical, either in relatively pure form or as part of a mixture.

The U.S. Customs Service defines an importer as a person who imports a chemical into the customs territory of the United States and includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on that person's behalf, the consignee, the importer of record, the actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20, and the transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144.

Section 313 refers to a facility which manufactured (including imported) a toxic chemical. Section 313 does not define "import" or explain when a facility is considered to have imported a chemical. Given the broad Customs definition of who is an importer, several persons may be "importers" for any given shipment of a toxic chemical brought into the customs territory of the U.S. For example, a facility may conduct the entire import transaction using its own personnel in which case it would be the only importer. In other cases, facilities may act through import brokers or others who do the paperwork and pay the duties but provide for direct shipment of the chemical to the facility.

EPA determined that for a given imported shipment of a toxic chemical, only one facility should be considered to have imported the shipment. Otherwise, there could be double counting of each shipment. Thus for purposes of the final rule, EPA has defined "import" to mean to cause a chemical to be imported into the customs territory of the U.S. For purposes of the definition of "import," EPA has defined "to cause" in a way which designates the person who in effect controls the importing of the chemical, i.e. the person who intends that it be imported and controls the identity of the chemical and the amount to be imported, not those who are merely involved in the transaction.

Accordingly, through this definition, a facility which completes the entire import transaction for toxic chemical using its own personnel would be considered to have imported the chemical. Further, a facility that ordered the import of a toxic chemical through an import broker, specifying the identity, amount, and that it is to be imported, also would be considered to have imported the chemical. However, if a facility ordered a toxic chemical from a chemical supplier in the U.S., who in turn decided to import the chemical to fill the order or filled the order from a previously imported stock of the chemical, the chemical supplier's facility would be considered to have imported the toxic chemical. The facility which ordered the chemical would not be considered to have imported the chemical because it did not control the amount to be imported or specify that it was to be imported.

In most cases, determining whether a facility caused the import of a toxic chemical will not be critical because a facility in SIC codes 20 through 39 which receives such a toxic chemical from an import shipment is also likely to process or otherwise use the chemical. Since the thresholds for manufacturing and processing are the same and the use threshold is lower than the manufacturing threshold, EPA does not believe that defining "import" in this way will result in any facility escaping the reporting requirements of the final rule. In addition, EPA does not believe that facilities will evade supplier notification requirements under this approach.

3. *Toll Manufacturers of Toxic Chemicals.* EPA recognizes that it is a practice in the chemical industry for one company to contract with another company to produce a chemical exclusively for it. This may be done to use available production facilites, to take advantage of cheaper production techniques, or to avoid building additional plant capacity. The company initiating the activity typically retains control over the identity of the chemical, the amount to be produced, and the production technology. The company actually producing the chemical in these situations is often referred to as a "toll manufacturer."

Under TSCA, which authorizes EPA to apply certain requirements to persons who manufacture chemical substances and mixtures, EPA has sometimes treated both companies in a toll manufacturer relationship as "manufacturers" subject to the requirements. However, for purposes of section 313 reporting, EPA interprets the definition of manufacture to apply only to a facility that actually produces a toxic chemical. Thus, in a toll manufacturer situation, the facility actually producing a toxic chemical would be subject to reporting, if it produced more than the threshold for manufacturing. The other company's facility would be subject to the reporting for that chemical only if it also actually manufactured the chemical in excess of the manufacturing threshold, or if it processed or otherwise used the chemical in excess of an applicable threshold. EPA believes this interpretation is consistent with congressional intent to capture releases associated with manufacturing activities.

B. Clarifications Regarding Process and Otherwise Use; Exemption of Certain Uses

EPA included the statutory definition of "process" in the proposed rule and proposed a definition of "otherwise use." The statute does not specifically define "use" or "otherwise use" yet there are different reporting thresholds associated with manufacturing and processing activities versus the "otherwise using" of a listed toxic chemical. Therefore, the basic purpose of including a definition of "otherwise use" was to distinguish for the potential respondent what activities would be subject to the different thresholds. The proposed "otherwise use" definition was broad in scope, basically encompassing all uses of a chemical at a facility not covered by the definitions of the terms "manufacture" or "process." The preamble of the proposed rule contained one example of processing versus use of a chemical, and the proposed instructions for the form gave examples of manufacturing, processing, and use activities.

Commenters from industry took issue with the proposed definition of otherwise use and requested further clarification of the differences between processing and use activities. Still other commenters recommended that certain uses be exempted from the final rule reporting requirements.

1. *Clarification of the terms "process" and "otherwise use".* In the public meetings, workshops, and in a preliminary question and answer document on section 313 issues, EPA has made the following basic distinction between processing and use activities.

a. *Processing is an incorporative activity.* The process definition focuses on the incorporation of a chemical into a product that is distributed in commerce. This incorporation can involve reactions that convert the chemical, actions that change the form or physical state of the chemical, the blending or mixing of the chemical with other chemicals, the inclusion of the chemical in an article, or the repackaging of the chemical. Whatever the activity, a listed toxic chemical is processed if (after its manufacture) it is ultimately made part of some material or product distributed in commerce. Examples of the processing of chemicals include chemicals used as raw materials or intermediates in the manufacture of other chemicals, the formulation of mixtures or other products where the incorporation of the chemical imparts some desired property to the product (e.g., a pigment, surfactant, or solvent), the preparation of a chemical for distribution in commerce in a desirable form, state, and/or quantity (i.e. repackaging), and incorporating the chemical into an article for industrial, trade, or consumer use.

b. *Otherwise use is a non-incorporative activity.* EPA is interpreting otherwise using a covered toxic chemical to be activities that support, promote, or contribute to the facility's activities, where the chemical does not intentionally become part of a product distributed in commerce. Examples would be a chemical processing aid such as a catalyst, solvent, or reaction terminator. These chemicals may be integral parts of a reaction but do not become part of a product. Other examples would be manufacturing aids such as lubricants, refrigerants, or metalworking fluids, or chemicals used for other purposes at the facility such as cleaners, degreasers, or fuels.

2. *Comments relating to EPA's interpretive distinction between process and use.* One commenter disagreed with EPA's interpretation that a non-incorporative use of a solvent in chemical processing should be classified as otherwise using it. This commenter stated that the solvent can be integral to a reaction and that the solvent can be in the same equipment as other processed chemicals, with the same low probability of release. Another commenter stated that a catalyst should not be classified as a processing aid (i.e. otherwise used) because it participates in a reaction. EPA disagrees with these comments on the grounds that it is necessary and appropriate to distinguish processing from otherwise using based on the thrust of the process definition (i.e., whether the toxic chemical in question becomes part of some product distributed in commerce).

Another commenter raised the example of a paint that is applied during the manufacture of automobiles. Certain toxic chemical components of the paint mixture would become part of the automobile and other toxic chemicals such as the solvents would evaporate as intended. Is the mixture processed, used, or both? EPA's interpretation is that the activity of each relevant component of the mixture would have to be evaluated. The solvents would be "used." Therefore, they would be subject to the 10,000 pound threshold. The other components of the mixture such as the pigments, would be "processed" because they are incorporated into the article. Therefore, those mixture components would be subject to reporting based on the process threshold.

3. *Exemptions of certain uses.* Several commenters stated that the proposed definition of otherwise use was too broad. They stated that without some limitations or exemptions the presence at the facility of a listed chemical in any form would have to be factored into threshold calculations. One example given was copper in copper pipes that are part of the facility. This can be interpreted as an ancillary use of copper. They claimed that such a situation would be unreasonable, would place an unnecessary reporting burden on many facilities, and would result in many meaningless reports. One commenter suggested that the otherwise use definition be modified to include the concept of "active" uses at the facility.

Based on a review of the comments and questions received, EPA has determined that it is appropriate to place some limitations on the definition of "otherwise use." EPA has developed (§ 372.38 of the rule) a listing of certain exempt uses of toxic chemicals as follows:

(1) Use as a structural component of the facility.

(2) Use of products for routine janitorial or facility grounds maintenance. Examples include use of janitorial cleaning supplies, fertilizers, and pesticides similar in type or concentration to consumer products.

(3) Personal uses by employees or other persons at the facility of foods, drugs, cosmetics, or other personal items containing toxic chemicals, including supplies of such products within the facility such as in a facility operated cafeteria, store, or infirmary.

(4) Use of products containing toxic chemicals for the purpose of maintaining motor vehicles operated by the facility.

(5) Use of toxic chemicals present in process water and non-contact cooling water as drawn from the environment or from municipal sources, or toxic chemicals present in air used either as compressed air or as part of combustion.

(6) Use of articles.

C. Full-Time Employee

One commenter requested that EPA define what it means to have 10 or more full-time employees for compliance with section 313 reporting.

The Bureau of the Census defines a full-time employee as a person working 35 hours or more per week, persons who worked 1 to 34 hours for non-economic reasons and usually work full-time, and persons with a job but not at work who usually work full-time. The Bureau of Labor Statistics has a very similar definition. Their definition does not include contract employees. The above two definitions are used in surveys conducted as of a particular week, not for an entire year.

EPA considered two factors in the development of the employee threshold determination. First, the definition should reasonably apply to the annual basis of the reporting. Many facilities may have large seasonal variations in employment, and the standard must apply to those situations in an equitable manner. Second, facilities with large numbers of contract employees should not escape reporting because of different employment arrangements.

EPA considered options for determining whether a facility meets the employee threshold as follows. First, full-time employee determinations could be made based on the highest number of full-time employees during any week of the calendar year. This method would ensure that facilities with highly variable employment patterns would be covered for reporting if they met the other requirements (SIC codes and chemical thresholds). Second, full-time employee counts could be determined by the number of employees as of a particular date during the year. Such an option would limit the burden of checking through employment records, but is arbitrary with respect to the choice of a date. Third, the determination could be based on the concept of full time equivalents. A generally accepted level of annual full time hours worked is 2,000 hours. The number of payroll hours for the year would be divided by 2,000 to determine the equivalent number of full-time employees. Fourth, full-time employee

counts could be determined by an average of the quarterly maximum number of full-time employees for the calendar year. This option would be the most burdensome to calculate.

EPA decided to define full-time employee on the basis of a full-time equivalent calculation. Total annual hours worked by all employees, including contract employees, at the facility is divided by 2,000. In this way, a facility is able to make an easy determination of whether it equals or exceeds a 10 employee equivalent level by determining if the total hours worked at the facility equals or exceeds 20,000 hours. EPA believes that this approach provides a fair and consistent measure of employment.

D. Definition of Article and Article Exemption

These issues deal with the definition of article and whether articles should be explicitly exempt for the purposes of threshold determinations and release calculations.

1. *Modification of the article definition.* The definition of article that appeared in the proposed rule is the same definition used in regulations under TSCA. One commenter asserted that the definition of article that appears in the OSHA HCS should be substituted for the proposed article definition. The commenter contended that the OSHA article definition is more appropriate for section 313 because the language in the latter part of the OSHA definition relates to the potential for release and exposure during normal end use. Also, it would be consistent with provisions of the Title III sections 311 and 312 rule (52 FR 38344). The instructions for the sections 311 and 312 reporting forms incorporate exemption language from the OSHA HCS, part of which is the exemption of articles.

The article definition in the proposed rule read as follows:

"Article" means a manufactured item which is formed to a specific shape or design during manufacture, which has end use function(s) dependent in whole or in part upon its shape or design during end use, and has either no change in chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, or result mixtures or articles, except that fluids and particles are not considered articles regardless of shape or design. The article definition in the OSHA HCS reads as follows: "Article" means a manufactured item: (i) Which is formed to a specific shape or design during manufacture; (ii) which has end use function(s) dependent in whole or in part upon its shape or design during end use; and (iii) which does not release, or otherwise result in exposure to a hazardous chemical under normal conditions of use.

The first part of each definition are identical. The latter parts of the definitions differ significantly. The commenter pointed out that the OSHA HCS definition will function more appropriately because it will keep certain exposure-causing items from being considered articles whereas the proposed definition would not. The commenter also asserts that the exception at the end of the proposed definition for fluids and particles is unnecessary.

In its review of this issue EPA considered several options, including retaining the article definition as proposed, retaining the proposed definition but clarifying the wording of the latter part, and adapting the OSHA HCS article definition for use in this rule. EPA has determined that it agrees with the commenter and has adopted the OSHA HCS article definition with some modifications because it is more appropriate for section 313 purposes than the TSCA definition. The TSCA article definition is worded primarily to distinguish "chemical substances" and "mixtures" from those manufactured items that contain chemical substances and mixtures. The OSHA HCS definition was adapted from the TSCA regulatory definition, for the purpose of exempting certain items from the MSDS preparation requirements; the supposition being that the item's normal end use would not release or cause exposure to a "hazardous chemical" in the article.

The revised article definition in the final rule reads as follows:

"Article" means a manufactured item: (i) Which is formed to a specific shape or design during manufacture; (ii) which has end use functions dependent in whole or in part upon its shape or design during end use; and (iii) which does not release a toxic chemical under normal conditions of processing or use of that item at the facility.

EPA wishes to emphasize that under this definition an item will not qualify as an article if there are releases of toxic chemicals from the normal use or processing of that item. When attempting to apply this definition to an item used or processed at a facility, the facility should keep this release factor in mind. For example, under normal conditions the milling of metals (e.g. copper) can generate fume or dust containing listed toxic chemicals. Thus, the metal or plastic item being processed would not qualify as an article in that manufacturing setting. However, if the only "release" from processing an item is the disposal of solid scrap (e.g., pieces of cloth or sections of pipe that are recognizable as having the same form as the item) then EPA considers that the processed item still qualifies as an article.

Toxic chemicals in an item that qualifies as an article are not subject to reporting even if the facility disposes of the article after use. For example, the facility uses a battery that contains lead. Lead is not released from the battery during normal use at the facility. When the facility disposes of the battery, it does not have to factor the amount of lead in that article into a threshold or release calculation.

2. *Articles exemption.* The proposed rule covered the processing and use of toxic chemicals and mixtures containing such toxic chemicals. EPA included a proposed definition of article but, as certain commenters pointed out, did not specifically exclude the use or processing of articles. Commenters encouraged EPA to specifically exempt the use and processing of articles from the threshold determination and release reporting requirements of the rule. According to these comments, the normal end uses of such articles by definition do not result in the release of toxic chemcials contained within such articles. Therefore, such an exemption will reduce the burden on industry significantly because fewer materials will have to be evaluated for threshold and release determinations.

The purpose of including an article definition in the rule was for the expressed purpose of exempting such articles. The final rule contains a new exemption section (§ 372.38). This section exempts articles containing covered toxic chemicals as defined under section D above from threshold and release determinations. EPA cautions facilities to evaluate carefully normal processing and use of an item to determine if release of a toxic chemical occurs (i.e., if indeed the item qualifies under the definition as an article).

V. Threshold Issues

A. Comments Requesting Modification of Thresholds

The thresholds for reporting that were presented in the proposed rule are the thresholds mandated by section 313. The threshold for manufacturing or processing a toxic chemical is 75,000 pounds for 1987, 50,000 pounds for 1988, and 25,000 pounds for 1989 and thereafter. The threshold for otherwise using a toxic chemical is 10,000 pounds for any year. EPA has the authority to modify these thresholds provided that such modification obtains reporting of a substantial majority of total releases of each toxic chemical for all facilities subject to reporting.

A wide range of comments was received regarding potential modifications to the thresholds. Commenters from environmental and public interest groups asserted that thresholds shoud be lowered to increase release reporting. One commenter stated that a 10,000 pound threshold, over 3 years should be used rather than a graduated threshold. Commenters representing the industry asserted that thresholds could be raised without affecting data quality or reporting requirements. Other related comments stated that thresholds should be modified to include only larger facilities and that the "user" threshold should be raised to the same level as thresholds for the manufacturing or processing of a toxic substance. Additionally, one company commented that the determination of a need to modify thresholds should be based on the first few years' reporting levels.

Comments from a professional society and a State government indicated that the proposed thresholds are valid and should not be raised.

Additional comments presented alternatives to the type of thresholds presented in the proposal. Two commenters indicated that toxic effects could be used to determine threshold adjustments. One commenter recommended a different series of thresholds based on standard container sizes to make threshold determinations easier. Another commenter proposed that the statutory employee size limitation of 10 or fewer employees be removed rather than reducing threshold amounts for reporting purposes. One commenter proposed an emissions-based approach to exclude small releases of toxic chemicals, regardless of the quantity manufactured, processed, or used.

The final rule contains the statutory thresholds present in the proposed rule. EPA does not believe that it has received in the comments sufficient data to support any overall modification of the statutory thresholds. In addition, EPA did not propose any such change. EPA agrees with comments to the effect that the first few years' data should be evaluated to determine whether modifications of the threshold would meet the statutory test of obtaining reporting on a substantial majority of the releases (i.e., pounds released per year) of each chemical from subject facilities. EPA may consider changing the reporting thresholds based on several years of data collection. Revising the threshold amount can be based on specific chemicals, classes of chemicals, or categories of facilities. EPA may consider a number of factors for threshold modification including exposure factors such as population density, the distance of population from covered facilities, and the types of releases. Threshold modifications could also take into account the relative potency of the chemical or class of chemicals and the effects of concern. Another type of threshold modification the Agency will investigate relates to the type of facility, either generally by size or by type of industry.

B. Threshold Determination Issues

Several issues arose as a result of comment on EPA's proposed approaches to determining whether a facility has exceeded a threshold.

1. *Recycle and reuse.* EPA proposed that a threshold determination in connection with on-site recycle and reuse activities be calculated by determining the amount of the toxic chemical in the recycle/reuse operation at the beginning of the year and add to that any quantity of the chemical brought on site. Commenters reacted to this proposal with the following:

a. The threshold should be based on the amount of the chemical "acted upon." This would include the operating capacity of the recycle activity plus only the amount added during the year, not the total quantity brought on site.

b. The amount calculated for the purpose of threshold determinations should only be the quantity added to or actually consumed by the recycle operations.

c. EPA should clarify that the threshold amount recycled should not count a pound of chemical more than once as it cycles through the activity.

After a review of the comments, EPA has determined that the threshold determinations should be based on the amount of the material added to a recycle/reuse system during the reporting year. This would fairly depict the amount of a chemical "consumed" during a year in connection with this particular use. During start-up of such a recycle/reuse operation or in the event that the contents of the whole recycle system had to be replaced, this total system quantity would have to be factored into the facility's threshold determination for that chemical. EPA believes that this approach is consistent with the objectives of encouraging recycle/reuse activities.

2. *Amount brought on site versus amount processed or used.* The previous issue points toward a more general problem of distinguishing whether the threshold must be calculated based on the amount of a chemical brought on site during the year or the amount actually processed or used. One commenter cited a situation in which a facility may have a running inventory of over 10,000 pounds of toluene but actually uses only 9,000 pounds during the year. Provided that this is the only use of toluene, the commenters contended that the threshold for use has not been met.

EPA agrees with this comment. The final rule provides that the threshold for processing and use is based upon the total amount actually used or processed at the facility, not the total amount brought to the facility during the year. This would not apply, however, in cases where importation contributes to a calculation of whether the facility exceeds a "manufacture" threshold. The act of importing the chemical to the facility is within the definition of manufacture. Therefore, any quantity brought on site due to importation has to be counted along with any amount of the same chemical produced at that facility. However when a facility does exceed a threshold, any emissions from amounts of the chemical in the running inventory (i.e. storage) would have to be factored into the emissions calculations.

3. *Exceeding any threshold captures the facility for all releases of that chemical.* A commenter objected to the interpretation that if a facility exceeds any threshold for a listed chemical, it must report all emissions of that chemical from the facility. The commenter claims that reporting should be limited to the activity that triggers the threshold to be consistent with Congressional intent because Congress set such thresholds to limit the burden on industry and provide the public with useful and manageable information.

EPA disagrees with this comment. Congress indicated that section 313 should cover releases from the facility to all environmental media. The thresholds are provided as the means for determining facility coverage, not as a factor in determining which emissions from the facility must be reported.

VI. Mixtures and Trade Name Products

The proposed rule indicated that mixtures and trade name products that a facility imports, processes, or uses would be evaluated and any covered toxic chemicals in those products would be factored into threshold determinations and release reporting. However, EPA recognizes that facilities may not always have full information regarding mixture components. EPA provided detailed guidance in the preamble of the proposed rule for making a reasonable determination of what is "known to be present at the facility" with respect to determining the

presence and composition of covered toxic chemicals in mixtures at the facility. The proposed instructions for the form also outlined a method for factoring mixtures into the threshold determinations. In addition, the proposal presented EPA's belief that suppliers of mixtures and trade name products have a responsibility to provide their customers with information sufficient for them to comply with the requirements of section 313. EPA requested comment on several options for a supplier notification requirement in connection with, or in lieu of, a user determination requirement. EPA received a wide range of comment on the mixture issue.

A. De Minimis Concentration Limit

A predominant area of comment was the request for some type of *de minimis* concentration limitation for listed toxic chemicals in mixtures. Commenters argued that many mixtures or trade name products may contain "trace" quantities of section 313 chemicals. They asserted that it would be both unreasonable and extremely burdensome for processors and users of such products to have to account for these quantities in developing threshold determinations. In addition, commenters asserted that it would be equally as burdensome for suppliers of these products to have to determine and disclose small percentages of section 313 chemicals in their products beyond that currently required under the OSHA HCS. Most commenters suggested that EPA adopt a *de minimis* concentration limitation consistent with the OSHA HCS requirement. The HCS provides that a supplier does not have to list a "hazardous chemical" component in a mixture if that chemical comprises less than 1 percent of the mixture or 0.1 percent where the chemical is a carcinogen (as defined in the HCS). Other commenters suggested *de minimis* levels ranging from 2 percent to 10 percent. Other related concepts would exempt from consideration solutions containing greater than 75 percent water or would establish *de minimis* release standards.

Based on the comments received, EPA has determined that it is reasonable and appropriate to adopt a *de minimis* concentration limitation for toxic chemicals in mixtures under section 313. EPA believes that it is necessary to provide a *de minimis* limitation to help reduce the information development burden both on the part of the user and the supplier of such products. For the final rule EPA has adopted a *de minimis* limitation of 1 percent, or 0.1 percent in the case of an OSHA HCS defined carcinogen. EPA believes that the *de minimis* level chosen is appropriate for two reasons. First, it is consistent with existing OSHA HCS requirements for development of MSDS information and with other requirements under sections 311 and 312 of Title III. Suppliers of products are familiar with these levels and, at least for the first two years of reporting, users of these mixtures are only likely to be able to rely on the product MSDS for information about the content and percentage composition of covered toxic chemicals in these products. Second, EPA does not expect that the processing and use of mixtures containing less than the *de minimis* concentration would, in most instances, contribute significantly to the threshold determinations or releases of listed toxic chemicals from any given facility.

Therefore, any listed toxic chemical that is present in a mixture below these *de minimis* concentrations does not have to be factored into threshold or release determinations by the facility. This exemption applies to all mixtures or trade name products imported, processed, or otherwise used at the facility.

EPA defined "mixture" in the final rule to cover combinations of chemicals that are mixed together, as well as relatively pure chemicals which have impurities present. Thus, if a toxic chemical were present as an impurity with another chemical at a level less than 1 percent, or 0.1 percent in the case of a carcinogen, the *de minimis* exemption would apply, and the person processing or using the toxic chemical impurity would not be required to count the quantity present as an impurity toward the threshold determination. They would also not be required to consider that quantity when determining releases to the environment.

The *de minimis* exemption applies only to the presence of the toxic chemical in the mixture. If a person formulates a mixture by mixing various chemicals together, including a toxic chemical, the person is a processor of the toxic chemical. The person must consider the quantity of the toxic chemical added to the mixture, both for threshold determinations and release reporting, including releases from the formulation activity. However, such a person would not be required to consider releases of the toxic chemical resulting from its presence in the mixture at less than 1 percent or 0.1 percent, as appropriate.

If a person manufactures a chemical and in the process creates a toxic chemical impurity present at less than 1 percent or 0.1 percent, as appropriate, the person is not required to consider the amount of the toxic chemical so manufactured for threshold determinations or release reporting (provided that the impurity is not separated from the commercial product).

EPA plans to review this *de minimis* policy and the assumptions upon which it is based in light of data that will be collected under this rule.

B. User Determination Versus Supplier Notification

As stated in the introduction to this unit, EPA proposed a detailed approach for users to make a reasonable determination of the presence of section 313 chemicals in products they use. In response to the proposed approach, one commenter stated that the standard in the statute is "known to be present at the facility" and asserted that a facility has no affirmative obligation to seek information where there is no apparent information about a section 313 chemical in a mixture beyond such readily available sources as the MSDS for that product.

Others commented on the options in the proposed rule preamble for suppliers to notify customers or EPA about the presence and percent composition of covered toxic chemicals in their products. A number of commenters stated that a supplier should be required to notify its customers about the presence and composition of listed toxic chemicals in the product. From an overall burden standpoint, these commenters stated that there are naturally fewer suppliers than users. Without a supplier notification provision, users would have to contact each of their suppliers each year. These commenters stated that a supplier notification requirement would ultimately place less burden on the suppliers themselves because their staffs would not have to be constantly responding to user requests. Also, most suppliers could "piggyback" such notice with the OSHA HCS required MSDS for the product and thereby not incur a significant additional burden. Other commenters agreed with the supplier notification concept but preferred that EPA allow a voluntary customer/supplier interaction, not require such notification as part of the rule. Other commenters stated that EPA does not have the authority under section 313 to require this type of notification nor would it be appropriate to invoke the general rulemaking authority under section 328 of Title III to authorize such requirement.

Other comments addressed trade secret related implications of a supplier

notification requirement as follows: The OSHA HCS allows mixture component identities to be claimed trade secret. In addition, the firm is not required to supply percentage composition data on the MSDS. Some firms do provide composition data voluntarily in the form of a specific percentage, a range, or some upper bound. A supplier requirement may conflict with the MSDS requirements because some composition information will have to be disclosed. In addition, the criteria for claiming and substantiating the protection of specific chemical identity is more stringent under Title III than it is under the OSHA HCS requirements.

1. *Supplier notification requirement.* EPA has carefully considered the implications of a detailed user determination requirement versus a supplier notification requirement. EPA has determined that the most effective and least burdensome approach is a supplier notification requirement. EPA agrees with comments that a supplier notification system provides the most efficient means of moving the information about the presence and composition of listed toxic chemicals into the hands of the facilities that must report. Providing more complete information about mixture composition in particular will give the facility the information it needs to make threshold and release determinations.

Under the final rule persons who must develop and distribute the notice are those who own or operate facilities in SIC codes 20 through 39 that manufacture or process listed toxic chemicals, and who distribute products containing such toxic chemicals to facilities in SIC codes 20 through 39, or to others who in turn distribute them to such facilities. Therefore the types of products covered by these notices are products that will be further processed or used by facilities potentially required to report. Notices are not required for products sold for individual consumer use. Exemptions similar to those found in the OSHA HCS and rule implementing sections 311 and 312 of Title III are incorporated into this supplier notification provision.

The supplier notification requirement in § 372.45 is structured to give processors and users of mixtures and trade name products positive information about the presence of listed toxic chemicals as follows:

a. If listed toxic chemicals are present in the mixture or trade name product above the *de minimis* cut-off level, the notice must identify those specific components as they appear in the list of toxic chemicals in § 372.65 of the rule and provide their percent composition in the product.

b. If the supplier maintains that the identity of a toxic chemical is a trade secret under provisions of the OSHA HCS, the notice must identify the chemcial as subject to section 313 and provide a generic identity that is structurally descriptive of the chemical.

c. If the supplier contends that specific composition information for a toxic chemical in a mixture or trade name product represents a trade secret, the supplier must provide a maximum concentration level of that chemical in the mixture or product. For example, the notice would indicate that toluene constitutes not more than 15 percent of the product. The supplier must choose a level that is only large enough to effectively mask the relevant trade secret associated with the chemical component. A basis for the level chosen must be placed in the supplier's records pertaining to this notice. This maximum concentration level is critical to users of the mixture because they will be using it as part of their threshold and release determinations. Gross over-representations of such maximum concentrations in a mixture may result in unnecessary reporting by that customer or overestimation of releases of the chemical from the customer's facility.

The notice must be in writing and must clearly indicate that it pertains to the presence of chemicals covered by section 313 of SARA Title III. If a MSDS must be distributed with the product, EPA requires that the notification be attached to the MSDS and that it clearly indicate that the notice is not to be detached from the MSDS.

This requirement is included because the Agency is concerned about the notification process breaking down when distributors not covered by this rule are handling and redistributing the products. The OSHA HCS requires such distributors to pass along an MSDS for a product. Therefore, EPA determined that the most efficient and least burdensome approach of assuring that the notice would reach the intended recipient is to require that it be attached to or incorporated into the MSDS.

The notice must be provided with at least the first shipment of the product to each recipient during the calendar year. When the supplier changes the formulation of the product to affect the composition of the toxic chemical in the product, a revised notice must be sent with the first shipment of the changed product to each recipient. If the supplier determines that the product contains a section 313 chemical in excess of the *de minimis* concentration limit which was present previously but unknown, the supplier must modify the notification within 30 days and provide the revised notice with the first shipment after that 30 day period to each recipient; this notice must identify prior shipments in that calendar year to which it also applies.

2. *Phase-in of the supplier notification requirement.* One commenter suggested that if mixtures are to be factored into the reporting of listed chemicals that such requirement be phased-in over a 1- or 2-year period. According to the commenters, such a phase-in approach would allow time for both suppliers and users to gear-up for mixture determinations.

EPA does not agree that mixtures in total should be excluded for the 1987 reporting year. Mixtures make up a large part of potential use of listed toxic chemicals. Therefore, importers, processors, and users of mixtures must use the best available information at hand to determine whether the components of a mixture have to be factored into threshold and release determinations under this rule.

However, the concept of a phase-in for the related supplier notification requirement does have merit. In EPA's opinion, it would be both unreasonable and impractical for suppliers to develop modifications to their MSDS or develop additional notices and distribute such notices in 1988. Therefore, the supplier notification requirement does not take effect until the first shipment of a product in 1989. However, as a practical matter, suppliers should begin as soon as possible to develop the notice relevant to those products that contain covered toxic chemicals. Until the supplier notification goes into effect, users and processors of mixtures are only required to use readily available data regarding such mixtures.

3. *Making threshold determinations and reporting for toxic chemical components of a mixture or trade name product.* Until the supplier notification under this rule begins, EPA assumes that some suppliers have provided or will provide information to customers about the presence of toxic chemicals in their mixtures or trade name products. The information provided is likely to vary from specifically identifying a toxic chemical and its concentration to advising only that there is a section 313 toxic chemical present, but providing no chemical identity or concentration information.

Once supplier notification begins under the rule, most customers will at least be told that a toxic chemical is

present, its generic chemical identity, and its upper bound concentration in the mixture or trade name product. However, even after supplier notification begins, customers may receive such mixtures or trade name products from persons not in SIC codes 20 through 39 or from foreign suppliers. Neither of these suppliers would be subject to the supplier notification requirements. Therefore, customers might receive less information about toxic chemicals in such mixtures and products. Accordingly, EPA has included in the final rule and instructions detailed provisions for reporting by owners and operators of covered facilities who import, process, or otherwise use toxic chemicals as part of mixtures or trade name products.

All reporting by persons who import, process, or use mixtures or trade name products containing toxic chemicals is predicated on those persons knowing that toxic chemicals are present in the mixture or trade name product. If such a person receives a mixture or trade name product, the person must determine whether it meets an applicable reporting threshold in either of the following situations: (i) The person was told, or had determined through chemical analysis or otherwise, the specific identity or CAS Registry Number of a chemical in the mixture or trade name product and that chemical appears in § 372.65 of the rule; or (ii) the person was told that the mixture or trade name product contains a toxic chemical subject to section 313. If either of these situations applies, the person is not required to inquire further about the mixture or trade name product. Section 313 and the final rule do not impose any obligation to test a mixture or trade name product to determine whether it contains a toxic chemical. However, if a person has tested such a mixture or trade name product for its own reasons, it must consider the results in determining whether to report.

The final rule identifies six scenarios for persons making reporting determinations for toxic chemicals in mixtures or trade name products;

1. The person knows the specific chemical identity of the toxic chemical in the mixture or trade name product, and

a. The person know its specific concentration in the mixture or product;

b. The person knows only its upper bound concentration in the mixture or product; or

c. The person has no information about its concentration in the mixture or product.

2. The person does not know the specific chemical identity of the toxic chemical in the mixture or trade name product, and

a. The person knows its specific concentration in the mixture or product;

b. The person knows only its upper bound concentration in the mixture or product; or

c. The person has no information about its concentration in the mixture or product.

When the person knows the specific chemical identity of the toxic chemical in the mixture or trade name product, making the threshold determination will involve combining the amount of the chemical in that mixture or product with amounts of the same chemical also manufactured, processed, or otherwise used at the facility. However, the person is only required to consider the weight of the toxic chemical in the mixture or trade name product, not the total weight of the mixture or trade name product.

Determining the weight of the toxic chemical in the mixture or trade name product depends on the information the person has about the percentage composition of the chemical in the mixture or product. If the person knows the specific concentration, determining the weight of the chemical is straightforward. However, if the person knows only the upper bound concentration, the person is required to assume that the toxic chemical is present at that concentration and calculate the weight accordingly. In the event that the person does not know the specific concentration or the upper bound concentration then the person is not required to further estimate or otherwise factor that chemical in that mixture or product into threshold or release calculations.

Where the person does not know the specific chemical identity of the toxic chemical in the mixture or trade name product, the person is required only to consider the quantity of that chemical component in that mixture or product in making a threshold determination. Since the person does not know the specific identity of the chemical, the person cannot combine the weight of the chemical in the mixture with any other toxic chemicals manufactured, processed, or otherwise used at the facility because the person cannot determine that they are the same chemical. Accordingly, the threshold determinations and the reporting, if any, will be specific to the toxic chemical in the mixture or product.

Determining the weight of the toxic chemical in the mixture or product in this case is the same as for determining the weight when the specific chemical identity is known.

Determining the weight of the toxic chemical in the mixture or product in this case is the same as for determining the weight when the specific chemical identity is known.

Once the applicable threshold is met, reporting the chemical identity varies with the degree of knowledge. If the specific identity is known, the person must report the identity and CAS Registry Number, if any, in Part III, Section 1 of Form R. If only a generic chemical name is known, that name must be reported in Part III, Section 2 of Form R. If no generic name is known, the trade name or other name applied to the chemical, or to the mixture or product of which it is a component, must be reported in Part III, Section 2 of Form R.

With respect to estimating releases, such estimates must be based on the concentration of the toxic chemical in the mixture or trade name product.

VII. Form Specific Issues

A. Certification Statement

Section 313 requires that a senior management official sign a certification statement for submitted forms. The proposed statement would have required that the person certify that the submitted information is true, accurate, and complete based upon his or her personal examination of the completed forms.

The Agency received several comments on certification relating to three issues: (1) The definition of a senior management official, (2) the requirement that the certifier has "personally examined and is familiar with" the submitted information, and (3) the requirement that the company must certify that the submitted information is true, accurate, and complete.

1. *Senior management official.* Section 313(g)(1)(B) defines a senior management official as "a senior official with management responsibility for the person or persons completing the report."

In the preamble to the proposed rule, EPA stated that a senior management official could be an officer of a company, a facility manager (rather than a corporate officer), or the manager of environmental programs (for the facility or for the corporation) responsible for certifying similar reports under other environmental regulatory requirements.

Commenters were concerned that neither definition appeared in EPA's regulations or in the instructions to the proposed form. Also, commenters wanted to maintain flexibility of having either a facility management officer or

corporate manager sign the certification statement by allowing signature by a manager of the persons preparing the report or by the manager of environmental programs for either the facility or the corporation.

The Agency has added a definition of senior management official to § 372.3 of the rule. The definition gives facilities appropriate flexibility in determining who may sign the form while retaining the emphasis that the person have management responsibility over the persons preparing the form.

2. *Review of prepared form.* The proposed rule required that the person certify that "I have personally examined and am familiar with the information * * *." Commenters stated that this statement was too stringent because it would require that the senior management official duplicate all the calculations performed in the preparation of the form. A few commenters suggested that EPA adopt the certification statement used in the National Pollutant Discharge Elimination System (NPDES) regulations. Those regulations require a certification that the information was prepared under a system designed to assure that qualified personnel property gathered and evaluated the information submitted, and that the certifying official has queried those persons responsible for the system. Commenters noted that the NPDES certification has already received full notice and comment and has been tested in court.

However, the conference report states that "[t]he purpose of the certification requirement is to assure that a senior management official reviews the report for accuracy and completeness." The Agency believes that the NPDES certification, because it does not require the certifying official to review the form, does not meet the intent of Congress. However, the proposed certification statement could be interpreted to require more than a view of the submitted information. Therefore, the certification statement was modified and now requires a review by the official, which EPA believes fulfills the intent of Congress.

3. *Submissions that are "true, accurate, and complete."* The proposed certification statement would have required the certifying official to state that the submitted information is true, accurate, and complete. Commenters objected to this statement, stating that it is unreasonable because much of the information, particularly release estimates, can be subject to considerable uncertainty. They point to section 313(g)(2), which allows facilities to use available data collected under other provisions of law or to provide "reasonable estimates of the amounts involved." Because estimates are allowed, these commenters stated that "accuracy" must be set in context of the estimating procedures used. Commenters further noted that a facility may choose to use emissions factors developed by EPA for the purposes of reporting, even though the facility does not believe the estimates are accurate.

Commenters suggested a variety of changes to the certification statement to correct the problem. Several commenters suggested that the burden of the accuracy of reports be placed on the Agency's instructions to the form. Another proposed approach would provide a certification that the information is "substantially accurate and complete."

The Agency has decided to modify the certification statement to tie the concept of accuracy with reasonable estimates of amounts and values reported. Such estimates must be based on the information available to the preparer of the report. This revision addresses the commenters' concerns and sets accuracy of reporting within the context set forth by Congress. The revised certification statement reads as follows:

"I hereby certify that I have reviewed the attached documents and, to the best of my knowledge and belief, that the submitted information is true and complete and that the amounts and values in this report report are accurate based on reasonable estimates using data available to the preparers of this report."

B. Facility Identification

1. *Technical contact, addition of a public contact.* In the proposed rule EPA asked for a technical contact to be listed. The primary purpose for including a technical contact on the proposed form was to allow EPA to follow up reporting with questions pertaining to the completeness and technical integrity of the data. Commenters stated that only EPA or State officials should be designated to contact the "technical contact" of a facility. In addition, commenters recommended that they be allowed to provide a public contact different from the technical contact.

EPA has done two things regarding the technical contact. First, for clarification, it should be noted that the technical contact does not have to work at the geographic location for which the report is submitted. The technical contact can be: (a) Someone at the facility; (b) someone at the same company, but at a different location; or, (c) a consultant. The name and telephone number of the technical contact must be provided on the form. The technical contact information will not be included in the public data base.

Second, in addition to the technical contact, EPA is requiring facilities to provide the name and telephone number of a public contact for the facility. The public contact may be the same as the technical contact, or someone different. EPA added a public contact to provide firms within the flexibility of designating types of personnel most appropriate to the task of handling technical inquiries about the submission versus general information inquiries from the public. The public contact information will be included in the public data base.

2. *Latitude/longitude.* EPA did not propose to require companies to submit the latitude and longitude of their facilities in the proposed form. Several commenters expressed great interest in having this data included as a facility identifier. The primary reason for asking for this information is its importance for geographic information systems. These computer-based systems enable EPA and other ogranizations to model exposures resulting from chemical releases and produce graphic representations of such exposures.

In addition, these coordinates help to verify the location of facilities and will help EPA and other users of the section 313 data base interface with other data bases containing such geographic coordinates.

Therefore, EPA has added latitude and longitude as a reporting element for identifying the facility. However, EPA is adopting a phase-in approach for providing this data. For reports due by July 1, 1988 (covering 1987), EPA is requiring firms that have the information readily available to report it. For example, certain environmental permits held by a facility may already contain this information. Also, county property records or facility plans or blueprints may show the latitude and longitude coordinates. Latitude and longitude information for all facilities is required on the forms due by July 1, 1989 (covering the 1988 calendar year). EPA believes that the approach adopted serves two basic purposes: (1) Latitude and longitude information is provided, which is important to geographic information systems; and (2) there is a low burden of developing the data.

3. *EPA I.D. Number, NPDES permit, and receiving streams.* In the proposed rule, EPA provided a single line each for listing the EPA Identification Number (the identification number assigned to a facility in connection with hazardous waste generation and disposal activities under the Resource Conservation and

Recovery Act (RCRA)), the NPDES permit numbers, and the receiving stream or body of water for the facility. Commenters pointed out that some multi-establishment facilities can have more than one of these identifiers or permits, or may discharge a reported toxic chemical into two or more streams or bodies or water. Therefore, the Agency has provide additional lines on the form for these reporting elements.

C. Releases to the Environment

1. *Total release.* EPA proposed that reporting under section 313 account for the total amount of toxic chemicals entering each environmental medium from the facility. EPA based this interpretation on the statutory provisions.

The definition of "releases" contained in section 329 of Title III covers all types of releases, both intentional as well as unintentional. Section 313 requires reporting of "the annual quantity of the toxic chemical entering each environmental medium" This led EPA to ask for information on total releases from the facility. Commenters cited the conference report to support their claim that Congress did not intend for facilities to include accidential or unintentional type of releases in the quantities reported under section 313. In discussing section 313 the conference report begins by saying that:

> This section establishes requirements for annual reporting on releases of certain toxic chemicals to the environment. This reporting covers releases that occur as a result of normal business operations, as distinct from abnormal, emergency releases which must be reported under section 304.

Thus, commenters would argue, the statutory definition of release is modified by the conference report.

EPA believes that the above-quoted conference report language was provided for the purpose of clarifying differences between the basic types of reporting that occur under section 313 versus section 304 of Title III. A section 313 report is an annual report involving annual aggregate estimates of releases to all environmental media. A report under section 304 is an emergency notification. EPA does not find language in section 313 or any other conference report language that precludes the quantity of a toxic chemical released during an "abnormal, emergency release" from being included in the total annual amount reportable under section 313.

One of the purposes of section 313 is assessment of cumulative exposure to toxic chemicals. EPA believes that the best way to accomplish this assessment is to include all releases of toxic chemicals over the reporting year regardless of the mode of release. EPA also believes that most facilities will calculate their releases based on a total release concept. Therefore, it could be more burdensome to require a facility to "back-out" the section 304 releases and other "accidential" type releases than to just leave them as part of the total. Also, if the quantities of section 304 releases were excluded from the annual aggregate total, most data users would not have ready access to this additional data. This is because section 304 releases quantities will not be entered into a nationally accessible computer data base as will section 313 data. Thus the public can do no automated cross-matching of facilities in order to obtain this additional release data for exposure analysis purposes. Therefore, EPA is retaining its interpretation of total releases for the purpose of section 313 reporting.

2. *Removing the section 304 release indicator.* EPA proposed that companies indicate by checking a box whether or not any part of the reported release was an accidental release reported under section 304 of Title III. Section 304 releases are certain accidental releases of specific chemicals listed under section 302 of Title III as well as section 103 of CERCLA (RQ chemicals). The purpose of asking about section 304 releases on the section 313 form was to provide the public with an additional means of obtaining information about total releases (both routine and accidental) of chemicals subject to reporting under section 313. Several commenters protested that asking for information about section 304 was not in keeping with congressional intent and created trade secret problems.

Concerning trade secrets, commenters were concerned about linkages that could be made between the section 313 report and the section 304 report. Under section 304, companies are not allowed to claim chemical identity as trade secret; under section 313, chemical identity is the only information element that can be claimed as a trade secret. The situation could arise where the release of a particular chemical reported under section 304 was the only release of that chemical during the calendar year. By checking the section 304 box on the section 313 form, commenters asserted that competitors could find the chemical identity by referring to the section 304 report.

EPA believes that the section 304 check-box would create unnecessary reporting complications. Therefore, EPA has decided to delete the check-box.

3. *Deletion of the permit indication.* EPA proposed that for each aggregate release, facilities would indicate whether the toxic chemical is specifically cited in a permit by checking a "yes" or "no" box. The intent of the permit indication was to provide a starting point for the public to obtain relevant permit information on the specific chemical released. It was also a way of providing some kind of information on air permits without requiring facilities to list numerous air permit numbers. Most of the comments on this issue were negative. There was strong concern that this check-box would be misleading and confusing to the public. Commenters asserted that a "no" answer may lead the public to believe the release is unpermitted or "unallowed" and thereby imply that a facility is in violation of the law. The permit indication also does not reveal how much of the release is covered by permits. Some commenters noted that confusion is bound to result on the part of the reporting facilities as to when the permit indication should apply since most permits do not cite or limit releases by specific chemical. For example, most air permits apply to categories of chemicals, such as volatile organic compounds (VOCs) and particulates. In addition, many permits may limit the release of a chemical by specifying that a control device or particular type of treatment be employed. Therefore, many permitted releases would not be allowed to be checked under the proposed rule's approach. Certain commenters believed that EPA should broaden the permit indication to include most other types of permitted releases or drop it altogether.

Because the permit indication has a high potential to provide misinformation to the public, EPA has decided not to include the permit check box in the final form. EPA believes that it would inevitably lead to misunderstanding and confusion, not only on the part of the public, but also by the reporting community. EPA chose not to broaden the interpretation of which releases would be covered by a permit because this would no longer serve the original purpose of providing a link to chemical-specific permit data. Additionally, it would be difficult in some situations to give a clear indication of when a permit actually controls the release of a specific chemical versus other components in the wastestream. EPA requires the listing of specific permit numbers in the facility identification part of the form. EPA believes that these permit numbers provide a useful link between the release information and any relevant permit data.

4. *Accuracy of reporting.* EPA proposed that the annual release data

be estimated as accurately as possible and that figures be rounded off to the nearest pound. Recognizing, however, the aggregate nature of the data and potential error in the estimates, EPA asked for comment on other reporting alternatives. EPA received comment on three proposed alternative reporting options.

(1) Report in ranges.

(2) Report to 1 to 2 significant figures.

(3) Report to a specified degree of precision.

Many commenters on this issue were in favor of either option 1 or 2, because they believed that the data will not be exact due to the error involved in measurements and estimates, and that these options would not misrepresent the accuracy of the data. Several commenters expressed concerns about the liabilities involved for verifying the accuracy of the data and the potential for public misperception of the data accuracy.

Certain disadvantages of reporting in ranges were noted by some commenters. Use of ranges could misrepresent data accuracy because the low or high end range numbers may not really be that close to the estimated value, even taking into account its inherent error. For example, a release of 11,000 pounds/year with a 50 percent error could be misinterpreted as 100,000 pounds/year if reported as a range of 10,000 to 100,000 pounds/year. Reporting in ranges may not only misconstrue the data accuracy, it would also make analysis and use of the data more difficult according to these commenters.

Because facilities are not required to do additional monitoring and are allowed to provide "reasonable estimates," it would be infeasible to dictate that they report to a specified degree of precision that cannot be attained given the range of error inherent in the estimates.

Therefore, EPA is requiring that estimates of releases and transfers of toxic chemicals to off-site locations be expressed as a figure rounded to a degree of accuracy no greater than two significant digits.

As noted in the discussion in Unit XV.B. EPA has adopted an optional range reporting concept for releases to an environmental medium of less than 1,000 pounds. Where the facility believes that it has no release in relation to a particular line item it could check a box for "0". If the release is estimated to be between 1 and 499 pounds, or 500 to 999 pounds, the facility has the option of checking a range box or entering a specific figure. For releases of 1,000 pounds or more the facility is required to provide a figure rounded to no more than two significant digits. This range reporting is for calendar years 1987, 1988, and 1989 only.

5. *Peak release.* Several commenters raised the issue of having the release data reported in terms of its frequency, duration, or peak value in addition to the annual release amounts. EPA did not discuss this issue in the proposed rule. Commenters from environmental and public interest groups stated that the annual release data may not give enough information to assess some risks accurately. Knowing how often and/or how long the releases occur, and the maximum (peak) amount of chemical released per day would allow a better evaluation of exposure and risk to the public according to these commenters. One commenter stated that the annual estimates may be appropriate for evaluating potential cancer risks but that hourly or daily emission estimates are useful for assessing risks for chemicals with acute effects, other short-term exposure effects, and environmental effects.

Some industry commenters maintained that more detailed information about the frequency, duration, and peaks of releases will be difficult or impossible to provide. They stated that many facilities have numerous operations or processes involving a chemical. They claim that peak data would be misused and misinterpreted. They fear that users of the data would assume that such peaks occur every day. They also state that the annual data should be used as a screening tool and that further studies should then be undertaken to gather the information needed to fully characterize exposure.

EPA considers the need for more detailed release information to be valid and considered the following options for possible inclusion in the final rule:

(1) Days of release.

(2) Indication of intermittent versus continuous release.

(3) Peak data (maximum daily amount).

(4) Days of operation.

In reviewing the options, EPA considered how the data would be used in a screening for levels of risk with the currently used exposure models. Days of release is not currently used for modeling exposure in ambient air to carcinogens or chemicals with chronic (long-term) health effects. Current air dispersion models for these types of effects use the total annual release for estimating exposure. The number of days of release is used for estimating drinking water exposure for chemicals with non-carcinogenic health effects and environmental effects. EPA considered that facilities may have difficulty in providing the number of days per year over which the chemical is released into the environment. Facilities may not have this information available, especially for the first year's reporting and may find it difficult to provide in some cases. Also this data may not be meaningful in cases of multiple releases of different magnitude and durations.

Reporting whether the release is largely continuous or intermittent may be less burdensome for facilities to do, but it may not be as useful as other potential indicators. This is because it does not provide quantitative information needed for a risk assessment and may be meaningless for an aggregate release amount that is compiled for all releases from many types of processes or sources at one facility.

Peak release data in the form of maximum daily amounts is useful for analysis of risks from chemicals released to air or water with acute or chronic non-carcinogenic effects, and also for chemicals with environmental effects. Peak release data can be used to model the highest one-day acute exposure to human and environmental receptors on a worst-case basis to determine if a more detailed investigation is warranted. EPA is uncertain about possible difficulties that facilities may have in providing this datum, given that several release sources and several activities at the facility may contribute to a single daily release amount. It may not be possible to estimate the maximum daily release using some estimation techniques, such as overall mass balance or emission factors, which are available for estimating the annual release data.

The number of days of operations involving the chemical may be easier for facilities to provide than other types of indicators. It could be used to estimate an average daily release using the annual data, but there are weaknesses for using this data in modeling because the releases may not actually occur during all the days of operation.

EPA has not included an additional peak release type reporting element in the final rule. Such an additional reporting element would require a significant change to the form. The Agency believes that it will be necessary to further analyze the above options and to investigate additional options. In its analysis the Agency will determine what type of data is needed to better characterize exposure and risk, and determine how this data can best be reported by facilities. Because of the need for further analysis and input from

the public and regulated community, EPA plans to propose an amendment to this rule dealing with this issue within the second quarter of 1988. At that time, EPA will seek comment on this issue in order to develop the most appropriate way of obtaining this data.

6. *Disaggregation of air emissions.* EPA proposed that fugitive or non-point air emissions be reported separately from stack or point source air emissions. Facilities would include all emissions to air of a listed chemical and separate such emissions quantities into fugitive or stack type emissions. The instructions gave clarification as to how to differentiate between the two types of sources. EPA proposed to distinguish between these two source categories for two reasons. First, estimates of stack emissions are likely to be more accurate than estimates of fugitive emissions because stack emissions can be directly measured. Better overall information on air releases can be obtained if fugitive emissions are reported separately and the accuracy of the data on stack emissions is preserved. Second, separate reporting of fugitive and stack emissions will enable regulatory agencies and other users of the data to judge the relative significance of the two sources of releases.

Many commenters thought EPA should not require this disaggregation. Two commenters agreed with the proposal while one commenter stated that the form should collect five categories of release on air emissions: Process, fugitive, storage, transfer operations, and waste treatment emissions. Some commenters thought EPA should require only reporting of point source releases because fugitive emissions are too difficult to estimate accurately.

EPA has retained the reporting of air emissions as proposed. This issue received much discussion and review before the rule was proposed and the reasons for not further disaggregating air emissions still remain the same. First, further disaggregation would not be consistent with EPA's approach of not requiring specific information on the sources of releases to minimize trade secret claims. Second, the burden on facilities would increase tremendously if further disaggregation were required. For example, a facility will be able to estimate an aggregate non-point air release using a mass balance approach, but it would be very difficult for it to further divide this amount into releases from transfer operations, leaks, and waste treatment emissions. Because the majority of measured data available will be on stack emissions, this is one mechanism available to facilities to distinguish between two types of air emissions. EPA believes that requiring disaggregation only into point and non-point source categories is the best balance of data usefulness and industry burden for this reporting requirement.

7. *Releases to water*—a. *Disaggregation of releases by receiving stream.* For direct discharges, the issue of how to report multiple receiving streams for one facility was raised by one commenter. The proposed form allowed only one line on page 1 of the form to report a stream or body of water that receives a facility's wastewater flow. EPA has revised the form to allow reporting of up to three receiving streams. These streams are to be numbered and the applicable stream numbers reported in connection with the direct discharge release amount to that stream.

b. *Inclusion of stormwater releases.* EPA proposed that the total releases of a chemical to surface waters include the contribution from stormwater if the facility's permit included stormwater sources. Given the potential difficulty in estimating the contribution of stormwater to the total release of a chemical, EPA specifically asked for comment on the inclusion of stormwater discharges and how these releases should be estimated and reported.

Many commenters thought that EPA should not require reporting on release in stormwater because it is very difficult to estimate amounts of toxic chemicals present and intermittent flowrates without monitoring and measurement. Without such information, it would be virtually impossible to estimate these types of releases to any degree of accuracy. Several commenters pointed out that EPA has not yet developed final stormwater regulations or guidelines under the Clean Water Act because of the technical problems involved. Two commenters believed that facilities should be required to include stormwater releases to surface waters and publicly owned treatment works (POTWs) and that these should be reported separately on the form.

Some facilities have submitted permit applications relative to stormwater discharges. As a result of passage of the Clean Water Act Amendments in February 1987, EPA is currently drafting new stormwater regulations. Some facilities may have stormwater discharges permitted under NPDES industry subcategory effluent limitations or through the discretion of the permit writer. Even if a facility's stormwater is covered by a permit, however, it may not have any specific chemical monitoring data depending on when the permit was issued. Also, most permitted stormwater releases are required to be monitored for conventional pollutants such as biological oxygen demand (BOD), total organic carbon (TOC), etc., rather than specific chemicals.

Therefore, EPA is requiring facilities to indicate the stormwater contribution to surface water releases only if the facility has monitoring data on the section 313 chemicals in such stormwater and a measurement or estimate of flowrate. If so, the facility must enter the percent of the release that is attributable to stormwater in Part III, Section 5.3C of the form. If the facility does not have periodic measurements of the chemical releases but has submitted chemical-specific monitoring data in its permit application, it should use these data as a basis for its estimate. Flowrate data can either be data submitted in a permit application or measurements as required by the permit (either periodic or continuous), or can be estimated by multiplying the annual rainfall times the land area times the degree of imperviousness or by another appropriate method.

Appropriate responses to be entered on the form include: (1) A numerical figure representing the percent contribution to the total release, (2) "O" if the facility has monitored but not detected the chemical in stormwater discharges, and (3) "N/D" if the facility has no monitoring information relative to the chemical in stormwater discharges.

8. *Specific line for reporting underground injection release.* One commenter raised the issue of how releases to groundwater are reported on the form. The commenter stated that EPA should break out reporting of direct and indirect groundwater discharges as a category distinct from releases to land. By looking at the form only, it is not clear how and where facilities would report releases via underground injection discharges. On the proposed form, these releases were to be reported in the Release To Land section by entering a disposal code for underground injection next to the annual amount. To further clarify releases by underground injection of listed toxic chemicals, EPA has included a separate sub-section in the final reporting form entitled Underground Injection (Part III, Section 5.4).

9. *Basis of estimate.* For each aggregate release, EPA proposed to require an indication of the basis used to account for the estimation of the largest portion of the release quantity.

The basis of estimates provided in the instructions were:

(1) Based on monitored or measured data.

(2) Based on mass balance calculations.

(3) Based on published emission factors.

(4) Based on other approaches (engineering judgment, etc.) Each method would be indicated on the form by the use of a code.

The basis of estimate provides some indication of data quality and will identify situations in which monitoring data might be obtained in follow-up activities by EPA or the States. This indication would also allow EPA to identify facilities and industries that may be having difficulty estimating releases so that further guidance may be developed for them.

Several commenters thought that EPA should require more detailed information on how the releases were estimated, such as the percentage of the release for each method, the emission factors used, or a brief explanation for how other approaches were applied. Most of the commenters representing industry supported the use of the proposed basis of estimate. One commenter wanted clarification on whether indicating the use of emission factors applied only to the use of EPA emission factors.

Requiring reporting of the emission factors could result in revealing production volume or throughput amount of the chemical; information that many companies consider trade secret. Also, requiring reporting of the specifics of the calculations used to develop the estimates would be similar to collecting information on each source of release, as opposed to the aggregate release. Such data could involve information on quantities of process streams, also often considered proprietary. EPA wishes to minimize trade secret claims so that most of the data on the specific chemicals will be available and useful to the public. Collecting this sort of detailed information would be more of a "mass balance" reporting approach, and EPA does not have the authority to collect mass balance information from facilities under section 313. Such an approach will undergo study by the National Academy of Sciences as required by section 313(l) to determine the feasibility of its use for future toxic chemical release inventory reporting.

The final rule requires the basis of estimation as proposed. Any reasonable emission factor may be used to estimate releases. It is not EPA's intent that facilities be constrained or limited to the use of any one estimation method. The burden is on the facilities to provide the most accurate and "reasonable" estimate of releases, and they should use all available data and means to provide these estimates. The data or methods used must be documented in the facility's records and made available for review upon request by EPA inspectors. EPA will use the basis of estimate provided on the form as a tool to ascertain data quality, availability of information, and reporting problems for facilities.

D. Off-Site Transport

EPA proposed that facilities report the amount of the toxic chemical in waste transferred to the off-site treatment and disposal facilities (including POTWs), the name and address of the off-site location, whether the off-site location is under the control of the reporting facility, and the treatment/disposal methods used off-site, if known. The rationale for inclusion of the off-site waste transfers was to complete the picture of chemical waste generated from a facility and enhance the public's understanding of the locations of toxic chemicals in their community. Off-site locations would also include waste brokers, storage facilities, privately or publicly owned wastewater treatment works, and off-site underground injection wells.

Most industry commenters objected to the reporting of off-site waste transfers for several reasons. First, commenters stated that such information is not required by the statute, was not intended by Congress, and is duplicative because of RCRA reporting requirements for hazardous waste. The strongest objection, however, was that the off-site chemical, transfers do not constitute "a release into the environment" by the reporting facility and should not be reported as such on the form.

Other comments focused on whether reporting of off-site treatment/disposal methods is required or not and how to report recycling and reuse of the chemical waste off-site. A few commenters suggested that EPA should require the EPA Identification Number of the off-site facility because these numbers would help provide a better identification of the off-site facility and would aid in access to related information in other data bases.

EPA has interpreted the statute to require reporting on wastes sent off-site because the conference report states that reportable releases shall also include releases "to waste treatment and storage facilities." Also, EPA believes that reporting wastes sent off-site is important because the absence of this information regarding the generation of chemical wastes by a facility could be misleading to the public. Many facilities transfer a significant portion of their chemical wastes to off-site locations.

The information to be collected on off-site waste transfers is different from that required under RCRA because this information is chemical-specific and makes no distinction between wastestreams which are hazardous and non-hazardous. This type of chemical-specific information is not currently available to the public or EPA for many chemical wastes. Facilities are to report the amount of the listed toxic chemical in waste transferred off-site. Facilities are not to report the total amount of the waste containing the chemical.

EPA has retained the requirement to report transfers of a chemical in waste to off-site locations. However, EPA has revised the form so that off-site transfers are distinguished from direct facility releases to the environment, because the disposal fate is not always known and the off-site treatment may reduce the amount of chemical ultimately released into the environment. The off-site transfers of chemicals are to be reported in a separate section (Part III, Section 6) of the form. Reporting of treatment/disposal methods is required only if this information is readily available to the reporting facility.

Transfers to a reprocessor or recycler of chemical waste are not reportable as off-site transfers under the final rule. First, the material being sent is not bound for ultimate disposal. Second, these types of facilities may themselves be covered as manufacturers or processors of the chemical and, thus, would be accounting for any releases to the environment.

EPA agrees with the comment that an EPA Identification Number should be included in connection with the name and address of off-site locations (to be reported in Part II, Section 2 of the form). If the chemical is part of a hazardous waste, this information element should be readily available from information that the facility must supply on the Uniform National Hazardous Waste Manifest Form. If the facility does not know the EPA Identification Number of this off-site location, it would enter N/A in this space on the form.

E. Waste Treatment Information

1. *Wastestream and treatment methods.* Section 313(g)(i)(c)(iii) states that facilities must report "for each wastestream, the waste treatment or

disposal methods employed, and an estimate of the treatment efficiency typically achieved * * *." EPA proposed that a wastestream be considered as the aggregate wastes treated in a particular manner or the influent stream to a single treatment method. For example, aggregate waste going to secondary wastewater treatment on site would be considered as a wastestream and reporting would not be required for each of the numerous waters from various process points that are combined for treatment. EPA proposed that the wastestream be characterized as gaseous emissions, wastewater, non-aqueous liquid waste, and solid waste (includes sludge and slurries).

In the proposed rule EPA also requested comment on a more detailed wastestream characterization approach. The example used would have required each individual wastestream containing the reported toxic chemical to be identified by an appropriate RCRA waste code. Where a wastestream did not have a RCRA waste code, other source codes would have to be developed.

Commenters representing industry trade groups and individual companies supported EPA's proposed aggregate wastestream approach. Commenters representing environmental or public interest groups disagreed with the proposal and urged EPA to adopt a source-specific wastestream characterization system, such as requiring individual wastestreams to be identified by the RCRA codes. These commenters claimed that an aggregate wastestream approach would severely reduce the utility of the data and that EPA will lose the ability to identify particularly efficient means of treatment.

EPA has determined that it will retain the aggregate wastestream characterization approach as proposed. EPA was not convinced by comments received that a source-specific wastestream characterization would add materially to the data received or to understanding more about relative efficiencies of particular treatment methods applied to those wastestreams. EPA remains concerned that a very specific wastestream approach would add a significant degree of complexity to the form. It would also increase the burden associated with completing the form without a commensurate increase in benefits. For example, in larger facilities several different individually coded wastestreams, containing the same chemical, may be sent to one type of treatment. The form would have to provide for multiple entries for each of these wastestreams. Yet, the type of treatment and the relative efficiency of removal of the chemical would be the same. There also remains the concern about disclosure of trade secret information if facilities were required to identify source-specific wastestreams. For example, many of the RCRA waste codes are themselves specific toxic chemicals as listed in section 313. If a facility can substantiate that the manufacture, processing, or use of a toxic chemical at their facility is a trade secret and they must then identify a treated wastestream as that same chemical, then trade secret protection is effectively negated. Furthermore, to the degree that process specific wastestream information could reveal sensitive process related trade secret information, companies that might otherwise not claim the chemical identity as a trade secret may have more reason to do so in order to protect the linkage to process detail This result would adversely affect the public's access to information.

Finally, in many cases where more detailed wastestream information may be of use, such information would be of use only in conjunction with other detailed information, such as the characterization of the wastestream. It is EPA's belief that such detailed information is more appropriately gathered in followup activities after the reports under this rule have been screened to identify particular facilities or classes of facilities of greatest interest. EPA believes that the level of detail in the final form will satisfy the needs for such screening.

EPA proposed a list of treatment codes in the instructions from which facilities could specify the treatment methods used for each wastestream. This list has been revised slightly to be more consistent with treatment methods and codes that will be used for future RCRA annual/biennial reporting. Such consistency will result in less confusion and burden for many facilities who will be reporting waste treatment information under two different EPA rules. Treatment methods are to be reported for all wastestreams containing reportable chemicals whether this treatment actually removes the specific chemical or not.

2. *Treatment efficiency.* EPA proposed that treatment efficiency, expressed as percent removal, would represent any destruction, biological degradation, chemical reaction or conversion, or physical removal of the listed chemical in the wastestream being treated. A few commenters noted that some of the treatment methods, such as encapsulation and fuel blending, could be reported as 100 percent efficient from the standpoint of protection of health and the environment. EPA proposed that these treatment methods be reported with a 0 percent efficiency because they do not remove the chemical by any of the previously mentioned mechanisms. For the final rule, EPA does not believe that "removal efficiency" should be stretched to include wastes rendered "safe," "harmless," or "non-toxic" to health and the environment without being removed from the wastestream because such determinations are abstract and subjective, and would result in inconsistent and confused reporting, and would be misleading to the public. Knowledge of the treatment method used should be sufficient to indicate to data users the mechanism of the "treatment" employed and how it works.

Several commenters were confused about how to report the efficiency of neutralization processes because this type of treatment involves a change in pH and they believed that the concept of percent removal would not apply. Neutralization does involve a chemical reaction or conversion, such as an acid reacting with a base to form a salt or vice versa. Therefore, percent removal would apply to the percent of acid (or base) in the wastestream that was reacted during treatment. Neutralization also involves pH adjustment because pH is just a measure of the acid or base concentration in the wastestream. A pH of 7 or above after neutralization would indicate 100 percent treatment efficiency of an acidic influent wastestream while conversely, a post-treatment pH of 7 or below would indicate 100 percent efficiency for a basic influent wastestream.

3. *Sequential treatment.* In the proposed rule, the reporting form did not allow tracking of sequential treatment processes, and an efficiency was to be reported for each treatment method. Several commenters pointed out that for sequential treatments, an overall efficiency for the process would be more useful data than a separate efficiency for each treatment without an indication that they are part of a sequence. EPA also realizes that, in many cases, facilities may not know the individual treatment step efficiencies for a sequential process, but would have a good estimate of the efficiency of the overall treatment process.

EPA has revised the waste treatment section of the form to allow the option of reporting sequential treatment methods and an overall treatment efficiency if the

individual treatment step efficiencies are not known. The sequential treatment steps would be linked together by checking a box next to each step to indicate that it is part of a sequence. See Part III, Section 7, column D of the form. This revision will allow facilities to report more accurate and relevant (in the case of sequential treatment) data, will reduce their reporting burden, and will increase the usefulness and understanding of the treatment data reported. For sequential treatments, facilities are to list the individual treatment codes for the various steps in the process, report the influent concentration for the entire process by entering the code next to the first treatment step, and report the overall sequential treatment efficiency next to the last treatment step in the sequence.

4. *Influent concentration.* EPA proposed that facilities report the pre-treatment concentration of the chemical in the wastestream for each treatment method. Submitters would enter a code corresponding to one of five ranges of concentration. Each range covers 2 to 3 orders of magnitude, relieving facilities of the burden of having to report the exact concentration which may not be measured and may fluctuate. Influent concentration data will enhance the evaluation and comparison of waste treatment methods by helping users of the data determine the effectiveness of treatment methods for wastestreams containing different amounts of a given chemical.

Most commenters on this issue stated that this information should not be required because it was not specified in the statute, but little comment was received on the burden or technical difficulties of supplying this data. EPA has retained the reporting of the influent concentration for each treatment method in the final rule. The influent concentration will aid in the evaluation of treatment methods used throughout industry by putting the treatment efficiency data into better perspective. This requirement should not significantly increase a facility's reporting burden because it can report the data in fairly broad ranges. For sequential treatments, the influent concentration will be required only for the first treatment step in the overall treatment sequence.

F. Optional Reporting on Waste Minimization

The proposed form included an optional section to allow the respondent to indicate any action taken in the past year (other than the waste treatment methods specified in Part III, Section 8 of the form) to minimize the generation of waste related to the chemical being reported. This section was made optional because the reporting of this type of information is not required in section 313. However, the information that would be provided about waste reduction is considered by EPA to be an important indicator of how industry is responding to the Agency's emphasis on better waste management through waste reduction.

In comments on the proposed rule, the regulated community stated that this request went beyond the scope of the statute and that the Agency was not authorized to collect such information under Title III. Reporting on waste minimization puts an additional burden and cost on the regulated community. One commenter noted that if a facility chooses not to report on waste minimization, readers of the report may conclude that no emission reduction is in place at that facility. On the other hand, public interest groups stated that information on waste minimization would be very useful to the public and requested that this reporting element be made mandatory.

The Agency has decided to retain the optional section on waste minimization. EPA has no coercive intent in requesting this optional information. On the contrary, EPA believes that this section will provide respondents with a positive way to demonstrate to the public the beneficial waste reduction activities they have undertaken. EPA believes that the information provided by industry can indicate longer-term trends in waste reduction activities. However, the Agency has attached a 3 year sunset to this optional section. EPA intends to study the benefits of this section and will review the potential overlap between this reporting question and reporting on waste minimization under RCRA regulations.

The proposed optional reporting section also included space for providing a narrative description of waste minimization activities. The Agency has decided to drop the narrative space because it will be difficult for the computerized data base to accommodate such textual data.

VIII. Chemical List Issues

A. Modifications to the List

EPA received many comments suggesting modifications to the list of chemicals subject to section 313 reporting. Among these comments were suggested additions to the list corresponding to other regulated chemicals such as the 47 toxic pollutants regulated under the Clean Water Act. Another comment reflected that all known carcinogens should be on the list. Many other comments were made suggesting specific chemical deletions from the list of section 313 chemicals. EPA realizes that some of these recommendations may be valid. However, the Agency chose not to use this initial rulemaking as means to modify the list of covered toxic chemicals. EPA plans to begin an in-depth review of the list of chemicals currently subject to reporting and an evaluation of chemicals that should be added to the initial list beginning in the first quarter of 1988. The comments which the Agency has received will be useful in helping the Agency develop its methodology for this list review. Any changes to the section 313 list of chemicals that appear appropriate based upon this review will be proposed for public comment.

B. Nomenclature

1. *CAS preferred name versus common trade name.* The list of chemicals mandated by section 313 contained certain entries identified by trade names, not chemical names. For example, Parathion is a trade name. The chemical name with the corresponding CAS registry number is Phosphoric acid, O,O-dimethyl-O-(4-nitrophenyl)ester. EPA stated in the proposed rule that reporting facilities should not have to use a competitor's trade name for reporting purposes and so, in the case of a listed trade name, an alternative CAS preferred name was offered in solid brackets. The Agency intends to use the CAS registry number as the unique identifier for all chemicals except for the 20 chemical categories. Therefore, reporting facilities can use either the trade name or the CAS preferred name that appears in § 372.65 (a) and (b) of the rule as long as the corresponding CAS registry number appears on the form.

2. *Cyanide compounds.* Although cyanide compounds are described with a CAS registry number, cyanide compounds are considered a chemical category as defined in § 372.65(c) of the rule. The CAS registry number refers to the cyanide anion (CN—), which is not a discrete reportable chemical without a counterion. Therefore the CAS registry number listing for cyanide compounds in § 372.65 (a) and (b) of the rule has been removed.

3. *Metal and metal compounds.* The original committee print of the list of chemicals subject to reporting under section 313 listed metals and their compounds with the CAS registry number which corresponded to the metal only. In its proposal, EPA sought to separate the metal from metal

compounds. The distinct metal appears with its CAS registry number in § 372.65 (a) and (b), and the corresponding metal compounds category appears in § 372.65(c) because it is a chemical category.

4. *Dyes and Color Index names.* EPA received comment that some dye chemicals are listed by a common name whereas others are listed by a Color Index (C.I.) name. For example, Auramine (CAS No. 492–80–8) has the Color Index name of C.I. Solvent Yellow 34. It was suggested that the list would be much clearer if all of the dye chemicals were listed by their Color Index names. Furthermore, the chemicals Direct Black 38, Direct Blue 6, and Direct Brown 95 should also be listed with the "C.I." prefix. The Agency agrees with these suggestions. Listing these chemicals using the Color Index name makes the list consistent. In § 372.65(a) of the rule all of these dye chemicals are listed together. EPA has included the common name in brackets in the case of Auramine.

5. *Glycol ethers.* Commenters suggested that the Agency should include specific glycol ethers in the chemical specific listings of § 372.65 (a) and (b) of the rule and remove it as a category from § 372.65(c). EPA considers this an amendment or modification to the list of chemicals and is not changing the list in this rulemaking.

C. Reporting Substances of a Certain Form

Certain of the chemicals listed in the Committee Print have parenthetic qualifiers listed next to them. EPA attempted to clarify these qualifiers in its proposal. A chemical that is listed without a qualifier is subject to reporting in all forms in which it is manufactured, processed, and used.

1. *Fume or dust.* Three of the metals on the list (aluminum, vanadium, and zinc) contain the qualifier "fume or dust." EPA interprets this qualifier to mean that a facility is manufacturing, processing, or using the metal in the form of fume or dust. Fume or dust does not refer to "wet" forms, solutions, or slurries, for example, but only dry or anhydrous forms of these metals. As explained in Unit IV.A. of this preamble, the term manufacture includes the generation of a chemical as a byproduct or impurity. In such cases, a facility should determine if, for example, it generated more than the 1987 threshold of 75,000 pounds per year of aluminum fume or dust as a byproduct of its activities. If so then the facility must report that it manufactures aluminum (fume or dust). Similarly, there may be certain technologies in which one of these metals is processed in the form of a fume or dust to make other chemicals or other products for distribution in commerce. In reporting releases, the facility would only report releases of the fume or dust.

2. *Manufacturing qualifiers.* Two of the entries contain a qualifier relating to manufacture. For isopropyl alcohol the qualifier read "mfg.—strong acid process." For saccharin, the qualifier simply reads "manufacturing." In the case of isopropyl alcohol, EPA interprets the qualifier to mean that only persons who manufacture isopropyl alcohol by the strong acid process are required to report. In the case of saccharin, only manufacturers of saccharin are required to be reported. A facility that processes or otherwise uses either chemical would not be required to report for those chemicals. In both of these cases, supplier notification does not apply.

3. *Solutions.* Four substances on the list are qualified by the term "solution." These substances are ammonium nitrate, ammonium sulfate, sodium hydroxide, and sodium sulfate. EPA interprets the term "solution" to refer to the physical state of these chemicals. Only facilities that manufacture, process, or use these chemicals in the form of a solution would be required to report these chemicals. See D. of this Unit for a further discussion of solutions. In these cases supplier notification applies only if the chemical is distributed as a solution.

4. *Phosphorus (yellow or white).* The listing for phosphorus is qualified by the term "yellow or white." This refers to a chemical state of phosphorus meaning that only manufacturing, processing, or use of phosphorus in the yellow or white states triggers reporting. Conversely, manufacturing, processing, or use of "black" or "red" phosphorus would not trigger reporting. Supplier notification applies to distribution of yellow or white phosphorus.

5. *Asbestos (friable).* The listing for asbestos is qualified by the term "friable." This term refers to a physical characteristic of asbestos. EPA interprets "friable" as being crumbled, pulverized, or reducible to a powder with hand pressure. Again, only manufacturing, processing, or use of asbestos in the friable form triggers reporting. Similarly, supplier notification applies only to distribution of friable asbestos. EPA received comment to include other forms of asbestos. As noted above, the Agency has chosen not to use this rulemaking as a vehicle for modifying the initial list of chemicals.

D. Reporting Chemical Solutions

1. *De minimis cut-off for chemical solutions.* The list of chemicals in §§ 372.65 (a) and (b) contain the qualifier "solution" for some entries such as sodium sulfate (solution). This qualifier is defined in C.3. of this Unit. Technically, a solution is a mixture or formulation. Certain commenters suggested that a *de minimis* cut-off be applied to the reporting of chemical solutions consistent with the concept of a *de minimis* limitation for mixtures. EPA agrees with this suggestion because reporting on these four substances is consistent with mixture reporting. Chemicals with the qualifier "solution," such as sodium sulfate that are manufactured, processed, or otherwise used in excess of the *de minimis* levels must be factored into threshold and release reporting requirements of this rule.

2. *Neutralizations and pH adjustments.* EPA received comment regarding neutralization of solutions such as dye baths and pH adjustments of wastewater.

Neutralization is interpreted by EPA as a chemical reaction. For example, sodium hydroxide solution is used to neutralize a dye bath and a solution of sodium sulfate is formed. Assuming that other reporting requirements are met, this facility is viewed by EPA as a user of sodium hydroxide (solution), and a manufacturer of sodium sulfate (solution), even if the sodium sulfate is destined for disposal. Releases of sodium hydroxide (solution) and of sodium sulfate (solution) would be reported.

Adjustments of the pH of a solution present a more complex circumstance in establishing reporting with respect to threshold requirements. The input of a chemical such as sodium hydroxide (solution) into wastewater for pH adjustment constitutes a use of that chemical and is reportable. Therefore EPA is requiring facilities that use section 313 chemicals for pH adjustments and neutralizations to report if they meet an applicable threshold, even if these chemicals are consumed and no releases result. However, EPA realizes that there may be many situations where pH adjustments are made to complex mixtures such as wastewater, where it may be very difficult to determine whether a section 313 chemical is being "manufactured" during this neutralization. Furthermore, quantifying these chemicals for the purposes of meeting reporting thresholds may be just as difficult. The facility must report if it

knows that a listed toxic chemical is generated as a result of such neutralization and has data that allows for a reasonable estimate of the quantity generated.

IX. Trade Secret Provisions

A. General Trade Secret Issues

The Agency received a number of comments relating to the trade secrecy implications of certain proposed form elements. Many of these comments have been addressed in the applicable units of this preamble. EPA also received a number of other general comments on trade secrecy as they relate to claims under section 313.

EPA proposed a rule in the **Federal Register** of October 15, 1987 (52 FR 38312). Part of this proposed rule contains procedures for claims of trade secrecy under Title III, including a proposed trade secret claim substantiation form. General comments on trade secrecy under the proposed section 313 rule will be reviewed and considered as part of the above-referenced proposed rule.

Until such time as the trade secret rule is finalized, persons subject to this final rule are required to comply with section 322. Accordingly, to do so persons who claim the chemical identity of a toxic chemical as a trade secret should follow the provisions of the proposed trade secret rule. (One exception is noted in B. of this unit regarding the generic chemical name which is required to be provided in the section 313 submission.) Persons should also use the proposed trade secret claim substantiation form until a final form is published.

B. Identifying Adverse Health and Environmental Effects Information in the Data Base

Section 322(h)(2) of Title III requires EPA to identify the adverse health and environmental effects associated with a toxic chemical that is claimed trade secret and assure that such information is included in the computer data base. The conference report further explains that "[t]he adverse effects identified should be described in general terms so as not to provide a unique identifier of a particular trade secret chemical."

EPA identified several options in its proposed rule for meeting this requirement of providing adverse effects information relating to trade secret claims. One option would be to develop a cumulative, worst-case effects characterization for the predefined generic class of the chemical.

A second option discussed was a modified generic identification approach where companies would be required to develop and submit a generic identity for the chemical, and the EPA would develop the associated adverse health effects description that relates to the general class or category of the chemical.

A third approach mentioned in the proposed rule would be to attempt to develop individual adverse effect profiles that would be substance-specific but would mask any particular effect that is unique and that could divulge its chemical identity.

EPA received comments on the above options. Comments generally pointed towards the obvious difficulty of maintaining chemical identity as trade secret while providing adverse health and environmental effects information. It is the EPA's intention to provide the public with as much detailed information as possible on adverse effects. However, the Agency is also obligated to protect the chemical identity from disclosure through the data base when a legitimate trade secret claim is made.

EPA approached this issue by developing a matrix of the 309 listed chemicals against the 10 health and environmental effects specifically mentioned in section 313(d). Toxicity data were accumulated from standard literature sources and, where applicable, interpreted using Agency guidelines. The results showed that there were approximately 70 chemicals that exhibited unique toxicity patterns within the 10 effects. EPA proceeded with this analysis by collapsing the 10 adverse effects categories to attempt to arrive at a point where there were no chemicals that exhibited a unique toxicity pattern. To reach the "no unique" result, it was necessary to collapse the categories to the following 4 general categories: Carcinogenicity, acute toxicity, other human health effects, and environmental toxicity.

EPA was surprised by the results of this analysis. EPA believes that Congress did not anticipate that its mandate to balance trade secret protection with the ready availability of effects information would lead to such a low degree of specificity for the effects information. EPA will continue to explore alternatives for providing the public with more specific effects information in connection with chemicals claimed trade secret. The Agency plans to publish the analysis mentioned above for comment sometime in the second quarter of 1988 before making any final decisions on the adverse effects identified in the data base.

The only impact of this analysis on the final rule is that EPA will not use the predefined generic classes as originally proposed. The analysis indicated that even the four-effects matrix, when put in the context of these generic classifications, created unique patterns for certain chemicals. As a result the Agency has decided to require the reporting facility to provide a suitable generic chemical name that is structurally descriptive of the chemical that is claimed trade secret.

X. Recordkeeping

EPA proposed a 5-year recordkeeping period. Several commenters objected to this proposed provision. They asserted that 5 years was an excessively long period of time to require facilities to maintain records relative to the reports under section 313. They asserted that a 3-year recordkeeping period would be sufficient and would be consistent with the 3-year recordkeeping period in other EPA regulations relative to air, solid waste, and water.

One reason EPA proposed a 5-year recordkeeping period for section 313 submissions is the expected high number of facilities potentially subject to reporting. A 5-year period would allow EPA to inspect a larger number of facilities. However, after a review of the issue EPA believes that a 3-year recordkeeping period will be sufficient given that EPA will be receiving submissions annually from covered facilities. Therefore, the recordkeeping period is 3 years from the date of submission of a report for all information relative to the preparation of that report.

In addition to persons who must submit reports under the final rule, a supplier of a mixture or trade name product must keep records of the fact that they provided the required notification relative to the presence and composition of covered toxic chemicals in products they distribute in commerce. Such records must, where applicable, include an explanation of why the specific chemical identity was determined to be a trade secret and the appropriateness of the generic chemical name provided in the notification relative to that chemical. If the supplier provides an upper bound concentration value instead of a specific concentration, the supplier must provide in its records an explanation of why the specific concentration is deemed a trade secret and the basis for the upper bound concentration limit.

XI. Economic Impact

EPA has prepared a Regulatory Impact Analysis (RIA) in connection with this final rule. The RIA assesses

the economic impact of the final regulation on the affected industry (manufacturing, SIC codes 20 through 39) and State and Federal governments. The following cost results are presented in the analysis document titled, "Regulatory Impact Analysis in Support of Final Rulemaking Under Section 313 of the Superfund Amendments and Reauthorization Act of 1986."

Three alternatives are considered in the RIA for implementing section 313:

Alternative I—Facilities report by letter.

Alternative II—Facilities report on the proposed version of Form R. Users must contact supplier concerning mixtures and trade name products.

Alternative III—Facilities report on the final version of Form R. Supplier notification.

The population of facilities that would be required to submit reports under section 313 is based on three sources: census data for national totals of facilities engaged in manufacturing, surveys of toxic substances use conducted by 6 States and localities involving a subset of the substances contained in the list of 329 chemicals convered by section 313, and production of toxic chemicals reported for the Toxic Substances Control Act Inventory.

Section 313 requires annual reports on releases of toxic chemicals from an estimated 31,800 facilities. Overall, the Agency may receive an estimated 318,000 reports annually. This equals an average of 10 reports per facility.

The total costs per average facility, as well as per chemical report costs, are shown in Table I below.

TABLE I.—TOTAL COSTS PER AVERAGE REPORTING FACILITY AND PER CHEMICAL REPORT ($/YR.)

	Regulatory alternative I		Regulatory alternative II		Regulatory alternative III	
	First year	Subsequent years	First year	Subsequent years	First year	Subsequent years
Compliance determination	1,195.20	298.80	1,195.20	298.80	1,195.20	298.80
Recordkeeping	101.76	41.92	101.76	41.92	101.76	41.92
Formatting	1,223.12					
Report completion (10 chemicals)	9,036.69	6,144.98	11,295.80	7,680.60	11,595.00	7,884.06
Identification of mixtures	2,222.93	200.72	2,222.93	200.72	0.00	96.34-887.76
Report completion (3 mixtures)	232.66	158.34	291.22	197.78	0.00	0.00
Mailing	6.94	6.94	6.94	6.94	6.04	6.04
Total costs per facility	14,019.30	6,851.70	15,113.85	8,426.76	12,898.00	8,327.16-9,118.58
Total costs per chemical report	1,401.93	685.17	1,511.39	842.68	1,289.80	832.72-911.86

Source—RIA 1987.

The costs represented in Table I are for reporting facilities. The final rule will cause costs to be incurred by more facilities than will actually be subject to reporting. All facilities with 10 or more full time employees in SIC codes 20 through 39 will incur some costs associated with compliance determinations (i.e., becoming familiar with the rule and the form, and determining if they meet the threshold requirements for any of the section 313 chemicals). An estimated 146,450 facilities will incur the compliance determination costs. These costs, which do not vary across the alternatives, are included in the aggregate industry costs shown in Table II below.

TABLE II.—AGGREGATE COSTS FOR INDUSTRY: FIRST AND SUBSEQUENT REPORTING YEARS

[Million dollars per year]

	Regulatory alternative I		Regulatory alternative II		Regulatory alternative III	
	First year	Subsequent years	First year	Subsequent years	First year	Subsequent years
Compliance determination	137.3	34.3	137.3	34.3	137.3	34.3
Filing	3.2	1.3	3.2	1.3	3.2	1.3
Formatting	38.9					
Report completion for chemicals	287.6	195.6	359.4	244.4	359.4	250.9-253.9
Users-screening of mixtures	27.2	2.0	27.2	2.0	27.2	2.0
Users-contacting suppliers	43.5	4.4	43.5	4.4		
Report completion for mixtures	7.4	5.1	9.3	6.3		
Suppliers identification of mixtures	0.8	0.1	0.8	0.1		0.1-0.8
Suppliers informing users	10.3	1.0	10.3	1.0		0.7-6.9
Total	556.2	243.8	591.0	293.9	527.1	289.3-299.2

Source—RIA.

Range of costs in subsequent years of Alternative III reflects elements that are phased-in. That is, the high end of the ranges represents year 2, and the low end represents subsequent years.

The other major costs that will be incurred by non-reporting facilities involve mixtures and trade name products. The proposed rule would have required that processors and users of mixtures and trade name products

contact suppliers and document the information provided by suppliers. If informaiton were not provided by suppliers, processors and users were required to submit partial reports for mixtures and trade name products. The final rule places the burden on the supplier to provide the information to users. Suppliers and users would incur costs under all alternatives, as shown in Table II. Supplier costs are lower for the final rule, because suppliers would be initiating the information, rather than responding to requests from users.

The costs of users will also be lower for the final rule, as the information on mixtures will be made available to them and consequently there will be no costs for contacting suppliers and documenting the contacts.

To compare costs of the proposed rule to the final rule it is necessary first to understand that the costs for the proposed rule have been revised. The four major reasons for revisions to the cost estimates are summarized as follows:

1. The number of chemcial reports per facility increased from 4 to 10. Basis for change: Public comments, section 313 pretest, and data from five additional State and local data bases on chemical use.

2. Costs for compliance determinations increased by 33.0 percent. Basis for change: Revisions to costs developed in the RIA for the proposed Comprehensive Assessment Information Rule (CAIR).

3. Estimates for calculating releases in the proposal were based on pretest of CAIR form and contractor estimates. These estimates have been reduced by 30 percent. Basis for change: Revisions to proposed CAIR costs and section 313 pretest.

4. Costs for suppliers (screening mixtures and informing users) and users (screening mixtures) were not originally included.

These costs are compared in Table III below.

TABLE III.—SUMMARY OF COST COMPARISON BETWEEN PROPOSED AND FINAL RULE

[First-year cost]

	Proposed	Revised proposed final	
Costs per facility	$12,500	$15,100, $12,900	
Total number of chemical reports	132,340	318,000, 318,000	
Total number of partial mixture	32,760	95,400	
Total industry costs	$472.7 million, $527.1 million	$591.0 million	
Reports per facility	4 chemical, 1 mixture	3 chemical, 7 full reports-mixtures, 3 partial reports-mixture.	3 chemical, 7 full reports-mixtures.

The number of chemical reports per facility increased 2.5 times but initial doubling of CAIR estimates was found to be unnecessary and inclusion of supplemental time to estimate releases was also found to be double counting. First year costs per reporting facility increased from about $12,500 in the June RIA to $15,100 for this same (proposed) version of the form, reflecting the above factors and an increase from the more thorough accounting for the responsibilities attributed to mixtures. Phase-in of mixtures and placement of the burden upon suppliers rather than users account for the final rule's (Alternative III) lower cost of $12,900 per facility.

EPA has chosen to develop the form and rule in order to provide for uniform reporting, so that a computerized data base of high quality and utility can be created and maintained. EPA will incur costs to process, check, store, and make available the data reported under section 313. EPA's costs will vary depending upon its choice of data management systems and policies, but are estimated to range from between $7.7 and $26.4 million per year. States will also have some expenses for processing, storing, and distributing reports sent to them. State costs are estimated to be from $1.7 to $2.2 million per year.

XII. Duplication of Reporting

Under both section 313 of SARA and section 103 of CERCLA, EPA requires companies to submit information on chemical releases into the environment. While the two statutory provisions are similar in their reporting requirements, they differ in both scope and purpose.

Section 313 requires reporting only by facilities in SIC codes 20 through 39. Section 103(f)(2) places no such restrictions on its applicability. Also, some chemicals covered under CERCLA section 103 are not subject to SARA section 313 reporting requirements, and certain additional chemicals not subject to CERCLA notification are included in section 313 notification requirements.

The two statutory provisions also differ in purpose. While the purpose of section 313 of SARA is to create a Federal inventory of the listed chemicals, the purpose of the CERCLA section 103 reporting requirements is to gather information for emergency response.

A review of the issue found that significant amounts of duplication do not exist between these two requirements.

XIII. Public Data Base

Section 313(j) states that the Administrator shall establish and maintain in a computer data base a national toxic chemical inventory based on data submitted to the Administrator under section 313. EPA shall make this data accessible by computer telecommunications and other means to any person on a cost reimbursable basis.

EPA is reviewing potential options through which the toxic chemical inventory can be made available to the public. There are numerous vehicles and mechanisms under consideration by EPA for the wide dissemination and accessibility of the inventory to the public on a cost reimbursement basis with the potential for fee reductions or waivers.

EPA developed early draft options as examples of potential vehicles and mechanisms for the public availability of a toxic chemical inventory data base. This preliminary draft options paper was the subject of a public meeting held on April 20, 1987. Comments from this public meeting and subsequent discussions with other Federal agencies, industry, States, and environmental groups are serving as the basis for further analysis by EPA.

After further review of public availability options, EPA will determine which set of products and services will provide the most feasible and widest dissemination of the toxic chemical inventory to the public. EPA expects to be able to make the data base available in the first quarter of 1989.

XIV. Rulemaking Record

The following documents constitute the rulemaking record for this rule (docket control number OPTS-400002A). All documents, including the index of this record, are available to the public in the OTS Reading Room from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The OTS Reading Room is located at EPA Headquarters, Rm. NE-G004, 401 M St., SW., Washington, DC 20460. The record includes the following information considered by the Agency in developing this rule:

1. Documents in docket no. 400002 at the date of publication of the proposed rule.
2. The proposed rule.
3. Transcripts of public meetings held July 24 and 27, and August 4, 1987.
4. Written comments received on the proposed rule.
5. Summaries of meetings held with representatives of industry, public interest groups, and State government officials.
6. The document titled "Regulatory Impact Analysis in Support of the Final Rulemaking Under section 313 of the Superfund Amendments and Reauthorization Act of 1986" (1987).

XV. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a RIA. EPA has developed a RIA as described in Unit XI. This RIA shows that the combination of impacts of the statutory provisions of section 313 and the interpretive provisions of this rule may create a first year impact of $527 million and a second year impact of $299 million. EPA has determined that this rule is "major" because it may have an effect of $100 million or more on the economy. EPA does not, however, anticipate that this rule will have a significant effect on competition, costs, or prices.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Section 313 and the final rule exempt certain small businesses from reporting, i.e., those facilities in SIC codes 20 through 39 with fewer than 10 full-time employees. The statutory exclusion of facilities with fewer than 10 full-time employees exempts 48 percent of all manufacturing facilities in SIC codes 20 through 39. After also considering the volume thresholds, EPA estimates that section 313 will require reporting from approximately 3.0 percent (9,400 of 277,100) of all small manufacturing facilities with less than 50 employees.

Analysis to support the proposed rule indicated that for some segments of the manufacturing sector the compliance costs of reporting will have a significant impact. Specifically, reporting costs are estimated to be between 1.0 and 2.0 percent of median sales for facilities with fewer than 50 employees; and between 2.0 and 4.0 percent of median sales for facilities with 10 to 19 employees. Subsequent to proposal, the Agency developed and included a Regulatory Flexibility Analysis in the RIA to examine options that might reduce the burden to small businesses.

The Agency received extensive comments on the impacts of the proposed rule on small businesses from the small Business Administration (SBA). SBA presented several alternatives designed to reduce the burden to small businesses, based on the premise that small facilities (those with fewer than 100 employees) have nothing significant to report. These alternatives are discussed below.

SBA proposed the development of thresholds based on risks posed by various emission sources. SBA maintains that data exists from the Agency's regional studies that would allow the Agency to calculate risks from air and water emissions, from which the Agency could develop thresholds for reporting based on specific risks. From its review of the data, SBA concludes that "small firms collectively contribute only a small fraction, generally less than 10 to 15 percent, of the toxic chemical emissions included in the local area studies." SBA acknowledges that "there may be a lack of information on toxicity which would make [a risk] analysis infeasible for certain chemicals."

SBA's second proposed alternative is to combine section 313 with CERCLA section continuous release reporting, using 10 pounds a day Reportable Quantity (RQ) for any section 313 chemicals not covered under CERCLA. SBA states that this would ensure that "facilities of primary concern (those with significant emissions) are included." SBA believes this approach would also alleviate the significant economic burden on small businesses.

SBA recommends as a third alternative a *de minimis* reporting range of 0 to 1 pound of emissions per day or 0 to 250 pounds per year. SBA's fourth alternative was a total exemption of small facilities (defined by SBA as those with fewer than 100 employees) from reporting; and/or an abbreviated or shortened reporting form.

The Agency received comments both in support of an in opposition to SBA's position. The Agency identified 8 regulatory alternatives as part of the Regulatory flexibility Analysis for this rule. The alternatives, evaluated on the basis of cost and economic criteria, represent options for reducing the reporting burden for small businesses. Each alternative is described and discussed below.

Alternative 1: Rule as proposed; statutory exclusion of facilities having fewer than 10 employees. This alternative allows complete coverage of reporting on emissions, but provides no reduction in burden to small facilities.

Alternative 2: Exempt all small businesses (defined as facilities with fewer than 50 employees). [The RIA analyzes alternative definitions of small businesses.] This alternative not only reduces the reporting burden for small businesses, but eliminates any burden of compliance determination from small facilities. However, this alternative would result in no reporting of emissions from small facilities, which could lead to substantial gaps in the Emissions Inventory, especially at the community level.

The costs are summarized in Table IV below.

TABLE IV.—REGULATORY FLEXIBILITY STUDY OPTIONS: COSTS PER FACILITY

[Present Value for 10 Years of Reporting]

	Cost [1]
Option:	
1	$54,320
2	0
3	[2] $54,320
4	$5,100 to $54,320
5	$5,100
6	$24,680
7	$47,130 to [3] $52,630
8	$34,410 to [4] $50,990

[1] In present value 1987 dollars at a 10 percent discount rate for years 1988-1997.
[2] Given the absence of any SIC codes that would meet exemption criteria.
[3] Average cost, but this option would offer the benefit of limiting the extent to which individual facilities would exceed the average.
[4] Assumes all 10 chemicals per facility enjoy 10 to 50 percent cost savings for estimates of air and water releases in ranges.

Alternative 3: Exempt facilities in specific SIC codes if they account for low aggregate emissions. This alternative would exempt small businesses in particular industries that might trigger the need to report based on the volume threshold for use, but have little actual emissions. However, after examining the available data (six State and local data bases that contain emissions data for some of the section

313 chemicals), no SIC codes were identified that met the criterion.

Alternative 4: Require annual reporting by small businesses only of Parts I through VI of proposed Form R; Parts VII through X of the proposed form would be due only upon request by EPA. This alternative would eliminate the most onerous part of the reporting burden (i.e., estimating releases). However, while small facilities would be identified in the data base, the most important information (i.e., emissions) would not be captured. Therefore the utility to the public of the date base would be reduced. There also would be likely increased administrative costs with such an approach when the emissions data are requested. These costs would be incurred by the public (for requesting information), industry (for having to essentially fill out a form for some chemicals twice), and the Agency (for establishing procedures of how and to whom the request should be made, response times, etc.).

Alternative 5: Require annual reporting by small businesses only of Parts I through VI of proposed Form R plus data on quantity used or produced; EPA estimates releases from small business facilities. This alternative would eliminate the most onerous part of the reporting burden as described in Alternative 4. EPA would provide emissions estimates in the data base that were more consistently derived. However, the information that EPA would have to require to estimate releases may actually increase the information required on the form. For example, EPA would have to require production, processing, or use volume information. This approach would increase Agency costs for calculating releases. It would also require industry's willingness to report such potentially confidential or trade secret information as a tradeoff for the lowered burden.

Alternative 6: Require reporting by small businesses every third year, rather than annually. This alternative would reduced the burden to small facilities over time, while still providing data on small facilities and their emissions in the data base. However, the frequency of reporting cannot be changed until 1993 under section 313(i).

Alternative 7: Require small businesses to report only up to a certain number of chemicals per year. This alternative would place a cap on the number of chemicals that small businesses would report each year. The burden would be reduced for those small facilities with more than the average number of chemicals per facility. Data on small facilities and estimates of emissions would still be provided in the data base. However, in the intervening years until facilities have reported on all section 313 chemicals, the data base will not be as complete or as accurate.

Alternative 8: Allow small businesses to mark ranges check-boxes for release less than 1,000 pounds per year to any environmental medium. The check boxes would apply to 0, 1 to 499 pounds per year, and 500 to 999 pounds per year. The facility would have the option of reporting a specific figure rather than checking a box. The facility would have to provide a specific figure estimate for releases of 1,000 pounds or more per year. The reporting burden would be reduced by not requiring small facilities to further refine estimates of these lower level releases. A certain degree of precision might be lost relative to analyzing the releases reporting in such ranges. However, the data base would maintain a higher degree of completeness relative to other options (except option 1) because all data required by the form would be reported each year by all facilities.

Conclusions: The Agency has the authority to establish different thresholds for a chemical, class of chemicals, or categories of facilities. However, any revised threshold must obtain reporting on a substantial majority of total releases of the chemicals at all facilities subject to reporting. Based on the limited available data the Agency cannot support any modification of thresholds based on size of facility, and still be able to maintain that a substantial majority of the total releases would be captured through reporting. EPA analyzed certain limited use and release data available on a subset of the section 313 chemicals from the states of New Jersey, Michigan, and Massachusetts. These data were used to estimate the potential impact on coverage of aggregate emissions, coverage of chemical-by-chemical emissions, and coverage of emissions at the community level. This analysis shows that facilities with fewer than 49 employees account for a least 30 percent of the air releases for 12 of 87 chemicals listed in the New Jersey data base. EPA concluded that exempting facilities of this size range from reporting may lead to lack of coverage of certain chemicals. Therefore, the Agency is not modifying the thresholds (i.e., the annual pounds of a toxic chemical manufactured, processed, or otherwise used) for small facilities.

However, as a result of this analysis and consultation with SBA, the Agency has incorporated alternative No. 8, limited range reporting, into the reporting requirements of the rule. It is difficult from the data available to EPA to estimate exact burden savings associated with this approach. Savings for any individual small facility will depend upon the number of chemicals being reported and the number of environmental media to which each chemical is released. For example, a simple mass balance around a process may be adequate to show that air releases are less than 1,000 pounds. The information necessary to complete such a mass balance should be readily available and tabulated, at least partly, to determine whether the reporting threshold is met. By relying on a rough mass balance calculation, the facility could avoid calculating releases from individual process points (for example, valve and flanges leaks, or storage tanks vents). Completing these calculations requires that additional information be tabulated (e.g., the number of valves, or the size of storage tanks).

For a release to a single medium, the savings could be as high as 50 percent of the time for completion of the release section of the form (12 of 24 hours). For releases of a chemical to several media the savings are likely to be approximately 10 percent because of the time required to determine how such releases are apportioned per media. These savings are reflected in the cost per facility for option 8 in Table IV. SBA believes that EPA's estimates of savings are conservative and that small facilities would benefit substantially from this approach.

EPA expects that small facilities will realize the most benefit from the optional range reporting concept because larger facilities are more likely to have the technical capabilities to develop more specific estimates. However, EPA believes that this optional range reporting provision could provide a burden reducing benefit to any subject facility regardless of size. Therefore, EPA has extended the optional range reporting provision to all subject facilities.

EPA believes that it will be necessary to evaluate the relative costs and benefits of this alternative in light of the first few years of section 313 submissions. Therefore, a 3-year limitation has been attached to this provision. The limited range reporting option will apply to the 1987, 1988, and 1989 reporting years unless EPA takes action to extend or permanently adopt this reporting provision. EPA will publish its analysis prior to allowing the provisions to expire.

C. Paperwork Reduction Act

OMB has reviewed the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2070-0093.

List of Subjects in 40 CFR Part 372

Environmental protection, Recordkeeping, reporting, and notification requirements, Toxic chemicals.

Dated: February 2, 1988.

A. James Barnes,

Acting Administrator.

Therefore, Chapter I of 40 CFR is amended by adding a new Part 372 to read as follows:

PART 372—TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW

Subpart A—General Provisions

Sec.
372.1 Scope and purpose.
372.3 Definitions.
372.5 Persons subject to this Part.
372.10 Recordkeeping.
372.18 Compliance and enforcement.

Subpart B—Reporting Requirements

372.22 Covered facilities for toxic chemical release reporting.
372.25 Thresholds for reporting.
372.30 Reporting requirements and schedule for reporting.
372.38 Exemptions.

Subpart C—Supplier Notification Requirements

372.45 Notification about toxic chemicals.

Subpart D—Specific Toxic Chemical Listings

372.65 Chemicals and chemical categories to which this Part applies.

Subpart E—Forms and Instructions

372.85 Toxic chemical release reporting form and instructions.

Authority: 42 U.S.C. 11013, 11028.

Subpart A—General Provisions

§ 372.1 Scope and purpose.

This Part sets forth requirements for the submission of information relating to the release of toxic chemicals under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986. The information collected under this Part is intended to inform the general public and the communities surrounding covered facilities about releases of toxic chemicals, to assist research, to aid in the development of regulations, guidelines, and standards, and for other purposes. This Part also sets forth requirements for suppliers to notify persons to whom they distribute mixtures or trade name products containing toxic chemicals that they contain such chemicals.

§ 372.3 Definitions.

Terms defined in sections 313(b)(1)(c) and 329 of Title III and not explicitly defined herein are used with the meaning given in Title III. For the purpose of this Part:

"Acts" means Title III.

"Article" means a manufactured item: (1) Which is formed to a specific shape or design during manufacture; (2) which has end use functions dependent in whole or in part upon its shape or design during end use; and (3) which does not release a toxic chemical under normal conditions of processing or use of that item at the facility or establishments.

"Customs territory of the United States" means the 50 States, the District of Columbia, and Puerto Rico.

"EPA" means the United States Environmental Protection Agency.

"Establishment" means an economic unit, generally at a single physical location, where business is conducted or where services or industrial operations are performed.

"Facility" means all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with such person). A facility may contain more than one establishment.

"Full-time employee" means 2,000 hours per year of full-time equivalent employment. A facility would calculate the number of full-time employees by totaling the hours worked during the calendar year by all employees, including contract employees, and dividing that total by 2,000 hours.

"Import" means to cause a chemical to be imported into the customs territory of the United States. For purposes of this definition, "to cause" means to intend that the chemical be imported and to control the identity of the imported chemical and the amount to be imported.

"Manufacture" means to produce, prepare, import, or compound a toxic chemical. Manufacture also applies to a toxic chemical that is produced coincidentally during the manufacture, processing, use, or disposal of another chemical or mixture of chemicals, including a toxic chemical that is separated from that other chemical or mixture of chemicals as a byproduct, and a toxic chemical that remains in that other chemical or mixture of chemicals as an impurity.

"Mixture" means any combination of two or more chemicals, if the combination is not, in whole or in part, the result of a chemical reaction. However, if the combination was produced by a chemical reaction but could have been produced without a chemical reaction, it is also treated as a mixture. A mixture also includes any combination which consists of a chemical and associated impurities.

"Otherwise use" or "use" means any use of a toxic chemical that is not covered by the terms "manufacture" or "process" and includes use of a toxic chemical contained in a mixture or trade name product. Relabeling or redistributing a container of a toxic chemical where no repackaging of the toxic chemical occurs does not constitute use or processing of the toxic chemical.

"Process" means the preparation of a toxic chemical, after its manufacture, for distribution in commerce:

(1) In the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance, or

(2) As part of an article containing the toxic chemical. Process also applies to the processing of a toxic chemical contained in a mixture or trade name product.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any toxic chemical.

"Senior management official" means an official with management responsibility for the person or persons completing the report, or the manager of environmental programs for the facility or establishments, or for the corporation owning or operating the facility or establishments responsible for certifying similar reports under other environmental regulatory requirements.

"Title III" means Title III of the Superfund Amendments and Reauthorization Act of 1986, also titled the Emergency Planning and Community Right-To-Know Act of 1986.

"Toxic chemical" means a chemical or chemical category listed in § 372.65.

"Trade name product" means a chemical or mixture of chemicals that is distributed to other persons and that incorporates a toxic chemical component that is not identified by the applicable chemical name or Chemical

Abstracts Service Registry number listed in § 372.65.

§ 372.5 Persons subject to this Part.

Owners and operators of facilities described in §§ 372.22 and 372.45 are subject to the requirements of this Part. If the owner and operator of a facility are different persons, only one need report under § 372.17 or provide a notice under § 372.45 for each toxic chemical in a mixture or trade name product distributed from the facility. However, if no report is submitted or notice provided, EPA will hold both the owner and the operator liable under section 325(c) of Title III, except as provided in §§ 372.38(e) and 372.45(g).

§ 372.10 Recordkeeping.

(a) Each person subject to the reporting requirements of this Part must retain the following records for a period of 3 years from the date of the submission of a report under § 372.30:

(1) A copy of each report submitted by the person under § 372.30.

(2) All supporting materials and documentation used by the person to make the compliance determination that the facility or establishments is a covered facility under § 372.22 or § 372.45.

(3) Documentation supporting the report submitted under § 372.30 including:

(i) Documentation supporting any determination that a claimed allowable exemption under § 372.38 applies.

(ii) Data supporting the determination of whether a threshold under § 372.25 applies for each toxic chemical.

(iii) Documentation supporting the calculations of the quantity of each toxic chemical released to the environment or transferred to an off-site location.

(iv) Documentation supporting the use indications and quantity on site reporting for each toxic chemical, including dates of manufacturing, processing, or use.

(v) Documentation supporting the basis of estimate used in developing any release or off-site transfer estimates for each toxic chemical.

(vi) Receipts or manifests associated with the transfer of each toxic chemical in waste to off-site locations.

(vii) Documentation supporting reported waste treatment methods, estimates of treatment efficiencies, ranges of influent concentration to such treatment, the sequential nature of treatment steps, if applicable, and the actual operating data, if applicable, to support the waste treatment efficiency estimate for each toxic chemical.

(b) Each person subject to the notification requirements of this part must retain the following records for a period of 3 years from the date of the submission of a notification under § 372.45.

(1) All supporting materials and documentation used by the person to determine whether a notice is required under § 372.45.

(2) All supporting materials and documentation used in developing each required notice under § 372.45 and a copy of each notice.

(c) Records retained under this section must be maintained at the facility to which the report applies or from which a notification was provided. Such records must be readily available for purposes of inspection by EPA.

§ 372.18 Compliance and enforcement.

Violators of the requirements of this Part shall be liable for a civil penalty in an amount not to exceed $25,000 each day for each violation as provided in section 325(c) of Title III.

Subpart B—Reporting Requirements

§ 372.22 Covered facilities for toxic chemical release reporting.

A facility that meets all of the following criteria for a calendar year is a covered facility for that calendar year and must report under § 372.30.

(a) The facility has 10 or more full-time employees.

(b) The facility is in Standard Industrial Classification Codes 20 through 39 (as in effect on January 1, 1987) by virtue of the fact that it meets one of the following criteria:

(1) The facility is an establishment with a primary SIC code of 20 through 39.

(2) The facility is a multi-establishment complex where all establishments have a primary SIC code of 20 through 39.

(3) The facility is a multi-establishment complex in which one of the following is true:

(i) The sum of the value of products shipped and/or produced from those establishments that have a primary SIC code of 20 through 39 is greater than 50 percent of the total value of all products shipped and/or produced from all establishments at the facility.

(ii) One establishment having a primary SIC code of 20 through 39 contributes more in terms of value of products shipped and/or produced than any other establishment within the facility.

(c) The facility manufactured (including imported), processed, or otherwise used a toxic chemical in excess of an applicable threshold quantity of that chemical set forth in § 372.25.

§ 372.25 Thresholds for reporting.

The threshold amounts for purposes of reporting under § 372.30 for toxic chemicals are as follows:

(a) With respect to a toxic chemical manufactured (including imported) or processed at a facility during the following calendar years:

1987—75,000 pounds of the chemical manufactured or processed for the year.

1988—50,000 pounds of the chemical manufactured or processed for the year.

1989 and thereafter—25,000 pounds of the chemical manufactured or processed for the year.

(b) With respect to a chemical otherwise used at a facility, 10,000 pounds of the chemical used for the applicable calendar year.

(c) With respect to activities involving a toxic chemical at a facility, when more than one threshold applies to the activities, the owner or operator of the facility must report if it exceeds any applicable threshold and must report on all activities at the facility involving the chemical, except as provided in § 372.38.

(d) When a facility manufactures, processes, or otherwise uses more than one member of a chemical category listed in § 372.65(c), the owner or operator of the facility must report if it exceeds any applicable threshold for the total volume of all the members of the category involved in the applicable activity. Any such report must cover all activities at the facility involving members of the category.

(e) A facility may process or otherwise use a toxic chemical in a recycle/reuse operation. To determine whether the facility has processed or used more than an applicable threshold of the chemical, the owner or operator of the facility shall count the amount of the chemical added to the recycle/reuse operation during the calendar year. In particular, if the facility starts up such an operation during a calendar year, or in the event that the contents of the whole recycle/reuse operation are replaced in a calendar year, the owner or operator of the facility shall also count the amount of the chemical placed into the system at these times.

(f) A toxic chemical may be listed in § 372.65 with the notation that only persons who manufacture the chemical, or manufacture it by a certain method, are required to report. In that case, only owners or operators of facilities that manufacture that chemical as described in § 372.65 in excess of the threshold applicable to such manufacture in § 372.25 are required to report. In

completing the reporting form, the owner or operator is only required to account for the quantity of the chemical so manufactured and releases associated with such manufacturing, but not releases associated with subsequent processing or use of the chemical at that facility. Owners and operators of facilities that solely process or use such a chemical are not required to report for that chemical.

(g) A toxic chemical may be listed in § 372.65 with the notation that it is in a specific form (e.g., fume or dust, solution, or friable) or of a specific color (e.g., yellow or white). In that case, only owners or operators of facilities that manufacture, process, or use that chemical in the form or of the color, specified in § 372.65 in excess of the threshold applicable to such activity in § 372.25 are required to report. In completing the reporting form, the owner or operator is only required to account for the quantity of the chemical manufactured, processed, or used in the form or color specified in § 372.65 and for releases associated with the chemical in that form or color. Owners or operators of facilities that solely manufacture, process, or use such a chemical in a form or color other than those specified by § 372.65 are not required to report for that chemical.

(h) Metal compound categories are listed in § 372.65(c). For purposes of determining whether any of the thresholds specified in § 372.25 are met for metal compound category, the owner or operator of a facility must make the threshold determination based on the total amount of all members of the metal compound category manufactured, processed, or used at the facility. In completing the release portion of the reporting form for releases of the metal compounds, the owner or operator is only required to account for the weight of the parent metal released. Any contribution to the mass of the release attributable to other portions of each compound in the category is excluded.

§ 372.30 Reporting requirements and schedule for reporting.

(a) For each toxic chemical known by the owner or operator to be manufactured (including imported), processed, or otherwise used in excess of an applicable threshold quantity in § 372.25 at its covered facility described in § 372.22 for a calendar year, the owner or operator must submit to EPA and to the State in which the facility is located a completed EPA Form R (EPA Form 9350–1) in accordance with the instructions in Subpart E.

(b)(1) The owner or operator of a covered facility is required to report as described in paragraph (a) of this section on a toxic chemical that the owner or operator knows is present as a component of a mixture or trade name product which the owner or operator receives from another person, if that chemical is imported, processed, or otherwise used by the owner or operator in excess of an applicable threshold quantity in § 372.25 at the facility as part of that mixture or trade name product.

(2) The owner or operator knows that a toxic chemical is present as a component of a mixture or trade name product (i) if the owner or operator knows or has been told the chemical identity or Chemical Abstracts Service Registry Number of the chemical and the identity or Number corresponds to an identity or Number in § 372.65, or (ii) if the owner or operator has been told by the supplier of the mixture or trade name product that the mixture or trade name product contains a toxic chemical subject to section 313 of the Act or this Part.

(3) To determine whether a toxic chemical which is a component of a mixture or trade name product has been imported, processed, or otherwise used in excess of an applicable threshold in § 372.25 at the facility, the owner or operator shall consider only the portion of the mixture or trade name product that consists of the toxic chemical and that is imported, processed, or otherwise used at the facility, together with any other amounts of the same toxic chemical that the owner or operator manufactures, imports, processes, or otherwise uses at the facility as follows:

(i) If the owner or operator knows the specific chemical identity of the toxic chemical and the specific concentration at which it is present in the mixture or trade name product, the owner or operator shall determine the weight of the chemical imported, processed, or otherwise used as part of the mixture or trade name product at the facility and shall combine that with the weight of the toxic chemical manufactured (including imported) processed, or otherwise used at the facility other than as part of the mixture or trade name product. After combining these amounts, if the owner or operator determines that the toxic chemical was manufactured, processed, or otherwise used in excess of an applicable threshold in § 372.25, the owner or operator shall report the specific chemical identity and all releases of the toxic chemical on EPA Form R in accordance with the instructions in Subpart E.

(ii) If the owner or operator knows the specific chemical identity of the toxic chemical and does not know the specific concentration at which the chemical is present in the mixture or trade name product, but has been told the upper bound concentration of the chemical in the mixture or trade name product, the owner or operator shall assume that the toxic chemical is present in the mixture or trade name product at the upper bound concentration, shall determine whether the chemical has been manufactured, processed, or otherwise used at the facility in excess of an applicable threshold as provided in paragraph (b)(3)(i) of this section, and shall report as provided in paragraph (b)(3)(i) of this section.

(iii) If the owner or operator knows the specific chemical identity of the toxic chemical, does not know the specific concentration at which the chemical is present in the mixture or trade name product, has not been told the upper bound concentration of the chemical in the mixture or trade name product, and has not otherwise developed information on the composition of the chemical in the mixture or trade name product, then the owner or operator is not required to factor that chemical in that mixture or trade name product into threshold and release calculations for that chemical.

(iv) If the owner or operator has been told that a mixture or trade name product contains a toxic chemical, does not know the specific chemical identity of the chemical and knows the specific concentration at which it is present in the mixture or trade name product, the owner or operator shall determine the weight of the chemical imported, processed, or otherwise used as part of the mixture or trade name product at the facility. Since the owner or operator does not know the specific identity of the toxic chemical, the owner or operator shall make the threshold determination only for the weight of the toxic chemical in the mixture or trade name product. If the owner or operator determines that the toxic chemical was imported, processed, or otherwise used as part of the mixture or trade name product in excess of an applicable threshold in § 372.25, the owner or operator shall report the generic chemical name of the toxic chemical, or a trade name if the generic chemical name is not known, and all releases of the toxic chemical on EPA Form R in accordance with the instructions in Subpart E.

(v) If the owner or operator has been told that a mixture or trade name product contains a toxic chemical, does not know the specific chemical identity of the chemical, and does not know the specific concentration at which the chemical is present in the mixture or

trade name product, but has been told the upper bound concentration of the chemical in the mixture or trade name product, the owner or operator shall assume that the toxic chemical is present in the mixture or trade name product at the upper bound concentration, shall determine whether the chemical has been imported, processed, or otherwise used at the facility in excess of an applicable threshold as provided in paragraph (b)(3)(iv) of this section, and shall report as provided in paragraph (b)(3)(iv) of this section.

(vi) If the owner or operator has been told that a mixture or trade name product contains a toxic chemical, does not know the specific chemical identity of the chemical, does not know the specific concentration at which the chemical is present in the mixture or trade name product, including information they have themselves developed, and has not been told the upper bound concentration of the chemical in the mixture or trade name product, the owner or operator is not required to report with respect to that toxic chemical.

(c) A covered facility may consist of more than one establishment. The owner or operator of such a facility at which a toxic chemical was manufactured (including imported), processed, or otherwise used in excess of an applicable threshold may submit a separate Form R for each establishment or for each group of establishments within the facility to report the activities involving the toxic chemical at each establishment or group of establishments, provided that activities involving that toxic chemical at all the establishments within the covered facility are reported. If each establishment or group of establishments files separate reports then for all other chemicals subject to reporting at that facility they must also submit separate reports. However, an establishment or group of establishments does not have to submit a report for a chemical that is not manufactured (including imported), processed, otherwise used, or released at that establishment or group of establishments.

(d) Each report under this section for activities involving a toxic chemical that occured during a calendar year at a covered facility must be submitted on or before July 1 of the next year. The first such report for calendar year 1987 activities must be submitted on of before July 1, 1988.

(e) For reports applicable to activities for calendar years 1987, 1988, and 1989 only, the owner or operator of a covered facility may report releases of a specific toxic chemical to an environmental medium, or transfers of wastes containing a specific toxic chemical to an off-site location, of less than 1,000 pounds using the ranges provided in the form and instructions in Subpart E. For reports applicable to activities in calendar year 1990 and beyond, these ranges may not be used.

§ 372.38 Exemptions.

(a) *De minimis concentrations of a toxic chemical in a mixture.* If a toxic chemical is present in a mixture of chemicals at a covered facility and the toxic chemical is in a concentration in the mixture which is below 1 percent of the mixture, or 0.1 percent of the mixture in the case of a toxic chemical which is a carcinogen as defined in 29 CFR 1910.1200(d)(4), a person is not required to consider the quantity of the toxic chemical present in such mixture when determining whether an applicable threshold has been met under § 372.25 or determining the amount of release to be reported under § 372.30. This exemption applies whether the person received the mixture from another person or the person produced the mixture, either by mixing the chemicals involved or by causing a chemical reaction which resulted in the creation of the toxic chemical in the mixture. However, this exemption applies only to the quantity of the toxic chemical present in the mixture. If the toxic chemical is also manufactured (including imported), processed, or otherwise used at the covered facility other than as part of the mixture or in a mixture at higher concentrations, in excess of an applicable threshold quantity set forth in § 372.25, the person is required to report under § 372.30.

(b) *Articles.* If a toxic chemical is present in an article at a covered facility, a person is not required to consider the quantity of the toxic chemical present in such article when determining whether an applicable threshold has been met under § 372.25 or determining the amount of release to be reported under § 372.30. This exemption applies whether the person received the article from another person or the person produced the article. However, this exemption applies only to the quantity of the toxic chemical present in the article. If the toxic chemical is manufactured (including imported), processed, or otherwise used at the covered facility other than as part of the article, in excess of an applicable threshold quantity set forth in § 372.25, the person is required to report under § 372.30. Persons potentially subject to this exemption should carefully review the definitions of "article" and "release" in § 372.3. If a release of a toxic chemical occurs as a result of the processing or use of an item at the facility, that item does not meet the definition of "article."

(c) *Uses.* If a toxic chemical is used at a covered facility for a purpose described in this paragraph (c), a person is not required to consider the quantity of the toxic chemical used for such purpose when determining whether an applicable threshold has been met under § 372.25 or determining the amount of releases to be reported under § 372.30. However, this exemption only applies to the quantity of the toxic chemical used for the purpose described in this paragraph (c). If the toxic chemical is also manufactured (including imported), processed, or otherwise used at the covered facility other than as described in this paragraph (c), in excess of an applicable threshold quantity set forth in § 372.25, the person is required to report under § 372.30.

(1) Use as a structural component of the facility.

(2) Use of products for routine janitorial or facility grounds maintenance. Examples include use of janitorial cleaning supplies, fertilizers, and pesticides similar in type or concentration to consumer products.

(3) Personal use by employees or other persons at the facility of foods, drugs, cosmetics, or other personal items containing toxic chemicals, including supplies of such products within the facility such as in a facility operated cafeteria, store, or infirmary.

(4) Use of products containing toxic chemicals for the purpose of maintaining motor vehicles operated by the facility.

(5) Use of toxic chemicals present in process water and non-contact cooling water as drawn from the environment or from municipal sources, or toxic chemicals present in air used either as compressed air or as part of combustion.

(d) *Activities in laboratories.* If a toxic chemical is manufactured, processed, or used in a laboratory at a covered facility under the supervision of a technically qualified individual as defined in § 720.3(ee) of this title, a person is not required to consider the quantity so manufactured, processed, or used when determining whether an applicable threshold has been met under § 372.25 or determining the amount of release to be reported under § 372.30. This exemption does not apply in the following cases:

(1) Specialty chemical production.

(2) Manufacture, processing, or use of toxic chemicals in pilot plant scale operations.

(3) Activities conducted outside the laboratory.

(e) *Certain owners of leased property.* The owner of a covered facility is not subject to reporting under § 372.30 if such owner's only interest in the facility is ownership of the real estate upon which the facility is operated. This exemption applies to owners of facilities such as industrial parks, all or part of which are leased to persons who operate establishments within SIC code 20 through 39 where the owner has no other business interest in the operation of the covered facility.

(f) *Reporting by certain operators of establishments on leased property such as industrial parks.* If two or more persons, who do not have any common corporate or business interest (including common ownership or control), operate separate establishments within a single facility, each such person shall treat the establishments it operates as a facility for purposes of this Part. The determinations in § 372.22 and § 372.25 shall be made for those establishments. If any such operator determines that its establishment is a covered facility under § 372.22 and that a toxic chemical has been manufactured (including imported), processed, or otherwise used at the establishment in excess of an applicable threshold in § 372.25 for a calendar year, the operator shall submit a report in accordance with § 372.30 for the establishment. For purposes of this paragraph (f), a common corporate or business interest includes ownership, partnership, joint ventures, ownership of a controlling interest in one person by the other, or ownership of a controlling interest in both persons by a third person.

Subpart C—Supplier Notification Requirement

§ 372.45 Notification about toxic chemicals.

(a) Except as provided in paragraphs (c), (d), and (e) of this section and § 372.65, a person who owns or operates a facility or establishment which:

(1) Is in Standard Industrial Classification codes 20 through 39 as set forth in paragraph (b) of § 372.22,

(2) Manufactures (including imports) or processes a toxic chemical, and

(3) Sells or otherwise distributes a mixture or trade name product containing the toxic chemical, to (i) a facility described in § 372.22, or (ii) to a person who in turn may sell or otherwise distributes such mixture or trade name product to a facility described in § 372.22(b), must notify each person to whom the mixture or trade name product is sold or otherwise distributed from the facility or establishment in accordance with paragraph (b) of this section.

(b) The notification required in paragraph (a) of this section shall be in writing and shall include:

(1) A statement that the mixture or trade name product contains a toxic chemical or chemicals subject to the reporting requirements of section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 and 40 CFR Part 372.

(2) The name of each toxic chemical, and the associated Chemical Abstracts Service registry number of each chemical if applicable, as set forth in § 372.65.

(3) The percent by weight of each toxic chemical in the mixture or trade name product.

(c) Notification under this section shall be provided as follows:

(1) For a mixture or trade name product containing a toxic chemical listed in § 373.65 with an effective date of January 1, 1987, the person shall provide the written notice described in paragraph (b) of this section to each recipient of the mixture or trade name product with at least the first shipment of each mixture or trade name product to each recipient in each calendar year beginning January 1, 1989.

(2) For a mixture or trade name product containing a toxic chemical listed in § 372.65 with an effective date of January 1, 1989 or later, the person shall provide the written notice described in paragraph (b) of this section to each recipient of the mixture or trade name product with at least the first shipment of the mixture or trade name product to each recipient in each calendar year beginning with the applicable effective date.

(3) If a person changes a mixture or trade name product for which notification was previously provided under paragraph (b) of this section by adding a toxic chemical, removing a toxic chemical, or changing the percent by weight of a toxic chemical in the mixture or trade name product, the person shall provide each recipient of the changed mixture or trade name product a revised notification reflecting the change with the first shipment of the changed mixture or trade name product to the recipient.

(4) If a person discovers (i) that a mixture or trade name product previosuly sold or otherwise distributed to another person during the calendar year of the discovery contains one or more toxic chemicals and (ii), that any notification providied to such other persons in that calendar year for the mixture or trade name product either did not properly identify any of the toxic chemicals or did not accurately present the percent by weight of any of the toxic chemicals in the mixture or trade name product, the person shall provide a new notification to the recipient within 30 days of the discovery which contains the information described in paragraph (b) of this section and identifies the prior shipments of the mixture or product in that calendar year to which the new notification applies.

(5) If a Material Safety Data Sheet (MSDS) is required to be prepared and distributed for the mixture or trade name product in accordance with 29 CFR 1910.1200, the notification must be attached to or otherwise incorporated into such MSDS. When the notification is attached to the MSDS, the notice must contain clear instructions that the notifications must not be detached from the MSDS and that any copying and redistribution of the MSDS shall include copying and redistribution of the notice attached to copies of the MSDS subsequently redistributed.

(d) Notifications are not required in the following instances:

(1) If a mixture or trade name product contains no toxic chemical in excess of the applicable de minimis concentration as specified in § 372.38(a).

(2) If a mixture or trade name product is one of the following:

(i) An "article" as defined in § 372.3

(ii) Foods, drugs, cosmetics, alcoholic beverages, tobacco, or tobacco products packaged for distribution to the general public.

(iii) Any consumer product as the term is defined in the Consumer Product Safety Act (15 U.S.C. 1251 *et seq.*) packaged for distribution to the general public.

(e) If the person considers the specific identity of a toxic chemical in a mixture or trade name product to be a trade secret under provisions of 29 CFR 1910.1200, the notice shall contain a generic chemical name that is descriptive of that toxic chemical.

(f) If the person considers the specific percent by weight composition of a toxic chemical in the mixture or trade name product to be a trade secret under applicable State law or under the Restatement of Torts section 757, comment b, the notice must contain a statement that the chemical is present at a concentration that does not exceed a specified upper bound concentration value. For example, a mixture contains 12 percent of a toxic chemical. However, the supplier considers the specific concentration of the toxic chemical in

the product to be a trade secret. The notice would indicate that the toxic chemical is present in the mixture in a concentration of no more than 15 percent by weight. The upper bound value chosen must be no larger than necessary to adequately protect the trade secret.

(g) A person is not subject to the requirements of this section to the extent the person does not know that the facility or establishment(s) is selling or otherwise distributing a toxic chemical to another person in a mixture or trade name product. However, for purposes of this section, a person has such knowledge if the person receives a notice under this section from a supplier of a mixture or trade name product and the person in turn sells or otherwise distributes that mixture or trade name product to another person.

(h) If two or more persons, who do not have any common corporate or business interest (including common ownership or control), as described in § 372.38(f), operate separate establishments within a single facility, each such persons shall treat the establishment(s) it operates as a facility for purposes of this section. The determination under paragraph (a) of this section shall be made for those establishments.

Subpart D—Specific Toxic Chemical Listings

§ 372.65 Chemicals and chemical categories to which this Part applies.

The requirements of this Part apply to the following chemicals and chemical categories. This section contains three listings. Paragraph (a) of this section is an alphabetical order listing of those chemicals that have an associated Chemical Abstracts Service (CAS) Registry number. Paragraph (b) of this section contains a CAS number order list of the same chemicals listed in paragraph (a) of this section. Paragraph (c) of this section contains the chemical categories for which reporting is required. These chemical categories are listed in alphabetical order and do not have CAS numbers. Each listing identifies the effective date for reporting under § 372.30.

(a) *Alphabetical listing.*

Chemical name	CAS No.	Effective date
Acetaldehyde	75-07-0	01/01/87
Acetamide	60-35-5	01/01/87
Acetone	67-64-1	01/01/87
Acetonitrile	75-05-8	01/01/87
2-Acetylaminofluorene	53-96-3	01/01/87
Acrolein	107-02-8	01/01/87
Acrylamide	79-06-1	01/01/87
Acrylic acid	79-10-7	01/01/87
Acrylonitrile	107-13-1	01/01/87
Aldrin[1,4:5,8-Dimethanonaphthalene,1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-(1.alpha.,4.alpha.,4a.beta.,5.alpha.,8.alpha., 8a.beta.)-]	309-00-2	01/01/87
Allyl chloride	107-05-1	01/01/87
Aluminum (fume or dust)	7429-90-5	01/01/87
Aluminum oxide	1344-28-1	01/01/87
2-Aminoanthraquinone	117-79-3	01/01/87
4-Aminoazobenzene	60-09-3	01/01/87
4-Aminobiphenyl	92-67-1	01/01/87
1-Amino-2-methylanthraquinone	82-28-0	01/01/87
Ammonia	7664-41-7	01/01/87
Ammonium nitrate (solution)	6484-52-2	01/01/87
Ammonium sulfate (solution)	7783-20-2	01/01/87
Aniline	62-53-3	01/01/87
o-Anisidine	90-04-0	01/01/87
p-Anisidine	104-94-9	01/01/87
o-Anisidine hydrochloride	134-29-2	01/01/87
Anthracene	120-12-7	01/01/87
Antimony	7440-36-0	01/01/87
Arsenic	7440-38-2	01/01/87
Asbestos (friable)	1332-21-4	01/01/87
Barium	7440-39-3	01/01/87
Benzal Chloride	98-87-3	01/01/87
Benzamide	55-21-0	01/01/87
Benzene	71-43-2	01/01/87
Benzidine	92-87-5	01/01/87
Benzoic trichloride (Benzotrichloride)	98-07-7	01/01/87
Benzoyl chloride	98-88-4	01/01/87
Benzoyl peroxide	94-36-0	01/01/87
Benzyl chloride	100-44-7	01/01/87
Beryllium	7440-41-7	01/01/87
Biphenyl	92-52-4	01/01/87
Bis(2-chloroethyl)ether	111-44-4	01/01/87
Bis(chloromethyl)ether	542-88-1	01/01/87
Bis(2-chloro-1-methylethyl)ether	108-60-1	01/01/87
Bis(2-ethylhexyl)adipate	103-23-1	01/01/87
Bromoform (Tribromomethane)	75-25-2	01/01/87
Bromomethane (Methyl bromide)	74-83-9	01/01/87
1,3,Butadiene	106-99-0	01/01/87
Butyl acrylate	141-32-2	01/01/87
n-Butyl alcohol	71-36-3	01/01/87
sec-Butyl alcohol	78-92-2	01/01/87
tert-Butyl alcohol	75-65-0	01/01/87
Butyl benzyl phthalate	85-68-7	01/01/87
1,2-Butylene oxide	106-88-7	01/01/87
Butyraldehyde	123-72-8	01/01/87

Chemical name	CAS No.	Effective date
C.I. Acid Blue 9, diammonium salt	2650-18-2	01/01/87
C.I. Acid Blue 9, disodium salt	3844-45-9	01/01/87
C.I. Acid Green 3	4680-78-8	01/01/87
C.I. Basic Green 4	569-64-2	01/01/87
C.I. Basic Red 1	989-38-8	01/01/87
C.I. Direct Black 38	1937-37-7	01/01/87
C.I. Direct Blue 6	2602-46-2	01/01/87
C.I. Direct Brown 95	16071-86-6	01/01/87
C.I. Disperse Yellow 3	2832-40-8	01/01/87
C.I. Food Red 5	3761-53-3	01/01/87
C.I. Food Red 15	81-88-9	01/01/87
C.I. Solvent Orange 7	3118-97-6	01/01/87
C.I. Solvent Yellow 3	97-56-3	01/01/87
C.I. Solvent Yellow 14	842-07-9	01/01/87
C.I. Solvent Yellow 34 (Aurimine)	492-80-8	01/01/87
C.I. Vat Yellow 4	128-66-5	01/01/87
Cadmium	7440-43-9	01/01/87
Calcium cyanamide	156-62-7	01/01/87
Captan[1H-Isoindole-1,3(2H)-dione,3a,4,7,7a-tetrahydro-2-[(trichloromethyl)thio]-]	133-06-2	01/01/87
Carbaryl[1-Naphthalenol, methylcarbamate]	63-25-2	01/01/87
Carbon disulfide	75-15-0	01/01/87
Carbon tetrachloride	56-23-5	01/01/87
Carbonyl sulfide	463-58-1	01/01/87
Catechol	120-80-9	01/01/87
Chloramben [Benzoic acid,3-amino-2,5-dichloro-]	133-90-4	01/01/87
Chlordane[4,7-Methanoindan,1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-]	57-74-9	01/01/87
Chlorine	7782-50-5	01/01/87
Chlorine dioxide	10049-04-4	01/01/87
Chloroacetic acid	79-11-8	01/01/87
2-Chloroacetophenone	532-27-4	01/01/87
Chlorobenzene	108-90-7	01/01/87
Chlorobenzilate [Benzeneacetic acid, 4-chloro-.alpha.-(4-.chlorophenyl)-.alpha.-hydroxy-, ethyl ester]	510-15-6	01/01/87
Chloroethane (Ethyl chloride)	75-00-3	01/01/87
Chloroform	67-66-3	01/01/87
Chloromethane (Methyl chloride)	74-87-3	01/01/87
Chloromethyl methyl ether	107-30-2	01/01/87
Chloroprene	126-99-8	01/01/87
Chlorothalonil[1,3-Benzenedicarbonitrile,2,4,5,6-tetrachloro-]	1897-45-6	01/01/87
Chromium	7440-47-3	01/01/87
Cobalt	7440-48-4	01/01/87
Copper	7440-50-8	01/01/87
p-Cresidine	120-71-8	01/01/87
Cresol (mixed isomers)	1319-77-3	01/01/87
m-Cresol	108-39-4	01/01/87
o-Cresol	95-48-7	01/01/87
p-Cresol	106-44-5	01/01/87
Cumene	98-82-8	01/01/87
Cumene hydroperoxide	80-15-9	01/01/87
Cupferron[Benzeneamine, N-hydroxy-N-nitroso, ammonium salt]	135-20-6	01/01/87
Cyclohexane	110-82-7	01/01/87
2,4-D [Acetic acid, (2,4-dichlorophenoxy)-1]	94-75-7	01/01/87
Decabromodiphenyl oxide	1163-19-5	01/01/87
Diallate [Carbamothioic acid, bis(1-methylethyl)-, S-(2,3-dichloro-2-propenyl) ester]	2303-16-4	01/01/87
2,4-Diaminoanisole	615-05-4	01/01/87
2,4-Diaminoanisole sulfate	39156-41-7	01/01/87
4,4'-Diaminodiphenyl ether	101-80-4	01/01/87
Diaminotoluene (mixed isomers)	25376-45-8	01/01/87
2,4-Diaminotoluene	95-80-7	01/01/87
Diazomethane	334-88-3	01/01/87
Dibenzofuran	132-64-9	01/01/87
1,2-Dibromo-3-chloropropane (DBCP)	96-12-8	01/01/87
1,2-Dibromoethane (Ethylene dibromide)	106-93-4	01/01/87
Dibutyl phthalate	84-74-2	01/01/87
Dichlorobenzene (mixed isomers)	25321-22-6	01/01/87
1,2-Dichlorobenzene	95-50-1	01/01/87
1,3-Dichlorobenzene	541-73-1	01/01/87
1,4-Dichlorobenzene	106-46-7	01/01/87
3,3'-Dichlorobenzidine	91-94-1	01/01/87
Dichlorobromomethane	75-27-4	01/01/87
1,2-Dichloroethane (Ethylene dichloride)	107-06-2	01/01/87
1,2-Dichlorethylene	540-59-0	01/01/87
Dichloromethane (Methylene chloride)	75-09-2	01/01/87
2,4-Dichlorophenol	120-83-2	01/01/87
1,2-Dichloropropane	78-87-5	01/01/87
1,3-Dichloropropylene	542-75-6	01/01/87
Dichlorvos [Phosphoric acid, 2,2-dichloroethenyl dimethyl ester]	62-73-7	01/01/87
Dicofol [Benzenemethanol,4-chloro-.alpha.-(4-chlorophenyl)-.alpha.-(trichloromethyl)-]	115-32-2	01/01/87
Diepoxybutane	1464-53-5	01/01/87
Diethanolamine	111-42-2	01/01/87
Di-(2-ethylhexyl)phthalate (DEHP)	177-81-7	01/01/87
Diethyl phthalate	84-66-2	01/01/87

Chemical name	CAS No.	Effective date
Diethyl sulfate	64-67-5	01/01/87
3,3'-Dimethoxybenzidine	119-90-4	01/01/87
4-Dimethylaminoazobenzene	60-11-7	01/01/87
3,3'-Dimethylbenzidine (*o*-Tolidine)	119-93-7	01/01/87
Dimethylcarbamyl chloride	79-44-7	01/01/87
1,1-Dimethyl hydrazine	57-14-7	01/01/87
2,4-Dimethylphenol	105-67-9	01/01/87
Dimethyl phthalate	131-11-3	01/01/87
Dimethyl sulfate	77-78-1	01/01/87
4,6-Dinitro-*o*-cresol	534-52-1	01/01/87
2,4-Dinitrophenol	51-28-5	01/01/87
2,4-Dinitrotoluene	121-14-2	01/01/87
2,6-Dinitrotoluene	606-20-2	01/01/87
n-Dioctyl phthalate	117-84-0	01/01/87
1,4-Dioxane	123-91-1	01/01/87
1,2-Diphenylhydrazine (Hydrazobenzene)	122-66-7	01/01/87
Epichlorohydrin	106-89-8	01/01/87
2-Ethoxyethanol	110-80-5	01/01/87
Ethyl acrylate	140-88-5	01/01/87
Ethylbenzene	100-41-4	01/01/87
Ethyl chloroformate	541-41-3	01/01/87
Ethylene	74-85-1	01/01/87
Ethylene glycol	107-21-1	01/01/87
Ethyleneimine(Aziridine)	151-56-4	01/01/87
Ethylene oxide	75-21-8	01/01/87
Ethylene thiourea	96-45-7	01/01/87
Fluometuron [Urea, N,N-dimethyl-N'-[3-(trifluoromethyl)phenyl]-]	2164-17-2	01/01/87
Formaldehyde	50-00-0	01/01/87
Freon 113 [Ethane, 1,1,2-trichloro-1,2,2-trifluoro-]	76-13-1	01/01/87
Heptachlor[1,4,5,6,7,8,8-Heptachloro-3a,4,7,7a-tetrahydro-4,7-methano-1H-indene]	76-44-8	01/01/87
Hexachlorobenzene	118-74-1	01/01/87
Hexachloro-1,3-butadiene	87-68-3	01/01/87
Hexachlorocyclopentadiene	77-47-4	01/01/87
Hexachloroethane	67-72-1	01/01/87
Hexachloronaphthalene	1335-87-1	01/01/87
Hexamethylphosphoramide	680-31-9	01/01/87
Hydrazine	302-01-2	01/01/87
Hydrazine sulfate	10034-93-2	01/01/87
Hydrochloric acid	7647-01-0	01/01/87
Hydrogen cyanide	74-90-8	01/01/87
Hydrogen fluoride	7664-39-3	01/01/87
Hydroquinone	123-31-9	01/01/87
Isobutyraldehyde	78-84-2	01/01/87
Isopropyl alcohol (Only persons who manufacture by the strong acid process are subject, no supplier notifiction.)	67-63-0	01/01/87
4,4'-Isopropylidenediphenol	80-05-7	01/01/87
Lead	7439-92-1	01/01/87
Lindane [Cyclohexane, 1,2,3,4,5,6-hexachloro-(1.alpha.,2.alpha.,3.beta.,4.alpha.,5.alpha.,6.beta.)-]	58-89-9	01/01/87
Maleic anhydride	108-31-6	01/01/87
Maneb [Carbamodithioic acid, 1,2-ethanediylbis-, manganese complex]	12427-38-2	01/01/87
Manganese	7439-96-5	01/01/87
Melamine	108-78-1	01/01/87
Mercury	7439-97-6	01/01/87
Methanol	67-56-1	01/01/87
Methoxychlor [Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-]	72-43-5	01/01/87
2-Methoxyethanol	109-86-4	01/01/87
Methyl acrylate	96-33-3	01/01/87
Methyl *tert*-butyl ether	1634-04-4	01/01/87
4,4'-Methylenebis(2-chloro aniline) (MBOCA)	101-14-4	01/01/87
4,4'-Methylenebis(*N,N*-dimethyl) benzenamine	101-61-1	01/01/87
Methylenebis(phenylisocyanate) (MBI)	101-68-8	01/01/87
Methylene bromide	74-95-3	01/01/87
4,4'-Methylenedianiline	101-77-9	01/01/87
Methyl ethyl ketone	78-93-3	01/01/87
Methyl hydrazine	60-34-4	01/01/87
Methyl iodide	74-88-4	01/01/87
Methyl isobutyl ketone	108-10-1	01/01/87
Methyl isocyanate	624-83-9	01/01/87
Methyl methacrylate	80-62-6	01/01/87
Michler's ketone	90-94-8	01/01/87
Molybdenum trioxide	1313-27-5	01/01/87
Mustard gas [Ethane, 1,1'-thiobis[2-chloro-]	505-60-2	01/01/87
Naphthalene	91-20-3	01/01/87
alpha-Naphthylamine	134-32-7	01/01/87
beta-Naphthylamine	91-59-8	01/01/87
Nickel	7440-02-0	01/01/87
Nitric acid	7697-37-2	01/01/87
Nitrilotriacetic acid	139-13-9	01/01/87
5-Nitro-*o*-anisidine	99-59-2	01/01/87
Nitrobenzene	98-95-3	01/01/87
4-Nitrobiphenyl	92-93-3	01/01/87
Nitrofen [Benzene, 2,4-dichloro-1-(4-nitrophenoxy)-]	1836-75-5	01/01/87

Chemical name	CAS No.	Effective date
Nitrogen mustard [2-Chloro-N-(2-chloroethyl)-N-methylethanamine]	51-75-2	01/01/87
Nitroglycerin	55-63-0	01/01/87
2-Nitrophenol	88-75-5	01/01/87
4-Nitrophenol	100-02-7	01/01/87
2-Nitropropane	79-46-9	01/01/87
p-Nitrosodiphenylamine	156-10-5	01/01/87
N,N-Dimethylaniline	121-69-7	01/01/87
N-Nitrosodi-*n*-butylamine	924-16-3	01/01/87
N-Nitrosodiethylamine	55-18-5	01/01/87
N-Nitrosodimethylamine	62-75-9	01/01/87
N-Nitrosodiphenylamine	86-30-6	01/01/87
N-Nitrosodi-*n*-propylamine	621-64-7	01/01/87
N-Nitrosomethylvinylamine	4549-40-0	01/01/87
N-Nitrosomorpholine	59-89-2	01/01/87
N-Nitroso-*N*-ethylurea	759-73-9	01/01/87
N-Nitroso-*N*-methylurea	684-93-5	01/01/87
N-Nitrosonornicotine	16543-55-8	01/01/87
N-Nitrosopiperidine	100-75-4	01/01/87
Octachloronaphthalene	2234-13-1	01/01/87
Osmium tetroxide	20816-12-0	01/01/87
Parathion [Phosphorothioic acid, O,O-diethyl-O-(4-nitrophenyl) ester]	56-38-2	01/01/87
Pentachlorophenol (PCP)	87-86-5	01/01/87
Peracetic acid	79-21-0	01/01/87
Phenol	108-95-2	01/01/87
p-Phenylenediamine	106-50-3	01/01/87
2-Phenylphenol	90-43-7	01/01/87
Phosgene	75-44-5	01/01/87
Phosphoric acid	7664-38-2	01/01/87
Phosphorus (yellow or white)	7723-14-0	01/01/87
Phthalic anhydride	85-44-9	01/01/87
Picric acid	88-89-1	01/01/87
Polychlorinated biphenyls (PCBs)	1336-36-3	01/01/87
Propane sultone	1120-71-4	01/01/87
beta-Propiolactone	57-57-8	01/01/87
Propionaldehyde	123-38-6	01/01/87
Propoxur [Phenol, 2-(1-methylethoxy)-, methylcarbamate]	114-26-1	01/01/87
Propylene (Propene)	115-07-1	01/01/87
Propyleneimine	75-55-8	01/01/87
Propylene oxide	75-56-9	01/01/87
Pyridine	110-86-1	01/01/87
Quinoline	91-22-5	01/01/87
Quinone	106-51-4	01/01/87
Quintozene [Pentachloronitrobenzene]	82-68-8	01/01/87
Saccharin (only persons who manufacture are subject, no supplier notification) [1,2-Benzisothiazol-3(2H)-one,1,1-dioxide]	81-07-2	01/01/87
Safrole	94-59-7	01/01/87
Selenium	7782-49-2	01/01/87
Silver	7440-22-4	01/01/87
Sodium hydroxide (solution)	1310-73-2	01/01/87
Sodium sulfate (solution)	7757-82-6	01/01/87
Styrene	100-42-5	01/01/87
Styrene oxide	96-09-3	01/01/87
Sulfuric acid	7664-93-9	01/01/87
Terephthalic acid	100-21-0	01/01/87
1,1,2,2-Tetrachloroethane	79-34-5	01/01/87
Tetrachloroethylene (Perchloroethylene)	127-18-4	01/01/87
Tetrachlorvinphos [Phosphoric acid, 2-chloro-1-(2,4,5-trichlorophenyl)ethenyl dimethyl ester]	961-11-5	01/01/87
Thallium	7440-28-0	01/01/87
Thioacetamide	62-55-5	01/01/87
4,4'-Thiodianiline	139-65-1	01/01/87
Thiourea	62-55-6	01/01/87
Thorium dioxide	1314-20-1	01/01/87
Titanium dioxide	13463-67-7	01/01/87
Titanium tetrachloride	7550-45-0	01/01/87
Toluene	108-88-3	01/01/87
Toluene-2,4-diisocyanate	584-84-9	01/01/87
Toluene-2,6-diisocyanate	91-08-7	01/01/87
o-Toluidine	95-53-4	01/01/87
o-Toluidine hydrochloride	636-21-5	01/01/87
Toxaphene	8001-35-2	01/01/87
Triaziquone [2,5-Cyclohexadiene-1,4-dione,2,3,5-tris(1-aziridinyl)-]	68-76-8	01/01/87
Trichlorfon [Phosphonic acid, (2,2,2-trichloro-1-hydroxyethyl)-, dimethyl ester]	52-68-6	01/01/87
1,2,4-Trichlorobenzene	120-82-1	01/01/87
1,1,1-Trichloroethane (Methyl chloroform)	71-55-6	01/01/87
1,1,2-Trichloroethane	79-00-5	01/01/87
Trichloroethylene	79-01-6	01/01/87
2,4,5-Trichlorophenol	95-95-4	01/01/87
2,4,6-Trichlorophenol	88-06-2	01/01/87
Trifluralin [Benzeneamine, 2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)-1]	1582-09-8	01/01/87
1,2,4-Trimethylbenzene	95-63-6	01/01/87
Tris(2,3-dibromopropyl)phosphate	126-72-7	01/01/87
Urethane (Ethyl carbamate)	51-79-6	01/01/87

Chemical name	CAS No.	Effective date
Vanadium (fume or dust)	7440-62-2	01/01/87
Vinyl acetate	108-05-4	01/01/87
Vinyl bromide	593-60-2	01/01/87
Vinyl chloride	75-01-4	01/01/87
Vinylidene chloride	75-35-4	01/01/87
Xylene (mixed isomers)	1330-20-7	01/01/87
m-Xylene	108-38-3	01/01/87
o-Xylene	95-47-6	01/01/87
p-Xylene	106-42-3	01/01/87
2,6-Xylidine	87-62-7	01/01/87
Zinc (fume or dust)	7440-66-6	01/01/87
Zineb [Carbamodithioic acid, 1,2-ethanediylbis-, zinc complex]	12122-67-7	01/01/87

(b) *CAS Number listing.*

CAS No.	Chemical name	Effective date
50-00-0	Formaldehyde	01/01/87
51-28-5	2,4-Dinitrophenol	01/01/87
51-75-2	Nitrogen mustard [2-Chloro-N-(2-chloroethyl)-N-methylethanamine]	01/01/87
51-79-6	Urethane (Ethyl carbamate)	01/01/87
52-68-6	Trichlorfon [Phosphonic acid, (2,2,2-trichloro-1-hydroxyethyl)-dimethyl ester]	01/01/87
53-96-3	2-Acetylaminofluorene	01/01/87
55-18-5	*N*-Nitrosodiethylamine	01/01/87
55-21-0	Benzamide	01/01/87
55-63-0	Nitroglycerin	01/01/87
56-23-5	Carbon tetrachloride	01/01/87
56-38-2	Parathion [Phosphorothioic acid, 0,0-diethyl-0-(4-nitrophenyl)ester]	01/01/87
57-14-7	1,1-Dimethyl hydrazine	01/01/87
57-57-8	*beta*-Propiolactone	01/01/87
57-74-9	Chlordane [4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-]	01/01/87
58-89-9	Lindane [Cyclohexane, 1,2,3,4,5,6-hexachloro-(1.alpha.,2.alpha.,3.beta.,4.alpha.,5.alpha.,6.beta.)-]	01/01/87
59-89-2	*N*-Nitrosomorpholine	01/01/87
60-09-3	4-Aminoazobenzene	01/01/87
60-11-7	4-Dimethylaminoazobenzene	01/01/87
60-34-4	Methyl hydrazine	01/01/87
60-35-5	Acetamide	01/01/87
62-53-3	Aniline	01/01/87
62-55-5	Thioacetamide	01/01/87
62-56-6	Thiourea	01/01/87
62-73-7	Dichlorvos [Phosphoric acid, 2,2-dichloroethenyl dimethyl ester]	01/01/87
62-75-9	*N*-Nitrosodimethylamine	01/01/87
63-25-2	Carbaryl [1-Naphthalenol, methylcarbamate]	01/01/87
64-67-5	Diethyl sulfate	01/01/87
67-56-1	Methanol	01/01/87
67-63-0	Isopropyl alcohol (only persons who manufacture by the strong acid process are subject, supplier notification not required.)	01/01/87
67-64-1	Acetone	01/01/87
67-66-3	Chloroform	01/01/87
67-72-1	Hexachloroethane	01/01/87
68-76-8	Triaziquone [2,5-Cyclohexadiene-1,4-dione,2,3,5-tris(1-aziridinyl)-]	01/01/87
71-36-3	*n*-Butyl alcohol	01/01/87
71-43-2	Benzene	01/01/87
71-55-6	1,1,1-Trichloroethane (Methyl chloroform)	01/01/87
72-43-5	Methoxychlor [Benzene, 1,1'-(2,2,2,-trichloroethylidene)bis [4-methoxy-]	01/01/87
74-83-9	Bromomethane (Methyl bromide)	01/01/87
74-85-1	Ethylene	01/01/87
74-87-3	Chloromethane (Methyl chloride)	01/01/87
74-88-4	Methyl iodide	01/01/87
74-90-8	Hydrogen cyanide	01/01/87
74-95-3	Methylene bromide	01/01/87
75-00-3	Chloroethane (Ethyl chloride)	01/01/87
75-01-4	Vinyl chloride	01/01/87
75-05-8	Acetonitrile	01/01/87
75-07-0	Acetaldehyde	01/01/87
75-09-2	Dichloromethane (Methylene chloride)	01/01/87
75-15-0	Carbon disulfide	01/01/87
75-21-8	Ethylene oxide	01/01/87
75-25-2	Bromoform (Tribromomethane)	01/01/87
75-27-4	Dichlorobromomethane	01/01/87
75-35-4	Vinylidene chloride	01/01/87
75-44-5	Phosgene	01/01/87
75-55-8	Propyleneimine	01/01/87
75-56-9	Propylene oxide	01/01/87
75-65-0	*tert*-Butyl alcohol	01/01/87
77-13-1	Freon 113 [Ethane, 1,1,2-trichloro-1,2,2-trifluoro-]	01/01/87
76-44-8	Heptachlor [1,4,5,6,7,8,8-Heptachloro-3a,4,7,7a-tetrahydro-4,7-methano-1H-indene]	01/01/87
77-47-4	Hexachlorocyclopentadiene	01/01/87

CAS No.	Chemical name	Effective date
77-78-1	Dimethyl sulfate	01/01/87
78-84-2	Isobutyraldehyde	01/01/87
78-87-5	1,2-Dichloropropane	01/01/87
78-92-2	*sec*-Butyl alcohol	01/01/87
78-93-3	Methyl ethyl ketone	01/01/87
79-00-5	1,1,2-Trichloroethane	01/01/87
79-01-6	Trichloroethylene	01/01/87
79-06-1	Acrylamide	01/01/87
79-10-7	Acrylic acid	01/01/87
79-11-8	Chloroacetic acid	01/01/87
79-21-0	Peracetic acid	01/01/87
79-34-5	1,1,2,2-Tetrachloroethane	01/01/87
79-44-7	Dimethylcarbamyl chloride	01/01/87
79-46-9	2-Nitropropane	01/01/87
80-05-7	4,4'-Isopropylidenediphenol	01/01/87
80-15-9	Cumene hydroperoxide	01/01/87
80-62-6	Methyl methacrylate	01/01/87
81-07-2	Saccharin (only persons who manufacture are subject, no supplier notification) [1,2-Benzisothiazol-3(2H)-one,1,1-dioxide]	01/01/87
81-88-9	C.I. Food Red 15	01/01/87
82-28-0	1-Amino-2-methylanthraquinone	01/01/87
82-68-8	Quintozene [Pentachloronitrobenzene]	C12
84-66-2	Diethyl phthalate	01/01/87
84-74-2	Dibutyl phthalate	01/01/87
85-44-9	Phthalic anhydride	01/01/87
85-68-7	Butyl benzyl phthalate	01/01/87
86-30-6	*N*-Nitrosodiphenylamine	01/01/87
87-62-7	2,6-Xylidine	01/01/87
87-68-3	Hexachloro-1,3-butadiene	01/01/87
87-86-5	Pentachlorophenol (PCP)	01/01/87
88-06-2	2,4,6-Trichlorophenol	01/01/87
88-75-5	2-Nitrophenol	01/01/87
88-89-1	Picric acid	01/01/87
90-04-0	*o*-Anisidine	01/01/87
90-43-7	2-Phenylphenol	01/01/87
90-94-8	Michler's ketone	01/01/87
91-08-7	Toluene-2,6-diisocyanate	01/01/87
91-20-3	Naphthalene	01/01/87
91-22-5	Quinoline	01/01/87
91-59-8	*beta*-Naphthylamine	01/01/87
91-94-1	3,3'-Dichlorobenzidine	01/01/87
92-52-4	Biphenyl	01/01/87
92-67-1	4-Aminobiphenyl	01/01/87
92-87-5	Benzidine	01/01/87
92-93-3	4-Nitrobiphenyl	01/01/87
94-36-0	Benzoyl peroxide	01/01/87
94-59-7	Safrole	01/01/87
94-75-7	2,4-D [Acetic acid, (2,4-dichlorophenoxy)-]	01/01/87
95-47-6	*o*-Xylene	01/01/87
95-48-7	*o*-Cresol	01/01/87
95-50-1	1,2-Dichlorobenzene	01/01/87
95-53-4	*o*-Toluidine	01/01/87
95-63-6	1,2,4-Trimethylbenzene	01/01/87
95-80-7	2,4-Diaminotoluene	01/01/87
95-95-4	2,4,5-Trichlorophenol	01/01/87
96-09-3	Styrene oxide	01/01/87
96-12-8	1,2-Dibromo-3-chloropropane (DBCP)	01/01/87
96-33-3	Methyl acrylate	01/01/87
96-45-7	Ethylene thiourea	01/01/87
97-56-3	C.I. Solvent Yellow 3	01/01/87
98-07-7	Benzoic trichloride (Benzotrichloride)	01/01/87
98-82-8	Cumene	01/01/87
98-87-3	Benzal chloride	01/01/87
98-88-4	Benzoyl chloride	01/01/87
98-95-3	Nitrobenzene	01/01/87
99-59-2	5-Nitro-*o*-anisidine	01/01/87
100-02-7	4-Nitrophenol	01/01/87
100-21-0	Terephthalic acid	01/01/87
100-41-4	Ethylbenzene	01/01/87
100-42-5	Styrene	01/01/87
100-44-7	Benzyl chloride	01/01/87
100-75-4	*N*-Nitrosopiperidine	01/01/87
101-14-4	4,4'-Methylenebis(2-chloroaniline) (MBOCA)	01/01/87
101-61-1	4,4'-Methylenebis(*N,N*-dimethyl)benzenamine	01/01/87
101-68-8	Methylenebis(phenylisocyanate) (MBI)	01/01/87
101-77-9	4,4'-Methylenedianiline	01/01/87
101-80-4	4,4'-Diaminodiphenyl ether	01/01/87
103-23-1	Bis(2-ethylhexyl) adipate	01/01/87
104-94-9	*p*-Anisidine	01/01/87
105-67-9	2,4-Dimethylphenol	01/01/87
106-42-3	*p*-Xylene	01/01/87
106-44-5	*p*-Cresol	01/01/87

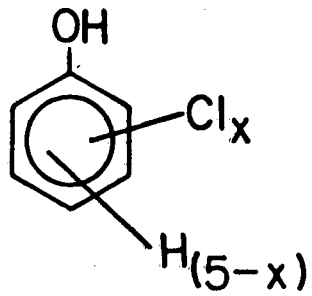
CAS No.	Chemical name	Effective date
106-46-7	1,4-Dichlorobenzene	01/01/87
106-50-3	*p*-Phenylenediamine	01/01/87
106-51-4	Quinone	01/01/87
106-88-7	1,2-Butylene oxide	01/01/87
106-89-8	Epichlorohydrin	01/01/87
106-93-4	1,2-Dibromoethane (Ethylene dibromide)	01/01/87
106-99-0	1,3-Butadiene	01/01/87
107-02-8	Acrolein	01/01/87
107-05-1	Allyl chloride	01/01/87
107-06-2	1,2-Dichloroethane (Ethylene dichloride)	01/01/87
107-13-1	Acrylonitrile	01/01/87
107-21-1	Ethylene glycol	01/01/87
107-30-2	Chloromethyl methyl ether	01/01/87
108-05-4	Vinyl acetate	01/01/87
108-10-1	Methyl isobutyl ketone	01/01/87
108-31-6	Maleic anhydride	01/01/87
108-38-3	*m*-Xylene	01/01/87
108-39-4	*m*-Cresol	01/01/87
108-60-1	Bis(2-chloro-1-methylethyl)ether	01/01/87
108-78-1	Melamine	01/01/87
108-88-3	Toluene	01/01/87
108-90-7	Chlorobenzene	01/01/87
108-95-2	Phenol	01/01/87
109-86-4	2-Methoxyethanol	01/01/87
110-80-5	2-Ethoxyethanol	01/01/87
110-82-7	Cyclohexane	01/01/87
110-86-1	Pyridine	01/01/87
111-42-2	Diethanolamine	01/01/87
111-44-4	Bis(2-chloroethyl) ether	01/01/87
114-26-1	Propoxur [Phenol, 2-(1-methylethoxy)-, methylcarbamate]	01/01/87
115-07-1	Propylene (Propene)	01/01/87
115-32-2	Dicofol [Benzenemethanol, 4-chloro-.alpha.-(4-chlorophenyl)-.alpha.-(trichloromethyl)-]	01/01/87
117-79-3	2-Aminoanthraquinone	01/01/87
117-81-7	Di(2-ethylhexyl) phthalate (DEHP)	01/01/87
117-84-0	*n*-Dioctyl phthalate	01/01/87
118-74-1	Hexachlorobenzene	01/01/87
119-90-4	3,3'-Dimethoxybenzidine	01/01/87
119-93-7	3,3'-Dimethylbenzidine (*o*-Tolidine)	01/01/87
120-12-7	Anthracene	01/01/87
120-71-8	*p*-Cresidine	01/01/87
120-80-9	Catechol	01/01/87
120-82-1	1,2,4-Trichlorobenzene	01/01/87
120-83-2	2,4-Dichlorophenol	01/01/87
121-14-2	2,4-Dinitrotoluene	01/01/87
121-69-7	*N,N*-Dimethylaniline	01/01/87
122-66-7	1,2-Diphenylhydrazine (Hydrazobenzene)	01/01/87
123-31-9	Hydroquinone	01/01/87
123-38-6	Propionaldehyde	01/01/87
123-72-8	Butyraldehyde	01/01/87
123-91-1	1,4-Dioxane	01/01/87
126-72-7	Tris-2,3-dibromopropyl) phosphate	01/01/87
126-99-8	Chloroprene	01/01/87
127-18-4	Tetrachloroethylene (Perchloroethylene)	01/01/87
128-66-5	C.I. Vat Yellow 4	01/01/87
131-11-3	Dimethyl phthalate	01/01/87
132-64-9	Dibenzofuran	01/01/87
133-06-2	Captan [1H-Isoindole-1,3(2H)-dione,3a,4,7,7a-tetrahydro-2-[(trichloromethyl)thio]-]	01/01/87
133-90-4	Chloramben [Benzoic acid, 3-amino-2,5-dichloro-]	01/01/87
134-29-2	*o*-Anisidine hydrochloride	01/01/87
134-32-7	*alpha*-Naphthylamine	01/01/87
135-20-6	Cupferron [Benzeneamine, N-hydroxy-N-nitroso, ammonium salt]	01/01/87
139-13-9	Nitrilotriacetic acid	01/01/87
139-65-1	4,4'-Thiodianiline	01/01/87
140-88-5	Ethyl acrylate	01/01/87
141-32-2	Butyl acrylate	01/01/87
151-56-4	Ethyleneimine (Aziridine)	01/01/87
156-10-5	*p*-Nitrosodiphenylamine	01/01/87
156-62-7	Calcium Cyanamide	01/01/87
302-01-2	Hydrazine	01/01/87
309-00-2	Aldrin[1,4:5,8-Dimethanonaphthalene,1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-(1.alpha.,4.alpha.,4a.beta.,5.alpha., 8.alpha.,8a.beta.)-]	01/01/87
334-88-3	Diazomethane	01/01/87
463-58-1	Carbonyl sulfide	01/01/87
492-80-8	C.I. Solvent Yellow 34 (Aurimine)	01/01/87
505-60-2	Mustard gas [Ethane, 1,1'-thiobis[2-chloro-]	01/01/87
510-15-6	Chlorobenzilate[Benezeneacetic acid, 4-chloro-.alpha.-(4-chlorophenyl)-.alpha,-hydroxy-, ethyl ester]	01/01/87
532-27-4	2-Chloroacetophenone	01/01/87
534-52-1	4,6-Dinitro-*o*-cresol	01/01/87
540-59-0	1,2-Dichloroethylene	01/01/87
541-41-3	Ethyl chloroformate	01/01/87
541-73-1	1,3-Dichlorobenzene	01/01/87

CAS No.	Chemical name	Effective date
542-75-6	1,3-Dichloropropylene	01/01/87
542-88-1	Bis(chloromethyl) ether	01/01/87
569-64-2	C.I. Basic Green 4	01/01/87
606-20-2	2,6-Dinitrotoluene	01/01/87
615-05-4	2,4-Diaminoanisole	01/01/87
621-64-7	*N*-Nitrosodi-*n*-propylamine	01/01/87
624-83-9	Methyl isocyanate	01/01/87
636-21-5	*o*-Toluidine hydrochloride	01/01/87
680-31-9	Hexamethylphosphoramide	01/01/87
684-93-5	*N*-Nitroso-*N*-methylurea	01/01/87
759-73-9	*N*-Nitroso-*N*-ethylurea	01/01/87
842-07-9	C.I. Solvent Yellow 14	01/01/87
924-16-3	*N*-Nitrosodi-*n*-butylamine	01/01/87
961-11-5	Tetrachlorvinphos[Phosphoric acid, 2-chloro-1-(2,4,5-trichlorophenyl)ethenyl dimethyl ester]	01/01/87
989-38-8	C.I. Basic Red 1	01/01/87
1120-71-4	Propane sultone	01/01/87
1163-19-5	Decabromodiphenyl oxide	01/01/87
1310-73-2	Sodium hydroxide (solution)	01/01/87
1313-27-5	Molybdenum trioxide	01/01/87
1314-20-1	Throium dioxide	01/01/87
1319-77-3	Cresol (mixed isomers)	01/01/87
1330-20-7	Xylene (mixed isomers)	01/01/87
1332-21-4	Asbestos (friable)	01/01/87
1335-87-1	Hexachloronaphthalene	01/01/87
1336-36-3	Polychlorinated biphenyls (PCBs)	01/01/87
1344-28-1	Aluminum oxide	01/01/87
1464-53-5	Diepoxybutane	01/01/87
1582-09-8	Trifluralin [Benzeneamine, 2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)-]	01/01/87
1634-04-4	Methyl *tert*-butyl ether	01/01/87
1836-75-5	Nitrofen [Benzene, 2,4-dichloro-1-(4-nitrophenoxy)-]	01/01/87
1897-45-6	Chlorothalonil [1-3-Benzenedicarbonitrile,2,4,5,6-tetrachloro-]	01/01/87
1937-37-7	C.I. Direct Black 38	01/01/87
2164-17-2	Fluometuron [Urea, N,N-dimethyl-N'-[3-(trifluoromethyl)phenyl]-]	01/01/87
2234-13-1	Octachloronaphthalene	01/01/87
2303-16-4	Diallate [Carbamothioic acid, bis(1-methylethyl)-, S-(2,3-dichloro-2-propenyl)ester]	01/01/87
2602-46-2	C.I. Direct Blue 6	01/01/87
2650-18-2	C.I. Acid Blue 9, diammonium salt	01/01/87
2832-40-8	C.I. Disperse Yellow 3	01/01/87
3118-97-6	C.I. Solvent Orange 7	01/01/87
3761-53-3	C.I. Food Red 5	01/01/87
3844-45-9	C.I. Acid Blue 9, disodium salt	01/01/87
4549-40-0	*N*-Nitrosomethylvinylamine	01/01/87
4680-78-8	C.I. Acid Green 3	01/01/87
6484-52-2	Ammonium nitrate (solution)	01/01/87
7429-90-5	Aluminum (fume or dust)	01/01/87
7439-92-1	Lead	01/01/87
7439-96-5	Manganese	01/01/87
7439-97-6	Mercury	01/01/87
7440-02-0	Nickel	01/01/87
7440-22-4	Silver	01/01/87
7440-28-0	Thallium	01/01/87
7440-36-0	Antimony	01/01/87
7440-38-2	Arsenic	01/01/87
7440-39-3	Barium	01/01/87
7440-41-7	Beryllium	01/01/87
7440-43-9	Cadmium	01/01/87
7440-47-3	Chromium	01/01/87
7440-48-4	Cobalt	01/01/87
7440-50-8	Copper	01/01/87
7440-62-2	Vanadium (fume or dust)	01/01/87
7440-66-6	Zinc (fume or dust)	01/01/87
7550-45-0	Titanium tetrachloride	01/01/87
7647-01-0	Hydrochloric acid	01/01/87
7664-38-2	Phosphoric acid	01/01/87
7664-39-3	Hydrogen fluoride	01/01/87
7664-41-7	Ammonia	01/01/87
7664-93-9	Sulfuric acid	01/01/87
7697-37-2	Nitric acid	01/01/87
7723-14-0	Phosphorus (yellow or white)	01/01/87
7757-82-6	Sodium sulfate (solution)	01/01/87
7782-49-2	Selenium	01/01/87
7782-50-5	Chlorine	01/01/87
7783-20-2	Ammonium sulfate (solution)	01/01/87
8001-35-2	Toxaphene	01/01/87
10034-93-2	Hydrazine sulfate	01/01/87
10049-04-4	Chlorine dioxide	01/01/87
12122-67-7	Zineb [Carbamodithioic acid, 1,2-ethanediylbis-, zinc complex]	01/01/87
12427-38-2	Maneb [Carbamodithioic acid, 1,2-ethanediylbis-, manganese complex]	01/01/87
13463-67-7	Titanium dioxide	01/01/87
16071-86-6	C.I. Direct Brown 95	01/01/87
16543-55-8	*N*-Nitrosonornicotine	01/01/87

CAS No.	Chemical name	Effective date
20816-12-0	Osmium tetroxide	01/01/87
25321-22-6	Dichlorobenzene (mixed isomers)	01/01/87
25376-45-8	Diaminotoluene (mixed isomers)	01/01/87
39156-41-7	2,4-Diaminoanisole sulfate	01/01/87

(c) *Chemical categories in alphabetical order:*

Category name	Effective date
Antimony Compounds: Includes any unique chemical substance that contains antimony as part of that chemical's infrastructure	01/01/87
Arsenic Compounds: Includes any unique chemical substance that contains arsenic as part of that chemical's infrastructure	01/01/87
Barium Compounds: Includes any unique chemical substance that contains barium as part of that chemical's infrastructure	01/01/87
Beryllium Compounds: Includes any unique chemical substance that contains beryllium as part of that chemical's infrastructure	01/01/87
Cadmium Compounds: Includes any unique chemical substance that contains cadmium as part of that chemical's infrastructure	01/01/87
Chlorophenols	01/01/87



Where x = 1 to 5

Chromium Compounds: Includes any unique chemical substance that contains chromium as part of that chemical's infrastructure	01/01/87
Cobalt Compounds: Includes any unique chemical substance that contains cobalt as part of that chemical's infrastructure	01/01/87
Copper Compounds: Includes any unique chemical substance that contains copper as part of that chemical's infrastructure	01/01/87
Cyanide Compounds: $X^+ CN^-$ where $X = H^-$ or any other group where a formal dissociation can be made. For example KCN, or $Ca(CN)_2$	01/01/87
Glycol Ethers: Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol	01/01/87

$$R-(OCH_2CH_2)n^{-OR'}$$

Where:

n = 1, 2, or 3

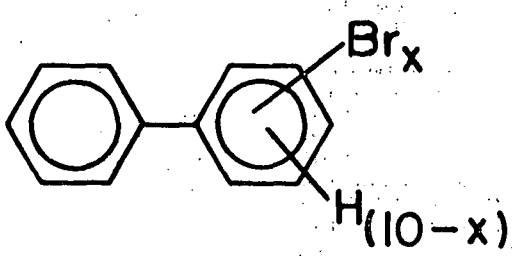
R = alkyl or aryl groups.

R = R' H, or groups which, when removed, yield glycol ethers with the structure:

$$R-(OCH)_{2CH})_{n-OH}$$

Polymers are excluded from this category.

Lead Compounds: Includes any unique chemical substance that contains lead as part of that chemical's infrastructure	01/01/87
Manganese Compounds: Includes any unique chemical substance that contains manganese as part of that chemical's infrastructure	01/01/87
Mercury Compounds: Includes any unique chemical substance that contains mercury as part of that chemical's infrastructure	01/01/87
Nickel Compounds: Includes any unique chemical substance that contains nickel as part of that chemical's infrastructure	01/01/87

Category name	Effective date.
Polybrominated Biphenyls (PBBs)	01/01/87
	
Where x = 1 to 10	
Selenium Compounds: Includes any unique chemical substance that contains selenium as part of that chemical's infrastructure	01/01/87
Silver Compounds: Includes any unique chemical substance that contains silver as part of that chemical's infrastructure	01/01/87
Thallium Compounds: Includes any unique chemical substance that contains thallium as part of that chemical's infrastructure	01/01/87
Zinc Compounds: Includes any unique chemical substance that contains zinc as part of that chemical's infrastructure	01/01/87

Subpart E—Forms and Instructions

§ 372.85 Toxic chemical release reporting form and instructions.

(a) *Reporting form.*

BILLING CODE 6560-50-M

Form Approved OMB No.: 2070-0093
Approval Expires: 01/91
Page 1 of 5

(Important: Type or print; read instructions before completing form.)

U.S. Environmental Protection Agency

EPA

TOXIC CHEMICAL RELEASE INVENTORY REPORTING FORM

EPA FORM **R**

Section 313, Title III of The Superfund Amendments and Reauthorization Act of 1986

(This space for EPA use only.)

PART I. FACILITY IDENTIFICATION INFORMATION

1.	1.1 Does this report contain trade secret information? ☐ Yes (Answer 1.2) ☐ No (Do not answer 1.2)	1.2 Is this a sanitized copy? ☐ Yes ☐ No	1.3 Reporting Year

2. CERTIFICATION (Read and sign after completing all sections.)

I hereby certify that I have reviewed the attached documents and that, to the best of my knowledge and belief, the submitted information is true and complete and that the amounts and values in this report are accurate based on reasonable estimates using data available to the preparers of this report.

Name and official title of owner/operator or senior management official

Signature	Date signed

3. FACILITY IDENTIFICATION

3.1	Facility or Establishment Name		3.2 This report contains information for: (check one) a. ☐ An entire covered facility. b. ☐ Part of a covered facility.
	Street Address		
	City	County	
	State	Zip Code	
3.3	Technical Contact		Telephone Number (include area code) ( ) -
3.4	Public Contact		Telephone Number (include area code) ( ) -
3.5	a. SIC Code	b.	c.
3.6	Latitude Deg. Min. Sec.	Longitude Deg. Min. Sec.	
3.7	Dun & Bradstreet Number(s) a.	b.	
3.8	EPA Identification Number (RCRA I.D. No.) a.	b.	
3.9	NPDES Permit Number(s) a.	b.	
3.10	Name of Receiving Stream(s) or Water Body(s) a.		
	b.		
	c.		
3.11	Underground Injection Well Code (UIC) Identification No.		

Where to send completed forms:

U.S. Environmental Protection Agency
P.O. Box 70266
Washington, DC 20024-0266
Attn: Toxic Chemical Release Inventory

4. PARENT COMPANY INFORMATION

4.1	Name of Parent Company
4.2	Parent Company's Dun & Bradstreet No.

(Important: Type or print; read instructions before completing form.)

(This space for EPA use only.)

EPA FORM R
PART II. OFF-SITE LOCATIONS TO WHICH TOXIC CHEMICALS ARE TRANSFERRED IN WASTES

1. PUBLICLY OWNED TREATMENT WORKS (POTW)

Facility Name

Street Address

City | County

State | Zip

2. OTHER OFF-SITE LOCATIONS - Number these locations sequentially on this and any additional page of this form you use.

☐ Other off-site location

EPA Identification Number (RCRA ID. No.)

Facility Name

Street Address

City | County

State | Zip

Is location under control of reporting facility or parent company? ☐ Yes ☐ No

☐ Other off-site location

EPA Identification Number (RCRA ID. No.)

Facility Name

Street Address

City | County

State | Zip

Is location under control of reporting facility or parent company? ☐ Yes ☐ No

☐ Other off-site location

EPA Identification Number (RCRA ID. No.)

Facility Name

Street Address

City | County

State | Zip

Is location under control of reporting facility or parent company? ☐ Yes ☐ No

☐ Check if additional pages of Part II are attached.

(Important: Type or print; read instructions before completing form.)

(This space for EPA use only.)

EPA FORM R
PART III. CHEMICAL SPECIFIC INFORMATION

1. CHEMICAL IDENTITY

1.1	☐ Trade Secret (Provide a generic name in 1.4 below. Attach substantiation form to this submission.)
1.2	CAS # ☐☐☐☐☐☐-☐☐-☐ (Use leading zeros if CAS number does not fill space provided.)
1.3	Chemical or Chemical Category Name
1.4	Generic Chemical Name (Complete only if 1.1 is checked.)

2.	MIXTURE COMPONENT IDENTITY (Do not complete this section if you have completed Section 1.) Generic Chemical Name Provided by Supplier (Limit the name to a maximum of 70 characters (e.g., numbers, letters, spaces, punctuation)).

3. ACTIVITIES AND USES OF THE CHEMICAL AT THE FACILITY (Check all that apply.)

3.1	Manufacture:	a. ☐ Produce	b. ☐ Import	c. ☐ For on-site use/processing
		d. ☐ For sale/distribution	e. ☐ As a byproduct	f. ☐ As an impurity
3.2	Process:	a. ☐ As a reactant	b. ☐ As a formulation component	c. ☐ As an article component
		d. ☐ Repackaging only		
3.3	Otherwise Used:	a. ☐ As a chemical processing aid	b. ☐ As a manufacturing aid	c. ☐ Ancillary or other use

4. MAXIMUM AMOUNT OF THE CHEMICAL ON SITE AT ANY TIME DURING THE CALENDAR YEAR

☐☐ (enter code)

5. RELEASES OF THE CHEMICAL TO THE ENVIRONMENT

You may report releases of less than 1,000 lbs. by checking ranges under A.1.		A. Total Release (lbs/yr) A.1 Reporting Ranges 0	1-499	500-999	A.2 Enter Estimate	B. Basis of Estimate (enter code)	C. % From Stormwater
5.1 Fugitive or non-point air emissions	5.1a					5.1b ☐	
5.2 Stack or point air emissions	5.2a					5.2b ☐	
5.3 Discharges to water (Enter letter code from Part I Section 3.10 for streams(s).) 5.3.1 ☐	5.3.1a					5.3.1b ☐	5.3.1c
5.3.2 ☐	5.3.2a					5.3.2b ☐	5.3.2c
5.3.3 ☐	5.3.3a					5.3.3b ☐	5.3.3c
5.4 Underground injection	5.4a					5.4b ☐	
5.5 Releases to land 5.5.1 ☐☐☐ (enter code)	5.5.1a					5.5.1b ☐	
5.5.2 ☐☐☐ (enter code)	5.5.2a					5.5.2b ☐	
5.5.3 ☐☐☐ (enter code)	5.5.3a					5.5.3b ☐	

☐ (Check if additional information is provided on Part IV-Supplemental Information.)

EPA FORM R, Part III (Continued)

6. TRANSFERS OF THE CHEMICAL IN WASTE TO OFF-SITE LOCATIONS

You may report transfers of less than 1,000 lbs. by checking ranges under A.1.	A. Total Transfers (lbs/yr) A.1 Reporting Ranges 0	1-499	500-999	A.2 Enter Estimate	B. Basis of Estimate (enter code)	C. Type of Treatment/ Disposal (enter code)
6.1 Discharge to POTW					6.1b ☐	
6.2 Other off-site location (Enter block number from Part II, Section 2.) ☐					6.2b ☐	6.2c ☐☐☐
6.3 Other off-site location (Enter block number from Part II, Section 2.) ☐					6.3b ☐	6.3c ☐☐☐
6.4 Other off-site location (Enter block number from Part II, Section 2.) ☐					6.4b ☐	6.4c ☐☐☐

☐ (Check if additional information is provided on Part IV-Supplemental Information)

7. WASTE TREATMENT METHODS AND EFFICIENCY

A. General Wastestream (enter code)	B. Treatment Method (enter code)	C. Range of Influent Concentration (enter code)	D. Sequential Treatment? (check if applicable)	E. Treatment Efficiency Estimate	F. Based on Operating Data? Yes	No
7.1a ☐	7.1b ☐☐☐	7.1c ☐	7.1d ☐	7.1e %	7.1f ☐	☐
7.2a ☐	7.2b ☐☐☐	7.2c ☐	7.2d ☐	7.2e %	7.2f ☐	☐
7.3a ☐	7.3b ☐☐☐	7.3c ☐	7.3d ☐	7.3e %	7.3f ☐	☐
7.4a ☐	7.4b ☐☐☐	7.4c ☐	7.4d ☐	7.4e %	7.4f ☐	☐
7.5a ☐	7.5b ☐☐☐	7.5c ☐	7.5d ☐	7.5e %	7.5f ☐	☐
7.6a ☐	7.6b ☐☐☐	7.6c ☐	7.6d ☐	7.6e %	7.6f ☐	☐
7.7a ☐	7.7b ☐☐☐	7.7c ☐	7.7d ☐	7.7e %	7.7f ☐	☐
7.8a ☐	7.8b ☐☐☐	7.8c ☐	7.8d ☐	7.8e %	7.8f ☐	☐
7.9a ☐	7.9b ☐☐☐	7.9c ☐	7.9d ☐	7.9e %	7.9f ☐	☐
7.10a ☐	7.10b ☐☐☐	7.10c ☐	7.10d ☐	7.10e %	7.10f ☐	☐
7.11a ☐	7.11b ☐☐☐	7.11c ☐	7.11d ☐	7.11e %	7.11f ☐	☐
7.12a ☐	7.12b ☐☐☐	7.12c ☐	7.12d ☐	7.12e %	7.12f ☐	☐
7.13a ☐	7.13b ☐☐☐	7.13c ☐	7.13d ☐	7.13e %	7.13f ☐	☐
7.14a ☐	7.14b ☐☐☐	7.14c ☐	7.14d ☐	7.14e %	7.14f ☐	☐

☐ (Check if additional information is provided on Part IV-Supplemental Information.)

8. OPTIONAL INFORMATION ON WASTE MINIMIZATION

(Indicate actions taken to reduce the amount of the chemical being released from the facility. See the instructions for coded items and an explanation of what information to include.)

A. Type of modification (enter code)	B. Quantity of the chemical in the wastestream prior to treatment/disposal: Current reporting year (lbs/yr)	Prior year (lbs/yr)	Or percent change	C. Index	D. Reason for action (enter code)
☐☐	_____	_____	_____ %	☐☐	☐☐

(Important: Type or print; read instructions before completing form.)

(This space for EPA use only.)

EPA FORM R
PART IV. SUPPLEMENTAL INFORMATION

Use this section if you need additional space for answers to questions in Parts I and III. Number or letter this information sequentially from prior sections (e.g., D.E. F. or 5.54, 5.55).

ADDITIONAL INFORMATION ON FACILITY IDENTIFICATION (Part I - Section 3)

3.5	SIC Code		
3.7	Dun & Bradstreet Number(s)		
3.8	EPA Identification Number(s) RCRA I.D. No.)		
3.9	NPDES Permit Number(s)		
3.10	Name of Receiving Stream(s) or Water Body(s)		

ADDITIONAL INFORMATION ON RELEASES TO LAND (Part III - Section 5.5)

Releases to Land	A. Total Release (lbs/yr)	A.1 Reporting Ranges 0	1-499	500-999	A.2 Enter Estimate	B. Basis of Estimate (enter code)
5.5___ (enter code)	5.5___a					5.5___b
5.5___ (enter code)	5.5___a					5.5___b
5.5___ (enter code)	5.5___a					5.5___b

ADDITIONAL INFORMATION ON OFF-SITE TRANSFER (Part III - Section 6)

	A. Total Transfers (lbs/yr)	A.1 Reporting Ranges 0	1-499	500-999	A.2 Enter Estimate	B. Basis of Estimate (enter code)	C. Type of Treatment/ Disposal (enter code)
6.___ Discharge to POTW	6.___a					6.___b	
6.___ Other off-site location (Enter block number from Part II, Section 2.)	6.___a					6.___b	6.___c.
6.___ Other off-site location (Enter block number from Part II, Section 2.)	6.___a					6.___b	6.___c.

ADDITIONAL INFORMATION ON WASTE TREATMENT (Part III - Section 7)

A. General Wastestream (enter code)	B. Treatment Method (enter code)	C. Range of Influent Concentration (enter code)	D. Sequential Treatment? (check if applicable)	E. Treatment Efficiency Estimate	F. Based on Operating Data? Yes	No
7.___a	7.___b	7.___c	7.___d	7.___e %	7.___f	
7.___a	7.___b	7.___c	7.___d	7.___e %	7.___f	
7.___a	7.___b	7.___c	7.___d	7.___e %	7.___f	
7.___a	7.___b	7.___c	7.___d	7.___e %	7.___f	
7.___a	7.___b	7.___c	7.___d	7.___e %	7.___f	

b. Instructions:

INSTRUCTIONS FOR COMPLETING EPA FORM R, THE TOXIC CHEMICAL RELEASE REPORTING FORM

GENERAL INFORMATION

A complete report Form R must be submitted for each toxic chemical manufactured, processed, or otherwise used at each covered facility as prescribed in the reporting rule in 40 CFR Part 372. These instructions supplement and elaborate on the requirements in the reporting rule. Together with the reporting rule, they constitute the reporting requirements; you should read both before attempting to complete Form R. All references in these instructions are to sections in the reporting rule unless otherwise indicated.

The Toxic Chemical Release Reporting Form, EPA Form R, consists of four parts:

- Part I, Facility Identification Information;
- Part II, Off-Site Locations to Which Toxic Chemicals are Transferred in Wastes;
- Part III, Chemical Specific Information; and
- Part IV, Supplemental Information.

Form R is designed so that a majority of the information required in Part I and all of the information required in Part II should be the same for each chemical reported by your facility. If the information in Parts I and II are identical for two or more chemicals, you may submit photostatic copies of those parts for those chemicals as long as each Part I has an original signature on the certification statement. Part III must be completed separately for each chemical. Part IV provides additional space, if needed, to complete the information required by the preceding sections of the form.

A complete report for any listed toxic chemical that is not claimed trade secret consists of the following completed parts:

- Part I with an original signature on the certification statement (Section 2);
- Part II;
- Part III (Section 8 is optional); and
- If applicable, Part IV.

A complete report for a toxic chemical claimed trade secret includes all of the above items plus the following:

- A completed trade secret substantiation form;
- A "sanitized" version of the report in which the chemical identity items (Part III, Sections 1.2 and 1.3) have been left blank but in which a generic chemical name has been supplied (Part III, Section 1.4); and
- A "sanitized" version of the trade secret substantiation form.

WHEN THE REPORT MUST BE SUBMITTED

The report for any calendar year must be submitted on or before July 1 of the following year (e.g., the report for calendar year 1987, January through December, must be submitted on or before July 1, 1988).

WHERE TO SEND THE REPORT

Submit reports, including reports containing trade secret claims (i.e., sanitized) to:

U.S. Environmental Protection Agency
P.O. Box 70266
Washington, D.C. 20024-0266
Attn: Toxic Chemical Release Inventory

In addition, you must send a copy of the report to the State (State of the U.S., the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, the Northern Mariana Islands, and any other territory or possession over which the U.S. has jurisdiction) in which the facility is located. States will provide addresses where the copies of the reports are to be sent. Copies of the report sent to the State should be the "sanitized," non-trade-secret version of the report, unless the State specifically requests otherwise. For additional information, refer to the discussion of trade secret/confidentiality claims in the instructions for completing Part III, Section 1, of the form.

HOW TO OBTAIN FORMS AND OTHER INFORMATION

Additional copies of EPA Form R and related guidance documents may be obtained from:

Emergency Planning and Community Right-to-Know Hotline
U.S. Environmental Protection Agency
WH-562A
401 M Street, S.W.
Washington, D.C. 20460
(800) 535-0202
(202) 479-2449 (Washington D.C. and Alaska)

INSTRUCTIONS FOR COMPLETING SPECIFIC SECTIONS OF EPA FORM R

The following are specific instructions for completing each section of EPA Form R. The number designations of the parts and sections of these instructions correspond to those in Form R unless otherwise indicated.

PART I. FACILITY IDENTIFICATION INFORMATION

1.1 Does This Report Contain Trade Secret Information?

You must answer this question only after you have completed the rest of the report. The specific identity of the toxic chemical being reported in Part III, Sections 1.2 and 1.3 may be designated as trade secret. If you are making a trade secret claim, answer by marking the "yes" box and proceed to Section 1.2. (See Part III, Section 1, of these instructions for specific instructions on trade secrecy claims.) If the answer is no, proceed to Section 1.3.

1.2 Is This a Sanitized Copy?

You must answer this question only after you have completed the rest of the report. Answer yes if this copy of the report is the public "sanitized" version of a report where the chemical identity is claimed trade secret in Part III, Section 1.4 of the report. Otherwise, answer no.

1.3 Reporting Year

In Section 1.3, you must enter the year to which the reported information applies, not the year in which you are submitting the report.

2. Certification

The certification statement must be signed by the owner or operator, or a senior official with management responsibility for the person (or persons) completing the form. The owner, operator, or official must certify the accuracy and completeness of the information reported on the form by signing and dating the certification statement. Each report must contain an original signature. Print or type the name and title of the person who signs the statement in the space provided. This certification statement applies to all the information supplied on the form and should be signed only after the form has been completed.

3. Facility Identification

3.1 Facility Name and Location

You must enter the name of your facility (plant site name or appropriate facility designation), street address, city, county, state, and zip code in the space provided. You may not use a post office box number for this location information. The address provided should be the location where the chemicals are manufactured, processed, or otherwise used.

3.2 Full or Partial Facility Indication

You must indicate whether your report is for the covered facility as a whole or for part of a covered facility. Check box a. if the report contains information about a chemical for an entire covered facility. Check box b. if the report contains information about a chemical but for only part of a covered facility.

The SIC code system classifies business "establishments," which are defined as "distinct and separate economic activities [which] are performed at a single physical location." Under section 372.30(c) of the reporting rule, you may choose to submit a separate Form R for each establishment, or for groups of establishments, in your covered facility. This allows you the option of reporting separately on the activities involving a toxic chemical at each establishment, or group of establishments (e.g., part of a covered facility), rather than submitting a single Form R for that chemical for the entire facility. You may do this provided that all releases of the toxic chemical from the entire covered facility are reported. However, if an establishment or group of establishments does not manufacture, process, otherwise use, or release a toxic chemical, then you do not have to submit a report on that chemical from that establishment or group of establishments.

3.3 Technical Contact

You must enter the name and telephone number (including area code) of a technical representative whom EPA or State officials may contact for clarification of the information reported on the form. This person does not have to be the person who prepares the report or signs the certification statement. However, this person must have detailed knowledge of the report to be able to respond to questions.

3.4 Public Contact

You must enter the name and telephone number of a person who can respond to questions from the public about the report. If you choose to designate the same person as both the technical and the public contact, enter "same as 3.3" in this space. If no public contact is designated in Section 3.4, EPA will treat the technical contact as the public contact.

3.5 Standard Industrial Classification (SIC) Code

You must enter the appropriate 4-digit primary Standard Industrial Classification (SIC) code for your facility. If the report covers more than one establishment, enter the primary 4 digit SIC code for each establishment. You are only required to enter SIC codes for establishments within the facility that fall within SIC codes 20 through 39 as identified in section 372.22 of the reporting rule. Use the Supplemental Information sheet (Part IV) if you need to enter more than three SIC codes.

3.6 Latitude and Longitude

Enter the latitudinal and longitudinal coordinates of your facility. You must supply the latitude and longitude for calendar year 1987 reports if the information is readily available to you. Sources of these data include EPA permits (e.g., NPDES permits), county property records, facility blueprints, and site plans. If these geographic coordinates are not readily available to you for calendar year 1987 reports, enter not applicable [N/A]. All facilities are required to provide this information in reports submitted for the calendar year 1988 and subsequent years. Use leading place holding zeros.

3.7 Facility Dun and Bradstreet Number

You must enter the number assigned by Dun and Bradstreet for your facility or each establishment within your facility. This may be available from your facility's financial office. If none of your establishments have been assigned Dun and Bradstreet Numbers, indicate this in Section 3.7 by entering not applicable [N/A] in box a. If only some of your establishments have been assigned Dun and Bradstreet numbers, indicate this in Section 3.7 by entering those numbers. Use leading place holding zeros. For more than two establishments, use the Supplemental Information sheet (Part IV).

3.8 EPA Identification Number

If your facility has been assigned EPA Identification Numbers, you must enter those numbers. The EPA I.D. Number is a 12-digit number assigned to facilities covered by hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). Facilities not covered by RCRA are not likely to have an assigned EPA I.D. Number. If your facility does not have an EPA I.D. Number, enter not applicable [N/A] in box a. If your facility has more than two numbers, use the Supplemental Information sheet (Part IV). Use leading place holding zeros.

3.9 NPDES Permit Numbers

You must enter the numbers of any permits your facility holds under the National Pollutant Discharge Elimination System (NPDES). This 9-digit permit number is assigned to your facility by EPA or the State under the authority

of the Clean Water Act. If your facility has more than two permits, use the Supplemental Information sheet (Part IV). Use leading place holding zeros. If your facility does not have a permit, enter not applicable [N/A] in box a.

3.10 Name of Receiving Stream or Water Body

You must enter the name of each surface water body or receiving stream to which chemicals being reported are directly discharged. Report the name of each receiving stream or water body as it appears on the NPDES permit for the facility. Enter not applicable [N/A] to any unneeded spaces. If your facility discharges the toxic chemical to more than three receiving streams or water bodies, use the Supplemental Information sheet (Part IV).

3.11 Underground Injection Well Code (UIC) Identification Number

If your facility has a permit to inject chemical-containing waste which includes any toxic chemical being reported into Class 1 deep wells, you must enter the Underground Injection Control (UIC) 12-digit identification number assigned by EPA or by the State under the authority of the Safe Drinking Water Act. If your facility does not hold such a permit, enter not applicable [N/A] in this space.

4. Parent Company Information

You must provide information on your parent company. For purposes of this form, parent company is defined as a company which directly owns at least 50 percent of the voting stock of another company.

4.1 Name of Parent Company

You must enter the name of the corporation or other business entity that is your parent company. If you have no parent company, enter not applicable [N/A].

4.2 Parent Company's Dun & Bradstreet Number

If applicable, you must enter the Dun and Bradstreet Number for your parent company. The number may be obtained from the treasurer or financial officer of the company. If your parent company does not have a Dun and Bradstreet number, enter not applicable [N/A]. Use leading place holding zeros.

PART II. OFF-SITE LOCATIONS TO WHICH TOXIC CHEMICALS ARE TRANSFERRED IN WASTES

This section requires a listing of all off-site locations to which you transfer wastes containing the toxic chemical. The information that you enter in this section relates to data to be reported in Part III, Section 6, of the form. List only publicly owned treatment works (POTW) and treatment or disposal facilities. Do not list locations to which products containing the toxic chemical are shipped for sale or distribution in commerce or for further use. Also, do not list locations to which wastes containing the chemical are sold or sent for recovery, recycling, or reuse of the toxic chemical.

1. Publicly Owned Treatment Works (POTW)

You must enter the name and address of the POTW to which your facility discharges wastewater containing any toxic chemical you are reporting. If you do not discharge wastewater containing reported toxic chemicals to a POTW, enter not applicable [N/A]. If you discharge wastewater containing toxic chemicals to more than one POTW, use additional copies of Part II.

2. Other Off-Site Locations

In the block next to the heading "Other off-site location," enter a number. For the first such off-site location enter "1" in the block. Continue numbering the off-site locations in ascending order. This is the block number required by Part III, Section 6. If your facility transfers the toxic chemical to more than three off-site locations, use additional copies of Part II and continue numbering these locations in ascending order.

In the spaces provided, you must enter the name and address of each location (other than POTWs) to which you ship or transfer wastes containing the toxic chemical. Also enter the RCRA I.D. Number (EPA I.D. Number) for each such location, if known to you. Such information may be found on the Uniform Hazardous Waste Manifest which is required by RCRA regulations.

You must also indicate in the space provided whether the location is owned or controlled by your facility or your parent company.

PART III. CHEMICAL SPECIFIC INFORMATION

1.1 Trade Secret Block

If you are claiming chemical identity as a trade secret, you must mark the trade secret claim box in Section 1.1. In addition, you must attach a completed trade secret substantiation form to the report, as set forth in the trade secret rule in 40 CFR Part 350. When the chemical identity is claimed trade secret, you must also provide a generic name in Section 1.4.

Note: If you complete and submit your Toxic Chemical Release Inventory Reporting Form before the trade secret rule is in effect, you are still required to substantiate your claim that the specific chemical identity is a trade secret. Accordingly, you should follow the provisions of the proposed trade secret rule and use the proposed trade secret substantiation form which appeared in the FEDERAL REGISTER of October 15, 1987 (52FR 38312-38377).

1.2 CAS Registry Number

You must enter the Chemical Abstracts Service (CAS) registry number that appears in section 372.65 of the reporting rule for the chemical being reported. Use leading place holding zeros. If you are reporting one of the chemical categories in section 372.65 of the rule (e.g., copper compounds), enter [N/A] in the CAS number space. CAS numbers are cross-referenced with an alphabetical list of trade names and chemical names in section 372.65 of the rule.

1.3 Chemical or Chemical Category Name

You must enter in the space provided the name of the chemical or chemical category as it is listed in section 372.65 of the reporting rule. Only use names listed in section 372.65.

1.4 Generic Chemical Name

You must complete Section 1.4 if you are claiming the specific chemical identity of the toxic chemical as a trade secret and have marked the trade secret block in

Section 1.1. The generic chemical name must be descriptive of the chemical structure. You must limit the generic name to seventy characters (e.g., numbers, letters, spaces, punctuation) or less.

2. Mixture Component Identity

Use this section to report a mixture component that you know exceeds a threshold. Do not complete this section if you have completed Section 1 of Part III.

You may have received a mixture or trade name product from another person which you were told contains a section 313 toxic chemical, but that person did not tell you the specific chemical name or CAS number of the toxic chemical. The person may have given you a generic chemical name and the percentage composition of the toxic chemical in the mixture or trade name product under section 372.45 of the reporting rule. If you determine that you have imported, processed, or otherwise used the toxic chemical in the mixture or trade name product in excess of an applicable threshold, you must enter the generic chemical name given to you by your supplier in Section 2. If your supplier did not give you a generic chemical name, you must enter the name by which the supplier identified the chemical to you. (In some cases, this may be the same as the name of the mixture or trade name product.)

For example, your facility uses 20,000 pounds of a solvent which your supplier has told you contains eighty percent "chlorocyclocarbon," his generic name for a chemical subject to reporting under section 313. You therefore know that you have exceeded the use threshold for this toxic chemical. You would enter the name "chlorocyclocarbon," in the space provided in Section 2.

3. Activities and Uses of the Chemical at the Facility

This section requires an indication of whether the chemical is manufactured (including imported), processed, or otherwise used at the facility for which the form is being filed and the general nature of such activities and uses at the facility during the calendar year. Report activities that take place only at your facility, not activities that take place at other facilities involving your products. You must mark all of the appropriate blocks in this Section that apply to the activities at your facility. Refer to the definitions of "manufacture," "process," and "otherwise used" in section 372.3 of the reporting rule for explanations supplementing those provided below.

3.1 Manufacture

a. Produce.

A chemical included in this category is produced at the facility.

b. Import.

A chemical included in this category is imported to the facility.

c. For on-site use/processing.

A chemical included in this category is manufactured and then further processed or otherwise used at the same facility.

d. For sale/distribution.

A chemical in this category is manufactured specifically for sale or distribution outside the manufacturing facility.

e. As a byproduct.

A chemical in this category is produced coincidentally during the production, processing, use, or disposal of another chemical substance or mixture, and following its production, is separated from that other chemical substance or mixture.

f. As an impurity.

A chemical in this category is produced coincidentally with another chemical substance, and is processed, used, or distributed with it.

3.2 Process (incorporative-type activities)

a. As reactant.

A natural or synthetic chemical used in chemical reactions for the manufacture of another chemical substance or of a product. Includes, but is not limited to, feedstocks, raw materials, intermediates, and initiators.

b. As a formulation component.

A chemical added to a product or product mixture prior to further distribution of the product that aids the performance of the product in its use. Examples include, but are not limited to, additives, dyes, reaction diluents, initiators, solvents, inhibitors, emulsifiers, surfactants, lubricants, flame retardants, and rheological modifiers.

c. As an article component.

A chemical substance that becomes an integral component of an article distributed for industrial, trade, or consumer use.

d. Repackaging only.

Processing or preparation of a chemical or product mixture for distribution in commerce in a different form, state, or quantity.

3.3 Otherwise Used (non-incorporative-type activities)

a. As a chemical processing aid.

A chemical that is added to a reaction mixture to aid in the manufacture or synthesis of another chemical substance but does not intentionally remain in or become part of the product or product mixture. Examples of such chemicals include, but are not limited to, process solvents, catalysts, inhibitors, initiators, reaction terminators, and solution buffers.

b. As a manufacturing aid.

A chemical whose function is to aid the manufacturing process but does not become part of the resulting product. Examples include, but are not limited to, lubricants, metalworking fluids, coolants, refrigerants, and hydraulic fluids.

c. Ancillary or other use.

A chemical in this category is used at a facility for purposes other than as a chemical processing aid or manufacturing aid as described above. Includes, but is not limited to, cleaners, degreasers, lubricants, and fuels.

4. Maximum Amount of the Chemical On Site at Any Time During the Calendar Year

You must insert the appropriate code (see below) that indicates the maximum quantity of the chemical (in storage tanks, process vessels, on-site shipping containers, etc.) at your facility at any time during the calendar year. If the chemical was present at several locations within your facility, use the maximum total amount present at the entire facility at any one time.

Range Code	Weight Range in Pounds From...	To....
01	0	99
02	100	999
03	1,000	9,999
04	10,000	99,999
05	100,000	999,999
06	1,000,000	9,999,999
07	10,000,000	49,999,999
08	50,000,000	99,999,999
09	100,000,000	499,999,999
10	500,000,000	999,999,999
11	1 billion	more than 1 billion

If the toxic chemical was present at your facility as part of a mixture or trade name product, to determine the maximum quantity of the chemical present at the facility you must calculate only the weight of the toxic chemical, not the weight of the entire mixture or trade name product. See section 372.30(b) of the reporting rule for further information on how to calculate the weight of the chemical in the mixture or trade name product.

5. Releases of the Chemical to the Environment

In Section 5 you must account for the total aggregate releases of the toxic chemical from your facility to the environment for the calendar year. Releases to the environment include emissions to the air, discharges to surface waters, and releases to land and underground injection wells.

All air releases of the chemical from the facility must be covered. In case of doubt about whether an air release is a point or non-point release, it is important that the release be included as one or the other rather than omitted. Do not enter information on individual emission points or releases. Enter only the total release.

5.1 Fugitive or non-point air emissions.

These are releases to the air that are not released through stacks, vents, ducts, pipes, or any other confined air stream. You must include (1) fugitive equipment leaks from valves, pump seals, flanges, compressors, sampling connections, open-ended lines, etc.; (2) evaporative losses from surface impoundments; (3) releases from building ventilation systems; and (4) any other fugitive or non-point air emissions.

5.2 Stack or point air emissions.

These are releases to the air that are through stacks, vents, ducts, pipes, or other confined air streams. You must include storage tank emissions. Air releases from control equipment would generally fall in this category.

5.3 Discharges to water

You must enter the applicable letter code for the receiving stream or water body from Section 3.10 of Part I of the form. Also, you must enter the total annual amount of the chemical released from all discharge points at the facility to each receiving stream or water body. You must include process outfalls such as pipes and open trenches, releases from on-site wastewater treatment systems, and the contribution from stormwater runoff if applicable (see instructions for column C below). Do not include "indirect" discharges to surface waters such as to a POTW or off-site wastewater treatment facility. These must be reported in Section 6.

5.4 Underground injection

You must enter the total annual amount of the chemical that was injected into wells, including Class I and other types, at the facility.

5.5 Releases to land

You must report quantities of the chemical that were landfilled, impounded, or otherwise disposed of at the facility. Do not report land disposal at off-site locations in this section. You must enter the appropriate disposal code from the following list:

Disposal Codes

D02 Landfill
D03 Land Treatment/Application/Farming
D05 Surface Impoundment (to be closed as a Landfill)
D99 Other Disposal

Three lines are provided in this section of the form to accommodate various types of land disposal.

For the purpose of this form, a surface impoundment is considered "final disposal." Quantities of the chemical released to surface impoundments that are used merely as part of a wastewater treatment process generally must not be reported in this section of the form. However, if the impoundment accumulates sludges containing the chemical, you must include an estimate in this section unless the sludges are removed and otherwise disposed of (in which case they should be reported under the appropriate section of the form). For the purposes of this reporting, storage tanks are not considered to be a type of disposal and are not to be reported in this section of the form.

A. Total Release

Only releases of the toxic chemical to the environment for the calendar year are to be reported in this section of the form. The total releases from your facility do not include transfers or shipments of the chemical from your facility for sale or distribution in commerce or of wastes to other facilities for treatment or disposal (see Section 6.1). Both routine releases, such as fugitive air emissions, and accidental or non-routine releases, such as chemical spills, must be included in your estimate of the quantity released.

A.1 Reporting Ranges

For reports submitted for calendar years 1987, 1988, and 1989 only, you may take advantage of range reporting for releases that are less than 1,000 pounds for the year to an environmental medium. You may mark one of the three boxes, 0, 1-499, or 500-999, corresponding to releases of the chemical to any environmental medium (i.e., any line item); however, you do not have to use these range check boxes. You have the option of providing a specific figure in column A.2 as described below.

For releases of 1,000 pounds or more for the year to any medium, you must provide an estimate in pounds per year in column A.2. Any estimate provided in column A.2 is required to be accurate to no more than two significant figures. Beginning with reports for calendar year 1990, you may not use ranges to report; you must report in column A.2.

A.2 Enter Estimates

You must provide your estimates of releases in pounds for the year in column A.2. This estimate is required to be accurate to no more than two significant figures.

Calculating Releases

To provide the release information required in both Sections A.1 and A.2 in this section of the form, you must use all readily available data (including relevant monitoring data and emissions measurements) collected at your facility pursuant to other provisions of law or as part of routine plant operations, to the extent you have it for the toxic chemical.

When relevant monitoring data or emission measurements are not readily available, reasonable estimates of the amounts released must be made using published emission factors, material balance calculations, or engineering calculations. You may not use emission factors or calculations to estimate releases if more accurate data are available.

No additional monitoring or measurement of the quantities or concentrations of any toxic chemical released into the environment, or of the frequency of such releases, is required for the purpose of completing this form, beyond that which is required under other provisions of law or regulation or as part of routine plant operations.

You must estimate as accurately as possible the quantity in pounds of the chemical or chemical category that is released annually to each environmental medium. Do not include the quantity of components of a waste stream other than the toxic chemical in this estimate.

If the toxic chemical was present at your facility as part of a mixture or trade name product, you must calculate the releases of the chemical only. Do not include releases of the other components of the mixture or trade name product. If you only know about or are only able to estimate the releases of the mixture or trade name product as a whole, you must assume that the toxic chemical is released in proportion to its concentration in the mixture or trade name product. See section 372.30(b) of the reporting rule for further information on how to calculate the concentration and weight of the chemical in the mixture or trade name product.

If you are reporting a chemical category listed in section 372.65(c) of the reporting rule rather than a specific chemical, you must combine the release data for all chemicals in the listed chemical category (e.g., all glycol ethers or all chlorophenols) and report the aggregate amount for that chemical category. Do not report releases of each individual chemical in that category separately. For example, if your facility releases 3,000 pounds per year of 2-chlorophenol, 4,000 pounds per year of 3-chlorophenol, and 4,000 pounds per year of 4-chlorophenol, you should report that your facility releases 11,000 pounds per year of chlorophenols. (Other than for listed chemical categories in section 372.65(c) of the rule, each form must report for an individual chemical.

Listed chemicals with the qualifier "solution," such as sodium sulfate, in concentrations of 1 percent (or 0.1 percent in the case of a carcinogen) or greater, must be factored into threshold and release calculations, because threshold and release amounts relate to the amount of chemical in solution, not the amount of solution.

For metal compound categories (e.g., chromium compounds), report releases of only the parent metal. For example, a user of various inorganic chromium salts would report the total chromium released in each waste type regardless of the chemical form (e.g., as the original salts, chromium ion, oxide, etc.), and exclude any contribution to mass made by other species in the molecule.

B. Basis of Estimate

For each release estimate you are required to indicate the principal method by which the quantity was derived. Enter the letter code to identify the method which applies to the largest portion of the total estimated quantity.

For example, if 40 percent of stack emissions of the reported substance were derived using monitoring data, 30 percent by mass balance, and 30 percent by emission factors, you would enter the code letter "M" for monitoring. The codes are as follows:

M - Based on monitoring data or measurements for the toxic chemical as released to the environment and/or off-site facility.

C - Based on mass balance calculations, such as calculation of the amount of the toxic chemical in streams entering and leaving process equipment.

E - Based on published emission factors, such as those relating release quantity to throughput or equipment type (e.g., air emissions factors)

O - Based on other approaches such as engineering calculations (e.g., estimating volatilization or solubility using published mathematical formulas) or best engineering judgment. This would include applying an estimated removal efficiency to a wastestream even if the composition of stream before treatment was fully characterized by monitoring data.

If the monitoring data, mass balance, or emission factor used to estimate the release is not specific to the toxic chemical, the estimate should be reported as based on engineering calculations or judgment.

C. Percent From Stormwater

This column only relates to Section 5.3 - Discharges to Water. The quantity of the chemical released to any receiving stream or water body in each box in column A must include the amount contributed by stormwater runoff from the facility which contains the chemical. In addition, the percentage of the total quantity (by weight) of the chemical contributed by stormwater must be entered in column C. If your facility has monitoring data on the chemical and an estimate of flow rate, you must use this data to determine percent stormwater.

If your facility does not have periodic measurements of stormwater releases of the chemical but has submitted chemical specific monitoring data in permit applications, then these data must be used to calculate the percent contribution from stormwater. Flow rate data can be estimated by multiplying the annual amount of rainfall times the land area times the runoff coefficient. The runoff coefficient represents the fraction of rainfall that does not infiltrate into the ground but runs off as stormwater. The runoff coefficient is directly related to the land uses located in the drainage area and ranges from 0.5-0.8 for light industrial areas and 0.6-0.9 for heavy industrial areas. Site specific determinations can

be calculated using the following formula:

(1 x fractional paved or roofed area) + (0.2 x fractional grass area) + (0.3 x fractional graveled area) = site runoff coefficient

If you have monitored stormwater but did not detect the chemical, enter zero (0) in this space. If your facility has no stormwater monitoring data for the of the chemical, enter no data [N/D] in this space on the form.

6. Transfers of the Chemical in Waste to Off-Site Locations

You must report in this section the total annual quantity of the chemical sent to any of the off-site disposal, treatment, or storage facilities for which you have provided an address in Part II.

Line 6.1 is for transfers to a POTW. Lines 6.2 through 6.4 are provided for transfers to other off-site locations, including privately owned wastewater treatment facilities.

Enter, from Section 2 of Part II, the block number that corresponds to the off-site location to which you transferred waste containing the chemical. If you need additional space (i.e., you ship waste to more than three off-site locations), check the box at the bottom of Section 6 and use the Supplemental Information sheet (Part IV).

A. Total Transferred

You must follow the instructions for providing estimates as presented in the instructions for column A of Section 5 above. You must enter the amount in pounds of only the toxic chemical that is being transferred; do not enter the total poundage of wastes, including mixtures or trade name products containing the chemical. As with Section 5, you may report in ranges only for calendar years 1987, 1988, and 1989.

B. Basis of Estimate

You must identify the basis for your estimate. Follow the instructions and use the same codes as presented in the instructions for column B of Section 5.

C. Type of Treatment/Disposal

You must enter one of the following codes to identify the type of treatment or disposal method used by the off-site location for the chemical being reported. You may have this information in your copy of EPA Form SO, Item S of the Annual/Biennial Hazardous Waste Treatment, Storage, and Disposal Report (RCRA). Applicable codes for this section are as follows:

M10 Storage Only
M20 Reuse as Fuel/Fuel Blending
M40 Solidification/Stabilization
M50 Incineration/Thermal Treatment
M61 Wastewater Treatment (Excluding POTW)
M69 Other Treatment
M71 Underground Injection
M72 Landfill/Disposal Surface Impoundment
M73 Land Treatment
M79 Other Land Disposal
M90 Other Off-Site Management
M91 Transfer to Waste Broker
M99 Unknown

7. Waste Treatment Methods and Efficiency

In Section 7, you must provide the following information related to the chemical whose releases are being reported: (A) the general wastestream types containing the chemical being reported; (B) the waste treatment methods (if any) used on all wastestreams containing the chemical; (C) the range of concentrations of the chemical in the influent to the treatment method (D) whether sequential treatment is used; (E) the efficiency or effectiveness of each treatment method in removing the chemical; and (F) whether the treatment efficiency figure was based on actual operating data. You must use a separate line in Section 7 for each treatment method used on a wastestream. This section is to be used to report only treatment of wastestreams at your facility, not treatment off-site.

A. General Wastestream

For each waste treatment method report you must indicate the type of wastestream containing the chemical that is treated. Enter the letter code that corresponds to the general wastestream type:

A = Gaseous (including gases, vapors, airborne particulates)
W = Wastewater (aqueous waste)
L = Liquid waste (non-aqueous waste)
S = Solid waste (including sludges and slurries)

If a waste is a mixture of water and organic liquid, you must report it under wastewater unless the organic content exceeds 50 percent. Slurries and sludges containing water must be reported as solid waste if they contain appreciable amounts of dissolved solids, or solids that may settle, such that the viscosity or density of the waste is considerably different from that of process wastewater.

B. Treatment Method

Codes for treatment methods are included in Table I of these instructions. You must enter the code for each treatment method used on a wastestream containing the toxic chemical, regardless of whether this treatment method actually removes the specific chemical. Treatment methods must be reported by type of waste being treated (i.e., gaseous wastes, aqueous wastes, liquid non-aqueous wastes, and solids).

Wastestreams containing the chemical may have a single source or may be aggregates of many sources. For example, process water from several pieces of equipment at your facility may be combined prior to treatment. Report treatment methods that apply to the aggregate wastestream as well as treatment methods that apply to individual wastestreams. If your facility treats various wastewater streams containing the chemical in different ways, the different treatment methods must each be listed separately.

Your facility may have several pieces of equipment performing a similar service. It is not necessary to enter four lines of data to cover four scrubber units, for example, if all four are treating wastes of similar character (e.g., sulfuric acid mist emissions), have similar influent concentrations, and have similar removal efficiencies. If, however, any of these parameters differ from one unit to the next, each scrubber must be listed separately.

C. Range of Influent Concentration

The form requires an indication of the range of concentration of the toxic chemical in the wastestream (i.e., the influent) as it typically enters the treatment equipment. You must enter in the space provided one of

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the following code numbers corresponding to the concentration of the chemical in the influent:

1 = Greater than 1 percent
2 = 100 parts per million (0.01 percent) to 1 percent (10,000 parts per million)
3 = 1 part per million to 100 parts per million
4 = 1 part per billion to 1 part per million
5 = Less than 1 part per billion

Note that parts per million (ppm) is milligrams/kilogram (mass/mass) for solids and liquids; cubic centimeters/cubic meter (volume/volume) for gases; milligrams/liter for solutions or dispersions of the chemical in water; and milligrams of chemical/kilogram of air for particulates in air. If you have particulate concentrations (at standard temperature and pressure) as grains/cubic foot of air, multiply by 1766.6 to convert to parts per million: if in mg/m^3, multiply by 0.773 to obtain ppm. (Note: Factors are for standard conditions of 0^oC (32^oF) and 760 mmHg atmospheric pressure).

D. Sequential Treatment?

You may use various treatment steps in a sequence but only be able to estimate the treatment efficiency of the overall treatment process. If this is the case, you must enter codes for all of the treatment steps in the process. You must check the column D "sequential treatment?" box for all of these steps in the same sequence. With respect to information that must be supplied in columns C and E, you must provide the range of influent concentrations (column C) in connection with the first step of the sequential treatment. Then provide the treatment efficiency (column E) in connection with the last step in the treatment. You do not need to complete C or E for any intermediate step in the sequence.

E. Treatment Efficiency Estimate

In the space provided, you must enter the number that indicates the percentage of the toxic chemical that is removed from the wastestream. The treatment efficiency (expressed as percent removal) represents any destruction, biological degradation, chemical conversion, or physical removal of the chemical from the wastestream being treated. This efficiency must represent the mass or weight percentage of chemical destroyed or removed, not just changes in volume or concentration of the chemical or the wastestream. The efficiency indicated for a treatment method must refer only to the percent conversion or removal of the listed toxic chemical from the wastestream, not the percent conversion or removal of other wastestream constituents (alone or together with the listed chemical), and not the general efficiency of the method for any wastestream.

For some treatments, the percent removal will represent removal by several mechanisms, as in secondary wastewater treatment, where a chemical may evaporate, be biodegraded, or be physically removed in the sludge.

Percent removal must be calculated as follows:

$$\frac{(I - E)}{I} \times 100$$

where I = mass of the chemical in the influent wastestream and E = mass of the chemical in the effluent wastestream.

The mass or weight of chemical in the wastestream being treated must be calculated by multiplying the concentration (by weight) of the chemical in the wastestream times the flow rate. When calculating or estimating percent removal efficiency for various wastestreams, the percent removal must compare the gaseous effluent from treatment to the gaseous influent, the aqueous effluent from treatment to the aqueous influent, and similarly for organic liquid and solid waste. However, some treatment methods may not result in a comparable form of effluent wastestream. Examples are incineration or solidification of wastewater. In these cases, the percent removal of the chemical from the influent wastestream would be reported as 100 percent because the wastestream does not exist in a comparable form after treatment.

Some of the treatments listed in Table I do not destroy, chemically convert, or physically remove the chemical from its wastestream. Some examples include fuel blending and evaporation. For these treatment methods, an efficiency of zero must be reported.

For metal compounds, the reportable concentration and treatment efficiency must be calculated based on the weight of the parent metal and not the weight of the metal compounds. Metals are not destroyed but can only be physically removed or chemically converted from one form into another. The treatment efficiency reported must only represent physical removal of the parent metal from the wastestream, not the percent chemical conversion of the metal compound. If a listed treatment method converts but does not remove a metal (e.g., chromium reduction), the method must be reported, but the treatment efficiency must be reported as zero.

All data available at your facility must be utilized to calculate treatment efficiency and influent chemical concentration. You are not required to collect any new data for the purposes of this reporting requirement. If data are lacking, estimates must be made using best engineering judgment or other methods.

F. Based on Operating Data?

This column requires you to indicate "Yes" or "No" to whether the treatment efficiency estimate is based on actual operating data. For example, you would check "Yes" if the estimate is based on monitoring of influent and effluent wastes under typical operating conditions. If the efficiency estimate is based on published data for similar processes or on equipment supplier's literature, or if you otherwise estimated either the influent or effluent waste comparison or the flow rate, you must check "No."

8. Optional Information on Waste Minimization

Information provided in Part III, Section 8, of the form is optional. This section allows you to identify waste minimization efforts relating to the reported toxic chemical that may not have been reflected in your responses to previous sections of the form.

A. Type of modification

Enter one code from the following list that best describes the type of waste minimization activity:

M1 - Recycling/reuse on-site.
M2 - Recycling/reuse off-site.
M3 - Equipment/technology modifications.
M4 - Process procedure modifications.
M5 - Reformulation/redesign of product.
M6 - Substitution of raw materials.
M7 - Improved housekeeping training, inventory control.
M8 - Other waste minimization technique.

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B. Quantity of the chemical in the wastestream prior to treatment/disposal

Enter the pounds of the toxic chemical in wastes in the reporting year and the pounds in wastes in the year prior to implementing waste minimization (the "base year"). Alternatively, to protect confidential information, you may wish to enter only the percentage by which the weight of the chemical in the wastes has changed. This figure (percentage) may be calculated using the following formula:

$$\frac{\text{toxic chemical in wastes in reporting year} - \text{toxic chemical in wastes in prior year}}{\text{toxic chemical in wastes in prior year.}} \times 100$$

The resulting figure may be either negative or positive.

C. Index

Enter the ratio of reporting-year production to production in the base year. This index should be calculated to most closely reflect activities involving the chemical. Examples of acceptable indices include:

- Chemical produced in 1987/chemical produced in 1986.
- Paint produced in 1987/paint produced in 1986.
- Appliances coated in 1987/appliances coated in 1986.
- Square feet of solar collector fabricated in 1987/square feet of solar collector fabricated in 1986.
- Value of sales in 1987/value of sales in 1986.

For example, a company manufactures 200,000 pounds of a chemical in 1986 and 250,000 pounds of the same chemical in 1987. The index figure to report would be 1.3 (1.25 rounded). The index provides a means for users of the data to distinguish the effects of changes in business activity from the effects specifically of waste minimization efforts. It is not necessary to indicate the units on which the index is based.

D. Reason for action

Finally, enter the codes from the following list that best describe the reason for initiating the waste minimization effort:

R1 - Regulatory requirement for the waste.
R2 - Reduction of treatment/disposal costs.
R3 - Other process cost reduction.
R4 - Self-initiated program.
R5 - Other (e.g., discontinuation of product, occupational safety, etc.).

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TABLE I
TREATMENT CODES

AIR EMISSIONS TREATMENT

A01 Flare
A02 Condenser
A03 Scrubber
A04 Absorber
A05 Electrostatic Precipitator
A06 Mechanical Separation
A07 Other Air Emission Treatment

BIOLOGICAL TREATMENT

B11 Biological Treatment -- Aerobic
B21 Biological Treatment -- Anaerobic
B31 Biological Treatment -- Facultative
B99 Biological Treatment -- Other

CHEMICAL TREATMENT

C01 Chemical Precipitation -- Lime or Sodium Hydroxide
C02 Chemical Precipitation -- Sulfide
C09 Chemical Precipitation -- Other
C11 Neutralization
C21 Chromium Reduction
C31 Complexed Metals Treatment (other than pH Adjustment)
C41 Cyanide Oxidation -- Alkaline Chlorination
C42 Cyanide Oxidation -- Electrochemical
C43 Cyanide Oxidation -- Other
C44 General Oxidation (including Disinfection) -- Chlorination
C45 General Oxidation (including Disinfection) -- Ozonation
C46 General Oxidation (including Disinfection) -- Ozonation
C99 Other Chemical Treatment

INCINERATION/THERMAL TREATMENT

F01 Liquid Injection
F11 Rotary Kiln with Liquid Injection Unit
F19 Other Rotary Kiln
F31 Two Stage
F41 Fixed Hearth
F42 Multiple Hearth
F51 Fluidized Bed
F61 Infra-Red
F71 Fume/Vapor
F81 Pyrolytic Destructor
F82 Wet Air Oxidation
F83 Thermal Drying/Dewatering
F99 Other Incineration/Thermal Treatment

SOLIDIFICATION/STABILIZATION

G01 Cement Processes (including Silicates)
G09 Other Pozzolonic Processes (including Silicates)
G11 Asphaltic Processes
G21 Thermoplastic Techniques
G99 Other Solidification Processes

PHYSICAL TREATMENT

P01 Equalization
P09 Other Blending
P11 Settling/Clarification
P12 Filtration
P13 Sludge Dewatering (non-thermal)
P14 Air Flotation
P15 Oil Skimming
P16 Emulsion Breaking -- Thermal
P17 Emulsion Breaking -- Chemical
P18 Emulsion Breaking -- Other
P19 Other Liquid Phase Separation
P21 Adsorption -- Carbon
P22 Adsorption -- Ion Exchange (other than for recovery/reuse)
P23 Adsorption -- Resin
P29 Adsorption -- Other
P31 Reverse Osmosis (other than for recovery/reuse)
P41 Stripping -- Air
P42 Stripping -- Steam
P49 Stripping -- Other
P51 Acid Leaching (other than for recovery/reuse)
P61 Solvent Extraction (other than recovery/reuse)
P99 Other Physical Treatment

RECOVERY/REUSE

R01 Reuse as Fuel -- Industrial Kiln
R02 Reuse as Fuel -- Industrial Furnace
R03 Reuse as Fuel -- Boiler
R04 Reuse as Fuel -- Fuel Blending
R09 Reuse as Fuel -- Other
R11 Solvents/Organics Recovery -- Batch Still Distillation
R12 Solvents/Organics Recovery -- Thin-Film Evaporation
R13 Solvents/Organics Recovery -- Fractionation
R14 Solvents/Organics Recovery -- Solvent Extraction
R19 Solvents/Organics Recovery -- Other
R21 Metals Recovery -- Electrolytic
R22 Metals Recovery -- Ion Exchange
R23 Metals Recovery -- Acid Leaching
R24 Metals Recovery -- Reverse Osmosis
R26 Metals Recovery -- Solvent Extraction
R29 Metals Recovery -- Other
R99 Other Reuse or Recovery

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Part III

Department of Health and Human Services

Office of Community Services

Availability of Funds and Request for Applications Under FY 1988 Discretionary Grants Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

[Program Announcement No. OCS-88-1]

Availability of Funds and Request for Applications Under FY 1988 Discretionary Grants Program

AGENCY: Office of Community Services, Family Support Administration, Department of Health and Human Services.

ACTION: Announcement of availability of funds and request for applications under the Office of Community Services' Discretionary Grants Program.

SUMMARY: The Office of Community Services (OCS) announces that competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under section 681(a)(2) of the Community Services Block Grant Act of 1981, as amended. This Program Announcement consists of seven parts. Part A covers information on legislative authorities and defines terms used in the Program Announcement. Part B lists the program priority areas under which grants will be made and describes the types of projects that will be considered for funding under each priority area and who is eligible to apply. Part C provides details on application prereguisites such as funds available in each priority area, the amount of matching funds applicants are required to commit, limitations on administrative costs, and program beneficiaries. Part D provides information on application procedures including the availability of forms, where to submit an application, criteria for initial screening of applications, and project evaluation criteria. Part E provides guidance on the content of an application package and the application itself. Part F provides instructions for completing an application. Part G details post-award requirements.

DATES: The closing dates for submission of applications are as follows: (April 1, 1988) for applications submitted under the $2.5 million set aside under Priority Area 1.0; April 18, 1988, for applications for funding under the Urban and Rural Community Economic Development Program, Priority Area 1.0 EXCEPT for proposals submitted under the $2.5 million set aside; and for applications for funding under the Rural Housing Repairs and Rehabilitation Program, Priority Area 2.1, the Rural Community Facilities Development Program, Priority Area 2.2, and Assistance to Migrants and Seasonal Farmworkers, Priority Area 3.0.

FOR FURTHER INFORMATION CONTACT: Office of Community Services, Office of State and Project Assistance, 330 C Street, SW., Room 2054, Washington, DC 20201.

You may also call (202) 475-0396.

Part A—Preamble

1. Legislative Authority

Section 681(a)(2) of the Community Services Block Grant Act authorizes the Secretary to make funds available to support program activities of national or regional significance to alleviate the causes of poverty in distressed communities. Included are special emphasis programs which sponsor enterprises providing employment and business development opportunities for low-income residents of the community, technical assistance and training programs in rural housing and community facilities development, and assistance for migrants and seasonal farmworkers.

2. Definitions of Terms

For purposes of this Program Announcement the following definitions apply:

—*Displaced worker:* An individual who is in the labor market but has been unemployed for six months or longer.

—*Distressed community:* A geographic urban neighborhood or rural community of high unemployment and pervasive poverty.

—*Eligible applicant:* (See appropriate Priority Area under Part B.)

—*Indian tribe:* A tribe, band, or other organized group of Indians recognized in the State in which it resides or considered by the Secretary of the Interior to be an Indian tribe or an Indian organization for any purpose.

—*Migrant farmworker:* An individual who works in agricultural employment of a seasonal or other temporary nature who is required to be absent from his/her place of permanent residence in order to secure such employment.

—*Rural:* An area that is not within the outer boundary of a metropolitan entity having a population of 25,000 or more and the contiguous communities with population density of 100 persons or more per square mile according to the latest decennial census. Such an area may be located entirely within one State or made up of contiguous interstate communities.

—*Seasonal farmworker:* Any individual employed in agricultural work of a seasonal or other temporary nature who is able to remain at his/her place of permanent residence while employed.

Part B—Program Priority Areas

The programmatic priority areas of the Office of Community Services' Discretionary Grants Program and their purposes are as follows:

Priority Area 1.0 Urban and Rural Community Economic Development
Priority Area 2.1 Assistance for Rural Housing and Community Facilities Development
2.1 Rural Housing Repairs and Rehabilitation
2.2 Rural Community Facilities Development (Water and Waste Water Treatment Systems Development)
Priority Area 3.0 Assistance to Migrants and Seasonal Farmworkers

Priority Area 1.0 Urban and Rural Community Economic Development

The purpose of this priority area is to encourage the creation of projects intended to provide employment and business development opportunities and generally improve the quality of the economic and social environment of low-income residents, including displaced workers and at-risk teenagers, of the areas they plan to serve. It is intended to provide resources to eligible applicants but also has the broader objectives of arresting tendencies toward dependency, chronic unemployment, and community deterioration in urban and rural areas. The emphases of projects must be on self-help and mobilization of the community-at-large and on providing opportunities for employment and/or ownership within the targeted population. To this end, the program seeks (a) to attract additional private capital into distressed communities, including enterprise zones; (b) to build and expand the ability of local institutions to better serve the economic needs of local residents; and (c) to provide new employment and ownership opportunities for low-income people through business, physical or commercial development.

Projects must further agency goals of public-private partnerships, and Federal initiatives such as urban and rural enterprise zones. OCS is particularly interested in receiving applications that stress public-private partnerships that are directed toward the development of economic self-sufficiency through a focus on economic expansion.

Applicants located in a State-designated enterprise zone, i.e. an area in which a legislative entity has enacted a program of tax and regulatory relief to encourage business development, are encouraged to submit applications. Such applications must be linked with—and complement—enterprise zone

initiatives, and may be for either a business development project or for a demonstration of innovative ways of involving the poverty community in the implementation of the enterprise zone concept.

Applications must show that the proposed project: (1) Will create a significant number of new permanent private sector jobs and/or will maintain existing jobs, all of which are targeted towards low-income residents who are either unemployed or underemployed. Emphasis should be on employment of individuals who are on public assistance including at-risk teenagers. While projected employment in future years may be included in the application, it is essential that the focus of employment projections concentrate on those jobs saved or created during the duration of the OCS grant period; and/or (2) will create a significant number of business development opportunities for low-income residents of the community or significantly aid such residents in maintaining economically viable businesses.

Any funds that are proposed to be used for training purposes must be limited to providing specific job-related training to poverty level individuals who have been selected for employment in the grant supported project or who have been selected for training or participation in a project where potential jobs have actually been identified.

Projects which would result in the relocation of a business from one geographic area to another are discouraged.

Of the $18.909 million available for funding projects under this priority area, approximately $2.5 million will be set aside for projects which address the purposes of this priority area and which simultaneously target a number of communities or impact areas thereby producing, due to management efficiencies, benefits on a larger scale than would single-funded projects undertaken in individual communities.

OCS will not consider applications that propose to establish or expand revolving loan funds nor proposals that are geared towards the establishment of Small Business Investment Corporations of Minority Enterprise Small Business Investment Corporations.

OCS does not anticipate approving grants that subsequently will be subgranted to an unrelated entity.

See Part F, Section 4, for special instructions on developing a work program for this priority area.

Approximately 55 grants will be made under this priority area.

Eligible applicants are private, locally initiated, non-profit community development corporations (or affiliates of such corporations) governed by a board consisting of residents of the community and business and civic leaders.

Priority Area 2.0 Assistance for Rural Housing and Community Facilities Development

2.1 Rural Housing Repairs and Rehabilitation

The purpose of this priority area is to assist low-income residents in rural communities by providing grants to eligible applicants to: (a) provide technical assistance to help low-income families and individuals to more effectively utilize existing local, State and Federal housing assistance programs; and (b) develop innovative ways to meet the housing needs of low-income people, e.g. the rehabilitation or repair of existing substandard housing units for occupancy by low-income residents, the conversion of non-residential buildings to low-income residential use, and the purchase of homes by low-income people.

OCS encourages applications that will assist low-income homeowners to improve their housing through self-help rehabilitation. These efforts should not be duplicative of programs which can be funded through other existing Federal programs.

OCS is interested in proposals which will result in the following types of tangible improvements and benefits related to housing conditions for rural poor people:

—Interior or exterior structural repairs including weatherization and alternative energy systems;
—job opportunities for local unskilled residents while assuring quality work;
—technical assistance and professional services related to housing and community planning by community-based design and planning organizations. (Projects should be conducted with maximum use of voluntary services of professional and community personnel); and
—development of innovative housing strategies to help low-income rural residents acquire housing.

Applications calling for new construction or 'gut' rehabilitation will only be considered if there is insufficient existing housing stock that can be economically rehabilitated.

Funds will not be available for the repair or rehabilitation of low-income rental housing unless the structure is either occupied by a low-income owner or the properties to be repaired are (a) owned by a private non-profit organization and (b) covered by a written agreement which will ensure continued occupancy, after completion of repairs and rehabilitation, for at least three years by low-income people, as defined by DHHS Poverty Income Guidelines. (Additional information about these Guidelines is set out in Part C, paragraph 7.)

Funds will not be made available under this program priority area for establishing or expanding a revolving loan fund.

See Part F, Section 4, for special instructions on developing a work program for this priority area.

Approximately 9 grants will be made under this Priority Area.

Eligible applicants are States, public agencies or private non-profit organizations. OCS is particularly interested in receiving applications from such entities as rural housing development corporations, cooperatives, and other public and private organizations with proven accomplishments in the area of rural housing.

2.2: Rural Community Facilities Development (Water and Waste Water Treatment Systems Development)

Funds will be provided under this priority area to help low-income rural communities develop the capability and expertise to establish and maintain or preserve affordable, adequate and safe water and waste water treatment facilities.

Funds provided under this priority area may not be used for construction of water and waste water treatment systems or for operating subsidies for such systems but matching funds may be used for these activities. Therefore, it is suggested that applicants coordinate projects with the Farmers Home Administration (FmHA) and other Federal and State agencies to ensure that funds for hardware for local community projects are available.

See Part F, Section 4, for special instructions on developing a work program for this priority area.

Approximately 9 grants will be made under this priority area.

Eligible applicants are Regional Technical Resource Centers and public or private non-profit organizations with proven technical expertise and accomplishments in water and waste water treatment programs. In accordance with the authorizing legislation, funding priority will be given to private non-profit organizations that, before the date of the enactment of the Human Services Reauthorization Act of

1986, carried out such programs under the authority found at Section 681(a)(2)(D) of the Community Services Block Grant Act.

Priority Area 3.0 Assistance of Migrants and Seasonal Farmworkers

The purpose of this priority area is to fund a limited number of projects which focus exclusively on the problems and special needs of migrants and seasonal farmworkers in order to improve their quality of life and advance self-sufficiency.

OCS will entertain proposals that directly meet farmworker needs in such areas as: Crisis nutritional relief; the development of self-help systems of food production; emergency health and social services referral and assistance; home repair, rehabilitation, and ownership; direct assistance to low-income farmworkers (including at-risk teenagers) in improving their job skills so as to qualify them for longer term and permanent full-time employment in agriculture; and/or assistance to low-income farmworkers, including at-risk teenagers, who wish to leave agricultural employment and find jobs in other lines of work.

OCS encourages applicants to develop linkages with other public and private sector service providers who are also working with migrant and seasonal farmworkers or with issues affecting this target group. Applicants who mobilize project support over and above the required matching share to directly benefit the proposed project, will receive special consideration under the rating criteria.

OCS will not consider applications proposing to use to funds exclusively for classroom instruction. Placement must be an integral activity.

Applications submitted under this priority area must not contain requests for OCS funding for projects that would duplicate Community Services Block Grant funding or activities for which funding is available from other Federal agencies such as the Department of Labor, the Department of Agriculture's Food and Women, Infants and Children (WIC) programs, etc.

See Part F, Section 4, for special instructions on developing a work program for this priority area.

Approximately 20 grants will be made under this priority area.

Eligible applicants are States, public agencies, and private nonprofit organizations.

Part C—Application Prerequisites

1. Eligible Applicants

Priority areas included in this Program Announcement have differing restrictive eligibility requirements. Therefore, eligible applicants are identified in the individual priority area descriptions found in Part B., above.

2. Available Funds

a. Funding Summary

Program priority area	Available fiscal year 1988 funds
1.0 Urban and Rural Community Economic Development	$18.909
2.0 Rural Housing and Community Facilities Development	3.925
3.0 Assistance for Migrants and Seasonal Farmworkers	2.968

b. Grant Amounts

Under Priority Area 1.0: No more than $500,000 or 25% of the total project costs, whichever is the lesser amount, will be provided for real estate projects. (Any project that involves, in part or in whole, the purchase, construction or rehabilitation of property will be considered a real estate project.) Applicants for funding other activities under this priority area are strongly encouraged to refrain from submitting requests for more than $500,000. EXCEPTION: This ceiling does not apply to applications submitted under the $2.5 million set aside.

Under Priority Areas 2.0 and 3.0: Applicant requesting funds under these priority areas should assure that the total project costs are reasonable in light of the activities to be undertaken.

3. Grant Duration

For most projects OCS will grant funds for one year. However, depending on the characteristics of any individual project and the justification presented by the applicant in its proposal, a grant may be made for a longer period of time, i.e. up to two years.

4. Matching Funds

An applicant is required to obtain commitment of at least the following amounts of private or public funds to match each OCS dollar awarded:

For projects submitted under Priority Area 1.0 (including the $2.5 million set-aside), three public or private sector dollars are required for each OCS dollar awarded for real estate projects and two public or private sector dollars for all other economic development projects.

For projects submitted under Priority Area 2.1, two public or private sector dollars are required for each OCS dollar awarded.

For projects submitted under Priority Area 2.2, one private sector or two public sector dollars are required for each OCS dollar awarded.

For projects submitted under Priority Area 3.0, a match of at least one private or public sector dollar to each dollar of OCS funds awarded is required.

Exception: The match for projects submitted under Priority Areas 1.0, 2.1 and 2.2 which will be carried out on Indian Reservations must be at least one private or public sector dollar for each dollar of OCS funds awarded.

Matching funds must be definitely committed or contingent only on receipt of the OCS grant. Speculative match, or match based on independent contingencies (such as receipt of another grant or lines of credit at the current market rate set aside by banks for program participants), will not be counted towards the matching requirement.

Matching funds may be in the form of cash or in-kind fairly converted into their dollar equivalent. Some examples are loans for construction financing; mortgages; grants from States, counties, municipalities; contributions from private individuals or organizations; equity investments that are made to the project supported by the OCS grant; correlated training programs; related water or waste water installations; foundation support; and/or private and charitable contributions. OCS will accept as a match Federal monies from State-administered block grants with compatible purposes when those programs do not prohibit their use as matching funds, e.g. the Job Training Partnership Act, the Social Services Block Grant, and the Low Income Home Energy Assistance Program.

Funds that are eligible to be counted as "matching" funds must be committed for specific project activities within the OCS-approved project and used only for project purposes during the duration of the OCS grant.

A grantee may not claim as matching funds wages earned as a result of training or skill improvements funded by the OCS grant.

Funds expended or obligated prior to the approved OCS starting date for a grant cannot be considered as matching funds although currently-owned assets which will be used in the OCS project may be applied against the matching requirement.

While the matching requirement outlined in this section must be met for

an application to be eligible for consideration, applicants generating support either greater than that required and/or from private sector sources, may be eligible for additional points to be awarded by the reviewers. Except in unusual circumstances, documentation of any commitment of matching funds must be in the form of letters of commitment from the organizations/individuals from which funds will be received and the commitment must be valid at least through the grant period.

5. Maintenance of Effort

The activities funded under this Program Announcement must be in addition to, and not in substitution for, activities previously carried on without Federal assistance. Also, funds or other resources devoted to activities within a community, area, or state will not be diminished in order to provide the required matching contributions.

6. Administrative Costs

The OCS will accept applications that include administrative costs. However, since grant funds are extremely limited, no awards for only administrative costs will be made and no more than 10 percent of the OCS discretionary funds awarded under a single grant may be used for administrative purposes.

Administrative costs are defined as costs that are necessary to protect, monitor, properly account for, and apply to the approved project those Federal funds awarded. Costs associated with the internal operational management of the approved project are not considered to be administrative costs nor are costs for conducting the final audit.

In all cases where an applicant has negotiated and claims a current indirect cost rate approved by the Department of Health and Human Services, the Defense Contracting Agency, or some other Federal agency, this rate ordinarily will be recognized by OCS and applied to any OCS grant award. However, it is understood that both administrative and indirect costs are part of, and not in addition to, the amount of funds awarded in the subject grant. In most cases, the indirect cost rate approved will include not only administrative costs but also other allowable costs that were negotiated under the applicant's approved indirect cost rate. Therefore, applicants with an applicable indirect cost rate exceeding 10 percent of the OCS grant may not propose any administrative funds in excess of that rate. Thus, although the approved indirect cost rate may exceed the normal 10 percent administrative cost restriction which otherwise applies to all OCS discretionary grants, the entire approved indirect cost rate will be accepted.

7. Program Beneficiaries

Projects proposed for funding under this announcement must result in direct benefits targeted toward low-income people as defined in the most recent Annual Revision of Poverty Income Guidelines published by DHHS.

Attachment A to this announcement is an excerpt from the guidelines currently in effect (1987). Annual revisions of these guidelines are normally published in February or early March of each year and are applicable to projects being implemented at the time of publication. It is anticipated that the 1988 guidelines will be published in the **Federal Register** in February 1988. (These revised guidelines also may be obtained through the U.S. Government Printing Office at the following address: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.)

No other government agency or privately-defined poverty guidelines are applicable for the determination of low-income eligibility for these OCS programs.

8. Number of Projects in Application

An application may contain only one project (although activities undertaken may be in a number of communities or impact areas) and this project must be identified as responding to one of the program priority areas stated in this announcement. Applications which are not in compliance with this requirement will be ineligible for funding.

9. Multiple Submittals

There is no limit to the number of applications that can be submitted under a specific program priority area as long as each application contains a proposal for a different project.

10. Sub-Contracting or Delegating Projects

OCS does not anticipate funding any project where the rule of the eligible applicant is *primarily* to serve as a conduit for funds to organizations other than the applicant.

Part D—Application Procedures

1. Availability of Forms

Applications for awards under these OCS programs must be submitted on Standard Form (SF) 424 provided for that purpose. Part F and Appendix B to this Program Announcement contain all the instructions and forms required for submittal of applications. The forms may be reproduced for use in submitting applications. Copies of this announcement are available at most local libraries and Congressional District Offices for reproduction. If copies are not available at these sources, they may be obtained by writing or telephoning: Office of Community Services, Office of State and Project Assistance, Room 2054—Switzer Building, 330 C Street SW., Washington, DC 20201, Attn: OCS-88-1, Telephone: (202) 475-0396.

2. Application Submission

The date by which applications must be received varies according to the Priority Area under which funding is being requested. Refer to the section entitled "CLOSING DATES" at the beginning of this document for specific dates.

An application will be considered to be received on time under either one of the following two circumstances:

a. The application was sent via the U.S. Postal Service or by private commercial carrier and postmarked or dated by the carrier not later than midnight of the closing date unless it arrives too late to be considered by the reviewers. (Applicants are responsible for assuring that the U.S. Postal Service or private commercial carrier dates the application package. Applicants should be aware that not all post offices or private commercial carriers provide a dated postmark unless specifically instructed to do so.)

b. The application is hand delivered on or before the closing date to the Office of Grants Management, FSA, at the address indicated below. Hand delivered applications will be accepted during the normal working hours of 8:00 a.m. to 4:30 p.m., Monday through Friday (excluding Federal legal holidays), up through the closing date. In establishing the date of receipt of hand-delivered applications, reliance will be placed on documentary evidence of receipt maintained by FSA.

Late applications will be returned to the senders without consideration in the competition.

Applications once submitted are considered final and no additional materials will be accepted by OCS.

An application with an original signature and four copies is required. Applications should be mailed or hand delivered to: Family Support Administration, Office of Grants Management, Room 2222—Switzer Building, 330 C Street SW., Washington, DC 20201, Attn: OCS-88-1.

The first page of the SF-424 must contain *in the lower right hand corner* a designation indicating under which program priority area funds are being

requested. The following Program Priority Area designations must be used:

UR—for Priority Area 1.0, Urban and Rural Community Economic Development (General)

SA—for Priority Area 1.0, Urban and Rural Community Economic Development ($2.5 million set aside)

RH—for Priority Area 2.1, Rural Housing Repairs and Rehabilitation

RF—for Priority Area 2.2, Rural Community Facilities Development

MS—for Priority Area 3.0, Migrants and Seasonal Farmworkers

3. Intergovernmental Review

The OCS Discretionary Grants Program is covered by Executive Order 12372 which provides for review of proposed Federal assistance by State and local governments.

Therefore, applicants for funds under this announcement are subject to the clearance procedures and requirements established by the State(s) in which their projects will be conducted. Consequently, applicants are reminded that clearance action through appropriate State clearinghouses must be initiated by them prior to, or simultaneous with, submittal of applications to OCS. These initial actions must be reported on the SF 424, Page 1, which is submitted to OCS. Clearance action by States need not be completed before applications are submitted to OCS. When comments become available they should be forwarded to the Family Support Administration office to which applications are submitted. (See address in item 2. above.)

4. Application Consideration

Applications which meet the screening requirements in Sections 5.a. and b. below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program priority area guidelines and evaluation criteria published in this announcement.

Applications submitted under all priority areas will be reviewed by persons outside of the OCS unit which would be directly responsible for programmatic management of the grant.

The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since the Director may also consider other factors deemed relevant including, but not limited to, comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

5. Criteria for Screening Applications

a. Initial Screening

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

(1) The application must contain a Standard Form (SF) 424 with Parts I, II, III, and IV completed according to instructions published in Part F of this Program Announcement.

(2) The SF–424 must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

(3) There must be an original and four copies of each application.

(4) The application is submitted for consideration under only one Priority Area.

b. Pre-rating Review

Applications which pass the initial screening will be forwarded to reviewers for analytical comment and scoring based on the criteria detailed in Section c. below and the specific requirements contained under each priority area description in Part B. Prior to the programmatic review, these reviewers and/or OCS staff will verify that the applications comply with this Program Announcement in the following areas:

(1) *Eligibility:* Applicant meets the eligibility requirements for the Priority Area under which funds are being requested.

(2) *Number of Projects:* The application contains only one project which responds to one of the priority areas in this announcement.

(3) *Target Populations:* The application clearly targets the specific outcomes and benefits of the project to low-income participants and beneficiaries.

(4) *Matching Funds:* The minimum prescribed amounts of private and/or public sector funds have been firmly committed.

(5) *Grant Amount:* The amount of funds requested does not exceed the limits indicated in Part C., Section 2.b. for the appropriate priority area.

(6) *Program Focus:* The application addresses the purposes described under the relevant program priority area description in Part B of this announcement.

(7) *Multiple Communities:* (Applicable ONLY to $2.5 million set-aside under Priority Area 1.0). The applicant proposes a project which will simultaneously target a number of communities or impact areas.

Reviewers and/or OCS staff may recommend that an application be disqualified from the competition and returned to the applicant if it does not conform to one or more of the above requirements.

c. Evaluation Criteria

Acceptable applications will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and major weaknesses under each applicable criterion published in this announcement.

The in-depth evaluation and review process will use the following criteria coupled with the specific requirements contained under each program priority area as described in Part B.

(Note: The following review criteria reiterate collection of information requirements contained in Part F of this announcement. These requirements are approved under OMB Control Number 0970–0062)

Criteria for Review and Evaluation of Applications Submitted Under Priority Areas 1.0, 2.1, 2.2, and 3.0

(a) Criterion I: Organizational Capability and Capacity (Maximum: 20 points)

(i) Organizational Experience in Program Area (sub-rating: 0–5 points)

Documentation provided indicates that projects previously undertaken have been relevant and effective and have provided permanent benefits to the low-income population.

Organizations which propose providing training and technical assistance have detailed competence in the specific program priority area and as

a deliverer with expertise in the fields of training and technical assistance. If applicable, information provided by these applicants also addresses related achievements and competence of each cooperating or sponsoring organization. The applicant has provided information concerning the relevant experiences and achievements of key personnel including board members, executive staff and project management staff of these organizations.

Applicable to Priority Area 1.0 only

The applicant has demonstrated:

—The ability to implement major activities in such areas as business development, commercial development, physical development, or financial services;

—the ability to mobilize dollars from sources such as the private sector (corporations, banks, etc.), foundations, the public sector, including State and local governments, or individuals;

—that it has a sound organizational structure and proven organizational capability; and

—an ability to develop and maintain a stable program in terms of business, physical or community development activities that will provide needed permanent jobs, services, business development opportunities, and other benefits to community residents.

(ii) Management History (sub-rating: 0–5 points)

Applicant has a history of sound and effective management practices and where it has been a recipient of other Federal or other governmental grants, it has also detailed that it has consistently complied with financial and program progress reporting and audit requirements. The applicant's financial management system has been certified by a Certified or Licensed Public Accountant to be sufficient to protect adequately any Federal funds awarded under the application submitted.

(iii) Staffing and Resources (sub-rating: 0–5 points)

The application fully describes (e.g. resume) the experience and skills of the project director who is not only well qualified but his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. The applicant has adequate facilities and physical resources to carry out successfully the work plan specified.

(iv) Staff Responsibilities (sub-rating: 0–5 points)

The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project.

(b) Criterion II: Significant and Beneficial Impact (Maximum: 30 points)

The application contains a full and accurate description of the proposed use of the requested financial assistance. The proposed project will produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted. Results are quantifiable in terms of program area expectations, e.g., business or physical development accomplished, number of jobs saved/created, number of units of housing rehabilitated, etc. The OCS grant funds, in combination with private and/or other public resources, are targeted into low-income communities, distressed communities, and/or designated enterprise zones.

(c) Criterion III: Project Implementation and Evaluation (Maximum: 30 points)

(i) Project Implementation Component (sub-rating: 0–25 points)

The work plan is both sound and feasible. The project is responsive to the needs identified in the Analysis of Need. It sets forth realistic quarterly time targets by which the various work tasks will be completed. Critical issues or potential problems that might impact negatively on the project are defined and the project objectives can be attained notwithstanding any such potential problems.

For proposals submitted under Priority Area 1.0: In those cases where it is appropriate to the project/venture, there is a valid Business Plan that is complete and feasible.

For proposals submitted under the $2.5 million set aside under Priority Area 1.0: A number of communities or impact areas are targeted simultaneously and benefits are produced on a larger scale than if single-funded projects had been undertaken in each of the communities.

(ii) Evaluation Component (sub-rating: 0–5 points)

The application includes a self-evaluation component. The evaluation data collection and analysis procedures are specifically oriented to assess the degree to which the stated goals and objectives are achieved. Qualitative and quantitative measures reflective of the scheduling and task delineation are used to the maximum extent possible. This component indicates the ways in which the applicant would integrate qualitative and quantitative measures of accomplishment and specific data into its program progress reports required by OCS from all grantees.

(d) Criterion IV: Public-Private Partnerships (Maximum: 15 points)

In addition to the required matching funds, the application documents that the applicant will mobilize from public or private sources additional project support and assistance which will directly benefit the project.

(e) Criterion V: Budget Appropriateness and Reasonableness (Maximum: 5 points)

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The application includes a detailed budget breakout for each of the budget categories in Part III, Section B of the SF 424. The estimated cost to the government of the project also is reasonable in relation to the value of the anticipated results.

Part E—Contents of Application Package and Application

(Approved by the Office of Management and Budget under Control Number 0920–0062)

1. Application Package

Each application submission must include:

a. *A signed original and four additional copies of the application.—Page limitations:*

• *10* pages—This limitation covers the following items to be submitted under Part IV of the SF–424: Eligibility Confirmation, Analysis of Need, Project Design, Evaluation Component, Organizational Experience in Program Area, Management History, Staffing and Resources, and Staff Responsibilities.

• *20* pages—This limitation covers the Business Plan, where required.

• *20* pages—This limitation covers the SF–424, Parts I, II, and III (including attachments) and all other materials such as Articles of Incorporation, Bylaws, resumes or position descriptions, CPA Certifications, clearinghouse comments, etc.

—The original must bear original signatures of the certifying representative of the applicant organization.

—Applications must be uniform in composition since OCS may find it necessary to duplicate them for review

purposes. Therefore, applications must be submitted on 8½ x 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included.

—Applications should be submitted in ringbinders that will allow for easy separation and reassembly.

—While applications must be comprehensive, OCS encourages conciseness and brevity in the presentation of materials and cautions the applicant to avoid unnecessary duplication of information.

Failure to comply with the above formatting requirements may result in disqualification and return of an application.

b. *A self-addressed, stamped postcard so that acknowledgment of receipt can be returned.* (This requirement applies even if the application is accompanied by a "return receipt requested card".) Please note the following:

—All applications will be assigned an identification number which will be noted on the acknowledgment. This number and the program priority area must be referred to in all subsequent communication with OCS concerning the application. If an acknowledgment is not received within three weeks after the deadline date, please notify FSA by telephone (202) 245-0937.

2. Contents of Applications

Each copy of the application must contain in the order listed each of the following:

a. A Table of Contents with page numbers noted for each major section and subsection of the proposal and each section of the appendices. Each page in the application, including those in all appendices, must be numbered consecutively.

b. A Standard Form 424 (see Attachment B.) The SF-424 should be completed in accordance with instructions found in Part F of this announcement. As completed, the SF-424 should include: Part I, Federal Assistance including justification for indicating a grant period exceeding 12 months; Part II, Project Approval Information; Part III, Budget Information — Sections A through F with attachments including a detailed budget breakdown for section B and documentation of required matching funds (if applicable); and Part IV, Project Narrative and, for applications submitted under Priority Area 1.0, a complete Business Plan. (See Part F, Section 4.c., for detailed instructions on completing the Business Plan.)

c. Form HHS 441, Assurance of Compliance with the Department of Health and Human Services Regulation Under Title VI of the Civil Rights Act of 1964. (See Attachment C.)

d. Form HHS 641, Department of Health and Human Services Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as amended. (See Attachment D.)

Part F—Instructions for Completing Applications

(Approved by the Office of Management and Budget under Control Number 0970-0062)

The forms attached to this announcement shall be used to apply for funds for all priority areas described in this announcement.

It is suggested that you reproduce the SF-424 amd type your application on the copy. If an item on the SF-424 cannot be answered or does not appear to be related or relevant to the assistance requested, write "NA" for "not applicable." Prepare your application in accordance with the following instructions.

1. SF-424, PART I.

Section I of Part I, SF-424

Applicants shall complete all items in Section I. If additional space is needed, insert an asterisk (*) and use the remarks section (Part I, Section IV).

Item

1. Mark "Application" when used as a grant application. (The applicant, unless otherwise advised by the State or area-wide clearinghouse shall use a copy of the SF-424 Part I as a notification of intent to apply for Federal Assistance in accordance with procedures established by these clearinghouses and Executive Order 12372. When used for this purpose, mark "Notice of Intent".)

2a. Applicant's own control number, if desired.

2b. Date Section I is prepared.

3a. All applicants shall enter the number assigned by State clearinghouses or, if delegated by State, by area-wide clearinghouse(s). Applications submitted to OCS must contain this identifier if provided by the applicable State/area-wide clearinghouse(s). If in doubt, consult your clearinghouse(s).

3b. Date applicant notified of clearinghouse(s) identifier code(s).

4a/4h. Enter legal name of applicant/recipient, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, name and telephone number of person who can provide further information about this request.

IF THE PAYEE WILL BE OTHER THAN THE APPLICANT, ENTER IN THE REMARKS SECTION (SECTION IV OF PART I), UNDER THE HEADING "PAYEE", THE PAYEE'S NAME, DEPARTMENT OR DIVISION, COMPLETE ADDRESS AND EMPLOYER IDENTIFICATION NUMBER, AS ASSIGNED BY THE INTERNAL REVENUE SERVICE, OR THE DHHS ENTITY NUMBER, IF KNOWN.

If an individual's name and/or title is desired on the payment instrument, the name and/or title of the designated individual must be specified.

5. Enter Employer Identification Number of applicant as assigned by Internal Revenue Service. If the applicant organization has been assigned a DHHS entity number consisting of the IRS employer identification number prefixed by "1" and suffixed by a two-digit number, enter the full entity number. If applicant has other grants with DHHS and has been assigned a Payee Identification Number (PIN), enter this PIN in parentheses ( ) beside employer identification number.

6a. Enter the Catalog of Federal Domestic Assistance number assigned to the program under which assistance is requested. The Catalog of Federal Domestic Assistance numbers for the programs under this Program Announcement is 13.793.

6b. Enter the program title from Catalog of Federal Domestic Assistance. Abbreviate, if necessary.

7. Enter a title and appropriate description of project.

8. Enter appropriate letter to designate grantee type—"City" includes town, township or other municipality. If the grantee is other than that listed, specify type on "Other" line e.g., Council of Governments. Note: Non-profit organizations must submit proof of non-profit status.

9. Enter Governmental unit where significant and meaningful impact could be observed. List only largest unit or units affected, such as state, county, or city. If an entire unit is affected, list it, rather than sub-units.

10. Identify estimated number of persons directly benefiting from project, as described in the program narrative (SF-424, Part IV).

11. All applicants for grant funds under this Program Announcement should enter the letter "A".

12. Enter amount requested or to be contributed during the funding/budget period by each contributor. Item 12 must

include all funding for the proposed project including all non-OCS funds which the applicant plans to mobilize.

Note: When completing Item 12a, "Federal funding is to be taken to refer to the requested OCS funding only. All other Federal funds are to be included in item 12e "Other." Section IV of Part I (reverse side of page 1) must include a further two columns detailing item 12 (b through e) in which public funds are distinguished from private funds, and in which total mobilized funds (including 12b, 12c, 12d and 12e) are divided into separate public and private funds components by source. Where allowable the value of in-kind contributions will be included. Item definitions: 12a, amount requested from OCS; 12b, amount applicant will contribute; 12c, amount from State, if applicant is not a State; 12d, amount from local government, if applicant is not a local government; 12e, amount from any other sources INCLUDING NON-OCS FEDERAL FUNDS.

13a. The Congressional District identified by its State and number should correspond with the applicant's address under item 4 above.

13b. Enter the number of the Congressional District(s) and State(s) where most of the actual work of the project will be accomplished. If city-wide or State-wide covering several Districts, write "City-wide" or "State-wide".

14. Enter appropriate letter. Definitions are:

a. *New:* A submittal for the first time for a new project or project period.

b. *Renewal:* Not applicable to these OCS programs.

c. *Revision:* Not applicable at this time.

d. *Continuation:* Not applicable to these OCS programs.

e. *Augmentation:* Not applicable to these OCS programs.

15. Enter approximate date project is expected to begin. (Most budget periods will be for 12 months but may be as long as 24 months.)

16. Enter estimated number of months to complete project after Federal funds are available. If budget period is other than 12 months, check item 21 and provide justification for such. If the project is intended to continue beyond the OCS grant expiration date, the applicant must demonstrate in Part IV of the SF-424 that it will be able to continue project operations with other sources of funding.

17. Not applicable at this time.

18. Estimated date application will be submitted to Federal agency.

19. Indicate Federal agency to which this request is addressed—HHS/FSA, Washington, DC 20201.

20. Write "NA."

21. Check appropriate box as to whether Part I, Section IV of SF-424 contains remarks and/or additional "remarks" sheets are attached.

Section II of Part I SF-424

Applicants shall always complete items 22a or 22b as well as 23a and 23b. An explanation follows for each item.

22a and 22b. Self explanatory.

23a. Enter name and title of authorized representative of legal applicant.

23b. Self explanatory. **Note:** Authorized representative must personally execute this document.

Note: Applicant completes only sections I and II of Part I. Section III is completed by the Federal Agency to whom application is being made.

2. SF-424, PART II

Negative answers will not require an explanation unless the responsible program office requests more information at a later date. All "Yes" answers must be explained on a separate page in accordance with these instructions.

Item 1—Provide the name of the governing body establishing the priority system and the priority rating assigned to this project. If the priority rating is not available, give the approximate date that it will be obtained.

Item 2—Provide the name of the agency or board which issued the clearance and attach the documentation of status or approval. If the clearance is not available, give the approximate date that it will be obtained.

Item 3—Furnish the name of the approving agency and the approval date. If the approval has not been received, state approximately when it will be obtained.

Item 4—Show whether the approved comprehensive plan is State, local or regional; or, if none of these, explain the scope of the plan. Give the location where the approved plan is available for examination, and state whether this project is in conformance with the plan. If the plan is not available, explain why.

Item 5—Show the population residing or working on the Federal installation who will benefit from this project. (Federally recognized Indian reservations are not "Federal Installations".)

Item 6—Show the percentage of the project work that will be conducted on Federally-owned land or leased land. Given the name of the Federal installation and its location.

Item 7—Briefly describe the possible beneficial and/or harmful effect on the environment because of the proposed project. If an adverse environmental effect is anticipated, explain what action will be taken to minimize it.

Item 8—State the number of individuals, families, businesses, or farms this project will displace, if any.

Item 9—Show the Catalog of Federal Domestic Assistance number, the program number, the type of assistance, the status, the amount of each project where there is related previous, pending or anticipated assistance from another funding source.

Item 9 will generally be answered in the affirmative, particularly for community economic development applications. Whenever it is answered in the affirmative (i.e. whenever items 12c, 12d, or 12e of Part I have non-zero entries), Part II must be accompanied by additional documentation which identifies the source of all of the State, local and other funds listed in item 12 of Part I of the SF 424. This documentation must include assurances of the availability of these funds. Funds previously awarded for this project but yet to be expended must be evidenced by copies of applications to, and award documents or letters of commitment from, the expected source of these funds. OCS reserves the right to contact these sources regarding anticipated funding or previous assistance.

3. SF-424, PART III

In completing these sections the "Federal" fund budget entries will relate to the requested OCS discretionary funds only, and "non-Federal" will include mobilized funds from all other sources—applicant, State, local and other. Federal funds other than requested OCS discretionary funding should be included in "non-Federal" entries.

The budget forms in Part III of SF 424 are only to be used to present grant administrative costs and major budget categories. Financial data that is generated as part of a project Business Plan or other internal project cost data must be separate and should appear as part of the project Business Plan or other project implementation data.

Sections A and D of Part III must contain entries for both Federal (OCS) and non-Federal (mobilized) funds. Section B contains entries for Federal (OCS) funds only. Section C contains entries for non-Federal (mobilized) funds only. Clearly identified continuation sheets in SF-424, Part III format should be used as necessary.

Section A—Budget Summary

Lines 1–4

Col. (a): Enter on Line 1 under Column (a) "Administrative, applicant"; enter on Line 2 under Column (a) "Administrative, project;" enter on Line 3 under Column (3) "Working Capital"; enter on Line 4 under Column (a) "Fixed Assets".

Col. (b): Enter on Line 1 under Column (b) the Program Announcement Number OCS–88–1. Enter on Line 2 under Column (b) the appropriate Catalog of Federal Domestic Assistance number (13.793).

Col. (c)–(g): For new applications, leave Columns (c) and (d) blank. For each line entry, enter in Columns (e), (f), and (g) the appropriate amounts needed to support the project for the budget period.

Line 5

Enter the totals for all columns completed, (c) through (g).

Section B—Budget Categories

Columns (1)–(5):

In OCS applications, it is only necessary to complete Columns (1) and (5). For the project entered in Column 1, enter the total requirements for OCS Federal funds by the Object Class Categories of this section.

Allowability of costs are governed by applicable cost principles set forth in Sub-part Q of 45 CFR Part 74.

Personnel-Line 6a: Enter the total costs of salaries and wages of applicant/grantee staff only. Do not include costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits-Line 6b: Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate which is entered on Line 6j. Provide a breakdown of amounts and percentages that comprise fringe benefit costs.

Travel-Line 6c: Enter total costs of out-of-town travel by employees of the project. Do not enter costs for consultant's travel or local transportation. Provide justification for requested travel costs. (See Line 6h and Section F, Line 21, for additional instructions).

Equipment-Line 6d: Enter the total costs of all non-expendable personal property to be acquired by the project. "Non-expendable personal property" means tangible personal property having a useful life of more than two years and an acquisition cost of $500 or more per unit. An applicant may use its own definition of non-expendable personal property, provided that such a definition would at least include all tangible personal property as defined in the preceding sentence. (See Section F, Line 21 for additional requirements).

Supplies-Line 6e: Enter the total costs of all tangible personal property (supplies) other than that included on line 6d.

Contractual-Line 6f: Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and, (2) contracts with secondary recipient organizations including delegate agencies and specific project(s) or businesses to be financed by the applicant. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individual service contractors on this line. If available at the time of application, attach a list of contractors indicating the name of the organization, the purpose of the contract and the estimated dollar amount of the award. If the Name of Contractor, Scope of Work, Estimated Total are not available or have not been negotiated, include in Line h, "Other".

Note.—Whenever the applicant/grantee intends to delegate part of the program to another agency, the applicant/grantee must submit Sections A and B of Part III, Budget Section, completed for each delegate agency by agency title, along with the required supporting information referenced in the applicable instructions. The total costs of all such agencies will be part of the amount shown on Line 6(f). Provide back-up documentation identifying name of contractor, purpose of contract and major cost elements.

Construction-Line 6g: Enter the costs of renovation or repair. Provide narrative justification and break-down of costs.

Other-Line 6h: Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to, insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing and publication, computer use, training costs including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Total Direct Charges-Line 6i: Show the total of Lines 6a through 6h.

Indirect Charges-Line 6j: Enter the total amont of indirect costs. If no indirect costs under a currently approved agreement are requested enter "none". This line should be used only when the applicant (except local governments) currently has an indirect cost rate approved by the Department of Health and Human Services or other Federal agencies. Please enclose a copy of current rate agreement. Local governments shall enter the amount of the indirect costs determined in accordance with the Federal agency's requirements. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not be also charged as direct costs to the grant.

Total-Line 6k: Enter the total amounts of Lines 6i and 6j. For all applications the total amount shown in Column (5), Line 6k, should be the same as the amount shown in Section A, Column (e), Line 5.

Program Income-Line 7: Enter the estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from OCS support and that generated from matching funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement in Part IV of the SF–424.

Section C—Non-Federal Resources

Line 8–11: Enter amounts of "non-Federal" resources that will be used to support the project. ("Non-Federal" resources mean other than those OCS funds for which the applicant is applying. Therefore, matching funds from other Federal programs, such as the Job Training Partnership Act program, should be entered on these lines.) Provide a brief explanation, on a separate sheet, showing the type of contribution and whether it is in cash or in-kind. The firm commitment of these required funds must be documented and submitted with the application. Also if the applicant is proposing to use any block grant funds other than those provided under the Job Training Partnership Act, Social Services Block Grant Program, or the Low Income Home Energy Assistance Program, the legality of such use must be documented and a statement made explaining how these funds can be diverted to this project while maintaining previous anti-poverty efforts. Failure to provide the required documentation may make the application ineligible for funding. *Except in unusual situations, this documentation must be in the form of letters of commitment from the organization(s)/individuals from which funds will be received.*

When the contribution is in the form of in-kind, show the basis for computation including:

(1) Numbers and types of volunteers and rates at which their services are valued;

(2) Valuation of donated space to be used in the project, including the number of square feet and the annual rental value assigned per square foot.

(3) Determination of use allowance for grantee-owned space. (Include statement whether space was purchased or constructed, totally or in part, with federal funds for items (2) and (3));

(4) Type and value of other in-kind contributions expected.

Note. Speculative match, or match based on independent contingencies (such as receipt of another grant) will not be counted towards the matching requirement.

Column (a): Enter the project title.

Column (b): Enter the amount of cash and in-kind contributions to be made by the applicant.

Column (c): Enter the State contribution. If the applicant is a State agency, enter the non-Federal funds to be contributed by the State other than the applicant State agency.

Column (d): Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e): Enter the total of Columns (b), (c), and (d).

Line 12—Enter total of each Columns (b) through (e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D—Forecasted Cash Needs

Line 13—Enter the amount of Federal (OCS) cash needed for this grant, by quarter, during the budget period.

Line 14—Enter the amount of cash from all other sources needed by quarter during the budget period.

Line 15—Enter the totals of amounts of Lines 13 and 14.

Section E—Budget Estimates of Federal Funds Needed for Balance of Project(s)

No entries are required for OCS grants.

Section F-Other Budget Information

Line 21—Use this space and continuation sheets as necessary to fully explain and justify the major items included in the budget categories shown in Section B. Include sufficient detail to facilitate determination of allowability, relevance to the project, and cost benefits. Particular attention must be given to the explanation of any requested direct cost budget item which requires explicit approval by the Federal agency. Budget items which require identification and justification shall include, but not be limited to, the following:

A. Salary amounts and percentage of time worked for those key individuals who are identified in the project narrative;

B. Any foreign travel;

C. A list of all equipment and estimated cost of each item to be purchased wholly or in part with grant funds which meet the definition of nonexpendable personal property provided on Line 6d, Section B. Need for equipment must be supported in program narrative;

D. Contractual: Major items or groups of smaller items; and

E. Other: group into major categories, all costs for consultants, local transportation, space, rental, training allowances, staff training, computer equipment, etc. Provide a complete breakdown of all costs that make up this category.

Matching funds should also be broken out in the same manner as required for Federal funds in A through E above.

Line 22—Enter the type of HHS or other Federal agency approved indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a copy of rate agreement.

Line 23—Provide any other explanations and continuation sheets required or deemed necessary to justify or explain any SF-424, Part III entries.

4. SF-424, PART IV

Each narrative should include the following major sections:

a. Eligibility Confirmation
b. Analysis of Need
c. Project Design (Work Program)
d. Evaluation Component
e. Organizational Experience in Program Area
f. Management History
g. Staffing and Resources
h. Staff Responsibilities

Part IV of the SF-424 (Program Narrative) must address the specific concerns mentioned under the relevant priority area description in Part B. The narrative should provide information on how the application meets the evaluation criteria in Part D, Section 5.c., of this Program Announcement and should follow the format below:

a. *Eligibility Confirmation.* This section must explain how the applicant has complied with each of the basis requirements listed in Part D, 5.b. (1)-(7), i.e.: (1) That the applicant meets the eligibility requirements for the Priority Area under which funds are being requested; (2) the application contains only one project which responds to one of the priority areas in the announcement; (3) the application clearly targets the specific outcomes and benefits of the project to low-income participants and beneficiaries; (4) the minimum prescribed amounts of private and/or public sector funds have been firmly committed when such match is required; (5) the amount of funds requested does not exceed the limits indicated in Part C., Section 2.b. for the appropriate priority area; (6) the application addresses the purposes described in Part B. of the announcement; and (7) for applications for the $2.5 million set-aside under Priority Area 1.0, the project simultaneously targets a number of communities or impact areas.

b. *Analysis of Need.* The application should include a description of the target area and population to be served as well as a discussion of the nature and extent of the problem to be solved.

c. *Project Design (Work Program).* The application must contain a detailed and specific work program that is both sound and feasible. It must set forth realistic quarterly time targets by which the various work tasks will be completed. (Because quarterly time schedules are used by OCS as a key instrument to monitor progress, failure to include these time targets may seriously reduce an applicant's point score in this criterion.) It must identify critical issues or potential problems that might impact negatively on the project and it must indicate how the project objectives will be attained notwithstanding any such potential problems.

Projects funded under this announcement must produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted. The OCS grant funds, in combination with private and/or other public resources, must be targeted into low-income communities, distressed communities, and/or designated enterprise zones. Projects must be designed to achieve the specific program priority area objectives defined in this Program Announcement.

If an applicant is proposing a project which will affect a property listed in or eligible for inclusion in the National Register of Historic Places it must identify this property in the narrative and explain how it has complied with the provisions of Section 106 of the National Historic Preservation Act of 1966 as amended. If there is any question as to whether the property is

listed in or eligible for inclusion in the National Register of Historic Places, applicant should consult with the State Historic Preservation Officer. (See Attachment E, item 12 for additional guidance.) The applicant should contact OCS early in the development of its application to OCS for instructions regarding compliance with the Act and data required to be submitted to the Department of Health and Human Services. Failure to comply with the cited Act may result in the application being ineligible for consideration for funding.

The following are specific items to be addressed for each of the priority areas:

Priority Area 1.0: Urban and Rural Community Economic Development

Following are examples of specific impact measures for this priority area: The number of new permanent direct jobs or ownership opportunities to be created for low-income residents, especially those individuals being served by public assistance programs of the area that the project is intended to serve; the number of such jobs maintained; increase in taxes paid; new technical skills development and associated career opportunities for low-income community residents; development of the community's economic and physical assets; the amount of non-Discretionary Program dollars to be mobilized and the degree of involvement by private sector individuals, corporations, and foundations in the implementation of the project.

Each application submitted under Priority Area 1.0 also must include a complete Business Plan as part of its project work plan where such a Business Plan is appropriate to the project/venture. An application that does not include a Business Plan where one is appropriate may be found to be non-responsive and the application may be disqualified and returned to the applicant.

The Business Plan is one of the major components that will be evaluated by OCS to determine the feasibility of an economic development project. Therefore, the Business Plan must be well prepared and address all the major issues noted herein.

The following guidelines show the necessary sections of a Business Plan, and what should be included in each section.

Use of these guidelines should result in a complete and professional Business Plan of not more than 20 pages which makes an orderly presentation of the facts necessary to be judged responsive to the program announcement.

Because the guidelines were written to cover a variety of possibilities, rigid adherence to them is not possible nor even desirable for all projects. For example, a plan for a service business would not require a discussion of manufacturing nor product design.

Summary Business Plan: A 1–2 page summary of the Business Plan should be a brief and accurate presentation of the highlights of the project and its opportunities and should include the following:

- *The Project:* Indicate when the company was founded, what is special or unique about it and what it intends to accomplish in this project for which funds are being requested. Also indicate what in the background of the management team makes its members particularly qualified (e.g. unique know-how) to pursue the business opportunity.
- *Market Opportunity:* Identify and briefly explain the market opportunity. This explanation should include information on the size and growth rate of the market for the business' product or service, and a statement indicating the percentage of that market that will be captured. A brief statement about industrywide trends is also useful and any indication of plans for the expansion of the initial product line should be included.
- *Financial Data:* State sales and profit goals for the three years following an OCS award. State clearly the size of the OCS grant request for investment purposes and all other funds already obtained or committed.

The format for the complete Business Plan is as follows:

1. *The Business and its industry:* This section should describe the nature and history of the business and provide some background on its industry.

A. *The Business:* (legal entity, general business category);

B. *Description and Discussion of Industry:* (Current status and prospects for the industry);

2. *Products and Services:* This section deals with the following:

A. *Description:* Describe in detail the products or services to be sold.

B. *Proprietary Position:* Describe proprietary features if any of product (patents, trade secrets).

C. *Potential:* Features of the product or service that may give it an advantage over the competition.

3. *Market Research and Evaluation:* (The purpose of this section is to present sufficient information to show that the product or service has a substantial market and can achieve sales in the face of competition.)

A. *Customers:* Who are the actual and potential purchasers for the product or service by market segment?

B. *Market Size and Trends:* What is the size of the current total market for the product or service offered?

C. *Competition:* An assessment of the strengths and weaknesses of competitive products and services.

D. *Estimated Market Share and Sales:* What it is about the product or services that will make it saleable in the face of current and potential competition.

4. *Marketing Plan:* The marketing plan should detail the product, pricing, distribution, and promotion strategies that will be used to achieve the estimated market share and sales projections. The marketing plan must describe what is to be done, how it will be done and who will do it. The plan should address the following topics—Overall Marketing Strategy, Packaging, Service and Warranty, Pricing, Distribution and Promotion.

5. *Design and Development Plans:* If the product, process or service of the proposed venture requires any design and development before it is ready to be placed on the market, the nature and extent and cost of this work should be fully discussed. The section should cover items such as Development status and Tasks, Difficulties and Risks, Product Improvement and New Products, and Costs.

6. *Manufacturing and Operations Plan:* A manufacturing and operations plan should describe the kind of facilities, plant location, space, capital equipment and labor force (part and/or full time and wage structure) that are required to provide the company's product or service.

7. *Management Team:* (The management team is the key in starting and operating a successful business. The management team should be committed with a proper balance of technical, managerial and business skills and experience in doing what is proposed.) This section must include a description of: The key management personnel and their primary duties; compensation and/or ownership; the organizational structure, Board of Directors; management assistance and training needs; and supporting professional services.

8. *Overall Schedule:* A schedule that shows the timing and interrelationships of the major events necessary to launch the venture and realize its objectives.

Prepare, as part of this section, a month-by-month schedule that shows the timing of such activities as product development, market planning, sales programs, production and operations.

Sufficient detail should be included to show the timing of the primary tasks required to accomplish an activity.

9. *Critical Risks and Assumptions:* The development of a business has risks and problems and the Business Plan should contain some explicit assumptions about them. Accordingly, identify and discuss the critical assumptions in the Business Plan and the major problems that will have to be solved to develop the venture. This should include a description of the risks and critical assumptions relating to the industry, the venture, its personnel, the product's market appeal, and the timing and financing of the venture.

10. *Community Benefits:* The proposed project must contribute to economic, community and human development within the project's target area. A section that describes and discusses the potential economic and non-economic benefits to low-income members of the community must be included as well as a description of the strategy that will be used to identify and hire individuals being served by public assistance programs.

Among the benefits that merit discussion are:

• *Economic*

—number of permanent jobs that will be generated or maintained in each of the first three years of the project;
—number and type of new permanent employment opportunities for previously unemployed or underemployed individuals;
—number of skilled jobs and the number of other higher paying permanent jobs;
—number of these jobs that will be filled by poverty-level project area residents;
—number of jobs that will be filled by individuals on public assistance;
—ownership opportunities created for poverty-level project area residents;
—purchase of goods and services from local suppliers;
—increases in personal, property and/or business taxes paid.

• *Human Development*

—new technical skills development and associated career opportunities for community residents;
—management development and training.

• *Community Development*

—development of community's physical assets;
—provision of needed, but currently unsupplied, services or products to community;
—improvement in the living environment.

11. *Financial Plan:* The Financial Plan is basic to the development of a Business Plan. Its purpose is to indicate the project's potential and the timetable for financial self-sufficiency.

In developing the Financial Plan, the following exhibits must be prepared for the grant year and for each of the next two years following an OCS grant period:

a. Profit and Loss Forecasts—Quarterly for each year;
b. Cash Flow Projections—Quarterly for each year;
c. Pro Forma Balance Sheets—Quarterly for each year;
d. Initial Sources of Project Funds; and
e. Initial Uses of Project Funds; and
f. Any Future Capital Requirements and Sources.

Priority Area 2.1, Assistance in Rural Housing Repairs and Rehabilitation

Each applicant must include a full discussion of the project including the following information:

—*Basic Housing Data for Targeted Area.* Information on the status of housing in the targeted area, including but not limited to vacancy rates, housing deficiencies, characteristics of housing units to be repaired, new construction inventory, property values, rents and mortgage rates. (While specific census data may be included, this information must be project specific.)

—*Priorities.* Provide a rationale for the strategies and priorities for which OCS support is requested.

—*Participant Application Process.* A description of the participant application process including: (a) verification of participant need and income eligibility, (b) proposed diagnostic repair forms and contract bid procedures (where applicable), and (c) completion verification and quality workmanship assurance procedures.

—*Types of Work to be Performed.* The quantitative and qualitative measures in the work plan should reflect the types of work to be performed, e.g. (a) technical assistance and training for each proposed organization/community; and/or (b) repairs or rehabilitation or construction work, noting which types of work will be done in order to bring properties up to minimum housing standards, inspection procedures and construction schedules. Applications proposing to repair or rehabilitate low-income rental housing (see Part B., Priority Area 2.1, regarding restrictions) must state the current rents for the units in question as well as what rents will be charged for the rehabilitated units.

—*Job Creation.* Data regarding the number of direct jobs that will be created in the proposed project, noting the number of low-income residents that will be trained and/or placed in these jobs.

—*Public-Private Partnership.* A description of the degree of involvement by private sector individuals, corporations, and foundations in the implementation of the project and the amount of dollars which will be mobilized. (These data should cover only those personal and dollar resources which are mobilized *in addition* to those required to meet the match.)

Following are example of specific impact measures for this priority area: The types of training and technical assistance proposed including specific outcomes of such assistance, e.g. number of organizations and individuals trained, the proposed number of on-site days or training days provided, sample curricula; the number of sub-standard housing units to be repaired and/or rehabilitated, noting by number those which will be occupied by a low-income owner and/or those which will be rental units; the number of low-income residents who will be helped to purchase or acquire adequate housing; the number of low-income people to be employed in such projects; the number of units to be converted or newly constructed; total non-Discretionary Program dollars mobilized; justifications for selecting target communities that are based on the housing needs of low-income local residents and which show the types and amounts of assistance that have been provided in the communities in previous years; documentation, in cases of new construction, that there is insufficient existing housing stock that can be economically rehabilitated; and evidence that rehabilitation projects are not duplicative of programs which can be funded through other existing Federal programs.

Priority Area 2.2, Rural Community Facilities Development (Water and Waste Water Treatment Systems Development)

Each applicant must include a full discussion of how the proposed use of funds will result in preservation of the quality of water and waste water treatment systems for the rural poor or tangible improvements and other benefits such as:

—Dissemination of information on water and waste water programs serving rural communities;

—Increased local expertise and capability in water and waste water development and engineering services;

—Assistance to rural communities in developing the capability to operate and manage water and waste water facilities; and

—Better coordination of Federal, State and local water and waste water

program financing and development to assure improved service to rural communities.

Following are examples of specific impact measures for this priority area: The number of rural communities to be provided with technical and advisory services; the number of rural poor individuals who are expected to be directly served by applicant-supported improved water and waste water systems; the decrease in the number of inadequate water systems related to applicant activity; the number of newly-established and applicant-supported treatment systems (all of the above may be expressed in terms of equivalent connections); the increase in local capacity in engineering and other areas of expertise; and the amount of non-Discretionary Program dollars expected to be mobilized which are *in addition* to those mobilized for match purposes.

Applicants who define measureable benefits in terms of equivalent connection units (ECUs) should indicate the number of connection units to be completed during the grant program year.

Priority Area 3.0 Assistance to Migrants and Seasonal Farmworkers

Each applicant must include a full discussion of the proposed project and how it will address one or more farmworker needs as described in Part B.

Following are examples of specific impact measures for this priority area: The number of farmworkers who are expected to improve their agricultural skills and thus improve their agricultural employment situation; the number of farmworkers/families who will receive crisis nutritional relief, emergency health and social services referrals and assistance, and assistance in the development of self-help systems of food production; the number of farmworkers who are expected to gain longer term or permanent private sector employment in areas outside agriculture; the number of farmworkers who will receive help in the areas of housing; the number of housing units to be repaired or rehabilitated; the degree and kind of such help; the amount of non-Discretionary Program dollars expected to be mobilized which are *in addition* to those mobilized to meet the match requirement; and the degree of private sector involvement that will be utilized in developing and carrying out projects funded under this announcement.

d. *Evaluation Component.* All proposals should include a self-evaluation component. The evaluation data collection and analysis procedures should be specifically oriented to assess the degree to which the stated goals and objectives are achieved. Qualitative and quantitative measures reflective of the scheduling and task delineation should be used to the maximum extent possible. This component should indicate the ways in which the potential grantee would integrate qualitative and quantitative measures of accomplishment and specific data into its program progress report that are required by OCS from all grantees.

e. *Organizational Experience in Program Area.* Each applicant must document competence in the specific program priority area under which an application is submitted.

Documentation must be provided which addresses the relevance and effectiveness of projects previously undertaken in the specific priority area for which funds are being requested and especially their cost effectiveness, the relevance and effectiveness of any services provided, and the permanent benefits provided to the low-income population. Applicants with a history of less than two years of prior achievement in the program area should so identify themselves. They must also indicate those activities that they have carried out in the area in question and the reasons why they feel that they can successfully implement the project for which they are requesting funding. Organizations which propose providing training and technical assistance must detail their competence in the specific program priority area and as a deliverer with expertise in the fields of training and technical assistance. If applicable, information provided by these applicants must also address related achievements and competence of each cooperating or sponsoring organization. Applicants should also provide information concerning the relevant experiences and achievements of key personnel including board members, executive staff and project management staff of such organizations.

Applicable to Priority Area 1.0 Only

Applicants for funds under Priority Area 1.0 must *also* follow the special instructions below:

Any applicant applying under this priority area must document previous involvement in substantial economic development activities and a record of successful project implementation which justifies high degree of confidence that the proposed project will succeed. Therefore, applicants in this priority area must document a firmly established and quantifiable performance record that shows the following:

—The ability to implement major activities such as business development, commercial development, physical development, or financial services;

—The ability to mobilize dollars from sources such as the private sector (corporations, banks, etc.), foundations, the public sector, including State and local governments, or individuals;

—Successful working relationships within the community including public officials, financial institutions, corporations, other community organizations and residents;

—A sound asset base and organizational structure in terms of (a) net worth, (b) management stability, and (c) organizational capability;

—An ability to develop and maintain a stable program in terms of business, physical or community development activities that will provide needed permanent jobs, services, business development opportunities, and other benefits to community residents, and impact on community-wide economic problems and needs;

—Sound administrative and fiscal systems and controls; and

—The ability to establish and maintain partnerships with the private sector in such forms as financial support, volunteerism, or executives on loan.

f. *Management History.* Applicants must detail a history of sound and effective management practices and if they have been recipients of other Federal or other governmental grants, they must also detail that they have consistently complied with financial and program progress reporting and audit requirements. Articles of Incorporation, By-Laws, a description of the Governing Board and representational structure (where applicable) are to be included along with a certification by a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect adequately any Federal funds awarded under the application submitted.

g. *Staffing and resources.* The application must fully describe (e.g. a resume or position description) the experience and skills of the proposed project director showing that the individual is not only well qualified but that his/her professional capabilities are relevant to the successful implementation of the project.

h. *Staff responsibilities.* The applicant must include statements regarding who will have the responsibilities of the chief executive officer, who will be responsible for grant coordination with OCS, and how the assigned responsibilities of the staff are appropriate to the tasks identified for the project. It must show clearly that

sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project.

Part G—Post-Award Requirements

The official award document is the Notice of Grant Award which sets forth in writing to the recipient the amount of funds awarded, the purpose of the award, other terms and conditions of the award, the effective date of the award, the budget period for which support is given, the total project period for which support is contemplated and the total recipient financial participation required.

In addition to the General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grants, grantees will be subject to the provisions of Office Management and Budget Circulars A-102 or A-110 and A-122 the last of which, amongst other provisions, prohibits the use of a grant funds for (a) electioneering activities at the Federal, State or local level and (b) attempts to influence Federal or State legislation through either grassroots lobbying or direct contacts with Federal or State legislators or their staffs.

Grantees will be required to submit quarterly progress and financial reports as well as an audit of the project costs. (Costs associated with the completion and submission of the required grant audit may be chargeable to the grant and will not be considered as part of the up to 10% of the grant that is allowable for administrative costs.)

Grantees who will be charging administrative costs to the OCS grant will have to assure that such costs are identifiable in their records in order that auditors and OCS personnel can verify that the 10% administrative cost limitation is not exceeded.

David J. Kirker,

Acting Director, Office of Community Services.

Deputy Administrator, Family Support Administration.

Attachment A—*1987* Poverty Income Guidelines

Attachment B—SF-424, Federal Assistance

Attachment C—Assurance of Compliance with DHHS Regulation under Title VI of the Civil Rights Act of 1964

Attachment D—Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as amended

Attachment E—Assurances (General)

BILLING CODE 4150-04-M

1987 REPRINT

1987 POVERTY INCOME GUIDELINES FOR ALL STATES (EXCEPT ALASKA AND HAWAII) AND THE DISTRICT OF COLUMBIA

Size of family unit	Poverty guideline
1	$ 5,500
2	7,400
3	9,300
4	11,200
5	13,100
6	15,000
7	16,900
8	18,800

For family units with more than 8 members, add $1,900 for each additional member.

POVERTY INCOME GUIDELINES FOR ALASKA

Size of family unit	Poverty guideline
1	$ 6,860
2	9,240
3	11,620
4	14,000
5	16,380
6	18,760
7	21,140
8	23,520

For family units with more than 8 members, add $2,380 for each additional member.

POVERTY INCOME GUIDELINES FOR HAWAII

Size of family unit	Poverty guideline
1	$ 6,310
2	8,500
3	10,690
4	12,880
5	15,070
6	17,260
7	19,450
8	21,640

For family units with more than 8 members, add $2,190 for each additional member.

OMB Approval No. 0348-0006

FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION (Mark appropriate box)
- ☐ NOTICE OF INTENT (OPTIONAL)
- ☐ PREAPPLICATION
- ☐ APPLICATION

2. APPLICANT'S APPLICATION IDENTIFIER — a. NUMBER — b. DATE (Year month day) 19

3. STATE APPLICATION IDENTIFIER (NOTE: TO BE ASSIGNED BY STATE) — a. NUMBER — b. DATE ASSIGNED (Year month day) 19

Leave Blank

SECTION I—APPLICANT/RECIPIENT DATA

4. LEGAL APPLICANT/RECIPIENT
a. Applicant Name
b. Organization Unit
c. Street/P.O. Box
d. City — e. County
f. State — g. ZIP Code.
h. Contact Person (Name & Telephone No.)

5. EMPLOYER IDENTIFICATION NUMBER (EIN)

6. PROGRAM (From CFDA) — a. NUMBER — MULTIPLE ☐ — b. TITLE

7. TITLE OF APPLICANT'S PROJECT (Use section IV of this form to provide a summary description of the project.)

8. TYPE OF APPLICANT/RECIPIENT
A—State; B—Interstate; C—Substate Organization; D—County; E—City; F—School District; G—Special Purpose District; H—Community Action Agency; I—Higher Educational Institution; J—Indian Tribe; K—Other (Specify):
Enter appropriate letter ☐

9. AREA OF PROJECT IMPACT (Names of cities, counties, states, etc.)

10. ESTIMATED NUMBER OF PERSONS BENEFITING

11. TYPE OF ASSISTANCE
A—Basic Grant; B—Supplemental Grant; C—Loan; D—Insurance; E—Other
Enter appropriate letter(s) ☐☐

12. PROPOSED FUNDING

a. FEDERAL	$ .00
b. APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. Total	$ .00

13. CONGRESSIONAL DISTRICTS OF: a. APPLICANT — b. PROJECT

14. TYPE OF APPLICATION
A—New; B—Renewal; C—Revision; D—Continuation; E—Augmentation
Enter appropriate letter ☐

15. PROJECT START DATE (Year month day) 19

16. PROJECT DURATION Months

17. TYPE OF CHANGE (For 14c or 14e)
A—Increase Dollars; B—Decrease Dollars; C—Increase Duration; D—Decrease Duration; E—Cancellation; F—Other (Specify):
Enter appropriate letter(s) ☐☐☐

18. DATE DUE TO FEDERAL AGENCY ► (Year month day) 19

19. FEDERAL AGENCY TO RECEIVE REQUEST
a. ORGANIZATIONAL UNIT (IF APPROPRIATE)
b. ADMINISTRATIVE CONTACT (IF KNOWN)
c. ADDRESS

20. EXISTING FEDERAL GRANT IDENTIFICATION NUMBER

21. REMARKS ADDED ☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT► To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.
a. YES, THIS NOTICE OF INTENT/PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____
b. NO, PROGRAM IS NOT COVERED BY E.O. 12372 ☐
OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW ☐

23. CERTIFYING REPRESENTATIVE — a. TYPED NAME AND TITLE — b. SIGNATURE

SECTION III—FEDERAL AGENCY ACTION

24. APPLICATION RECEIVED (Year month day) 19

25. FEDERAL APPLICATION IDENTIFICATION NUMBER

26. FEDERAL GRANT IDENTIFICATION

27. ACTION TAKEN
- ☐ a. AWARDED
- ☐ b. REJECTED
- ☐ c. RETURNED FOR AMENDMENT
- ☐ d. RETURNED FOR E.O. 12372 SUBMISSION BY APPLICANT TO STATE
- ☐ e. DEFERRED
- ☐ f. WITHDRAWN

28. FUNDING

a. FEDERAL	$ .00
b. APPLICANT	.00
c. STATE	.00
d. LOCAL	.00
e. OTHER	.00
f. TOTAL	$ .00

29. ACTION DATE► (Year month day) 19

30. STARTING DATE (Year month date) 19

31. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

32. ENDING DATE (Year month date) 19

33. REMARKS ADDED ☐ Yes ☐ No

NSN 7540-01-008-8162
PREVIOUS EDITION IS NOT USABLE

424-103

STANDARD FORM 424 PAGE 1 (Rev. 4-84)
Prescribed by OMB Circular A-102

OMB NO 0348-0006

PART II
PROJECT APPROVAL INFORMATION

Item 1
Does this assistance request require State, local regional, or other priority rating?
_____ Yes _____ No

Name of Governing Body _____
Priority Rating _____

Item 2.
Does this assistance request require State, or local advisory, educational or health clearances?
_____ Yes _____ No

Name of Agency or Board _____
(Attach Documentation)

Item 3.
Does this assistance request require State, local, regional or other planning approval?
_____ Yes _____ No

Name of Approving Agency _____
Date _____

Item 4.
Is the proposed project covered by an approved comprehensive plan?
_____ Yes _____ No

Check one State ☐
Local ☐
Regional ☐
Location of Plan _____

Item 5.
Will the assistance requested serve a Federal installation?
_____ Yes _____ No

Name of Federal Installation _____
Federal Population benefiting from Project _____

Item 6.
Will the assistance requested be on Federal land or installation?
_____ Yes _____ No

Name of Federal Installation _____
Location of Federal Land _____
Percent of Project _____

Item 7.
Will the assistance requested have an impact or effect on the environment
_____ Yes _____ No

See instructions for additional information to be provided.

Item 8.
Will the assistance requested cause the displacement of individuals, families, ousinesses, or farms?
_____ Yes _____ No

Number of:
Individuals _____
Families _____
Businesses _____
Farms _____

Item 9.
Is there other related assistance on this project previous, pending, or anticipated
_____ Yes _____ No

See instructions for additional information to be provided.

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PART III - BUDGET INFORMATION

SECTION A - BUDGET SUMMARY

Grant Program, Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	Grant Program, Function or Activity				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges					
j. Indirect Charges					
k. TOTALS	$	$	$	$	$
7. Program Income	$	$	$	$	$

OMB NO 0348-0006

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (YEARS)			
	(b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION
(Attach Additional Sheets If Necessary)

21. Direct Charges:

22. Indirect Charges:

23. Remarks:

PART IV PROGRAM NARRATIVE (Attach per instruction)

BILLING CODE 4150-04-C

Assurance of Compliance With the Department of Health and Human Services Regulation Under Title VI of the Civil Rights Act of 1964

Name of Applicant (type or print)
(hereinafter called the "Applicant")

HEREBY AGREES THAT it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88–352) and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 C.F.R. Part 80) issued pursuant to that title, to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this Assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this Assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this Assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance, and that the United States shall have the right to seek judicial enforcement of this Assurance. This Assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the Applicant.

Date _____

Applicant (type or print)

By _____
Signature and Title of Authorized Official

Applicant's mailing address

Note: If this form is not returned with the application for financial assistance, return it to DDHS, Office for Civil Rights, 330 Independence Ave. SW., Washington, DC 20201.

BILLING CODE 4150-04-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ASSURANCE OF COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

The undersigned (hereinafter called the "recipient") HEREBY AGREES THAT it will comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), all requirements imposed by the applicable HHS regulation (45 C.F.R. Part 84), and all guidelines and interpretations issued pursuant thereto.

Pursuant to §84.5(a) of the regulation [45 C.F.R. 84.5(a)], the recipient gives this Assurance in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (except procurement contracts and contracts of insurance or guaranty), property, discounts, or other Federal financial assistance extended by the Department of Health and Human Services after the date of this Assurance, including payments or other assistance made after such date on applications for Federal financial assistance that were approved before such date. The recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance and that the United States will have the right to enforce this Assurance through lawful means. This Assurance is binding on the recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the recipient.

This Assurance obligates the recipient for the period during which Federal financial assistance is extended to it by the Department of Health and Human Services or, where the assistance is in the form of real or personal property, for the period provided for in §84.5(b) of the regulation [45 C.F.R. 84.5(b)].

The recipient: [Check (a) or (b)]

a. ( ) employs fewer than fifteen persons;

b. ( ) employs fifteen or more persons and, pursuant to §84.7(a) of the regulation [45 C.F.R. 84.7(a)], has designated the following person(s) to coordinate its efforts to comply with the HHS regulations:

_____
Name of Designee(s) (Type or Print)

Name of Recipient (Type or Print)	Street Address or P.O. Box
(IRS) Employer Identification Number	City
	State Zip

I certify that the above information is complete and correct to the best of my knowledge.

Date	Signature and Title of Authorized Official

If there has been a change in name or ownership within the last year, please PRINT the former name below:

NOTE: If this form is not returned with the application for financial assistance, return it to DHHS, Office for Civil Rights, 330 Independence Avenue, S.W., Washington, D.C. 20201.

HHS-641 (Rev. 12 82)

BILLING CODE 4150-04-C

PART V—Assurances

The Applicant hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements, including 45 CFR Part 74 and OMB Circulars No. A-102, A-110 and applicable cost principles, (Circulars: A-21, "Educational Institutions", A-87, "Cost Principles for State and Local Governments"; and A-122, "Nonprofit Organizations"), as they relate to the application, acceptance and use of federal funds for this Federally assisted project. Also the applicant assures and certifies with respect to the grant that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

2. It will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and in accordance with Title VI of that Act, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement.

3. It will comply with Title VI of the Civil Rights Act of 1964 (42 USC 2000d) prohibiting employment discrimination where (1) the primary purpose of a grant is to provide employment or (2) discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.

4. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally-assisted programs.

5. It will comply with the provisions of the Hatch Act which limit the political activity of State and local government employees.

6. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201) as they apply to employees of institutions of higher education, hospitals, other nonprofit organizations, and to employees of State and local governments who are not employed in integral operations in areas of traditional governmental functions.

Head Start, Certification of Minimum Wage it certifies that it has reviewed the salary structures and wages for all positions and certifies that persons employed in carrying out this program shall not receive compensation at a rate which is (a) in excess of the average rate of compensation paid in the area to persons providing substantially comparable services, or (b) less than the minimum wage rate prescribed in section 6(a) of the Fair Labor Standards Act of 1938. Documentation of the methods by which it established wage scales is available in their files for review by audit and HDS personnel.

7. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

8. It will give the sponsoring agency or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant, including the records of contractors and subcontractors performing under the grant.

9. It will comply with all requirements imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements.

10. It will insure that the facilities under its ownership, lease or supervision which shall be utilize in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

The phrase "Federal financial assistance" includes any form of loan grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

11. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.

12. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1969 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the grantee's activity and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

13. Applicants for the Administration for Native Americans Programs, hereby certify in accordance with 45 CFR 1336.53, that the financial assistance provided by the Office of Human Development Services for the specified activities to be performed under this program, will be in addition to, and not in substitution for, comparable activities provided without Federal assistance.

14. It will comply with the Age Discrimination Act of 1975 enacted as an amendment to the Older Americans Act (Pub. L. 94-135), which provides that: No person in the United States shall, on the basis of age be excluded from participation in, be denied the benefits of or be subjected to discrimination under, any program or activity for which the applicant receives Federal financial assistance.

15. It will comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), all requirements imposed by the applicable HHS regulation (45 C.F.R. Part 84), and all guidelines and interpretations issued pursuant thereto, which prohibits discrimination on the basis of handicap in programs and activities receiving Federal financial assistance.

16. It will comply with Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.) which prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance (whether or not the programs or activities are offered or sponsored by an educational institution).

17. It will comply with Pub. L. 93-348 as implemented by Part 46 of Title 45 (45 CFR 46, 42 U.S.C. 2891) regarding the protection of human subjects involved in research, development, and related activities supported by the grant.

18. It will comply with the equal opportunity clause prescribed by Executive Order 11246 as amended, and will require that its subrecipients include the clause in all construction contracts and subcontracts which have or are expected to have an aggregate value within a 12-month period exceeding $10,000 in accordance with Department of Labor regulations at 41 CFR Part 60.

19. It will include, and will require that its subrecipients include, the provision set forth in 29 CFR 5.5(c) pertaining to overtime and unpaid wages in any nonexempt nonconstruction contract which involves the employment of mechanics and laborers (including watchmen, guards, apprentices, and trainees) if the contract exceeds $2,500.

[FR Doc. 88-3148 Filed 2-12-88; 8:15 am]

BILLING CODE 4150-04-M

federal register

Tuesday
February 16, 1988

Part IV

Department of Agriculture

Cooperative State Research Service

Competitive Research Grants Program for Fiscal Year 1988; Solicitation of Applications; Additional Research Areas; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Competitive Research Grants Program for Fiscal Year 1988; Solicitation of Applications; Additional Research Areas

Applications are invited for additional competitive grant awards under the Competitive Research Grants Program administered by the Office of Grants and Program Systems, Cooperative State Research Service, for fiscal year 1988. See 52 FR 29482–29486, August 7, 1987, for research areas previously announced.

The authority for this program is contained in section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)). Under this program, the Secretary may award competitive research grants, for periods not to exceed five years, for the support of research projects to further the programs of the Department of Agriculture. Proposals may be submitted by any State agricultural experiment station, college, university, other research institution or organization, Federal agency, private organization, corporation, or individual. Proposals from scientists at non-United States organizations will not be considered for support.

Applicable Regulations

Regulations applicable to this program include the following: (a) The regulations governing the Competitive Research Grants Program, 7 CFR Part 3200 (49 FR 5570, February 13, 1984, as amended by 50 FR 5499, February 8, 1985), which set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals and the awarding of grants, and regulations relating to the post-award administration of grant projects; and (b) the USDA Uniform Federal Assistance Regulations, 7 CFR Part 3015, as amended.

Additional Specific Research Areas to be Supported in Fiscal Year 1988

Standard project grants will be awarded to support basic research in the following additional research areas:

Insect Pest Science
Alcohol Fuels Research
Brucellosis

It is anticipated that this research will advance broadly the Nation's competitive advantages in the food, feed, fiber and natural resource processes. Consideration will be given to research proposals that address fundamental questions in the areas noted below and that are consistent with the long-range agricultural needs of the Nation.

While basic guidelines are provided to assist members of the scientific community in assessing their interest in the program areas and to delineate certain important areas where new information is needed, the guidelines are not meant to provide boundaries or to detract from the creativity of potential applicants. USDA encourages the submission of innovative projects in the so-called "high-risk" category as well as those that may have a more certain payoff potential. In all instances, innovative research will be given high priority.

Agriculturally important organism(s) should be used to accomplish the research objectives. The use of other organisms as experimental model systems must be justified relative to the goals of the appropriate research program area and to the long-term objectives of USDA.

Workshops or symposia that bring together scientists to identify research needs, update information, or advance an area of research are recognized as integral parts of research efforts. Support for a limited number of such meetings covering subject matter encompassed by this Competitive Research Grants solicitation will be considered.

USDA encourages individuals, who (1) have earned the doctoral degree in a biological science or engineering after January 1, 1985, or will have earned the degree not later than June 7, 1988; (2) are United States citizens; (3) have obtained commitments from a State agricultural experiment station, college, university, other research institution or organization, Federal agency, private organization or corporation for the conduct of research; (4) have made prior arrangements for research with a scientific advisor at the institution where the research will be conducted; and (5) have interests in research that fall within the program areas described in this solicitation, to apply for a Competitive Research Grant. While such individuals specifically are encouraged to submit proposals for competitive grants, it must be noted that no preference is given to such individuals in determining the grant awards. All individuals and eligible entities, whether or not they meet the above criteria, are welcomed to submit proposals and their proposals will be evaluated objectively under the applicable award criteria. Interested potential applicants should contact the appropriate program staff for further information.

The following specific research areas (program areas) and guidelines are provided as a base from which proposals may be developed:

11.0 *Insect Pest Science.* Uncontrolled insect pests are a major factor in reducing crop and forest productivity. Before successful strategies for managing insect pests can be developed, a strong basic insect biology research effort is needed. This program area, restricted to the insect pests listed below, will support research on behavioral physiology; genetics (molecular and classical); chemical ecology; insect-host interaction; endocrinology; population dynamics; behavioral ecology; insect pathogens; parasites and predators; and epidemiology of bettle borne pathogens. Proposals bringing a blend of approaches to a specific problem are encouraged. Funds in the approximate amount of $2,704,000 are available to support this program area and will be equally divided to support studies on the following:

11.1 Boll Weevil/Bollworm;
11.2 Pine Park Beetle; and
11.3 Gypsy Moth.

Further information may be obtained by contacting the Associate Program Manager at (202) 475–5114.

13.0 *Alcohol Fuels Research.* Proposals will be considered for research relating to the physiological, microbiological, biochemical, and genetic processes controlling the biological conversion of agriculturally important biomass material to alcohol fuels and industrial hydrocarbons. The scope of this program area includes studies on factors that limit efficiency of biological production of alcohol fuels and other industrial hydrocarbons and the means for overcoming these limitations. Funds in the approximate amount of $487,000 are available to support this program area.

Further information may be obtained by contacting the Associate Program Manager at (202) 475–5042.

14.0 *Brucellosis.* This program area will support research at the molecular, cellular, and genetic levels that will (a) define the mechanisms by which *Brucellosis abortus* induces disease in cattle and persists as an infectious agent; (b) define the basis of the bovine immune response with *B. abortus* that results in protective immunity; (c) identify and produce, through molecular biological techniques, antigens to differentiate among noninfected, vaccinated, and the *B. abortus*-infected cattle; and (d) identify and produce, through molecular biological techniques, immunogens to stimulate long-lived

protective immunity in cattle. Funds in the approximate amount of $450,000 are available to support this program area.

Further information may be obtained by contacting the Associate Program Manager at (202) 475-3399.

How to Obtain Application Materials

Please note that potential applicants who were on the Competitive Research Grants mailing list for fiscal year 1987, or who requested placement on the list for fiscal year 1988, will automatically receive copies of the solicitation, the Grant Application Kit, and the regulations governing the Competitive Research Grants Program, 7 CFR Part 3200 (49 FR 5570, February 13, 1984, as amended). All others may request copies from: Proposal Services Unit, Grants Administrative Management, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, Room 005, J.S. Morrill Building, 15th and Independence Avenue SW., Washington, DC 20251-2200; telephone: (202) 475-5048.

What to Submit

An original and 14 copies of each proposal submitted are requested. This number of copies is necessary to permit thorough, objective peer evaluation of all proposals received before funding decisions are made.

Renewal proposals should include a clearly identified progress report and any reprints or preprints of publications resulting from the funded research. Resubmissions of unsuccessful proposals should clearly indicate what changes have been made in the proposal.

Each copy of each proposal must include a Form CSRS-661, "Grant Application," which is included in the Grant Application Kit. Proposers should note that one copy of this form, preferably the original, must contain pen-and-ink signatures of the principal investigator(s) and the authorized organizational representative. Each project description is expected by the members of review committees and the staff to be complete in itself. It should be noted that reviewers are not required to read beyond 15 pages of the project description to evaluate the proposal. Proposals beyond this limit are therefore subject to non-review and return. It would be helpful for reviewers if the vitae of key project personnel were limited to three (3) or four (4) pages.

All copies of a proposal must be mailed in one package. Due to the volume of proposals received, proposals submitted in several packages are very difficult to identify. Also, please see that each copy of each proposal is *stapled securely* in the upper lefthand corner. DO NOT BIND. Information should be typed on one side of the page only. Every effort should be made to ensure that the *proposal contains all pertinent information when initially submitted.* Prior to mailing, compare your proposal with the guidelines contained in the regulations governing the Competitive Research Grants Program, 7 CFR Part 3200.

Applicants must not submit the same research proposal in the same fiscal year to different research program areas within the Competitive Research Grants Program and all of the CSRS Special Grants Programs. Duplicate proposals, essentially duplicate proposals, or predominantly overlapping proposals will be returned without review.

Submission of more than one proposal from the same principal investigator in the same fiscal year is strongly discouraged.

Excessive numbers of co-principal investigators and collaborators create conflicts of interest problems during the review and award processes. Multiple co-principal investigators and collaborators, beyond those required for genuine multi-disciplinary studies, are strongly discouraged.

Where and When to Submit Grant Applications

Proposals submitted to the research program areas in this notice will be assigned by the staff of the Competitive Research Grants office to the most appropriate peer review panel. Each research grant application must be submitted to:

Competitive Research Grants Program, c/o Grants Administrative Management, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, Room 005, J.S. Morrill Building, 15th and Independence Avenue SW., Washington, DC 20251-2200. To be considered for funding during fiscal year 1988, proposals submitted to the program areas contained in this solicitation *must be postmarked by April 4, 1988.*

Special Instructions

The Competitive Research Grants Program should be indicated in Block 7 and the applicable program area, and *number* assigned to that program area (e.g., 11.0 Insect Pest Science), should be indicated in Block 8 of Form CSRS-661 provided in the Grant Application Kit. *Select one program area only.* A final determinaton of the program area will be made by the program staff and/or appropriate peer panel.

Supplementary Information

The Competitive Research Grants Program is listed in the Catalog of Federal Domestic Assistance under No. 10.206. For reasons set forth in the Final rule-related Notice to 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials. In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this notice have been approved under OMB Document No. 0524-0022.

One copy of each proposal that is *not* selected for funding will be retained for a period of one year. The remaining copies will be destroyed.

Done at Washington, DC, this 9th day of February 1988.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 88-3233 Filed 2-12-88; 8:45 am]

BILLING CODE 3410-22-M

federal register

Tuesday
February 16, 1988

Part V

Office of Management of Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT OF BUDGET

Cumulative Report on Rescissions and Deferrals

February 1, 1988.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of February 1, 1988 of 19 deferrals contained in the two special messages of FY 1988. There have been no rescissions proposed. These messages were transmitted to the Congress on October 1 and 29, 1987

Rescissions (Table A and Attachment A)

As of February 1, 1988, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of February 1, 1988, $1,796.7 million in budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1988.

Information from Special Messages

The special messages containing information on the deferrals covered by this cumulative report are printed in the **Federal Registers** listed below:

Vol. 52, FR p. 37739, Thursday, October 8, 1987.

Vol. 52, FR p. 42400, Wednesday, November 4, 1987

James C. Miller III,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1988 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President.....	0
Accepted by the Congress.....	0
Rejected by the Congress.....	0
Pending before the Congress.....	0

****

TABLE B

STATUS OF 1988 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President.....	1,873.0
Routine Executive releases through February 1, 1987 (OMB/Agency releases of $76.3 and cumulative adjustments of $0)	-76.3
Overturned by the Congress.....	0
Currently before the Congress.....	1,796.7

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1988

As of February 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
NONE								

Attachment B - Status of Deferrals - Fiscal Year 1988

As of February 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 2-1-88
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D88-1	40,000		10-1-87	35,000				5,000
Special Assistance for Central America									
Promotion of stability and security in Central America	D88-2	1,000		10-1-87					1,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D88-3	120,425		10-1-87					120,425
Timber salvage sales	D88-4	34,841		10-1-87	10,456				24,385
Cooperative work	D88-5	628,025		10-1-87					628,025
Gifts, donations, and bequests for forest and rangeland research	D88-6	104		10-1-87	60				44
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense	D88-7	900		10-1-87					900
Family Housing									
Family housing, Defense	D88-8	51,015		10-1-87	22,000				29,015
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D88-9	636		10-1-87					636
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D88-14	120		10-29-87					120
Southeastern Power Administration, Operation and maintenance	D88-15	2,000		10-29-87	2,000				0

Attachment B - Status of Deferrals - Fiscal Year 1988

As of February 1, 1988 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 2-1-88
Southwestern Power Administration, Operation and maintenance.....	D88-16	6,000		10-29-87					6,000
Western Area Power Administration, Construction, rehabilitation, operation and maintenance.....	D88-17	774		10-29-87					774
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health Scientific activities overseas (special foreign currency program).....	D88-18	2,391		10-29-87					2,391
Social Security Administration Limitation on administrative expenses (construction).....	D88-10	6,171		10-1-87					6,171
DEPARTMENT OF JUSTICE									
Office of Justice Programs Crime victims fund.....	D88-19	85,000		10-29-87	6,800				78,200
DEPARTMENT OF STATE									
Bureau for Refugee Programs United States emergency refugee and migration assistance fund, executive.....	D88-11	11,638		10-1-87					11,638
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration Facilities and equipment (Airport and airway trust fund).....	D88-12	879,049		10-1-87					879,049
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing Local government fiscal assistance trust fund.....	D88-13	2,933		10-1-87					2,933
TOTAL, DEFERRALS.....		1,873,023	0		76,316	0		0	1,796,707

Reader Aids

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Tuesday, February 16, 1988

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CFR PARTS AFFECTED DURING FEBRUARY

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

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LIST OF PUBLIC LAWS

Last List February 12, 1988

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.J. Res. 402/Pub. L. 100-245

To designate the week of February 7-13, 1988, as "National Child Passenger Safety Awareness Week." (Feb. 10, 1988; 102 Stat. 6; 2 pages) Price: $1.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[4] No amendments to this volume were promulgated during the period July 1, 1986 to June 30, 1987. The CFR volume issued as of July 1, 1986, should be retained.

[5] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

** Note: The original version of 46 CFR Parts 41-69, revised as of October 1, 1987, was printed incorrectly. A corrected edition will be issued in the near future.