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# federal register

Tuesday
May 9, 1989

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**WHO:** The Office of the Federal Register.

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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:** May 23; at 9:00 a.m.
**WHERE:** Office of the Federal Register,
First Floor Conference Room,
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**WHEN:** May 23; at 9:00 a.m.
**WHERE:** Room 1612,
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**RESERVATIONS:** Call the Federal Information Center,
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# Presidential Documents

Title 3—

The President

Proclamation 5971 of May 5, 1989

## World Trade Week, 1989

By the President of the United States of America

A Proclamation

At no other time in U.S. history has international commerce been so important to domestic economic growth. Increased exports mean prosperity for America. World Trade Week provides an excellent opportunity for American business men and women to reaffirm their commitment to the pursuit of export markets.

Trade figures for the past year indicate that American businesses are moving in the right direction. U.S. export performance during 1988 was responsible for the highest growth rate this decade and the largest reduction in the trade deficit in history. During 1988, U.S. merchandise exports grew 28 percent, reaching record levels ($320 billion). These exports generated 40 percent of real GNP growth during the year and contributed to the creation of a near record number of jobs. An improved global economic climate and measurable improvements in the quality of American goods and services contributed to this promising export performance.

The favorable market conditions that made our goods and services competitive in 1988 continue to exist in 1989, and U.S. businesses must take full advantage of this situation. American industry can benefit substantially from trade opportunities created by recent events in the world marketplace. For example, when the historic United States-Canada Free-Trade Agreement entered into force on January 1, 1989, it heralded the beginning of a new era in America's economic relations with our largest trading partner. It also created abundant opportunities for U.S. firms to reach the market offered by our 26 million neighbors to the north.

The European Community's formation of a single market by the year 1992 has the potential to provide even more trading opportunities for American business. However, U.S. firms need to prepare for 1992 now if they are to realize greater export sales.

This Administration is committed to forging a partnership with our Nation's business community to help ensure continued economic prosperity and growth into the 1990's. Trade and U.S. competitiveness are top priorities. I am firmly committed to opening world markets to U.S. exports and promoting our free trade agenda on both multilateral and bilateral levels.

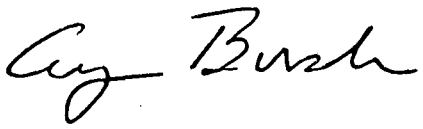
The United States led in initiating the current round of General Agreement on Tariffs and Trade (GATT) negotiations, and we shall remain vigilant in our efforts to ensure that the GATT negotiations result in a strengthened international trading system that creates new opportunities to expand trade and achieve economic growth.

We shall pursue our quest to eliminate unfair trade practices, and we shall also use the tools provided by the Congress in the Omnibus Trade and Competitiveness Act of 1988 to ensure an open world marketplace.

In short, this Administration will continue to do its part to ensure a strong economy into the 1990's. American business, however, must take the lead in meeting the important challenge of increasing our competitiveness in world markets.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week beginning May 21, 1989, as World Trade Week. I invite the businesses and workers of America to join together with the Federal Government in observance of World Trade Week. Together, we can ensure continued prosperity for our country through global trade.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of May, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.



[FR Doc. 89-11274
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# 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.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 302

### Procedures for Selecting Candidates for Appointment in the Excepted Service

**AGENCY:** Office of Personnel Management.

**ACTION:** Interim regulations with request for comments.

**SUMMARY:** The Office of Personnel Management (OPM) is revising its regulations governing procedures used to select candidates for appointments in the excepted service to clarify the rights of applicants entitled to 10-point veterans preference when numerical scores are not assigned. The revised regulations require that applicants entitled to 10-point preference on a basis other than compensable disability will be referred after compensably disabled 10-point preference eligibles but before applicants entitled to 5-point veterans preference. This will ensure that all 10-point preference eligibles receive at least as much preference under unranked referral procedures as they would receive if numerical scores were assigned.

**DATES:** Comments must be received on or before July 10, 1989. Regulations effective May 9, 1989.

**ADDRESS:** Send or deliver written comments to Curtis J. Smith, Associate Director for Career Entry and Employee Development, Office of Personnel Management, Room 6F08, 1900 E Street NW., Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** Tracy Spencer, (202) 632-6817.

**SUPPLEMENTARY INFORMATION:** On September 13, 1988 (53 FR 35291), OPM issued final regulations permitting agencies to refer candidates for excepted appointments in either of two ways: in order of veterans preference without other ranking; or under ranking and referral procedures comparable to those used in competitive examinations. Under the unranked referral procedures, applicants eligible for 10-point veterans preference based on a compensable service-connected disability of 10 percent or more are referred first (unless the position is a scientific or professional one at grade GS-9 or above), followed by other veteran preference eligibles and, last, by applicants not eligible for veterans preference.

The final regulations give practical effect to statutory veterans preference requirements. Applicants entitled to 10-point preference based on compensable disability are referred first for any nonprofessional position, whether referral is made under ranked or unranked procedures. Since other preference eligibles are referred ahead of applicants not entitled to veterans preference, the effect should be the same as if all qualified candidates had received identical scores.

It has come to our attention, however, that one class of preference eligibles—those entitled to 10-point preference on a basis other than compensable disability—may receive less preference than they would under a numerical system. If all candidates received the same basic numerical score, 10-point preference eligibles would be listed ahead of 5-point preference eligibles based on their augmented rating. If there were three or more eligibles, they would be referred before any 5-point eligibles could be considered. Under the unranked procedures, however, only compensably disabled 10-point preference eligibles are referred separately. Other 10-point eligibles and 5-point eligibles are referred together even when three or more 10-point eligibles are available.

To correct this defect, OPM is revising its regulations to provide that applicants entitled to 10-point veterans preference under 5 U.S.C. 2108(3) (D) through (G) will be referred in a separate category following compensably disabled veterans entitled to 10-point preference under 5 U.S.C. 2108(3)(C), but ahead of eligibles entitled to 5-point preference under 5 U.S.C. 2108(3) (A) and (B). The provision that selections must be made from the highest available preference category as long as at least three candidates remain in that category is retained. This change will ensure that eligibles in each preference category receive the full preference provided by law.

### Waiver of Notice of Proposed Rulemaking and 30-Day Delay of Effective Date

Under 5 U.S.C. 553(b)(3)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making the amendment effective in less than 30 days. The regulations are needed to correct a potential conflict between regulatory and legal requirements and to give full practical effect to statutory veterans preference requirements.

### E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation affects only the procedures used to appoint certain Federal employees.

### List of Subjects in 5 CFR Part 302

Administrative practice and procedures, Government employees.

Office of Personnel Management.

**Constance Horner,**

*Director.*

Accordingly, OPM is amending 5 CFR Part 302 as follows:

1. The authority citation for Part 302 continues to read as follows:

**Authority:** 5 U.S.C. 1302, 3301, 3302, 8151; E.O. 10577 (3 CFR 1954–1958 Comp., p. 218); § 302.105 also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec. 3(5); S 302.501 also issued under 5 U.S.C. 7701 et seq.

2. In § 302.201, paragraph (b) is revised to read as follows:

**§ 302.201 Persons entitled to veteran preference.**

* * * * *

(b) When eligible candidates are referred without ranking, the agency shall note preference as "CP" for preference eligibles under 5 U.S.C. 2108(3)(C), as "XP" for preference eligibles under 5 U.S.C. 2108 (D) through

(G), and as "TP" for all other preference eligibles under that title.

3. In § 302.304, paragraph (e) is revised to read as follows:

**§ 302.304 Arrangement of ratings.**

* * * * *

(e) *Unranked order.* When numerical scores are not assigned, the agency may consider applicants who have received eligible ratings for positions not covered by paragraph (d) of this section in either of the following orders:

(1) *By preference status.* Under this method, preference eligibles having a compensable service-connected disability of 10 percent or more are considered first, followed, second, by other 10-point preference eligibles, third, by 5-point preference eligibles, and, last, by nonpreference eligibles. Within each category, applicants from the reemployment list will be placed ahead of applicants from the regular employment list.

(2) *By reemployment/regular list status.* Under this method, all applicants on the reemployment list are considered before applicants on the regular employment list. On each list, preference eligibles having a compensable service-connected disability of 10 percent or more are considered first, followed, second, by other 10-point preference eligibles, third, by 5-point preference eligibles, and, last, by nonpreference eligibles.

[FR Doc. 89-11105 Filed 5-8-89; 8:45 am]

BILLING CODE 6325-01-M

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### 7 CFR Parts 272 and 273

**[Amdt. No. 312]**

## Food Stamp Program; Income Exclusion of Certain Charitable Donations

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This action adopts as final regulations, the interim Food Stamp Program (FSP) rulemaking published June 15, 1988 (53 FR 22291). The interim rulemaking implemented a food stamp provision contained in the Charitable Assistance and Food Bank Act of 1987 (Pub. L. 100-232). In accordance with that Act, the Food Stamp Program now excludes from consideration as income, certain cash donations received by FSP households. The Department accepted comments on the interim rulemaking through August 15, 1988. This final action addresses significant issues raised by commenters.

**DATE:** This action is effective retroactive to January 5, 1988 (the date of enactment of the Charitable Assistance and Food Bank Act of 1987).

**FOR FURTHER INFORMATION CONTACT:** Judith M. Seymour, Eligibility and Certification Rulemaking Section, Certification Policy Branch, Program Development Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756-3496.

**SUPPLEMENTARY INFORMATION:**

### Executive Order 12291

The Department has reviewed this action under Executive Order 12291 and Secretary's Memorandum No. 1521-1. It has been determined that the action will not result in an annual effect on the economy of $100 million or more, or a major effect on prices for consumers, individuals, industries, Federal, State or local government agencies, or geographic regions. Additionally, this action 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. Therefore this action has been classified as "not major".

### Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.551. For the reasons set forth in the final rule and 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.

### Regulatory Flexibility Act

This action has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 through 612). G. Scott Dunn, Acting Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities. The requirements will affect certain food stamp applicants and recipients to the extent that they receive charitable donations. Some potential applicants may become eligible for program benefits, while some current recipients may receive increased benefits. State and local agencies are also affected to the extent that they must administer the Program.

### Paperwork Reduction Act

This rulemaking does not contain any recordkeeping and/or reporting requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507)

### Background

On June 15, 1988, the Department published an interim rulemaking at 53 FR 22291, which implemented the Food Stamp Program provision of the Charitable Assistance and Food Bank Act, of 1987, Pub. L. 100-232. In accordance with Pub. L. 100-232, which amended section 5(d)(8) of the Food Stamp Act, 273.9(c)(2) of the interim rule provides that cash donations based on need, not to exceed $300 in a Federal fiscal quarter, received by food stamp households from private, nonprofit charitable organization(s), are excluded from consideration as income for Food Stamp Program purposes. The Department received a total of 6 comment letters on the interim rulemaking from State and local welfare agencies. All comments received were reviewed and considered. Comments which suggested legislative changes or were unclear or not pertinent to this rulemaking are not addressed in this preamble. A full explanation of the rationale of this final action is contained in the preamble of the June 15, 1988 interim rulemaking. It is suggested that persons also refer to that rule for background information.

#### *Identification of Private, Nonprofit Organizations*

Consistent with Pub. L. 100-232, the interim rule restricted the income exclusion to cash donations received from "private, nonprofit charitable organizations." Several commenters were concerned that this provision establishes a new set of complex eligibility requirements that will apply to an anticipated small number of cases. Specifically, the commenters do not believe it is cost effective for eligibility workers to contact an organization to determine that it is a private, nonprofit charitable organization, to determine which food stamp participants received donations, or to determine if the Department's criteria for what constitutes "need" coincide with that of the charitable organization. Further, the

commenters were concerned that the charitable organizations would not be very cooperative in this regard.

The Department does not believe the provision creates the administrative burden implied by the commenters. Eligibility workers will need to determine that donations are received from private, nonprofit charitable organizations. However, the Department believes that the majority of donations received will be from local, State or nationally known charitable organizations whose status will either be known or easily identifiable from their literature. If the organization is not well known as a private, nonprofit charitable organization, then it would be necessary to contact the organization as implied by the commenters to determine if it is a private, nonprofit organization. However, State agencies could minimize this burden by keeping a list of acceptable/nonacceptable organizations once initial contact is made.

It is the Department's opinion that charitable organizations by nature provide donations only to persons in need. Thus, it is assumed that the charitable organizations have established criteria by which such persons are identified to receive donations. Therefore, the eligibility worker will only have to determine that Food Stamp Program households were provided such a donation and verify the amount of the donations.

Lastly, we disagree with the commenters' concern that the organizations may not cooperate and provide verification of information. We believe the organizations will be more than willing to cooperate once it is explained that their cooperation is necessary in order for the donation to be considered an income exclusion and that their cooperation may be the deciding factor as to whether or not the household will be eligible to receive food stamp benefits.

*Tracking of Cash Donations*

In accordance with section 2(a)(1) of Pub. L. 100–232, the interim rule restricted the amount of excludable cash donations to not more than "$300 in a quarter" received from one or more private nonprofit charitable organizations. Several commenters expressed concern that this provision will cause problems related to keeping track by quarter of cash donations received by participants. Tracking these donations is an inherent mandate of Pub. L. 100–232 since only $300 or less in a quarter can be disregarded. Thus, the Department has no discretion to amend the requirement.

*Definition of Quarter*

As explained in the preamble to the interim rule, the legislation provided no guidance as to what period of time would constitute a "quarter" for the purpose of the quarterly $300 income exclusion mandate. The interim rule defined "quarter" to mean a Federal fiscal year quarter. This decision was based on the opinion that this definition would be most feasible and least error prone. In addition, it would ensure consistent nationwide implementation of the provision. Most of the commenters recommended that we retain the Federal fiscal year quarter agreeing that it would the most feasible and least error prone procedure. Only one commenter recommended a definition other than the Federal fiscal year quarter. The recommendation was that a "quarter" be defined as "any three month period, beginning with the month of first receipt of income or the month of application, whichever came first" i.e. floating/rolling month quarters. The analysis of the two definitions reflected very little difference in the overall effect. It is the Department's opinion that using floating/rolling month quarters is more complex. In light of this, and since the majority of commenters agreed with the definition as reflected in the interim rule, it is adopted in the final rule with no change.

*Amount of Cash Donations in Excess of $300*

One commenter questioned whether a household that received donations of more than $300 in a quarter would be entitled to the $300 exclusion. Other commenters requested clarification of how to handle that portion of the specific cash donations that exceeds the $300 limit. Specifically, they asked if the amount in excess of $300 received from private, nonprofit charitable organizations within a quarter would be considered unearned income that would be countable as a gain or benefit under 7 CFR 273.9(b)(2)(v), or considered a nonrecurring lump sum payment that would be excluded under 7 CFR 273.9(c)(9) [redesignated as 7 CFR 273.9(c)(8) of this final rule], or considered irregular and unanticipated income that would be excluded under 7 CFR 273.9)c)(3) [redesignated as 7 CFR 273.9(c)(2) by this final rule.]

The intent of the legislation is to allow charitable donations that were provided by private, nonprofit organizations to needy individuals and families, particularly at holidays, to be excluded. The only restriction imposed by the statute is the amount of the exclusion. Thus, a household that received donations of more than $300 in a quarter would still be entitled to an exclusion of no more than $300. The legislation did not address how to treat that portion of donations that exceeds the $300 exclusion limit. The Department considers such donations to be a gain or a benefit in accordance with 7 CFR 273.9(b)(2)(v). Moreover, since it is not compensation for work, that portion of a cash donation that exceeds the exclusion limit is unearned income in accordance with the current provision at 7 CFR 273.9(b)(2)(v). Accordingly, this final action adopts the income exclusion procedure at 7 CFR 273.9(c)(2) as final without change, but redesignates the provision for technical reasons as explained below.

*Technical Amendments*

The interim rule incorporated the $300 charitable donation exclusion at 7 CFR 273.9(c)(2) which caused several paragraphs under 7 CFR 273.9(c) to be redesignated. The paragraph redesignation would result in numerous changes to policy memoranda and regulatory references within the rules to maintain conformity. To avoid this unnecessary task, this final action redesignates 7 CFR 273.9(c)(2), as reflected in the interim rulemaking, as 7 CFR 273.9(c)(13). This redesignation has no affect on the intended policy of the provision.

*Implementation—§ 272.1(g)(98)*

In accordance with Pub. L. 100–232, § 272.1(g)(98) of the interim rule explained that the income exclusion provision was effective retroactively to January 5, 1988, but affected eligibility and benefit determinations made on or after February 1, 1988. The interim rule further explained that the provision had to be implemented immediately for any eligibility or benefit calculation made on or after February 1, 1988. Affected households that were certified after the effective date of the law but prior to publication of the rule or households that applied for benefits and were denied benefits because the income exclusion was not applied, were to be converted to the new policy at household request, recertification, or when the case was next reviewed. Such households were entitled to restored benefits back to February 1, 1988 or the date of application, whichever occurred later.

The Department realized that the short implementation timeframe would cause some difficulties. Thus, the interim rule provided that quality

control reviewers would not identify variances resulting solely from implementation or nonimplementation of the interim rule for cases with review dates between February 1, 1988 and August 31, 1988. No significant comments were received on the implementation procedures. This final rule contains no new policy to implement. Therefore, the provisions at 7 CFR 272.1(g)(98) are adopted final by this action without change.

**List of Subjects**

*7 CFR Part 272*

Alaska, Civil rights, Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

*7 CFR Part 273*

Administrative practice and procedure, Aliens, Claims, Food Stamps, Fraud, Grant programs-social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR Parts 272 and 273 are amended as follows:

1. The authority citation for Parts 272 and 273 continues to read as follows:

Authority: 7 U.S.C. 2011–2029

## PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

**§ 272.1 [Amended]**

2. The amendment to § 272.1(g), as published at 53 FR 22292, June 15, 1988, to add a new paragraph (g)(98), is adopted final without change.

## PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

**§ 273.9 [Amended]**

3. In § 273.9, the regulatory text of paragraph (c)(2), as published at 53 FR 22292, June 15, 1988, is adopted final without change. However, a technical amendment is made to redesignate current paragraph (c)(2) as new paragraph (c)(13) and to redesignate current paragraphs (c)(3) through (c)(13) as new paragraphs (c)(2) through (c)(12), respectively.

Date: May 3, 1989.

G. Scott Dunn,

*Acting Administrator.*

[FR Doc. 89-11065 Filed 5-8-89; 8:45 am]

BILLING CODE 3410-30-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

[Docket No. 88-NM-213-AD; Amdt. 39-6206]

## Airworthiness Directives; Aerospatiale Model ATR42-200 and -300 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to Aerospatiale Model ATR42-200 and -300 series airplanes, which requires a one-time inspection and replacement, if necessary, of certain outboard bearings of the main wheel assemblies. This amendment is prompted by reports of bearing failure. This condition, if not corrected, could result in loss of a main landing gear wheel and partial loss of control of the airplane.

**EFFECTIVE DATE:** June 9, 1989.

**ADDRESSES:** The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to Aerospatiale Model ATR42-200 and -300 series airplanes, which requires a one-time inspection and replacement, if necessary, of certain outboard bearings of the main wheel assemblies, was published in the Federal Register on January 30, 1989 (54 FR 4292).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 38 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $3,040.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained from the Rules Docket.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

## PART 39—[AMENDED]

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aerospatiale: Applies to all Model ATR42-200 and -300 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent loss of a main landing gear wheel due to defective bearings, accomplish the following:

A. Within 30 days after the effective date of this AD, inspect outboard bearings, Part Number (P/N) L910349, of the Loral main

landing gear wheels, Loral P/N 5006856, 5006856-1, 5006856-2 and 5006856-3, and replace those having a "JV" date code, in accordance with Aerospatiale Service Bulletin ATR42-32-0018, Revision 2, dated November 15, 1988, and Loral Service Bulletin ATR42-32-40-8. Peform torqueing of the main gear axle nut, in accordance with Loral Service Bulletin ATR42-32-40-7.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by 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 Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective June 9, 1989.

Issued in Seattle, Washington, on April 25, 1989.

Leroy A. Keith,

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 89-11026 Filed 5-8-89; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 39

**[Docket No. 88-NM-190-AD; Amdt. 39-6205]**

## Airworthiness Directives; Aerospatiale Model ATR-42 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to Aerospatiale Model ATR-42 series airplanes, which requires a one-time inspection of the Honeywell-Sperry navigation equipment to ensure there is no unauthorized mixing of certain Symbol Generator Units (SGU), or unauthorized mixing of certain Attitude Heading Reference System (AHRS) components and SGU. In addition, this AD would require replacement of the Digital Air Data Computer (DADC), SGU, and AHRS. This amendment is prompted by reports of malfunction and/or incompatibility of the AHRS, DADC, and SGU navigation equipment in laboratory tests. This condition, if not corrected, could lead to improper SGU/DADC functioning and a less than required redundancy for Category II flight operations.

**EFFECTIVE DATE:** June 9, 1989.

**ADDRESSES:** The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 431-1565. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to Aerospatiale Model ATR-42 series airplanes, which requires installation of updated Attitude Heading Reference System (AHRS), Digital Air Data Computer (DADC) and Symbol Generator Units (SGU) and a one-time inspection of the Honeywell-Sperry navigation equipment to ensure there is no unauthorized mixing of certain SGU, or unauthorized mixing of certain AHRS Components and SGU, was published in the **Federal Register** on January 9, 1989 (54 FR 622).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters supported the rule, but stated that replacement of the autopilot/flight director (AP/FD) computer should not be made mandatory. The FAA concurs. Upon further investigation, the FAA has determined that replacement of the AP/FD computer is not necessary for air safety, since these computers are fully compatible with the new Attitude Heading Reference Unit (AHRU), SGU, and DADC components. Therefore, paragraph B.4. has been deleted from the final rule.

One commenter objected to the statement that "the purpose of the AD is to prevent the loss of primary attitude and heading information," since previous changes to the AHRS, which were made mandatory by AD 88-26-05, Amendment 39-6093 (53 FR 51094; December 20, 1988), corrected the problem of loss of primary attitude and heading information. The FAA concurs and has revised the descriptive language in the preamble and the final rule to indicate that the purpose of this AD is to prevent improper functioning of Honeywell-Sperry navigation equipment and to prevent incompatible combination of this equipment.

Paragraph A.2. has been revised to clarify that the required Airplane Flight Manual Limitation may be removed once the requirements of paragraph B. are accomplished.

Additionally, references to the "Air Data Computer (ADC)" have been revised to correctly identify that component as the "Digital Air Data Computer (DADC)."

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously noted. The FAA has determined that these changes will neither increase the economic burden on any operators nor increase the scope of the AD.

It is estimated that 36 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $7,200.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FDR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

Flexibility Act. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained from the Rules Docket.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

**PART 39—[AMENDED]**

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Aerospatiale:** Applies to Model ATR-42 series airplanes, Serial Numbers 003 through 093, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent improper functioning of Honeywell-Sperry navigation equipment and to prevent incompatible combinations of this equipment, accomplish the following:

A. Within 10 days after the effective date of this AD, accomplish the following in accordance with Aerospatiale Service Bulletin ATR42-34-0027, dated April 6, 1988:

1. Inspect Honeywell-Sperry Symbol Generator Units (SGU) for unauthorized mixing of units in accordance with paragraph C.(1) of the service bulletin. Correct any unauthorized mixing of units prior to further flight.

2. Inspect Honeywell-Sperry navigation equipment for unauthorized mixing of Attitude Heading Reference Units (AHRU) and SGU in accordance with paragraphs C.(2) and C.(3) of the service bulletin. For airplanes with unauthorized mixing of AHRU and SGU, prior to further flight, insert the following into the Limitations Section 2 of the Airplane Flight Manual (AFM). This can be accomplished by inserting a copy of this AD into the AFM and into the Flight Crew Operations Manual: "Approach operations are limited to Category I or higher weather minima."

Operate the airplane in accordance with this limitation until the requirements of paragraph B. of this AD are accomplished, at which time this limitation may be removed from the AFM.

B. Within 120 days after the effective date of this AD, accomplish the following:

1. Replace the Digital Air Data Computer (DADC), in accordance with Aerospatiale Service Bulletin ATR42-34-0024, Revision 1, dated August 30, 1988.

2. Replace the Attitude Heading Reference System (AHRS), in accordance with Aerospatiale Service Bulletin ATR42-34-0025, Revision 1, dated August 30, 1988.

3. Replace the Symbol Generator Units (SGU), in accordance with Aerospatiale Service Bulletin ATR42-34-0026, Revision 1, dated August 30, 1988.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the requirements 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 Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective June 9, 1989.

Issued in Seattle, Washington, on April 25, 1989.

Leroy A. Keith,

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 89-11027 Filed 5-8-89; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 39**

**[Docket No. 89-NM-58-AD; Amdt. 39-6210]**

## Airworthiness Directives; Boeing Model 747 Series Airplanes Equipped With Pratt and Whitney PW4000 Engines, and Model 767 Series Airplanes Equipped With Pratt and Whitney PW4000 or General Electric CF6-80C2-B6F Engines

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 and 767 series airplanes, which requires the Engine Indication and Crew Alerting System (EICAS) Status Page be read, with all engines running, prior to each airplane departure. This amendment is prompted by the discovery that the "ENGINE CONTROLS" advisory message does not function as intended. This condition, if not corrected, could result in overspeed or uncommanded shutdown of the affected engine or engines.

**EFFECTIVE DATE:** May 22, 1989.

**ADDRESSES:** The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, Transport Airplane Directorate, 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. Michael McRae, Propulsion Branch, ANM-140S; telephone (206) 431-1972. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** The "ENGINE CONTROL" advisory and "ENGINE CONTROL" status messages on Boeing Model 747 and 767 series airplanes are intended to provide the flight crew with information that the airplane is not in a dispatch-capable condition due to problems detected in the engine control. Normally, the flight crew checks the status page prior to engine start to ensure the airplane is capable of dispatch. However, certain self-test features of the engine control can only be accomplished after engine start. Thus, in the event a failure in the engine control system affecting dispatch is detected after engine start, the Engine Indication and Crew Alerting System (EICAS) displays the "ENGINE CONTROL" message as an advisory.

The manufacturer has advised the FAA that the EICAS will not display this advisory message as intended. The status message functions normally, however, and may be used to determine that such a failure has occurred. This condition, if not corrected, could result in overspeed or uncommanded shutdown of the affected engine or engines.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires an addition to the FAA-approved Airplane Flight Manual (AFM) which includes the limitation that, prior to each airplane dispatch, with all engines running, the crew refer to the EICAS status page and

determine the dispatch capability of the aircraft. The requirements of this AD are considered to be interim action.

Boeing Commercial Airplanes is presently working to develop a design change to the EICAS which will provide proper message function. When this modification is approved and available, the FAA may consider further rulemaking action to revise this AD to provide for a terminating action.

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

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under 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/major 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 from the Rules Docket.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

**PART 39—[AMENDED]**

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes equipped with Pratt and Whitney PW4000 engines, and Model 767 series airplanes equipped with either Pratt and Whitney PW4000 or General Electric CF6-80C2-B6F engines, certificated in any category. Compliance is required within the next 3 days after the effective date of this AD, unless previously accomplished.

To detect non-dispatchable airplane configurations after engine start but prior to departure, accomplish the following:

A. Add the following to the Limitations Section of the FAA-approved Airplane Flight Manual. (AFM). This may be accomplished by inserting a copy of this AD in the AFM:

"Prior to each departure, with all engines running, refer to the EICAS status page and determine the dispatch capability of the aircraft."

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Operations Inspector (POI), who may concur or comment and then send it to the Manager, Seattle Aircraft Certification Office.

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 information from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 22, 1989.

Issued in Seattle, Washington, on April 26, 1989.

Leroy A. Keith,

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 89-11028 Filed 5-8-89; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 39**

**[Docket No. 88-NM-183-AD; Amdt. 39-6207]**

## Airworthiness Directives; Boeing of Canada, Ltd., de Havilland Division, Model DHC-8-100 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment revises an existing airworthiness directive (AD), applicable to de Havilland Model DHC-8-100 series airplanes, which currently requires flight manual limitations to prohibit takeoff, landing, and climb in the vicinity of lightning or thunderstorms, and requires continuous ignition operation during takeoffs, takeoff climb to 1500 feet above ground level (AGL), final approach, and landing within 5 nautical miles of lightning and thunderstorms. That AD was prompted by reports of lightning strike incidents which damaged the electronic control units. This amendment requires installation of four modifications which, when incorporated, will eliminate the unsafe condition addressed and obviate the need for the Airplane Flight Manual (AFM) limitations.

**EFFECTIVE DATE:** June 9, 1989.

**ADDRESSES:** The applicable service information may be obtained from Boeing of Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

**FOR FURTHER INFORMATION CONTACT:** Mr. Murry Schoenberger, Aerospace Engineer, FAA, New York Aircraft Certification Office, ANE-174, Engine and Propeller Directorate, Aircraft Certification Service, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-7421.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations by revising AD 85-14-51-41, Amendment 39-5440 (51 FR 36003; October 8, 1986), applicable to de Havilland Model DHC-8-100 series airplanes, to require installation of four modifications which constitute terminating action for the existing AD and, when installed, allow the removal

of certain operating limitations previously added to the AFM, was published in the **Federal Register** on December 8, 1988 (53 FR 49554).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

One comment was received, submitted by the aircraft manufacturer, which requested that the references to "* * * or static discharge" in paragraph A.1. and A.2. be deleted, since a static discharge will not result in induced transients which will upset electronic engine controls. The FAA concurs and the final rule has been revised accordingly.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

It is estimated that 40 airplanes of U.S. registry will be affected by this AD and that it will take a total of approximately 120 manhours per airplane to accomplish the required actions. Modification 8/0597 in itself will require approximately 98 of these manhours to accomplish. Because of the extent and criticality of procedures involved in installing this particular modification, de Havilland is sending a team to the operators to perform its installation. The kits for all four modifications will be supplied to operators by de Havilland and/or Pratt & Whitney of Canada (the engine manufacturer) at no or reimbursed cost for parts and labor.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities, under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

## PART 39—[AMENDED]

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by revising AD 85-14-51-R1, Amendment 39-5440 (51 FR 36003; October 8, 1986), as follows:

**Boeing of Canada, Ltd., de Havilland Division:** Applies to Model DHC-8-100 series airplanes, serial numbers up to and including 93, certificated in any category. Compliance required as indicated, unless previously accomplished.

To minimize the danger of lightning transient-induced damage to the electronic engine control units, accomplish the following:

A. Prior to further flight, incorporate the following limitations into the Limitations Section of the Airplane Flight Manual (AFM). This may be accomplished by including a copy of this AD in the AFM:

1. To preclude unacceptable loss of power during critical phases of flight, takeoff is prohibited when lightning or thunderstorms are observed or reported within 5 nautical miles of the takeoff climb path of the airplane, or when existing weather conditions may reasonably be expected to result in a lightning strike.

2. Operating with engine ignition selected to manual is required when operating below 1500 feet AGL within 5 nautical miles of any observed or reported lightning or thunderstorms, or any weather condition that may reasonably be expected to result in a lightning strike.

B. Within 12 months after the effective date of this amendment, install the following modifications. Installation of all four of these modifications constitutes terminating action for this AD, and the operating limitations required by paragraph A., above, may then be removed from the AFM.

1. Modification No. 8/0597, installation of left and right shielded harnesses incorporating electronic control unit (ECU) and signal conditioning unit (SCU) wiring, in accordance with de Havilland DHC-8 Service Bulletin 8-73-7, Revision E, dated October 14, 1988.

2. Modification No. 8/0598, installation of improved engine grounding jumpers, in accordance with de Havilland DHC-8 Service Bulletin 8-71-10, Revision B, dated October 14, 1988.

3. Modification 8/0964, replacement of the electrical wiring harness assembly, in accordance with de Havilland DHC-8 Service Bulletin 8-72-2, Revision A, dated October 14, 1988.

4. Modification 8/0813, installation of an SCU grounding strap on Pratt & Whitney PW120A engines, in accordance with de Havilland DHC-8 Service Bulletin 8-72-4, Revision A, dated October 14, 1988.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office (ANE-170), FAA, Engine and Propeller Directorate, Aircraft Certification Service.

**Note:** If appropriate, the request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, New York Aircraft Certification Office.

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 Boeing of Canada, Ltd., de Havilland Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

This amendment amends Amendment 39-5440, AD 85-14-51-R1.

This amendment becomes effective June 9, 1989.

Issued in Seattle, Washington, on April 25, 1989.

**Leroy A. Keith,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 89-11029 Filed 5-8-89; 8:45 pm]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-186-AD; Amdt. 39-6209]

## Airworthiness Directives; McDonnell Douglas Model DC-9 Series, Model DC-9-80 Series, Including Model MD-88, and C-9 (Military) Series Airplanes, Equipped With Hinged Evacuation Slide Covers

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive, applicable to certain McDonnell Douglas Model DC-9 series, Model DC-9-80 series, including Model MD-88, and C-9 (Military) series airplanes, which requires replacement of the evacuation slide girt bar forward stowage clip on forward emergency exit doors. This amendment is prompted by reports of the evacuation slide girt inadvertently catching on the evacuation slide girt bar forward stowage clip. This condition, if not corrected, could prevent the emergency exit from being opened, which could jeopardize the safe evacuation of the airplane.

**EFFECTIVE DATE:** June 12, 1989.

**ADDRESSES:** The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert M. Stacho, Aerospace Engineer, Systems and Equipment Branch, ANM-131L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; telephone (213) 988-5338.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to McDonnell Douglas Model DC-9 series, Model DC-9-80 series, including Model MD-88, and C-9 (Military) series airplanes, equipped with hinged evacuation slide covers, which requires replacement of the evacuation slide girt bar forward stowage clip on forward emergency exit doors, was published in the **Federal Register** on January 13, 1989 (54 FR 8544).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter concurred with the proposed AD and further requested that the random periodic slide inflation testing of the slide installation, while on the aircraft, be performed to improve the overall reliability of the evacuation systems for all aircraft. The FAA considers this request to be outside the scope of the proposed AD, and has determined that replacement of the forward girt bar stowage clip will correct the potential unsafe condition.

Another commenter had no objection to the proposed AD, but requested the compliance time be extended from six months to twelve months. The commenter estimated that ten months was required to complete its fleet after the parts became available. The FAA does not concur with the commenter's request. The FAA has been advised by the manufacturer that ample parts are available. The modification is not difficult to accomplish and will take approximately two manhours per airplane. Therefore, the FAA does not concur that additional time is warranted.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 1,500 Model DC-9 series, Model DC-9-80 series, including Model MD-88, and C-9 (Military) series airplanes in the worldwide fleet. It is estimated that 160 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The cost of required parts is estimated to be $100 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $28,800.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities, under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

### PART 39—[AMENDED]

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**McDonnell Douglas:** Applies to McDonnell Douglas Model DC-9 Series, Model DC-9-80 series, including Model MD-88, and C-9 (Military) series airplanes, equipped with hinged evacuation slide cover assemblies, as listed in McDonnell Douglas Alert Service Bulletin A25-299, Revision 1, dated September 23, 1988, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To minimize the possibility of an unusable emergency exit, accomplish the following:

A. Within 6 months after the effective date of this AD, replace the evacuation slide girt bar forward stowage clip in accordance with the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin A25-299, Revision 1, dated September 23, 1988.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

**Note:** The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Los Angeles Aircraft Certification Office.

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 McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach California 90846, Attention: Director of Publications, CL-100 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment becomes effective June 12, 1989.

Issued in Seattle, Washington, on April 26, 1989.

**Leroy A. Keith,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 89-11030 Filed 5-8-89; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 71

**[Airspace Docket No. 89-AGL-4]**

## Alteration of Transition Area; Casey, IL

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

**ACTION:** Final rule.

**SUMMARY:** The nature of this action is to alter the Casey, IL, transition area to accommodate existing Standard Instrument Approach Procedures (SIAPs) to Casey Municipal Airport, Casey, IL. The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

**EFFECTIVE DATE:** 0901 u.t.c., July 27, 1989.

**FOR FURTHER INFORMATION CONTACT:** Harold G. Hale, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

**SUPPLEMENTARY INFORMATION:**

### History

On Thursday, March 2, 1989, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Casey, IL (54 FR 8760).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

### The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the transition area airspace near Casey, IL. The extensions extend from the 5 mile radius area to 8.5 miles southwest and northeast of the airport; and within 4.25 miles each side of the 220° bearing and the 035° bearing from the airport. The realignment of existing SIAPs requires that the FAA alter the designated airspace to insure that the procedures will be contained within controlled airspace. The minimum descent altitude for the procedures may be established below the floor of the 700-foot controlled airspace. Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

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

### List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

### Adoption of the Amendment

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

### PART 71—[AMENDED]

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

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

### § 71.181 [Amended]

2. Section 71.181 is amended as follows:

**Casey, IL [Revised]**

That airspace extending upward from 700 feet above the surface within a 5 mile radius of Casey Municipal Airport, Casey, IL (lat. 39°18'07" N., long. 88°00'13" W.) and within 4.25 miles each side of the 220° bearing from the airport extending from the 5 mile radius area to 8.5 miles southwest of the airport; and within 4.25 miles each side of the 035° bearing from the airport extending from the 5 mile radius to 8.5 miles northeast of the airport.

Issued in Des Plaines, Illinois on April 20, 1989.

**Teddy W. Burcham,**

*Manager, Air Traffic Division.*

[FR Doc. 89-11032 Filed 5-8-89; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 97

**[Docket No. 25894; Amdt. No. 1399]**

## Standard Instrument Approach Procedures; Miscellaneous Amendments

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

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe flight operations under instrument flight rules at the affected airports.

**DATES:** *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 1, 1980, and reapproved as of January 1, 1982.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

*For Examination—*

1. FAA Rules Docket, FAA Headquarters Building 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

*For Purchase—*

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

*By Subscription—*

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8277.

**SUPPLEMENTARY INFORMATION:** This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

**List of Subjects in CFR Part 97**

Approaches, Standard instruments, Incorporation by reference.

Issued in Washington, DC, on April 28, 1989.

**Robert L. Goodrich,**

*Director, Flight Standards Service.*

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 g.m.t. on the dates specified, as follows:

**PART 97—[AMENDED]**

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

**Authority:** 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

*Effective July 27, 1989*

Lake in the Hills, IL—Lake in the Hills, VOR RWY 26, Amdt. 1
Utica, MI—Merz-Macomb, VOR-A, Amdt. 2
Utica, MI—Berz-Macomb, NDB RWY 22, Amdt. 4

*Effective June 29, 1989*

Little Falls, MN—Little Falls-Morrison County, NDB RWY 30, Amdt. 3
Minneapolis, MN—Anoka County-Blaine Arpt (Janes Field), VOR RWY 8, Amdt. 10
Minneapolis, MN—Anoka County-Blaine Arpt (Janes Field), VOR/DME RWY 26, Amdt. 3
Minneapolis, MN—Anoka County-Blaine Arpt (Janes Field), RNAV RWY 17, Amdt. 2
Minneapolis, MN—Crystal, VOR-A, Amdt. 9
Mount Vernon, OH—Knox County, RNAV RWY 10, Orig.
Baytown, TX—RWJ Airpark, VOR-A, Amdt. 1, CANCELLED
Baytown, TX—RWJ Airpark, VOR/DME RWY 32, Amdt. 3
Baytown, TX—RWJ Airpark, RNAV RWY 26, Orig.

*Effective June 1, 1989*

Fort Lauderdale, FL—Fort Lauderdale/Hollywood Intl, LOC RWY 13, Orig.

*Effective April 26, 1989*

Charleston, SC—Charleston AFB/Intl, RADAR-1, Amdt. 16

The FAA published an Amendment in Docket No. 25878, Amdt. No. 1398 to Part 97 of the Federal Aviation Regulations (VOL 54 FR No. 76 Page 16105; dated Friday, April 21, 1989) under § 97.29 effective April 6, 1989, which is hereby amended as follows:

Kenosha, WI—Kenosha Muni, ILS RWY 6L, Orig. should read:
Kenosha, WI—Kenosha Muni, ILS RWY 6L, Amdt. 1

[FR Doc. 89-11031 Filed 5-8-89; 8:45 pm]

BILLING CODE 4910-13-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**14 CFR Part 1259**

**RIN 2700-AA75**

## National Space Grant College and Fellowship Program

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** This final rule establishes NASA policies, responsibilities, and procedures relative to the National Space Grant College and Fellowship Program established by Title II of the National Aeronautics and Space Administration Authorization Act of 1988. This program, through the designation of Space Grant colleges/consortia and the establishment of Space Grant programs and fellowships, is designed to broaden the base of universities and individuals contributing to and benefiting from aerospace science and technology and ultimately contribute to the development and utilization of space resources.

**EFFECTIVE DATE:** May 9, 1989.

**ADDRESS:** Educational Affairs Division, Code XE, NASA Headquarters, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Elaine T. Schwartz, 202/453-8344.

**SUPPLEMENTARY INFORMATION:** NASA published a proposed rule establishing its policies, responsibilities and procedures relative to the National Space Grant College and Fellowship Program, in the **Federal Register** on March 13, 1989, (54 FR 10357). Comments from two sources were received. Each commenter requested that the requirement for matching funds be waived for Historically Black Colleges and Universities (HBCU's). Both requested specific language assuring that HBCU's may participate fully in the program, one by urging that a representative number of HBCU's be designated as Space Grant Colleges/Consortia. Both requested that NASA place greater emphasis on HBCU undergraduate science and engineering programs, specifically with regard to the participation of women and minorities.

A major objective of the National Space Grant College and Fellowship Program is the broadening of the university network participating with NASA in aerospace activities. The program has been specifically designed to require major aerospace universities to collaborate with and involve HBCU's and other schools not qualifying for designation in cooperative activities. A waiver of the matching funds requirement would negate the ability of the institution to attract funds from other sources, thus obviating the objective of university/industry collaboration. NASA believes that the final program announcement reflects considerable emphasis on education at all levels, particularly undergraduate, and especially on the involvement of underrepresented minority groups and women in all aspects of the program.

NASA believes the issues raised by the commenters are adequately addressed in the program as currently designed and do not need to be amended to the regulations.

NASA has determined that this rule does not constitute a major rule for the purpose of Executive Order 12291 and it will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 1259

Aerospace, Consortium, Fellowship program, Higher education, Space, Space grant college.

Part 1259 is added to Title 14, Chapter V, to read as follows:

## PART 1259—NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM

### Subpart 1—Basic Policy

Sec.

1259.100 Scope of part.
1259.101 Definitions.
1259.102 General policy.
1259.103 Special authorities—gift acceptance and other Federal funding.

### Subpart 2—Space Grant Program and Project Awards

1259.200 Description.
1259.201 Types of Space Grant program and project awards—regular and special.
1259.202 Application procedures.
1259.203 Limitations.

### Subpart 3—National Needs Grants

1259.300 Description.
1259.301 Identification of national needs.
1259.302 Application procedures.
1259.303 Limitations.

### Subpart 4—Space Grant College and Consortium Designation

1259.400 Description.
1259.401 Responsibilities.
1259.402 Basic criteria and application procedures.
1259.403 Limitations.
1259.404 Suspension or termination of designation.

### Subpart 5—Space Grant Fellowships

1259.500 Description.
1259.501 Responsibilities.
1259.502 Application procedures.
1259.503 Limitations.

### Subpart 6—Space Grant Review Panel

1259.600 Panel description.
1259.601 Establishment and composition.
1259.602 Conflict of interest.
1259.603 Responsibilities.

**Authority:** Pub. L. 100-147, 101 Stat. 869-875, 42 U.S.C. 2486; 42 U.S.C. 2452.

### Subpart 1—Basic Policy

#### § 1259.100 Scope of part.

(a) This Part 1259 establishes the policies, responsibilities and procedures relative to the National Space Grant College and Fellowship Program established by Title II of the National Aeronautics and Space Administration Authorization Act of 1988 (Pub. L. 100-147, Oct. 30, 1987, 101 Stat. 869-875, 42 U.S.C. 2486). This statute authorizes the Administrator of the National Aeronautics and Space Administration (NASA), in order to carry out the purposes of the National Space Grant College and Fellowship Act (the Act), to accept conditional or unconditional gifts and donations, to accept and use funds from other Federal departments, agencies and instrumentalities, to make awards with respect to such needs or problems and to designate Space Grant colleges. It further directs the Administrator to establish a graduate fellowship program to provide educational assistance to qualified individuals in fields related to space, and to establish an independent committee known as the Space Grant Review Panel to review and advise the Administrator with respect to Space Grant programs.

(b) The regulations of this part do not apply to awards made by NASA under any other authority.

#### § 1259.101 Definitions.

For the purposes of this part, the following definitions shall apply:

(a) "Field related to space" means any academic discipline or field of study (including the physical, natural and biological sciences, and engineering, space technology, education, economics, sociology, communications, planning, law, international affairs and public administration) which is concerned with or likely to improve the understanding, assessment, development and utilization of space.

(b) "Institution of higher education" means any college or university in any State which:

(1) Admits as regular students only individuals who have a certificate of graduation or equivalent from a secondary school;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which a bachelor's degree or other higher degree is awarded;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association.

(c) "National of the United States" means a citizen of the United States or a native resident of a possession of the United States. It does not refer to or include a citizen of another country who has applied for United States citizenship.

(d) "Panel" means the Space Grant Review Panel established pursuant to section 210 of the Act.

(e) "Person" means any individual, public or private corporation, partnership or other association or entity (including any Space Grant college, Space Grant consortium, institution of higher education, institute or laboratory), or any State, political subdivision thereof, or agency or officer of a State or political subdivision thereof.

(f) "Space" means "aeronautical and space activities" which has the meaning given to such term in section 103(1) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2452).

(g) "Space Grant college" means any public or private institution of higher education which is designated as such by the Administrator or designee pursuant to section 208 of the Act.

(h) "Space Grant regional consortium" means any association or other alliance which is designated as such by the Administrator or designee pursuant to section 208 of the Act.

(i) "Space Grant program" means any program which:

(1) Is administered by any Space Grant college, Space Grant regional consortium, institution of higher education, institute, laboratory or State or local agency; and

(2) Includes two or more projects involving education and one or more of the following activities in the fields related to space:

(i) Research;

(ii) Training; or

(iii) Advisory services.

(j) "Space Grant program award" means any award contemplated under section 206(a) of the Act.

(k) "Special Space Grant program award" means any award extended under section 206(b) of the Act.

(l) "Specific national need grant" means any award extended under section 207 of the Act.

(m) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and any other territory or possession of the United States.

(n) "State Space Grant cooperating institution" means any institution of higher education in a State which does not have a designated Space Grant college that is named by the Administrator or designee to provide selected Space Grant program functions within that State.

### § 1259.102 General policy.

(a) In accordance with subsections 103(a)(2) and (3) of the National Aeronautics and Space Act of 1958, as amended, (42 U.S.C. 2457(a)(3)), it is NASA's policy, through various educational programs, to provide direct support for and encouragement to teachers, students and prospective students in fields related to space.

(b) In compliance with the National Space Grant College and Fellowship Act (42 U.S.C. 2486), it shall be NASA's purpose to:

(1) Increase the understanding, assessment, development and utilization of space resources by promoting a strong educational base, responsive research and training activities and broad and prompt dissemination of knowledge and techniques;

(2) Utilize the abilities and talents of the universities of the Nation to support and contribute to the exploration and development of the resources and opportunities afforded by the space environment;

(3) Encourage and support the existence of interdisciplinary and multidisciplinary programs of space research, to engage in activities of training (including teacher education), research and public service and to have cooperative programs with industry;

(4) Encourage and support the existence of consortia, composed of university and industry members, to advance the exploration and development of space resources in cases in which national objectives can be better fulfilled than through the programs of single universities;

(5) Encourage and support Federal funding for graduate fellowships in fields related to space;

(6) Support activities in colleges and universities generally for the purpose of creating and operating a network of institutional programs that will enhance achievements resulting from efforts under this Act; and

(7) Encourage cooperation and coordination among Federal agencies and Federal programs concerned with space issues.

(c) It shall be NASA's policy to designate Space Grant colleges, State Space Grant cooperating institutions and Space Grant regional consortia and award fellowships, grants, contracts and other transactions competitively in a merit-based review process.

(d) It shall be NASA's policy to designate and make awards without discriminating on the basis of sex, race, color, religion, national origin or handicap.

### § 1259.103 Special authorities—gift acceptance and other Federal funding.

(a) Acceptance of gifts:

(1) In order to carry out the provisions of the Act, the Administrator is authorized to accept conditional or unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible. This authority is delegated to the Director, Educational Affairs Division.

(2) The Administrator or designee may decline any gift or donation that the Administrator determines is not in accord with the purposes of the program. Also, conditional gifts or donations that are not in compliance with the Act or the implementing regulations shall be declined. NASA may use a reasonable amount from a gift or donation to cover any administrative costs associated with such gift or donation.

(b) Acceptance and use of funds from other Federal agencies:

(1) To carry out the provisions of the Act, the Administrator is authorized to accept and use funds from other Federal departments, agencies and instrumentalities to pay for awards under this program. This authority is delegated to the Director, Educational Affairs Division.

(2) The Administrator or designee may decline any such funds when the Administrator determines acceptance would not be in accord with the purposes of the program. NASA may use a reasonable amount from transferred Federal funds to cover any administrative costs associated with such transfer.

## Subpart 2—Space Grant Program and Project Awards

### § 1259.200 Description.

Awards are authorized to establish any Space Grant and/or fellowship program or project if such program or project will further the purposes of the Act.

**§ 1259.201 Types of Space Grant program and project awards—regular and special.**

(a) A regular Space Grant program or project award shall:

(1) Be funded by NASA up to 66 percent of the total cost of the Space Grant award and/or fellowship program involved; or

(2) Be funded up to 100 percent of its cost if funded by another Federal entity.

(b) A special Space Grant program or project award may be funded up to 100 percent of the total cost of the special project if the Administrator or designee, the Director, Educational Affairs Division, finds that:

(1) No reasonable means is available through which the applicant can meet the matching requirements for a regular Space Grant award under paragraph (a) of this section;

(2) The probable benefit of such project outweighs the public interest in such matching requirement; and

(3) The same or equivalent benefit cannot be obtained through the award of a regular Space Grant program or project award under paragraph (a) of this section or the award of a specific national need grant under section 207 of the Act.

**§ 1259.202 Application procedures.**

(a) The opportunity to apply shall be announced by the Director, Educational Affairs Division.

(b) The application procedures and evaluation guidelines for awards under this section will be included in the announcements of such programs.

(c) The applications will be reviewed by a peer review merit selection panel appointed by the Director, Educational Affairs Division.

**§ 1259.203 Limitations.**

Public Law 100-147, Section 206(d) (2) and (3), states that:

(a) Funds for awards made under this section may not be used to:

(1) Purchase land;

(2) Purchase, construct, preserve or repair any building; or

(3) Purchase or construct any launch facility or launch vehicle.

(b) Funds may be used to lease any of the items listed in paragraph (a) of this section as long as prior written approval is obtained from the Administrator or designee.

## Subpart 3—National Needs Grants

**§ 1259.300 Description.**

National needs awards may be awarded by the Administrator or designee to meet such needs or problems relating to aerospace identified by the Space Grant Review Panel, by NASA officials or by any person. Such awards may be up to 100 percent of the total cost of the program or project.

**§ 1259.301 Identification of national needs.**

National needs shall be identified by the Administrator who shall consider specific national needs and problems relating to space proposed by the Space Grant Review Panel, any NASA official or any person.

**§ 1259.302 Application procedures.**

(a) The Administrator or designee has the authority to make awards to meet identified national needs.

(b) The Director, Educational Affairs Division, shall establish a competitive, merit-based review process to examine unsolicited national needs proposals.

**§ 1259.303 Limitations.**

The same limitations shall apply as are stated in § 1259.203.

## Subpart 4—Space Grant College and Consortium Designation

**§ 1259.400 Description.**

(a) The Administrator may designate Space Grant colleges, Space Grant college consortia and Space Grant regional consortia in order to establish Federal/university partnerships to promote a strong educational base in the space and aeronautical sciences. These designated colleges and consortia will provide leadership for a network of American colleges and universities, industry and State and local governments in space-related fields. The Administrator hereby delegates this authority to the Director, Educational Affairs Division.

(b) Designation of Space Grant colleges, Space Grant college consortia and Space Grant regional consortia shall be for 5 years. Designation of Space Grant colleges and consortia may be continued based on a merit review at the beginning of the fifth year.

(c) Each designated Space Grant college or consortium will receive:

(1) A Space Grant award that requires a 100 percent match; and

(2) Funds for fellowships.

(d) Each Space Grant college or consortium will be funded annually.

**§ 1259.401 Responsibilities.**

Each designated Space Grant college or consortium shall:

(a) Designate a Space Grant Program Director;

(b) Establish a Space Grant Office;

(c) Administer a fellowship program;

(d) Develop and implement programs of public service, interdisciplinary space-related programs, advisory activities and cooperation with industry, research laboratories, State and local governments and other colleges and universities, particularly institutions in their State and/or region with significantly large enrollments of racial minorities who are under-represented in science and technology; and

(e) Provide nonfederal matching funds (exclusive of in-kind contributions) for the Space Grant program equal to that provided by NASA.

**§ 1259.402 Basic criteria and application procedures.**

(a) Any institution of higher education may be designated a Space Grant college if the Administrator or designee finds that it has a balanced program of research, education, training and advisory services in fields related to space, as further defined in the program announcement.

(b) Any association or other alliance of two or more persons may be designated a Space Grant regional consortium, if the Administrator or designee finds that such association or alliance:

(1) Is established for the purpose of sharing expertise, research, educational or training facilities and other capabilities in order to facilitate research, education, training and advisory services, in any field related to space;

(2) Will encourage and follow a regional approach to solving problems or meeting needs relating to space, in cooperation with other institutions of higher education, Space Grant program grantees and other persons in the region.

(c) The opportunity to apply for designation shall be announced by the Director, Educational Affairs Division. The application procedures and evaluation guidelines for designation shall be included in the designation announcement.

(d) Designation will be decided by a competitive merit review of the program proposal measured against the purposes of the Act and including, but not limited to, proposed linkages with other colleges and universities (particularly institutions with significant enrollments of under-represented minority groups), public service and collaboration with space-related industry.

**§ 1259.403 Limitations.**

The same limitations shall apply as are stated in § 1259.203.

**§ 1259.404 Suspension or termination of designation.**

The Administrator or designee, the Director, Educational Affairs Division,

may, for cause, and after an opportunity for a hearing before an Administrative Judge appointed by the Deputy Administrator, suspend or terminate the Space Grant designation of any institution or consortium.

### Subpart 5—Space Grant Fellowships

#### § 1259.500 Description.

The Space Grant fellowship program will provide educational and training assistance to qualified individuals at the graduate level in fields related to space. Awards will be made to institutions of higher education for fellowships. The student recipients shall be known as NASA Space Grant Fellows.

#### § 1259.501 Responsibilities.

(a) All institutions which receive Space Grant fellowships will be expected to use the awards to increase the pool of graduate students in fields related to space.

(b) The overall fellowship program shall be cognizant of institutional diversity and geographical distribution.

#### § 1259.502 Application procedures.

(a) All applicants for designation as Space Grant colleges and consortia must apply for Space Grant fellowships.

(b) Applicants for Space Grant program or project grants (under § 1259.200) and for national needs grants (under § 1259.300) may also apply for Space Grant fellowships.

(c) There will be a merit review selection of Space Grant fellowship awards.

#### § 1259.503 Limitations.

(a) Fellowships shall be awarded only to Nationals of the United States.

(b) Any students supported under this fellowship program shall not be funded for more than 4 years unless the Director, Educational Affairs Division, makes an exception.

### Subpart 6—Space Grant Review Panel

#### § 1259.600 Panel description

An independent committee, the Space Grant Review Panel, which is not subject to the Federal Advisory Committee Act, shall be established to advise the Administrator with respect to Space Grant program and project awards, the Space Grant fellowship program and the designation and operation of Space Grant colleges and consortia. A majority of the voting members shall be individuals who, by reason of knowledge, experience, or training are especially qualified in one or more of the fields related to space. The other voting members shall be individuals who, by reason of knowledge, experience or training, are especially qualified in, or representative of, education, extension services, State government, industry, economics, planning or any other activity related to the purposes of the Space Grant program.

#### § 1259.601 Establishment and composition.

(a) The Panel, to be located at NASA Headquarters in Washington, DC, will be composed of ten voting members who are not current NASA employees.

(b) It shall include four from Federal departments, agencies or entities that have an interest in space programs or science and education, and six nonfederal representatives.

(c) The nonfederal representatives shall include two persons who are directly involved with the Space Grant program at a Space Grant college or consortium, one person involved with the Space Grant program at a university that is not a designated Space Grant college, a university president or chancellor, one representative of a space-related industry and the last person to be from whatever field the Administrator determines to be of greatest concern.

(d) The Panel members shall be appointed by the Administrator or designee.

(e) The relevant organizations and associations in aerospace and science education fields will be asked to provide three names for each position on the panel. The Administrator shall consider them, but not be limited to them, in the selection process.

(f) The Administrator or designee shall select a Chair and a Vice Chair. The Vice Chair shall act as Chair in the absence or incapacity of the Chair.

(g) The Administrator or designee may select NASA officials to serve as ex officio, nonvoting members of the panel.

#### § 1259.602 Conflict of interest.

Any member of the Panel who has a personal or financial interest in an issue before the Panel shall abstain from voting on such issue.

#### § 1259.603 Responsibilities.

(a) The Panel shall advise the Administrator and the Director, Educational Affairs Division, with respect to:

(1) Applications or proposals for, and performance under, awards made pursuant to sections 206 and 207 of Title II of the Act;

(2) The Space Grant fellowship program;

(3) The designation and operation of Space Grant colleges and Space Grant regional consortia, and the operation of Space Grant and fellowship programs;

(4) The formulation and application of the planning guidelines and priorities pursuant to section 205 (a) and (b)(1) of Title II of the Act; and

(5) Such other matters as the Administrator refers to the Panel for review and advice.

(b) The Panel shall meet biannually and at any other time at the call of the Chair or upon a request from a majority of the voting members or at the call of the Administrator.

(c) The Panel may exercise such powers as are reasonably necessary in order to carry out the duties enumerated in paragraph (a) of this section.

(d) The Director, Educational Affairs Division, shall appoint an Executive Secretary who shall perform administrative duties for the Panel.

(e) Federal members of the Panel will have their agencies reimbursed by NASA for any travel costs and per diem expenses required to attend Panel meetings.

(f) Nonfederal members of the Panel will be reimbursed by NASA for travel costs and per diem expenses required to attend Panel meetings.

Dale D. Myers,

*Acting Administrator.*

May 1, 1989.

[FR Doc. 89-11043 Filed 5-8-89; 8:45 am]

BILLING CODE 7510-01-M

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## DEPARTMENT OF COMMERCE

## Bureau of Export Administration

## 15 CFR Part 771

**[Docket No. (81254-9098)]**

## Revision of General License GIFT

**AGENCY:** Bureau of Export Administration, Commerce.

**ACTION:** Interim rule and request for public comment.

**SUMMARY:** The Bureau of Export Administration is revising § 771.18 of the Export Administration Regulations (15 CFR Parts 768-799), which contains provisions on the applicability of General License GIFT for exports from the United States. General License GIFT authorizes export of parcels from U.S. individuals to individuals or charitable organizations overseas.

General License GIFT is modified to allow no more than one gift parcel from the same donor to the same donee in any one month. Currently, one parcel may be shipped each week. This change

is intended to assure that the license is utilized in conformity with its intended purpose, namely the donative provision of gifts between individuals. Specific authorization to exceed this limit may be granted on a case-by-case basis to meet compelling humanitarian concerns (e.g., gifts of medicine to relatives). The Bureau of Export Administration will grant case-by-case exemptions through issuance of a validated license. For clarity, new text is added on appropriateness of items as gifts.

In accordance with § 786.8 of the EAR, officials of the Office of Export Enforcement or the U.S. Customs Service may inspect individual or multiple gift parcels. Exporters should also be aware that when parcels violate the terms of this general license, they may also violate regulations issued by the Office of Foreign Assets Control, Department of the Treasury, under the Trading with the Enemy Act.

**DATES:** This rule is effective May 9, 1989. Comments must be received by June 8, 1989.

**ADDRESS:** Written comments (six copies) should be sent to: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** Patricia Muldonian, Regulations Branch, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377-2440.

**SUPPLEMENTARY INFORMATION:**

### Rulemaking Requirements and Invitation to Comment

1. This rule is consistent with Executive Order 12291 and 12661.

2. This rule does not involve a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. Section 13(a) of the Export Administration Act of 1979 (EAA), as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Publishing this rule in proposed form would impair the Bureau of Export Administration's ability to impose effective and timely controls. This rule is being published in interim form pursuant to section 13(b) of the EAA, and an opportunity for public comment is provided. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Because this rule is being issued in interim form, comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close June 8, 1989. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4086, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-2593.

### List of Subjects in 15 CFR Part 771

Exports, Reporting and recordkeeping requirements.

Accordingly, Part 771 of the Export Administration Regulations (15 CFR Parts 768-799) is amended as follows:

## PART 771—AMENDED

1. The authority citation for Part 771 continues to read as follows:

**Authority:** Pub. L. 96-72, Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, by Pub. L. 99-64 of July 12, 1985 and by Pub. L. 100-145 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

2. Section 771.18 is amended by revising paragraphs (b)(1) introductory text, (b)(1)(ii), and (b)(3) to read as follows:

**§ 771.18 General license GIFT, shipments of GIFT parcels.**

* * * * *

(b) * * *

(1) Commodity limitations. To qualify for shipment as gifts, commodities must be:

* * * * *

(ii) Normally sent as gifts, and in quantities normally given as gifts between individuals. Goods such as food, toilet articles, and medicines and pharmaceuticals in dosage form may be included. Clothing is appropriate, except that export of military wearing apparel to Country Group Q, S, W, Y, or Z under this general license is specifically prohibited, regardless of whether all distinctive U.S. military insignia, buttons, and other markings are removed. Gold bullion, gold taels, and gold bars are likewise prohibited as are items intended for resale.

*Example.* A watch or piece of jewlery is normally sent as a gift. However, multiple watches, either in one package or in

subsequent shipments, would not qualify for GIFT because the quantity exceeds that normally given between individuals. Similarly, a sewing machine or bicycle, within the dollar limits of this general license, may be an appropriate gift. However, subsequent shipments of the same item to the same donee would not be a gift normally given between individuals.

* * * * *

(3) Frequency of shipment. Not more than one gift parcel may be sent from the same donor to the same donee in any one calendar month. Parties seeking authorization to exceed this limit due to compelling humanitarian concerns (e.g., gifts of medicine to relatives) should submit an Application for Export License (BXA-622P) with complete justification.

* * * * *

Dated: May 3, 1989.

**James M. LeMunyon,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 89-1110 Filed 5-8-89; 8:45 am]

BILLING CODE 3510-DT-M

## FEDERAL TRADE COMMISSION

### 16 CFR Parts 0 and 1

### Employment of Administrative Law Judges as Presiding Officers in Rulemaking Proceedings

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission has amended its rules that govern the presiding officers who conduct rulemaking proceedings under section 18 of the Federal Trade Commission Act (FTC Act), 15 U.S.C. 57a(a)(1)(B). Under these amendments, the Office of Administrative Law Judges will preside over such rulemaking proceedings in place of members of the Office of Presiding Officers, and the Office of Presiding Officers will be eliminated.

**EFFECTIVE DATE:** These amendments are effective May 3, 1989.

**FOR FURTHER INFORMATION CONTACT:** Julia A. Oas, Attorney, Office of the General Counsel, Federal Trade Commission, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2483.

**SUPPLEMENTARY INFORMATION:** The Commission has determined to abolish the Office of Presiding Officers and to transfer the functions previously performed by members of that office to the Office of Administrative Law Judges. The Commission has amended Rule 0.14 to include, as responsibilities of the administrative law judges, the duties that were previously undertaken by the members of the Office of the Presiding Officers. Rule 0.14 also designates the Chief Administrative Law Judge as the Chief Presiding Officer in rulemaking proceedings under section 18(a)(1)(B) of the FTC, 15 U.S.C. 57a(a)(1)(B). The Commission also has eliminated the language of Rule 0.15, which established the Office of Presiding Officers. The Commission has also deleted a reference to the Office of Presiding Officers in Rule 0.9. Finally, the Commission has amended Rule 1.13(c)(5) to reflect that the Commission, through the Office of the Executive Director, will no longer conduct periodic evaluations of the performance of presiding officers.

This transfer of the duties of the presiding officers to the administrative law judges is not inconsistent with the duties and responsibilities already held by the administrative law judges. The Administrative Procedure Act provides for the assignment of administrative law judges to preside over formal rulemaking proceedings. 5 U.S.C. 556(b)(3). The hybrid rulemaking procedures mandated by Section 18 of the FTC Act share many of the characteristics of formal rulemaking, including, for example, the use of oral hearings and cross-examination and the issuance by the presiding officer of a recommended decision. Thus, the duties required of presiding officers under Section 18(c)(1) of the FTC Act, 15 U.S.C. 57a(c)(1), are similar to those that administrative law judges already perform.

Moreover, assigning administrative law judges to serve as presiding officers in rulemaking proceedings will not compromise the independence of presiding officers. Section 18(c)(1)(B) of the FTC Act, 15 U.S.C. 57a(c)(1)(B), mandates that presiding officers be responsible to a chief presiding officer, who may not be responsible to any other officer or employee of the Commission. This requirement is satisfied by the amendment to Rule 0.14, which provides that the Chief Administrative Law Judge serve as the Chief Presiding Officer, and by the amendment to Rule 1.13(c)(5), which provides that the chief presiding officer shall not be responsible to any other Commission employee. Further, administrative law judges have the degree of independence required to perform the duties of presiding officers. First, administrative law judges are exempt from the statutory performance appraisal system that applies to other employees, 5 U.S.C. 4301(2)(D). Second, their pay is independent of any rating by their employing agency, 5 U.S.C. 5372. Finally, Office of Personnel Management regulations prohibit agencies from rating their performance, 5 CFR 930.211.

Because the amendments relate solely to rules of agency practice, they are not subject to the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(a)(2).

**List of Subjects**

*16 CFR Part 0*

Organization and functions (government agencies).

*16 CFR Part 1*

Administrative Practice and Procedure, Rulemaking Proceedings.

For the reasons set out in the preamble, the Commission amends Title 16, Chapter I, the Code of Federal Regulations, as follows:

## PART 0—ORGANIZATION

1. The authority for Part 0 continues to read as follows:

Authority: Sec. 6(g), 38 Stat. 721 (15 U.S.C. 46); 80 Stat. 383, as amended (5 U.S.C. 552).

2. Section 0.9 is revised to read as follows:

**§ 0.9 Organization structure.**

The Federal Trade Commission comprises the following principal units: Office of the Executive Director, Office of the General Counsel, Office of the Secretary, Office of Administrative Law Judges, Bureau of Competition, Bureau of Consumer Protection, Bureau of Economics, The Regional Offices.

3. Section 0.14 is revised to read as follows:

**§ 0.14 Office of Administrative Law Judges.**

Administrative law judges are officials to whom the Commission, in accordance with law, delegates the initial performance of its adjudicative fact-finding functions to be exercised in conformity with Commission decisions and policy directives and with its rules of practice. The administrative law judges also serve as presiding officers assigned to conduct rulemaking proceedings under Section 18(a)(1)(B) of the Federal Trade Commission Act as amended and other rulemaking proceedings as directed. The Chief Administrative Law Judge also serves as the Chief Presiding Officer. Administrative law judges are appointed under the authority and subject to the prior approval of the Office of Personnel Management.

**§ 0.15 [Removed and reserved]**

4. Section 0.15 is removed and reserved.

**PART 1—GENERAL PROCEDURES**

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

**Authority:** Sec. 6, 38 Stat. 721 (15 U.S.C. 46), unless otherwise noted.

**Subpart B—Rules and Rulemaking Under Section 18(a)(1)(B) of the FTC Act**

**§ 1.13 [Amended]**

Section 1.13 is amended by revising paragraph (c)(5) to read as follows:

**§ 1.13 Rulemaking proceeding.**

* * * * *

(c) * * *

(5) Organization. In the performance of their rulemaking functions, presiding officers shall be responsible to the chief presiding officer who shall not be responsible to any other officer or employee of the Commission.

* * * * *

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 89-11083 Filed 5-8-89; 8:45 am]

BILLING CODE 6750-01-M

## COMMODITY FUTURES TRADING COMMISSION

**17 CFR Part 145**

**Commission Western and Southwestern Regional Offices Change of Address; Correction**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** This notice corrects the telephone number of the Commodity Futures Trading Commission Office in Minneapolis, Minnesota, previously published in the **Federal Register** on April 27, 1989 (54 FR 18098).

**FOR FURTHER INFORMATION CONTACT:** Gerry Smith (202) 254-6090.

In FR Doc. 89-10010, published in the Thursday, April 27, 1989, **Federal Register**, § 145.6(a) on page 18099 is corrected by revising the telephone number for the Commodity Futures Trading Commission Office in Minneapolis, Minnesota, to read (612) 370-3255.

Dated: May 3, 1989.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 89-11045 Filed 5-8-89; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**Office of Assistant Secretary for Housing—Federal Housing Commissioner**

**24 CFR Part 200**

**[Docket No. R-89-1355; FR-2025]**

**RIN No. 2502-AC92**

**Scope and Nature of FHA Appraisals and Property Inspections**

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

**ACTION:** Final rule.

**SUMMARY:** As part of its mortgage insurance underwriting procedure, in both single and multifamily programs, HUD requires that a property be appraised and, in the case of single family properties, requires that a statement of appraised value be delivered to the homebuyer before sale. HUD also requires an inspection of properties involving new construction, repairs or rehabilitation. This rule codified HUD's longstanding position that: (1) Appraisals are made for the purpose of aiding the Department in determining the maximum insurable mortgage amount, and (2) inspections are required to protect the interests of HUD as mortgage insurer. The appraisals and inspections are not performed for the benefit of purchasers, or otherwise to be regarded as a HUD warranty to purchasers of the value or condition of the property.

**EFFECTIVE DATE:** June 19, 1989.

**FOR FURTHER INFORMATION CONTACT:** Stephen Martin, Director, Office of Insured Single Family Housing, Room 9266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755-3046. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Before issuing a commitment for multifamily or single family mortgage insurance on a newly constructed or existing property, HUD requires that (except for certain refinancing cases) the property be appraised to assist HUD in determining the maximum insurable mortgage amount. With respect to one- to four-family properties, HUD also requires lenders to provide purchasers with a form that advises them of HUD's appraised valuation of their property. This form clearly notifies the purchaser that HUD's appraisal was made for mortgage insurance purposes and is not a warranty as to the value or condition of the property. *See* copy #3 of HUD Form 92800.5B (3-87). HUD also may require that a property be inspected to determine whether construction or other defects exist that would make it ineligible for mortgage insurance. The objective of these required appraisals and inspections is to protect the government and the FHA insurance funds.

This rule sets forth in the Code of Federal Regulations a statement describing the limited function of HUD appraisals and inspections. The rule does not establish new policy, nor does it modify existing policy. It reaffirms and codifies what has always been the position of the Department as to the limited function of the appraisals and inspections it requires. The rule is intended more fully to inform prospective FHA mortgagors and the public of the limited role of HUD-ordered appraisals and inspections.

On April 14, 1988, a proposed rule, identical to this final rule, was published in the **Federal Register** (53 FR 12431). The Department invited comments from the public on the proposed rule and received three.

One commenter stated that:

> Although we can understand HUD's desire to limit its liability in certain areas, we are concerned that appraiser liability may be extended. For example, in the case of an altered value determination by a review appraiser, the question arises as to whose report it is, particularly if the value is increased by the reviewer and the loan ultimately goes into default. The proposal goes to great lengths to explain the limited function of a HUD-ordered appraisal, yet the appraiser's responsibilities and liabilities in the matter are left unclear. We suggest that if a review appraiser changes the value, then the review appraiser will be responsible for that appraisal, and liability would be removed from the original appraiser. The Uniform Standards of Professional Appraisal Practice lay out requirements in this regard.

*Response:* It is the Department's position that regardless of whether a review appraiser changes the value in an appraisal report, upon signing the report the reviewer clearly and unambiguously accepts responsibility for the value shown.

The same commenter also said:

> Another area of concern is that additional costs may be incurred for inspection, appraisal and reinspection under the mortgage insurance programs. Costs

associated with these requirements may in some cases be considerable, *i.e.*, when the appraiser needs to make a full reinspection of a property. The initial appraisal fee and subsequent fees become a factor in the funding of the program. Further study in this regard is needed.

*Response:* Costs associated with an inspection or reinspection of a property are nominal fees usually ranging from $35.00 to $50.00. However, if the appraiser is requested to perform a reconsideration appraisal predicated on new information which was not previously available, the appraiser is entitled to one half of the original appraisal fee. The initial appraisal fee and subsequent fees are in no way related to the funding of the program.

A second commenter urged that a lender should have the benefit of having a copy of the appraisal or, in the alternative, the underwriter review of the appraisal report. It is observed that, although HUD is insuring the loan, the lender is still put in a risk position and acts many times as an agent or associate of HUD in following regulations. "Many times a lender must evaluate its and HUD's risk position by determining a property's condition for security purposes."

*Response:* With respect to the commenter's urging that non-direct endorsement mortgagees be provided a copy of the appraisal report, field offices have been advised to instruct appraisers to mail a copy of the appraisal report to the mortgagee at the same time the original is sent to the field office. This procedure took effect on January 1, 1989.

The third commenter makes a recommendation which does not relate directly to the proposed rule:

> We would like to make the suggestion that HUD address the impact of deficient appraisal work. To do this, HUD should allow documented requests from lenders to suspend uncooperative or substandard appraisers from being assigned to future appraisals for those particular companies. The appraiser should be deleted from that company's appraisal requests until such time as HUD can review the complaints. Upon review, HUD could either reinstate the appraiser or permanently remove the appraiser from the fee panel.

*Response:* If an appraiser is found to be uncooperative or substandard, a *general* suspension or other sanction is in order—not a suspension which follows automatically from a "documented request" from a single lender and applies only with respect to that lender. If a lender believes an appraiser to be uncooperative or substandard, the lender should notify the local evaluation branch of its HUD field office. An investigation could then be initiated and appropriate administrative action taken.

None of the commenters had a problem with the purpose of HUD's long-standing position that appraisals are made for the purpose of aiding the Department in determining the maximum insurable mortgage amount, that inspections are required to protect the interest of HUD as mortgage insurer, and that appraisals and inspections are not performed for the benefit or purchaser or otherwise to be regarded as a HUD warranty to purchasers on the value or condition of the property.

The Department finds no reason, as a result of the public comments received, to make any substantive change in the proposed rule, and is promulgating it today as a final rule.

**Procedural Requirements**

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost 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.

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. The rule merely restates existing HUD policy with respect to appraisals and inspections in its mortgage insurance programs.

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 implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

The intent of this rule is to make explicit in the Code of Federal Regulations the nature and intent of HUD appraisals and inspections. The rule sets forth the position the Department has consistently taken on these matters, reflects longstanding administrative practices, and involves no change or modification of HUD policy or practice. It was first published in the **Federal Register** as a proposed rule in order to provide the public full opportunity, through the public comment procedure, to raise questions and to receive the benefit of further explanation from the Department where needed.

This rule was listed as item H-1-85 (Sequence Number 950) under Office of Housing in the Department's Semiannual Agenda of Regulations published on April 24, 1989 (54 FR 16708, 16727) under Executive Order 12291 and the Regulatory Flexibility Act.

**Executive Order 12606, the Family**

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule merely restates in the Code of Federal Regulations longstanding HUD policy and practice. Its promulgation should not have any effect on the family.

**Executive Order 12612, Federalism**

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies stated in this rule do not have federalism implications and, thus, are not subject to review under the Order.

**List of Subjects in 24 CFR Part 200**

Mortgage insurance.

## PART 200—[AMENDED]

1. The authority citation for Part 200 is revised to read as follows:

**Authority:** Secs. 2, 211, 807, National Housing Act (12 U.S.C. 1703, 1715b, and 1748f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 200.145, the section heading is revised and a new paragraph (c) is added, to read as follows:

**§ 200.145 Technical analysis, underwriting processing and inspections.**

* * * * *

(c)(1) As part of its underwriting processing for single and multifamily mortgage insurance programs, HUD may require an appraisal and inspection of the property covered by the mortgage. These appraisals and inspections are performed to determine the maximum insurable mortgage amount and to

protect the Government and its insurance funds. Appraisals and inspections neither create nor imply a duty or obligation from HUD to the mortgagor or to any other party, and are not to be regarded as a warranty by HUD to the mortgagor, or to any other party, of the value or condition of the property. The mortgagor is responsible for making those investigations and inspections it deems necessary for protecting its interests in the property.

(2) In connection with the insurance of mortgages covering single family homes. HUD requires the seller or builder, or such other person as HUD may designate, to deliver to the purchaser before the sale a written statement of appraised value. This estimate of value is used by HUD in determining the maximum mortgage amount it will insure. The written statement of appraised value is not to be regarded as a warranty by HUD to the mortgagor or any other party as to the value or condition of the property. The purchaser must satisfy himself or herself that the price of the property is reasonable and that its condition is acceptable.

Date: May 1, 1989.

**James E. Schoenberger,**

*General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.*

[FR Doc. 89-10982 Filed 5-8-89; 8:45 am]

BILLING CODE 4210-27-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 261

[SW-FRL-35679]

## Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final Rule.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) today is granting a final exclusion from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32 for specified wastes to be generated by CF&I Steel Corporation, Pueblo, Colorado. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 268, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

**EFFECTIVE DATE:** May 9, 1989.

**ADDRESSES:** The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street SW., Room M-2427, Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The reference number for this docket is "F-89-CFEF-FFFFF." The public may copy material from any regulatory docket at a cost of $0.15 per page.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information concerning this notice, contact James Kent, Office of Solid Waste (OS-343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4488.

**SUPPLEMENTARY INFORMATION:**

### I. Background

#### A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine that (1) the waste to be excluded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the wastes at levels of regulatory concern.

#### B. History of this Rulemaking

CF&I Steel Corporation (CF&I), located in Pueblo, Colorado, petitioned the Agency to exclude from hazardous waste control a specific waste it intends to generate. After evaluating the petition, on August 2, 1988, EPA proposed to exclude CF&I's waste from the lists of hazardous waste under 40 CFR 261.31 and 261.32, conditional upon CF&I meeting certain sampling, analysis, and reporting requirements. See 53 FR 29067.

CF&I petitioned the Agency for an "upfront" exclusion. A petitioner requests an upfront exclusion for wastes that have not yet been generated or that will be subject to further treatment. When treatment is planned, an upfront delisting petition requests that an exclusion be granted based on untreated waste characteristics, pilot-scale treatment data if available, and process descriptions. As a condition of an upfront exclusion, the Agency may impose batch testing requirements, which often include analytical testing of representative samples obtained from the full-scale system. These data can be used to verify that the treatment system, once on-line, is operating as described in the petition. The Agency may also specify verification testing limitations (*i.e.*, the maximum allowable levels of hazardous constituents of concern in the waste) in the conditions of the granted exclusion. When the actual levels of the constituents of concern are below these levels, the waste will not be considered hazardous. If the actual levels of the constituents are above these levels, the waste is still considered to be hazardous and must be retreated or disposed in accordance with RCRA Subtitle C requirements.

This rulemaking addresses public comments received on the proposal and finalizes the proposed exclusion.

### II. Disposition of Petition

#### *CF&I Steel Corporation, Pueblo, Colorado*

##### 1. Proposed Exclusion

CF&I petitioned the Agency for an upfront exclusion of its chemically stabilized electric arc furnace dust (CSEAFD), presently listed as EPA Hazardous Waste No. K061. CF&I based its petition on the claim that the constituents of concern, although present in the waste, were in an essentially immobile form (*i.e.*, cement-like). Furthermore, to support its claim that both the non-listed and listed constituents of concern would not be present in the fully-cured CSEAFD above health-based levels of concern, CF&I submitted results from total constituent, EP toxicity, and multiple extraction procedure (MEP) analysis (used to assess stabilized wastes) for all the EP toxic metals, nickel and cyanide. The total constituent analyses were performed on representative samples of the untreated electric arc furnace dust. The EP and MEP leachate analyses were performed on representative samples of the fully-cured CSEAFD as generated using a laboratory-scale treatment system.

The Agency evaluated the information and analytical data provided by CF&I for its untreated electric arc furnace dust and its fully-cured CSEAFD generated from a laboratory-scale waste treatment process and determined that the hazardous constituents found in the waste would not pose a threat to human health and the environment. Specifically, the Agency used its vertical

and horizontal spread (VHS) model to predict the potential mobility of the hazardous constituents in the petitioned waste. Based on this evaluation, the Agency determined that the constituents in CF&I's waste would not leach and migrate at concentrations above the health-based levels used in delisting decision-making. Since CF&I's petition was based on a laboratory-scale waste treatment system, the Agency further used the VHS model to establish concentration levels (*i.e.*, delisting levels) for the hazardous constituents in the waste to be generated from the full-scale waste treatment process. The proposed exclusion set maximum constituents concentration levels permissible in the CSEAFD generated from the full-scale waste treatment process and established testing conditions to verify that the levels of hazardous constituents in the petitioned waste do not exceed permissible levels. The verification testing conditions attached to the exclusion are designed to ensure that these constituents will not be present in the fully-cured CSEAFD at concentrations above the health-based levels used in delisting decision-making. See 53 FR 29067, August 2, 1988, for a more detailed explanation of why EPA proposed to grant CF&I's petition for its fully-cured CSEAFD.

2. Agency Response to Public Comments

The Agency received public comments on the proposed rule from two commenters. One commenter supported the Agency's proposed decision to exclude the fully-cured CSEAFD and the second commenter opposed the Agency's decision. The objections and comments raised by the commenters are discussed below.

*Petition-Specific Comments.* One commenter opposed the Agency's handling of information on CF&I's stabilization process as proprietary. The commenter believed that without specific details concerning CF&I's stabilization process and the physical/chemical composition of the stabilized waste, their ability to provide "meaningful" public comment was seriously restricted.

The Agency disagrees with the commenter. As specified in 40 CFR 260.2(b), CF&I is entitled to assert a claim of business confidentiality covering part or all of the information submitted to EPA in fulfillment of the information requirements of §§ 260.20 and 260.22. Furthermore, CF&I followed the procedures set forth in 40 CFR 2.203(b) pertaining to confidential business information. CF&I provided the Agency confidential information detailing the "Solifix" stabilization process. Substantial resources have been invested to develop the stabilization process, and CF&I is required to protect this information in order to operate the licensed process. Furthermore, CF&I did not seek to protect as confidential any waste-specific information. Data characterizing the physical and chemical composition of both the untreated waste and the CSEAFD were provided in the exclusion petition. The Agency evaluated all information submitted. Information that was not claimed to be confidential is available in the RCRA public docket for public inspection.

The same commenter stated that it strongly opposed the Agency's proposal to grant CF&I an exclusion for the reasons discussed below.

The commenter stated that the CSEAFD still exhibits one of the criteria for which it was listed—the presence of significant concentrations of the inorganic constituents of concern (*i.e.*, cadmium, chromium, and lead). The commenter also stated that the waste contains significant concentrations of nickel.

The Agency agrees that the presence in K061 wastes of significant total constituent concentrations of the inorganic constituents of concern was one of the criteria for listing K061 wastes as "T" (toxic) wastes. See 40 CFR 261.11(a)(3)(ii) and "Background Document, Resource Conservation and Recovery Act, Subtitle C, Hazardous Waste Management, section 3001, Identification and Listing of Hazardous Waste," 1980. The Agency, however, believes that data presented in the Background Document characterize the physical/chemical nature of untreated electric arc furnace dusts and that these data are not representative of the physical/chemical nature of stabilized electric arc furnace dust having a cement-like waste matrix. Specifically, EPA believes it is reasonable to expect that, as the total constituent concentration of an unbound or loosely bound metal present in a waste increases, the potential for the metal to leach from the waste also increases (generally, the higher the total constituent concentration of an unbound or loosely bound metal, the higher the potential EP leachate concentration). Thus, wastes having significant total constituent concentrations of unbound or loosely bound metals are more likely to impact the underlying ground water than wastes having lower total constituent concentrations of unbound or loosely bound metals. In this case, because the metals in CF&I's waste are tightly within the waste's cmement-like matrix, the Agency believes that the elevated levels of the metals present in CF&I's waste should not pose a threat to either human health or the environment. The Agency's conclusion that the inorganic constituents of concern (including nickel) are bound in the waste matrix and thus are not available for leaching is supported by the results of the EP and MEP leachate analyses.

EPA evaluated the potential mobility of CF&I's stabilized waste using the maximum EP or MEP leachate concentrations and the vertical and horizontal spread (VHS) model. For the volume of waste to be generated by CF&I's, the VHS model predicted a dilution factor of approximately 6.3. The Agency believes that the VHS model analysis provides a conservative and reasonable worst-case evaluation of the waste's effect on the underlying aquifer. The predicted compliance-point concentrations resulting from this conservative analysis were below the levels of concern used for delisting purposes. See 53 FR 29071, August 2, 1988, for a description of the modeling analysis of CF&I's waste.

Furthermore, in delisting evaluations, EPA considers all the factors for which the waste was listed, as well as factors other than those for which the waste was originally listed that could cause the waste to be hazardous. See 42 U.S.C. 6921(f). For this specific wastestream, based on the above discussion, EPA does not believe that any other factors, including elevated total constituent concentrations of the inorganic constituents of concern and nickel, could cause this wastestream to present a hazard to human health and the environment.

The commenter also asserted that the Agency only considered the leachable levels of hazardous constituents and did not consider airborne and waterborne dispersal of the waste.

With regard to possible airborne dispersal, the Agency believes that the commenter's concern was based primarily on the characterization of K061 wastes in the listing background document as being fine particles or dusts. The Agency believes that airborne exposure to hazardous contaminants from CF&I's EAF dust (fine particles) is not probable because CF&I's untreated EAF dust will be regulated as a hazardous waste, thus releases of the EAF dust to the atmosphere should be controlled. Additionally, due to the physical and chemical nature of CF&I's stabilized waste (*i.e.*, monolithic and nonfriable), the Agency believes that direct contact from airborne exposure to hazardous

contaminants from the CSEAFD is unlikely.

With regard to waterborne dispersal of the waste, it is important to note that CF&I's waste will be stabilized to produce a cement-like waste matrix and handled as hazardous until it is fully cured. The VHS model analysis described in the proposal shows that leachate from the waste that travels through ground water will not exceed health based levels.

The Agency acknowledges that it may also be possible for surface water runoff to transport contaminants from the waste to a nearby surface water body. However, the Agency does not believe that anlysis of such overland transport of contaminants as a reasonable exposure route for the petitioned waste would compel a different result for this petition. First, as described in the proposed rule, the Agency believes that landfill disposal is a reasonable worst-case management scenario for CF&I's solidified waste. Contamination of surface water might occur, therefore, through runoff from the petitioned waste. However, EPA believes that the concentrations of any hazardous constituents in that runoff will tend to be lower than the levels in the EP leachate analyses reported in the proposal due to the acidic medium of the EP test. Furthermore, any transported constituents would be further diluted in the surface water body.

Second, the Agency believes that, in general, the leachate derived from this waste will not directly enter a surface water body without first traveling through the saturated (subsurface) zone where dilution and attenuation of hazardous constituents may occur. The VHS model takes this saturated zone into account as it predicts the ultimate fate and transport of hazardous constituents. Last, if the wastes were exposed to any long-term weathering, the Agency believes that any significant overland transport of hazardous constituents through erosion and runoff is highly unlikely for solidified (cement-like) wastes such as CF&I's waste.

The commenter further asserted that the at-the-well contribution of cadmium, chromium, lead, nickel, and selenium from CF&I's waste alone would be substantially more than half of the amount allowed in drinking water under the current standards for these contaminants (*i.e.*, the predicted compliance-point concentrations (CPCs) for cadmium, chromium, lead, nickel, and selenium are very close to their respective regulatory standards). The commenter, therefore, stated that disposing of this waste with any other contaminant source within the same landfill could readily cause exceedences of the standards.

As the Agency discussed in the **Federal Register** on February 26, 1985 and November 13, 1986 (50 FR 7900 and 51 FR 41085), the VHS model analysis assumes that there are no potential contaminant sources at the disposal site (*i.e.*, leachate from the waste mixes with non-contaminated ground water). Additionally, without specifying management conditions or considering site-specific characteristics, the Agency cannot modify the VHS model to assess the effects of additional contaminant sources on the underlying aquifer within the same disposal site. The commenter is inferring that wastes should not be delisted unless the predicted at-the-well concentrations of the contaminants are significantly less than their respective health-based levels. The Agency does not have any technical basis to support a determination of an appropriate percentage reduction and believes that any resulting percentage reduction would be arbitrary. Furthermore, the commenter did not suggest any technical basis for such a reduction. Therefore, in light of the conservative nature of the VHS model, EPA will continue to allow wastes to exhibit CPC's up to 100 percent of the health-based standard.

The commenter was further troubled by the CPC for lead since EPA is considering lowering the drinking water standard for lead to 0.005 mg/l. The commenter believes that the waste should be considered hazardous since, if the 0.005 mg/l standard is adopted, the calculated CPC would exceed the standard by nearly a factor of eight.

In making delisting decisions, the Agency uses the existing health-based levels cited in "Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions," June 8, 1988 (located in the RCRA public docket). EPA has no way of predicting the final drinking water standard until it is actually promulgated (the standard could be less than or greater than the proposed level or the 0.005 mg/l level cited by the commenter). Neither can the Agency be certain exactly when the new standard might be promulgated. Without a new final drinking water standard, the Agency does not believe it is fair to the petitioner to postpone a final rulemaking until a new drinking water standard for lead is promulgated.

Lastly, the commenter believed that the Agency did not consider the possibility of dioxin contamination. The commenter based its concern of the possibility of dioxin contamination on data obtained through the Agency's National Dioxin Study, Tier 4 Combustion Report. (See "National Dioxin Study Tier 4 Combustion Sources: Engineering Analysis Report," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, EPA-450/4-84-014h, September 1987.)

The Agency disagrees with the commenter. EPA evaluated CF&I's petition and did not believe that any other hazardous constituents, including dioxins, were present in CF&I's waste. In response to the commenter's specific concern regarding the possibility of dioxin contamination, EPA reviewed the Tier 4 report cited by the commenter. Although data presented in the Tier 4 report indicated that dioxins were present in wastes generated by secondary copper smelters and wire reclamation incinerators, the Agency does not consider it likely for dioxins to be present in CF&I's waste. As discussed in the Tier 4 report, the principal reasons for the possible presence of dioxins in wastes generated by secondary copper smelters and wire reclamation incinerators are the presence of dioxin-forming precursors in raw materials and low combustion temperatures.

Specifically, the report noted that secondary copper smelters' raw materials can contain quantities of polyvinyl chloride wire insulation (telephone wire), electrical parts, and other sources of copper (including circuit boards and electrical switches). Wire reclamation incinerators can process polyvinyl chloride wire insulation and polychlorinated biphenyls (PCBs)-containing transformer cores and parts. These types of raw materials contain dioxin-forming precursors.

The report also found that combustion temperatures maintained by both secondary copper smelters and wire reclamation incinerators are low enough to promote the formation of dioxins. Surveyed secondary copper smelting furnaces operated at approximately 1500 °F, and wire reclamation incinerators operated at approximately 1000 °F (some had afterburners operating at 1900 °F).

The Agency reviewed the list of scrap materials CF&I reported it uses to charge its furnaces, and the Agency does not believe that CF&I uses wire or electronic scrap. The Tier 4 report states that secondary copper smelters and wire reclamation incinerators are less likely to generate dioxin-containing wastes if they do not use polyvinyl coated wire and low combustion temperatures. Additionally, the Tier 4 report stated that dioxins generally are destroyed at temperatures above 800 °C (1472 °F),

especially in incinerators with residence times of 1.5–2.0 seconds or more. CF&I's furnaces heat the molten steel to 3000 °F. Therefore, CF&I's furnaces run at more than two times the temperature required to destroy polychlorinated dibenzo-p-dioxins (PCDDs), PCBs, and polychlorinated dibenzofurans (PCDFs). EPA, based on the above discussion, does not believe that it is reasonable to expect dioxins to be present in CF&I's waste.

*EPA's Modeling Approach.* One commenter supported EPA's proposed use of the VHS model as applied to CF&I's petitioned waste, and strongly supported EPA's assertion that "it is inappropriate for the Delisting Program to consider extensive site-specific factors in its evaluation of delisting petitions." See 53 FR 29068. The commenter believed that it is unlawful and inappropriate for EPA to consider any site-specific factors in its evaluation of delisting petitions. This comment does not pertain to this petition or affect the proposed decision since the Agency did not consider any site-specific factors in its evaluation of the petitioned waste. The Agency, therefore, will independently respond to this comment in terms of a separate rulemaking petition raising this issue with the Agency (filed by the Hazardous Waste Treatment Council).

*Conditional Testing and Reporting Requirements.* One commenter stated that if the Agency granted CF&I an exclusion, the conditional requirements of the exclusion should include analyses for total constituent concentrations and MEP constituent concentrations of the hazardous constituents.

The Agency disagrees with the commenter. The Agency expects that this waste will be disposed of in a municipal landfill, where soil conditions would be mildly acidic. EPA believes that the EP extraction procedure is the most appropriate analytical tool to evaluate the potential leachability of this waste in an acidic environment. For this waste, EPA believes that continued evaluation of the EP leachable concentrations as required by the conditions of this exclusion will be adequate to protect human health and the environment. Furthermore, the Agency does not have health-based standards regulating the total constituent concentrations of any of the EP toxic metals or nickel. To require CF&I to continually monitor for the total constituent concentrations of all the EP toxic metals and nickel will not ensure further protection of human health or the environment.

Lastly, the Agency does not believe it is necessary to require CF&I to perform continuous MEP analyses. First, the Agency's belief that the stabilization process is effective is substantiated by the analytical data obtained from the previous MEP leachate tests. Additionally, if the stabilization process were ineffective and an increase in the leachability of the hazardous constituents from the waste were to occur, the Agency believes that the EP leachate analyses would measure such an increase.

The commenter stated that the proposed testing conditions did not provide a schedule for testing the waste sufficient to ensure that it will continue to meet EPA's delisting criteria. The commenter also stated that, at the very least, a program of periodic retesting should be required to verify the continued effectiveness of the stabilization process, in light of the potential for significant variation in the waste composition.

The Agency, when evaluating CF&I's petition, realized that the concentration of the constituents of concern would vary depending on the type and quality of scrap metal charged in the steel making process. To address the possible variation in constituent concentrations, the Agency limited CF&I's exclusion to cover wastes generated from a specific percentage range of scrap metals, including molds and stools, cast scrap, haystack and pot buttons, mill scrap, ferro process scrap, borings and turnings, miscellaneous furnace scrap, and roll scale briquettes. See 53 FR 29072, August 2, 1988. The Agency reasoned that, by fixing the percentage of each type of steel scrap within the range used by CF&I during the time period when CF&I collected its samples of unstabilized EAF dust, the variation in constituent concentrations would be controlled to within the range that CF&I demonstrated could be rendered non-hazardous. However, while responding to the comments concerning the proposed testing conditions, the Agency realized that the specifications of the Institute of Scrap Iron and Steel (ISIS) for grading scrap metal were voluntary guidelines. The Agency, therefore, agrees with the commenter that potentially significant variation in waste composition may occur due to the potential variation in the specific type of scrap within a particular category (*e.g.*, mill scrap, #1 bundles, #2 bundles). As a result, fixing the percentage of each type of steel scrap using the ISIS grading system would not prevent CF&I's waste from exhibiting variations in constituent concentrations outside of the range addressed by CF&I's petition.

Therefore, the Agency, in promulgating this final rule, has modified condition (1)(B) to require CF&I to collect and analyze weekly composite samples of the treated CSEAFD indefinitely:

(1)(B) Subsequent Testing: CF&I must collect representative grab samples from every treated batch of CSEAFD generated daily and composite all of the grab samples to produce a weekly composite sample. CF&I then must analyze each weekly composite sample for the EP leachate concentrations of all the EP toxic metals and nickel. Analyses must be performed according to SW–846 methodologies. The analytical data, including all quality control information, must be compiled and maintained on site for a minimum of three years. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Colorado.

The Agency believes that it is necessary to require the petitioner to analyze weekly composites of the CSEAFD in order to ensure that the stabilization process effectively handles the potential variation in constituent concentrations. As stated above, the potential variation in constituent concentrations is a result of the potentially changing composition of the scrap charges. The Agency, however, believes that the composition of the scrap charges will not vary abruptly from day-to-day. Rather, the Agency expects that the composition of the scrap charges will change gradually since scrap generally is not purchased every day. Therefore, the Agency believes that collecting composite samples on a weekly basis will be sufficient to ensure that the stabilization process is able to accommodate the potential changes in constituent concentrations and generate non-hazardous CSEAFD.

The commercial availability of different types of scrap metal are subject to change with time. Therefore, as described above, the Agency believes it is possible that the composition of the untreated EAF dust will vary over time. The Agency stated in the proposed rule, that future upfront delisting proposals and decisions may include different testing requirements based on an evaluation of the uniformity of the waste and that wastes with variable constituent concentrations, including those discussed in previous delisting decisions (*e.g.*, 51 FR 41323, November 14, 1986), would require continuous batch testing. See 53 FR 29072, August 2, 1988. In this case, the Agency believes that the potential variations in waste composition (*i.e.*, constituent concentrations) resulting from changing scrap, warrant the requirement for continual testing of weekly composite samples of CSEAFD. As a result, the

Agency removed condition (3) *Termination of Testing* in order to reflect the requirement for continual testing of weekly composite samples of the CSEAFD.

The Agency is requiring the petitioner to compile and store on site, all analytical data obtained through the subsequent testing condition (1)(B). The Agency realized that requiring the petitioner to submit these analytical date every six months, would place an undue burden on both the petitioner and EPA. In addition, the Agency, may at any time, either visit the facility for inspection purposes or request the petitioner to report these data. Therefore, the Agency is maintaining the same level of protection without requiring the petitioner to report these analytical data every six months. Condition (4) *Data submittals* has been renumbered and now reads:

(3) Data submittals: Within one week of system start-up, CF&I must notify the Section Chief, Variances Section (see address below) when their full-scale stabilization system is on-line and waste treatment has begun. All data obtained through the initial testing condition (1)(A), must be submitted to the Section Chief, Variances Section, PSPD/OSW, (OS-343), U.S. EPA, 401 M Street, SW., Washington, DC 20460 within the time period specified in condition (1)(A). At the Section Chief's request, CF&I must submit analytical data obtained through condition (1)(B) to the above address, within the time period specified by the Section Chief. Failure to submit the required data obtained from either condition (1)(A) or (1)(B) within the specified time periods will be considered by the Agency sufficient basis to revoke CF&I's exclusion to the extent directed by EPA. All data must be accompanied by the following certification statement:

"Under civil and criminal penalty of law for the making or submission of false or fraudulant statements representations (pursuant to the applicable provisions of the Federal Code which include, but may not be limited to, 18 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete.

As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of wastes will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion."

(Name of Certifying Person)

Date

(Title of Certifying Person)

Date

*Inconsistencies Between the Delisting Program and the Land Disposal Restrictions Program.* One commenter believed that the Agency's decision to exclude CF&I's waste was inconsistent with the Land Disposal Prohibition Provisions of the 1984 HSWA amendments. Specifically, the commenter stated that (1) the EP leachate concentration of lead in CF&I's waste exceeded the Agency's promulgated best demonstrated available technology (BDAT) treatment level for lead in KO61 wastes (see 53 FR 31138) and (2) the proposed delisting levels for EP leachate concentrations of lead and nickel also exceeded the BDAT treatment standards (see 53 FR 29071 and 53 FR 31164, respectively).

The Agency agrees with the commenter that there are differences in approach between some of the decision criteria used in individual delisting decisions and those used in the Land Disposal Restrictions Program (LDRP). However, these differences are appropriate given the separate functions of the two programs and their different statutory bases. The Delisting Program and the LDRP are fundamentally different in that the Delisting Program's standards are health-based and the LDRP's treatment standards are technology-based. See RCRA section 3001 (42 U.S.C. 6921) and RCRA section 3004 (42 U.S.C. 6924(m)), respectively. The Agency, however, believes that both the health-based and technology-based approaches of the Delisting Program and the LDRP, respectively, are protective of human health and the environment.

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the CSEAFD, when subject to the verification testing requirements specified in the exclusion, should be excluded from hazardous waste control. The Agency, therefore, is granting a final conditional exclusion to CF&I Steel Company, located in Pueblo, Colorado, for its fully-cured chemically stabilized electric arc furnace dust treatment residue, described in its petition as EPA Hazardous Waste No. K061. The exclusion only applies to the processes covered by the original demonstration. The facility would require a new exclusion if either its manufacturing or treatment processes are significantly altered such that an adverse change in waste composition occurred. Accordingly, the facility would need to file a new petition for the altered waste. The facility must treat waste generated from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling or reclamation.

## III. Limited Effect of Federal Exclusion

The final exclusion being granted today is being issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Since a petitioner's waste may be regulated under a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

## IV. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this rule should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative

Procedures Act, pursuant to 5 U.S.C. 553(d).

## V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule to grant an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous. There is no additional economic impact, therefore, due to today's rule.

## VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations and is limited to one facility. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

## VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96–511, 44 U.S.C. § 3501 *et. seq.*) and have been assigned OMB Control Number 2050-0053.

## List of Subjects in 40 CFR Part 261

Hazardous materials, Waste Treatment and disposal, Recycling.

Date: May 1, 1989.

**Jeffery D. Denit,**

*Deputy Director, Office of Solid Waste*

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

## PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

**Authority:** Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Table 2 of Appendix IX, add the following wastestream in alphabetical order:

**Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22.**

TABLE 2. WASTES EXCLUDED FROM SPECIFIC SOURCES

| Facility | Address | Waste Description |
|---|---|---|
| • | • | • • • • • • • |
| CF&I Steel Corporation | Pueblo, Colorado | Fully-cured chemically stabilized electric arc furnace dust/sludge (CSEAFD) treatment residue (EPA Hazardous Waste No. K061) generated from the primary production of steel after May 9, 1989. This exclusion is conditioned upon the data obtained from CF&I's full-scale CSEAFD treatment facility because CF&I's original data was obtained from a laboratory-scale CSEAFD treatment process. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern once the full-scale treatment facility is in operation, CF&I must implement a testing program for the petitioned waste. This testing program must meet the following conditions for the exclusion to be valid:<br>(1) *Testing:*<br>(A) *Initial Testing:* During the first four weeks of operation of the full-scale treatment system, CF&I must collect representative grab samples of each treated batch of the CSEAFD and composite the grab samples daily. The daily composites, prior to disposal, must be analyzed for the EP leachate concentrations of all the EP toxic metals, nickel, and cyanide (using distilled water in the cyanide extractions), and the total constituent concentrations of reactive sulfide and reactive cyanide. Analyses must be performed according to SW-846 methodologies. CF&I must report the analytical test data obtained during this initial period no later than 90 days after the treatment of the first full-scale batch.<br>(B) *Subsequent Testing:* CF&I must collect representative grab samples from every treated batch of CSEAFD generated daily and composite all of the grab samples to produce a weekly composite sample. CF&I then must analyze each weekly composite sample for the EP leachate concentrations of all of the EP toxic metals and nickel. Analyses must be performed according to SW-846 methodologies. The analytical data, including all quality control information, must be compiled and maintained on site for a minimum of three years. These data must be furnished upon request and made available for inspection by any employee or representative of EPA or the State of Colorado.<br>(2) *Delisting levels:* If the EP extract concentrations determined in conditions (1)(A) or (1)(B) for chromium, lead, arsenic, or silver exceed 0.315 mg/1; for barium exceeds 6.3 mg/1; for cadmium or selenium exceed 0.063 mg/1; for mercury exceeds 0.0126 mg/1; for nickel exceeds 3.15 mg/1; or for cyanide exceeds 4.42 mg/1, or total reactive cyanide or total reactive sulfide levels exceed 250 mg/kg and 500 mg/kg, respectively, the waste must either be re-treated or managed and disposed in accordance with Subtitle C of RCRA. |

TABLE 2. WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

| Facility | Address | Waste Description |
|---|---|---|
| | | (3) *Data submittals:* Within one week of system start-up, CF&I must notify the Section Chief, Variances Section (see address below) when their full-scale stabilization system is on-line and waste treatment has begun. All data obtained through the initial testing condition (1)(A), must be submitted to the Section Chief, Variances Section, PSPD/OSW, (OS-343), U.S. EPA, 401 M Street, SW., Washington, DC 20460 within the time period specified in condition (1)(A). At the Section Chief's request, CF&I must submit analytical data obtained through condition (1)(B) to the above address, within the time period specified by the Section Chief. Failure to submit the required data obtained from either condition (1)(A) or (1)(B) within the specified time periods will be considered by the Agency sufficient basis to revoke CF&I's exclusion to the extent directed by EPA. All data must be accompanied by the following certification statement: "Under civil and criminal penalty of law for the making of submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code which include, but may not be limited to, 18 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of wastes will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion." |

[FR Doc. 89-11085 Filed 5-8-89; 8:45 am]

BILLING CODE 6560-50-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1115

**[Ex Parte No. 55 (Sub 75)]**

### Deadline for Requesting Commission Review of Arbitration Decisions

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commission is codifying its policy set forth in *Norfolk & W. R. Co. and New York C. & St. L. R. Co.—Merger,* 5 I.C.C.2d 234 (1989), that appeals from decisions of an arbitrator or neutral referee must be filed within 20 days of the arbitration decision. It is also deleting reference to the divisions and panels of the Commission at 49 CFR 1115.2.

**EFFECTIVE DATE:** The rules are effective May 9, 1989.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 275-7245 (TDD for hearing impaired: (202) 275-1721).

**SUPPLEMENTARY INFORMATION:** In *Norfolk & W. R. Co. and New York C. & St. L. R. Co.—Merger,* 5 I.C.C.2d 234 (1989), the Commission found, for the future, that appeals from arbitration decisions must be filed within 20 days. Codification of this requirement at 49 CFR 1115.8 will ensure notice to all potentially affected persons. Notice and comment is not necessary, as the rule simply reflects precedent established in that proceeding.

We are also deleting the word "division" and the phrase "panel of the Commission" from 49 CFR 1115.2 because divisions and panels no longer exist within the Commission's structure. Since this is a final action undertaken to revise an internal, organizational matter, formal comments are unnecessary under 5 U.S.C. 553(b)(A).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources. This action will not have a significant impact on a substantial number of small entities.

**List of Subjects in 49 CFR Part 1115**

Administrative practice and procedure.

**Authority:** 49 U.S.C. 10321, 10322 and 5 U.S.C. 559.

For the reasons set out in the preamble, Title 49, Chapter X, Part 115 of the Code of Federal Regulations is amended as follows:

## PART 1115—APPELLATE PROCEDURES

1. The authority citation for Part 1115 continues to read as follows:

**Authority:** 49 U.S.C. 10321, 10322, and 10377; 5 U.S.C. 559.

**§ 1115.2 [Amended]**

2. Section 1115.2 is amended by revising the introductory paragraph to read as follows:

**§ 1115.2 Initial decisions.**

This category includes the initial decision of an administrative law judge, individual Commissioner, employee board, or joint board.

* * * * *

3. A new § 1115.8 is added to read as follows:

**§ 1115.8 Petitions to review arbitration decisions.**

An appeal of right is permitted. The appeal must be filed within 20 days of a final arbitration decision, unless a later date is authorized by the Commission, and is subject to the page limitations of § 1115.2(d). Standards for Commission review of arbitration decisions are set forth in *Chicago and North Western Transp. Co.—Abandonment,* 3 I.C.C.2d 729 (1987), *aff'd sub nom. International Brotherhood of Electrical Workers* v. *ICC,* No. 87-1629 (D.C. Cir. November 25, 1988). The timely filing of a petition will not automatically stay the effect of the arbitration decision. A stay may be requested under § 1115.5.

Decided: April 28, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

**Noreta R. McGee,**

*Secretary.*

[FR Doc. 89-10988 Filed 5-8-89; 8:45 pm]

BILLING CODE 7035-01-M

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 301**

**[Docket No. 90514-9114]**

## Pacific Halibut Fisheries

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of final rule.

**SUMMARY:** The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission, publishes notice of regulations promulgated by that Commission and approved by the United States Government to govern the Pacific halibut fishery. These regulations are intended to enhance the conservation of Pacific halibut stocks in order to help rebuild and sustain them at an adequate level in the northern Pacific Ocean and Bering Sea.

**EFFECTIVE DATE:** May 3, 1989.

**FOR FURTHER INFORMATION CONTACT:** J. Craig Hammond, Special Agent in Charge, Law Enforcement Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, Alaska 99802, telephone 907-586-7225; or Executive Director, International Pacific Halibut Commission, P.O. Box 5009, University Station, Seattle, Washington 98105, telephone 206-624-1838.

**SUPPLEMENTARY INFORMATION:** The International Pacific Halibut Commission (IPHC), under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has promulgated new regulations governing the Pacific halibut fishery. The regulations have been approved by the Secretary of State of the United States of America and by the Governor-General of Canada by Order-in-Council. On behalf of the IPHC, these regulations are published in the **Federal Register** to provide notice of their effectiveness, and to inform persons subject to the regulations of the restrictions and requirements established therein.

The substantive changes from the previous regulations, published at 53 FR 10536 (April 1, 1988), are as follows: (1) New halibut fishing seasons and area catch limits are established; (2) all bearings specified in the regulations are changed from magnetic to true; (3) procedures for specifying fishing period limits are codified; (4) new sport fishing seasons and bag limits are established; (5) check-in and check-out requirements for certain vessels fishing in Regulatory Area 4 are modified; and (6) fishing in more than one regulatory area in a fishing period for which a fishing period limit is in effect is prohibited.

The Northern Pacific Halibut Act of 1982 (the Act), Pub. L. 97-176, 16 U.S.C. 773c(c), authorizes the Regional Fishery Management Council having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in U.S. Convention waters which are in addition to, but not in conflict with, regulations of the IPHC. Pursuant to this authority, the Under Secretary of Oceans and Atmosphere directed the Pacific and North Pacific Fishery Management Councils to allocate halibut catches should such allocations be necessary.

The Pacific Fishery Management Council (PFMC) developed a 1989 Catch Sharing Plan (Plan) to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian, non-Indian commercial, and non-Indian sport fisheries in the Commission statistical Area 2A off Washington, Oregon, and California. The 1989 Plan for Area 2A is the result of a process that included development of a proposed Plan by a Halibut Managers Group consisting of state, federal and treaty Indian fishery managers, and a Council advisory panel and select group consisting of user group representatives and fishery managers. The proposed Plan was adopted for public review by the PFMC at its November 16-18, 1988 public meeting. The proposed Plan, a description of the need for the Plan, and a description of the Council's process for developing the proposed Plan was published in the **Federal Register** with a request for public comments on January 10, 1989 (54 FR 834). The PFMC, at its January 12, 1989, public meeting, adopted the final 1989 Catch Sharing Plan following review and consideration of the recommendations of its advisory bodies and comments made by the public. The final Plan was forwarded to the Secretary for review and approval and to the IPHC for implementation. The Secretary approved the Plan and published notice of approval on March 1, 1989 (54 FR 8542). The Plan is for 1989 only and distributes the 650,000 pound TAC in Area 2A as sub-quotas between the three groups as follows: treaty Indian fisheries—152,000 pounds; non-Indian commercial fishery—274,000 pounds; and non-Indian sport fisheries—224,000 pounds. The Plan also has provisions for the treaty Indian commercial and ceremonial and subsistence fisheries, and the non Indian sport fisheries which were adopted by the IPHC and are included in this action.

The North Pacific Fishery Management Council voted to retain the allocative regulations it adopted in 1988 for certain vessels fishing in Regulatory Area 4. Those regulations were approved by the Secretary of Commerce and were published in the **Federal Register** as a final rule on June 3, 1988 (53 FR 20327). These regulations are renumbered in this action to conform to the IPHC final rule.

At its January, 1989 meeting, the IPHC expressed its concern that the catch limit established for Regulatory Area 4E in 1989 could not be harvested under the regulations developed by the North Pacific Fishery Management Council and approved by the Secretary of Commerce on June 3, 1988 (53 FR 20327). The Council's regulations restrict vessels fishing in Regulatory Area 4E to a maximum catch of 6,000 pounds of halibut per fishing period. The IPHC noted that in 1988, the Council's catch restriction prevented the full harvest of the catch limit for Regulatory Area 4E; in that year, fishing vessels harvested only about 5 per cent (5,000 pounds) of the 4E catch limit of 100,000 pounds. The IPHC determined that if the Council's fishing period limit were to remain in effect after August 10, 1989, the catch limit for 4E would likely remain unharvested in 1989 as well. Consequently, the IPHC adopted a regulation suspending the Council's fishing period limit in Regulatory Area 4E after August 10, 1989. That regulation is approved. This action modifies only that portion of the Council's regulation which, in the opinion of the IPHC, would interfere with the full harvest of the 4E catch limit. Under section 5(c) of the Northern Pacific Halibut Act of 1982, 16 U.S.C. 773c(c), the Council's 4E fishing period limit regulation is superseded to the extend that it is in conflict with the IPHC's regulation.

The IPHC adopted and submitted for approval regulations virtually identical to the North Pacific Fishery Management Council's fishing period limits in Regulatory Areas 4C and 4E. The primary purpose of the Council's regulations is to provide economic protection for halibut fishermen who land all of their halibut catch at ports within Areas 4C and 4E. *See* 53 FR 20327 (June 3, 1987). Because allocation of halibut resources among domestic

fishermen is the primary purpose, the IPHC's regulations concerning fishing period limits in Areas 4C and 4E are rejected. However, the Council's regulations remain in effect and are renumbered in this action to conform to the IPHC's regulations. The net regulatory effect is the same.

This action also includes a Secretarial final rule modifying the North Pacific Fishery Management Council's check-in and check-out requirements at 50 CFR 301.13 for vessels fishing in Regulatory Area 4. *See* 53 FR 20327 (June 3, 1988). The current regulations require certain vessels to obtain hold inspections from a fishery officer in Dutch Harbor or Akutan before and after fishing in Regulatory Area 4. The Secretary has determined that the Council's enforcement objectives may be met more cheaply by replacing the mandatory hold inspection requirement with the vessel clearance procedure prescribed in this Secretarial final rule.

### Classification

Because approval by the Secretary of State of the IPHC regulations is a foreign affairs function, *Jensen* vs. *National Marine Fisheries Service*, 512 F. 2d 1189 (9th Cir. 1975), 5 U.S.C. 553 of the Administrative Procedure Act, Executive Order 12291, and the Regulatory Flexibility Act do not apply to this notice of the effectiveness and content of the regulations. These regulations do not contain collection of information requirements subject to the Paperwork Reduction Act.

The Secretarial rule included at § 301.19 merely provides notice of the boundaries of the treaty Indian tribes' usual and accustomed fishing places as prescribed under Federal judicial decisions. The Secretarial rule deleting the hold inspection requirement from the regulations at § 301.13 affects agency enforcement procedure and relieves a restriction. Therefore, opportunity for prior public comment and a delayed effectiveness period are unnecessary and are not being provided under the Administrative Procedure Act, 5 U.S.C. 553. Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not apply. No collection of information under the Paperwork Reduction Act is included in the Secretarial rule.

This notice of final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

### List of Subjects in 50 CFR Part 301

Fish, Fisheries.

Dated: May 3, 1989.

**James E. Douglas, Jr.,**

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, Part 301 is revised to read as follows:

## PART 301—PACIFIC HALIBUT FISHERIES

Sec.


301.1 Short title.
301.2 Interpretation.
301.3 In-season actions.
301.4 Application.
301.5 Regulatory areas.
301.6 Fishing periods.
301.7 Closed periods.
301.8 Closed area.
301.9 Catch limits.
301.10 Fishing period limits.
301.11 Size limits.
301.12 Licensing of vessels.
301.13 Vessel clearance.
301.14 Logs.
301.15 Receipt and possession of halibut.
301.16 Fishing gear.
301.17 Retention of tagged halibut.
301.18 Supervision of unloading and weighing.
301.19 Fishing by United States treaty Indian tribes.
301.20 Sport fishing for halibut in all waters.
301.21 Previous regulations superseded.

Appendix to Part 301


Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 773–773k.

### § 301.1 Short title.

This part may be cited as the Pacific Halibut Fishery Regulations.

### § 301.2 Interpretation.

(a) In this part—

*Automated hook stripper* (commonly known as a crucifier) means a device through which the groundline can be passed during gear retrieval which allows the groundline and hooks to pass freely, but does not allow fish to pass, thereby removing fish from the hooks;

*Charter vessel* means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator;

*Commercial fishing* means fishing the resulting catch of which either is or is intended to be sold or bartered;

*Commission* means the International Pacific Halibut Commission;

*Fishery officer* means any State, Federal, or Provincial officer authorized to enforce this part, including, but not limited to, the National Marine Fisheries Service (NMFS), Canadian Department of Fisheries and Oceans (DFO), Alaska Department of Fish and Wildlife Protection (ADFWP), and the United States Coast Guard (USCG);

*Fishing* means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area;

*Fishing period limit* means the maximum amount of halibut that may be retained and landed by a vessel during one fishing period;

*Land* with respect to halibut means to bring to shore and to offload;

*License* means a halibut fishing license issued by the Commission pursuant to §§ 301.12 and 301.20 of this part;

*Maritime area*, in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea of internal waters of that Party;

*Operator*, with respect to any vessel, means the master or other individual on board and in charge of that vessel;

*Overall length* of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments);

*Person* includes an individual, corporation, firm, or association;

*Regulatory area* means an area referred to in § 301.5 of this part;

*Setline gear* means one or more stationary, buoyed, and anchored lines with hooks attached;

*Sport fishing* means all fishing other than commercial fishing and treaty Indian ceremonial and subsistence fishing;

*Tender* means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish processor.

(b) In this part, all bearings are true and all positions are determined by the most recent charts issued by the United States National Ocean Service or the Canadian Hydrographic Service.

### § 301.3 In-season actions.

(a) The Commission is authorized to establish or modify regulations during the season after determining that such action

(1) Will not result in exceeding the catch limits established preseason for each regulatory area;

(2) Is consistent with the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea, and applicable

domestic law of either Canada or the United States; and

(3) Is consistent, to the maximum extent practicable, with any domestic catch sharing plans developed by the United States or Canadian governments.

(b) In-season actions may include, but are not limited to, establishment or modification of the following:

(1) Fishing periods;
(2) Fishing period limits;
(3) Recreational bag limits;
(4) Closed areas;
(5) Size limits;
(6) Gear restrictions; or
(7) Vessel clearances.

(c) In-season changes will be effective at the time and date specified by the Commission.

(d) The Commission will announce in-season actions under this section by providing notice to major halibut processors; Federal, State, United States treaty tribal, and Provincial fishery officials; and the media.

### § 301.4 Application.

(a) This part applies to persons and vessels fishing for halibut in waters off the west coast of Canada and the United States, including the southern as well as the western coasts of Alaska, within the respective maritime areas in which each of those countries exercises exclusive fisheries jurisdiction as of March 29, 1979.

(b) Sections 301.5 to 301.18 of this part apply to commercial fishing for halibut.

(c) Section 301.19 applies to fishing for halibut by United States treaty Indian tribes in the State of Washington.

(d) Section 301.20 of this part applies to sport fishing for halibut.

(e) This part does not apply to fishing operations authorized or conducted by the Commission for research purposes.

### § 301.5 Regulatory areas.

The following areas shall be regulatory areas for the purposes of the Convention:

(a) Area 2A includes all waters off the coasts and inland marine waters of the States of California, Oregon, and Washington.

(b) Area 2B includes all waters off the coast of British Columbia.

(c) Area 2C includes all waters off the coast of Alaska that are east of a line running 340° true from Cape Spencer Light (latitude 58°11'57" N., longitude 136°38'18" W.), and south and east of a line running 205° true from said light.

(d) Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (latitude 57°41'15" N., longitude 155°35'00" W.) to Cape Ikolik (latitude 57°17'17" N., longitude 154°47'18" W.), then along the Kodiak Island coastline to Cape Trinity (latitude 56°44'50" N., longitude 154°08'44" W.), then 140° true.

(e) Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (latitude 54°29'00" N., longitude 164°20'00" W.) and south of latitude 54°49'00" N. in Isanotski Pass.

(f) Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in § 301.8 of this part that are east of longitude 172°00'00" W. and south of latitude 56°20'00" N.

(g) Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of Area 4A and south of latitude 56°20'00" N.

(h) Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in § 301.8 of this part which are east of longitude 171°00'00" W., south of latitude 58°00'00" N., and west of longitude 168°00'00" W.

(i) Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of longitude 168°00'00" W.

(j) Area 4E includes all waters in the Bering Sea north of the closed area defined in § 301.8 of this part, east of longitude 168°00'00" W., and south of latitude 65°34'00" N.

### § 301.6 Fishing periods.

(a) The fishing periods for each regulatory area are set out in the following table and apply where the catch limits specified in § 301.9 of this part have not been taken.

| 2A | 2B | 2C-3A-3B | 4A | 4B | 4D |
|---|---|---|---|---|---|
| 6/27-6/29 | 4/25-5/03 | 5/15-5/16 | 5/15-5/16 | 5/15-5/17 | 8/08-8/14 |
| 7/24-7/26 | (1)-6/18 | 6/12-6/13 | 6/12-6/13 | 5/27-5/28 | 9/21-(1) |
| 8/28-8/30 | (1)-9/12 | 9/07-9/08 | 8/11-8/12 | 6/03-6/04 | |
| | (1)-10/10 | 10/10-1 | 9/07-9/08 | 6/12-6/14 | |
| | | | 9/21-1 | 6/17-6/18 | |
| | | | 10/10-1 | 6/24-6/25 | |
| | | | | 7/22-7/23 | |
| | | | | 7/29-7/30 | |
| | | | | 8/09-8/13 | |
| | | | | 8/25-8/26 | |
| | | | | 9/07-9/09 | |
| | | | | 9/21-(1) | |
| | | | | 10/10-(1) | |

| 4C | | | | 4E | |
|---|---|---|---|---|---|
| 6/12-6/13 | 7/18-7/19 | 8/23-8/24 | 9/28-9/29 | 5/26-5/28 | 7/07-7/09 |
| 6/14-6/15 | 7/20-7/21 | 8/25-8/26 | 9/30-10/01 | 5/29-5/31 | 7/10-7/12 |
| 6/16-6/17 | 7/22-7/23 | 8/27-8/28 | 10/02-10/03 | 6/01-6/03 | 7/13-7/15 |
| 6/18-6/19 | 7/24-7/25 | 8/29-8/30 | 10/04-10/05 | 6/04-6/06 | 7/16-7/18 |
| 6/20-6/21 | 7/26-7/27 | 8/31-9/01 | 10/06-10/07 | 6/07-6/09 | 7/19-7/21 |
| 6/22-6/23 | 7/28-7/29 | 9/02-9/03 | 10/08-10/09 | 6/10-6/12 | 7/22-7/24 |
| 6/24-6/25 | 7/30-7/31 | 9/04-9/05 | 10/10-10/11 | 6/13-6/15 | 7/25-7/27 |
| 6/26-6/27 | 8/01-8/02 | 9/06-9/07 | 10/12-10/13 | 6/16-6/18 | 7/28-7/30 |
| 6/28-6/29 | 8/03-8/04 | 9/08-9/09 | 10/14-10/15 | 6/19-6/21 | 7/31-8/02 |
| 6/30-7/01 | 8/05-8/06 | 9/10-9/11 | 10/16-10/17 | 6/22-6/24 | 8/03-8/05 |
| 7/02-7/03 | 8/07-8/08 | 9/12-9/13 | 10/18-10/19 | 6/25-6/27 | 8/06-8/08 |
| 7/04-7/05 | 8/09-8/10 | 9/14-9/15 | 10/20-10/21 | 6/28-6/30 | 8/09-8/11 |
| 7/06-7/07 | 8/11-8/12 | 9/16-9/17 | 10/22-10/23 | 7/01-7/03 | 8/12-10/31 |
| 7/08-7/09 | 8/13-8/14 | 9/18-9/19 | 10/24-10/25 | 7/04-7/06 | |
| 7/10-7/11 | 8/15-8/16 | 9/20-9/21 | 10/26-10/27 | | |
| 7/12-7/13 | 8/17-8/18 | 9/22-9/23 | 10/28-10/29 | | |

| 4C | | | 4E |
|---|---|---|---|
| 7/14-7/15 | 8/19-8/20 | 9/24-9/25 | 10/30-10/31 |
| 7/16-7/17 | 8/21-8/22 | 9/26-9/27 | |

[1] Date to be announced by the Commission.

(b) Each fishing period in Areas 2A and 2B shall begin and terminate at 1200 hours Pacific Standard Time or Pacific Daylight Time, as applicable, on the date set out in the table to this section, unless the Commission specifies otherwise.

(c) Each fishing period in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall begin and terminate at 1200 hours Alaska Standard or Daylight Time, as applicable, on the date set out in the table to this section, unless the Commission specifies otherwise.

(d) All commercial fishing for halibut in Areas 2A and 2B shall cease at 1200 hours Pacific Standard Time on October 31.

(e) All commercial fishing for halibut in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall cease at 1200 hours Alaska Standard Time on October 31.

**§ 301.7 Closed periods.**

(a) No person shall engage in fishing for halibut in any regulatory area other than during the fishing periods set out in § 301.6 of this part in respect of that area.

(b) No person shall land or otherwise retain halibut caught outside a fishing period applicable to the regulatory area where the halibut was taken.

(c) Subject to §§ 301.16 (f) and (g) of this part, this part does not prohibit fishing for any species of fish other than halibut during the closed periods.

(d) Notwithstanding paragraph (c) of this section, no person shall have halibut in his possession while fishing for any other species of fish during the closed periods.

(e) No vessel shall retrieve any halibut fishing gear during a closed period if the vessel has any halibut on board.

(f) A vessel that has no halibut on board may retrieve any halibut fishing gear during the closed period after the operator notifies a fishery officer or representative of the Commission prior to that retrieval.

(g) After retrieval of halibut gear in accordance with paragraph (f) of this section, the vessel shall submit to a hold inspection at the discretion of the fishery officer or representative of the Commission.

(h) No person shall retain any halibut caught on gear retrieved under paragraph (f) of this section.

(i) No person shall possess halibut aboard a vessel in a regulatory area during a closed period unless that vessel is in continuous transit to or within a port in which that halibut may be lawfully sold.

**§ 301.8 Closed area.**

All waters in the Bering Sea that are east of a line from Cape Sarichef Light (latitude 54°36'00" N., longitude 164°55'42" W.) to a point at latitude 56°20'00" N., longitude 168°30'00" W., south of a line from the latter point to Cape Newenham (latitude 58°39'00" N., longitude 162°10'25" W.), and north of latitude 54°49'00" N. in Isanotski Pass are closed to halibut fishing and no person shall fish for halibut therein or have halibut in his possession while in those waters except in the course of a continuous transit across those waters.

**§ 301.9 Catch limits.**

(a) The total allowable catch of halibut to be taken during the halibut fishing periods specified in § 301.6 of this part shall be limited to the weight expressed in pounds or metric tons shown in the following table:

| Regulatory area | Catch limits | |
|---|---|---|
| | Pounds | Metric tons |
| 2A | 274,000 | 124 |
| 2B | 10,000,000 | 4,536 |
| 2C | 9,500,000 | 4,309 |
| 3A | 31,000,000 | 14,061 |
| 3B | 8,500,000 | 3,856 |
| 4A | 1,800,000 | 816 |
| 4B | 1,900,000 | 862 |
| 4C | 600,000 | 272 |
| 4D | 600,000 | 272 |
| 4E | 100,000 | 45 |

(b) The weights in each catch limit shall be computed on the basis that the heads of the fish are off and their entrails removed.

(c) The Commission shall determine and announce to the public the date on which the catch limit for each regulatory area will be taken and the specific dates during which fishing will be allowed in each regulatory areas.

(d) If the Commission determines that the catch limit specified in paragraph (a) of this section would be exceeded in an unrestricted 24-hour fishing period in any regulatory area, the catch limit for that area shall be considered to have been taken, unless fishing period limits are implemented.

(e) Notwithstanding paragraph (a) of this section, Areas 3A and 3B shall both be closed if the catch limit of 39,500,000 pounds (17,917 metric tons) for the combined areas is taken.

(f) Notwithstanding paragraph (a) of this section, Areas 4A and 4B shall both be closed if the catch limit of 3,700,000 pounds (1,687 metric tons) for the combined areas is taken.

(g) When under paragraphs (c), (d), (e), or (f) of this section the Commission has announced a date on which the catch limit for a regulatory area will be taken, no person shall fish for halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for halibut fishing.

**§ 301.10 Fishing period limits.**

(a) It shall be unlawful for any vessel to retain or land more halibut than authorized by that vessel's license in any fishing period for which the Commission has announced a fishing period limit.

(b) When fishing period limits are in effect, a vessel's maximum allowable catch will be determined by the Commission based on:

(1) The vessel's overall length in feet and associated length class;

(2) The average performance of all vessels within that class; and

(3) The remaining catch limit.

(c) Length classes are shown in the following table:

| Overall length | Vessel class |
|---|---|
| 1-25 | A |
| 26-30 | B |
| 31-35 | C |
| 36-40 | D |
| 41-45 | E |
| 46-50 | F |
| 51-55 | G |
| 56-+ | H |

(d) Notwithstanding paragraph (b) of this section, all vessels fishing in Area 4C shall be limited to a maximum catch of 10,000 pounds (4.5 metric tons) of halibut per fishing period for the first 50 percent (300,000 pounds) and 20,000 pounds (9 metric tons) of halibut for the

last 50 percent of the catch limit specified in § 301.9(a) of this part.

(e) Notwithstanding paragraph (h) of this section, all vessels fishing in Area 4E shall be limited to a maximum catch of 6,000 pounds (2.7 metric tons) of halibut per fishing period.

(f) Notwithstanding paragraph (e) of this section, a vessel will be permitted to make multiple fishing trips in Area 4E during the fishing period between August 12 and October 31, but each trip shall be limited to a maximum catch of 6,000 pounds (2.7 metric tons) of halibut and each trip shall be subject to the vessel clearance requirements in § 301.13(c) of this part.

(g) A vessel that fishes during a fishing period when fishing period limits are in effect must offload its catch before fishing in any subsequent fishing period.

(h) A vessel that fishes during a fishing period when fishing period limits are in effect will not be allowed to serve as a tender until its catch has been landed and sold.

(i) No vessel which fishes for halibut in a regulatory area for which a fishing period limit is in effect shall fish in any other regulatory area during that fishing period.

### § 301.11 Size limits.

(a) No person shall take or possess any halibut that

(1) With the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail, as illustrated in the schedule following § 301.18 of this part, or

(2) With the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail, as illustrated in the Appendix following § 301.21 of this part.

(b) No person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of the minimum size of the halibut for the purpose of paragraph (a) of this section.

### § 301.12 Licensing of vessels.

(a) No person shall fish for halibut from a vessel, nor possess halibut aboard a vessel used to fish for halibut, unless the Commission has issued a license in respect of that vessel and such license is aboard such vessel.

(b) A license issued in respect of a vessel referred to in paragraph (a) of this section must be carried on that vessel at all times and the holder of it shall permit its inspection by fishery officers of the Contracting Parties.

(c) The Commission shall issue a license, without fee from its office in Seattle, Washington, upon receipt of a completed, written, and signed "Application for Vessel License for the Halibut Fishery" form.

(d) Application forms may be obtained from fishery officers of either Contracting Party, or from the Commission.

(e) Licenses issued under this section shall be valid only during the year in which they are issued.

(f) A new license is required for a vessel that is sold, transferred, renamed, or redocumented.

(g) The license required under this section is in addition to any license, however designated, that is required under the laws of Canada or any of its Provinces or the United States or any of its States.

(h) The United States may suspend, revoke, or modify any license issued under this section under policies and procedures in 15 CFR Part 904.

### § 301.13 Vessel clearance.

(a) No person other than a person who lands his total annual halibut catch at ports within Areas 4A, 4B, 4C, 4D, 4E, or the closed area defined in § 301.8 of this part shall fish for halibut in Areas 4A, 4B, or 4D from any vessel, unless the operator of that vessel obtains a vessel clearance both before such fishing and before the unloading of any halibut caught in Areas 4A, 4B, or 4D.

(b) No person other than a person who lands his total annual halibut catch at a port within Area 4C may fish for halibut in Area 4C from any vessel, unless the operator of that vessel obtains a vessel clearance both before such fishing in each fishing period that applies to Area 4C and before the unloading of any halibut caught in that Area.

(c) No person other than a person who lands his total annual halibut catch at a port within Area 4E, or the closed area defined in § 301.8 of this part may fish for halibut in Area 4E from any vessel, unless the operator of that vessel obtains a vessel clearance both before such fishing in each fishing period that applies to Area 4E and before the unloading of any halibut caught in that Area.

(d) The vessel clearances required under paragraphs (a), (b), and (c) of this section are mutually exclusive.

(e) The vessel clearances required under paragraphs (a), (b), and (c) of this section may be obtained only at Dutch Harbor or Akutan, Alaska, from a fishery officer of the United States, a representative of the Commission, or a designated fish processor.

(f) The vessel operator shall specify the specific fishing period and regulatory area(s) in which fishing will take place.

(g) Vessel clearances required under paragraphs (a), (b), and (c) of this section prior to fishing in Area 4 shall be obtained within the 120-hour period before each of the openings in that Area, between 0800 and 1800 hours, local time.

(h) No halibut shall be on board at the time of clearance required by paragraph (e) of this section.

(i) Vessel clearances required under paragraphs (a), (b), and (c) of this section after fishing in Area 4 shall be obtained within the 120-hour period after each of the closings in that Area, between 0800 and 1800 hours, local time.

(j) The vessel clearances required under paragraphs (b) and (c) of this section are not valid if the vessel has fished for halibut in Areas 4A, 4B, or 4D after obtaining the clearance required for such fishing.

### § 301.14 Logs.

(a) The operator of any vessel five (5) net tons or greater shall keep an accurate log of all halibut fishing operations including the date, locality, amount of gear used, and total weight of halibut taken daily in each locality.

(b) The log referred to in paragraph (a) of this section shall be:

(1) Separate from other records maintained aboard the vessel;

(2) Updated not later than 24 hours after midnight local time for each day fished, within 24 hours following the end of the fishing period in the area in which the vessel is fishing, and prior to the offloading or sale of halibut taken during that fishing period;

(3) Retained for a period of two years by the owner or operator of the vessel;

(4) Open to inspection by a fishery officer or any authorized representative of the Commission upon demand; and

(5) Kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and for five (5) days following off-loading halibut.

(c) No person shall make a false entry in a log referred to in paragraph (a) of this section.

### § 301.15 Receipt and possession of halibut.

(a) No person shall receive halibut from a vessel that does not have the license required by § 301.12 on board the vessel.

(b) A person who purchases or otherwise receives halibut from the owner or operator of the vessel from

which that halibut was caught, either directly from that vessel or through another carrier, shall record each such purchase or receipt on State fish tickets or Canadian Federal catch reports, showing the date, locality, name of vessel, Halibut Commission license number, and the name of the person from whom the halibut was purchased or received and the amount in pounds according to trade categories of the halibut.

(c) No person shall make a false entry on a State fish ticket or Canadian Federal catch report referred to in paragraph (b) of this section.

(d) A copy of the fish tickets referred to in paragraph (b) of this section shall be:

(1) Retained by the person making them for a period of two years from the date the fish tickets are made; and

(2) Open to inspection by a fishery officer or any authorized representative of the Commission.

(e) No person shall possess any halibut that he knows to have been taken in contravention of this part.

(f) When halibut are delivered to other than a commercial fish processor or primary fish buyer, the records required by paragraph (b) of this section shall be maintained by the operator of the vessel from which that halibut was caught, in compliance with paragraph (d) of this section.

(g) It shall be illegal to enter a Halibut Commission license number on a State fish ticket or Canadian Federal catch report for any vessel other than the vessel actually used in catching the halibut reported thereon.

**§ 301.16 Fishing gear.**

(a) No person shall fish for halibut using any gear other than hook and line gear.

(b) No person shall possess halibut taken with any gear other than hook and line gear.

(c) No person shall possess halibut while on board a vessel carrying any fishing gear other than hook and line gear or nets that are used solely for the capture of bait.

(d) All setline or skate marker buoys carried aboard or used by any United States vessel used for halibut fishing shall be marked with one of the following:

(1) The vessel's name,

(2) The vessel's state license number, or

(3) The vessel's registration number, which markings shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(e) All setline or skate marker buoys carried aboard or used by a Canadian vessel used for halibut fishing shall be:

(1) Floating and visible on the surface of the water, and

(2) Legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(f) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in waters described in § 301.4(a) of this part during the 72-hour period immediately before the opening of a halibut fishing period shall catch or possess halibut anywhere in those waters during that halibut fishing period.

(g) No vessel from which setline gear was used to fish for any species of fish anywhere in waters described in § 301.4(a) of this part during the 72-hour period immediately before the opening of a halibut fishing period may be used to catch or possess halibut anywhere in those waters during that halibut fishing period.

(h) Notwithstanding paragraphs (f) and (g) of this section, the 72-hour fishing restriction preceding a halibut fishing period shall not apply to persons and vessels fishing for halibut during fishing periods in Areas 4C and 4E as described in §§ 301.5 (h) and (j) of this part.

(i) No person shall fish for halibut from a vessel that is equipped with, or that possesses on board, an automated hook stripper.

(j) No person shall possess halibut on a vessel that is equipped with, or that possesses on board, an automated hook stripper.

**§ 301.17 Retention of tagged halibut.**

Nothing contained in this part prohibits any vessel at any time from retaining and landing a halibut that bears a Commission tag at the time of capture, if the halibut with the tag still attached is reported at the time of landing and made available for examination by a representative of the Commission or by an officer of the Contracting Parties or a state or provincial government.

**§ 301.18 Supervision of unloading and weighing.**

The unloading and weighing of halibut may be subject to the supervision of fishery officers to assure the fulfillment of the provisions of this part.

**§ 301.19 Fishing by United States treaty Indian tribes.**

(a) Except as provided in this section, all regulations of the Commission in this part apply to halibut fishing by members of United States treaty Indian tribes from the State of Washington.

(b) For purposes of this part, United States treaty Indian tribes means the Hoh, Jamestown Klallam, Lower Elwha Klallam, Lummi, Makah, Port Gamble Klallam, Quileute, Quinault, Skokomish, Suquamish, Swinomish, and Tulalip tribes.

(c) Subarea 2A–1 includes all waters off the coast and inland marine waters of Washington that are north of latitude 46°53'18"N. and east of longitude 125°44'00"W.

(d) Commercial fishing for halibut in subarea 2A–1 is permitted with hook and line gear from March 1 through October 31, or until the catch limit specified in paragraph (f) of this section is reached, whichever occurs first.

(e) Subsistence and ceremonial fishing for halibut in subarea 2A–1 is permitted with hook and line gear from January 1 through December 31.

(f) The total allowable catch of halibut to be taken during the fishing periods specified in paragraphs (d) and (e) of this section shall

(1) Be limited to 152,000 pounds (69 metric tons), and

(2) Include commercial, and subsistence and ceremonial catch projected through the end of the year.

(g) No size or bag limits shall apply to the subsistence and ceremonial fishery except that when commercial halibut fishing is prohibited pursuant to paragraph (d) of this section, treaty Indians may take and retain not more than two halibut per day per person.

(h) Halibut taken for subsistence and ceremonial purposes shall not be offered for sale or sold.

(i) If the Commission determines that any part of the catch limit specified in paragraph (f) of this section will not be taken, it may transfer all or a portion of the unharvested halibut to the non-Indian sport fishery.

(j) All halibut sold by treaty Indians during the commercial fishing season specified in paragraph (d) of this section shall comply with the size limits specified in § 301.11.

(k) Any member of a United States treaty Indian tribe as defined in paragraph (b) of this section, who is engaged in commercial, subsistence, or ceremonial fishing under this part must have on his or her person a valid treaty Indian identification card issued pursuant to 25 CFR Part 249, Subpart A, and must comply with the treaty Indian vessel and gear identification requirements of Final Decision No. 1 and subsequent orders in United States v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974).

(1) The following table (Table 2) sets forth the fishing areas of each of the twelve United States treaty Indian tribes fishing pursuant to this section. Within Subarea 2A–1, boundaries of a tribe's fishing area may be revised as ordered by a Federal court.

TABLE2—FISHING AREAS FOR U.S. TREATY INDIAN TRIBES

| Tribe | Boundaries |
|---|---|
| Lummi | Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 384 F. Supp. 360, to be places at which the Lummi Tribe may fish under rights secured by treaties with the United States. |
| Swinomish | Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 459 F. Supp. 1049, to be places at which the Swinomish Tribe may fish under rights secured by treaties with the United States. |
| Tulalip | Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 626 F. Supp. 1351–1352, to be places at which the Tulalip Tribe may fish under rights secured by treaties with the United States. |
| Suquamish | Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 459 F. Supp. 1049, to be places at which the Suquamish Tribe may fish under rights secured by treaties with the United States. |
| Skokomish | Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 384 F. Supp. 377, to be places at which the Skokomish Tribe may fish under rights secured by treaties with the United States. |
| Makah | North 48°02'15" N. latitude (Norwegian Memorial), west of 123°42'30" W. longitude, and east of 1250°44'00" W. longitude. |
| Quileute | Between 48°07'36" N. latitude (Sand Point) and 47°31'42" N. latitude (Queets River), and east of 125°44'00" W. longitude. |
| Hoh | Between 47°54'18" N. latitude (Quillayute River) and 47°21'00" N. latitude (Quinault River), and east of 125°44'00" W. longitude. |
| Quinault | Between 47°40'06" N. latitude (Destruction Island) and 46°53'18" N. latitude (Point Chehalis), and east of 125°44'00" W. longitude. |
| L. Elwha | Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 459 F. Supp. 1049 and 1066 and 626 F. Supp. 1443, to be places at which the Lower Elwha Tribe may fish under the rights secured by treaties with the United States. |
| Jamestown | Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 626 F. Supp. 1486, to be places at which the Jamestown Tribe may fish under rights secured by treaties with the United States. |
| Port Gamble | Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 626 F. Supp. 1442, to be places at which the Port Gamble Tribe may fish under rights secured by treaties with the United States. |

**§ 301.20 Sport fishing for halibut in all waters.**

(a) No person shall engage in sport fishing for halibut using gear other than a handline or rod with no more than two hooks attached, or a spear.

(b) In all waters off the coast of Alaska

(1) The sport fishing season is from February 1 to December 31;

(2) The daily bag limit is two halibut of any size per day per person.

(c) In Puget Sound and United States waters in the Strait of Juan de Fuca, east of a line from Bonilla Point (latitude 48°35'45" N., longitude 124°43'00" W.) to Tatoosh Island (latitude 48°23'30" N., longitude 124°44'00" W.) to Cape Flattery (latitude 48°22'55" N., longitude 124°23'42" W.).

(1) The sport fishing seasons are

(i) April 8 through June 15, seven days a week;

(ii) June 16 through August 11, one day a week (Friday only).

(2) The daily bag limit is two halibut of any size per day per person.

(d) Off the North Washington Coast west of the line described in paragraph (c) of this section and north of the Queets River (latitude 47°31'42" N., longitude 124°21'15" W.)

(1) The sport fishing seasons are

(i) May 6 through June 27, five days a week (Tuesday through Saturday);

(ii) June 30 through July 29, two days a week (Friday and Saturday);

(iii) September 1 through September 10, seven days a week.

(2) The daily bag limit is two halibut of any size per day per person.

(e) Off the Washington and Oregon Coast, between the Queets River and Cape Falcon (latitude 45°46'00" N., longitude 123°58'53" W.).

(1) The sport fishing season is from April 1 through September 30, seven days a week;

(2) The daily bag limit is one halibut of any size per day per person.

(f) Off the Oregon Coast, south of Cape Falcon

(1) The sport fishing seasons are

(i) April 1 through June 28, four days a week (Wednesday through Saturday);

(ii) August 1 through September 30, seven days a week.

(2) The daily bag limit

(i) Between April 1 and July 28 is two halibut, with a minimum overall size limit of 32 inches (81.3 centimeters);

(ii) Between August 1 and September 30 is two halibut, one with a minimum overall size limit of 32 inches (81.3 centimeters) and the second with a minimum overall size limit of 50 inches (127.0 centimeters).

(g) Off the California Coast

(1) The sport fishing season is from April 1 through September 30, seven days a week.

(2) The daily bag limit is one halibut with a minimum overall size limit of 32 inches (81.3 centimeters).

(h) Notwithstanding paragraphs (c), (d), (e), (f), and (g) of this section, the total allowable catch of halibut shall be limited to 224,000 pounds (102 metric tons) except that the limit may be increased pursuant to § 301.19(i) provided that the sum of the total allowable catch limits for Area 2A do not exceed 650,000 pounds (295 metric tons).

(i) The minimum overall size limit specified in paragraphs (f)(2) and (g)(2) of this section is measured in a straight line passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail.

(j) No person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of a minimum size or the number of fish caught, possessed, or landed.

(k) The possession limit for halibut in the waters off the coast of Alaska is two daily bag limits.

(l) The possession limit for halibut in the waters off British Columbia, Washington, Oregon, and California is the same as the daily bag limit.

(m) No person shall be in possession of halibut on a vessel while fishing in a closed area.

(n) No halibut caught by sport fishing shall be offered for sale, sold, traded, or bartered.

(o) No halibut caught in sport fishing shall be possessed aboard a vessel when other fish or shellfish aboard the said vessel are destined for commercial use, sale, trade, or barter.

(p) No person shall operate a charter vessel engaged in fishing for halibut unless the Commission has issued a license in respect of that vessel and such license is aboard such vessel.

(q) A license issued in respect of a vessel referred to in paragraph (p) of this section must be carried on that charter vessel at all times and the holder of it shall permit its inspection by customs and fishery officers of the Contracting Parties.

(r) A license shall be issued without fee by the Commission from its office in Seattle, Washington, upon receipt of a completed written and signed "Application for Vessel License for the Halibut Fishery" form.

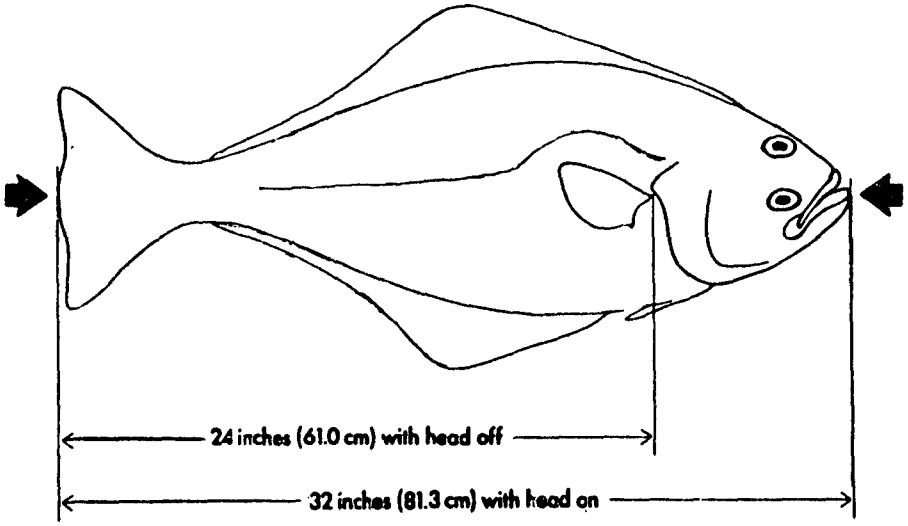
(s) Licenses issued under this section shall be valid only during the year in which they are issued.

### § 301.21 Previous regulations superseded.

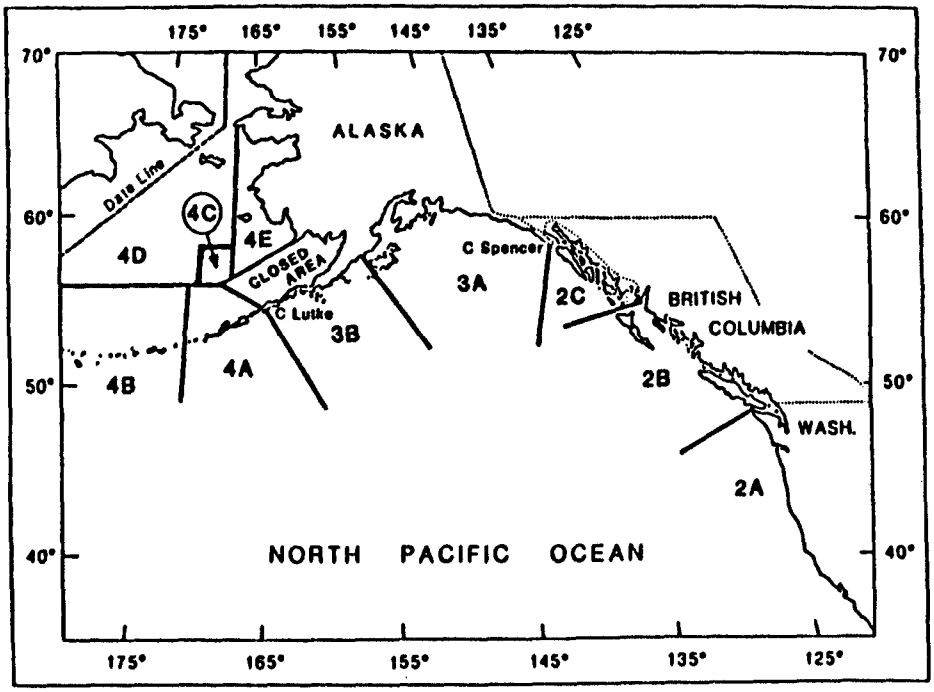
This part shall supersede all previous regulations of the Commission, and this part shall be effective each succeeding year until superseded.

BILLING CODE 3510-22-M

APPENDIX TO PART 301




Minimum commercial size.




Regulatory areas for the Pacific halibut fishery.

[FR Doc. 89-1097 Filed 5-3-89; 3:52 pm]

BILLING CODE 3510-22-C

**50 CFR Part 661**

**[Docket No. 90515-9115]**

## Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of closure.

**SUMMARY:** NOAA announces the closure of the commercial salmon fishery in the exclusive economic zone (EEZ) from Sisters Rocks to House Rock, Oregon, at midnight, May 2, 1989, to ensure that the chinook salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined that the commercial fishery quota of 7,500 chinook salmon for the subarea will be reached by May 2, 1989. The closure is necessary to conform to the preseason announcement of 1989 management measures. This action is intended to ensure conservation of chinook salmon.

**EFFECTIVE DATE:** Closure of the EEZ from Sisters Rocks to House Rock, Oregon, to commercial salmon fishing was effective at 2400 hours local time, May 2, 1989. Actual notice to affected fishermen was given at that time through a special telephone hotline and U.S. Coast Guard notice-to-mariners broadcasts as provided by 50 CFR 661.20, 661.21, and 661.23 (as amended May 1, 1989).

**ADDRESS:** Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson at 206-526-6140.

**SUPPLEMENTARY INFORMATION:** Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by notice issued under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached." Regulations implementing Amendment 9 to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California were effective May 1, 1989, and modified notice procedures for inseason regulatory actions. These regulations amended 50 CFR Parts 661.20, 661.21, and 661.23 to provide for immediate and actual notice to fishermen of such inseason actions through telephone hotlines and U.S. Coast Guard broadcasts and to establish the effective dates and times for these actions through the notices issued by telephone and U.S. Coast Guard broadcasts.

Management measures for 1989 were effective on May 1, 1989 (Docket Number 90515-9115, filed May 2, 1989). The 1989 commercial fishery for all salmon except coho in the subarea from Sisters Rocks to House Rock, Oregon, commenced on May 1, 1989, and was scheduled to continue through the earlier of May 14, 1989 or the attainment of a quota of 7,500 chinook salmon. Based on the best available information, the commercial fishery catch in the subarea is projected to reach the 7,500 chinook salmon quota by midnight, May 2, 1989. Therefore, the fishery in this subarea must be closed to further fishing.

In accordance with the revised inseason notice procedures of 50 CFR 661.20, 661.21, and 661.23, actual notice of this closure was given to fishermen prior to 2400 hours local time, May 2, 1989. NOAA issues this notice of the closure of the commercial salmon fishery in the EEZ from Sisters Rocks to House Rock, Oregon, which was effective midnight, May 2, 1989. This notice does not apply to treaty Indian fisheries or to other fisheries which may be operating in other areas.

The Regional Director consulted with representatives of the Pacific Fishery Management Council and the Oregon Department of Fish and Wildlife regarding a closure of the commercial fishery between Sisters Rocks and House Rock, Oregon. The State of Oregon will manage the commercial fishery in State waters adjacent to this area of the EEZ in accordance with this federal action.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted for 15 days after filing with the Office of the Federal Register, through May 18, 1989.

### Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

### List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Dated: May 3, 1989.

**Joe P. Clem,**

*Acting Director, Office of Fisheries Conservation and Management.*

[FR Doc. 89-10994 Filed 5-3-89; 5:11 pm]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register
Vol. 54, No. 88
Tuesday May 9, 1989

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 JUSTICE

### Immigration and Naturalization Service

### 8 CFR Part 103

**[INS No. 1127-88]**

**RIN 1115-AB24**

### Fee Remittances, Personal Check Elimination

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes to modify our fee remittance policy to the acceptance of cash, certified/cashiers checks and money orders only. This change is necessary to eliminate manpower and administrative costs, and to provide improved service to fee remitters.

**DATES:** Comments must be received on or before June 8, 1989.

**ADDRESS:** Please submit written comments, in triplicate, to Director, Policy Directives and Instructions, Immigration and Naturalization Service, Room 2011, 425 I Street NW., Washington, DC 20536. The INS number must appear on all correspondence pertaining to this rule.

**FOR FURTHER INFORMATION CONTACT:** Charles S. Thomason, Systems Accountant, Finance Branch, Immigration and Naturalization Service, 425 I Street NW, Washington, DC 20536, Telephone: (202) 633-4705.

**SUPPLEMENTARY INFORMATION:** Current INS policy provides that cash, personal/certified checks and money orders are acceptable forms of fee remittances for applications and petitions. Over the past several years personal checks have become an increasing burden to the INS generating significant manpower and administrative costs associated with follow-up collection efforts of returned personal checks. We are proposing that INS modify its fee remittance policy to the acceptance of cash and certified/cashier's checks and money orders only, and eliminate the acceptance of personal checks. This change will eliminate manpower and administrative costs associated with uncollectible checks (which are at present passed on to the fee remitter), and speed up the application processing (thus improving services) and subsequent deposit process.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This rule would not be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

**List of Subjects in 8 CFR Part 103**

Administrative practice and procedures, Archives and records, Authority delegation, Fees, Forms.

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

## PART 103—POWERS AND DUTIES OF SERVICE OFFICERS: AVAILABILITY OF SERVICE RECORDS

1. The authority citation for Part 103 of Title 8 is revised to read as follows:

**Authority:** 5 U.S.C. 552(a); 8 U.S.C. 1101, 1103, 1201, 1303-1304, 1443, 28 U.S.C. 1746; 31 U.S.C. 9701; E.O. 12356, 3 CFR, 1982 Comp., p. 166; 8 C.F.R. Part 2.

**§ 103.7 [Amended]**

2. In section 103.7, paragraph (a) is revised as follows:

(a) *Remittances.* Fees prescribed within the framework of 31 U.S.C. 9701 shall be submitted with any formal application or petition prescribed in this chapter and shall be in the amount prescribed by law or regulation. When any discretionary relief in exclusion or deportation proceedings is granted absent an application and fee therefore, the district director having jurisdiction over the place where the original proceeding was conducted shall require the filing of the application and the payment of the fee. Remittances shall be in the form of cash or certified/cashier's checks and money orders only, except if application is submitted from outside the United States, remittance may be made by bank international money order of the "reissue" type. Every remittance shall be accepted subject to collection. A receipt issued by a Service officer for any such remittance shall not be binding if remittance is found uncollectible. Remittances must be drawn on a bank or other institution located in the United States and be payable in United States currency. Remittances shall be made payable to the "Immigration and Naturalization Service," except that in the case of applicants residing in the Virgin Islands of the United States, the remittances shall be made payable to the "Commissioner of Finance of the Virgin Islands," and, in the case of applicants residing in Guam, the remittances shall be made payable to the "Treasurer, Guam."

* * * * *

Dated: April 26, 1989.

Alan C. Nelson,

*Commissioner.*

[FR Doc. 89-10960 Filed 5-8-89; 8:45 am]

BILLING CODE 4410-10-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 89-NM-47-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 detailed visual inspection and replacement, if necessary, of the fixed trailing edge upper panel support beam clips. Eventual replacement of all clips with newly designed clips would also be required. This proposal is prompted by reports of fractured support beam clips. This condition, if not corrected, could lead to the loss of an upper wing fixed trailing edge panel from the airplane with possible damage to the hydraulic lines and other structure.

**DATE:** Comments must be received no later than June 26, 1989.

**ADDRESSES:** Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-47-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, 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. Dan R. Bui, Airframe Branch, ANM-120S; telephone (206) 431-1919. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

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

**Availability of NPRM**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-47-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

*Discussion:* Two operators of Boeing Model 757 series airplanes reported the loss of three upper wing fixed trailing edge panels. In each instance, the composite panel, with an attached support beam, completely departed the airplane. Three support clips, which attach the panel support beam to the wing rear spar vertical stiffeners, had cracked through. The cracking in the support clips was attributed to fatigue.

Hydraulic brake lines that are attached to the underside of the panel were torn away in only one case. These lines are part of the main landing gear wheel brake anti-skid shuttle valve module hydraulic circuit. Damage to the hydraulic lines can result in the loss of operation of the main wheel brake anti-skid system and loss of braking to half of the wheels on that side of the airplane. This condition, if not corrected, could lead to partial loss of braking capability, as well as damage to the airplane structure from the departing panel.

The FAA has reviewed and approved Boeing Service Bulletin 757-57-0027, dated April 28, 1988, which defines the specific inspection procedures to be used to check for cracks in the fixed trailing edge panel support clips on affected Boeing Model 757 airplanes, and to replace cracked clips.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require detailed visual inspection and replacement, if necessary, of the fixed trailing edge panel support clips, in accordance with the service bulletin previously described. Eventual replacement of the support clips with newly designed clips would also be required.

There are approximately 141 Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 122 airplanes of U.S. registry would be affected by this AD, that it would take approximately 9 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The cost of required parts is estimated to be $547 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $110,654.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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.

**§ 39.13 [Amended]**

2. By adding the following new airworthiness directive:

**Boeing:** Applies to Model 757 series airplance, listed in Boeing Service Bulletin 757-57-0027, dated April 28, 1988, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent failure of the fixed trailing edge upper panel support beam clips and consequent damage to airplane structure and hydraulic lines, accomplish the following:

A. Prior to the accumulation of 600 total landings, or within the next 30 days after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 600 landings, perform a detailed visual inspection for cracks of the fixed trailing edge upper panel support beam clips, in accordance with Boeing Service Bulletin 757-57-0027, dated April 28, 1988.

B. Replace cracked clips with newly designed clips and spacers, prior to further flight, in accordance with Boeing Service Bulletin 757-57-0027, dated April 28, 1988.

C. Within 3,000 landings after the effective date of this AD, replace all affected clips with newly designed clips and spacers, in accordance with Boeing Service Bulletin 757-57-0027, dated April 28, 1988.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager,

Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

E. 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents maybe 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 April 25, 1989.

**Leroy A. Keith,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 89-11033 Filed 5-8-89; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 39**

**[Docket No. 89-NM-55-AD]**

## Airworthiness Directives; British Aerospace Model BAe/DH/BH/HS 125 Series Airplanes Equipped with Garrett TFE731 Engines

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe/DH/BH/HS 125 series airplanes equipped with Garrett TFE731 engines, which would require inspection and additional insulation of certain electrical contactor bodies. This proposal is prompted by a report of an electrical overheat due to a battery shorting to ground through the electrical contactors. This condition, if not corrected, could lead to grounding of the contactors and possible electrical fire.

**DATES:** Comments must be received no later than June 26, 1989.

**ADDRESSES:** Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-55-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 431-1565. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

### Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-55-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

*Discussion:* The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain British Aerospace (BAe) Model BAe/DH/BH/HS 125 series airplanes equipped with Garrett TFE731 engines. There has been a report of an electrical overheat due to a battery shorting to ground through the Hartman electrical contactors, Part Number (P/N) A848MAS. The shorting was apparently due to improper installation of the contactors. This condition, if not corrected, could lead to grounding of the contactors and possible electrical fire.

British Aerospace has issued Service Bulletin 24-268-3223A&B, Revision 2, dated February 28, 1989, which describes procedures for inspecting the terminal post locknuts of each Hartman electrical contactor for correct torque, insulating the contactors, and modifying the buss bar installation to ensure good flat contact faces. The United Kingdom CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require an inspection and modification of all Hartman electrical contactors in accordance with the service bulletin previously described.

It is estimated that 285 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 required parts will be provided by the manufacturer at no charge. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $34,200.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act

that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because of the minimal cost of compliance per airplane ($120). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—[AMENDED]

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

**British Aerospace (BAE), PLC:** Applies to Model BAe/DH/BH/HS 125 series airplanes equipped with Garrett TFE731 engines, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent an electrical fire caused by grounding of certain electrical contactors, accomplish the following:

A. Within 120 days after the effective date of this AD, inspect and modify Hartman electrical contactor components, in accordance with paragraph 2.A of British Aerospace Service Bulletin 24-268-3223A&B, Revision 2, dated February 28, 1989.

B. After the effective date of this AD, Hartman contactor Part Number A848MAS shall not be installed on any airplane unless modified in accordance with paragraph 2.B. of British Aerospace Service Bulletin 24-268-3223A&B, Revision 2, dated February 28, 1989.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

**Note:** The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the requirements 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 British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 25, 1989.

**Leroy A. Keith,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 89-11034 Filed 5-8-89; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 39**

**[Docket No. 89-NM-30-AD]**

## Airworthiness Directives; McDonnell Douglas Model DC-10 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 McDonnell Douglas Model DC-10 series airplanes, which would require structural inspections, and repair or replacement, as necessary, to assure continued airworthiness. Some McDonnell Douglas DC-10 series airplanes are approaching or have exceeded the manufacturer's original fatigue design life. This proposal is prompted by a structural reevaluation, which has identified certain significant structural components to inspect for fatigue cracks as these airplanes approach and exceed the manufacturer's original design life goal. This condition, if not corrected, could result in a compromise of the structural integrity of these airplanes.

**DATES:** Comments must be received no later than June 26, 1989.

**ADDRESSES:** Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-30-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). This information may be examined at the FAA Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 3229 East Spring Street, Long Beach, California.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dorenda Baker, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5231.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments 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.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket 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.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-30-AD." The post card will be date/time stamped and returned to the commenter.

*Discussion:* A significant number of transport category airplanes are approaching their design life goal. It is expected that these airplanes will continue to be operated beyond this point. The incidence of fatigue cracking on these airplanes is expected to increase as airplanes reach and exceed this goal. In order to evaluate the impact of increased fatigue cracking with respect to maintaining the fail-safe design and damage tolerance of the McDonnell Douglas DC-10 airplane structure, the manufacturer has conducted a structural reassessment of the airplane using damage tolerance evaluation techniques. The criteria for

this reassessment were contained in FAA Advisory Circular (AC) 91–56, "Supplemental Structural Inspection Program for Large Transport Category Airplanes," and Federal Aviation Regulations (FAR) § 25.571 (Amendment 25–45).

In response to AC 91–56, McDonnell Douglas initiated the development of a Supplemental Inspection Document (SID) for the Model DC–10 series airplanes. McDonnell Douglas and the operators established an Industry Steering Committee (ISC) for McDonnell Douglas Airplanes. At the outset, it was decided to make maximum use of service experience and existing maintenance programs. DC–10 operators, FAA engineering personnel, and FAA Flight Standards inspectors, together with the manufacturer, have participated in generating the DC–10 SID. Advisory Circular 91–56 promotes the preparation and approval of a criteria document for such a program. McDonnell Douglas developed criteria and guidelines for: (a) Selecting the major areas of the structure, identified as Principal Structural Elements (PSE), which are candidates for supplemental inspection by using the latest durability and damage tolerance analysis techniques; and (b) generating a sampling inspection program. This supplemental inspection program evaluates the adequacy of current normal maintenance inspection programs to detect fatigue damage, and provides detailed non-destructive inspection procedures to supplement the operators' existing inspection programs, as necessary. The program was established on the basis of damage tolerance evaluation of each PSE selected. A PSE is defined as "that structure whose failure, if it remained undetected, could lead to the loss of the aircraft." Selection of a PSE is influenced by the susceptibility of a structural area, part or element to fatigue, corrosion, stress corrosion, or accidental damage.

The DC–10 Supplemental Inspection Document, Report No. L26–012, addresses five basic issues: (a) Identification of the selected PSE's, (b) when to accomplish inspection (including the fatigue life threshold), (c) frequency of inspection, (d) number of inspections required, and (e) non-destructive inspection (NDI) procedures for detecting cracks.

The SID Inspection program is based on DC–10 current usage; durability-fatigue and damage tolerance assessment of the structure using current analysis techniques and tests; and selection of the current non-destructive inspection methods. In order to implement the SID inspection program, each operator must compare its current structural maintenance program to the SID requirement for each PSE. If the current inspections equal or exceed the SID requirements for a given PSE, no supplemental inspections would be required for that PSE under the SID program. However, if the opposite is true, supplemental inspections in the form of more frequent inspections or more sensitive NDI methods, or both, would be necessary to supplement the operator's normal maintenance program. Since the emphasis of the SID program is on aging aircraft, the inspection program is a sampling program with emphasis on the high time aircraft of each PSE population.

The population for a given PSE (and aircraft type) consists of all those airplanes in which the PSE has the same or similar material, fatigue life, loading, damage tolerance, and inspection characteristics. Thus, a PSE population may consist of all aircraft in the fleet, or it may be divided into several populations because of sufficient differences in structural configuration, material, damage tolerance, or non-destructive inspection characteristics.

Under the sampling program, each PSE would be inspected independently of other PSE's. Symmetrical structure results in two samples per airplane, left and right. For sampling purposes, one or both sides of the aircraft may be inspected. It is important to note that each PSE always stands by itself; that is, inspection thresholds, inspection intervals, etc., are generally different for each PSE.

All configurations of each PSE are included in the SID program, e.g., material changes, structural modifications and replacements, etc. Since incorporation of McDonnell Douglas Corporation service bulletins (SB) is not mandatory, unless required by AD action, supplemental inspection procedures are provided in the SID for both pre-SB and post-SB configurations of each applicable PSE. Therefore, a PSE currently the subject of an AD is placed in a separate section in the SID. When the closing action to a structural modification AD has been performed, the PSE is moved into the population which reflects the modified structural configuration. The date and flight hours (or landings) at which modification or replacement of a PSE is made, would be required to be reported by the operator to McDonnell Douglas for each applicable airplane by fuselage number and/or factory serial number, and PSE number. That particular configuration is then evaluated by McDonnell Douglas. The inspection threshold and interval will be established and published in the next revision of the SID.

The FAA recently initiated an Aging Aircraft Program to review the development needs and design, maintenance, and inspection issues concerning the use of older airplanes in air carrier and commuter operations worldwide. This program has initiated, as one of its elements, an FAA/industry group to review the service history of aging aircraft. The results of this review will be a number of recommendations from industry for mandatory termination of certain service bulletins that may contain PSE's. The FAA will review these recommendations and, if appropriate, will initiate rulemaking to mandate the incorporation of terminating design changes or repairs. If any change to a design would affect a PSE, then the FAA will consider revising this AD to include that change of design in the SID inspection program, so that the new design will be inspected with the same vigor as existing designs.

**Sampling Program**

Airplanes with the highest number of flight cycles are the most likely to experience initial fatigue damage in the fleet. Therefore, this program is based on the supplemental inspection of a "sample" of the high time PSE's in the fleet. Supplemental inspection of a statistically significant number of samples of a PSE, coupled with reporting of the results of these inspections and, where necessary, follow-up activity, will maintain the continued airworthiness of the entire fleet. If no fatigue cracks are found in the sample population and the size of the sampling population is such that it gives statistically meaningful data, the fatigue life threshold may be advanced in accordance with the SID for that PSE.

The expected fatigue life of each PSE is determined by a demonstrated life, either by test or service experience, or by analysis. The time when the supplemental inspections are to begin or be completed is determined from the expected fatigue life and crack propagation characteristics of each PSE. All sample inspections are to be accomplished before the high time sample exceeds the fatigue life threshold.

Irrespective of the sample size required, the 10 high time samples in the population for each PSE must be inspected. However, if the number of samples in a PSE population is 10 or less, each PSE must be inspected once before the fatigue life threshold is

reached and repeatedly inspected when the threshold is exceeded. The inspection interval is determined by the damage tolerance characteristics of the PSE.

The results of the supplemental inspections are to be reported to the manufacturer on a form provided in Volume III of the SID. This information will be presented in the periodic revision of Volume III.

In developing the SID, the working group reviewed the operation and maintenance practices of existing maintenance programs with respect to the basic requirements of the SID program. As a result, the McDonnell Douglas DC-10 SID allows affected operators to take credit for maintenance already being performed and gives the operators flexibility in revising their maintenance programs to incorporate this supplemental program for their affected airplanes.

The FAA reviewed and approved McDonnell Douglas Supplemental Inspection Document, Report No. L26-012, dated November 1988, which describes procedures for implementing a sampling inspection program of Principal Structural Elements.

Since many Model DC-10 series airplanes are approaching their design life goal and are expected to continue to be operated beyond this point, and AD is proposed which would require inspections in accordance with the Supplemental Inspection Program previously described.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

### Economic Impact

There are approximately 423 McDonnell Douglas DC-10 series airplanes in the worldwide fleet. It is estimated that 244 airplanes of U.S. registry and 10 U.S. operators would be affected by this AD. It is estimated that incorporation of the Supplemental Inspection Program for a typical operator will take approximately 1,000 manhours, and that the average cost would be $40 per manhour. Based on these figures, the cost to U.S. operators to incorporate the SID program is estimated to be $400,000.

The recurring inspection cost to the affected operators is estimated to be 341 manhours per airplane per year, at an average labor charge of $40 per manhour. Based on these figures, the recurring inspection cost impact of the AD on U.S. operators is estimated to be $3,328,160.

Based on the above figures, the total cost impact of this AD is estimated to be $3,728,160 for the first year, and $3,328,160 for each year thereafter.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

### List of Subjects in 14 CFR Part 39

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

### The Proposed Amendment

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

## PART 39—[AMENDED]

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**McDonnell Douglas:** Applies to McDonnell Douglas Model DC-10 series airplanes, certificated in any category. Compliance required as indicated in the body of the AD, unless previously accomplished.

To ensure the continuing structural integrity of these airplanes, accomplish the following:

A. Within one year after the effective date of this AD, incorporate a revision into the FAA-approved maintenance inspection program which provides for inspection of the Principal Structural Elements (PSE) defined in Section 2 of Volume I of McDonnell Douglas Report No. L26-012, DC-10 Supplemental Inspection Document (SID), dated November 1988, in accordance with Section 2 of Volume III of that document. The non-destructive inspection techniques set forth in Volume II of the SID provide acceptable methods for accomplishing the inspections required by this AD. All inspection results (negative or positive) must be reported to McDonnell Douglas, in accordance with the instructions of Section 2 of Volume III of the SID.

B. Cracked structure detected during the inspections required by paragraph A., above, must be repaired before further flight in accordance with a method approved by the Manager, Los Angeles 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.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

**Note:** The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Los Angeles Aircraft Certification Office.

The FAA has requested Federal Register approval to incorporate by reference the manufacturer's service document identified and described in this proposed directive.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at 3229 East Spring Street, Long Beach, California.

Issued in Seattle, Washington, on April 26, 1989.

**Leroy A. Keith,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 89-11035 Filed 5-8-89; 8:45 am]

BILLING CODE 4913-10-M

**14 CFR Part 39**

**[Docket No. 89-NM-26-AD]**

## Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20, -30, -40, -50, and C-9 (Military) Series Airplanes, Fuselage Numbers 1 Through 976.

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes to supersede an existing airworthiness directive (AD), applicable to McDonnell Douglas Model DC-9-10, -20, -30, -40, and C-9 (military) series airplanes, which currently requires inspections for cracks in the control columns. This action would expand the area of inspection and add Model DC-9-50 series airplanes to the AD applicability. This action is prompted by reports of discontinuities at locations not previously required to be inspected by the existing AD. This condition, if not corrected, could result in the loss of airplane control.

**DATES:** Comments must be received no later than June 26, 1989.

**ADDRESSES:** Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-26-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications C1-L00 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 3229 East Spring Street, Long Beach, California.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Lee, Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5325.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments 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.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket 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.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 89-NM-AD." The post card will be date/time stamped and returned to the commenter.

*Discussion:* On July 30, 1987, the FAA issued AD 87-13-04, Amendment 39-5656 (52 FR 23946; June 26, 1987), applicable to McDonnell Douglas Model DC-9-10, -20, -30, -40, and C-9 (military) series airplanes, to require dye penetrant or eddy current inspections of specific areas of the control columns, part numbers (P/N) 5614272-1 and -2, for cracks, and replacement, as necessary. That action was prompted by a report of a control column which failed during a preflight check. This condition, if not corrected, could result in failure of the control column and loss of airplane control.

Since issuance of that AD, discontinuities have been identified at locations in the control column area not previously addressed by the existing AD and the applicable service information (DC-9 Alert Service Bulletin A27-228, Revision 1, dated March 5, 1987). One operator reported an inch-long crack located one inch above inspection area C (the upper column area of the first officer's control column). The control column had accumulated 56,579 landings. A second operator reported two control columns with cracks, but later analysis revealed that the crack indications were due to a shrinkage cavity and micrographic corrosion.

The FAA has reviewed and approved McDonnel Douglas Alert Service Bulletin A27-288, Revision 2, dated January 18, 1989, which describes procedures for inspection for fatigue cracks at locations including, and in addition to, those previously addressed in AD 87-13-04. It adds new replacement part numbers SB 09270288-3 and -4, and also adds Model DC-9-50 series airplanes to the list of affected models, since it has been determined that the control columns as installed in that model may be subject to the same cracking. FAA has also approved McDonnell Douglas DC-9 Service Bulletin 27-288, dated May 18, 1988, which provides instructions for replacement of both the captain's and first officer's control columns with new columns having improved fatigue life.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede AD 87-13-04 to require repetitive inspections of additional areas of the control columns for cracks, and replacement, as necessary, in accordance with the McDonnell Douglas service bulletins previously described, and to expand the applicability to include Model DC-9-50 series airplanes. A new paragraph A.4. is proposed that would give credit to those airplanes that have been inspected in accordance with AD 87-13-04. Replacement of both control columns with the new, improved columns would constitute terminating action for the inspection requirements of the Ad.

Additionally, the proposed supersedure removes all references to the use of "later FAA-approved revisions of the applicable service bulletin," in order to be consistent with FAA policy in that regard. The FAA has determined that this change will not increase the economic burden on any operator, nor will it increase the scope of the AD, since later revisions of the service bulletin may be approved as an alternate means of compliance with this AD, as provided by paragraph B.

There are approximately 921 Model DC-9 series airplanes in the worldwide fleet. It is estimated that 538 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2 manhours per airplane to accomplish the required additional inspections, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $43,040.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

**PART 39 [AMENDED]**

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

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

**§39.13 [AMENDED]**

2. Section 39.19 is amended by superseding AD 87-13-04, Amendment 39-5656 (52 FR 23946; June 26, 1987), with the following new airworthiness directive:

McDonnell Douglas: Applies to Model DC-9-10, -20, -30, -40, -50, and C-9 (Military) series airplanes, Fuselage Numbers 1 through 976, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To detect cracks and prevent failures of control columns, accomplish the following:

A. For airplanes not previously inspected in accordance with AD 87-13-04, Amendment 39-5656, prior to the effective date of this amendment: Within 30 days after the effective date of this amendment, or in accordance with the following schedule, whichever occurs later, perform a dye penetrant or eddy current inspection of both control columns, P/N 5614272-1 and 5614272-2, for cracks, in accordance with McDonnell Douglas DC-9 Alert Service Bulletin A27-288, Revision 2, dated January 18, 1989 (hereinafter referred to as A27-288):

| Accumulated landings (as of July 30, 1987)* | Initial inspection from July 30, 1987 (Landings) |
|---|---|
| 60,000 or more | 1,500 |
| 40,000 to 59,999 | 2,000 |
| 30,000 to 39,999 | 2,500 |
| 20,000 to 29,999 | 3,000 |
| Under 20,000 | 3,800 |

* (July 30, 1987, is the effective date of AD 87-13-04, Amendment 39-5656.)

B. For all airplanes: If no cracks are found, accomplish repetitive inspections in accordance with paragraph A., above, at intervals not to exceed 3,800 landings, until such time as the procedures described in paragraph D., below, are accomplished.

Note: For airplanes previously inspected in accordance with AD-87-13-04, the first repetitive inspection required by this paragraph must be performed within 3,800 landings after the last inspection performed in accordance with AD 87-13-04.

C. If crack(s) are found in either control column (Captain's or First Officer's), accomplish either of the following:

1. Remove the cracked control column, P/N 5614272-1 or 5614272-2, and replace with new production control column, P/N's 5614272-501, -503, SB 09270288-3, or 5614272-502, -504, SB 09270288-4, respectively, in accordance with McDonnell Douglas Service Bulletin 27-288, dated May 18, 1988; or

2. Repair in a manner approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Within 18 months after the effective date of this amendment, replace the Captain's and First Officer's control column, P/N's 5614272-1 and 5614272-2, with new control columns, P/N's 5614272-501, -503, SB 09270288-3, and 5614272-502, -504, SB 09270288-4, respectively. This constitutes terminating action for the requirements of this amendment.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-L00 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Seattle, Washington, on April 26, 1989.

Leroy A. Keith,

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 89-11036 Filed 5-8-89; 8:45 am]

BILLING CODE 4910-13-M

## FEDERAL TRADE COMMISSION

## 16 CFR Part 13

**[File No. 882 3163]**

## An-Mar International, Ltd., Inc. et al.; Proposed Consent Agreement with Analysis to Aid Public Comment

**AGENCY:** Federal Trade Commission

**ACTION:** Proposed consent agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Wood Dale, Ill. maker of suntanning devices, from misrepresenting that its devices provide health benefits and that they do not pose a risk of any harmful side effect. In addition, respondents would be required to disclose in promotional materials that protective eye wear is needed to prevent injury.

**DATE:** Comments must be received on or before July 10, 1989.

**ADDRESS:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Mark Kindt, Cleveland Regional Office, Federal Trade Commission, 668 Euclid Avenue, Suite 520-A, Cleveland, Ohio 44114. (216) 522-4210

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commssion Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

**List of Subjects in 16 CFR Part 13**

Suntanning devices, Trade practices.

**Agreement Containing Consent Order To Cease and Desist**

[File No. 882-3163]

In the matter of An-Mar International, Ltd., Inc., a corporation, and Andrew Bobel, and Marzenna Bobel, individually and as officers of said corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of An-Mar International, Ltd, Inc., a corporation, and Andrew Bobel and Marzenna Bobel, individually and as officers of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an Order to Cease and Desist from the use of the acts or practices being investigated,

*It is hereby agreed* by and between proposed respondents, by their duty authorized officer and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent An-Mar International, Ltd., Inc. ("An-Mar") is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, and its office and principal place of business located at 345 Beinoris Drive, Wood Dale, Illinois 60191.

Proposed respondents Andrew Bobel and Marzenna Bobel are officers of proposed repondent An-Mar and are responsible for formulating, directing and controlling the policies, acts and paractices of An-Mar.

2. Proposed respondents admit all the jurisdicational facts set forth in the draft of the Complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's Decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement; and

(d) All rights under the Equal Access to Justice Act.

4. This Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it, together with the draft Complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Agreement and so notify proposed repondents, in which event it will take such action as it may consider appropriate, or issue and serve its Complaint (in such form as the circumstances may require) and Decision, in disposition of the proceeding.

5. This Agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft Complaint here attached.

6. This Agreement contemplated that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its Complaint corresponding in form and substance with the draft Complaint and its Decision containing the following Order to Cease and Desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the Order to Cease and Desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the United States Postal Service of the Complaint and Decision containing the agreed-to Order to proposed respondents' address as stated in this Agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The Complaint attached hereto may be used in construing the terms of the Order. No agreement, uderstanding, respresentation, or interpretation not contained in the Order or the Agreement may be used to vary or contradict the terms of the Order.

7. Proposed respondents have read the proposed Complaint and Order contemplated hereby. They understand that once the Order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

**Order**

*Definition*

For the purpose of this Order, the following definition shall apply:

"Tanning device" means any product designed to incorporate one or more ultraviolet lamps and intended for irradiation of any part of the living human body by ultraviolet radiation to induce skin tanning.

I

*It is ordered* That respondents An-Mar International, Ltd., Inc., a corporation, its successors and assigns, and its officers Andrew Bobel and Marzenna Bobel, individually and as officers of An-Mar International, Ltd., Inc., a corporation, and respondents' other officers and its agents, representatives, and employees, directly or through any corporation, subsidiary, division or other corporate device, in connection with the advertising, offering for sale, sale or distribution of any tanning device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or by implication, that:

A. Use of such tanning device may result in any health benefit, including a positive effect on metabolism, respiration, blood formation, power of resistance, or stamina;

B. Use of respondents' tanning devices does not pose a risk of the harmful side effects associated with exposure to the sun's radiation; and

C. Protective eye wear is not needed when using any such device.

II

*It is further ordered* That, for the purposes of this Order, any promotional material depicting models using tanning devices without appropriate protective eye wear will be deemed to represent that protective eye wear is not needed when using the tanning devices, unless, the promotional material clearly and conspicuously, and in close proximity to such depiction, discloses that protective eye wear is needed to prevent eye injury; and further, if such promotional material depicts models wearing what might appear to be ordinary sunglasses, the disclosure required by this Part must also disclose that ordinary sunglasses do not offer adequate protection.

III

*It is further ordered* That for one (1) year after the date of service of this Order, respondents, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other corporate device, in connection with the advertising, offering for sale, sale or distribution of any tanning device, in or affecting commerce, as "commerce" is defined in

the Federal Trade Commission Act, do forthwith cease and desist from failing to prominently disclose in any print advertisement, film, video tape or any other promotional material the following statement.

Notice. Read the mandatory FDA warning label found on every tanning machine for important information on potential eye injury, skin cancer, skin aging and photosensitive reactions.

The above-required language shall be included in printed material printed in a typeface and color that are clear and conspicuous, and, in multi-page documents, shall appear on the cover or first page; and in any film, video tape, or slide promotional material shall be included either orally or visually in a manner designed to ensure clarity and prominence; provided, further, that nothing contrary to, inconsistent with, or in mitigation of the above-required statement shall be used in any advertising or promotional materials.

IV

*It is further ordered* That, commencing one (1) year after the date of service of this Order, respondents, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other corporate device, in connection with the advertising, offering for sale, sale or distribution of any tanning device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making in any print advertisement, film, video tape or any promotional material any representation, directly or by implication, that the tanning device is safe or safer than other methods of tanning or that using the tanning device results in any health benefit unless the following statement is prominently disclosed:

Notice. Read the mandatory FDA warning label found on every tanning machine for important information on potential eye injury, skin cancer, skin aging and photosensitive reactions.

The above-required language shall be included in printed material printed in a typeface and color that are clear and conspicuous, and, in multi-page documents, shall appear on the cover or first page; and in any film, video tape, or slide promotional material shall be included either orally or visually in a manner designed to ensure clarity and prominence; provided, further, that nothing contrary to, inconsistent with, or in mitigation of the above-required statement shall be used in any advertising or promotional materials.

V

*It is further ordered* That respondents, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other corporate device, in connection with the advertising, offering for sale, sale or distribution of any product for personal or household use, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making, directly or by implication, any health or safety representation unless, at the time of such representation, respondents possess and rely upon a reasonable basis for each such representation, consisting of reliable and competent scientific evidence that substantiates such representation; provided, however, that to the extent such evidence of a reasonable basis consists of scientific or professional tests, analyses, research, studies or any other evidence based on expertise of professionals in the relevant area, such evidence shall be "reliable and competent" only if those tests, analyses, research, studies, or other evidence are conducted and evaluated in an objective manner by persons qualified to do so, and using procedures generally accepted in the profession to yield accurate and reliable results.

VI

*It is further ordered* That for three (3) years from the date that the representations to which they pertain are last disseminated, respondents shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials relied upon to substantiate any claim or representation covered by this Order;

B. All test reports, studies, surveys, or other materials in its possession or control or of which it has knowledge that contradict, qualify, or call into question such representation or the basis upon which respondent relied for such representation, including complaints from consumers.

VII

*It is further ordered* That respondents shall distribute a copy of this Order to each current officer, employee, agent and/or representative having sales or promotional responsibilities with respect to the subject matter of this Order, and to each current dealer, distributor, mail order retailer and purchaser or lessee for commercial use, of its tanning devices (such as health clubs, tanning salons, beauty catalogue houses, and tanning device retailers), and to each retail customer known through existing company records to have purchased its tanning devices.

VIII

*It is further ordered* That for ten (10) years after the date of service of this Order respondents shall maintain for three (3) years from the last date of dissemination of the material a copy of each nonidentical form of promotional and training material disseminated by respondent and upon request make such material available to the Federal Trade Commission or its staff for inspection and copying.

IX

*It is further ordered* That for ten (10) years after the date of service of this Order respondents shall maintain for three (3) years and upon request make available to the Federal Trade Commission for inspection and copying records of the name and last known address of each dealer, distributor, mail order retailer and purchaser or lessee for commercial use, of respondent's tanning devices.

X

*It is further ordered* That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in respondent An-Mar International, Inc., such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this Order.

XI

*It is further ordered* That respondents Andrew Bobel and respondent Marzenna Bobel shall notify the Commission of the discontinuance of their present employment and of their affiliation with any new business or employment involving the manufacture, advertising, sale, offering for sale or distribution in commerce of any tanning device, or of their affiliation with any new business or employment in which their duties or responsibilities would involve the manufacture, advertising, sale, offering for sale or distribution of tanning devices, with each such notice to include respondent's new business address and a statement as to the nature of the new business or employment, as well as a description of their duties and responsibilities.

XII

*It is further ordered* That respondents shall, within sixty (60) days after service of this Order upon it and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied or intends to comply with this Order.

**Analysis of Proposed Consent Order To Aid Public Comment**

The Federal Trade Commission has accepted, subject to final approval, an Agreement to a proposed Consent Order from An-Mar International Ltd., Inc., and its principals, Andrew Bobel and Marzenna Bobel.

The proposed Consent Order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received, and will decide whether it should withdraw from the Agreement and take other appropriate action or make final the proposed Order contained in the Agreement.

This matter concerns advertisements for An-Mar's tanning devices which use lamps that emit ultraviolet (UV) radiation to cause tanning of the user's skin.

The Commission's Complaint in this matter charges An-Mar with disseminating advertisements containing false and unsubstantiated representations regarding the health benefits of its tanning devices. According to the Complaint, advertisements for An-Mar's tanning devices falsely claimed that the tanning devices have a positive and stabilizing effect on metabolism, respiration and blood formation, and that tanning increases power of resistance and stamina.

Also, according to the Complaint, the advertisements imply that the devices do not pose risks of harmful side effects associated with exposure to the sun's radiation, and that the devices may be used safely without protective eye wear. The Complaint alleges that these claims are, in fact, false, and that An-Mar's tanning devices impart no health benefits, cannot be used without risk of any harmful side effects, and cannot be used safely without protective eye wear.

The Complaint also alleges that the advertisements contained false representations that An-Mar had a reasonable basis for the claims that its devices impart health benefits, can be used without the risk of any harmful side effects associated with the sun, and can be used safely without protective eye wear. In fact, An-Mar did not have a reasonable basis for these representations.

The Consent Order contains provisions designed to remedy the advertising violations charged, as well as to prevent An-Mar from engaging in similar acts and practices in the future. Part I of the Order prohibits An-Mar from misrepresenting, directly or by implication, that use of its devices results in health benefits, that its devices do not pose a risk of the harmful side effects associated with the sun's radiation, and that its devices can be used safely without protective eye wear.

Part II of the Order allows An-Mar to run advertisements showing models using the devices without protective eye wear, or wearing what appear to be ordinary sunglasses, as long as the advertisements also warn the buyer to wear protective eye wear.

Part III of the Order requires that for one year, An-Mar include in all advertisements and promotional materials a notice statement alerting users to read the mandatory Food and Drug Administration warning label found on all tanning devices for important information on potential eye injury, skin cancer, skin aging and photosensitive reactions.

Part IV of the Order requires that commencing one year after the date of service of this Order, An-Mar include a notice statement in any advertisement making a claim that its tanning devices are safe or safer than other devices or methods of tanning, or that the devices have health benefits. The statement alerts users to read the mandatory FDA warning label for important information on potential eye injury, skin cancer, skin aging and photosensitive reactions.

Part V of the Order requires An-Mar to have reliable and competent scientific evidence to support any health or safety representation contained in an advertisement.

Part VI of the Order requires An-Mar to retain all substantiation An-Mar relies on for its advertisements for a period of three (3) years.

Part VII of the Order requires An-Mar to send a copy of the Order to each of its current dealers, distributors and purchasers or lessees for commercial use, such as health clubs, tanning salons, beauty salons, catalogue houses, and tanning device retailers.

Parts VIII through XII of the Order are standard Order provisions requiring An-Mar to retain certain business records, report to the Commission certain corporate changes, and provide a report to the Commission on An-Mar's compliance with the provisions of the Order.

The purpose of this Analysis is to facilitate public comment on the proposed Order. It is not intended to constitute an official interpretation of the Agreement and proposed Order or to modify in any way their terms.

**Benjamin I. Berman,**

*Acting Secretary.*

[FR Doc. 89-11082 Filed 5-8-89; 8:45 am]

BILLING CODE 6750-01-M

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**16 CFR Part 13**

**[File No. 891 0059]**

## Panhandle Eastern Corporation; Proposed Consent Agreement With Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would allow, among other things, Panhandle Eastern Corp. to acquire Texas Eastern Transmission Corp. Respondent would be required to divest its ownership of Trunkline Offshore Co., which owns the half-share of Stingray, would require a trustee to sell Trunkline to a Commission-approved acquirer within 18 months after the order becomes final, and would also require respondent to obtain FTC approval before acquiring any natural gas pipeline in the affected offshore area.

**DATE:** Comments must be received on or before July 10, 1989.

**ADDRESS:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Ronald B. Rowe, FTC/S-3302, Washington, DC 20580, (202) 326-2610.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will

be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

**List of Subjects in 16 CFR Part 13**

Natural gas pipelines, Trade practices.

**Agreement Containing Consent Order**

The Federal Trade Commission ("the Commission"), having initiated an investigation of the proposed acquisition of the common stock of Texas Eastern Corporation ("Texas Eastern") by Panhandle Eastern Corporation ("Panhandle Eastern") and Panhandle Eastern having been furnished with a copy of a draft complaint that the Bureau of Competition has presented to the Commission for its consideration and which, if issued by the Commission, would charge Panhandle Eastern with violations of the Clayton Act and Federal Trade Commission Act, and it now appearing that Panhandle Eastern is willing to enter into an agreement containing an order to divest certain assets and to cease and desist from certain acts:

*It is hereby agreed* by and between Panhandle Eastern, by its duly authorized officers and its attorneys, and counsel for the Commission that:

1. Proposed respondent Panhandle Eastern is a corporation organized under the laws of Delaware, with its executive offices at 5400 Westheimer Court, Houston, Texas 77056–5310.

2. Texas Eastern is a corporation organized under the laws of Delaware, with its executive offices at 1221 McKinney Street, P.O. Box 2521, Houston, Texas 77252–2521.

3. Panhandle Eastern admits all jurisdictional facts set forth in the attached draft of complaint.

4. Panhandle Eastern waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise challenge or contest the validity of the order entered pursuant to this agreement; and

d. All rights under the Equal Access to Justice Act.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Panhandle Eastern, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by Panhandle Eastern that the law has been violated as alleged in the draft of complaint here attached.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Panhandle Eastern, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following Order to divest and to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the Order to divest and to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to Order to Panhandle Eastern's address as stated in this agreement shall constitute service. Panhandle Eastern waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

8. Panhandle Eastern has read the draft of complaint and Order contemplated hereby. Panhandle Eastern understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. Panhandle Eastern further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

**Order**

*I.*

As used in this Order, the following definitions shall apply:

a. "Acquisition" means Panhandle Eastern's acquisition of shares of the common stock of Texas Eastern.

b. "Panhandle Eastern" means Panhandle Eastern Corporation, its predecessors, subsidiaries, divisions, groups and affiliates controlled by Panhandle Eastern and their respective directors, officers, employees, agents, and representatives, and their respective successors and assigns.

c. "Texas Eastern" means Texas Eastern Corporation as it was constituted prior to the acquisition, its predecessors, subsidiaries, divisions, groups and affiliates controlled by Texas Eastern and their respective directors, officers, employees, agents, and representatives, and their respective successors and assigns.

d. "Schedule A Properties" means the assets and businesses listed in Schedule A of this Order.

e. "Trustee" means a trustee designated as such pursuant to the Voting and Selling Trust Agreement that is Attachment A to the Agreement to Establish a Voting and Selling Trust attached hereto and made part hereof as Appendix I to this Order.

f. "Voting and Selling Trust Agreement" means the Voting and Selling Trust Agreement that is Attachment A to the Agreement to Establish a Voting and Selling Trust.

*II.*

*It is ordered* That:

(A) Panhandle Eastern shall divest, absolutely and in good faith, the Schedule A Properties, as well as any additional assets and businesses relating to the transportation of natural gas that Panhandle Eastern may at its discretion include as a part of the assets to be divested and are acceptable to the acquiring entity or entities and the Federal Trade Commission. Provided, however, this obligation to divest shall be satisfied by the divestiture of the Schedule A Properties pursuant to the Agreement to Establish a Voting and Selling Trust. Provided, further, Panhandle Eastern may divest absolutely and in good faith and subject to this Order, Texas Eastern Transmission Company if the Federal Trade Commission, in its sole discretion, approves the substitute divestiture of Texas Eastern Transmission Company.

(B) At the earliest opportunity, but no later than 15 days after the appointment of the Trustee, Panhandle Eastern shall resign as the operator of Stingray Pipeline Company.

(C) Panhandle Eastern shall provide the acquiring entity or entities of the Schedule A Properties gas

transportation and exchange arrangements to the extent necessary to ensure divestiture of the properties as ongoing viable businesses engaged in the same business in which the Schedule A Properties are presently employed.

(D) The Agreement to Establish a Voting and Selling Trust shall continue in effect until such time as the Federal Trade Commission has approved Panhandle Eastern's divestitures of the Schedule A Properties or until such other time as that agreement provides, and Panhandle Eastern shall comply with all terms of that agreement.

(E) Divestiture of the Schedule A Properties shall be made only to an acquiring entity or entities that receive the prior approval of the Federal Trade Commission and only in a manner that receives the prior approval of the Federal Trade Commission. The purpose of the divestiture of the Schedule A Properties is to ensure the continuation of the assets as ongoing, viable businesses engaged in the same businesses in which the Properties are presently employed and to remedy the lessening of competition resulting from the Acquisition as alleged in the Federal Trade Commission's complaint.

(F) Panhandle Eastern shall take such action as is necessary to maintain the viability and marketability of the Schedule A Properties, including the payment of operating expenses if necessary, and shall not cause or permit the destruction, removal or impairment of any assets or businesses to be divested except in the ordinary course of business and except for ordinary wear and tear.

*III.*

*It is further ordered* That:

(A) Within ten (10) days of the appointment of the Trustee Panhandle Eastern shall transfer the Schedule A Properties to the Trustee whose powers and duties and terms of service are defined in the Voting and Selling Trust Agreement. Panhandle Eastern shall be bound by the terms and conditions of the Agreement to Establish a Voting and Selling Trust and by the Voting and Selling Trust Agreement. The appointment of the Trustee shall not preclude the Federal Trade Commission from seeking civil penalties or any other relief available to it for any failure by Panhandle Eastern to comply with this Order.

(B) The Trustee shall have eighteen (18) months from the date the duty to sell arises under paragraph 6.c of Voting and Selling Trust Agreement to accomplish the divestiture, which shall be subject to the prior approval of the Federal Trade Commission. If, however, at the end of the eighteen-month period the Trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the Trustee's divestiture period may be extended by the Federal Trade Commission. Provided, however, that the Federal Trade Commission may extend the Trustee's divestiture period only two (2) times.

(C) No later than thirty (30) days after receiving the prior approval of the Federal Trade Commission of a divestiture of the Schedule A Properties, Panhandle Eastern shall in good faith apply for (and cause the acquiring entity or entities as part of the agreement to apply for) approvals by any state or federal agency from which approval must be obtained before Panhandle Eastern may divest and the acquiring entity or entities may acquire, own and operate the Schedule A Properties. Panhandle Eastern shall cooperate with and shall support in good faith with all due diligence and expedition the acquiring entity or entities in obtaining necessary regulatory approvals, including filing a statement that demonstrates Panhandle Eastern's support for each such application. Panhandle Eastern shall take no action to impede or interfere with the necessary regulatory approvals.

(D) The Trustee shall have full and complete access to the personnel, books, records and facilities of any businesses that the Trustee has the duty to divest. Panhandle Eastern shall develop such financial or other information as such Trustee may reasonably request and shall cooperate with the Trustee. Panhandle Eastern shall take no action to interfere with or impede the Trustee's accomplishment of the divestiture.

(E) Subject to Panhandle Eastern's absolute and unconditional obligation to divest at no minimum price and the purpose of the divestiture as stated in Section II(E) of this Order, the Trustee shall use his or her best efforts to negotiate the most favorable price and terms available for the divestiture of the Schedule A Properties. The divestiture shall be made in the manner set out in Section II; provided, however, if the Trustee receives bona fide offers from more than one acquiring entity or entities, the Federal Trade Commission shall determine whether to approve each such purchaser, and the Trustee shall divest to the acquiring entity or entities selected by Panhandle Eastern from among those approved by the Federal Trade Commission.

(F) The Trustee shall be compensated as provided in the Voting and Selling Trust Agreement. He or she shall serve, on such reasonable and customary terms and conditions as the Federal Trade Commission may set, including the employment of accountants, attorneys or other persons reasonably necessary to carry out the Trustee's duties and responsibilities. To the extent the trust properties do not have sufficient working capital or distributions to cover expenses and assure that the Trustee can serve on reasonable terms and conditions, Panhandle Eastern shall provide the necessary working capital. The Trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Federal Trade Commission of the account of the Trustee, including fees for his or her services, all remaining monies shall be paid at the direction of Panhandle Eastern and the Trustee's power shall be terminated.

(G) If the Trustee ceases to act or fails to act diligently, a substitute Trustee shall be appointed in the same manner as provided in Section III(A) of this Order.

(H) The Trustee shall report in writing to Panhandle Eastern and the Federal Trade Commission every sixty (60) days concerning the Trustee's efforts to accomplish divestiture.

(I) Panhandle Eastern may terminate the trust if the divestiture of Texas Eastern Transmission Company has been completed in accordance with the terms of the Consent Order.

*IV.*

Within 12 months of the termination of the Voting and Selling Trust Agreement, pursuant to paragraph 6.a.iv thereof, Panhandle Eastern shall divest, absolutely and in good faith, the Schedule A Properties, as well as any additional assets and businesses relating to the transportation of natural gas that Panhandle Eastern may at its discretion include as a part of the assets to be divested and are acceptable to the acquiring entity or entities and the Federal Trade Commission.

*V.*

*It is further ordered* That within sixty (60) days after the date this Order becomes final and every sixty (60) days thereafter until Panhandle Eastern has fully complied with the provisions of Sections II and III of this Order, Panhandle Eastern shall submit to the Federal Trade Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying or has complied with those provisions. Panhandle Eastern shall include in its compliance

reports, among other things that are required from time to time, a full description of all contacts or negotiations with prospective acquirers for the divestiture of assets or businesses specified in Section II or Section IV of this Order, including the identity of all parties contacted. Panhandle Eastern also shall include in its compliance reports, copies of all written communications to and from such parties, all internal memoranda, reports and recommendations concerning divestiture, and a description of the status of all regulatory proceedings filed in accordance with this Order.

*VI.*

*It is further ordered* That for a period commencing on the date this Order becomes final and continuing for ten (10) years, Panhandle Eastern shall cease and desist from acquiring, without the prior approval of the Federal Trade Commission, directly or indirectly, through subsidiaries or otherwise, assets used or previously used by (and still suitable for use by), any interest in, or the stock or share capital of any natural gas pipeline any part of which is located in a quadrilateral shaped area of the Central and Western Gulf of Mexico (as those areas are designated by the Mineral Management Service of the United States Department of Interior) cornered by and including the following blocks: High Island East Addition Block A-221, Garden Banks Block 971, Garden Banks Block 999, and Vermilion Block 206. One year from the date this Order becomes final and annually for nine years thereafter Panhandle Eastern shall file with the Federal Trade Commission a verified written report of its compliance with this paragraph. Provided nothing in this Order shall require prior Federal Trade Commission approval (1) of the construction of new facilities or (2) if, and only if, Panhandle Eastern has provided the Federal Trade Commission with thirty (30) days prior notice, of the acquisition of stocks or assets if the total consideration, including assumption of liabilities of the present owner of such stock or assets, does not exceed one million dollars ($1,000,000).

*VII.*

*It is further ordered* That for the purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and on reasonable notice to Panhandle Eastern made to its principal office, Panhandle Eastern shall permit any duly authorized representatives of the Federal Trade Commission:

(A) access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Panhandle Eastern relating to any matters contained in this Order; and

(B) upon five days notice to Panhandle Eastern and without restraint or interference from Panhandle Eastern, to interview officers or employees of Panhandle Eastern who may have counsel present, regarding such matters.

*VIII.*

*It is further ordered* That Panhandle Eastern shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporation that may affect compliance with this Order. Panhandle Eastern shall also notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in Trunkline Gas Company such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change that may affect compliance obligations arising out of the Order.

*In Witness Whereof,* the undersigned have executed this Agreement Containing Consent Order on this 28 day of April, 1989.

**Schedule A—Assets, Interests and Businesses**

(1) Panhandle Eastern's interest in the Stingray Pipeline Company.

(2) Trunkline Offshore Company. Provided, however, if the divestiture of Trunkline Offshore Company results in the divestiture of Panhandle Eastern's interest in the Stingray Pipeline Company, Panhandle Eastern shall divest only Trunkline Offshore Company.

**Appendix I—Agreement to Establish a Voting and Selling Trust**

This Agreement to Establish a Voting and Selling Trust (this "Agreement") is by and between Panhandle Eastern Corporation ("PEC"), a Delaware corporation, and the Federal Trade Commission (the "Commission"), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.* (collectively, the "Parties").

*Premises*

*Whereas,* Pan Acquisition Co., a wholly-owned subsidiary of PEC, commenced a tender offer on February 21, 1989, as amended, for up to 48,650,000 of the outstanding shares of Texas Eastern Corporation ("TEC") with the intent of effecting a merger of Pan Acquisition Co. into TEC pursuant to which TEC would survive and become a subsidiary of PEC (the "Acquisition"), all as contemplated by and provided for in that certain Merger Agreement entered into among PEC, Pan Acquisition Co. and TEC dated as of February 20, 1989;

*Whereas,* the Commission is now investigating the transaction to determine if the Acquisition would violate any of the statutes enforced by the Commission; and

*Whereas,* if the Commission accepts the attached Agreement Containing Consent Order ("Consent Order"), the Commission must place it on the public record for a period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission's Rules; and

*Whereas,* the Commission is concerned that if an understanding is not reached, preserving the status quo ante of certain pipeline assets and businesses of PEC's wholly-owned subsidiary, Trunkline Offshore Company ("TOC") and the associated interest as a fifty percent (50%) partner of Stingray Pipeline Company ("Stingray"), during the period prior to the final acceptance of the Consent Order by the Commission (after the 60-day public notice period), divestiture resulting from any proceeding challenging the legality of the Acquisition might not be possible, or might be less than an effective remedy; and

*Whereas,* the Commission is concerned that if the Acquisition is consummated, it will be necessary to preserve the Commission's ability to require the divestiture of properties described in Schedule A to the Consent Order (the "Schedule A Properties") as a viable competitor; and

*Whereas,* the purpose of this Agreement and the Consent Order is to put TOC and its associated interest in Stingray in the hands of a trustee who will be charged:

(a) if the Commission accepts the Consent Order, with selling TOC in order to remedy any anticompetitive effects of the Acquisition, and

(b) in the interim, with managing TOC and its interest in Stingray, to preserve the independence, viability and marketability of TOC and its interest in Stingray; and

*Whereas,* PEC entering into this Agreement shall in no way be construe

as an admission by PEC that the Acquisition is illegal; and

*Whereas,* PEC understands that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Agreement.

*Now, therefore,* the parties agree, upon understanding that the Commission has not yet determined whether the Acquisition will be challenged, and in consideration of the Commission's agreement that, unless the Commission determines to reject the Consent Order, it will not seek further relief from PEC with respect to the Acquisition, except that the Commission may exercise any and all rights to enforce this Agreement, the Voting and Selling Trust Agreement that is Attachment A to this Agreement ("Voting and Selling Trust Agreement"), and the Consent Order to which this Agreement is annexed and made a part thereof:

1. PEC agrees to execute and be bound by the attached Consent Order.

2. Within thirty (30) days of the date on which the Commission accepts this Agreement, the Commission shall appoint a trustee pursuant to an agreement with PEC on the appointment of a trustee. Such trustee shall act in accordance with the Voting and Selling Trust Agreement.

3. If PEC and the Commission are unable to agree on the appointment of a trustee within thirty (30) days, the Commission shall select the trustee, subject to the consent of PEC, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures.

4. Within ten (10) days of appointment of the Trustee, PEC shall transfer to the Trustee, all the shares of TOC and the associated interest in Stingray. PEC shall observe all the terms and conditions of the Voting and Selling Trust Agreement once executed.

5. In the event the Commission has not finally approved and issued the Consent Order within one hundred twenty (120) days of its publication in the Federal Register, PEC may, at its option, terminate this Agreement by delivering written notice of termination to the Commission, which termination shall be effective ten (10) days after the Commission's receipt of such notice, and the shares in TOC and the associated interest in Stingray shall then revert to PEC. If this Agreement is so terminated, the Commission may take such action as it deems appropriate, including but not limited to an action pursuant to Section 13 (b) of the Federal Trade Commission Act, 15 U.S.C. § 53(b). Termination of this Agreement shall in no way operate to terminate the Consent Order.

6. For the purpose of determining or securing compliance with this Agreement, subject to any legally recognized privilege, and upon written request with reasonable notice to PEC made to its principal office, PEC shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of PEC and in the presence of counsel to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of PEC relating to compliance with this Agreement;

b. Upon five (5) days notice to PEC, and without restraint or interference from it, to interview officers or employees of PEC, who may have counsel present, regarding any such matters.

No information or documents obtained by the Commission shall be divulged by any representative of the Commission to anyone outside the Commission, except in legal proceedings, a request from Congress, a request from a Congressional Committee, to secure compliance with this Consent Order, or as otherwise permitted by law.

If at any time information or documents are furnished by PEC and PEC identifies such documents as "Confidential," then the Commission shall provide to PEC ten (10) days notice or, if ten (10) days is not possible, as many days notice as possible prior to divulging such material.

7. This agreement shall not be binding until approved by the Commission.

**Attachment A—Voting and Selling Trust Agreement**

This voting and selling trust agreement (this "Agreement") is entered into on _____, 1989, by and between Panhandle Eastern Corporation ("PEC"), and _____ ("Trustee"). For the purposes of this Agreement, PEC means Panhandle Eastern Corporation, its subsidiaries, divisions, groups, and affiliates controlled by PEC and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns.

*Witnesseth*

*Whereas,* PEC has agreed, subject only to final approval and issuance by the Federal Trade Commission (the "Commission") of a proposed Agreement Containing Consent Order ("Consent Order"), to divest all of the outstanding stock and assets of Trunkline Offshore Company ("TOC") and its associated interest as a fifty percent (50%) partner in Stingray Pipeline Company ("Stingray");

*Whereas,* the Commission and PEC have agreed that pending Commission deliberations about whether finally to accept the Consent Order, the voting stock of TOC and its associated interest in Stingray be placed in a voting trust to be administered by an independent Trustee to effectuate the Consent Order and in accordance with the terms and conditions of this Agreement;

*Whereas,* the Trustee intends to act in furtherance of assuring that TOC and the associated interest in Stingray will remain viable and competitively independent of PEC, to allow the Commission the opportunity to complete its deliberations while preserving the Commission's ability to obtain effective divestiture or other appropriate relief if it decides any is needed;

*Whereas,* if the Commission finally accepts the Consent Order the Trustee will undertake to sell the shares of TOC, and its associated interest in Stingray, as promptly as practicable and at the highest available price that is consistent with the Consent Order, but at no minimum price, all in accordance with this Agreement, the Consent Order, and the Agreement to Establish a Voting and Selling Trust.

*Now, therefore,* in consideration of the foregoing and of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto agree as follows:

*1. Creation, Purpose and Term of Voting and Selling Trust*

a. Subject to the terms and conditions hereof, a voting and selling trust (the "Voting and Selling Trust") in respect of the shares of common stock of TOC owned by PEC (the "Stock") is hereby created.

b. Trustee accepts the trust created by this Agreement, and agrees to his or her appointment as trustee hereunder.

c. The Voting and Selling Trust created hereunder shall remain in effect (i) until the earlier of (A) termination of the Agreement to Establish a Voting and Selling Trust, under Section 5 of that agreement or (B) the date the Commission withdraws the acceptance of the Consent Order, if it decides to do so, or, (ii) if the Commission finally accepts the Consent Order, until the termination date defined in Section 6.a, 6.b, or 6.c of this Agreement.

*2. Solicitation, Collection, Acquisition and Ownership of Stock; Voting Trust Certificates*

a. PEC agrees to transfer and deliver, within ten (10) days after appointment of the Trustee, certificates representing all shares of Stock endorsed or accompanied by proper instruments duly executed for transfer to the Trustee pursuant to this Agreement.

b. Such certificates shall at all times be and remain in the possession and under the control of the Trustee.

c. Each certificate representing shares of Stock shall bear a legend to the effect that it is subject to this Voting Trust Agreement. The Trustee shall promptly file with the Secretary of TOC a duplicate of this Agreement. The Trustee shall also maintain such other records and books as are necessary or appropriate to enable him or her to carry out the terms and provisions of this Agreement.

*3. Retention of Deposited Stock by Trustee.*

The Trustee shall retain and hold, personally or through an agent, the certificates representing Stock only in accordance with, and subject to the terms and conditions set forth in, this Agreement. The Trustee shall not have authority to sell, transfer, assign, pledge or otherwise dispose of or encumber the Stock, except in the ordinary course of business, as necessary or appropriate to effectuate the Consent Order, or to the extent otherwise specifically provided in this Agreement.

*4. Rights and Duties of the Trustee*

a. During the term of this Agreement and for so long as the Trustee shall hold the Stock pursuant to this Agreement, the Trustee shall possess, and, in his or her sole discretion, subject to the provisions of this Section, shall be entitled to and have the duty to exercise all voting rights of the Stock, including the right to vote the Stock on all matters upon which the holders of the Stock are entitled to vote, specifically including the right to appoint or elect members to the Management Committee of Stingray. PEC shall not attempt to exercise any voting power, influence, or control, directly or indirectly, over the conduct of business by TOC or Stingray. The Trustee shall use his or her best business judgment in exercising such voting trust power in a manner consistent with the purpose and requirements of this Agreement, the Consent Order and the Agreement to Establish a Voting and Selling Trust. The Trustee shall be independent of and unrelated to any current or prospective participant in the gathering or transmission of natural gas in the Outer Continental Shelf of the United States but may, consistent with this Agreement and in exercise of his or her discretion, seek to obtain from any such participant, including PEC, information deemed by the Trustee to be helpful to the conduct of the business of TOC.

b. The Trustee shall exercise his or her right to vote the Stock in the election of directors of TOC. The Trustee shall have sole discretion in choosing the identity of any directors he or she is authorized to nominate and to seek to elect. The Trustee may, but is not required to, nominate and vote for the election of himself or herself to the Board of Directors of TOC. The Trustee shall not vote to elect to the Board of Directors of TOC or the Management Committee of Stingray any person who is an officer, employee, director, agent, representative, shareholder, or affiliate of PEC, nor, after due inquiry, any person who has a business or familial relationship with PEC or any officer, employee, director, agent, representative, shareholder or affiliate of PEC.

c. No other person shall have any voting right in respect of the Stock so long as this Agreement is in effect. The Trustee shall have no beneficial interest in the Stock in his or her capacity as trustee.

d. The Trustee shall have any and all such further powers, and shall take such further actions (including but not limited to legal action) as may be necessary to preserve the corporate assets and confidential, competitively sensitive information of TOC and to fulfill the Trustee's obligations under this Agreement.

e. The Trustee shall take or shall cause to be taken such action as is necessary or appropriate to effectuate the terms of the Consent Order.

f. The Trustee shall take all steps to ensure that TOC competes as vigorously with PEC as if there were no relationship between PEC and TOC. In furtherance of this obligation, the Trustee shall ensure there is no communication between TOC and PEC employees, except with respect to commercial arrangements made at arm's length in the ordinary course of business, in connection with the continued performance by Trunkline Gas Company of duties as Operator of Stingray (only as long as that is necessary to install a successor), and in connection with the provision of information required by PEC for financial and tax reporting purposes as set forth in the Order. The Trustee shall ensure there is no transfer or disclosure of confidential, competitively sensitive information between PEC and TOC; if any such communications or transfers or disclosures of information are made, the Trustee shall immediately notify the Commission.

*5. Restrictions on PEC*

a. PEC shall not be involved, directly or indirectly, in the operation or management of TOC or Stingray, nor seek to influence directly or indirectly the operation or management of TOC. TOC shall be maintained as a separate corporate entity with an independent Board of Directors. In no event shall any director, officer, employee, agent or representative of PEC become or remain a member of TOC s Board of Directors or become or remain an officer of TOC or serve on the Stingray Management Committee. Nor may any director, officer, employee, agent or representative of TOC become or remain a member of PEC s Board of Directors or become or remain an officer of PEC. The independent TOC Board of Directors shall maintain separate corporate books and records for TOC. Except as authorized by this Agreement, PEC and TOC shall not transfer assets between them, except for commercial arrangements made at arm's length in the ordinary course of business, nor engage in any joint activity, during the term of this Order except following reasonable notice to the Commission. PEC and TOC (or Stingray) shall not extend any existing contracts or agreements between them, or change the terms of such agreements in any way, during the term of this Agreement except following reasonable notice to the Commission. The Trustee shall provide the Commission with a full description of the proposed transaction and copies of all documents related thereto. The Commission's Bureau of Competition shall also be promptly provided with copies of TOC s and Stingray's separate quarterly and annual financial statements and capital spending reports, and other financial information upon request, during the term of this Agreement.

b. PEC shall not seek or obtain, directly or indirectly, any of TOC's or Stingray's trade secrets, nonpublic financial and accounting books and records, or other confidential, competitively sensitive information; provided, however, that PEC may seek and obtain upon application to the Trustee and 30 days notice to the Commission with a copy of the application, such financial information from TOC as is necessary for PEC to prepare and file financial and tax

reports to the extent required by law, provided that (i) PEC s application shall specify in detail the need for the information requested; (ii) for purposes of tax reports PEC shall not seek or obtain information at a level of detail greater than necessary to prepare and file tax reports required by law, and shall certify to the Trustee that its request for information is so limited; (iii) the Trustee shall provide only the information that it determines is necessary for the preparation of the financial and tax reports; (iv) information required for tax reports shall be provided or disclosed only to designated individuals within PEC's tax department who are responsible for the analysis of the information and preparation of the required tax reports, and information required for financial reports shall be provided or disclosed only to designated individuals within PEC's accounting department; (v) each designated individual in the tax department and accounting department shall submit to the Trustee an affidavit in the form appended hereto as Attachment l or Attachment 2, whichever is applicable; and (vi) PEC shall use such information only for the preparation and filing of such required financial and tax reports and not for any other purpose whatsoever.

c. PEC shall not make available to TOC or Stingray, directly or indirectly, any of PEC s trade secrets, nonpublic financial or accounting books or records, or other confidential or competitively sensitive information.

d. Except as otherwise permitted by the Order or by any other term of this Agreement, no communications shall be made to the Trustee by PEC regarding the operation or management of TOC or Stingray. PEC may communicate to the Trustee for ministerial purposes as to the transfer of the Stock pursuant to Sections 6.a, 6.b, and 6.c of this Agreement, provided, however, that any such permitted communication shall be in writing.

e. Nothing in this Agreement shall prevent PEC from finding and tendering to the Trustee potential purchasers for the Stock. Any such sale would be subject to the Consent Order.

*6. Termination of the Voting Trust Agreement*

a. This Agreement and the voting trust created hereby shall terminate, on the first to occur of the following:

i. The distribution of the Stock to PEC pursuant to Section 6.b of this Agreement; or

ii. The sale or other disposition of all of the Stock to a party other than PEC pursuant to Section 6.c of this Agreement; or

iii. PEC's exercise of its right to terminate as provided in Section III(I) of the Consent Order; or

iv. The expiration of the divestiture period defined by Section III(B) of the Consent Order.

b. The Trustee shall cause the certificates representing all of the Stock to be delivered to PEC, properly endorsed for transfer to PEC, and shall take all other actions appropriate to effectuate the transfer to PEC of title of the Stock and all other property held by the Trustee pursuant to this Agreement, within five (5) business days, if the Commission issues a final order rejecting the proposed Consent Order or if the Agreement to Establish a Voting and Selling Trust is terminated under Section 5 of the Agreement to Establish a Voting and Selling Trust.

c. The Trustee shall cause the certificates representing all of the Stock to be sold if the Commission finally accepts the Consent Order.

d. In disposing of the Stock pursuant to Section 6.c hereof, the Trustee shall faithfully implement the Consent Order. The Trustee s charge shall be to sell the Stock pursuant to the Consent Order as promptly as possible at the highest available price but at no minimum price. PEC shall immediately be provided access to the information (other than competitively sensitive information) submitted to the Commission for its determination of whether this charge has been fulfilled. The implementation and interpretation of this Agreement and the Consent Order shall be in the sole discretion of the Commission.

e. Upon disposing of the Stock pursuant to Section 6.c hereof, the voting and Selling Trust shall terminate in accordance with Section III(F) of the Consent Order.

*7. Concerning the Trustee*

a. Subject to the provisions of this Agreement, the voting trust created hereby shall be managed by the Trustee.

b. The Trustee shall be compensated by PEC in return for his or her services as trustee hereunder. As further provided in Section III(F) of the Consent Order, the Commission shall determine compensation when the Trustee is appointed. PEC may provide the Commission, solely as an aid to its determination in this respect, any information PEC deems appropriate, including compensation paid and other similar arrangements. The Trustee shall be compensated in the following manner. The Trustee shall receive his or her normal hourly billing rate, which shall constitute a draw against a future commission, plus reasonable expenses, if any. If the Stock is sold to a third party, the Trustee shall receive a commission, plus reasonable expenses. If the Stock is returned to PEC in accordance with Section 6.b or 6.a.iii, the Trustee shall receive his or her normal hourly billing rate plus reasonable expenses.

c. The Trustee warrants that he or she is not and covenants that he or she shall not become an officer, employee, director, or shareholder of PEC, or of any of its affiliates.

d. The Trustee is expressly authorized to incur and pay from the Stingray cash contribution to TOC his or her draw, all reasonable charges and other expenses as provided in Section III(F) of the Consent Order. PEC agrees to indemnify and hold harmless the Trustee against all claims, costs of defense of claims (including reasonable attorney's fees and disbursements), reasonable expenses and liability incurred by the Trustee in connection with the performance of his or her duties under this Agreement, except those incurred as a result of the Trustee's own intentional wrongful actions, willful misconduct, or gross negligence.

e. The Trustee shall be free from liability in acting upon any paper, document or signature believed by the Trustee to be genuine and to have been signed by the proper party. The Trustee shall not be liable for any error of judgment in any act done or omitted, nor for any mistake of fact or law, nor for anything the Trustee may do or refrain from doing in good faith. The Trustee may consult with legal counsel of his or her choice and any action under this Agreement taken or suffered in good faith by the Trustee in accordance with the opinion of the Trustee's counsel shall be conclusive on PEC and the Trustee shall be fully protected and be subject to no liability in respect thereto.

f. The rights and duties of the Trustee hereunder shall terminate upon the Trustee's incapacity to act, death, insolvency or dissolution, and no interest in any of the Stock held by the Trustee nor any of the rights and duties of the incapacitated, deceased, insolvent or dissolved Trustee may be transferred by will, devise, succession or in any manner except as provided in this Agreement. The heirs, administrators, executors or other representatives of such incapacitated, deceased, insolvent or dissolved Trustee shall, however, have the right and duty to convey the Stock held by the Trustee to one or more successor trustees.

g. The Trustee may resign by giving thirty (30) days advance written notice

of his or her resignation to the Commission and PEC, provided that a successor Trustee has been appointed.

h. In the event of such resignation, incapacity to act or the death, insolvency or dissolution of the Trustee, the Trustee shall be succeeded by a successor Trustee chosen by the Commission, subject to the consent of PEC which shall not be unreasonably withheld, which successor Trustee shall be altogether independent of, and unrelated to, any current or prospective participant in the business of gathering or transmission of natural gas in the Outer Continental Shelf of the United States. Any successor Trustee appointed as herein provided shall indicate his or her acceptance of such appointment by executing a counterpart of this Agreement and thereupon such successor shall be vested with all the rights, powers, duties and immunities herein conferred upon the Trustee as though such successor had been originally a party to this Agreement as Trustee. The term "Trustee" as used in this Agreement shall apply to and mean the original Trustee (so long as he or she is a Trustee) hereunder and his or her successors.

*8. Periodic Distributions, Conservation of Assets and Proceeds of Sale of Deposited Stock*

a. PEC shall be entitled to receive from time to time payments from Stingray cash distributions to TOC to whatever extent the Trustee, in his or her sole discretion, believes prudent in light of the purpose of the Voting and Selling Trust. Such payments shall be made by the Trustee as soon as practicable after the receipt of the distribution. In lieu of receiving cash distributions and paying them to PEC, the Trustee may instruct TOC in writing to pay the cash directly to PEC. In the event any such instruction is given to TOC, all liability of the Trustee with regard to payment shall cease, unless and until such instruction is revoked. The Trustee may at any time revoke such instruction by written notice to TOC and direct it to make subsequent payments to the Trustee.

b. In the event of the sale of all the Stock, the Trustee shall receive, for the benefit of PEC, the money, securities, rights or property that is or are distributed or distributable in respect of the Stock, or that is or are received in exchange for the Stock. During the term of this Agreement, the Trustee and the Board of Directors of TOC shall use their best efforts to maintain the value of TOC's assets and shall not sell, transfer, encumber or otherwise impair their marketability, other than in the normal course of business, upon reasonable notice to the Commission and PEC.

c. If at any time during the term of this Agreement the Trustee shall receive or collect any money or other property (other than voting securities of TOC) on behalf of TOC, other than as set forth in Sections 8.a or 8.b, the Trustee shall distribute such money or other property to PEC to the extent the Trustee, in his or her sole discretion, believes prudent in light of this Agreement.

*9. Miscellaneous*

a. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral and written agreements, commitments or understandings with respect to the matters provided for herein.

b. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors and permitted assigns. This Agreement shall not be assignable by any party, except in the event of the resignation, incapacity, insolvency, dissolution or death of any Trustee and the appointment of a successor Trustee in accordance with Section 7.h hereof.

c. All notices and other communications given under this Agreement shall be in writing and shall be deemed to have been duly given when delivered in person or mailed by first class, registered or certified mail, postage prepaid or transmitted by telex or telegram and addressed to:

i. If to PEC: John A. Sieger, Esquire, Panhandle Eastern Corporation, 5400 Westheimer Court, Houston, Texas.

ii. If to the Trustee:

iii. If to the Commission: Anthony Low Joseph, Esquire, Federal Trade Commission, 601 Pennsylvania Avenue NW., Washington, DC 20580.

or to such other address as any of them designate, with copies also sent to such attorney as the Commission, PEC, or the Trustee may from time to time designate. Each notice or other communication which shall be personally delivered, mailed or transmitted in the manner described above shall be deemed sufficiently received for all purposes at such time as it is delivered to the addressee (with any return receipt or delivery receipt being deemed conclusive evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

d. If any part of any provision of this Agreement or any other agreement, document or writing given pursuant to or in connection with this Agreement shall be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining part of said provision or the remaining provisions of this Agreement.

e. The headings of the Sections of this Agreement are inserted for convenience of reference only and do not form a part or affect the meaning hereof.

f. This Agreement, the rights and obligations of the parties hereto, and any claims and disputes relating thereto, shall be governed by and construed in accordance with the laws of the State of Delaware (not including choice of law rules thereof).

g. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be one and the same instrument.

h. In the event of any conflict or inconsistency between the terms of this Agreement and of the Order, the terms of the Order shall govern.

*In witness whereof,* the parties hereto have executed this Agreement or caused this Agreement to be duly executed on their behalf as of the date and year first hereinabove set forth.

Trustee:

By _____

Panhandle Eastern Corporation

By _____

**Panhandle Eastern Corporation; Analysis of Proposed Consent Order To Aid Public Comment**

The Federal Trade Commission has accepted, subject to final approval, an Agreement Containing Consent Order from Panhandle Eastern Corporation ("Panhandle"). The agreement would settle charges in a complaint by the Federal Trade Commission that Panhandle's proposed acquisition of Texas Eastern Corporation ("Texas Eastern") would lessen competition for the transportation of gas out of one area in the Gulf of Mexico. The complaint states that the Commission has reason to believe that this acquisition by Panhandle would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act.

Panhandle agreed to the proposed consent order for settlement purposes only and does not admit that it violated the law as alleged in the complaint.

The Commission has placed the proposed consent order on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record.

After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's investigation of this matter concerned Panhandle's stock acquisition of Texas Eastern. Panhandle and Texas Eastern are each operators of major interstate natural gas pipeline systems. Panhandle's system receives natural gas from offshore producing areas in the Gulf of Mexico, and from onshore producing areas in Louisiana, Texas, Oklahoma, Colorado, Wyoming and Kansas, and delivers natural gas primarily to markets in the midwest. Texas Eastern's system receives natural gas from offshore producing areas in the Gulf of Mexico, and from onshore areas of Louisiana and Texas, and delivers natural gas primarily to markets in the northeast.

The Agreement Containing Consent Order ("Order") would, if issued by the Commission, settle the complaint that alleges anticompetitive effects in the transportation of natural gas from the affected portion of the offshore Gulf of Mexico.

Under the terms of the proposed Order, Panhandle must divest its wholly owned subsidiary Trunkline Offshore Company and its interest in Stingray Pipeline Company. The Order provides that Panhandle shall satisfy its divestiture obligations pursuant to the Agreement to Establish a Selling and Voting Trust. Under this Agreement, Panhandle shall transfer to a trustee all its interests in Trunkline Offshore Company and Stingray. The trustee would have an obligation to divest the interests within 18 months of the date on which the Commission finally accepts the Consent Order. The Commission may, in certain circumstances, extend the time for the trustee to divest the interests. The trustee would manage the interests until he or she accomplishes the divestiture. The trustee's duties are set out in the Voting and Selling Trust Agreement, which is an attachment to the Agreement to Establish a Selling and Voting Trust.

For a period of ten (10) years from its effective date, the proposed Order prohibits Panhandle from making acquisitions of pipeline assets located in any part of the affected portion of the Gulf of Mexico offshore.

It is anticipated that the proposed Order would resolve the competitive problems alleged in the Complaint. The purpose of this analysis is to invite public comment concerning the proposed Order to aid the Commission in its determination of whether it should make final the Order contained in the agreement. This analysis is not intended to constitute an official interpretation of the agreement and proposed Order, nor is it intended to modify the terms of the agreement and proposed Order in any way.

**Benjamin I. Berman,**

*Acting Secretary.*

[FR Doc. 89-11081 Filed 5-8-89; 8:45 am]

BILLING CODE 6750-01-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 918

### Louisiana Permanent Regulatory Program

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

**ACTION:** Withdrawal of Proposed Amendment.

**SUMMARY:** OSMRE is announcing the withdrawal of a proposed amendment to the Louisiana Permanent Regulatory Program. The proposed amendment consisted of numerous revised regulations that would partially replace those now implementing the Louisiana program. Louisiana is withdrawing this amendment because it intends to incorporate it into another formal amendment at a future date.

**DATES:** This withdrawal is effective May 9, 1989.

**FOR FURTHER INFORMATION CONTACT:** Mr. James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 E. Skelly Drive, Suite 550, Tulsa, Oklahoma 74135, Telephone: (918) 581-6430.

**SUPPLEMENTARY INFORMATION:** By letter dated January 25, 1988 (Administrative Record No. LA-263), Louisiana submitted a package of proposed amendments to OSMRE. The proposed amendment consisted of modifications to Louisiana's regulations governing areas unsuitable for mining, surface coal mining and reclamation operations permits and coal exploration and development procedures systems, bond and insurance requirements for surface coal mining and reclamation operations, and permanent program performance standards. OSMRE announced receipt of the proposed amendment in the March 14, 1988, **Federal Register** (53 FR 8222). In the June 3, 1988 **Federal Register**, OSMRE reopened and extended the comment period for Louisiana's proposed amendment as modified on March 8, 1988; April 5, 1988; and May 11, 1988 (53 FR 20338).

By telephone conversation of March 15, 1989, Louisiana indicated a desire to withdraw the proposed amendment, stating that the proposed amendment should be considered an informal submission and that it intends to incorporate it into another formal amendment at a future date (Administrative Record No. LA-290). Therefore, the proposed amendment announced in the March 14, 1988 **Federal Register**, as revised and re-announced in the June 3, 1988 **Federal Register** is withdrawn, and Part 918 Title 30 of the Code of Federal Regulations is not amended.

**List of Subjects in 30 CFR Part 918**

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

Date: April 27, 1989.

**Raymond L. Lowrie,**

*Assistant Director, Western Field Operations.*

[FR Doc. 89-11041 Filed 5-8-89; 8:45 am]

BILLING CODE 4310-05-M

### 30 CFR Part 925

### Missouri Permanent Regulatory Program; Public Comment Period and Opportunity for Public Hearing on Proposed Amendment

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

**ACTION:** Proposed rule.

**SUMMARY:** OSMRE is announcing receipt of a proposed amendment to the Missouri permanent regulatory program (hereinafter, the "Missouri program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to revegetation and permitting. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards and to incorporate the additional flexibility afforded by the revised Federal regulations.

This notice sets forth the times and locations that the Missouri program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and procedures that will be followed regarding the public hearing, if one is requested.

**DATES:** Written comments must be received on or before 4:00 p.m., c.d.t. June 8, 1989. If requested, a public hearing on the proposed amendment will be held on June 5, 1989. Requests to present oral testimony at the hearing must be received by 4:00 p.m., c.d.t. on May 24, 1989.

**ADDRESSES:** Written comments should be mailed or hand delivered to Mr. William J. Kovacic at the address listed below.

Copies of the Missouri program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSMRE's Kansas City Field Office.

Mr. William J. Kovacic, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 1103 Grand Avenue, Room 502, Kansas City, MO 64106, Telephone: (816) 374-6405

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5131, 1100 L Street NW., Washington, DC 20240, Telephone: (202) 343-5492

Missouri Department of Natural Resources, Land Reclamation Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102, Telephone: (314) 751-4041

**FOR FURTHER INFORMATION CONTACT:** Mr. William J. Kovacic, Director, Kansas City Field Office, at the address or telephone number listed in "**ADDRESSES.**"

**SUPPLEMENTARY INFORMATION:**

## I. Background on the Missouri Program

On November 21, 1980, the Secretary of Interior conditionally approved the Missouri program. General background information on the Missouri program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Missouri program, can be found in the November 21, 1980, **Federal Register** (45 FR 77017). Subsequent actions concerning Missouri's program and program amendments can be found at 30 CFR 925.12, 925.15, and 925.16.

## II. Proposed Amendment

By letters dated March 23, 1989, (Administrative Record No. MO-422) and April 13, 1989, (Administrative Record No. MO-426) Missouri submitted a proposed amendment to its program pursuant to SMCRA. Missouri submitted the proposed amendment at its own initiative, to satisfy deficiencies noted in a July 18, 1988, issue letter from OSMRE (Administrative Record No. MO-396), and to satisfy deficiencies noted in an October 26, 1988, issue letter from OSMRE (Administrative Record No. MO-405).

The regulations that Missouri proposes to amend are: 10 CSR 40-3.120(6)(B)1, (6)(B)2.C, (6)(B)2.E, (6)(B)2.F, (8)(A)5, (8)(A)6, and (8)(A)7, 40-3.270(6)(B)1, (6)(B)2.C, (6)(B)2.E, (6)(B)2.F, (8)(A)5, (8)(A)6, and (8)(A)7, Surface and Underground Revegetation Requirements; 10 CFR 40-6.050(8)(B)5.F, Reclamation Plan—General Requirements; and 10 CSR 40-6.070(8)(L), Criteria for Permit Approval or Denial. Missouri is submitted for OSMRE review policy documents on Permanent Program Phase III Liability Release Criteria for: Industrial, Commercial, or Residential Land Use; Previously Mined Land and Woodland; Wildlife Habitat; and Cropland.

## III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSMRE is now seeking comment on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Missouri program.

*Written Comments*

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Kansas City Field Office will not be considered in the final rulemaking or included in the administrative record.

*Public Hearing*

Persons wishing to testify at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4:00 p.m., c.d.t. May 24, 1989. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify having been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

*Public Meeting*

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "**ADDRESSES.**" A written summary of each meeting will be made a part of the administrative record.

**List of Subjects in 30 CFR Part 925**

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

Date: April 27, 1989.

**Raymond L. Lowrie,**

*Assistant Director, Western Field Operations.*

[FR Doc. 89-11040 Filed 5-8-89; 8:45 am]

BILLING CODE 4310-05-M

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## POSTAL RATE COMMISSION

### 39 CFR Part 3001

**[Docket No. RM89-1]**

### Rules of Practice and Procedure Relating to Production of Third-Class Bulk Costing Evidence; Notice of Proposed Rulemaking

May 3, 1989.

**AGENCY:** Postal Rate Commission.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Commission proposes to amend Rule 54(j) of its rules of practice to require the Postal Service to provide in rate cases third-class volume data by ounce increment and shape. Provision of these data will assist the Commission in estimating third-class revenues in omnibus rate cases and facilitate advancements in analyzing third-class costs.

**DATES:** Comments must be received on or before June 23, 1989.

**ADDRESS:** Comments and correspondence relating to this Notice should be seent to Charles L. Clapp,

Secretary of the Commission, Suite 300, 1333 H Street, NW., Washington, DC 20268. (Telephone: 202/789–6840).

**FOR FURTHER INFORMATION CONTACT:** David F. Stover, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, N.W., Washington, D.C. 20268: (202) 789–6820.

**SUPPLEMENTARY INFORMATION:** When the Postal Service files a request for changes in rates, it projects revenues under its proposed rates for the various classes of mail. Third-class revenue per piece is dependent upon weight and level of presortation. In the last rate proceeding, the Postal Service relied on 1982 and 1883 data to determine the distribution of third-class volume by ounce increment. Using this distribution the Service estimated test year revenues for third-class mail. For a class of mail, such as third class, where volumes have been increasing dramatically, it is the Commission's opinion that because data of this age may have become unrepresentative they should be updated at least for each omnibus rate case.

Also before the Commission is another matter which, in part, focuses upon the need for more current data on third-class volume by ounce increment. On November 17, 1988, Warshawsky & Company filed a petition requesting the Postal Rate Commission to initiate a rulemaking to amend the Commission's filing requirements pertaining to the provision of cost and volume data supporting requests for changes in third-class rates. Warshawsky proposes to require that Postal Service omnibus rate case filings includes an analysis of third-class costs by ounce increments. An analysis of third-class costs by ounce increment requires information on third-class volume and third-class costs by ounce increment. Costs by ounce increment are divided by volume by ounce increment to produce third-class costs per piece by ounce increment. While the Commission is still studying the feasibility of requiring the Postal Service to produce additional cost data relating to third-class, the production of additional volume data is now an appropriate step forward for the purpose of analyzing third-class cost behavior.

In addition to providing third-class volume data by ounce increment, volume data should be provided by shape because of the potential cost differences between flats, letters and irregular parcels and pieces. Shape based volume data are needed to ascertain the impact of such factors as the Service's "18–8 rule," differences in depth of sortation by shape, and differences in carrier street time load costs. Further, in Docket No. R87–1 volume data by shape were used to calculate third-class presort discounts.

Information available to the Commission indicates that third-class volume data by ounce increment and shape are available from mailing statement data filed on Form 3602. A sample of mailing statements can be used to provide data on the volume of third-class permit mail by weight, shape and presort level. Volume data relating to third-class metered and stamped mail can be obtained from Form 3602–PC.

Consistent with the Commission's responsibilities under 39 U.S.C. § 3622(b)(3), the Commission herein proposes to amend 54(j) of its rules of practice to require the Postal Service to provide in omnibus rate case filings third-class ounce increment and shape based volume data. Provision of these data will assist the Commission in estimating third-class revenues in omnibus rate cases and facilitate advancements in analyzing third-class costs.

*Impact of proposed changes.* Pursuant to Executive Order 12291, the Commission finds that this proposed rule change does not constitute a "major rule." It affects only rules of practice governing hearing procedures. Its economic impact will be negligible, including its impact on the costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions. Additionally, this rule change will have no measurable 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.

The above analysis that this rule change does not constitute a major rule applies, as well, to the Regulatory Flexibility Act.

This proposed rule change does not contain policies with Federalism implications, and therefore does not warrant preparation of a Federalism assessment under E.O. 12612.

**List of Subjects in 29 CFR Part 3001**

Administrative practice and procedure, Postal Service.

*Proposed Rules*

For the reasons set forth above, the Commission proposes to amend its rules of practice and procedure in 39 CFR Part 3001 as follows:

## PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for 39 CFR Part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b), 3603, 3622–3624, 3661, 3662, 84 Stat. 759–762, 764, 90 Stat. 1303; (5 U.S.C. 553), 80 Stat. 383.

2. Section 3001.54(j) is amended by adding a new paragraph to read as follows:

(j) * * *

(7) For third-class bulk mail, subject to paragraph (a)(2) of this section, every formal request shall set forth separately for regular and preferred, by presort level, the base year volume by shape (letter-size, flat, irregular parcels, parcels) and ounce increment.

* * * * *

By the Commission

**Charles L. Clapp,**

*Secretary.*

[FR Doc. 89–11042 Filed 5–8–89; 8:45 am]

BILLING CODE 7715–01–M

## FEDERAL COMMUNICATIONS COMMISSION

**47 CFR Part 15**

**[General Docket No. 89–44]**

## Procedure for Measuring Electromagnetic Emissions from Digital Devices

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; extension of time.

**SUMMARY:** The Commission is proposing to establish a new procedure for measuring the electromagnetic emissions from digital devices in General Docket 89–53. The proposed changes to the measurement procedure are extensive and require actual testing to determine the impact the proposed procedures will have on the test results of actual digital devices. Because of the coordination and analysis of test results which must be accomplished, and because the Commission desires to have a fully developed record, the time for filing comments is extended to June 7, 1989 and the period of time for filing of reply comments is extended to July 7, 1989.

**DATES:** Comments are due on June 7, 1989 and reply comments are due on July 7, 1989.

**FOR FURTHER INFORMATION CONTACT:** Art Wall, (301) 725–1585.

**SUPPLEMENTARY INFORMATION:**

In the matter of procedure for measuring electromagnetic emissions from digital devices.

**Order Extending Time To File Comments**

Adopted: April 10, 1989.
Released: April 26, 1989.

By the Chief Engineer:

1. A Notice of Proposed Rule Making in the above entitled proceeding, FCC 89–53, was adopted by the Commission on February 13, 1989, and released on March 7, 1989. Comments in this proceeding are due on May 8, 1989. Reply comments are due June 7, 1989.

2. Since the release of this item, American Telephone and Telegraph Company ("AT&T") and the Computer and Business Equipment Manufacturers Association ("CBEMA") have filed with the Commission petitions requesting extensions of the time for filing comments and reply comments. The petitioners express basically the same opinion. Additional time is needed because the proposed changes to the digital device measurement procedure are extensive and require actual testing to determine the impact these changes will have on the test results of digital devices. These results must then be coordinated and analyzed before meaningful replies can be submitted.

3. Because of the coordination and analysis of test results which must be accomplished, as well as our desire to have a fully developed record before us, it has been determined that an extension of the comment and reply comment dates is appropriate. However, due to our desire to finish this proceeding as soon as possible, it is believed that the concerns of the petitioners can be resolved by extending the comment date by 30 days, instead of the 60 days requested. The reply comment date will likewise be extended by 30 days. Accordingly, IT IS ORDERED, pursuant to the delegated authority contained in 47 CFR 0.241(a)(5), that the period of time for the filing of comments in the above proceeding is extended until June 7, 1989, and the period of time for filing of reply comments is extended until July 7, 1989.

**Thomas P. Stanley,**
*Chief Engineer.*

[FR Doc. 89–11063 Filed 5–8–89; 8:45 am]
BILLING CODE 6712-01-M

# Notices

Federal Register
Vol. 54, No. 88
Tuesday, May 9, 1989

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

### Commodity Credit Corporation

### 1989 Common Program Provisions for Wheat, Feed Grains (Corn, Sorghum, Barley, Oats, and Rye), Rice and Upland Cotton Programs

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Notice of determination to make additional advance deficiency payments for wheat, feed grains, rice and upland cotton.

**SUMMARY:** The purpose of this notice is to set forth the determination that a total of 50 percent of the projected deficiency payments for the 1989 crops of wheat and feed grains and 40 percent of the projected deficiency payments for upland cotton and rice will be made available by the Commodity Credit Corporation (CCC) to producers as advance payments. This determination is made in accordance with the Agricultural Act of 1949, as amended (the "1949 Act"), and the Commodity Credit Corporation Charter Act, as amended (the "Charter Act").

**EFFECTIVE DATE:** May 8, 1989.

**ADDRESS:** Bruce R. Weber, Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

**FOR FURTHER INFORMATION CONTACT:** Bradley Karmen, Commodity Analysis Division, USDA–ASCS, Room 3744, South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 447–4635.

The Final Regulatory Impact Analysis describing the options considered in developing this notice of determination will be available on request from the above-named individual.

**SUPPLEMENTARY INFORMATION:** This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designed as "nonmajor." It has been determined that these program provisions will not result in an annual effect on the economy of $100 million or more.

The titles and numbers of the federal assistance programs, as found in the catalogue of Federal Domestic Assistance, to which this notice applies are:

| Titles | Numbers |
|---|---|
| Commodity Loans and Purchases | 10.051 |
| Cotton Production Stabilization | 10.052 |
| Feed Grains Production Stabilization | 10.055 |
| Wheat Production Stabilization | 10.058 |
| Rice Production Stabilization | 10.065 |
| Grain Reserve | 10.067 |

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

It has been determined by environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

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).

#### General Information

Section 107C of the 1949 Act provides that if an acreage limitation program is established for the 1989 crops of wheat, feed grains, upland cotton and rice and it is determined that deficiency payments will likely be made for any such crop, advance deficiency payments shall be made available to producers for such crop.

Advance deficiency payments for wheat, feed grains, upland cotton and rice are made available as determined appropriate to encourage adequate participation in the programs, except that the amount of such payments may not exceed an amount that is determined by multiplying: (1) The estimated farm program acreage for the crop, by (2) the farm program payment yield for the crop by (3)(i) in the case of wheat and feed grains, not less than 40 percent nor more than 50 percent of the projected payment rate or (ii) in the case of rice and upland cotton, not less than 30 percent nor more than 50 percent of the projected payment rate.

Advance deficiency payments for wheat, feed grains, upland cotton and rice may be made available to producers in the form of (1) cash, (2) commodities owned by CCC or (3) certificates which may be exchanged for commodities owned by CCC, except that not more than 50 percent of the advance deficiency payments may be made in commodities or certificates to any producer.

#### Determination

In accordance with section 107C of the 1949 Act, it was announced on November 21, 1988, that advance deficiency payments for the 1989 crop of wheat, feed grains, upland cotton and rice will be available at the statutory minimum amounts. Producers may request 40 percent of their projected deficiency payments when they enroll in the 1989 Wheat and Feed Grain Programs. Upland cotton and rice producers may request 30 percent of their projected deficiency payments when they enroll in the 1989 programs as set forth in 54 FR 5526, February 3, 1989.

The 1988 drought has reduced producers' incomes. Accordingly, in order to assure that producers have adequate operating capital for the 1989 crop year, it has been determined that producers will be allowed to receive additional advance deficiency payments allowable under section 107C of the 1949 Act.

Accordingly, additional advance payments will be made available to eligible producers of 1989 program crops of wheat, feed grains, upland cotton and rice. Wheat, feed grain, upland cotton and rice producers may receive an additional advance of 10 percent of their projected deficiency payments.

**Authority:** 7 U.S.C. 1445b–2 and 15 U.S.C. 714b and 714c.

Signed at Washington, DC on May 4, 1989.

Vern Neppl,

*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 89-11080 Filed 5-8-89; 8:45 am]

BILLING CODE 3410-05-M

## Forest Service

### Threemile Timber Sale; Medicine Bow National Forest, Carbon County, WY; Intent to Prepare Environmental Impact Statement

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Forest Service will prepare an environmental impact statement for a proposed timber sale and associated road construction within the Threemile area of the Laramie Ranger District, Medicine Bow National Forest, Carbon County, Wyoming. The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

**DATE:** Comments concerning the scope of the analysis must be received by June 5, 1989.

**ADDRESSES:** Submit written suggestions concerning the scope of the analysis to Ron Wilcox, District Ranger, Laramie Ranger District, 605 Skyline Drive, Laramie, WY 82070.

**FOR FURTHER INFORMATION CONTACT:** Direct questions about the proposed action and environmental impact statement to Gary Rorvig, District Engineer, 605 Skyline Drive, Laramie, WY 82070, phone 307-745-8971 or FTS 328-0221.

**SUPPLEMENTARY INFORMATION:** This is a revised Notice of Intent to correct an error in the NOI published in the **Federal Register**, Vol. 54, No. 67 on Monday, April 10, 1989 (54 FR 14263). The Forest Service requires scoping following the decision to prepare an EIS, including situations in which the proposed action was scoped earlier for a different purpose. Scoping is to determine the public issues at this time. Even though the public has already been involved in the environmental analysis, an additional opportunity to provide input is required.

The Medicine Bow Land and Resource Management Plan was completed in November 1985. The Threemile timber sale is a practice (project) identified in Appendix A to implement the Plan. An Interdisciplinary (ID) Team has conducted scoping, developed a set of alternatives and done environmental analysis on the proposed timber sale and alternatives. Based on their scoping and environmental analysis, the ID Team has developed alternatives to the proposed Threemile timber sale and recommended an environmental impact statement (EIS) be prepared to carry out the purpose of the National Environmental Policy Act (NEPA) at 40 CFR 1500.1.

The proposed action would include a commercial sawtimber sale and associated road construction as listed in Appendix A and Appendix C of the Land and Resource Management Plan. Collector roads from the north and south would be constructed or reconstructed with a "break" in between to prevent a loop-road situation. Right-of-way would be acquired across private and BLM land from the north. Posts and poles (roundwood) would be offered for sale separate from the sawtimber. The vegetation treatment from both the sawtimber and roundwood sales would be distributed over the Threemile area to work toward the Land and Resource Management Plan's desired age class distribution. Roads constructed or reconstructed in the north portion of the project area would be modified to revert to a semi-primitive standard after being used for sawtimber and roundwood hauling.

Alternatives would include access from the south only, timber sales in part of the area only, vegetation treatments for wildlife habitat improvement using methods other than timber sales, and no action.

The draft environmental impact statement (EIS) is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by July 1989. At that time EPA will publish a notice of availability of the DEIS in the **Federal Register**.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested in the Threemile timber sale participate at that time. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' positions and contentions, *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final environmental impact statement. The final EIS is scheduled to be completed by November 1989. In the final EIS the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to review under 36 CFR 217.

Dated: April 25, 1989.

**Ron Olsen,**

*Acting Forest Supervisor.*

[FR Doc. 89-10924 Filed 5-8-89; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* Bureau of the Census

*Title:* 1990 Decennial Census—Congressional Enumeration

*Form Number:* D-72.

*Type of Request:* New.

*Burden:* 45 hours.

*Number of Respondents:* 541.

*Avg Hours Per Response:* 5 minutes.

*Needs and Uses:* The Census Bureau needs this data to collect record address and occupancy status information for Congressional residences. The date will

be used in the 1990 decennial census to enumerate Members of Congress at their preferred residence.

*Affected Public:* Individuals or households.

*Frequency:* One-time.

*Respondent's Obligation:* Mandatory.

*OMB Desk Officer:* Don Arbuckle, 395–7340.

Copies of the above information collection proposal can be obtained by calling our writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC. 20503.

Dated: May 4, 1989.

**Edward Michals,**

*Departmental Clearance Officer, Office of Management and Organization.*

[FR Doc. 89–11107 Filed 5–8–89; 8:45 am]

BILLING CODE 3510–07–M

## Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection and information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* Bureau of the Census

*Title:* 1990 Decennial Census—Listing Phase of the List/Enumerate Operation

*Form Number:* D–104A OA, D–104B OA, D–104C OA, D–169 OA (LE)

*Agency Approval Number:* 0607–0626

*Type of Request:* Revision of a currently approved form

*Burden:* 1,211,672 hours

*Number of Respondents:* 8,645,800

*Avg Hours Per Response:* 8.5 minutes

*Needs and Uses:* The Bureau of the Census uses List/Enumerate procedures to enumerate rural and sparsely populated areas of the United States and its commonwealths and territories. The data collected are used by the Census Bureau for apportionment and by the private sector in planning and decision making.

*Affected Public:* Individuals or Households

*Frequency:* One time only

*Respondent's Obligation:* Mandatory

*OMB Desk Officer:* Don Arbuckle, 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., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 4, 1989.

**Edward Michals,**

*Departmental Clearance Officer, Office of Management and Organization.*

[FR Doc. 89–11108 Filed 5–8–89; 8:45 am]

BILLING CODE 3510–07–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*: Construction Improvements and Maintenance and Repairs Supplement

*Form Number*: EIA–871G

*Agency Approval Number*: 0607–0543

*Type of Request*: New Collection

*Burden*: 300 hours

*Number of Respondents*: 1,800

*Avg Hours Per Response*: 10 minutes

*Needs and Uses*: The data collected in this supplement are used by the private section for marketing studies, economic forecasts, and assessments of the construction industry. It also provides all levels of government with a tool to evaluate economic policy.

*Affected Public*: State or Local Governments, Businesses or Other For-profit Institutions, Small Businesses or Organizations

*Frequency*: Triennially

*Respondent's Obligation*: Voluntary

*OMB Desk Officer*: Don Arbuckle, 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., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 4, 1989.

**Edward Michals,**

*Departmental Clearance Officer, Office of Management and Organization.*

[FR Doc. 89–11109 Filed 5–8–89; 8:45 am]

BILLING CODE 3510–07–M

## International Trade Administration

**[A–583–507]**

## Malleable Cast-Iron Pipe Fittings, Other Than Grooved, From Taiwan; Preliminary Results of Antidumping Duty Administrative Review

**AGENCY:** International Trade Administration/Import Administration, Department of Commerce.

**ACTION:** Notice of preliminary results of antidumping duty administrative review.

**SUMMARY:** In response to a request by the petitioner, the Department of Commerce has conducted an administrative review of the antidumping duty order on malleable cast-iron pipe fittings, other than grooved, from Taiwan. The review covers five manufacturers and/or exporters of this merchandise to the United States and the period May 1, 1987 through April 30, 1988. The review indicates the existence of dumping margins for these firms during the period.

One firm had no shipments. For four firms which either did not respond or provided inadequate responses to our original questionnaire or to our requests for additional information we used the best information available, which is their rates from the original fair value investigation.

Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** May 9, 1989.

**FOR FURTHER INFORMATION CONTACT:** Dennis U. Askey or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Room B–099, 14th & Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 377–3601.

**SUPPLEMENTARY INFORMATION:**

### Background

On May 5, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 16179) the final results of its last administrative review of the antidumping duty order on malleable cast-iron pipe fittings, other than grooved, from Taiwan (51 FR 18918, May 23, 1986). The petitioner, the Cast Iron

Pipe Fittings Committee, requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation of the review on June 29, 1988 (53 FR 24470). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

**Scope of the Review**

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided for in section 1201 et seq. of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of Taiwan malleable cast-iron pipe fittings, other than grooved. During the review period such merchandise was classified under items 610.7000 and 610.7400 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item 7307.19.10. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers five Taiwan manufacturers and/or exporters to the United States of malleable cast-iron pipe fittings, other than grooved, and the period May 1, 1987 through April 30, 1988. One firm had no shipments to the U.S. during the period. Two firms did not respond to our antidumping questionnaires. The remaining two firms submitted inadequate questionnaire responses. Kwang Yu Foundry Industrial Co., Ltd. ("Kwang Yu") and De Ho Metal Industrial Co., Ltd. ("De Ho") failed to respond to our original questionnaire and forwarded inadequate responses to our supplemental requests. Both firms failed to provide certain information requested in the Department's questionnaire. In addition, information on the firms' computer printout did not match information on their computer tapes, either because data provided in one differed from that provided in the other or because data provided in one was not provided in the other. Therefore, the Department used best information available, which was each firm's rate from the fair value investigation.

**Preliminary Results of the Review**

As a result of our review we preliminarily determine that the following margins exist for the period May 1, 1987 through April 30, 1988:

| Manufacturer/exporter | Margin (percent) |
|---|---|
| De Ho | 13.12 |
| Kwang Yu | 7.93 |
| San Yang | 27.90 |
| Tai Yang | *37.09 |
| Young Shieng | 80.00 |

*No shipments during the period; margin from last period in which there were shipments.

Parties to the proceeding may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 8 days of publication. Any hearing, if requested, will be held 35 days after the date of publication. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 25 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 32 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Futhermore, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms.

For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after April 30, 1988 and who is unrelated to any reviewed firm, a cash deposit of 80.00 percent shall be required. These deposit requirements are effective for all shipments of Taiwan malleable cast-iron pipe fittings, other than grooved, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(A)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.53a.

**Timothy N. Bergan,**

*Acting Assistant Secretary for Import Administration.*

Date: May 2, 1989.

[FR Doc. 89-10995 Filed 5-8-89; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-003]

## Ceramic Tile From Mexico; Final Results of Countervailing Duty Administrative Review

**AGENCY:** International Trade Administration/Import Administration, Department of Commerce.

**ACTION:** Notice of final results of countervailing duty administrative review.

**SUMMARY:** On December 9, 1988, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on ceramic tile from Mexico. We have now completed that review and determine the total bounty or grant to be zero or *de minimis* for 36 firms and 4.28 percent *ad valorem* for all other firms during the period January 1, 1986 through December 31, 1986.

**EFFECTIVE DATE:** May 9, 1989.

**FOR FURTHER INFORMATION CONTACT:** Laurie Goldman or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 9, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 49718) the preliminary results of its administrative review of the countervailing duty order on ceramic tile from Mexico (47 FR 20013; May 10, 1982). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

**Scope of Review**

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 et seq. of the Omnibus Trade and Competitiveness Act of 1988. All

merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of Mexican ceramic tile, including non-mosaic, glazed, and unglazed ceramic floor and wall tile. During the review period, such merchandise was classifiable under item numbers 532.2400 and 532.2700 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item numbers 6907.10.0000, 6907.90.0000, 6908.10.5000 and 6908.90.000. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1986 through December 31, 1986 and thirteen programs: (1) FOMEX; (2) Article 15 of the General Law of Credit Institutions and Auxiliary Organizations; (3) CEPROFI; (4) FONEI; (5) FOGAIN; (6) state tax incentives; (7) National Industrial Development Fund (FOMIN); (8) NDP preferential discounts; (9) Trust Fund for the Study and Development of Industrial Parks (FIDEIN); (10) Bancomext loans; (11) delay of payments on loans; (12) delay of payments to PEMEX of fuel charges; and (13) import duty reductions and exemptions.

**Analysis of Comments Received**

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from three respondents: Ceramica Regiomontana, Ceramica y Pisos Industriales de Culiacan and Industrias Intercontinental ("the respondents").

*Comment 1:* The respondents contend that the Department does not have the legal authority to impose countervailing duties on ceramic tile from Mexico and must revoke the countervailing duty order.

Effective April 23, 1985, the date of the Understanding between the United States and Mexico Regarding Subsidies and Countervailing Duties ("the Understanding"), the United States Trade Representative designated Mexico "a country under the Agreement" as defined in section 701 of the Tariff Act. Since Mexico is now a "country under the Agreement," section 303 of the Tariff Act is no longer applicable to any merchandise from Mexico. The United States Trade Representative did not exclude existing countervailing duty orders from the application of "country under the Agreement" status. Therefore, section 701 entitles Mexico to a determination by the International Trade Commission ("ITC") that the subject merchandise materially injures or threatens material injury to a United States industry producing a like product. Pursuant to section 701, the Department cannot impose countervailing duties on any merchandise from Mexico without an affirmative ITC injury determination. Since the ITC has indicated that it does not have the authority to conduct an injury investigation on merchandise already subject to an outstanding order, the Department should revoke this order.

*Department's Position:* We continue to believe that we cannot revoke this countervailing duty order on the basis of the Understanding. While it is true that the United States Trade Representative determined on April 23, 1985, that Mexico became a "country under the Agreement" (50 FR 18335; April 30, 1985), the application of that status was limited by Article 5 of the Understanding to countervailing duty proceedings which had not progressed to the issuance of a final determination (and simultaneous order). We have confirmed with the principal U.S. negotiators that the intent of Article 5 was to exclude from the application of the Understanding, and hence application of "country under the Agreement" status, countervailing duty orders existing before April 23, 1985. Section 303 continues to apply to such orders.

As we explained in several other final results notices, we believe that we lack the authority to revoke any countervailing duty order on Mexican products on the basis of the Understanding. *See, e.g., Certain Iron-Metal Construction Castings from Mexico; Final Results of Countervailing Duty Administrative Review* (51 FR 9698; March 20, 1986), Portland Hydraulic Cement and Cement Clinker from Mexico; Final Results of Counterviling Duty Administration Review, (51 FR 44501; December 10, 1986), and *Portland Hydraulic Cement and Cement Clinker from Mexico; Final Results of Countervailing Duty Administrative Review* ( 53 FR 18325; May 23, 1988).

*Comment 2:* The respondents maintain that the Department is in error by contending that the injury provision of the Understanding affects only countervailing duty orders issued after April 23, 1985. In a recent Court of International Trade ("CIT") decision, *Cementos Anahuac del Golfo, S.A.* v. *United States,* 12 CIT ———, 687 F.Supp. 1558 (1988), the CIT determined that after the effective date of the Understanding, countervailing duties could only be imposed on Mexican merchandise following an affirmative ITC injury determination, regardless of whether the countervailing duty order was issued before or after the effective date of the Understanding. The CIT remanded the review, instructing the Department to follow section 701 rather than section 303 of the Tariff Act. The Department should do the same in this case.

*Department's Position:* The CIT's decision in *Cementos Anahuac del Golfo, S.A.* v. *United States* ("*Anahuac I*") applies only to *Portland Hydraulic Cement and Cement Clinker from Mexico; Final Results of Administrative Review of Countervailing Duty Order* (50 FR 51732; December 19, 1985), which covered the period July 1, 1983 through December 31, 1983. Moreover, we are appealing the *Anahuac I* decision.

The respondents ignore an even more recent decision in the cement proceeding, *Cementos Anahuac del Golfo, S.A.* v. *United States,* Slip Op. 88–75, (June 9, 1988), ("*Anahuac II*"), which supports our position that the Understanding does not require an affirmative injury determination for Mexican countervailing duty orders issued before April 23, 1985.

*Comment 3:* The respondents contend that the Department's failure to revoke this order is inconsistent with past practice. In three previous countervailing duty administrative reviews, where an outstanding countervailing duty order was issued pursuant to section 303(a)(1), *Certain Fasteners from India; Final Results of Administrative Review and Partial Revocation of Countervailing Duty Order* (47 FR 44129; October 6, 1982), *Certain Scissors and Shears from Brazil; Preliminary Results of Administrative Review of Countervailing Duty Order* (50 FR 11927; March 26, 1985), and *Carbon Steel Wire Rod from Trinidad and Tobago; Intention to Review and Preliminary Results of Changed Circumstances; Administrative Review and Tentative Determination to Revoke Countervailing Duty Order* (50 FR 19561; May 9, 1985) the Department determined that it did not have the authority to impose countervailing duties when events subsequent to the issuance of the order required an affirmative ITC injury determination prior to imposition of countervailing duties.

Merchandise subject to an outstanding countervailing duty order, issued pursuant to section 303(a)(1) without benefit of an ITC injury determination, is entitled to an injury

determination when there is a change in the status of the merchandise or the country. Since the ITC has indicated that it does not have the authority to conduct an injury investigation concerning merchandise already subject to countervailing duty orders, the Department has in the past concluded that it could not impose countervailing duties and revoked, or preliminary determined to revoke, the order effective the date the affirmative injury determination became a requirement.

*Department's Response:* In the cases cited by the respondents, the United States had international obligations with the exporting countries based on their membership in the General Agreement on Tariffs and Trade, and the merchandise was duty-free during the potential assessment period. Consequently, the Department determined that the merchandise covered by the countervailing duty order was subject to section 303(a)(2) of the Tariff Act. None of the precedents cited by the respondents is analogous to this proceeding because ceramic tile from Mexico is not duty-free and, therefore, is not subject to section 303(a)(2).

Further, as explained in our response to Comment 1, the application of "country under the Agreement" status was limited by Article 5 of the Understanding to countervailing duty proceedings under section 303 that had not progressed to the issuance of a countervailing duty order. Additionally, the CIT's decision in *Anahuac II* supports our position.

**Final Results of Review**

After considering all comments received, we determine the total bounty or grant to be zero or *de minimis* for 36 firms and 4.28 percent *ad valorem* for all other firms during the period January 1, 1986 through December 31, 1986.

The following 36 firms received zero or *de minimis* benefits during the period of review:

(1) Augustin Cedillo Ruiz
(2) Alfonso Cortez Coronel
(3) Azulejos Orion
(4) Benjamin Chavez Torres
(5) Ceramica Santa Julia
(6) Dionicio Sanchez Cruz
(7) Eduardo S. Garcia de la Pena
(8) Fernando Espinosa Sanchez
(9) Francisco Almanza Estrada
(10) Francisco Gallegos Olivares
(11) Idelfonso Chavez Parga
(12) Ines Bustos Vargas
(13) Isabel Cortez Coronel
(14) Jesus Ambrosia Garcia R.
(15) Jesus Garza Arocha
(16) Jesus Gallegos Olivares
(17) Jesus Jimenez Lucio
(18) Jose Angel Hernandez Martinez
(19) Jose Davilla Torres
(20) Jose Dolores Herandez Zaucedo
(21) Jose R. Echavarria
(22) Juan Cortez Coronel
(23) Juan Rodriguez Rocha
(24) Ladrillera Monterrey
(25) Leopoldo Montiel Rincon
(26) Luis Najera Luna
(27) Manual Alvarez Ramon
(28) Pablo Cortez Coronel
(29) Pedro Lopez Alonso
(30) Pisos Coloniales de Mexico
(31) Reynold Martinez Chapa
(32) Rosendo Rodriguez Hernandez
(33) Sotero Jalomo Reyna
(34) Teofilo Cavarrubias Villareal
(35) Vincente Jalomo Reyna
(36) Zenon Cortez Coronel

The Department will instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from the 36 firms listed above and to assess countervailing duties of 4.28 percent of the f.o.b. invoice price on shipments from all other firms exported on or after January 1, 1986 and on or before December 31, 1986.

After further review of our duty deposit calculations, we find that the Costo Porcentual Promedio (CPP) rates on which we base our benchmark for duty deposit purposes have been too volatile to measure accurately the current benefit from the FOMEX pre-export loans. Therefore, for purposes of the cash deposit of estimated countervailing duties, we determine that the rates are the same as the review period assessment rates.

The Department will instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on shipments of this merchandise from the 36 firms listed above and to collect a cash deposit of estimated countervailing duties of 4.28 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement and waiver shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.22 of the Commerce Regulations published in the **Federal Register** on December 27, 1988 (53 FR 52306) (to be codified at 19 CFR 355.22).

**Timothy N. Bergan,**

*Acting Assistant Secretary for Import Administration.*

Date: May 2, 1989.

[FR Doc. 89-10996 Filed 5-8-89; 8:45 am]

BILLING CODE 3510-DS-M

## Exporters' Textile Advisory Committee; Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held June 1, 1989 at 2:00 p.m. in the Conference Room 3407, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, DC 20230. The Committee advises Department of Commerce officials on textile and apparel export issues.

**AGENDA:** Review of export data; report on conditions in the export market; review of Office of Textiles and Apparel export expansion activities; and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact William Dawson (202/377-4324).

Date: May 3, 1989.

**James H. Babb,**

*Deputy Assistant Secretary for Textiles and Apparel.*

[FR Doc. 89-11111 Filed 5-8-89; 8:45 am]

BILLING CODE 3510-DR-M

## National Oceanic and Atmospheric Administration

## Intent To Conduct a Public Meeting on the Sites Being Considered for Nomination as Components to the South Carolina National Estuarine Research Reserve

**AGENCY:** Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

**ACTION:** Public meeting notice.

**SUMMARY:** Notice is hereby given that the South Carolina Coastal Council, of the State of South Carolina, intends to conduct a public meeting to discuss the proposed nomination of one of two sites as components in a South Carolina National Estuarine Research Reserve System (SCNERRS). This public meeting is being held for the purpose of soliciting comments about the North Inlet (Belle

Baruch Institute) which is under consideration by the South Carolina Coastal Council for nomination. The State of South Carolina's completed site nomination package will be submitted to the Marine and Estuarine Management Division, of the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, which administers the National Estuarine Reserve Research System. Environmental impact statements and draft management plans will be prepared for those State nominated sites receiving NOAA approval.

The public meeting will be held at 7:00 p.m. on Wednesday, May 17, 1989 at the Winyah Recreation Center, Highway 521, at the corner of Highmarket and Dozier Streets, in Georgetown, South Carolina, 29440.

**Background**

The State of South Carolina is identifying estuarine areas in an effort to establish a multi-site system for research and education which adequately represents the major estuarine characteristics of the South Carolina coastal zone. Sites ultimately designated as components of the SCNERR will be used to study the South Carolina estuarine ecosystem, as well as by schools and the general public for learning about estuarine ecology and related issues. The two sites undergoing preliminary evaluation are: Ashepoo-Comhabee-Edisto (ACE) River Basin and North Inlet (Belle Baruch Institute). A public meeting was held for the ACE River Basin site on April 20, 1989 in Walterboro, South Carolina. Site selection criteria are based on ecological representativeness, value for research and education and practical management considerations.

All interested individuals are encouraged to attend the public meeting. Invited speakers include representatives of the South Carolina Coastal Council, SCNERR Site Selection Advisory Committee, and NOAA. Speakers will describe the importance of the proposed reserve program to local, regional and/or statewide environment issues, and the opportunities for local involvement in reserve operations and management. Public comments on the reserve concept are invited.

An information packet on the proposed South Carolina National Estuarine Research Reserve will be available at the public meeting. Speakers are asked to provide a written copy of their statement at the meeting. It is recommended that members of the public limit their presentations to 3–5 minutes in length.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Estuarine Sanctuaries.

**Thomas J. Maginnis,**

*Assistant Administrator for Ocean Services and Coastal Zone Management.*

Dated: May 2, 1989.

[FR Doc. 89–11078 Filed 5–8–89; 8:45 am]

BILLING CODE 3510–08–M

## Application for Marine Mammals Permit; Dr. Bruce Mate (P129H)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the regulations governing endangered fish and wildlife permit (50 CFR Parts 217–222).

1. *Applicant:* Dr. Bruce R. Mate, School of Oceanography, Oregon State University, Newport, Oregon 97365–5296.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Marine Mammals:*

| | |
|---|---|
| North Atlantic Right whales (*Eubalaena glacialis*) | 30 |
| unspecified cetacean specimen materials | 300 |

4. *Type of Take:* The applicant proposes to radio tag right whales to determine if there are any adverse effects from tag and to determine the daily and seasonal movements and dive activity patterns of individual right whales. No more than 10 will be tagged in any one year. He also requests permission to import cetacean specimen materials from where it may be available taken on an opportunistic basis.

5. *Location of Activity:* North Atlantic; specifically the Great South Channel and Gulf of Maine.

6. *Period of Activity:* 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Hwy., Room 7324, Silver Spring, Maryland 20910 within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Hwy., Room 7324, Silver Spring, Maryland 20910; and Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930.

Date: May 1, 1989.

**Nancy Foster,**

*Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.*

[FR Doc. 89–10990 Filed 5–8–89; 8:45 am]

BILLING CODE 3510–22–M

## Issuance of Marine Mammals Permit; Ms. Karen W. Pryor (Permit No. 669)

On January 6, 1989, notice was published in the **Federal Register** (54 FR 456) that an application (File No. 438) had been filed by Karen W. Pryor, 44811 South East 166th Street, North Bend, WA 98045, to import and conduct scientific research on one skeleton of a Commerson's dolphin (*Cephalorhynchus commersonii*).

Notice is hereby given that on May 1, 1989, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the National Marine Fisheries Service issued a Permit for the above importation and scientific research subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Room 7330, Silver Spring, Maryland 20910;

Director, Alaska Region, National Marine Fisheries Service, NOAA, 709

West 9th Street, Federal Bldg., Juneau, Alaska 99802;
Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930;
Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115;
Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and
Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731-7451.

Date: May 1, 1989.

**Nancy Foster,**

*Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.*

[FR Doc. 89-10991 Filed 5-8-89; 8:45 am]

BILLING CODE 3510-22-M

## Marine Mammals; Application for Permit; NMFS, Southwest Fisheries Center (P77 #33)

Notice is hereby given that the Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. *Applicant:* NMFS, Southwest Fisheries Center, P.O. Box 271, La Jolla, California 92038-0271

2. *Type of Permit:* Scientific Research

3. *Name and Number of Marine Mammals:*

| | |
|---|---|
| Spotted dolphin (*Stenella attenuata*) | |
| Northern Offshore form | 240 |
| Southern Offshore form | 240 |
| Spinner dolphin (*Stenella longirostris*) | |
| Eastern form | 240 |
| Northern Whitebelly form | 240 |
| Southern Whitebelly form | 240 |
| Hawaiian form | 240 |
| Striped dolphin (*Stenella coeruleoalba*) | |
| Northern Tropical form | 240 |
| Southern Tropical form | 240 |
| Common dolphin (*Delphinus delphis*) | |
| Baja Neritic form | 240 |
| Northern Tropical form | 240 |
| Southern Tropical form | 240 |
| Fraser's dolphin (*Lagenodelphis hosei*) | 60 |
| Bottlenose dolphin (*Tursiops sp.*) | |
| Inshore form | 240 |
| Offshore form | 240 |
| Rough-toothed dolphin (*Steno bredanensis*) | 240 |
| Risso's dolphin (*Grampus griseus*) | 60 |
| Pygmy killer whale (Feresa attenuata) | 60 |
| Melon-headed whale (*Peponocephala electra*) | 60 |
| Pacific white-sided dolphin (*Lagenorhynchus obliguidens*) | 60 |
| Dusky dolphin (*Lagenorhynchus obscurus*) | 60 |
| False killer whale (*Pseudorca crassidens*) | 60 |
| Short-finned pilot whale (*Globicephala macrorhynchus*) | 60 |
| Long-finned pilot whale (*Globicephala melaena*) | 60 |
| Killer whale (Orcinus orca) | 60 |
| Burmeister's porpoise (*Phocoena spinipinnis*) | 60 |

4. *Type of Take:* To take tissue samples via projectile biopsies from the above named animals that are encountered during dolphin surveys.

5. *Location of Activity:* Eastern Tropical Region

6. *Period of Activity:* 3 years

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Highway, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East-West Highway, Room 7324, Silver Spring, Maryland 20910; and
Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

**Nancy Foster,**

*Director, Office of Protected Resources and Habitat Programs, National Wildlife Marine Fisheries Service.*

Date: May 1, 1989.

[FR Doc. 89-10992 Filed 5-8-89; 8:45 am]

BILLING CODE 3510-22-M

## Issuance of Marine Mammals Permit; John G. Shedd Aquarium (P396B)

On April 8, 1988, notice was published in the **Federal Register** (53 F.R. 11692) that an application had been filed by the John G. Shedd Aquarium, 1200 South Lakeshore Drive, Chicago, Illinois 60605 for a permit to import six (6) false killer whales for the purpose of public display.

Notice is hereby given that on April 28, 1989, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above importation subject to certain conditions set forth therein.

Issuance of this permit is based on a finding that the proposed taking is consistent with the purposes and policy of the Marine Mammal Protection Act. The Service has determined that the Shedd Aquarium offers an acceptable program for education or conservation purposes. The Shedd facilities are open to the public on a regularly scheduled basis and access to the facilities is not limited or restricted other than by the charging of an admission fee.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Rm. 7324, Silver Spring, Maryland 20910;
Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930;
Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33720;
Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington, 98115; and
Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731-7451.

Date: April 28, 1989.

**Nancy Foster,**

*Director, Office of Protected Resources and Habitat Programs.*

[FR Doc. 89-10993 Filed 5-8-89; 8:45 am]

BILLING CODE 3510-22-M

## National Technical Information Service

## Intent To Grant Exclusive Patent License; Academic Catalyst Corp.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Academic Catalyst Corporation having a place of business at 14 Madison Avenue, Valhalla, NY 10595, an exclusive license in the United States to practice the invention entitled "Improved Flan-Type Pudding," U.S. Patent Application Serial Number 7-303,328. The patent rights in this invention have been assigned to the

United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to Charles A. Bevelacqua, Director, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning (703) 487–4650 or by writing to the Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

**Douglas J. Campion,**

*Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.*

[FR Doc. 89–11068 Filed 5–8–89; 8:45 am]

BILLING CODE 3510–04–M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

May 3, 1989.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** May 10, 1989.

**FOR FURTHER INFORMATION CONTACT:** Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–6828. For information on embargoes and quota re-openings, call (202) 377–3715.

**SUPPLEMENTARY INFORMATION:**

*Authority.* Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 347/348, 445/446, 611 and 615 are being adjusted variously, for swing and carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 50276, published on December 14, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

**James H. Babb,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

May 3, 1989.

*Commissioner of Customs,*

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 6, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the People's Republic of China and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on May 10, 1989, the directive of December 6, 1988 is being amended to adjust the current limits for cotton, wool and man-made fiber textile products in the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the People's Republic of China:

| Category | Adjusted 12-mo. limit [1] |
|---|---|
| 347/348 | 2,024,680 dozen. |
| 445/446 | 259,200 dozen. |
| 611 | 4,398,574 square meters. |
| 615 | 19,502,127 square meters. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 1988.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 89–11106 Filed 5–8–89; 8:45 am]

BILLING CODE 3510–DR–M

## DEPARTMENT OF DEFENSE

### The Joint Staff; National Defense University Transition Planning Committee (Long Committee); Meeting

**AGENCY:** Joint Staff, Department of Defense.

**ACTION:** Notice of meeting.

**SUMMARY:** The Chairman, Joint Chiefs of Staff, has scheduled a meeting of the Long Committee.

**DATE:** The meeting will be held on May 31 and June 1, 1989.

**ADDRESS:** The meeting will be held at the Center for Naval Analysis, 4401 Ford Road, Alexandria, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Colonel Tom Berta, Executive Assistant, Long Committee, J–7, Joint Doctrine and Education Division, Washington, DC 20318–7000. To reserve space, interested persons should phone 202–694–6469.

**SUPPLEMENTARY INFORMATION:** The committee will be examining the desirability and feasibility of establishing a National Center for Strategic Studies. The meeting is open to the public, but the limited space available for observers will be allocated on a first-come, first served basis.

**Linda M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

May 4, 1989.

[FR Doc. 89–11099 Filed 5–8–89; 8:45 am]

BILLING CODE 3810–01–M

## Office of the Secretary

### Per Diem, Travel and Transportation Allowance Committee; Changes in Rates

**AGENCY:** Department of Defense.

**ACTION:** Publication of changes in per diem rates.

**SUMMARY:** The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 148. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and possessions of the United States. Bulletin Number 148 is being published

in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

**EFFECTIVE DATE:** May 1, 1989.

**SUPPLEMENTARY INFORMATION:** This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

| Locality | Rate | Effective date |
|---|---|---|
| Alaska: | | |
| Adak [1] | $25 | 01-01-88 |
| Anaktuvuk Pass | 140 | 01-01-88 |
| Anchorage | 125 | 01-01-88 |
| Atqasuk | 215 | 01-01-88 |
| Barrow | 148 | 05-01-89 |
| Bethel | 135 | 02-01-89 |
| Bettles | 110 | 01-01-88 |
| Cold Bay | 125 | 02-01-89 |
| Coldfoot | 122 | 01-01-88 |
| College | 122 | 02-01-89 |
| Cordova | 143 | 02-01-89 |
| Dillingham | 114 | 01-01-88 |
| Dutch Harbor-Unalaska | 127 | 01-01-88 |
| Eielson AFB | 122 | 02-01-89 |
| Elmendorf | 125 | 01-01-88 |
| Fairbanks | 122 | 02-01-89 |
| Ft. Richardson | 125 | 01-01-88 |
| Ft. Wainwright | 122 | 02-01-89 |
| Homer | 127 | 05-01-89 |
| Juneau | 117 | 02-01-89 |
| Katmai National Park | 148 | 01-01-88 |
| Kenai | 119 | 04-01-88 |
| Ketchikan | 119 | 02-01-89 |
| King Salmon [3] | 134 | 01-01-88 |
| Kodiak | 118 | 01-01-88 |
| Kotzebue [3] | 143 | 04-01-88 |
| Kuparuk Oilfield | 127 | 01-01-88 |
| Murphy Dome [3] | 122 | 02-01-89 |
| Noatak | 143 | 04-01-88 |
| Nome | 129 | 01-01-88 |
| Noorvik | 143 | 04-01-88 |
| Petersburg | 119 | 02-01-89 |
| Point Hope | 160 | 01-01-88 |
| Point Lay | 179 | 01-01-88 |
| Prudhoe Bay | 121 | 05-01-89 |
| Sand Point | 103 | 01-01-88 |
| Seward | 109 | 02-01-89 |
| Shemya AFB [3] | 30 | 01-01-88 |
| Shungnak | 143 | 04-01-88 |
| Sitka-Mt. Edgecombe | 119 | 02-01-89 |
| Skagway | 119 | 02-01-89 |
| Spruce Cape | 118 | 01-01-88 |
| St. Mary's | 100 | 01-01-88 |
| Tanana | 129 | 01-01-88 |
| Umiat | 160 | 01-01-88 |
| Unakakleet | 105 | 01-01-88 |
| Valdez | 157 | 05-01-89 |
| Wainwright | 165 | 01-01-88 |
| Walker Lake | 136 | 01-01-88 |

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES—Continued

| Locality | Rate | Effective date |
|---|---|---|
| Wrangell | 119 | 02-01-89 |
| Yakutat | 110 | 01-01-88 |
| Other [3, 4] | 94 | 02-01-89 |
| American Samoa | 102 | 05-01-89 |
| Guam, M.I. | 129 | 05-01-89 |
| Hawaii: | | |
| Island of Hawaii: Hilo | 76 | 05-01-89 |
| Island of Hawaii: Other | 99 | 05-01-89 |
| Island of Kauai | 142 | 05-01-89 |
| Island of Kure [1] | 13 | 05-01-89 |
| Island of Maui: Kihei: | | |
| 04-01—12-19 | 135 | 05-01-89 |
| 12-20—03-31 | 147 | 12-20-89 |
| Island of Maui: Other | 99 | 05-01-89 |
| Island of Oahu | 126 | 05-01-89 |
| Other | 99 | 05-01-89 |
| Johnston Atoll [2] | 35 | 02-01-89 |
| Midway Islands [1] | 13 | 01-01-88 |
| Northern Mariana Islands: | | |
| Rota | 76 | 01-01-88 |
| Saipan | 115 | 02-01-89 |
| Tinian | 68 | 01-01-88 |
| Other | 20 | 01-01-88 |
| Puerto Rico: | | |
| Bayamon: | | |
| 05-16—12-15 | 133 | 11-01-88 |
| 12-16—05-15 | 163 | 12-16-88 |
| Carolina: | | |
| 05-16—12-15 | 133 | 11-01-88 |
| 12-16—05-15 | 163 | 12-16-88 |
| Fajardo (Including Luquillo): | | |
| 05-16—12-15 | 133 | 11-01-88 |
| 12-16—05-15 | 163 | 12-16-88 |
| Ft. Buchanan (Incl GSA Serv Ctr, Guaynabo): | | |
| 05-16—12-15 | 133 | 11-01-88 |
| 12-16—05-15 | 163 | 12-16-88 |
| Roosevelt Roads: | | |
| 05-16—12-15 | 133 | 11-01-88 |
| 12-16—05-15 | 163 | 12-16-88 |
| Sabana Seca: | | |
| 05-16—12-15 | 133 | 11-01-88 |
| 12-16—05-15 | 163 | 12-16-88 |
| San Juan (Incl San Juan Coast Guard Units): | | |
| 05-16—12-15 | 133 | 11-01-88 |
| 12-16—05-15 | 163 | 12-16-88 |
| Other | 121 | 11-01-88 |
| Virgin Islands of the U.S.: | | |
| 05-01—11-30 | 144 | 05-01-88 |
| 12-01—04-30 | 180 | 01-01-88 |
| Wake Island [2] | 21 | 04-01-89 |
| All Other Localities | 20 | 01-01-88 |

[1] Commercial facilities are not available. The per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler. For Adak, Alaska: on any day when Government quarters are not used and quarters are obtained at a construction camp, a daily travel per diem allowance of $69 is prescribed to cover the costs of lodging, meals and incidental expenses.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

[3] On any day when US Government or contractor quarters and US Government or contractor messing facilities are used, a per diem rate of $13 is prescribed to cover meals and incidental expenses at Shemya AFB and the following Air Force Stations: Cape Lisburne, Cape Newenham, Cape Romanzof, Clear, Fort Yukon, Galena, Indian Mountain, King Salmon, Sparrevohn, Tatalina and Tin City. This rate will be increased by the amount paid for US Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the first day prior to the day of departure.

[4] On any day when US Government or contractor quarters and US Government or contractor messing facilities are used, a per diem rate of $34 is prescribed to cover meals and incidental expenses at Amchitka Island, Alaska. This rate will be increased by the amount paid for US Government or contractor quarters and by $10 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

May 4, 1989.

[FR Doc. 89-11098 Filed 5-8-89; 8:45 am]

BILLING CODE 3810-01-M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket Nos. G-12149-001 et al.]**

## Applications for Certificates, Abandonment of Service and Amendment of Certificates [1]

May 4, 1989.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce, to abandon service or to amend certificates as described herein, all as more fully described in the respective 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 May 18, 1989, file with the Federal Energy Regulatory Commission, Washington, DD 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, .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,**

*Secretary.*

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

| Docket No. and dated filed | Applicant | Purchaser and location | Description |
|---|---|---|---|
| G-12149-001, C, Apr. 10,1989 | OXY USA Inc., P.O. Box 300, Tulsa, OK 74102. | Colorado Interstate Gas Co., Mocaine Field, Beaver County, OK. | Application to add acreage previously covered by the operator, Hamilton Brothers, Ltd. |
| CI89-343-000, (CI73-309), B, Mar. 17, 1989. | Phillips 66 Natural Co., 900-G Plaza Office, Building, Bartlesville, OK 74004. | Transwestern Pipeline Co., Panhandle-Hugoton Area, Various Counties, TX. | Application to abandon an exchange arrangement which both parties state is uneconomical. The contract terminated effective 2-26-89 and neither party wishes to renegotiate the contract. |
| CI89-360-000, E, Apr. 12, 1989 | Sun Exploration and Production Co., P.O. Box 2880, Dallas, TX 75221-5055. | Arkla Energy Resources, a division of Arkla, Inc., Cheniere Creek Unit, Ouachita Parish, LA. | Acreage acquired 2-1-88 from Samson Resources Company. |
| CI89-367-000, (CI79-428), B, Apr. 17, 1989. | Maxus Exploration Co., 717 N. Harwood St., Suite 3100, Dallas, TX 75201. | Texas Gas Transmission Corp., North Maurice Field, Lafayette Parish, LA. | Depletion. |

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. 89-11058 Filed 5-8-89; 8:45 am]
BILLING CODE 6717-01-M

**[Docket No. CI89-259-000 et al.]**

## Tenneco Oil Co., et al. Application for Termination of Certificates [1]

May 4, 1989.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7 of the Natural Gas Act for authorization to terminate a certificate as described herein, all as more fully described in the respective 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 May 18, 1989, 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,**

*Secretary.*

*Filing Code*

A—Initial Service, B—Abandonment, C—Amendment to add acreage, D—Amendment to delete acreage, E—Total Succession, and F—Partial Succession.

| Docket No. and Date Filed | Applicant | Purchaser and Location | Description |
|---|---|---|---|
| CI89-259-000 (CI84-259) D 1-23-89. | Tenneco Oil Company, P.O. Box 25211, Houston, TX 77252. | Panhandle Eastern Pipe Line Company, Greenwood, *et al.*, Fields Morton, *et al.*, Counties, Kansas. | Assigned 8-1-86 to Beresco Properties, Inc. |
| CI89-356-000 (CI77-841) D 4-5-89. | Chevron U.S.A., Inc., P.O. Box 3725, Houston, TX 77253. | Williams Natural Gas Company, Hewins Field Chautauqua County, Kansas. | Assigned 6-19-85 to The Judy Company Inc. |
| CI89-357-000 (CI78-399) D 4-5-89. | Chevron U.S.A., Inc. | Williams Natural Gas Company, Hewins Field, Chautauqua County, Kansas. | Assigned 6-19-85 to The Judy Company Inc. |
| CI89-359-000 (CI66-919) D 4-10-89. | Mobil Oil Exploration & Producing Southeast Inc., 12450 Greenspoint Dr., Houston, TX 77060. | Texas Eastern Transmission Corporation, Rayne Field, Acadia Parish, Louisiana. | Assigned 11-1-88 to LGS Exploration, Inc. |
| CI89-362-000 (CI70-932-001) D 4-11-89. | BHP Petroleum Company Inc., 5847 San Felipe, Suite 3600, Houston, TX 77057. | ANR Pipeline Company East Campbell and Cedar Dale Fields, Major and Woodward Counties, Oklahoma. | Assigned 12-1-80 to Graham-Michaelis Corporation. |
| CI89-363-000 (CI63-990) D 4-13-89. | BHP Petroleum Company Inc. | Tennessee Gas Pipeline Company, South Barosa Field, Starr County, Texas. | Assigned 8-8-85 to TNT Petroleum Company. |
| CI89-364-000 (G-11898) D 4-13-89. | Chevron U.S.A., Inc | Phillips 66 Natural Gas Company, Panhandle East Field, Gray County, Texas. | Assigned 2-1-61 to Camps, Inc. |
| CI89-365-000 (CI78-636) D 4-17-89. | ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, TX 75221. | El Paso Natural Gas Company, Block A-34 Field, Andrews County, Texas. | Assigned 1-1-87 to Hondo Oil & Gas Company. |
| CI89-366-000 (CI61-1500) D 4-17-89. | ARCO Oil and Gas Company, Division of Atlantic Richfield Company. | West Texas Gathering Company, Emperor Field, Winkler County, Texas. | Assigned 1-1-87 to Hondo Oil & Gas Company. |

[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 |
|---|---|---|---|
| CI89-369-000 (CI76-674) D 4-17-89. | Chevron U.S.A., Inc | Arkla Energy Resources, a Division of Arkla, Inc., Carthage Field, Panola County, Texas. | Assigned 5-1-84 to Texas Utilities Mining Company. |

[FR Doc. 89-11060 Filed 5-8-89; 8:45 am]
BILLING CODE 6717-01-M

**[Docket Nos. ST89-2466-000 et al.]**

## MidCon Texas Pipeline Corp.; Self-Implementing Transactions

May 4, 1989.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's Regulations and section 311(a)(2) of the NGPA. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and the expiration date of the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a motion to intervene with the Secretary of the Commission on or before May 23, 1989.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

**Lois D. Cashell,**

*Secretary.*

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's Regulations.

| Docket number [1] | Transporter/Seller | Recipient | Date filed | Subpart | Expiration date [2] | Transportation rate (¢/MMBtu) |
|---|---|---|---|---|---|---|
| ST89-2466 | Midcon Texas Pipeline Corp | Natural Gas Pipeline Co. of America | 03-01-89 | C | | |
| ST89-2467 | Ong Transmission Co | Caprock Pipeline Co | 03-01-89 | C | 07-29-89 | 24.32 |
| ST89-2468 | Ong Transmission Co | Wisconsin Power and Light Co | 03-01-89 | C | 07-29-89 | 24.32 |
| ST89-2469 | Valero Transmission, L.P | Trunkline Gas Co | 03-01-89 | C | | |
| ST89-2470 | Valero Transmission, L.P | Tennessee Gas Pipeline Co | 03-01-89 | C | | |
| ST89-2471 | Valero Transmission, L.P | Texas Eastern Transmission Corp | 03-01-89 | C | | |
| ST89-2472 | Valero Transmission, L.P | El Paso Natural Gas Co | 03-01-89 | C | | |
| ST89-2473 | Valero Transmission, L.P | El Paso Natural Gas Co | 03-01-89 | C | | |
| ST89-2474 | Northern Border Pipeline Co | Tennessee Gas Pipeline Co | 03-01-89 | G | | |
| ST89-2475 | Northern Natural Gas Co | Enron Gas Marketing, Inc | 03-01-89 | G-S | | |
| ST89-2476 | Northern Natural Gas Co | Hanover Energy Inc | 03-01-89 | G-S | | |
| ST89-2477 | Ong Transmission Co | Natural Gas Pipeline Co. of America | 03-01-89 | C | 07-29-89 | 24.32 |
| ST89-2478 | Louisiana Resources Co | Pontichartrain Natural Gas System | 03-01-89 | C | 07-29-89 | 26.43 |
| ST89-2479 | Enogex Inc | Phillips Gas Pipeline Co | 03-01-89 | C | 07-29-89 | 28.50 |
| ST89-2480 | Enogex Inc | Phillips Gas Pipeline Co | 03-01-89 | C | 07-29-89 | 28.50 |
| ST89-2481 | Enogex Inc | Arkla Energy Resources | 03-01-89 | C | 07-29-89 | 28.50 |
| ST89-2482 | Tennessee Gas Pipeline Co | Mitchell Marketing Co | 03-02-89 | G-S | | |
| ST89-2483 | Mid Louisiana Gas Go | Pennzoil Gas Marketing Corp | 03-02-89 | G-S | | |
| ST89-2484 | Ong Transmission Co | Williams Natural Gas Co | 03-02-89 | C | 07-30-89 | 24.32 |
| ST89-2485 | Transwestern Pipeline Co | Southern California Gas Co | 03-02-89 | B | | |
| ST89-2486 | Northern Natural Gas Co | Cibola Corp | 03-02-89 | G-S | | |
| ST89-2487 | Oasis Pipe Line Co | El Paso Natural Gas Co | 03-02-89 | C | | |
| ST89-2488 | Oasis Gas Pipe Line Co | Northern Natural Gas Co | 03-02-89 | C | | |
| ST89-2489 | Oasis Pipe Line Co | El Paso Natural Gas Co | 03-02-89 | C | | |
| ST89-2490 | Houston Pipe Line Co | Black Marlin Pipeline Co | 03-02-89 | C | | |
| ST89-2491 | Houston Pipe Line Co | United Gas Pipe Line Co | 03-02-89 | C | | |
| ST89-2492 | Houston Pipe Line Co | United Gas Pipe Line Co | 03-02-89 | C | | |
| ST89-2493 | Houston Pipe Line Co | Texas Eastern Transmission Corp | 03-02-89 | C | | |
| ST89-2494 | Houston Pipe Line Co | Tennessee Gas Pipeline Co | 03-02-89 | C | | |
| ST89-2495 | Oasis Pipe Line Co | Tennessee Gas Pipeline Co | 03-02-89 | C | | |

| Docket number [1] | Transporter/Seller | Recipient | Date filed | Subpart | Expiration date [2] | Transportation rate (¢/MMBtu) |
|---|---|---|---|---|---|---|
| ST89-2496 | Natural Gas Pipeline Co. of America | Northern Illinois Gas Co | 03-02-89 | B | | |
| ST89-2497 | Natural Gas Pipeline Co. of America | Peoples Gas Light & Coke Co | 03-02-89 | B | | |
| ST89-2498 | Natural Gas Pipeline Co. of America | Texas Industrial Energy Co | 03-02-89 | B | | |
| ST89-2499 | Natural Gas Pipeline Co. of America | Northern Illinois Gas Co | 03-02-89 | B | | |
| ST89-2500 | Panhandle Eastern Pipe Line Co | Amgas, Inc | 03-02-89 | G-S | | |
| ST89-2501 | Panhandle Eastern Pipe Line Co | Phillips Natural Gas Co | 03-02-89 | G-S | | |
| ST89-2502 | Panhandle Eastern Pipe Line Co | Mobil Natural Gas, Inc | 03-02-89 | G-S | | |
| ST89-2503 | Panhandle Eastern Pipe Line Co | Citizens Gas Fuel Co | 03-02-89 | B | | |
| ST89-2504 | Colorado Interstate Gas Co | MGTC, Inc | 03-02-89 | B | | |
| ST89-2505 | Oasis Pipe Line Co | Northern Natural Gas Co | 03-02-89 | C | | |
| ST89-2506 | Houston Pipe Line Co | Texas Eastern Transmission Corp | 03-02-89 | C | | |
| ST89-2507 | Houston Pipe Line Co | Natural Gas Pipeline Co. of America | 03-02-89 | C | | |
| ST89-2508 | Houston Pipe Line Co | Tennessee Gas Pipeline Co | 03-02-89 | C | | |
| ST89-2509 | Transcontinental Gas Pipe Line Corp | Enron Gas Marketing, Inc | 03-02-89 | G-S | | |
| ST89-2510 | Transcontinental Gas Pipe Line Corp | Atlanta Gas Light Co | 03-02-89 | B | | |
| ST89-2511 | Transcontinental Gas Pipe Line Corp | Citizens Gas Supply Corp | 03-03-89 | G-S | | |
| ST89-2512 | Transcontinental Gas Pipe Line Corp | City of Union | 03-03-89 | B | | |
| ST89-2513 | Transcontinental Gas Pipe Line Corp | City of Greer | 03-03-89 | B | | |
| ST89-2514 | Moraine Pipeline Co | ARCO Oil & Gas Co | 03-03-89 | G-S | | |
| ST89-2515 | Texas Eastern Transmission Corp | Coastal States Gas Transmission Co | 03-02-89 | B | | |
| ST89-2516 | United Gas Pipe Line Co | Midcon Marketing Corp | 03-02-89 | G-S | | |
| ST89-2517 | United Gas Pipe Line Co | Phoenix Gas Pipeline Co | 03-02-89 | G-S | | |
| ST89-2518 | United Gas Pipe Line Co | Houston Gas Exchange Corp | 03-02-89 | G-S | | |
| ST89-2519 | United Gas Pipe Line Co | Sabine-Desoto Pipeline Co., Inc | 03-02-89 | B | | |
| ST89-2520 | United Gas Pipe Line Co | Louisiana State Gas Corp | 03-02-89 | G-S | | |
| ST89-2521 | United Gas Pipe Line Co | Texas Gas Marketing, Inc | 03-02-89 | G-S | | |
| ST89-2522 | Trunkline Gas Co | American Central Gas Marketing Co | 03-03-89 | G-S | | |
| ST89-2523 | Trunkline Gas Co | ANR Gathering Co | 03-03-89 | G-S | | |
| ST89-2524 | Trunkline Gas Co | Exxon Corp | 03-03-89 | G-S | | |
| ST89-2525 | Trunkline Gas Co | Eastex Gas Transmission Co | 03-03-89 | B | | |
| ST89-2526 | Trunkline Gas Co | American Central Gas Marketing Co | 03-03-89 | G-S | | |
| ST89-2527 | Trunkline Gas Co | Exxon Corp | 03-03-89 | G-S | | |
| ST89-2528 | Panhandle Eastern Pipe Line Co | Amgas, Inc | 03-03-89 | G-S | | |
| ST89-2529 | Panhandle Eastern Pipe Line Co | KPL Gas Service Co | 03-03-89 | B | | |
| ST89-2530 | Panhandle Eastern Pipe Line Co | Amgas, Inc | 03-03-89 | G-S | | |
| ST89-2531 | Panhandle Eastern Pipe Line Co | Union Electric Co | 03-03-89 | B | | |
| ST89-2532 | Panhandle Eastern Pipe Line Co | Union Electric Co | 03-03-89 | B | | |
| ST89-2533 | Panhandle Eastern Pipe Line Co | Illinois Power Co | 03-03-89 | B | | |
| ST89-2534 | Panhandle Eastern Pipe Line Co | Phillips Natural Gas Co | 03-03-89 | G-S | | |
| ST89-2535 | Panhandle Eastern Pipe Line Co | Amgas, Inc | 03-03-89 | G-S | | |
| ST89-2536 | ANR Pipeline Co | Unicorp Energy, Inc | 03-02-89 | G-S | | |
| ST89-2537 | ANR Pipeline Co | ARCO Oil & Gas Co | 03-02-89 | G-S | | |
| ST89-2538 | ANR Pipeline Co | Amoco Production Co | 03-02-89 | G-S | | |
| ST89-2539 | ANR Pipeline Co | ARCO Oil & Gas Co | 03-02-89 | G-S | | |
| ST89-2540 | ANR Pipeline Co | Michigan Consolidated Gas Co | 03-02-89 | B | | |
| ST89-2541 | ANR Pipeline Co | ARCO Oil & Gas Co | 03-02-89 | B | | |
| ST89-2542 | ANR Pipeline Co | Consumers Power Co | 03-02-89 | B | | |
| ST89-2543 | ANR Pipeline Co | Centran Corp | 03-02-89 | G-S | | |
| ST89-2544 | ANR Pipeline Co | Midwest Gas Co | 03-02-89 | B | | |
| ST89-2545 | ANR Pipeline Co | Northern Illinois Gas Co | 03-02-89 | B | | |
| ST89-2546 | ANR Pipeline Co | PSI, Inc | 03-02-89 | G-S | | |
| ST89-2547 | ANR Pipeline Co | Northern Illinois Gas Co | 03-02-89 | B | | |
| ST89-2548 | Natural Gas Pipeline Co. of America | NGC Intrastate Pipeline Co | 03-03-89 | B | | |
| ST89-2549 | United Texas Transmission Co | Nashville Gas Co | 03-03-89 | C | | |
| ST89-2550 | United Texas Transmission Co | Florida Gas Transmission Co., et al | 03-03-89 | C | | |
| ST89-2551 | Southern Natural Gas Co | Enron Gas Marketing, Inc | 03-03-89 | G-S | | |
| ST89-2552 | South Georgia Natural Gas Co | City of Moultrie | 03-03-89 | B | | |
| ST89-2553 | South Georgia Natural Gas Co | City of Adel | 03-03-89 | B | | |
| ST89-2554 | South Georgia Natural Gas Co | City of Bainbridge | 03-03-89 | B | | |
| ST89-2555 | South Georgia Natural Gas Co | City of Thomasville | 03-03-89 | B | | |
| ST89-2556 | Southern Natural Gas Co | Guardian Industrial Corp | 03-03-89 | G-S | | |
| ST89-2557 | Delhi Gas Pipeline Corp | Natural Gas Pipeline Co. of America | 03-06-89 | C | | |
| ST89-2558 | Delhi Gas Pipeline Corp | Northern Natural Gas Co | 03-06-89 | C | | |
| ST89-2559 | Delhi Gas Pipeline Corp | United Gas Pipe Line Co | 03-06-89 | C | | |
| ST89-2560 | United Texas Transmission Co | United Gas Pipe Line Co., et al | 03-06-89 | C | | |
| ST89-2561 | Lone Star Gas Co | Lone Star Gas Co. of Texas | 03-06-89 | C | | |
| ST89-2562 | Transcontinental Gas Pipe Line Corp | Humble Gas System, Inc | 03-06-89 | B | | |
| ST89-2563 | Transcontinental Gas Pipe Line Corp | Dow Pipeline Co | 03-06-89 | B | | |
| ST89-2564 | Transcontinental Gas Pipe Line Corp | City of Lexington | 03-06-89 | B | | |
| ST89-2565 | Tennessee Gas Pipeline Co | Texas Eastern Transmission Corp | 03-06-89 | G | | |
| ST89-2566 | Columbia Gulf Transmission Co | Alabama-Tennessee Natural Gas Co | 03-06-89 | B | | |
| ST89-2567 | Williams Natural Gas Co | Industrial Gas Marketing | 03-06-89 | G-S | | |
| ST89-2568 | Williams Natural Gas Co | Petrolite Corp | 03-06-89 | G-S | | |
| ST89-2569 | Williams Natural Gas Co | Weyerhaeuser Paper Co | 03-06-89 | G-S | | |
| ST89-2570 | Williams Natural Gas Co | Enron Gas Marketing, Inc | 03-06-89 | G-S | | |
| ST89-2571 | Williams Natural Gas Co | Boyd Rosene & Associates | 03-06-89 | G-S | | |
| ST89-2572 | Williams Natural Gas Co | Enogex Inc | 03-06-89 | B | | |
| ST89-2573 | Houston Pipe Line Co | Orange and Rockland Utilities, Inc | 03-07-89 | C | | |
| ST89-2574 | Panhandle Gas Co | Orange and Rockland Utilities, Inc | 03-07-89 | D | | |
| ST89-2575 | Texas Gas Transmission Corp | Carless Resources, Inc | 03-07-89 | G-S | | |
| ST89-2576 | Texas Gas Transmission Corp | Access Energy Pipeline Corp | 03-07-89 | B | | |

| Docket number [1] | Transporter/Seller | Recipient | Date filed | Subpart | Expiration date [2] | Transportation rate (¢/MMBtu) |
|---|---|---|---|---|---|---|
| ST89-2577 | Texas Gas Transmission Corp | Archer Daniels Midland Co | 03-07-89 | G-S | | |
| ST89-2578 | Texas Gas Transmission Corp | Diamond Shamrock Offshore Part., L.P. | 03-07-89 | G-S | | |
| ST89-2579 | Texas Gas Transmission Corp | Beechnut Nutrition Corp | 03-07-89 | G-S | | |
| ST89-2580 | Texas Gas Transmission Corp | PSI, Inc | 03-07-89 | G-S | | |
| ST89-2581 | Panhandle Eastern Pipe Line Co | Central Illinois Light Co | 03-07-89 | B | | |
| ST89-2582 | Panhandle Eastern Pipe Line Co | AMGAS, Inc | 03-07-89 | G-S | | |
| ST89-2583 | Natural Gas Pipeline Co. of America | Northern Illinois Gas Co | 03-07-89 | B | | |
| ST89-2584 | Natural Gas Pipeline Co. of America | American Distribution Co., Inc | 03-07-89 | B | | |
| ST89-2585 | Natural Gas Pipeline Co. of America | Peoples Gas Light & Coke Co | 03-07-89 | B | | |
| ST89-2586 | Natural Gas Pipeline Co. of America | NGC Intrastate Pipeline Co | 03-07-89 | B | | |
| ST89-2587 | United Gas Pipe Line Co | NGC Intrastate Pipeline Co | 03-07-89 | B | | |
| ST89-2588 | United Gas Pipe Line Co | Tenngasco Corp | 03-07-89 | G-S | | |
| ST89-2589 | United Gas Pipe Line Co | Atlanta Gas Light Co., et al | 03-07-89 | B | | |
| ST89-2590 | United Gas Pipe Line Co | Wisconsin Gas Co., et al | 03-07-89 | B | | |
| ST89-2591 | United Gas Pipe Line Co | Laser Marketing Co | 03-07-89 | G-S | | |
| ST89-2592 | Natural Gas Pipeline Co. of America | PSI, Inc | 03-08-89 | G-S | | |
| ST89-2593 | Williston Basin Interstate P/L Co | Longhorn Pipeline Co | 03-08-89 | B | | |
| ST89-2594 | Exxon Gas System, Inc | Peoples Natural Gas Co | 03-08-89 | C | 08-05-89 | 12.80 |
| ST89-2595 | Southern Gas Pipeline Co | Texas Eastern Transmission Corp | 03-08-89 | C | 08-05-89 | 20.00 |
| ST89-2596 | Texas Eastern Transmission Corp | Mountaineer Gas Co | 03-08-89 | B | | |
| ST89-2597 | Texas Eastern Transmission Corp | Connecticut Light & Power Co | 03-08-89 | B | | |
| ST89-2598 | Texas Eastern Transmission Corp | Columbia Gas of Ohio, Inc | 03-08-89 | B | | |
| ST89-2599 | Texas Eastern Transmission Corp | Cincinnati Gas and Electric Co | 03-08-89 | B | | |
| ST89-2600 | Texas Eastern Transmission Corp | Columbia Gas of Ohio, Inc | 03-08-89 | B | | |
| ST89-2601 | Texas Eastern Transmission Corp | Valero Transmission, L.P. | 03-08-89 | B | | |
| ST89-2602 | Transcontinental Gas Pipe Line Corp | Monterey Pipeline Co | 03-08-89 | B | | |
| ST89-2603 | Transcontinental Gas Pipe Line Corp | City of Kings Mountain | 03-08-89 | B | | |
| ST89-2604 | Transcontinental Gas Pipe Line Corp | United Cities Gas Co., SC Div | 03-08-89 | B | | |
| ST89-2605 | Transok, Inc | Amoco Gas Co | 03-09-89 | C | 08-06-89 | 32.50 |
| ST89-2606 | Northern Natural Gas Co | Southern California Gas Co | 03-09-89 | B | | |
| ST89-2607 | Northern Natural Gas Co | Texaco Gas Marketing, Inc | 03-09-89 | G-S | | |
| ST89-2608 | Northern Natural Gas Co | Citizens Gas Supply Corp | 03-09-89 | G-S | | |
| ST89-2609 | Northern Natural Gas Co | Cabot Gas Supply Corp | 03-09-89 | B | | |
| ST89-2610 | Northern Natural Gas Co | Coastal Gas Marketing Co | 03-09-89 | G-S | | |
| ST89-2611 | Transwestern Pipeline Co | PSI, Inc | 03-09-89 | G-S | | |
| ST89-2612 | Northwest Pipeline Corp | Amoco Production Co | 03-09-89 | G-S | | |
| ST89-2613 | Northwest Pipeline Corp | Koch Hydrocarbons Co | 03-09-89 | G-S | | |
| ST89-2614 | Northwest Pipeline Corp | Phillips Petroleum Co | 03-09-89 | G-S | | |
| ST89-2615 | Northwest Pipeline Corp | Salem Black Top & Asphalt Paving, Inc | 03-09-89 | G-S | | |
| ST89-2616 | Northwest Pipeline Corp | Xebec Gas Co | 03-09-89 | G-S | | |
| ST89-2618 | Colorado Interstate Gas Co | Fuel Resources Development Co | 03-09-89 | G-S | | |
| ST89-2619 | Transcontinental Gas Pipe Line Corp | Baltimore Gas & Elect. Co., et al | 03-10-89 | B | | |
| ST89-2620 | Transcontinental Gas Pipe Line Corp | United Cities Gas Co | 03-10-89 | B | | |
| ST89-2621 | United Gas Pipe Line Co | Midcon Marketing Corp | 03-09-89 | G-S | | |
| ST89-2622 | United Gas Pipe Line Co | KM Gas Co | 03-09-89 | G-S | | |
| ST89-2623 | Enogex Inc | Natural Gas Pipeline Co. of America | 03-10-89 | C | 08-07-89 | 28.50 |
| ST89-2624 | Enogex Inc | Phillips Gas Pipeline Co | 03-10-89 | C | 08-07-89 | 28.50 |
| ST89-2625 | Enogex Inc | Natural Gas Pipeline Co. of America | 03-10-89 | C | 08-07-89 | 28.50 |
| ST89-2626 | Enogex Inc | Natural Gas Pipeline Co. of America | 03-10-89 | C | 08-07-89 | 28.50 |
| ST89-2627 | Enogex Inc | Natural Gas Pipeline Co. of America | 03-10-89 | C | 08-07-89 | 28.50 |
| ST89-2628 | Delta Natural Gas Co., Inc | Columbia Gas Transmission Corp | 03-10-89 | C | | |
| ST89-2629 | Algonquin Gas Transmission Co | Bay State Gas Co | 03-10-89 | B | | |
| ST89-2630 | Algonquin Gas Transmission Co | Connecticut Light & Power Co | 03-10-89 | B | | |
| ST89-2631 | United Gas Pipe Line Co | Laser Marketing Co | 03-13-89 | G-S | | |
| ST89-2632 | United Gas Pipe Line Co | Wellhead Ventures Corp | 03-13-89 | B | | |
| ST89-2633 | United Gas Pipe Line Co | LL&E Gas Marketing, Inc | 03-13-89 | G-S | | |
| ST89-2634 | United Gas Pipe Line Co | Loutex Energy, Inc | 03-13-89 | G-S | | |
| ST89-2635 | United Gas Pipe Line Co | NGC Intrastate Pipeline Co | 03-13-89 | B | | |
| ST89-2636 | Superior Offshore Pipeline Co | Wisconsin Power & Light, et al | 03-13-89 | B | | |
| ST89-2637 | Tennessee Gas Pipeline Co | Coastal Gas Marketing Co | 03-13-89 | G-S | | |
| ST89-2638 | Natural Gas Pipeline Co. of America | Northern Illinois Gas Co | 03-13-89 | B | | |
| ST89-2639 | Natural Gas Pipeline Co. of America | OXY NGL, Inc | 03-13-89 | G-S | | |
| ST89-2640 | Natural Gas Pipeline Co. of America | Colony Pipeline Co | 03-13-89 | B | | |
| ST89-2641 | Williams Natural Gas Co | City of McLouth | 03-13-89 | G-S | | |
| ST89-2642 | Transcontinental Gas Pipe Line Corp | Transco Energy Marketing | 03-13-89 | G-S | | |
| ST89-2643 | El Paso Natural Gas Co | Cabot Gas Supply Corp | 03-14-89 | B | | |
| ST89-2644 | Tennessee Gas Pipeline Co | Atlanta Gas Light Co | 03-14-89 | B | | |
| ST89-2645 | Tekas Corp | Northern Natural Gas Co | 03-13-89 | C | 08-10-89 | 55.00 |
| ST89-2646 | ONG Transmission Co | Panhandle Eastern Pipe Line Co | 03-14-89 | C | 08-11-89 | 24.32 |
| ST89-2647 | ONG Transmission Co | Natural Gas Pipeline Co. of America | 03-14-89 | C | 08-11-89 | 24.32 |
| ST89-2648 | ONG Transmission Co | Natural Gas Pipeline Co. of America | 03-14-89 | C | 08-11-89 | 24.32 |
| ST89-2649 | Panhandle Eastern Pipe Line Co | Eastex Gas Transmission Co | 03-14-89 | B | | |
| ST89-2650 | Colorado Interstate Gas Co | Trigen Resources Corp | 03-14-89 | G-S | | |
| ST89-2651 | United Gas Pipe Line Co | ARCO Oil & Gas Co | 03-14-89 | G-S | | |
| ST89-2652 | United Gas Pipe Line Co | Enron Gas Marketing, Inc | 03-14-89 | G-S | | |
| ST89-2653 | United Gas Pipe Line Co | Chevron U.S.A., Inc | 03-14-89 | G-S | | |
| ST89-2654 | Columbia Gulf Transmission Co | Columbia Gas of Ohio, Inc., et al | 03-13-89 | B | | |
| ST89-2655 | Columbia Gulf Transmission Co | Baltimore Gas & Elect., et al | 03-13-89 | B | | |
| ST89-2656 | Western Gas Supply Co | El Paso Natural Gas Co | 03-15-89 | C | | |
| ST89-2657 | Western Gas Supply Co | Northwest Pipeline Corp | 03-15-89 | C | | |
| ST89-2658 | Western Gas Supply Co | Northwest Pipeline Corp | 03-15-89 | C | | |

| Docket number [1] | Transporter/Seller | Recipient | Date filed | Subpart | Expiration date [2] | Transportation rate (¢/MMBtu) |
|---|---|---|---|---|---|---|
| ST89-2659 | Western Gas Supply Co | Questar Pipeline Co | 03-15-89 | C | | |
| ST89-2660 | Transcontinental Gas Pipe Line Corp | Amoco Gas Co | 03-15-89 | B | | |
| ST89-2661 | Tennessee Gas Pipeline Co | Hanley and Bird, Inc | 03-15-89 | B | | |
| ST89-2662 | Tennessee Gas Pipeline Co | Coastal Gas Marketing Co | 03-15-89 | G-S | | |
| ST89-2663 | Valero Transmission, L.P | Tennessee Gas Pipeline Co | 03-15-89 | C | | |
| ST89-2664 | Valero Transmission, L.P | Tennessee Gas Pipeline Co | 03-15-89 | C | | |
| ST89-2665 | Valero Transmission, L.P | El Paso Natural Gas Co | 03-15-89 | C | | |
| ST89-2666 | Trans Texas Pipeline | Tennessee Gas Pipeline Co | 03-15-89 | C | | |
| ST89-2667 | Trans Texas Pipeline | Tennessee Gas Pipeline Co | 03-15-89 | C | | |
| ST89-2668 | United Gas Pipe Line Co | Teco Pipeline Company | 03-15-89 | B | | |
| ST89-2669 | United Gas Pipe Line Co | Enron Gas Marketing | 03-15-89 | G-S | | |
| ST89-2670 | Northwest Pipeline Corp | Brymore Energy Inc | 03-15-89 | G-S | | |
| ST89-2671 | El Paso Natural Gas Co | Associated Intrastate Pipeline Co | 03-15-89 | B | | |
| ST89-2672 | CNG Transmission Corp | CNG Trading Co | 03-15-89 | G-S | | |
| ST89-2673 | CNG Transmission Corp | Natural Gas Clearinghouse, Inc | 03-15-89 | G-S | | |
| ST89-2674 | CNG Transmission Corp | System Supply for End-Users, Inc | 03-15-89 | G-S | | |
| ST89-2675 | CNG Transmission Corp | North Carolina Natural Gas Corp | 03-15-89 | B | | |
| ST89-2676 | CNG Transmission Corp | CNG Trading Co | 03-15-89 | G-S | | |
| ST89-2677 | CNG Transmission Corp | Columbia of Pennsylvania Dist. Co | 03-15-89 | B | | |
| ST89-2678 | CNG Transmission Corp | Gulf Ohio Corp | 03-15-89 | G-S | | |
| ST89-2679 | CNG Transmission Corp | North Atlantic Utilities, Inc | 03-15-89 | G-S | | |
| ST89-2680 | Williston Basin Interstate P/L Co | Montana-Dakota Utilities Co | 03-15-89 | B | | |
| ST89-2681 | Williston Basin Interstate P/L Co | Quivira Gas Co | 03-15-89 | B | | |
| ST89-2682 | Williston Basin Interstate P/L Co | Cody Gas Co | 03-15-89 | B | | |
| ST89-2683 | Williston Basin Interstate P/L Co | Montana/Dakota Utilities Co | 03-15-89 | B | | |
| ST89-2684 | Texas Eastern Transmission Corp | Washington Gas Light Co | 03-15-89 | B | | |
| ST89-2685 | Texas Eastern Transmission Corp | Washington Gas Light Co | 03-15-89 | B | | |
| ST89-2686 | Texas Eastern Transmission Corp | Mountaineer Gas Co | 03-15-89 | B | | |
| ST89-2687 | Natural Gas Pipeline Co. of America | EP Operating Co | 03-15-89 | G-S | | |
| ST89-2688 | Natural Gas Pipeline Co. of America | United Texas Transmission Co | 03-15-89 | B | | |
| ST89-2689 | Natural Gas Pipeline Co. of America | Llano, Inc | 03-15-89 | B | | |
| ST89-2690 | Southern Natural Gas Co | Graham Energy Marketing Co | 03-15-89 | G-S | | |
| ST89-2691 | Southern Natural Gas Co | South Georgia Natural Gas Co | 03-15-89 | G-S | | |
| ST89-2692 | Southern Natural Gas Co | Graham Energy Marketing Co | 03-15-89 | G-S | | |
| ST89-2693 | Southern Natural Gas Co | South Carolina Pipeline Corp | 03-15-89 | B | | |
| ST89-2694 | Southern Natural Gas Co | Texarkoma Transportation Co | 03-15-89 | G-S | | |
| ST89-2695 | Southern Natural Gas Co | Atlantic Steel Co | 03-15-89 | G-S | | |
| ST89-2696 | Southern Natural Gas Co | South Georgia Natural Gas Co | 03-15-89 | G-S | | |
| ST89-2697 | Southern Natural Gas Co | South Georgia Natural Gas Co | 03-15-89 | G-S | | |
| ST89-2698 | Southern Natural Gas Co | Centran Corp | 03-15-89 | G-S | | |
| ST89-2699 | Southern Natural Gas Co | National Energy Systems, Inc | 03-15-89 | G-S | | |
| ST89-2700 | Southern Natural Gas Co | Texaco, Inc | 03-15-89 | G-S | | |
| ST89-2701 | Southern Natural Gas Co | Graham Energy Marketing Co | 03-15-89 | G-S | | |
| ST89-2702 | Southern Natural Gas Co | Gulf States Pipeline Corp | 03-15-89 | B | | |
| ST89-2703 | Southern Natural Gas Co | Total Minatome Corp | 03-15-89 | G-S | | |
| ST89-2704 | Transcontiental Gas Pipe Line Corp | Peoples Natural Gas Co | 03-16-89 | B | | |
| ST89-2705 | United Gas Pipe Line Co | Enron Gas Marketing, Inc | 03-16-89 | G-S | | |
| ST89-2706 | Transok, Inc | Williams Natural Gas Co | 03-16-89 | C | 08-13-89 | 32.50 |
| ST89-2707 | Transok, Inc | Neches Gas Distribution Co | 03-16-89 | C | 08-13-89 | 32.50 |
| ST89-2708 | Columbia Gulf Transmission Co | Columbia Gas of Ky, Inc. et al | 03-16-89 | B | | |
| ST89-2709 | Columbia Gulf Transmission Co | Louisiana Resources Co | 03-16-89 | B | | |
| ST89-2710 | Columbia Gulf Transmission Co | Acadian Gas Pipeline System | 03-16-89 | B | | |
| ST89-2711 | Gulf Energy Pipeline Co | Tennessee Gas Pipeline Co | 03-17-89 | C | | |
| ST89-2712 | Gulf Energy Pipeline Co | Tennessee Gas Pipeline Co | 03-17-89 | C | | |
| ST89-2713 | Webb/Duval Gatherers | Tennessee Gas Pipeline Co | 03-17-89 | C | | |
| ST89-2714 | Texas Gas Transmission Corp | Gas Access Systems, Inc | 03-17-89 | G-S | | |
| ST89-2715 | Texas Gas Transmission Corp | Reed Minerals Dov. Harsco Corp | 03-17-89 | G-S | | |
| ST89-2716 | Texas Gas Transmission Corp | Texas-Ohio Gas, Inc | 03-17-89 | G-S | | |
| ST89-2717 | Texas Gas Transmission Corp | Catamount Natural Gas, Inc | 03-17-89 | G-S | | |
| ST89-2718 | Texas Gas Transmission Corp | Commonwealth Gas Pipeline Corp | 03-17-89 | B | | |
| ST89-2719 | Williams Natural Gas Co | Seagull Louisiana Intra. Pipeline Co | 03-17-89 | B | | |
| ST89-2720 | Northwest Pipeline Corp | J.C. Thompson | 03-17-89 | G-S | | |
| ST89-2721 | Northwest Pipeline Corp | Trigen Resources Corp | 03-17-89 | G-S | | |
| ST89-2722 | Tennessee Gas Pipeline Co | Louisiana Gas Marketing Co | 03-17-89 | B | | |
| ST89-2723 | Tennessee Gas Pipeline Co | V.H.C. Gas System, L.P | 03-17-89 | G-S | | |
| ST89-2724 | Kentucky West Virginia Gas Co | Equitable Gas Co | 03-20-89 | B | | |
| ST89-2725 | Kentucky West Virginia Gas Co | Equitable Gas Co | 03-20-89 | B | | |
| ST89-2726 | Kentucky West Virginia Gas Co | Equitable Gas Co | 03-20-89 | B | | |
| ST89-2727 | Gas Co. of NM (Div. Public Serv. Co. NM) | El Paso Natural Gas Co | 03-20-89 | G-HT | | |
| ST89-2728 | United Gas Pipe Line Co | Houston Lighting & Power Co | 03-20-89 | G-S | | |
| ST89-2729 | United Gas Pipe Line Co | Brock Gas Systems and Equipment Corp | 03-20-89 | G-S | | |
| ST89-2730 | United Gas Pipe Line Co | Ameican Central Gas Cos., Inc | 03-20-89 | G-S | | |
| ST89-2731 | Valley Gas Transmission, Inc | Tenngasco Exchange Corp | 03-20-89 | G-S | | |
| ST89-2732 | Ong Transmission Co | Phillips Gas Pipeline Co | 03-20-89 | C | 08-17-89 | 24.32 |
| ST89-2733 | Ong Transmission Co | Natural Gas Pipeline Co. of America | 03-20-89 | C | 08-17-89 | 24.32 |
| ST89-2734 | Transcontinental Gas Pipe Line Corp | Transco Enegy Marketing Co | 03-20-89 | G-S | | |
| ST89-2735 | United Gas Pipe Line Co | Ampro Fisheries, Inc | 03-20-89 | G-S | | |
| ST89-2736 | United Gas Pipe Line Co | Bocce Energy Corp | 03-20-89 | G-S | | |
| ST89-2737 | United Gas Pipe Line Co | Citgo Petroleum Co | 03-20-89 | G-S | | |
| ST89-2738 | United Gas Pipe Line Co | Catamount Natural Gas, Inc | 03-20-89 | G-S | | |
| ST89-2739 | Natural Gas Pipeline Co. of America | Illinois Power Co | 03-20-89 | B | | |

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|---|---|---|---|---|---|---|
| ST89-2740 | Natural Gas Pipeline Co. of America | Wisconsin Natural Gas Co | 03-20-89 | B | | |
| ST89-2741 | Tennessee Gas Pipeline Co | Consolidated Edison Co. of NY, Inc | 03-20-89 | B | | |
| ST89-2742 | Williams Natural Gas Co | Southern California Gas Co | 03-20-89 | B | | |
| ST89-2743 | Texas Eastern Transmission Corp | Access Energy Pipeline Co | 03-20-89 | B | | |
| ST89-2744 | Texas Eastern Transmission Corp | Vicgas Corp | 03-20-89 | B | | |
| ST89-2745 | Texas Eastern Transmission Corp | Bay State Gas Co | 03-20-89 | B | | |
| ST89-2746 | Texas Eastern Transmission Corp | Commonwealth Gas Co | 03-20-89 | B | | |
| ST89-2747 | United Texas Transmission Co | Texas Eastern Trans. Corp., et al | 03-21-89 | C | | |
| ST89-2748 | Transwestern Pipeline Co | Gasmark Inc | 03-21-89 | G-S | | |
| ST89-2749 | Transcontinental Gas Pipe Line Corp | BP Gas Transmission Co | 03-21-89 | B | | |
| ST89-2750 | Transcontinental Gas Pipe Line Corp | ANR Gathering Co | 03-21-89 | G-S | | |
| ST89-2751 | Transcontinental Gas Pipe Line Corp | Total Minatome Corp | 03-21-89 | G-S | | |
| ST89-2752 | Northern Natural Gas Co | Interstate Power Co | 03-21-89 | B | | |
| ST89-2753 | Northern Natural Gas Co | Devon Energy Corp | 03-21-89 | G-S | | |
| ST89-2754 | Northern Natural Gas Co | Transco Energy Marketing Co | 03-21-89 | G-S | | |
| ST89-2755 | Northern Natural Gas Co | Southern California Gas Co | 03-21-89 | B | | |
| ST89-2756 | Northern Natural Gas Co | NGC Intrastate Pipeline Co | 03-21-89 | B | | |
| ST89-2757 | Northern Natural Gas Co | Centran Corp | 03-21-89 | G-S | | |
| ST89-2758 | Northern Natural Gas Co | NGC Intrastate Pipeline Co | 03-21-89 | B | | |
| ST89-2759 | Columbia Gulf Transmission Co | Tennessee Gas Pipeline Co | 03-21-89 | G | | |
| ST89-2760 | Columbia Gulf Transmission Co | Reynolds Metals Co | 03-21-89 | G-S | | |
| ST89-2761 | Columbia Gulf Transmission Co | Cincinnati Gas And Electric Co | 03-21-89 | B | | |
| ST89-2762 | Columbia Gulf Transmission Co | Louisiana Gas Marketing Co | 03-21-89 | B | | |
| ST89-2763 | Columbia Gulf Transmission Co | Columbia Gas of Ky, Inc., et al | 03-21-89 | B | | |
| ST89-2764 | United Gas Pipe Line Co | American Central Gas Cos., Inc | 03-21-89 | G-S | | |
| ST89-2765 | United Gas Pipe Line Co | Centran Corp | 03-21-89 | G-S | | |
| ST89-2766 | United Gas Pipe Line Co | Texaco, Inc | 03-21-89 | G-S | | |
| ST89-2767 | United Gas Pipe Line Co | Entex, Inc | 03-21-89 | B | | |
| ST89-2768 | United Gas Pipe Line Co | Oxy U.S.A., Inc | 03-21-89 | G-S | | |
| ST89-2769 | United Gas Pipe Line Co | Texaco Producing, Inc | 03-21-89 | G-S | | |
| ST89-2770 | United Gas Pipe Line Co | Texaco Gas Marketing, Inc | 03-21-89 | G-S | | |
| ST89-2771 | United Gas Pipe Line Co | Williams Gas Marketing Co | 03-21-89 | G-S | | |
| ST89-2772 | Natural Gas Pipeline Co. of America | Golden Gas Energies, Inc | 03-22-89 | B | | |
| ST89-2773 | Natural Gas Pipeline Co. of America | Lone Star Gas Co | 03-22-89 | B | | |
| ST89-2774 | Tennessee Gas Pipeline Co | Chevron U.S.A., Inc | 03-22-89 | G-S | | |
| ST89-2775 | Tennessee Gas Pipeline Co | Chevron U.S.A., Inc | 03-22-89 | G-S | | |
| ST89-2776 | Tennessee Gas Pipeline Co | Columbia Gas Transmission Corp | 03-22-89 | G | | |
| ST89-2777 | Trunkline Gas Co | Citizens Gas Supply Corp | 03-22-89 | G-S | | |
| ST89-2778 | Trunkline Gas Co | Union Gas Co | 03-22-89 | B | | |
| ST89-2779 | Northwest Pipeline Corp | Westar Marketing Co | 03-22-89 | G-S | | |
| ST89-2780 | Northwest Pipeline Corp | Puget Sound Power & Light Co | 03-22-89 | G-S | | |
| ST89-2781 | United Gas Pipe Line Co | Victoria Gas Corp | 03-22-89 | G-S | | |
| ST89-2782 | United Gas Pipe Line Co | Loutex Energy, Inc | 03-22-89 | G-S | | |
| ST89-2783 | BP Gas Transmission Co | ANR Pipeline Co., et al | 03-23-89 | C | 08-20-89 | 13.07 |
| ST89-2784 | Colorado Interstate Gas Co | Helmerich & Payne, Inc | 03-23-89 | G-S | | |
| ST89-2785 | Colorado Interstate Gas Co | Santa Fe Gas Marketing Co | 03-23-89 | G-S | | |
| ST89-2786 | Colorado Interstate Gas Co | Helmerich & Payne, Inc | 03-23-89 | G-S | | |
| ST89-2787 | Natural Gas Pipeline Co. of America | Oxy NGL, Inc | 03-23-89 | G-S | | |
| ST89-2788 | Tennessee Gas Pipeline Co | Consolidated Fuel Corp | 03-23-89 | B | | |
| ST89-2789 | Northwest Pipeline Corp | Pacific Cogen. & Great West. Malt. Co | 03-23-89 | G-S | | |
| ST89-2790 | Northwest Pipeline Corp | Quinoco Trading Co., Inc | 03-23-89 | G-S | | |
| ST89-2791 | Williams Natural Gas Co | National Energy Systems, Inc | 03-23-89 | G-S | | |
| ST89-2792 | Tennessee Gas Pipeline Co | Transcontinental Gas Pipe Line Corp | 03-24-89 | G | | |
| ST89-2793 | Questar Pipeline Co | Chevron U.S.A., Inc | 03-24-89 | G-S | | |
| ST89-2794 | Questar Pipeline Co | Exxon Corp | 03-24-89 | G-S | | |
| ST89-2795 | Northern Natural Gas Co | Panda Resources, Inc | 03-24-89 | G-S | | |
| ST89-2796 | Colorado Interstate Gas Co | Coastal States Gas Transmission Co | 03-24-89 | B | | |
| ST89-2797 | Colorado Interstate Gas Co | Great Falls Gas Co | 03-24-89 | B | | |
| ST89-2798 | Williston Basin Interstate P/L Co | Longhorn Pipeline Co | 03-24-89 | B | | |
| ST89-2799 | Acadian Gas Pipeline System | Sabine Pipe Line Co | 03-27-89 | C | | |
| ST89-2800 | Natural Gas Pipeline Co. of America | Peoples Gas Light & Coke Co | 03-27-89 | B | | |
| ST89-2801 | Natural Gas Pipeline Co. of America | Natural Gas Clearinghouse, Inc | 03-27-89 | G-S | | |
| ST89-2802 | Panhandle Eastern Pipe Line Co | Indiana Gas Co | 03-27-89 | B | | |
| ST89-2803 | Panhandle Eastern Pipe Line Co | Indiana Gas Co | 03-27-89 | B | | |
| ST89-2804 | Williams Natural Gas Co | City of Chanute | 03-27-89 | G-S | | |
| ST89-2805 | Williams Natural Gas Co | City of Neodesha | 03-27-89 | G-S | | |
| ST89-2806 | Williams Natural Gas Co | City of Iola | 03-27-89 | G-S | | |
| ST89-2807 | Williams Natural Gas Co | City of Garnett | 03-27-89 | G-S | | |
| ST89-2808 | Williams Natural Gas Co | City of Osage City | 03-27-89 | G-S | | |
| ST89-2809 | Williams Natural Gas Co | City of Auburn | 03-27-89 | G-S | | |
| ST89-2810 | Columbia Gulf Transmission Co | Columbia Gas of Ky, Inc. et al | 03-27-89 | B | | |
| ST89-2811 | Columbia Gulf Transmission Co | Transcontinental Gas Pipe Line Corp | 03-27-89 | G | | |
| ST89-2812 | Texas Gas Transmission Corp | TXG Gas Marketing Co | 03-28-89 | G-S | | |
| ST89-2813 | Texas Gas Transmission Corp | City of Hamilton | 03-28-89 | B | | |
| ST89-2814 | Texas Gas Transmission Corp | City of Hamilton | 03-28-89 | B | | |
| ST89-2815 | Tennessee Gas Pipeline Co | Western Kentucky Gas Co | 03-28-89 | B | | |
| ST89-2816 | Tennessee Gas Pipeline Co | UGI Corp | 03-28-89 | B | | |
| ST89-2817 | Texas Eastern Transmission Corp | Associated Intrastate Pipeline Co | 03-28-89 | B | | |
| ST89-2818 | Texas Eastern Transmission Corp | City Light, Gas & Water Co | 03-28-89 | B | | |
| ST89-2819 | United Gas Pipe Line Co | Loutex Energy, Inc | 03-28-89 | G-S | | |
| ST89-2820 | United Gas Pipe Line Co | NGC Intrastate Pipeline Co | 03-28-89 | B | | |

| Docket number [1] | Transporter/Seller | Recipient | Date filed | Subpart | Expiration date [2] | Transportation rate (¢/MMBtu) |
|---|---|---|---|---|---|---|
| ST89-2821 | El Paso Natural Gas Co. | Cabot Gas Supply Corp. | 03-29-89 | B | | |
| ST89-2822 | Tennessee Gas Pipeline Co. | TXG Gas Marketing Co. | 03-29-89 | G-S | | |
| ST89-2823 | Midcon Texas Pipeline Corp. | Natural Gas Pipeline Co. of America | 03-29-89 | C | | |
| ST89-2824 | Midcon Texas Pipeline Corp. | Natural Gas P/L Co. of America, et al. | 03-29-89 | C | | |
| ST89-2825 | United Texas Transmission Co. | Natural Gas Pipeline Co. of America | 03-29-89 | C | | |
| ST89-2826 | United Texas Transmission Co. | Natural Gas Pipeline Co. of America | 03-29-89 | C | | |
| ST89-2827 | Natural Gas Pipeline Co. of America | ARCO Oil & Gas Co. | 03-29-89 | G-S | | |
| ST89-2828 | Natural Gas Pipeline Co. of America | West Texas Gas, Inc. | 03-29-89 | B | | |
| ST89-2829 | Panhandle Eastern Pipe Line Co. | Ohio Gas Co. | 03-29-89 | B | | |
| ST89-2830 | Panhandle Eastern Pipe Line Co. | Ohio Gas Co. | 03-29-89 | B | | |
| ST89-2831 | Panhandle Eastern Pipe Line Co. | Getty Gas Gathering, Inc. | 03-29-89 | B | | |
| ST89-2832 | Panhandle Eastern Pipe Line Co. | Ohio Gas Co. | 03-29-89 | B | | |
| ST89-2833 | Panhandle Eastern Pipe Line Co. | Williams Gas Marketing Co | 03-29-89 | G-S | | |
| ST89-2834 | Panhandle Eastern Pipe Line Co. | Indiana Gas Co. | 03-29-89 | B | | |
| ST89-2835 | Panhandle Eastern Pipe Line Co. | Indiana Gas Co. | 03-29-89 | B | | |
| ST89-2836 | Panhandle Eastern Pipe Line Co. | Amgas, Inc. | 03-29-89 | G-S | | |
| ST89-2837 | Panhandle Eastern Pipe Line Co. | Midland Cogeneration Venture, L.P. | 03-29-89 | G-S | | |
| ST89-2838 | Transok, Inc. | Williams Natural Gas Co. | 03-29-89 | C | 08-26-89 | 32.50 |
| ST89-2839 | Transok, Inc. | Natural Gas Pipeline Co. of America | 03-29-89 | C | 08-26-89 | 32.50 |
| ST89-2840 | ANR Pipeline Co. | Northern Indiana Fuel & Light Co. | 03-29-89 | B | | |
| ST89-2841 | ANR Pipeline Co. | Michigan Consolidated Gas Co. | 03-29-89 | B | | |
| ST89-2842 | ANR Pipeline Co. | Wisconsin Public Service Corp. | 03-29-89 | B | | |
| ST89-2843 | ANR Pipeline Co. | Phenix Transmission Co. | 03-29-89 | B | | |
| ST89-2844 | ANR Pipeline Co. | Hallis Oil & Gas, Inc. | 03-29-89 | G-S | | |
| ST89-2845 | United Texas Transmission Co. | Southern Union Gas Co. | 03-30-89 | C | | |
| ST89-2846 | Natural Gas Pipeline Co. of America | ARCO Oil & Gas Co. | 03-30-89 | G-S | | |
| ST89-2847 | Natural Gas Pipeline Co. of America | Wisconsin Natural Gas Co. | 03-30-89 | B | | |
| ST89-2848 | Moraine Pipeline Co. | Natural Gas Pipeline Co. of America | 03-30-89 | G | | |
| ST89-2849 | Moraine Pipeline Co. | Wisconsin Natural Gas Co. | 03-30-89 | B | | |
| ST89-2850 | El Paso Natural Gas Co. | Gulf Gas Utilities Co. | 03-30-89 | G-S | | |
| ST89-2851 | El Paso Natural Gas Co. | Phillips Natural Gas Co. | 03-30-89 | G-S | | |
| ST89-2852 | Arkla Energy Resources | Seagull Louisiana Intrastate P/L Co. | 03-30-89 | B | | |
| ST89-2853 | Tarpon Transmission Co. | Kimball Resources, Inc. | 03-30-89 | G-S | | |
| ST89-2854 | Panhandle Eastern Pipe Line Co. | Ohio Gas Co. | 03-30-89 | B | | |
| ST89-2855 | Panhandle Eastern Pipe Line Co. | Northern Indiana Fuel & Light Co. | 03-30-89 | G-S | | |
| ST89-2856 | Panhandle Eastern Pipe Line Co. | Kokomo Gas and Fuel Co. | 03-30-89 | B | | |
| ST89-2857 | Colorado Interstate Gas Co. | Public Service Co. of Colorado | 03-30-89 | B | | |
| ST89-2858 | United Gas Pipe Line Co. | Jala Pipe Line Corp. | 03-30-89 | B | | |
| ST89-2859 | United Gas Pipe Line Co | Texas Indust. Energy Co., et al. | 03-30-89 | B | | |
| ST89-2860 | Cavallo Pipeline Co | Amoco Gas Co | 03-31-89 | C | | |
| ST89-2861 | Sabine Pipe Line Co | Louisiana Gas Marketing Co | 03-31-89 | B | | |
| ST89-2862 | Sabine Pipe Line Co | Pontchartrain Natural Gas System | 03-31-89 | B | | |
| ST89-2863 | Sabine Pipe Line Co | Acadian Gas Pipeline System | 03-31-89 | B | | |
| ST89-2864 | Delhi Gas Pipeline Corp | Superior Offshore Pipeline Co | 03-31-89 | C | 08-28-89 | 35.00 |
| ST89-2865 | United Texas Transmission Co | Tennessee Gas Pipeline Co | 03-31-89 | C | | |
| ST89-2866 | BP Gas Transmission Co | ANR Pipeline Co., et al | 03-31-89 | C | 08-28-89 | 13.70 |
| ST89-2867 | Northwest Pipeline Corp | Williams Gas Co | 03-31-89 | B | | |
| ST89-2868 | Northwest Pipeline Corp | Marathon Oil Co | 03-31-89 | G-S | | |
| ST89-2869 | Northwest Pipeline Corp | Columbus Gas Services, Inc | 03-31-89 | G-S | | |
| ST89-2870 | Northwest Pipeline Corp | Gold Fields Operating Co | 03-31-89 | G-S | | |
| ST89-2871 | Northwest Pipeline Corp | National Cooperative Refinery Assoc | 03-31-89 | G-S | | |
| ST89-2872 | Northwest Pipeline Corp | Williams Gas Co | 03-31-89 | B | | |
| ST89-2873 | ANR Pipeline Co | Columbia Gas of Ohio, Inc | 03-31-89 | B | | |
| ST89-2874 | ANR Pipeline Co | Koch Hydrocarbons Co | 03-31-89 | G-S | | |
| ST89-2875 | ANR Pipeline Co | Northern Illinois Gas Co | 03-31-89 | B | | |
| ST89-2876 | ANR Pipeline Co | Wisconsin Public Service Corp | 03-31-89 | B | | |
| ST89-2877 | ANR Pipeline Co | Wisconsin Public Service Corp | 03-31-89 | B | | |
| ST89-2878 | ANR Pipeline Co | Enron Gas Marketing, Inc | 03-31-89 | G-S | | |
| ST89-2879 | ANR Pipeline Co | BP Gas Transmission Co | 03-31-89 | B | | |
| ST89-2880 | ANR Pipeline Co | Coastal Gas Marketing Co | 03-31-89 | G-S | | |
| ST89-2881 | ANR Pipeline Co | Fuel Service Group | 03-31-89 | G-S | | |
| ST89-2882 | ANR Pipeline Co | Northern Illinois Gas Co | 03-31-89 | B | | |
| ST89-2883 | ANR Pipeline Co | NGC Intrastate Pipeline Co | 03-31-89 | B | | |
| ST89-2884 | ANR Pipeline Co | Northern Indiana Fuel & Light Co | 03-31-89 | B | | |
| ST89-2885 | ANR Pipeline Co | Enron Gas Marketing, Inc | 03-31-89 | G-S | | |
| ST89-2886 | ANR Pipeline Co | NGC Intrastate Pipeline Co | 03-31-89 | B | | |
| ST89-2887 | ANR Pipeline Co | Michigan Consolidated Gas Co | 03-31-89 | B | | |
| ST89-2888 | ANR Pipeline Co | Battle Creek Gas Co | 03-31-89 | B | | |
| ST89-2889 | Northern Natural Gas Co | Meridian Oil Trading, Inc | 03-31-89 | G-S | | |
| ST89-2890 | United Gas Pipe Line Co | Llano, Inc | 03-31-89 | B | | |
| ST89-2891 | Southern Natural Gas Co. | Superior Natural Gas Corp | 03-31-89 | G-S | | |
| ST89-2892 | Southern Natural Gas Co. | TXG Gas Marketing Co | 03-31-89 | G-S | | |
| ST89-2893 | Southern Natural Gas Co. | Bay Spring System Supply | 03-31-89 | B | | |
| ST89-2894 | Southern Natural Gas Co. | Shell Gas Trading Co | 03-31-89 | G-S | | |
| ST89-2895 | Southern Natural Gas Co. | Citizens Gas Supply Corp | 03-31-89 | G-S | | |
| ST89-2896 | Tennessee Gas Pipeline Co | North Penn Gas Co | 03-31-89 | B | | |
| ST89-2897 | Natural Gas Pipeline Co. of America | National Fuel Gas Distribution Corp | 03-31-89 | B | | |
| ST89-2898 | Transok, Inc | Panhandle Eastern Pipe Line Co | 03-31-89 | C | 08-28-89 | 32.50 |
| ST89-2899 | Transok, Inc | Arkla Energy Resources | 03-31-89 | C | 08-28-89 | 32.50 |
| ST89-2900 | Transok, Inc | Natural Gas Pipeline Co. of America | 03-31-89 | C | 08-28-89 | 32.50 |
| ST89-2901 | Algonquin Gas Transmission Co | Boston Gas Co | 03-31-89 | B | | |

| Docket number [1] | Transporter/Seller | Recipient | Date filed | Subpart | Expiration date [2] | Transportation rate (¢/MMBtu) |
|---|---|---|---|---|---|---|
| ST89-2902 | Algonquin Gas Transmission Co | Citizens Gas Supply Corp | 03-31-89 | B | | |
| ST89-2903 | Algonquin Gas Transmission Co | Providence Gas Co | 03-31-89 | B | | |
| ST89-2904 | El Paso Natural Gas Co | Cabot Gas Supply Corp | 03-31-89 | G-S | | |
| ST89-2905 | Trunkline Gas Co | Bethlehem Steel Corp | 03-31-89 | G-S | | |
| ST89-2906 | Trunkline Gas Co | City of Byhalia | 03-31-89 | B | | |
| ST89-2907 | Trunkline Gas Co | Consumers Power Co | 03-31-89 | B | | |
| ST89-2908 | Trunkline Gas Co | Bishop Pipeline Corp | 03-31-89 | B | | |
| ST89-2909 | Trunkline Gas Co | Arco Oil & Gas Co | 03-31-89 | G-S | | |
| ST89-2910 | Trunkline Gas Co | Anadarko Trading Co | 03-31-89 | G-S | | |
| ST89-2911 | Trunkline Gas Co | American Central Gas Marketing Co | 03-31-89 | G-S | | |
| ST89-2912 | Trunkline Gas Co | Transcontinental Gas Pipe Line Corp | 03-31-89 | G | | |

[1] Notice of transactions does not constitute a determination that filing comply with Commission regulations in accordance with Order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/18/85).

[2] The Intrastate Pipeline has sought commission approval of its transportation rate pursuant to section 284.123(b)(2) of the Commission's regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 89-11003 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. TQ89-2-20-000 TM89-10-20-001]**

## Algonquin Gas Transmission Company; Proposed Changes in FERC Gas Tariff

May 3, 1989.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on April 28, 1989, tendered for filing, proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the following tariff sheet:

**Proposed to be effective May 1, 1989**

Substitute Twenty-sixth Revised Sheet No. 205

**Proposed to be effective June 1, 1989**

Thirty-second Revised Sheet No. 201

Algonquin states that pursuant to section 17 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, it is filing Thirty-second Revised Sheet No. 201 to update its latest estimate of purchased gas costs based upon changes by its supplier, Texas Eastern in the rates of the underlying services as set forth in Texas Eastern's filing dated March 31, 1989 in Docket No. TQ89-2-17-001.

Algonquin states the rate changes represent a projected increase in its purchased gas costs of approximately $283,000 for the effective period of Algonquin's instant Quarterly PGA filing for Rate Schedules F-1, WS-1, E-1 and I-1.

Algonquin states that pursuant to section 7 of rate schedule F-4, it is filing Substitute Twenty-sixth Revised Sheet No. 205 to track changes made by its pipeline supplier, Texas Eastern, in the service underlying Algonquin's rate Schedule F-4. The effect of the change is to increase the demand charge by 1.1 cents per MMBtu and the commodity charge by 2.85 cents per MMBtu.

Algonquin notes that copies of this filing were served upon each affected party and interested state commission.

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 §§ 3895.214 and 385.211 of the Commission's Rules and Regulations. All such motions of protests should be filed on or before May 10, 1989. 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 be 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 in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-11004 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. CP89-1233-000]**

## CNG Transmission Corp. v. Michigan Consolidated Gas Co.—Utility Division; Filing of Complaint

May 4, 1989

Take notice that on April 18, 1989, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP89-1233-000, a complaint against Michigan Consolidated Gas Company-Utility Division (MichCon) pursuant to Rule 206, 18 CFR 385.206. CNG's complaint addresses applications by MichCon, in Docket Nos. CP88-464-000 and CP88-509-000, seeking authority pursuant to section 3 of the Natural Gas Act for the siting, construction, and operation of a pipeline at the Canadian border to be used to import and export natural gas.

MichCon proposes to construct and operate a pipeline under the St. Clair River at the international border in order to facilitate the transportation and exchange of gas between MichCon and Union Gas Limited, a local distribution company in Ontario, Canada. Pursuant to the contractual agreements of the parties, MichCon would transport gas which Union Gas would export and import between the United States and Canada. The project consists of approximately three miles of 24-inch pipeline for the purpose of transporting natural gas between a proposed gas pipeline in Ontario, Canada, and MichCon's Belle River Mills station in St. Clair County, Michigan. The proposed pipeline would be sized so as to allow an initial flow of 2000 MMcf of natural gas per day.

CNG's complaint alleges that, contrary to the assertions contained in MichCon's applications, construction and operation of the proposed pipeline constitutes transactions in interstate commerce subject to the Commission's jurisdiction under section 7(c) of the Natural Gas Act, and that MichCon's transportation authorization pursuant to Order No. 63 does not provide authorization for construction of the proposed pipeline. CNG requests that the Commission enjoin MichCon from proceeding with construction of the proposed pipeline. CNG's complaint adopts, in all substantive respects, the arguments and rationale contained in a complaint filed by TransCanada PipeLines Limited (TransCanada) in Docket No. CP89-8-000. Notice of TransCanada's complaint was published in the **Federal Register** on November 8, 1988 (53 FR 45156).

CNG's complaint further alleges that MichCon's proposal was filed, in part, to provide gas service to markets in the northeast United States. Allegedly, such service would compete directly with service presently provided by CNG and with proposed projects now before the

Commission in proceedings for certificates of public convenience and necessity. Since MichCon did not file its application in compliance with the schedule established by the Commission for new service to the northeast, CNG requests that the Commission find that MichCon's requests for approval are out of time and that any future requests by MichCon to certificate facilities that will be used to serve northeast markets will be processed after all the pending "open season" proposals.

Any person desiring to be heard or make any protest with reference to said filing should file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All such petitions should be filed within 30 days following publication of this notice in the **Federal Register**. Protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection. Respondent's answer to the complaint is also due on or before 30 days following **Federal Register** publication.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-11059 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. TQ89-3-24-000]**

## Equitrans, Inc.; Proposed Change in FERC Gas Tariff

May 3, 1989.

Take notice that Equitrans, Inc. (Equitrans) on May 1, 1989, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to become effective June 1, 1989.

Seventh Revised Sheet No. 10
Seventh Revised Sheet No. 14
First Revised Sheet No. 34

Equitrans states that the filing is made pursuant to Section 154.308 and Section 154.304 of the Commission's Regulations and is in conformity to the provisions of Order 483, as amended.

Equitrans states that the change in rates results from the application of the Purchased Gas Cost Adjustment provision in Section 19 of its General Terms and Conditions of its FERC Gas Tariff, Orignial Volume No. 1.

Equitrans states the current PGA to Rate Schedule PLS is a decrease of $.4436 per dekatherm (DTH). This change results in a current estimated average cost of gas in this filing of $2.0482 per dth and a Total Commodity charge of $2.4860 per dth, including GRI and ACA.

Equitrans states the current adjustment to D(1) Purchased Gas Costs for Rate Schedule PLS reflects an increase of $.0375 per dth for an overall D(1) demand cost of $2.9047 per dth.

Equitrans states the current adjustment to D(2) Purchased Gas Costs for Rate Schedule PLS reflects a decrease of $.0056 per dth for an overall D(2) demand cost of $.0671 per dth.

Equitrans states the current PGA to Rate Schedule GS-1 is an increase of $1.3889 per dth. This change results in a current estimated average cost of gas in this filing of $4.3107 per dth and a Total Commodity Charge of $4.5134 per dth, including GRI and ACA.

Equitrans states that on Feb. 1, 1989, the Commission approved its Rate Schedule ISS, in Docket No. CP88-546. The currend adjustment of Rate Schedule ISS is a decrease of $.2836 per dth. This change results in a current estimated weighted average cost of gas in this filing of $2.0482 per dth, a Total Maximum Rate for sales of $2.6486 per dth, and a Total Minimum Rate for sales of $2.2585 per dth, including GRI and ACA.

Equitrans states that a copy of its filing has been served upon its purchasers, interested state commissions, and upon each party on the service list of Docket No. CP86-676-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 and § 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or 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. All such motions to intervene or protests should be filed on or before May 10, 1989.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-11005 Filed 5-8-89 8:45 am]

BILLING CODE 6717-01-M

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**[Project No. 10012-000-Massachusetts]**

## Hudson Power and Light Department; Surrender of Exemption

May 4, 1989.

Take notice that the Hudson Power and Light Department exemptee for the Washington Street Project No. 10012, has requested that its exemption issued on May 6, 1987, be surrendered. The project would have been located on the Assabet River, hear Hudson, in Middlesex County, Massachusetts. No construction has been performed. The exemptee requests that the exception be terminated because the exemptee has determined that the project is uneconomical.

The exemptee filed a request on March 24, 1989, and the exemption for Project No. 10012 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

**Louis D. Cashell,**

*Secretary.*

[FR Doc. 89-11016 Filed 5-8-89; 8:45 am]

BILLING CODE 6767-01-M

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**[Docket No. TQ89-3-15-000]**

## Mid Louisiana Gas Co.; Compliance of Filing

May 3, 1989.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on April 28, 1989, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheet to become effective June 1, 1989:

| | Superseding |
|---|---|
| Sixty-Eighth Revised Sheet No. 3a. | Substitute Sixty-Seventh Revised Sheet No. 3a. |

Mid Louisiana states that the purpose of the filing of Sixty-Eighth Revised Sheet No. 3a is to reflect a $.0128 per MCF decrease in its current cost of gas.

This filing is being made in accordance with Section 19 of Mid Louisiana's FERC Gas Tariff. Copies of this filing have been mailed to Mid Louisiana's Jurisdictional Customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Sections 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 May 10, 1989. 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,**

*Secretary.*

[FR Doc. 89-11006 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP89-12-004 and TM89-3-25-000]**

## Mississippi River Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 3, 1989.

Take notice that on April 26, 1989, Mississippi River Transmission Corporation ("MRT") tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

| Tariff sheet | Proposed effective date |
|---|---|
| Third Revised Sheet No. 4A.2. | May 1, 1989. |
| Alternate Third Revised Sheet No. 4A.2. | May 1, 1989. |

MRT states that its filing is being submitted to comply with the Commission's March 24, 1989 Order Denying Rehearing in Docket No. RP89-12-002 which requires MRT to file primary and alternate tariff sheets to reflect two methods of calculating take-or-pay charges and to reflect the decrease in MRT's allocation of take-or-pay costs incurred from Trunkline Gas Company in Docket Nos. RP88-239-006 and RP89-11-000.

MRT states that the impact of the instant filing is a decrease of approximately $1.3 million annually under the primary tariff sheet and approximately $1.5 million annually under the alternate tariff sheet to its jurisdictional customers when compared to charges currently in effect.

MRT states that copies of its compliance filing were mailed to all parties in this proceeding, its jurisdictional sales customers and appropriate state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 10, 1989. 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 Cashell,**

*Secretary.*

[FR Doc. 89-11007 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. TQ89-2-26-000]**

## Natural Gas Pipeline Co. of America; Changes in Rates

May 3, 1989.

Take notice that on April 27, 1989, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff) the below listed tariff sheets to be effective June 1, 1989 (off-peak rates).

Twenty-first Revised Sheet No. 58; Twenty-second Revised Sheet No. 5C.

Natural states the purpose of the intent filing is to implement Natural's quarterly PGA unit rate adjustment calculated pursuant to Section 18 of the General Terms and Conditions of Natural's Tariff.

Natural states the overall effect of the quality adjustment when compared to Natural's annual PGA filing in Docket No. TA89-1-26-000 effective March 1, 1989, is a decrease in the off-peak DMQ-1 commodity charge of 67.28¢, a decrease in the off-peak DMQ-1 demand charge of $.04 and an increase in the off-peak DMQ-1 entitlement charge of $.0023. Appropriate adjustments have been made with respect to Natural's other rate schedules.

A copy of the filing is being mailed to Natural's jurisdictional sales customers and interested state regulatory agencies.

Any person desiring to be heard or to protest 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 Sections 385.214 and 385.211. All such motions or protests must be filed on or before May 10, 1989. 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,**

*Secretary.*

[FR Doc. 89-11008 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP85-206-043]**

## Northern Natural Gas Co.; Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

May 3, 1989.

Take notice that Northern Natural Gas Company, Division of Enron Corp., (Northern) on April 26, 1989, tendered for filing revised changes in its FERC Gas Tariff in compliance with the Commission's Order dated March 27, 1989 in this proceeding. Northern states that the filing reflects the elimination of the minimum commodity bill form the PL-1 Rate Schedule. Northern has requested that the proposed filing be made effective April 1, 1989.

The Company states that copies of the filing have been mailed to each of its customers purchasing gas and receiving transportation and gathering services under its FERC Gas Tariff and to interested State Commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before May 10, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will 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,**

*Secretary.*

[FR Doc. 89-11009 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. GP89-30-000]**

## Realitos Energy Corp.; Petition for Waiver

May 4, 1989.

Take notice that on January 9, 1989, Realitos Energy Corporation (Realitos) filed with the Commission a petition for waiver. Realitos requests waiver of any refund obligation for amounts collected in excess of the maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA) for gas production from the O.R. Strunk Estate No. 1 well, located in Wharton County, Texas.

Realitos states that the subject well was originally completed in the Lissie South (Wilcox 9800) reservoir and produced for several years until the reservoir was depleted in the well area and that a proper filing was made with the Commission to entitle Realitos to the section 102 price. Realitos further states that the well was recompleted in the Lissie South (Yegua 7100) reservoir in February, 1982 and that documents were filed with the Railroad Commission of Texas (Texas) establishing a newly discovered reservoir.

Realitos submits that Mr. Robert A. Lindahl, a Vice President of Realitos, handled all Texas and Commission filings. Realitos further submits that Mr. Lindahl died about one year prior to this filing and that a note was found from him to a clerk instructing her to make the Commission filing on recompletion. Realitos states that a diligent search of its files and Texas' files does not reveal a Commission filing and it must assume there was none.

Realitos asserts that since if it had made a timely Commission filing the recompletion gas would have qualified for the section 102 price, there was no real or actual overcharge for the gas sold from March 1982, until deregulation in 1985, and that Realitos and its co-owners did not receive a price for the gas greater than that for which it qualified under actual circumstances.

Realitos states that it operated a number of other wells and duly made proper filings with the Commission and that its failure in this instance was pure clerical oversight and not an attempt to evade the law or collect a price above that for which the well qualifies. Realitos further states that requiring refunds and interest under such circumstances would be unjust and a harsh punishment.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 and 385.211 (1989). All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, not later than 30 days following publication of this notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of this petition are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-11017 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. RP89-85-002]**

## Sea Robin Pipeline Company; Compliance Tariff Filing

May 3, 1989.

Take notice that on April 28, 1989, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas 77251-1478, in accordance with the Letter Order issued March 31, 1989 by the Commission (Letter Order) in the above referenced dockets, submitted for filing to be effective April 1, 1989 the following revised tariff sheets:

**Original Volume No. 1**

Substitute Second Revised Sheet No. 70,
Substitute Original Revised Sheet No. 70-A.

Sea Robin states that these tariff sheets delete and modify tariff language as specified by the March 31, 1989 Letter Order.

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, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such motions or protests should be filed on or before May 10, 1989.

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 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,**

*Secretary.*

[FR Doc. 89-11010 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. RP89-153-000]**

## Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 3, 1989.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on April 26, 1989 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Seventh Revised Sheet No. 76,
Seventh Revised Sheet No. 77,
Seventh Revised Sheet No. 78,
Seventh Revised Sheet No. 79,
Seventh Revised Sheet Nos. 80-99,
Original Sheet No. 483G, and
Original Sheet No. 483H.

Texas Eastern states that the purpose of this filing is to establish the procedures pursuant to which Texas Eastern will recover a portion of the take-or-pay charges to be paid by United to Sea Robin Pipeline Company (Sea Robin) as proposed by United in Docket No. RP89-147 on April 10, 1989.

Texas Eastern states that on April 10, 1989 United filed tariff sheets in Docket No. RP89-147 to recover take-or-pay charges to be paid by United to Sea Robin as proposed by Sea Robin in a filing made March 31, 1989 in RP-89-141. United proposes to recover from its jurisdictional customers 100% of the jurisdictional portion of the take-or-pay costs billed by Sea Robin and paid by United. Pursuant to the allocation methodology proposed by United, United will bill and recover from Texas Eastern an aggregate principal amount of $13,325,406, which includes a predetermined carrying charge, by means of a monthly charge of $2,220,901 for a 6 month period beginning April 1, 1989.

Texas Eastern states that tariff sheets 483G and 483H proposed for filing herein are being filed solely to establish the procedures for recovering Sea Robin's take-or-pay charges to be billed by United and paid by Texas Eastern as proposed in United's April 10, 1989 filing. Seventh Revised Sheet Nos. 76 through 79 set forth the principal amount plus the allocation factor for carrying costs that each customer will be required to pay in order to recover United's take-or-pay charges billed to Texas Eastern pursuant to United's

April 10 filing. Workpapers setting forth Texas Eastern's determination of the allocation factor for the principal amount (which includes a predetermined carrying charge) and a breakdown of the total and monthly principal amounts (which includes a predetermined carrying charge) each Texas Eastern customer will be required to pay are set forth under Appendix A attached to the filing.

Texas Eastern states that in tracking United's methodology, it has given recognition to purchases by Texas Eastern's Rate Schedule SGS customers under Rate Schedule I in the determination of the base and deficiency periods, to the extent these customers did not request Rate Schedule I gas in lieu of Rate Schedule SGS gas, but were given the benefit of the lower I rate. This methodology is consistent with the methodology used and approved by the Commission in Texas Eastern's previous filings.

The proposed effective date of the above tariff sheets is May 1, 1989.

If at any time United is permitted or required by Commission order to change its take-or-pay procedures and/or the amounts to be recovered pursuant thereto, Texas Eastern states it will likewise change its take-or-pay procedure and/or the amounts to be recovered pursuant thereto. In that regard, Texas Eastern has protested the use of a six month amortization period as proposed in RP89-147. As set forth in Texas Eastern's motion (a copy of which is attached), Texas Eastern submits that United should be required to use the same amortization period as it utilized in Docket No. RP88-27. In addition, Texas Eastern expressly agrees to refund to its customers all refunds received from United in the above proceedings.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 10, 1989. 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,**

*Secretary.*

[FR Doc. 89-11011 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP-95-001]**

## Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 3, 1989.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on April 28, 1989 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheet:

**Substitute Second Revised Sheet No. 316**

Texas Eastern states that this filing makes the revisions to Texas Eastern's March 1, 1989 tariff filing in Docket No. RP89-95 as required by the Commission's March 31, 1989 order.

Texas Eastern states that its Mar. 1, 1989 filing was accepted subject to refund and conditions imposed by the Commission's March 31, 1989 order. This order requires Texas Eastern to modify and refile Second Revised Sheet No. 316 submitted on March 1, 1989 within 30 days of the issuance of the March 31 Order. Section 15.2(c) of Rate Schedule FT-1 on Sheet No. 316 as originally filed on March 1, 1989 required shippers acquiring firm transportation capacity on the Outer Continental Shelf utilized by others under Texas Eastern's Original Volume No. 2 Rate Schedules to execute a contract containing the identical terms and conditions contained in those Rate Schedules. In compliance with the March 31, 1989 order Texas Eastern has revised paragraph (c) of § 15.2 of Rate Schedule FT-1 to require shippers acquiring firm transportation capacity on the Outer Continental Shelf utilized by others under Texas Eastern's Original Volume No. 2 Rate Schedules to execute an FT-1 Service Agreement and agree to pay rates for such firm transportation capacity which are not less than the rates contained in the Original Volume No. 2 Rate Schedules, unless a lower rate is agreed to by Texas Eastern.

The proposed effective date of the above tariff sheet is April 1, 1989.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 10, 1989. 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,**

*Secretary.*

[FR Doc. 89-11012 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. TM89-5-17-000]**

## Texas Eastern Transmission Corporation; Proposed Changes in FERC Gas Tariff

May 2, 1989.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on April 26, 1989 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheet:

Second Substitute Thirteenth Revised Sheet No. 50

Texas Eastern states that Sheet No. 50 is filed pursuant to Section 4.F of Texas Eastern's Rate Schedule SS-2 and Section 4.F of Texas Eastern's Rate Schedule SS-3 which provide for an automatic rate adjustment to flow through any changes in CNG Transmission Corporation's (CNG) Rate Schedule GSS rates which underlie Texas Eastern's Rate Schedules SS-2 and SS-3.

Texas Eastern states that CNG filed on March 31, 1989, to increase the Rate Schedule GSS rates as a part of their filing to recover take-or-pay settlement payments on Docket No. RP89-124-000. Pursuant to Rate Schedules SS-2 and SS-3 of Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1, any change in CNG's GSS rates are flowed through to Texas Eastern's SS-2 and SS-3 rates. Schedule A herein reflects the calculations involved in tracking the GSS rate changes through Texas Eastern's Rate Schedules SS-2 and SS-3. These rates reflect the increase in CNG's GSS rates as a result of CNG's take-or-pay commodity surcharge of $.0033 per dth which is proposed to be effective May 1, 1989.

Texas Eastern states that Section 4.F of its Rate Schedules SS-2 and SS-3 states that each change in Texas

Eastern's rates to reflect changes in CNG's Rate Schedule GSS rates shall become effective without suspension.

The proposed effective date of the above tariff sheet is May 1, 1989.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 9, 1989. 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,**

*Secretary.*

[FR Doc. 89-11061 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. TM89-29-000]**

## Transcontinental Gas Pipe; Line Corporation Proposed Changes in FERC Gas Tariff

May 2, 1989.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on April 27, 1989, certain revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff. Transco states that the purpose of this filing is to track, pursuant of Section 4 of Transco's LSS Rate Schedule, rate changes in storage service purchased from CNG Transmission Corporation (CNG) which rates are included in Transco's Rate Schedule LSS.

Transco states that on July 1, 1988, CNG filed in Docket No. RP88-211-000 revised rates proposed to become effective August 1, 1988. Included therein was an increase in CNG's charges to Transco under CNG's Rate Schedule GSS. By order issued August 1, 1988 the Commission accepted and suspended the filed tariff sheets to be effective January 1, 1989, subject to refund.

Transco states that on December 30, 1988, CNG filed primary and alternate tariff sheets in Docket No. RP88-211-000. The alternate tariff sheets were filed in compliance with the August 1, 1988 suspension order and the December 21, 1988 order on rehearing in the above docket. The primary tariff sheets were filed to incorporate a voluntary rate reduction, below the rates which are reflected on the alternate tariff sheets which were filed at the same time, for sales and transportation customers (but not for contract storage customers under Rate Schedule GSS). By order issued January 31, 1989, the Commission accepted the primary tariff sheets effective January 1, 1989, subject to refund.

Transco states that also included for filing are revised tariff sheets proposed to be effective February 1, 1989, April 1, 1989 and May 1, 1989. Such sheets incorporate the revised Rate Schedule LSS rates filed herein to be effective January 1, 1989 into tariff sheets which have been filed with the Commission subsequent to January 1, 1989.

Transco states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 10, 1989. 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 in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-11062 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP89-151-000]**

## Transwestern Pipeline Co.; Petition for Tariff Waiver

May 3, 1989.

Take notice that on April 26, 1989, Transwestern Pipeline Company (Transwestern) filed a petition for waiver of Section 14(E)(iv) of its FERC Gas Tariff, Rate Schedule ITS-1, pursuant to Rule 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission) in order to give substance and effect to the Commission's "first-come, first-served" principle set forth in Order Nos. 436 and 500.

Transwestern states that the limited waiver would allow all interruptible shippers on the Transwestern system that currently are entitled to receive volumes of gas at the point of delivery located at the western terminus of the Transwestern system (i.e., at the Arizona/California border where the facilities of Transwestern interconnect with the facilities of Southern California Gas Company) to make a one-time, irrevocable transfer of entitlements, without loss of priority, to a new delivery point to be established on the Transwestern system. The new delivery point is to be located at the interconnection of Transwestern and a newly-proposed open access intrastate pipeline in California, the Colorado River Pipeline Company.

Transwestern states the limited waiver is necessary to allow Transwestern's interruptible shippers to utilize their capacity rights, and to reconcile the state priority system governing interutility gas transportation in California and the Commission's priority scheme established pursuant to Order Nos. 436 and 500.

Any person desiring to be heard or to protest said petition should file a motion to intervene or protest with the Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St. NE., Washington, DC 20426, on or before 5/10/89, and in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). 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 petition are on file with the Commission and are available for public inspection in the Public Reference Room.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-11013 Filed 5-8-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. RP89-89-001]**

## United Gas Pipe Line Co.; Compliance Tariff Filing

May 3, 1989.

Take notice that on April 28, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, in accordance with the Letter Order issued March 31, 1989 by the Commission (Letter Order) in the above

referenced dockets, submitted for filing to be effective April 1, 1989 the following revised tariff sheets:

**First Revised Volume Sheet No. 1**

Substitute Third Revised Sheet No. 48–A
Substitute Original Sheet No. 48–A1
Substitute Original Sheet No. 48–A2

United states that these tariff sheets delete and modify tariff language as specified by the March 31, 1989 Letter Order.

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, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such motions or protests should be filed on or before May 10, 1989.

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 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,**

*Secretary.*

[FR Doc. 89–11014 Filed 5–8–89; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP89–155–000]**

## United Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

May 3, 1989.

Take notice that United Gas Pipe Line Company (United), on April 27, 1989, in order to implement a contractually authorized rate decrease, tendered Seventh Revised Sheet No. 8 and Eighth Revised Sheet No. 9 for filing in ANR Storage Company's (ANR Storage) FERC Gas Tariff, Original Volume No. 2, Rate Schedule X–1. The proposed change would decrease jurisdictional revenues by approximately $600,000 per month.

United states that the proposed rate decrease is in accordance with its contract and is required to establish a just and reasonable rate. It proposes that such rate become effective May 1, 1989.

Copies of the filing have been served upon ANR Storage and interested public service commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 10, 1989. 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 Cashell,**

*Secretary.*

[FR Doc. 89–11015 Filed 5–8–89; 8:45 am]

BILLING CODE 6717–01–M

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## ENVIRONMENTAL PROTECTION AGENCY

### Office of Pesticides and Toxic Substances

**[OPP–00277; FRL–3568–9]**

## State-FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees; Open Meetings

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** There will be a 2-day meeting of the Working Committee on Environment and Certification of the State-FIFRA Issues Research and Evaluation Group (SFIREG) and a 2-day meeting of the SFIREG Working Committee on Registration and Classification to discuss various aspects of pesticide regulations. The meetings will be open to the public.

**DATE:** The Working Committee on Enforcement and Certification will meet on Tuesday and Wednesday, May 23 and 24, 1989, and the Working Committee on Registration and Classification will meet on Thursday and Friday, May 25 and 26, 1989. The meetings of both committees will start at 8:30 a.m. each day and adjourn at 4:30 p.m. the first day and approximately noon on the second day.

**ADDRESS:** The meetings will be held at: Holiday Inn Harrisburg East, 4751 Lindle Road, Harrisburg, Pennsylvania 17111.

**FOR FURTHER INFORMATION CONTACT:**

By mail: John T. Tice, Office of Pesticide Programs (H7506C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Room 712, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703)–557–7410.

**SUPPLEMENTARY INFORMATION:** The meeting of the Working Committee on Enforcement and Certification will be concerned with the following topics:

1. Status reports on and discussion of the following: uniform reporting of state enforcement activities; EPA cooperative agreement guidance; bulk handling policy; chemigation policy; closed cab policy; advertising regulation; enforcement policy for re-entry into "u-pick" crops; worker protection regulations (CFR Part 170); certification and training regulations (CFR Part 171); section 12(a)(2)(F) regulations; Regulatory Action Tracking System (RATS); inspector training; progress of the pilot FIFRA–TSCA (Toxic Substance Control Act)-Tracking System (FTTS); Record keeping including pesticide use and illness reporting; EPA's FY90 budget; good laboratory practice regulations; Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) 1988 amendments related enforcement activities; update on certification and training activities; minor use registrations and their impact on enforcement; and Tributyl Tin (TBT) enforcement policy.

2. Other topics as appropriate.

The meeting of the Working Committee on Registration and Classification will be concerned with the following topics:

1. Status reports on and discussion of the following topics discussed during the Enforcement and Certification meeting; Bulk handling; chemigation; re-entry for "u-pick" crops; worker protection regulations; EPA's FY90 Budget; FY90 grant guidance.

2. Status reports and discussion of the following topics: update on "statement of practical treatment"; state responsibilities for regulating biotechnology pesticides; plans for enforcement activity on distributor products-state role; FIFRA amendment-requests for information on inerts; EPA handling of applications and labeling under generic registration standards (boric acid and borates); lower certified limits versus nominal concentration as the pesticide label guarantee; discussion of EPA's policy on registration of non-traditional pesticides; confusing labels on restricted-use pesticides; implementation of FIFRA 1988 provisions for reregistration; National pesticide monitoring plan update; National Agricultural Chemicals Association (NACA) and EPA's label improvement project; registration and special review status of Quintox (cholecalciferol); AIDS-infection control information on labels; and Endangered Species Update.

3. Other topics as appropriate.

Dated: May 4, 1989.

**Douglas D. Campt,**

*Director, Office of Pesticide Programs.*

[FR Doc. 89-11217 Filed 5-8-89; 9:05 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

**[Gen. Docket No. 88-328; FCC 89-110]**

## Broadcast Services; Revision of Application for Construction Permit for Commercial Broadcast Station (FCC Form 301)

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of changes to FCC form 301.

**SUMMARY:** This document gives notice of revision to FCC Form 301, the application form for construction permits for broadcast stations, regarding the submission of additional financial, ownership and integration information from applicants for new boadcast facilities. The revisions were originally suggested by an *ad hoc* committee of the Federal Communications Bar Association as a step towards eliminating abuse of the Commission's licensing process, especially through filing of sham applications.

**DATE:** After Office of Management and Budget approval has been obtained, the Commission will issue a notice informing the public of the precise date upon which the new requirements contained within Form 301 will become effective.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Douglas Minister, Mass Media Bureau, (202) 632-7792.

**SUPPLEMENTARY INFORMATION:** Public reporting burden for this collection of information is estimated to vary from 72 hours 30 minutes per response to 302 hours 15 minutes per response with an average of 110 hours 13 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Office of the Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060-0027), Washington, DC 20503.

This is a synopsis of the Commission's *Report and Order* in MM Docket No. 88-328, adopted March 30, 1989, and released April 20, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

### Summary of Changes

1. The Commission has made changes in the information to be submitted in conjunction with FCC Form 301, Application for Construction Permit for Commercial Broadcast Station. These changes, which call for additional financial, ownership and integration information, were prompted by a proposal by an *ad hoc* committee of the Federal Communications Bar Association (FCBA), and apply to applicants for construction permits for new stations as well as for stations mutually exclusive with those subject to license renewal. They are intended to fill gaps in the Commission's reporting requirements that have led to opportunities for abuse in the application process. Upon obtaining Office of Management and Budget approval, the Commission will release a notice informing the public of the precise date upon which the new changes will become effective. From the effective date until a new Form 301 is made available that incorporates these new changes, applicants are to include the new information as a supplement to the existing Form 301.

2. Among the changes made by the Commission were those relating to ownership information filed by applicants in their applications. In this regard, the Commisson's legal qualifications questions appearing in Form 301 were changed to include within their scope "non-party equity owners" in the applicants. A "non-party equity owner" is any holder of an equity interest in the applicant that is generally considered a noncognizable interest. For example, where the applicant is a partnership, a limited partners are non-party equity owners. Similarly, where the applicant is a corporation, all nonvoting stockholders, stockholders with less than 5% voting stock interest, and stockholders with less than a majority interest in voting stock where a single entity holds more than 50% of the voting stock fall within this category of non-party equity owners. In the event there are more than fifty (50) stockholders or owners of equity interests in the applicant, however, only those with 5% or more of the total equity are considered non-party equity owners. As a result of the creation of this new category, applicants must include information for "non-party equity owners" regarding character, family members' broadcast interests, and interests in other broadcast applications/licenses, similar to the information already requested in Form 301 for equity owners.

3. In addition, non-individual applicants are to provide in, conjunction with the legal qualification section of Form 301, the date and location of filing of the applicant's enabling charter, *e.g.*, a limited partnership must identify its certificate of limited partnership and a corporation must identify its articles of incorporation by date and place of filing. In the event there is no requirement that the enabling charter be filed with the state, the applicant is to include the charter in its public inspection file. Applicants also are to identify all equity owners in the applicant, including general and limited partners and voting and nonvoting shareholders, except where there are more than 50 equity owners. Where there are more than fifty equity holders, the applicant must identify only those equity holders who own 5% or more of the total equity in the applicant. In addition, these revisions to Form 301 include identification and submission by applicants of instruments, documents, contracts or understandings related to future ownership rights in the applicant, including but not limited to, insulated limited partnership shares, nonvoting stock interests, beneficial stock ownership interests, options, rights of first refusal, or debentures. In this regard, particulars of any oral agreement must be reduced to writing and also be submitted as an exhibit.

4. In undertaking these revisions, the Commission stated that the additional ownership information will help it and the other parties to the proceeding identify real parties-in-interest and thereby deter persons from setting up sham applicants to achieve a comparative preference or to evade Commission policies or rules. Where an applicant does not provide the additional ownership data, the Commission stated, the Hearing Designation Order will include an issue regarding the real party-in-interest in the applicant and will direct that the

relevant information be supplied within a specified time.

5. With regard to financial information, the Form 301 changes include submission by the applicant of an estimate of the initial costs of constructing and operating the proposed facility. As per the Commission's revisions, the estimate is to include, but is not limited to, costs incurred for: the antenna system; RF generating equipment, monitoring and test equipment; program origination equipment; acquiring land; acquiring remodeling or constructing buildings; services (including legal, engineering, and installation costs); and, miscellaneous items (including mobile and STL equipment, non-technical studio furnishing, etc.). The estimate also is to include the cost of operating the proposed facility for the first three months, including the costs of proposed programming, without relying on advertising or other revenues to meet operating costs. Moreover, to arrive at an estimate of the total costs to be met by the applicant, the total construction cost is to be added to the estimated cost of operation for three months.

6. Also under the Form 301 changes, the applicant is to identify in the application its sources of funding for the construction and operation of the proposed facility for the first three months. In this regard, the funding sources listed on the application should include, if applicable, existing capital, new capital, loans from banks (identified separately), loans from others (identified separately), profits from existing operations, donations, and net deferred credit from equipment suppliers (identified separately and determined by deducting from the deferred credit the down payment, payments to principal, and interest payments). For each source of funding, the applicant is to identify the source's name, address, telephone number, a contract person if the source is an entity, the relationship (if any) of the source to the applicant, and the amount of funds to be supplied by the source. The totel amount of funds to be supplied by all the sources listed should equal or exceed the estimated cost of construction and operation. Underlying documentation to verify its cost estimate or funding sources is not required under the new revisions but applicants are to have such information on hand at the time their applications are submitted.

7. The applicant is also to have on hand at the time it files its application documentation in the form of a detailed balance sheet as of the close of month within 90 days of the date of the application showing the applicant's financial position and also a statement showing the yearly net income, after Federal income tax, for each of the past two years, received by the applicant from any source. In addition, for each person who has already furnished funds, purchased stock extended credit, or guaranteed loans, the applicant is to retain a copy of the agreement obligating the party to furnish funds, showing the amount furnished, the rate of interest, the terms of repayment, and security, if any. Similarly, for each person who has agreed to furnish funds, purchase stock, extend credit, or guarantee loans, the applicant is to have a balance sheet or a financial statement showing all liabilities and current and liquid assets sufficient to meet current liabilities, financial ability to comply with the terms of the agreement to furnish funds, purchase stock, extend credit, or guarantee loans, and net income after Federal income tax, received for the past two years. If the financial statement does not indicate current and liquid assets sufficient to meet the proposed commitments, the applicant must supplement it by a statement showing how non-liquid assets will be used to provide the funds, and the extent to which such assets have liens or prior obligations against them. For financial institutions or equipment manufacturers who have agreed to make a loan or extend credit, the applicant must have in its possession the document by which the institution or manufacturer has agreed to provide the loan or credit, showing the amount of loan or credit, terms of payment or repayment of the loan, collateral or security required, rate of interest to be charged, any special requirements (*e.g.*, moratorium or principal or interest, waiver of collateral, etc.), and a statement from any parties required to provide special endorsements showing their willingness to provide such endorsements.

8. The changes made by the Commission also include adoption of a modified version of the "firm financial commitment" standard. Under this standard, applications will be returned as not acceptable or non-tenderable if they do not include the requisite financial certification. Thus, if an applicant fails to certify in Form 301 that it is financially qualified by either not responding to the relevant question or responding "No," its application will be returned as unacceptable or non-tenderable. This additional financial information is necessary to help deter financially unqualified applicants from entering the comparative process or being granted a construction permit.

9. Finally, under the Commission's revisions to Form 301, applicants are to include their integration proposal by at least the end of the amendment-as-of-right period. In doing so, an applicant must identify each principal who will particiate in the management of the proposed facility, briefly describe his or her position, duties and hours, and specify for each principal whether a qualitative credit will be claimed for minority status, past local residence (specifying whether in the community of license or service area and dates), daytimer preference, female status, broadcast experience (including each employer and position and dates), or civic activity. Although an applicant can include its integration statement in its application, it must file its integration statement with the Commission no later than the amendment-as-of-right date in FM proceedings or the "B" cut-off date in AM and television proceedings. An applicant that does not disclose its integration proposal by the amendment-as-of-right date will therefore not receive any credit for integration in the comparative hearing. This additional integration information at the application stage is necessary in order to permit parties to assess the relative strengths and weaknesses of their integration proposals early in the comparative process.

10. The new ownership, financial and integration reporting changes to Form 301 application filings will become effective upon approval of the new reporting requirements by the Office of Management and Budget and issuance of a public notice by the Commission advising the public of the effective date of these new changes. Applicants filing applications after the effective date of these cnanges but before a new Form 301 is available that incorporates these changes are to submit the new information as supplements to the existing Form 301 applications as provided in the Appendix to the *Report and Order*. Applications already on file as of the effective date, however, will not be required to be amended to include the additional information.

**Final Regulatory Flexibility Analysis Statement**

11. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the modifications adopted in the Commission's *Report and Order* will have a significant impact on a substantial number of small entities, because the Form 301 changes will require more information, and thus time

and effort, to submit a legitimate application for construction of a broadcast station. The additional burdens, however, are outweighed by the significant public interest benefits gained by preventing abuse of the Commission's processes.

12. The Secretary shall cause a copy of the *Report and Order*, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No, 96–354, 94 Stat. 1164, 5 U.S.C. 601 et seq., (1981)).

**Ordering Clauses**

13. Accordingly, *it is ordered* That the amendments to FCC Form 301, adopted in the Commission's *Report and Order*, shall become effective upon approval of the new reporting requirements by the Office of Management and Budget and issuance of a public notice by the Commission advising the public of the effective date of these new changes. The Commission requires new applicants filing applications after the effective date of the amendments until form 301 is revised, to file a supplement with the Form 301 containing the additional information requested in the Appendix to the *Report and Order*.

14. *It is further ordered* That the portion of this proceeding and of BC Docket No. 81–742 related to the firm financial commitment standard is held open pending the resolution of this issue in MM Docket 89–15.

15. *It is further ordered* That, except as specified in paragraph 14, this proceeding is *terminated*, and that portion of BC Docket No. 81–742 related to modifications to Form 301 is likewise *terminated*.

16. Authority for the changes adopted in the *Report and Order* is contained in *sections 4(i), 303(r), 308 and 309 of the* Communications Act of 1934 as amended.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 89–10984 Filed 5–8–89; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Alcohol, Drug Abuse, and Mental Health Administration

### Minority Institutions Research Development Program

**AGENCY:** National Institute of Mental Health, National Institute on Alcohol Abuse and Alcoholism, National Institute on Drug Abuse.

**ACTION:** *Notice of restricted eligibility.*

**SUMMARY:** The National Institute of Mental Health (NIMH), the National Institute on Alcohol Abuse and Alcoholism (NIAAA), and the National Institute on Drug Abuse (NIDA) announces the availability of research development grants for the purpose of increasing the capacity of academic institutions with substantial numbers of minority group enrollment and their faculty to conduct rigorous mental health, alcohol and drug abuse research. These grants will be made under the authority of section 301 of the Public Health Service Act, as amended by [42 U.S.C. 241). Minority groups include: American Indians and Native Alaskans, Asian American and Pacific Islanders, Black Americans and Hispanic Americans.

The Request for Applications consists of two core activities: (1) Institutional Research Development; and (2) Individual Investigator research Projects. This program will assist academic institutions with substantial numbers of minority group enrollment in augmenting and strengthening their research infrastructure in order to facilitate and foster the development of alcohol, drug abuse and mental health (ADM) research projects. Minority students will benefit from participation in research projects as research assistants and will be encouraged to pursue careers in ADM research.

In fiscal year 1989, NIMH, NIAAA, and NIDA collectively will fund approximately 10 to 20 new 3-year awards under this FRA for a total of $1,400,000.

NIMH, NIAAA, and NIDA are limiting potential applicants for these grants to insure that academic institutions with substantial numbers of minority group enrollment benefit from the goals and objectives of this program.

Applicant institutions must be located either in a State, the District of Columbia, Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, or the Trust Territory of the Pacific Islands and be one of the following:

A public or private nonprofit university, four-year college, or other institution offering undergraduate, graduate, or ADM professional degrees with a traditionally high (more than 50 percent) minority student (Black, Hispanic, American Indian or Alaskan Native, Asian or Pacific Islander) enrollment; or

An institution with a substantial enrollment of minority students (e.g., more than 25 percent in each of the past 3 years) which has attempted to attract and encourage science and career development of ethnic or racial group members who have been found to be underrepresented in biomedical and behavioral research nationally. Additionally, the institution should show a demonstrated commitment to minority faculty recruitment and development in the expenditure of its resources, and that there is an institutional need for support in its research development program; or

An Indian tribe, in conjunction with one or more institutions of higher learning which offer (s) undergraduate and graduate degrees in ADM disciplines, which has a recognized governing body and which performs substantial governmental functions, or an Alaska Regional Corporation (ARC) as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

The applicant must indicate which of the above eligibility conditions apply for their institution and must furnish evidence to document their eligibility for that condition.

In making application for research grants under this RFA, the applicant must designate the type of grant being requested "Minority Institutions Research Development Program." A college or university is expected to apply for the two core program activities indicated in the RFA. The optional component of Research Assistantships for Associate Investigator Projects can also be included in the application.

For a copy of the Request for Applications or additional program guidance, potential applicants should contact: Marion E. Primas, Ph.D., Minority Research Resources Branch, Division of Biometry and Applied Sciences, National Institute of Mental Health, 5600 Fishers Lane, Room 18–101, Rockville, Maryland 20857, (Telephone: 301/443–3724).

The Catalog of Federal Domestic Assistance Numbers for this program are 13.242, 13.273, and 13.279.

**Joseph R. Leone,**

*Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.*

[FR Doc. 89–11057 Filed 5–8–89; 8:45 am]

BILLING CODE 4160-20-M

## Office of Refugee Resettlement

## Refugee Resettlement Program; Allocations to State of FY 1989 Funds for Refugee [1] Social Services

**AGENCY:** Office of Refugee Resettlement (ORR), FSA, HHS.

**ACTION:** Final notice of allocations to States of FY 1989 funds for refugee social services.

**SUMMARY:** This notice establishes the allocations to States of FY 1989 funds for social services under the Refugee Resettlement Program (RRP).

**EFFECTIVE DATE:** May 9, 1989.

**ADDRESS:** Office of Refugee Resettlement, Family Support Administration, 370 L'Enfant Promenade, SW., Washington, DC 20447.

**FOR FURTHER INFORMATION CONTACT:** Toyo Biddle (202) 252-4563.

**SUPPLEMENTARY INFORMATION:** Notice of the proposed social service allocations to States was published in the **Federal Register** on January 18, 1989 (54 FR 1995). The preliminary population estimates that were used in the proposed notice have been replaced by final figures. As a result of new information on the presence in the United States of substantial numbers of recent arrivals qualifying for Cuban/Haitian entrant status, changes have occurred in the allocations for nearly all States. In addition, adjustments have been made in the estimated refugee populations of three States as a result of evidence submitted by those States.

### I. Allocation Amounts

Office of Refugee Resettlement (ORR) expects to have available $64,906,000 in FY 1989 refugee social service funds as part of the FY 1989 appropriations for the Department of Health and Human Services (Pub. L. 100-436).

Of the total of $64,906,000, the Director of ORR will make available to States during FY 1989 $55,170,100 (85%) under the allocation formulas set out in this notice. These funds will be made available for the purpose of providing social services to refugees.

The population figures include refugees, Cuban/Haitian entrants, and Amerasians from Vietnam since these populations may be served through funds addressed in this notice. (A State must, however, have an approved State plan for the Cuban/Haitian Entrant Program in order to use funds on behalf of entrants as well as refugees.)

Of the $64,906,000 covered by this notice, the Director will allocate funds directly to States in the following manner:

- $52,670,100 will be allocated on the basis of each State's proportion of the national population of refugees who had been in the U.S. 3 years or less as of October 1, 1988 (including a floor amount of $75,000 for States which have small refugee populations).
- $2,500,000 will be allocated to each State on the basis of its proportion of the 3-year refugees population (including a floor amount of $5,000 to States with small refugee populations) in order to provide an incentive for States to fund refugee mutual assistance associations (MAAs). A written assurance that these optional funds will be used for MAAs is required in order for a State to receive the funds. Guidance to States regarding this assurance is provided below.

The use of the 3-year population base in the allocation formula is required by section 6(a)(3) of the Refugee Assistance Extension Act of 1986 (Pub. L. 99-605) which amended section 412(c) of the Immigration and Nationality Act to require that the "funds available for a fiscal year for grants and contracts [for social services] * * * shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year."

The approximately $9,700,000 in remaining social service funds is expected to be used by ORR on a discretionary basis to provide funds for individual projects intended to contribute to the effectiveness and efficiency of the refugee resettlement program. The discretionary funds will support specific program activities designed to improve the delivery of services to refugees. Announcements of the availability of funding and grant application procedures for some projects have been issued: Availability of Funding for Grants to States to Implement Favorable Alternate Sites Demonstration Projects, Memorandum to State Refugee Coordinators issued October 1, 1984, and Availability of Funding for Planned Secondary Resettlement of Refugees, 50 FR 20038, May 13, 1985. ORR expects to continue emphasis on the Key States Initiative to address problems of persistent welfare dependency and on other discretionary grants directed toward refugee job placement and self-support. Announcements will be made when additional initiatives are decided on.

Although the allocation formula is based on the 3-year refugee population, social service programs are not limited to refugees who have been in the U.S. only 3 years. States may provide services without regard to an individual refugee's length of residence.

ORR funds may not be used to provide services to United States citizens, since they are not covered under the authorizing legislation, with the following exceptions: (1) Under current regulations, services may be provided to a U.S.-born minor child in a family in which both parents are refugees or, if only one parent is present, in which that parent is a refugee; and (2) under the FY 1989 Foreign Operations Appropriations Act (Pub. L. 100-461), services may be provided to an Amerasian from Vietnam who is a U.S. citizen and who enters the U.S. after October 1, 1988.

In accordance with ORR's "Statement of Program Goals, Priorities and Standards for State-Administered Refugee Resettlement Program" issued March 1, 1984, funds awarded under this notice for the basic and MAA incentive allocations are subject (as were FY 1985-1988 funds) to a requirement that at least 85% of a State's award be used for employment services, English language training, and case management services, reflecting the Congressional objective that "employable refugees should be placed in jobs as soon as possible after their arrival in the United States" and that social service funds be focused on these types of services. (Immigration and Nationality Act, section 412(a)(1)(B).) As in previous years, ORR will consider granting, under specific circumstances, a waiver of this provision. In order to receive a waiver, a State must meet either of the following two conditions:

1. The State demonstrates to the satisfaction of the Director of ORR that two of the following three circumstances exist: (a) The cash assistance rate for time-eligible refugees in the State is

[1] In addition to persons admitted to the United States as refugees under section 207 of the Immigration and Nationality Act (INA) or granted asylum under section 208 of the INA, eligibility for refugee social services also includes: (1) Cuban and Haitian entrants, under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. 96-422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100-202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Pub. L. 100-461). For convenience, the term "refugee" is used in this notice to encompass all such eligible persons unless the specific context indicates otherwise.

below the national average for all time-eligible refugees in the U.S.; (b) less than 85% of the State's social service allocation is sufficient to meet all employment-related needs of the State's refugees; and/or (c) there are non-employment-related service needs which are so extreme as to justify an allowance above the basic 15%. *Or*

2. In accordnce with section 412(c)(1)(C) of the Immigration and Nationality Act, as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605), the State submits to the Director a plan (established by or in consultation with local governments) which the Director determines provides for the maximum appropriate provision of employment-related services for, and the maximum placement of, employable refugees consistent with performance standards established under section 106 of the Job Training Partnership Act.

States should also expect to use funds available under this notice to pay for social services which are provided to refugees who participate in alternative projects. The Continuing Resolution for FY 1985 (Pub. L. 98–473) amended section 412(e)(7)(A) of the Immigtration and Nationality Act to provide that:

> The Secretary [of HHS] shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support [social] services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

This provision is generally known as the Wilson/Fish Amendment. The Department has already issued a separate notice in the **Federal Register** with respect to applications for such projects (50 FR 24583, June 11, 1985). The notice on alternative projects does not contain provisions for the allocation of additional social service funds beyond the amounts made available by this notice. Therefore a State which may wish to consider carrying out such a project should take note of this in planning its use of social service funds being allocated under the present notice.

Finally, ORR believes that the continued and/or increased utilization of refugee mutual assistance associations (MAAs) in the provision of social services promotes appropriate use of services as well as the effectiveness of the overall service system. This belief is reinforced by the interest in MAAs which has developed under similar incentive funds awarded to States in previous years. Therefore additional funds which would be targeted specifically to these organizations have been included as an optional award to States which would use them for this purpose.

In order to receive the MAA incentive funds, the appropriate State agency official must provide written assurance to the Office of Refugee Resettlement that the following conditions will be observed by the State agency in using funds made available to the State under this special allocation:

1. That such funds will be used to fund refugee mutual assistance associations for the direct provision of services to refugee clients.

2. That the MAA incentive allocation is subject to and included under ORR's requirement that 85% of the total amount of social service funds allocated by this notice to a State be used for priority services, as defined elsewhere in this notice.

3. That the State agency will observe the following definition of a mutual assistance association:

a. The organization must be legally incorporated as a nonprofit organization; *and*

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association will be comprised of refugees or former refugees.

4. That the State agency will assist MAAs in seeking other public and/or private funds for the provision of services for refugee clients in subsequent years.

Written assurances should be sent to the Director, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW., Washington, DC 20447, with a duplicate copy to the appropriate Family Support Administration (FSA) Regional Administrator. In accordance with the notice of January 18, States were required to respond by March 31, 1989, in order to avail themselves of this special allocation; this deadline is hereby extended until 30 days from the date of publication of this final notice.

## II. Discussion of Comments Received

We received 142 letters of comment in response to the notice of the proposed allocations to States of FY 1989 funds for social services for refugees and Cuban/Haitian entrants.

The comments are summarized below and are followed in each case by the Department's response.

*Comment:* Three commenters recommended that the approximately $9.7 million which ORR plans to use for discretionary purposes be allocated instead according to the formula. The commenters felt that this would provide the States more flexibility to address needs in a time of funding reductions. As an alternative, one commenter recommended that discretionary funds be set aside only for projects which have multi-State benefits, such as the Planned Secondary Resettlement program, while funds for projects that could be funded through a State's regular social service allocation, such as the Key States Initiative, should be included in the formula allocation.

*Response:* We believe it is important to retain the discretionary funds set-aside, instead of allocating these funds by formula, in order to continue a number of special efforts to reduce welfare dependency, such as the Planned Secondary Resettlement program and the Key States Initiative, and to provide services in non-impacted communities which are favorable locations for refugees. Discretionary funds are also used to address special needs in a more flexible and productive manner than can be achieved by adding these funds to the formula allocation. Most of the discretionary funds for special initiatives are awarded to States.

*Comment:* One commenter objected to the use of a minimum social service allocation of $75,000, stating that it violates the statutory requirement to allocate funds on the basis of the actual number of time-eligible refugees residing in a State. The commenter recommended instead that ORR require States to have a minimum number of time-eligible refugees to qualify for social service funds, and recommended that States with fewer than 300 time-eligible refugees should not receive funds. The commenter also objected to the use of a minimum allocation of $5,000 for mutual assistance association (MAA) incentive grants, claiming that States that receive a "minimum floor" allocation are receiving a disproportionately high per capita rate compared to heavily impacted States.

*Response:* We believe a minimum allocation for social services and MAA incentive grants is necessary to cover certain basic costs which a State incurs in providing services, regardless of the number of refugees. The floor represents a discretionary add-on, permissible under the statute, of a modest amount of funds to an otherwise impractically small figure which the formula alone would yield for the States with very small refugee populations.

*Comment:* One commenter recommended that the language regarding MAA assurances be revised to include Cuban/Haitian entrants in MAA assurances 1, 3b, and 4, as had been the case in previous social service notices.

*Response:* Entrants are included in all aspects of this notice as indicated by the footnote appearing on the first page of both the proposed and this final notice which encompasses all eligible categories of the persons in the use of the term "refugee."

*Comment:* Three commenters objected to the timing of the notice. One commenter suggested that the notice should have been published in August 1988 to allow States and service agencies more lead time to adjust to funding reductions. Another commenter protested that since the first- and second-quarter allocations had already been made, based on the previous year's funding level, the FY 1989 funding reductions would have to be absorbed in the remaining two quarters of the year, resulting in significant cutbacks.

*Response:* While we regret any hardships that occur as a result of this notice being published well after the beginning of the fiscal year, particularly in those States that are experiencing funding reductions, the timing of the notice is dictated by the availability of end-of-fiscal-year refugee arrival data, which must be used in the calculation of the formula allocation in order to comply with the statutory requirement to base allocations on the last three years. These data are generally not available until November, and population estimates must then be developed which take into account estimates of secondary migration. Therefore notices of proposed social service allocations are usually published in January or February of each year. This year, we provided States with preliminary figures on proposed social service allocations in mid-December, prior to publication of the notice, in order to facilitate their social service planning.

*Comment:* One commenter objected to the use of a formula based on the number of refugees who have been in the U.S. for 36 months or less, stating that it excludes from consideration large numbers of time-expired refugees who continue to need services.

*Response:* The 36-month formula is required by statute.

*Comment:* We received 137 comments from one State, strongly objecting to the funding reduction to that State. The commenters urged that funding be restored, stating that the proposed cut will result in a major reduction in needed services. Eight of the commenters stated that ORR should reconsider its funding policy which, in their view, rewards States that continue to have high welfare dependency and penalizes States that have been successful in helping refugees to achieve self-sufficiency and low dependency. Ten commenters expressed a concern that a reduction in funds to a State such as theirs may result in increased migration of refugees to high welfare States.

*Response:* As stated above, the allocation formula which we use is required by law; it is not a funding policy that we have the flexibility to change. However, States may compete for discretionary funding which is not subject to the formula allocation. Many of our discretionary programs, in fact, primarily benefit low welfare States that offer good employment prospects to refugees. We believe discretionary funding provides the necessary flexibility to respond to refugee needs in non-impacted areas that may be experiencing a reduction in social service funds.

## III. Allocation Formula

Of the funds available for FY 1989 for social services, $52,670,100 will be allocated to State in accordance with the formula specified below. A State's allowable allocation will be calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided by—

2. The total number of refugees and Cuban/Haitian entrants who arrived in the United States not more than 3 years prior to the beginning of the fiscal year for which the funds are appropriated and the number of Americans from Vietnam eligible for refugee social services, as shown by the ORR Refugee Data System. The resulting per capita amount will be multiplied by—

3. The number of persons in item 2, above, in the State as of October 1, 1988, adjusted for estimated secondary migration.

The calculation above will yield the formula allocation for each State.

MAA incentive award supplements are allocated on the same 3-year population basis as that used in the social service formula. These funds will be made available contingent upon letters of assurance from States, as described previously.

## IV. Basis of Population Estimates

The population estimates for the allocation of funds in FY 1989 are based on data on refugee arrivals from the ORR Refugee Data System, adjusted as of October 1, 1988, for estimated secondary migration. The data base includes refugees of all nationalities and Amerasians from Vietnam.

For fiscal year 1989, ORR's formula allocations to the States for social services for refugees are based on the numbers of refugees who arrived, and on the numbers of entrants who arrived or were resettled, during the preceding three fiscal years: 1986, 1987, and 1988. Therefore estimates have been developed of the numbers of refugees and entrants with arrival or resettlement dates between October 1, 1985, and September 30, 1988, who are thought to be living in each State as of October 1, 1988. The population estimates for the FY 1989 allocations cover refugees of all nationalities, Cuban/Haitian entrants, and Americans from Vietnam. Refugees admitted under the Federal Government's private-sector initiative are not included since their assistance and services are to be provided by the private sponsoring organization under an agreement with the Department of State.

All participating States submitted data on their secondary in-migration on Form ORR-11 for use in adjusting these population estimates. The total reported migration was summed, yielding a net migration figure for each State. This figure, the minimum documented migration affecting each State, was applied to the State's total arrival figure, resulting in a revised population estimate. This estimate was converted into a percentage of the total 3-year refugee population. The percentage distribution was compared with the percentage distribution generated from the refugee child count done by the U.S. Department of Education in March 1988. Where a significant discrepancy between the two percentage distributions existed which could not be explained except by secondary migration, a further adjustment was made to the State's estimated population. The population estimates of 13 States were adjusted in this manner. Finally, each State's population was deflated by approximately 0.73% to constrain the sum of the State figures to the known national total.

Estimates were developed separately for refugees and entrants and then combined into a total estimated 3-year refugee/entrant population for each State. Eligible Amerasians are included in the refugee figures.

The preliminary arrival figures for FY 1988 that were used in the notice of proposed allocations have been replaced by final arrival figures. The significant changes were: (1) Approximately 200 additional Amerasians were identified and credited to the States where they were resettled. (2) Approximately 400 Cambodians admitted under humanitarian parole were identified who had initially been counted as

refugees; they were deducted from State arrival figures. (3) Three States submitted convincing evidence of larger time-eligible populations than had been estimated previously, and their population estimates were increased accordingly. Where they furnished evidence of secondary in-migration, the migrants were deducted from the sending States. (4) The presence in the U.S. of substantial numbers of recent arrivals qualifying for Cuban/Haitian entrant status and not previously counted in ORR's formula was called to ORR's attention by Florida officials and confirmed by the Immigration and Naturalization Service (INS). We obtained INS data on numbers of Cuban and Haitian asylum applicants by State and added these persons to the estimated entrant populations of the States. This resulted in substantial increases in the population estimates for several States, notably Florida, Louisiana, Missouri, New Jersey, and New York.

Table 1, below, shows the estimated 3-year populations, as of October 1, 1988, of refugees (col. 1), entrants (col. 2), and total refugees and entrants (col. 3); the formula amounts which the population estimates yield (col. 4); the total allocation amounts after allowing for the minimum amounts (col. 5); and the amounts available as an incentive to States to use MAAs as service providers (col. 6).

### V. Allocation Amounts

The following amounts are allocated for refugee social services in FY 1989:

TABLE 1.—ESTIMATED 3-YEAR REFUGEE ENTRANT POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE PROGRAM AND SOCIAL SERVICE FORMULA AMOUNTS AND ALLOCATIONS FOR FY 1989

| State | Refugees | Entrants | Total population | Formula amount | Allocation | MAA incentive allocation |
|---|---|---|---|---|---|---|
| | (1) | (2) | (3) | (4) | (5) | (6) |
| Alabama | 500 | 0 | 500 | $123,317 | $123,317 | $5,815 |
| Arizona | 2,194 | 4 | 2,198 | 542,101 | 542,101 | 25,561 |
| Arkansas | 398 | 0 | 398 | 98,160 | 98,160 | 5,000 |
| California | 80,687 | 99 | 80,786 | 19,924,545 | 19,924,545 | 939,494 |
| Colorado | 2,118 | 0 | 2,118 | 522,370 | 522,370 | 24,631 |
| Connecticut | 2,183 | 1 | 2,184 | 538,648 | 538,648 | 25,399 |
| Delaware | 58 | 0 | 58 | 14,305 | 75,000 | 5,000 |
| Dist. of Columbia | 561 | 7 | 568 | 140,088 | 140,088 | 6,605 |
| Florida | 5,327 | 5,465 | 10,792 | 2,661,670 | 2,661,670 | 125,504 |
| Georgia | 2,599 | 45 | 2,644 | 652,099 | 652,099 | 30,748 |
| Hawaii | 783 | 0 | 783 | 193,114 | 193,114 | 9,106 |
| Idaho | 507 | 0 | 507 | 125,043 | 125,043 | 5,896 |
| Illinois | 7,598 | 9 | 7,607 | 1,876,142 | 1,876,142 | 88,465 |
| Indiana | 497 | 13 | 510 | 125,783 | 125,783 | 5,931 |
| Iowa | 1,661 | 1 | 1,662 | 409,905 | 409,905 | 19,328 |
| Kansas | 1,604 | 0 | 1,604 | 395,600 | 395,600 | 18,654 |
| Kentucky | 755 | 28 | 783 | 193,114 | 193,114 | 9,106 |
| Louisiana | 1,851 | 325 | 2,176 | 536,675 | 536,675 | 25,306 |
| Maine | 532 | 2 | 534 | 131,702 | 131,702 | 6,210 |
| Maryland | 3,216 | 15 | 3,231 | 796,873 | 796,873 | 37,575 |
| Massachusetts | 9,154 | 10 | 9,164 | 2,260,151 | 2,260,151 | 106,572 |
| Michigan | 3,606 | 4 | 3,610 | 890,347 | 890,347 | 41,982 |
| Minnesota | 6,879 | 7 | 6,886 | 1,698,319 | 1,698,319 | 80,080 |
| Mississippi | 242 | 0 | 242 | 59,685 | 75,000 | 5,000 |
| Missouri | 1,845 | 215 | 2,060 | 508,065 | 508,065 | 23,957 |
| Montana | 144 | 0 | 144 | 35,515 | 75,000 | 5,000 |
| Nebraska | 490 | 0 | 490 | 120,850 | 120,850 | 5,698 |
| Nevada | 761 | 69 | 830 | 204,706 | 204,706 | 9,652 |
| New Hampshire | 261 | 0 | 261 | 64,371 | 75,000 | 5,000 |
| New Jersey | 3,200 | 410 | 3,610 | 890,347 | 890,347 | 41,982 |
| New Mexico | 292 | 0 | 292 | 72,017 | 75,000 | 5,000 |
| New York | 16,797 | 2,127 | 18,924 | 4,667,295 | 4,667,295 | 220,075 |
| North Carolina | 1,483 | 0 | 1,483 | 365,758 | 365,758 | 17,246 |
| North Dakota | 200 | 0 | 200 | 49,327 | 75,000 | 5,000 |
| Ohio | 2,128 | 4 | 2,132 | 525,823 | 525,823 | 24,794 |
| Oklahoma | 931 | 0 | 931 | 229,616 | 229,616 | 10,827 |
| Oregon | 2,336 | 0 | 2,336 | 576,136 | 576,136 | 27,166 |
| Pennsylvania | 5,434 | 0 | 5,434 | 1,340,207 | 1,340,207 | 63,194 |
| Rhode Island | 1,214 | 5 | 1,219 | 300,646 | 300,646 | 14,176 |
| South Carolina | 180 | 0 | 180 | 44,394 | 75,000 | 5,000 |
| South Dakota | 213 | 0 | 213 | 52,533 | 75,000 | 5,000 |
| Tennessee | 1,996 | 0 | 1,996 | 492,281 | 492,281 | 23,212 |
| Texas | 9,764 | 38 | 9,802 | 2,417,503 | 2,417,503 | 113,991 |
| Utah | 1,298 | 1 | 1,299 | 320,377 | 320,377 | 15,107 |
| Vermont | 278 | 0 | 278 | 68,564 | 75,000 | 5,000 |
| Virginia | 4,973 | 3 | 4,976 | 1,227,249 | 1,227,249 | 57,868 |
| Washington | 7,179 | 4 | 7,183 | 1,771,569 | 1,771,569 | 83,534 |
| West Virginia | 20 | 0 | 20 | 4,933 | 75,000 | 5,000 |
| Wisconsin | 4,261 | 0 | 4,261 | 1,050,906 | 1,050,906 | 49,553 |
| Wyoming | 11 | 0 | 11 | 2,713 | 75,000 | 5,000 |
| Total | 203,199 | 8,911 | 212,110 | $52,313,457 | $52,670,100 | $2,500,000 |

**VI. Paperwork Reduction Act**

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance. (Catalog of Federal Domestic Assistance No. 13.814 Refugee Assistance State Administered Programs)

Dated: April 27, 1989.

**Philip A. Holman,**

*Acting director, Office of Refugee Resettlement.*

Approved: May 1, 1989.

**Catherine Bertini,**

*Acting Assistance Secretary for Family Support.*

[FR Doc. 89-10985 Filed 5-8-89; 8:45 am]

BILLING CODE 4150-04-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. N-89-1984]**

### Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department of soliciting public comments on the subject proposal.

**ADDRESS:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the documents submitted to OMB may be obtained from Mr. Christy.

**SUPPLEMENTARY INFORMATION:** This Notice informs the public that the Department of Housing and Urban Development has submitted to OMB, for emergency processing an information collection package with respect to the Section 8 Project-Based Certificate Program. New Construction Components.

The information collection is necessary to implement sections 1005 (b)(1) of the Stewart B. McKinney Homeless Assistance Act of 1988 which directs HUD to permit a PHA to attach Section 8 Certificate Assistance to any newly constructed structure if the owner agrees to construct the unit without assistance under the 1937 Housing Act and if the aggregate project-based assistance for rehabilitated or newly constructed units does not exceed 15 percent of the Public Housing Agency's (PHAs) Certificate Program. The Department has requested OMB to complete its paperwork review of the Section 8 Project-Based Certificate Program, New Construction Component notice within seven (7) working days. Any control number issued by OMB to cover this emergency situation would be valid for no more than 90 days.

To ensure that the public has an adequate opportunity to comment on these information collection requirements, HUD also intends to submit the Section 8 Project-Based Certificate notice to OMB for regular paperwork review. The public will then have an additional 60-day period in which to comment on the paperwork requirements.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable;. (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequently of response, and hours of response; (8) whether the proposal is new or an extension, resinstatement, or numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

**Authority:** Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: April 28, 1989.

**James E. Schoenberger,**

*General Deputy Assistant Secretary for Housing.*

### Notice of Submission of Proposed Information Collection to OMB

*Proposal:* Section 8 Project-Based Certificate Program, New Construction Component

*Office:* Housing

*Description of the Need for the Information and Its Proposed Use:* This information collection is necessary to implement section 1005 (b)(1) of the Stewart B. McKinney Homelessness Assistance Act of 1988 which directs HUD to permit a PHA to attach Section 8 Certificate Assistance to any newly constructed structure if the owner agrees to construct the unit without assistance under the 1937 Housing Act and if the aggregate project-based assistance for rehabilitated or newly constructed units does not exceed 15 percent of the Public Housing Agency's (PHAs) Certificate Program assistance.

*Form Number:* None

*Respondents:* State or Local Governments

*Frequency of Submission:* On Occasion

*Reporting Burden:*

| | Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Owner application to PHA (882.720(b)(2)) | 100 | | 1 | | 120 | | 12,000 |
| PHA letter submitting owner applications to HUD (882.723(b)) | 25 | | 1 | | ½ | | 13 |
| Owner letter submitting working drawings and specifications to PHA (882.725) | 25 | | 1 | | ½ | | 13 |
| Additional items for owner's evidence of completion to PHA (882.733(b)) | 25 | | 1 | | ½ | | 13 |
| Total Estimated Burden Hours: 12,039 | | | | | | | |

*Status:* New.

*Contact:* Louis Hunt, HUD (202) 755-6887; John Allison, OMB (202) 395-6988.

[FR Doc. 89-10983 Filed 5-8-89; 8:45 am]

BILLING CODE 4210-27-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Confederated Tribes of the Chehalis Reservation, Quileute Indian Reservation and the Swinomish Tribal Community, Washington; Acceptance of Retrocession of Jurisdiction

April 25, 1989.

Pursuant to the authority vested in the Secretary of the Interior by Executive Order No. 11435 of November 21, 1968, (33 FR 17339) and redelegated to the Assistant Secretary—Indian Affairs by 209 DM 8, I hereby accept at 12:01 a.m. p.s.t., the day following publication of this notice in the Federal Register, retrocession to the United States of all criminal jurisdiction exercised by the State of Washington over the Confederated Tribes of the Chehalis Reservation, Quileute Indian Reservation and the Swinomish Tribal Community, which was acquired by the State of Washington pursuant to Pub. L. 83-280, 67 Stat. 588, 18 U.S.C. 1162, 28 U.S.C. 1360, except as provided in Revised Code of Washington 37.12.010 and Chapter 267, Washington Laws of 1986, as amended by Chapter 108, Washington Laws of 1988, and codified in Revised Code of Washington 37.12.100, 37.12.110, 37.12.120 and 37.12.140. The retrocession herein accepted was offered by the State of Washington on June 8, 1988, by Proclamation No. 3 of the Governor of the State of Washington pursuant to Chapter 267, Washington Laws of 1986, passed by the Legislature of Washington in the Forty-ninth Legislature, Regular Session, on March 11, 1986. State of Washington Proclamation No. 3 was transmitted by the Governor of the State of Washington to the Secretary of the Interior on June 8, 1988. By Resolution Number 1988-7 adopted by the Confederated Tribes of the Chehalis Reservation on March 9, 1988, Resolution 88-A-23 dated March 17, 1988, adopted by the Quileute Tribal Council of the Quileute Indian Reservation, and Resolution 88-3-12 dated March 17, 1988, adopted by the Swinomish Tribal Community, requested that the Secretary of the Interior accept the retrocession offer of the State of Washington.

**W.P. Ragsdale,**

*Acting Assistant Secretary—Indian Affairs.*

[FR Doc. 89-11022 Filed 5-8-89; 8:45 am]

BILLING CODE 4310-02-M

### Bureau of Land Management

### Availability of Environmental Assessment on Range Improvements Within Fifty Mile Mountain Wilderness Study Area

**AGENCY:** Bureau of Land Management, Department of the Interior.

**ACTION:** Notice of Availability of Environmental Assessment (EA).

**SUMMARY:** This environmental assessment evaluates the construction of five (5) miles of fence, six (6) spring developments and a 1.7 acre exclosure necessary to implement and monitor a rest rotation grazing system within the Fifty Mile Mountain Wilderness Study Area.

**DATE:** Comments on the EA are due at the address listed below not later than June 1, 1989.

**ADDRESS:** To obtain a copy of the EA, request additional information, or submit comments contact: George H. Peternel, Area Manager, Bureau of Land Management, P.O. Box 225, Escalante, Utah 84726.

**Ronald A. Montagna,**

*Acting District Manager.*

[FR Doc. 89-11070 Filed 5-8-89; 8:45 am]

BILLING CODE 4310-DQ-M

**[WY-920-09-4120-10]**

### Powder River Regional Coal Team Activities: Public Meeting Announcement

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Notice.

**SUMMARY:** The Powder River Regional Coal Team (RCT) will hold a public meeting on May 31, 1989, to (1) develop a recommendation whether or not to totally or partially decertify the Powder River Coal Region and thereby allow for coal leasing on application in any regional areas that are decertified; (2) assess the need to resume Federal coal leasing in the Powder River Coal Region; and (3) review Federal coal management issue of regional concern. The full agenda and other details for this RCT meeting are set out below.

**DATE:** The RCT will met at 8:30 a.m. on May 31, 1989.

**ADDRESS:** The RCT meeting will be held at the Holiday Inn, 2009 South Douglas, Highway 59, Gillette, Wyoming; telephone (307) 686-3000.

**FOR FURTHER INFORMATION CONTACT:** Don Brabson, Wyoming State Office, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming, 82003; telephone (307) 772-2572 or (FTS) 328-2571.

**SUPPLEMENTARY INFORMATION:** The primary purpose of this meeting will be to develop a recommendation for the Secretary of the Interior on whether or not to partially or totally decertify the Powder River Coal Region. By **Federal Register** notice published February 9, 1989, the ramifications of regional decertification were explained and public comments were requested on partial decertification of Musselshell, Yellowstone, and Golden Valley Counties, Montana, or decertification of the entire region. In summary, any portion (i.e., a 3 county portion or the entirety) of the region which is decertified would become subject to coal leasing-by-application pursuant to 43 CFR 3425. Any coal leasing-by-application would be subject to RCT review, oversight, and guidance. Generally coal lease applications can be processed in approximately 1 year, whereas regional coal lease activity planning which is now the current leasing mechanism for the region, necessitates approximately 3 years to result in a coal lease sale.

Public comments on the decertification will be presented to the RCT during the meeting of May 31, 1989.

The public may acquire copies of those written comments received to date from Don Brabson at the above address and telephone number.

The RCT will also review the need for regional leasing. Provided that the RCT does not recommend total regional decertification and thereby make the regional leasing issue moot, the RCT will develop a recommendation to either continue to defer or resume regional coal lease activity planning. The primary basis for this recommendation will be current market conditions and limited recent leasing interest, as well as public imputs. Any party interested in providing input about the need for regional leasing should address the RCT with his or her concerns during the meeting on May 31, 1988.

The meeting will also serve as a forum for public discussion on Federal coal management issues of reigonal concern. If appropriate, the RCT may develop additional regional coal management recommendations for Secretarial consideration.

Public input opportunities will be provided on all agenda items. The agenda for this meeting is as follows:

1. Introductions
2. Approval of Minutes of December 15, 1988, RCT Meeting
3. Regional Coal Activity Status
   a. Current production
   b. Preference Right Lease Applications
   c. Exchanges
   d. Round I Leases
   e. Other activity
4. Decertification Comments
   a. Review of written comments
   b. Hearing additional comments
5. RCT Decertification Recommendation
   a. No decertification
   b. Partial decertification
   c. Total decertification
6. Review of Market Conditions
7. Review of Historic Leasing Interests
8. Public Comments on Need for Regional Leasing
9. RCT Activity Planning Recommendation
   a. Resumption or deferral of activity planning
   b. Establish leasing schedule, if necessary
10. Other Regional Issues
11. Adjourn

**Ray Brubaker,**

*State Director.*

[FR Doc. 89-11069 Filed 5-8-89; 8:45 am]

BILLING CODE 4310-22-M

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**[ES-970-09-4121-14-2410; MIES 27345, MIES 27569]**

## Proposed Reinstatement of Terminated Oil and Gas Leases; Michigan

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Reinstatement of Terminated Oil and Gas leases MIES 27345 and MIES 27569.

**SUMMARY:** Terminated oil and gas leases MIES 27345 and MIES 27569 located in Roscommon County, Michigan, T. 23 N., R. 1 W., containing 128.73 acres and 80.00 acres respectively.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles Johnson at (703) 461-1465.

**SUPPLEMENTARY INFORMATION:** Federal oil and gas leases MIES 27345 and MIES 27569 terminated automatically by operation of law on January 1, 1989 and December 1, 1988 (30 U.S.C. 188).

Petitions for reinstatement of MIES 27345 and MIES 27569 were filed by Leon F. Scully, Jr. (Lessee) under Section 31D of the Mineral Leasing Act of 1920, as amended by the Federal Oil and Gas Royalty Management Act of 1982 (96 Stat. 2447).

The lessee has met all the following requirements for reinstatement:

| | |
|---|---|
| (a) $1000 | Reimbursement of Departmental Administrative Cost |
| (b) $845 | Back Rental Payments |
| (c) $130 | Publication Cost |

The proposed reinstatement of the leases would be under the same terms and conditions of the original leases, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent beginning January 1, 1989 for MIES 27345 and December 1, 1988 for MIES 27569.

**G. Curtis Jones, Jr.,**

*State Director.*

[FR Doc. 89-11071 Filed 5-8-89; 8:45 am]

BILLING CODE 4310-GJ-M

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**[NM-030-09-4212-14; NM NM 69996]**

## A Direct Sale of Public Land to the City of Las Cruces, NM

**AGENCY:** Bureau of Land Management (BLM), Department of the Interior.

**ACTION:** Notice of Realty Action.

**SUMMARY:** The following described parcel of public land has been examined and identified as suitable for direct sale under Section 203 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713):

T. 23 S., R. 2E., NMPM,

Sec. 11, S½N½ NE¼, N½S½NE¼.

The subject land contains 80 acres and will be offered for direct sale to the City of Las Cruces, New Mexico at the appraised fair market value. The tract of public land will be used to expand the existing sanitary landfill.

The land has been identified for disposal in the BLM's Record of Decision for the Southern Rio Grande Plan Amendment (December 1986). The proposed sanitary landfill site is in the City's extraterritorial zone, but no zoning is indicated.

**DATES:** Comments must be submitted on or before June 26, 1989.

**ADDRESS:** Comments should be sent to Bureau of Land Management, Las Cruces District Office, 1800 Marquess, Las Cruces, NM 88005.

**FOR FURTHER INFORMATION CONTACT:** Marvin M. James at the address above or at (505) 525-8228, (FTS 571-8350).

**SUPPLEMENTARY INFORMATION:** The direct sale will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. All valid existing rights of record including the following: A buried fiber optic line, NMNM 61211 and a Dona Ana county road NMNM 57029.

Publication of this notice in the **Federal Register** will segregate the public land from appropriations under the public land laws, including the mining laws but not mineral leasing laws. This segregation will terminate upon the issuance of a patent or 2 years from date of publication of this Notice in the **Federal Register** or upon publication of a Notice of Termination.

Any adverse comments will be evaluated 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.

**Richard T. Watts,**

*Acting District Manager.*

May 2, 1989.

[FR Doc. 89-11072 Filed 5-8-89; 8:45 am]

BILLING CODE 4310-FB-M

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**[ES-940-09-4520-13; ES-040680, Group 13]**

## North Carolina; Filing of Plat of Dependent Resurvey

May 1, 1989.

1. The plat of the dependent resurvey of the Cherokee Indian Land Within Tract No. 90, District No. 9, Graham County, North Carolina, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on June 15, 1989.

2. The dependent resurvey was made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey and Support Services, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., June 15, 1989.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

**Joseph W. Beaudin,**

*Acting Deputy State Director for Cadastral Survey and Support Services.*

[FR Doc. 89-11073 Filed 5-8-89; 8:45 am]

BILLING CODE 4310-GJ-M

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**[ES-940-09-4520-13; ES-040681, Group 13]**

## North Carolina; Filing of Plat of Dependent Resurvey

May 1, 1989.

1. The plat of the dependent resurvey of a portion of the Qualia Indian Boundary, from the 64½ mile corner plus 34.11 chain point to AP7 in Jackson County, North Carolina, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on June 15, 1989.

2. The dependent resurvey was made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey and Support Services, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., June 15, 1989.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

**Joseph W. Beaudin,**

*Acting Deputy State Director for Cadastral Survey and Support Services.*

[FR Doc. 89-11074 Filed 5-8-89; 8:45 am]

BILLING CODE 4310-GJ-M

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**[ES-940-09-4520-13; ES-040670, Group 13]**

## North Carolina; Filing of Plat of Survey of an Exclusion Within the Reservation "Lambert Tract"

May 1, 1989.

1. The plat of the survey of an exclusion of a parcel of land (Lambert Tract) within the Qualla Boundary, in Swain County, North Carolina, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on June 15, 1989.

2. The survey was made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the survey must be sent to the Deputy State Director for Cadastral Survey and Support Services, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., June 15, 1989.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

**Joseph W. Beaudin,**

*Acting Deputy State Director for Cadastral Survey and Support Services.*

[FR Doc. 89-11075 Filed 5-8-89; 8:45 am]

BILLING CODE 4310-GJ-M

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**[ES-940-09-4520-13; ES-040679, Group 13]**

## North Carolina; Filing of Plat of Dependent Resurvey

May 1, 1989.

1. The plat of the dependent resurvey of a portion of the Qualla Indian Boundary, from the 57 mile corner plus 10.58 chain point to the 57 mile corner plus 27.50 chain point in Swain County, North Carolina, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on June 15, 1989.

2. The dependent resurvey was made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey and Support Services, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., June 15, 1989.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

**Joseph W. Beaudin,**

*Acting Deputy State Director for Cadastral Survey and Support Services.*

[FR Doc. 89-11076 Filed 5-8-89; 8:45 am]

BILLING CODE 4310-GJ-M

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## Minerals Management Service

## National Outer Continental Shelf Advisory Board; Meeting

**AGENCY:** Department of the Interior, Minerals Management Service, Pacific OCS Region.

**ACTION:** National Outer Continental Shelf Advisory Board, Pacific Regional Technical Working Group Committee; notice and agenda for meeting.

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463.

The Pacific Regional Technical Working Group (RTWG) Committee of the National OCS Advisory Board is scheduled to meet June 2, 1989 from 8:00 a.m. to 4:00 p.m., at the Sheraton Santa Barbara Hotel, 1111 E. Cabrillo Boulevard, Santa Barbara, California 93103.

The tentative Agenda for the meeting covers the following topics:

- *Updates:* Department of the Interior; Minerals Management Service; Pacific OCS Region; and Lease Sales.
- *Reports:* Outer Continental Shelf Committee Meeting (April 18-19, 1989); Prince William Sound, Alaska, Oil Spill; Information Transfer Meeting (May 31-June 1, 1989); Pre- and Post-Lease Issues and Conflicts; Local Marine Fisheries Impact Program (e.g., Seismic Testing and Fishing).
- The Presidential OCS Task Force.
- Marine Minerals Initiatives.
- Pacific Northwest Task Force.
- Oil Spill Contingency Procedures.
- *RTWG Advisory Issues:* Improved public meetings and outreach activities; RTWG involvement in Scoping and other public meetings; RTWG involvement in post-lease activities.

Minutes of the meeting will be available for public inspection and copying at the following location:

Pacific OCS Region, Minerals Management Service, 1340 West Sixth Street, Room 277, Los Angeles, CA 90017.

Date: May 2, 1989.

**J. Lisle Reed,**

*Regional Director, Pacific OCS Region.*

[FR Doc. 89-11039 Filed 5-8-89; 8:45 am]

BILLING CODE 4310-MR-M

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## National Park Service

## National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 29, 1989. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC

20013–7127. Written comments should be submitted by May 24, 1989.

**Carol D. Shull,**

*Chief of Registration, National Register.*

MASSACHUSETTS

**Norfolk County**

*Norfolk Grange Hall,* 28 Rockwood Rd., Norfold, 89000438

**Worcester County**

*Cluett Peabody & Company,* 123 First St., Leominster, 89000439
*Rock Castle School,* Prospect St., Webster, 89000437
*Thompson School,* Prospect St., Webster, 89000436
*Whitney & Company,* 142 Water St., Leominster, 89000440

MINNESOTA

**Ramsey County**

*St. Agatha's Conservatory of Music and Arts,* 26 E. Exchange St., St. Paul, 89000443
*Walsh Building,* 189—191 E. 7th St., St. Paul, 89000444
*Yoerg, Anthony, Sr., House,* 215 W. Isabel St., St. Paul, 89000442

**Washington County**

*Stillwater Bridge,* MN 36/WI 64 over St. Croix River, Stillwater, 89000445

MISSISSIPPI

**Jefferson County**

*Mud Island Creek Complex (22JE508 and 22JE513),* Address Restricted, Lorman vicinity, 89000447

NEW HAMPSHIRE

**Cheshire County**

*Adams, Dr. Daniel, House,* 324 Main St., Keene, 89000449

**Grafton County**

*Webster Estate,* NH 113, Holderness vicinity, 89000448

**Merrimack County**

*Lower Warner Meetinghouse,* NH 103, Lower Warner, 89000450

NEW YORK

**Cayuga County**

*Willard Memorial Chapel—Welch Memorial Building,* 17–19 Nelson St., Auburn, 89000461

**Essex County**

*Aiken, Abraham, House,* NY 22/Lakeshore Rd., Hillsboro, 89000465

**Monroe County**

*Aquinas Institute,* 1127 Dewey Ave., Rochester, 89000964

**Westchester County**

*Jones, John, Homestead,* Oregon Rd. and Durrin Ave., Van Cortlandtville, 89000462
*Williams-DuBois House,* Grace Ln. and Pinesbridge Rd., New Castle, 89000463

NORTH CAROLINA

**Buncombe County**

*Downtown Asheville Historic District (Boundary Increase) (Asheville Historic and Architectural MRA),* 60 and 64 Biltmore Ave., Asheville, 89000468

**Durham County**

*Mangum, Bartlett, House (Durham MRA),* 2701 Chapel Hill Rd., Durham, 89000446

**Randolph County**

*Hammond, Moses, House,* 118 Trindale Rd., Archdale, 89000466

**Sampson County**

*Williams, Isaac, House (Boundary Increase),* MC 55 at jct. with NC 50, Newton Grove vicinity, 89000467

**Wake County**

*Pilot Mill,* 1121 Haynes St., Raleigh, 89000441

OHIO

**Hamilton County**

*Ford Motor Company Cincinnati Plant,* 660 Lincoln Ave., Cincinnati, 89000460

UTAH

**Box Elder County**

*Box Elder Flouring Mill (Brigham City MPS),* 327 East 200 North, Brigham City, 89000452
*Brigham City Mercantile and Manufacturing Association Woolen Factory (Brigham City MPS),* 56 North 500 East, Brigham City, 89000451
*Brigham City Mercantile and Manufacturing Association Mercantile Store (Brigham City MPS),* 5 N. Main St., Brigham City, 89000453
*Granary of the Relief Society (Brigham City MPS),* 100 North 400 East, Brigham City, 89000455
*Planing Mill of Brigham City Mercantile and Manufacturing Association (Brigham City MPS),* 547 E. Forest St., Brigham City, 89000454

VIRGINIA

**Prince William County**

*Goodwill Historic District, Chopawamsic RDA Camp 1 (ECW Architecture at Prince William Forest Park 1933–1942 MPS),* Off VA 234 W of I–95, Triangle vicinity, 89000456
*Mawavi Historic District, Chopawamsic RDA Camp 2 (ECW Architecture at Prince William Forest Park 1933–1942 MPS),* Off VA 619 W of I–95, Triangle vicinity, 89000457
*Orenda/SP–26 Historic District, Chopawamsic RDA Camp 3 (ECW Architecture at Prince William Forest Park 1933–1942 MPS),* Off VA 619 W of I–95, Triangle vicinity, 89000458
*Pleasant Historic District, Chopawamsic RDA Camp 4 (ECW Architecture at Prince William Forest Park 1933–1942 MPS),* Off VA 234 W of I–95, Triangle vicinity, 89000459

[FR Doc. 89–11066 Filed 5–8–89; 8:45 am]

BILLING CODE 4310–70–M

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–276]**

### Vacatur of Commission Cease and Desist Order and Issuance of Modified Cease and Desist Order

In the matter of certain erasable programmable read only memories, components thereof, products containing such memories, and processes for making such memories.

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Commission has vacated the cease and desist order issued on March 16, 1989, to Atmel Corporation in the above-captioned investigation, and has isssued a modified cease and desist order to Atmel Corporation.

**FOR FURTHER INFORMATION CONTACT:** Judith M. Czako, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–252–1093.

**SUPPLEMENTARY INFORMATION:** The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), §§ 210.58(3)–(7) and 211.57 of the Commission's interim rules (53 FR 33076–77 (Aug. 29, 1988), 53 FR 49133–35 (December 6, 1988)), and the Order of the U.S. Court of Appeals for the Federal Circuit in No. 89–1382, *In re Atmel Corporation,* (April 27, 1989) (unpublished Order).

On April 27, 1989, the U.S. Court of Appeals for the Federal Circuit issued a writ of mandamus directing the Commission to vacate the cease and desist order that the Commission issued to Atmel Corporation on March 16, 1989, and providing that the Commission could modify or reissue a cease and desist order in accordance with section 337(j)(3) of the Tariff Act of 1930 (as amended) and the Court's order.

Notice of this investigation was published in the **Federal Register** of September 16, 1987 (52 FR 35004).

Copies of the Commission's Order, the modified cease and desist order issued to Atmel Corporation, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the

Commission's TDD terminal on 202–252–1810.

By order of the Commission.

Issued: April 28, 1989.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 89–11055 Filed 5–8–89; 8:45 am]

BILLING CODE 7020–02–M

## INTERSTATE COMMERCE COMMISSION

**[Docket No. AB–55; Sub–No. 291]**

### CSX Transportation, Inc.—Abandonment—Between Edna and Powder Springs, in Cobb County, GA; Findings

The Commission has issued a certificate authorizing CSX Transportation, Inc. to abandon its 12.12-mile line of railroad between Edna (milepost SG–581.60) and Powder Springs, GA (milepost SG–593.72), in Cobb County, GA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

Noreta R. McGee,

*Secretary.*

[FR Doc. 89–11092 Filed 5–8–89; 8:45 am]

BILLING CODE 7035–01–M

**[Finance Docket No. 31407]**

### Sidney & Lowe Railroad, Inc., and Union Pacific Railroad Co.; Exemption From

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Commission, under 49 U.S.C. 10505, exempts from the requirements of 49 U.S.C. 11343, *et seq.*, the purchase from the Union Pacific Railroad Company (UP) and operation by Sidney & Lowe Railroad, Inc. (S&L): (1) of approximately 3.65 miles of rail and rail-related property originating at a point approximately 1027.55 feet west of the Northeast Corner of Central Section 18, Township 14 North, Range 50 West, in Cheyenne County, NE, and extending to its connection with track owned by S&L serving the Sidney Warehouse, Inc. Bulk Storage Facility; and (2) over a nonexclusive perpetual easement for Track A9, commonly known as the "Elevator Track," located adjacent to UP's rail yard in the vicinity of Brownson, NE, along with both legs of the Wye connecting Track A9 and the UP line. The purchase includes all of the rail, ties, switches, and other track material, and related appurtenances to the easement premises, but not the underlying right-of-way. The exemption is granted subject to appropriate labor protective conditions and a condition requiring S&L to maintain the integrity of all structures 50 years old or older on the line until completion of the process required by section 106 of the National Historic Preservation Act.

**DATES:** This exemption is effective on May 30, 1989. Petitions to stay the effectiveness of this exemption must be filed by May 24, 1989.

**ADDRESSES:** Send pleadings referring to Finance Docket No. 31407 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representatives: Lawrence E. Kritenbrink (S&L), 1500 Woodmen Tower, Omaha, NE 68102; Joseph D. Anthofer (UP), 1416 Dodge Street, Omaha, NE 68179.

**FOR FURTHER INFORMATION CONTACT:** 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, call or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357/4359 (DC Metropolitan area) [Assistance for the hearing impaired is available through TDD services (202) 275–1721.]

Decided: May 2, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

*Secretary.*

[FR Doc. 89–11094 Filed 5–8–89; 8:45 am]

BILLING CODE 7035–010–M

**[Docket No. AB–33; Sub–No. 54]**

### Union Pacific Railroad Co.; Abandonment and Discontinuance of Operations Between Manteca Jct. and South Manteca in San Joaquin County, CA (Manteca Branch); Findings

The Commission has found that the public convenience and necessity permit Union Pacific Railroad Company to abandon and discontinue operations over its 6.6-mile line of railroad known as the Manteca Branch between milepost 0.0 near Manteca Jct. and milepost 6.6 near South Manteca, in San Joaquin County, CA.

A certificate will be issued authorizing abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served on the applicant no later than 10 days from publication of this Notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: April 27, 1989

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

*Secretary.*

[FR Doc. 89–11093 Filed 5–8–89; 8:45 am]

BILLING CODE 7035–01–M

## DEPARTMENT OF JUSTICE

### Lodging of Consent Order

In accordance with Departmental policy, 28 CFR 50.7 notice is hereby given that on May 1, 1989 a proposed Consent Order in *Atlantic States Legal Foundation, Inc. and Citizens For A Better Environment v. Koch Refining Company,* Civil Action No. 4–87–634 and *United States of America v. Koch Refining Company,* Civil Action No 3–87–708 (D. Minn.), between the United States, on behalf of the Environmental Protection Agency ("EPA"), and Koch Refining Company has been lodged with the United States District Court for the

District of Minnesota. The Consent Order resolves the claims of the United States (as well as related claims of the State of Michigan and the Atlantic States Legal Foundation and the Citizens for a Better Environment which are also parties to this Order) against Koch Refining Company under the Clean Water Act, for the discharge of pollutants into the Mississippi River from Koch's oil refinery in Rosemont, Minnesota. Under the settlement reflected in the Consent Order, Koch Refining Company will comply with its applicable National Pollutant Discharge Elimination System Permit ("NPDES") and federal and state law; met specified interim effluent limitations; expand its wastewater treatment facility; conduct a Toxicity Reduction Evaluation and perform a Toxicity Reduction Program to eliminate the acute toxicity of its effluent and comply with the acute toxicity effluent requirements of its applicable NPDES permit; implement improvements in its use of laboratories; and improve the operations and maintenance of the wastewater treatment plant. In addition, Koch shall pay a total civil penalty of $2 million; $1.54 million will be paid to the United States and $460,000 will be paid to the State of Minnesota. Koch will also make $200,000 in additional payments. Subject to specified requirements, the Mississippi River Revival and the Minnesota Environmental Education Board will each receive $75,000 for use in specific Mississippi River projects in the Minneapolis/St. Paul area. The Minnesota Clean Water Partnership Supplemental Account will receive $50,000 for use in projects consistent with the State of Minnesota's Clean Water Partnership Act, Minn. Stat. § § 115.091–115.103.

The Department of Justice will receive comments relating to the proposed Consent Order for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States of America v. Koch Refining Company*, D.J. Ref. No. 90–5–1–2–65. The proposed Consent Order may be examined at the Office of the United States Attorney, 234 U.S. Courthouse, 110 South 4th Street, Minneapolis, Minnesota 55401, at the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1748, Tenth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Order may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $9.40 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

**Donald A. Carr,**

*Acting Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 89–11024 Filed 5–8–89; 8:45 am]

BILLING CODE 4410–01–M

## Drug Enforcement Administration

**[Docket No. 88–74]**

### Stanley D. Carlson, D.D.S., Eau Claire, WI; Hearing

Notice is hereby given that on July 14, 1988, the Drug Enforcement Administration, Department of Justice, issued to Stanley D. Carlso, D.D.S., an Order to Show Cause as to why the Drug Enforcement Administration should not deny your application for a Certificate of Registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, May 9, 1989, commencing at 10:00 a.m., at the United States District Court, 517 East Wisconsin Avenue, Courtroom 425, Milwaukee, Wisconsin.

Dated: May 1, 1989.

**John C. Lawn,**

*Administrator, Drug Enforcement Administration.*

[FR Doc. 89–11001 Filed 5–8–89; 8:45 am]

BILLING CODE 4410–09–M

**[Docket No. 88–102]**

### Karl H. Stanley, Jr., M.D., Washington, DC; Hearing

Notice is hereby given that on September 19, 1988, the Drug Enforcement Administration, Department of Justice, issued to Karl H. Stanley Jr., M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AS7842772, and deny any pending application for renewal.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, May 9, 1989, commencing at 10:00 a.m., at the United States Court of Appeals for the Federal Circuit, 717 Madison Place, NW., Courtroom 2, fourth floor, Washington, DC.

Dated: May 1, 1989.

**John C. Lawn,**

*Administrator, Drug Enforcement Administration.*

[FR Doc. 89–11002 Filed 5–8–89; 8:45 am]

BILLING CODE 4410–09–M

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Recordkeeping.00/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

*Background:* The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

*List of Recordkeeping/Reporting Requirements Under Review:* As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

*Comments and Questions:* Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson. Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395–6800).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Occupational Safety and Health Administration
4.4'-Methylenedianiline (MDA) for General Industry
None
On occasion
Businesses and other for-profit; Small businesses or organizations
238 recordkeepers; 53 hours-average per recordkeeper; 12,259 total hours; 0 forms

| | Proposed burden hours |
|---|---|
| a. Emergency Plan | See item (e). |
| b. Exposure Monitoring | 476 |
| c. Employee Notification | 238 |
| d. Visual Monitoring | 357 |
| e. Compliance Program | 714 |
| f. Respiratory Protection | 950 |
| g. Notify the Laundry | 0 |
| h. Communication of Hazards | 0 |
| i. Employee Information and Training | 2,380 |
| j. Medical Surveillance: | |
| Examinations | 5,541 |
| Multiple Physician Review | 8 |
| Information Provided | 277 |
| Physician's Written Opinion | 277 |
| Medical Removal Decision | 0 |
| k. *Recordkeeping:* | |
| Monitoring Records for Exempted | 0 |
| Objective Data for Exempted | 0 |
| Exposure Monitoring | 269 |
| Medical Records | 692 |
| Medical Removals | 0 |
| Records Availability | 80 |
| Records Transfer | 0 |
| Total | 12,259 |

This proposed regulation requires employers to train employees about the hazards of 4,4'-Methylenedianiline, monitor employee exposure, provide medical surveillance, and maintain accurate records of employee exposure. These records will be used by employers, employees, physicians and the Government to ensure that employees are not harmed by exposure to MDA.

New

Occupational Safety and Health Administration
4,4'-Methylenedianiline (MDA) for the Construction Industry
Businesses and other for-profit; Federal agencies or employees; Small businesses or organizations
0 responses, 0 burden hours; 0 forms

This proposed regulation requires employers to train employees about the hazards of 4,4'-Methylenedianiline, monitor employee exposure, provide medical surveillance, and maintain accurate records of employee exposure. These records will be used by employers, employees, physicians and the Government to ensure that employees are not harmed by exposure to MDA.

New

Departmental Management, Assistant Secretary for Policy
Potential Agricultural Worker Survey (PAWS)
Annually
Individuals or households; Federal agencies or employees
4,660 respondents; 1,345 hours; 17 minutes per response;

The Immigration and Nationality Act (INA) as amended by Immigration Reform and Control Act (IRCA) requires the DOL and USDA to estimate potential additions to the supply of Seasonal Agricultural Service (SAS) workers from among domestic rural unemployed workers. This survey is to allow such estimates to be made.

New

Employment and Training Administration
Unemployment Insurance Quality Control Alternative Methods Pilots

New

One-time pilot study
Individuals or households; State of local governments; Businesses or other for-profit; Federal agencies or employees; Non-profit
Institutions; Small businesses or organizations
7,200 respondents; 4,700 total hours; 2–3½ hrs. per response; no forms

This pilot project is intended to assess the effect of telephone verifications on the integrity of the quality control process, to assess the effect of using computer-assisted telephone technology on the process, assess cost savings due to the method, and help the Department decide how best to use the telephone in the QC investigative process.

New

Employment and Training Administration
Study of JTPA Staffing and Staff Training at the State and SDA Levels
One-time only
State or local govenments; Non-profit institutions
1,097 respondents; 834 total hours; 25 minutes–1½ hr.; no forms

This study will describe how states and localities have developed their staffs to deliver services under JTPA. Surveys of agency directors and staff will identify priority training needs by type of staff position and organization, and permit managers to compare staffing in their own organization with similar organizations.

*Revision of Existing Collection in Use Without an OMB Control Number*

Occupational Safety and Health Administration
Logging Operations (EXISTING AND PROPOSED)
On Occasion
State and local governments; Businesses or other for-profit; Small businesses or organizations
3,104 respondents; 517 burden hours; .167 average burden hours per response; 0 forms

Firms engaged in logging operations are required to keep an operator's manual or a set of operating instructions with each machine for employee use to ensure safe operation and maintenance of machines.

Revision

Employment Standards Administration
Survivor's Claim for Benefits Under the Black Lung Benefits Act
1215–0069; CM–912
On death of miner
Individuals or households
1500 respondents; 630 total hours; 25.2 minutes per response; 1 form

A survivor of a coal miner must file a claim for benefits under the Black Lung Benefits Act, as amended, in order to receive benefits. The claim and supporting documentation are reviewed by DCMWC claims examiners to determine the survivor's eligibility for benefits.

**Revision**

Occupational Safety and Health Administration
Powered Platforms
1218–0121
On occasion;
Businesses or other for-profits;
900 respondents; 7857 total burden hours; 8.73 average number hours per response;

Requires procedures, plans, tags, and labels for powered platforms. OSHA is requiring this information to be collected by employers to assure the employees who operate powered platforms receive uniform and comprehensive instruction and information in the operation, safe use and inspection of this equipment.

**Revision**

Bureau of Labor Statistics
CES State Operations Review
1220–0075 BLS 790 V
Annually
State or local government
53 responses; 530 hours—10 hours per response; 1 form

The CES State Operations Review is the principal source of information concerning the quality of data collection and estimation methodology employed by the states and their adherence to BLS procedures for conducting the CES survey. It is a dynamic vehicle that is designed to measure the survey program performance in each state.

**Extension**

Employment Standards Administration
Housing Occupancy Certificate—Migrant and Seasonal Agricultural Worker Protection Act
1215–0158; WH–520
Individuals or households; Farms, Business or other for profit; Small businesses or organizations
450 respondents; 31 total hours; 3 minutes per response; 1 form

Section 203(b(1) of the Migrant and Seasonal Agricultural Worker Protection Act requires any person owning or controlling any facility or real property to be occupied by migrant agricultural workers to obtain a certificate of occupancy. Form WH–520 is the form used when DOL's Wage and Hour Division inspects and approves such housing.

**Extension**

Employment and Training Administration
Grantee Planning and Reporting Forms for the Job Training Partnership Act, Title IV, Sections 401 and 402
1205–0215; ETA 8585, 8596, 8599, 8598, 8599, 8604, 8603, 8602, 8601, 8600
Quarterly; Annually

| Form # | Affected public | Respondents | Frequency | Average time per response |
|---|---|---|---|---|
| ETA 8595 | State or Local governments | 76 | Annually | 15 hours. |
| ETA 8596 | State or Local governments | 76 | Annually | 15 hours. |
| ETA 8597 | State or Local governments | 76 | Quarterly | 7 hours. |
| ETA 8598 | State or Local governments | 76 | Quarterly | 7 hours. |
| ETA 8599 | State or Local governments | 76 | Annually | 20 hours. |
| ETA 8600 | State or Local governments | 180 | Annually | 15 hours. |
| ETA 8601 | State or Local governments | 180 | Annually | 15 hours. |
| ETA 8602 | State or Local governments | 180 | Quarterly | 7 hours. |
| ETA 8603 | State or Local governments | 180 | Quarterly | 7 hours. |
| ETA 8604 | State or Local governments | 180 | Annually | 20 hours. |
| ETA 8600 | State or Local governments | 200 | Annually | 15 hours. |
| ETA 8601 | State or Local governments | 200 | Annually | 15 hours. |
| ETA 8602 | State or Local governments | 200 | Annually | 7 hours. |
| ETA 8603 | State or Local governments | 200 | Annually | 7 hours. |
| Master Agreement | State or Local governments | 256 | Annually | 3 minutes. |
| Narrative | State or Local governments | 256 | Annually | 22 hours. |

37,996 total hours

These forms are used to manage the national programs authorized under Sections 401 and 402 of the Job Training Partnership Act. These documents are the principal sources of program plans and performance data. They form the basis for the award of funds, Federal oversight and reports to Congress.

**Extension**

Employment Standards Administration
Report of Changes That May Affect Your Black Lung Benefits
1215–0084; CM–929
Annually
Individuals or households
84,000 respondents; 7,840 total hours; 5 to 8 minutes per response; 1 form

To help determine continuing eligibility of primary beneficiaries receiving benefits from the Black Lung Disability Trust Fund. To verify and update on an annual basis factors that affect a beneficiary's entitlement to benefits including income, marital status, receipt of state workers' compensation, and dependents' status.

**Reinstatement**

Bureau of Labor Statistics
Current Population Survey—September 1989—Veterans Supplement
1220–0102—CPS–I, CPS 260
Other—one time
Individuals or households
57,000 responses; 969 hours—1 minute per response; 1 form

These data will provide information regarding service-connected disabilities among veterans, identify veterans who served in the Vietnam theater, and provide estimates on the labor force activity of Vietnam theater veterans as compared to other veterans and nonveterans. Estimates on the number of veterans who are no longer employed due to a service-connected disability will also be obtained.

Signed at Washington, DC this 3rd day of May, 1989.

**Paul E. Larson,**

*Departmental Clearance Officer.*

[FR Doc. 89–11088 Filed 5–8–89; 8:45 am]
BILLING CODE 4510–26–M

## Employment and Training Administration

**[SGA-DAA 89–104]**

## Research, Evaluation, and Pilot and Demonstration Project Program, Program Year 1988; Availability of Funds and Request for Applications

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of availability of funds and of Solicitation for Grant Applications.

**SUMMARY:** The Employment and Training Administration announces the

availability of funds for developing and testing a number of model approaches to allow for expansion of the apprenticeship concept to a broadened structured workplace training system accessible to non-traditional occupations, industries and target groups.

**DATES:** The closing date for receipt of applications under this announcement is June 5, 1989. All applications must be received by 4:45 p.m. (Eastern Time) at the address below. Any application not reaching the designated place and date of delivery will not be considered, unless mailed not later than five (5) days prior to the closing date.

Applications submitted by mail must be postmarked no later than June 1, 1989. The term "postmark" means a printed, stamped, or otherwise placed impression (exclusive of postage meter machine impression) that is readily identifiable without further action as having been supplied or affixed on the date of mailing by employees of the U.S. Postal Service.

Hand-delivered applications must be received by 4:45 p.m., (Eastern Time) on June 5, 1989. It is preferred that applications be mailed. Telephone requests *will not be honored.*

**ADDRESS:** Mail or hand-deliver applications to: Office of Financial and Administrative Management, Division of Acquisition and Assistance, Employment and Training Administration, Department of Labor, Room C–4305, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Gwendolyn Simms; Reference: SGA–DAA 89–104. The SGA number SGA–DAA 89–104 must appear on the outside of the mailing container.

Copies of Standard Form (SF) 424, "Application for Federal Assistance;" SF 424 A, "Budget;" SF 269, "Financial Status Report;" and SF 424 B, "Non-construction Program Form" may be obtained by contacting Gwendolyn Simms, Division of Acquisition and Assistance, Office of Financial and Administrative Management, Employment and Training Administration, Department of Labor, Room C–4305, 200 Constitution Avenue, NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Gwendolyn Simms, Division of Acquisition and Assistance, Telephone: (202) 535–8706.

**SUPPLEMENTARY INFORMATION:** The Employment and Training Administration (ETA) of the Department of Labor (DOL or Department) announces the availability of funds (1) to explore in depth, in different locations throughout the country, the feasibility of expanding apprenticeship to additional industries; (2) to test alternative delivery systems; and (3) to test different approaches to achieve greater participation by targeted groups. Such efforts will need to include demonstration projects on broadening the apprenticeship concept to include alternative approaches that will provide flexibility. The size and scope of the grant will be dependent upon the grant applications and evaluation of them as covered later in this announcement, but will number at least two varying approaches.

This solicitation, which will result in the award of one (1) grant, is open to public and private organizations. The awarded project will consist of two segments, one of approximately $50,000 for six months of preliminary work and study of successful practices, issues identification, and development of recommendations for models; and the other for development and testing over about a 12-month period of at least three demonstration models (at $150,000 each) for alternative systems directed to broadening and increasing the flexibility of the apprenticeship concept of training. The final six months of the grant will be devoted to refining model systems and developing recommendations for replication of systems as appropriate. DOL anticipates that proven and accepted new approaches will be established throughout the country with technical assistance and monitoring provided by apprenticeship staff of the DOL and State apprenticeship agencies.

## Part I—Preamble

### *A. Introduction*

The Department has devoted substantial resources over the last two years to identifying changes in the workplace that are likely to occur during the remaining years of this century and into the next. From this effort, ETA is focusing on issues relating to the American work force and its training needs.

In December 1987, the Department launched the Apprenticeship 2000 initiative with the publication of an issue paper in the **Federal Register** 52 FR 45904 December 2, 1987. The purpose of this initiative is to review the apprenticeship concept to determine its future role in meeting America's needs for a skilled work force.

The basic premise of the initiative is that scrutiny should be given to the apprenticeship concept of structured on-the-job training combined with related classroom instruction, and serious consideration given to increasing the role of this concept in preparing workers for skilled jobs. This is a concept which holds potential for meeting both the needs of employers in industries facing skill shortages as well as the needs of targeted populations, such as workers who may periodically require retraining or upgrading, dislocated workers, or the at-risk youth population.

Two key components of this initiative are: (1) A public dialogue, and (2) a two-phased research program. The first phase of the research program consisted of short-term research papers; the second phase will involve longer-term projects.

The purpose of the first phase of the research program was to analyze carefully a number of key issues and to develop and support recommendations for the future direction of apprenticeship. These short-term projects were completed in October 1988 and will be used in preparing the report of findings and recommendations on the future role of apprenticeship.

The second phase of the research program, the longer-term projects, will include demonstration projects and such features as testing the feasibility of expanding the apprenticeship concept of training to a broadened structured workpace training system that can address additional industries, testing alternative delivery systems, increasing the efficiency and quality of operations, and testing approaches to targeted groups.

This Solicitation for Grant Application (SGA) represents one of the areas to be investigated further. It will provide a thorough consideration of adaptation of current apprenticeship to structured workplace training system policies and procedures to be proposed to better meet the skilled training needs of the American work force in the future.

### *B. Background*

The Department has determined that the National Apprenticeship System has the potential for playing a significant role in addressing our country's projected need for an increased number of skilled workers in an economy that is undergoing demographic changes and that is facing unprecedented international competition. However, in order to meet challenges the apprenticeship system must expand, adapt to changing conditions, and increase its flexibility.

In order to accomplish these goals DOL is awarding a grant to provide for the development and testing of a number of model approaches to allow for expansion of the apprenticeship training concept to a broadened

structured workplace training system accessible to non-traditional occupations, industries, and target groups and to provide a flexibility that will permit the system to readily adapt to a volatile economy and work force. The grant awarded will be directed to at least two possible approaches. Briefly the approaches to be studied are:

(a) Career Ladder

To test whether a broadened structured workplace training system can enable individuals to upgrade their skills in order to move into higher skill level occupations.

(b) Upgrade/Refresher

To test whether a structured workplace training system can be used to provide workers with refresher or upgrade training to enable them to adapt to new workplace technologies.

Additional related information can be found in the **Federal Register** at 52 FR 40326 (October 14, 1988).

**Part II—Programmatic Topics**

*A. Scope*

The grantee shall provide all personnel, materials, and facilities for the area of study to produce reports as later described and to test the approved system.

*B. Statement of Work*

This grant will involve thorough study and understanding of the current apprenticeship delivery system and exploration of the feasibility of developing a number of alternative models which will result in a more flexible structured workplace training system that will provide increased skilled training opportunities for the American work force, including opportunities for at-risk youth, dislocated and older workers, minorities and women.

Work on this grant will be performed in two major parts:

(1) For the first six months of the grant a literature search and compilation and review of information will be conducted on other attempts, successful and unsuccessful, of programs to address skill training needs of dislocated workers, older workers, at-risk youth, minorities and women. Meetings and discussions will be conduted to obtain information from sponsors of these programs, of apprenticeship program sponsors, both labor and management, and of individuals from the target groups. Information sought will include, but not be limited to, successful attempts, problem identification, how problems were resolved, failures and why they failed, needs of employers and their interest and willingness to participate in flexible structured workplace training concept programs focused at the target groups, skill training needs and problems of the targeted population.

Collected information will be summarized, analyzed and recommendations made for development of varying models that would assist the target groups to receive structured workplace training in a practical and successful manner with long-term benefits.

(2) Upon completion of (1) above, and upon approval by the federal representative, the next 12 months of the grant period will be devoted to the development of at least three demonstration programs and testing of the practicality of previously developed recommendations. The Department will probably propose some demonstration sites.

Three or more different demonstration programs will be developed and initiated during the twelve-month period in varying localities of the country. Grantee will be responsible for all aspects of developing a system or systems that test the approaches indicated earlier and in the previously referenced **Federal Register**. System development activity would include, for example, program direction, on-the-job training and related theoretical instruction, credential and certification sub-systems, upgrade training, outreach efforts to targeted groups, recordkeeping, and program monitoring. Such programs do not have to be for the traditional apprenticeable occupations. An evaluation component is expected for each demonstration program. Development of the program must include appropriate contact with local and State government, labor, management, and education officials. Long-term continuance of the tested programs must be addressed and considered in the evaluation component. Demonstration program should focus primarily in non-construction industries with emphasis on manufacturing, high tech and service occupations, *e.g.*, medical areas. The final six months of the grant will be spent on refining the model systems and developing recommendations for replication of the system as appropriate.

**Part III—Application Process**

An original and four copies of the grant application package shall be submitted. The application package shall consist of two (2) separate and distinct parts. Part I shall contain the Standard Form (SF) 424, "Application for Federal Assistance" and SF 424A, "Budget." Part II shall contain a technical proposal that demonstrates the offeror's capabilities. No cost data or reference to price shall be included in the technical proposal, Part II.

*A. Criteria for Award*

Prospective proposers are advised that the selection of grantee for award is to be made after careful evaluation of proposals by a panel of specialists within DOL/ETA. Each panelist will evaluate the proposals for acceptability with emphasis on the various factors enumerated below. The panel results are advisory in nature and not binding on the grant officer.

*B. Evaluation Criteria*

a. Program Design (40 points)

Proposals will be evaluated on the degree to which they reflect sound program design and methods. Areas that will be examined include the following:

1. The offeror's understanding of the basic aims and objectives of the project.

2. The appropriateness of the offeror's approaches and methods for information gathering and evaluation, problem identification and technical solutions, management and performance.

3. Innovative yet practical proposed demonstrations that reflect determined needs.

4. Knowledge of the apprenticeship system and concept of training.

b. Administrative Capability (15 points)

Proposals will be evaluated in terms of the capability of the:

1. Offeror's apparent capability for managing such a technical and multi-faceted project.

2. Indication of the offeror's ability to perform within the time lines provided.

c. Staff Capability (20 points)

Proposals will be evaluted in terms of the degree to which:

1. The duties outlined for key executive, managerial, and technical positions appear appropriate to the work that will be conducted under the award.

2. The qualifications of the persons designated for key executive, managerial, and technical positions appear to match the requirements of these positions.

d. Previous Experience (25 points)

The proposals will be evaluated on the degree to which the offeror demonstrated that it has successfully carried out programs or work of a similar nature in the past.

C. Reporting Requirements

1. *Financial Status Report.* The grantee shall submit to the Federal Representative an original and two copies of SF 269, Financial Status Report, on a quarterly basis.

2. *Program Report.* (a) Quarterly Progress Reports. The grantee shall submit to the Federal Representative 30 days following the end of each quarter, a progress report, original and two copies. The first quarterly report shall include a summary of findings of preliminary studies as described *below* and make detailed recommendations for demonstration projects in draft form. The second quarterly report shall include the final report on findings of preliminary studies and recommendations for demonstration projects.

(b) Grantee shall attend a two-day meeting at the U.S. Department of Labor to receive orientation as to the overall intent and scope of this project.

(c) Based upon recommendations, approved by the Federal representative, the grantee shall develop and initiate within 12 months from grant execution date at least three (3) demonstration projects to test the practicality and effectiveness of the recommended approaches.

D. Final Report

(1) *Draft Final Report.* The grantee will provide project officer with a draft demonstration project evaluation report and recommendations no later than 30 days before the expiration date of the grant.

(2) *Final Report.* The final report shall be submitted to the Federal Representative no later than 90 days following expiration of the grant.

Signed at Washington, DC, on April 26, 1989.

**Roberts T. Jones,**

*Assistant Secretary of Labor.*

[FR Doc. 89-11089 Filed 5-8-89; 8:45 am]

BILLING CODE 4510-30-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**NOTICE (89-33)**

### Agency Report Forms Under OMB Review

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Agency Report Forms Under OMB Review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

**DATE:** Comments are requested by June 8, 1989. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

**ADDRESSES:** John W. Gaff, NASA Agency Clearance Officer, Code NA, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700-0056), Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Shirley C. Peigare, NASA Reports Officer, (202) 453-1090.

**Reports**

*Title:* NASA FAR Supplement, Part 18-12, Contract Delivery or Performance.

*OMB Number:* 2700-0056.

*Type of Request:* Extension.

*Frequency of Report:* On occasion.

*Type of Respondent:* State or local governments, Businesses or other for-profit, non-profit institutions, small businesses or organizations.

*Number of Respondents:* 678.

*Responses per Respondent:* 0.1.

*Annual Responses:* 68.

*Hours per Response:* 1.

*Annual Burden Hours:* 68.

*Abstract-Need/Uses:* Contractor to provide notice of anticipated delay in performance of contract.

May 3, 1989.

**John W. Gaff,**

*Director, Management Operations Office.*

[FR Doc. 89-11064 Filed 5-8-89; 8:45 am]

BILLING CODE 7510-01-M

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Permanent Records; Retention of Same in Microform Format

**AGENCY:** National Archives and Records Administration, Office of the National Archives.

**ACTION:** Notice of permanent retention in microform of certain foreign consular records.

**SUMMARY:** The National Archives and Records Administration (NARA) is presently reproducing on microfilm records created by Imperial Russian consulates located in the United States and Canada. After microfilming, the original materials will be transferred to the Soviet Government. The microfilm, which will be considered originals for evidentiary purposes, will be retained permanently by NARA as evidence of the United States Government's organization, functions, policies, decisions, procedures, and transactions. Further, the microfilm records, like the original materials, will be available for research use by members of the public without restriction. Authority for retaining microfilm records in lieu of original materials is provided by 44 U.S.C. 2108 and 2109. All of the microfilm records meet the standards for micrographic technology set forth at 36 CFR 1230.1 through 1230.26.

**ADDRESSES:** Requests for information about these microfilm records should be addressed to the Office of the National Archives (NN), National archives and Records Administration, Washington, DC 20408.

**SUPPLEMENTARY INFORMATION:** NARA is required to provide for the preservation, duplication, and reproduction of records or other documentary material transferred to its custody by other Federal agencies. In carrying out this responsibility, NARA may make copies for preservation purposes of original materials which contain information of permanent value. This copying may be by "photographic or microphotographic processes" for the purpose of disposing of the original materials (44 U.S.C. 3302(3)). Once the original materials have been reproduced by a photographic or microphotographic process—for example, by microfilming them—the copies may be retained as the official version of the information contained within them. Pursuant to 44 U.S.C. 2116(a), the copies are considered originals for evidentiary purposes

Once NARA has microfilmed original materials, it may dispose of those materials if they are no longer needed as evidence of the United States Government's organization, functions, policies, decisions, procedures, operations, other activities. The method of disposal chosen in this instance is transfer to a foreign government, the Union of Soviet Socialist Republics. Transfer is appropriate because the materials in question were created by

the Imperial Russian Government's consulates in the United States and Canada. The Imperial Russian Government was a predecessor of the Soviet Government.

The microfilmed records to be retained by NARA contain all of the information previously available from the original consular materials. Further, all of the microfilmed records meet NARA's stringent Governmentwide standards for permanently-retained microform materials.

This notice is being provided pursuant to 44 U.S.C. 2109, which authorizes the Archivist of the United States to publish information about permanent records maintained by NARA in order to facilitate their use by the public. The purpose of the notice is to ensure that members of the public are aware that the records described remain available for research use. While we usually do not publish notice of this nature in the **Federal Register**, we decided to do so in this case, given the character of the records involved.

Individuals who wish to obtain more information about the contents and use of these records should inquire at the National Archives building or write the Office of the National Archives at the address listed above.

Dated: May 3, 1989.

**Claudine J. Weiher,**

*Acting, Archivist of the United States.*

[FR Doc. 89-11077 Filed 5-8-89; 8:45 am]

BILLING CODE 7515-01-M

## Privacy Act of 1974; Systems of Records

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of Revised Systems of Records.

**SUMMARY:** NARA is making various minor changes to its systems of records, and proposing to alter two systems and delete another system. The specific changes to the notices are set forth in the Supplementary Information section, followed by the inventory of NARA systems notices, as amended, published in full.

**DATES:** Written comments on the two proposed altered systems (NARA-5 and NARA-11) should be received by June 8, 1989. All other changes to the systems will be effective on June 8, 1989. NARA filed an Altered System Report with the Congress and the Office of Management and Budget on April 26, 1989. The proposed altered systems shall be effective without further notice on June 26, 1989, unless comments are received which would result in a contrary determination.

**ADDRESS:** Comments on the proposed altered systems should be addressed to John A. Constance, Director, Policy and Program Analysis Division (NAA), National Archives and Records Administration, Washington, DC 20408.

**FOR FURTHER INFORMATION CONTACT:** John A. Constance or Laurence Patlen, Policy and Program Analysis Division (NAA), National Archives and Records Administration, Washington, DC 20408. Telephone (202) 523-3214 or (FTS) 523-3214.

**SUPPLEMENTARY INFORMATION:** As required by the Privacy Act of 1974, and Office of Management and Budget (OMB) Circular No. A-130, the National Archives and Records Administration (NARA) reviewed its systems of records and identified two systems of records requiring substantive modification, as well as numerous minor administrative and editorial changes that will more accurately describe these records. One system, NARA 21, OPM Governmentwide Notices, is being deleted. NARA last gave complete notice of its inventory of systems of records in the **Federal Register** of March 7, 1986 (51 FR 8148).

Most of these changes are the result of reorganizations and office relocations. Included are changes to office names, names and addresses of system managers, locations of the records, and retention and disposal instructions. Several changes are applicable to all NARA systems. Wherever used, the term "National Archives Center" has been changed to the terms "Federal Records Centers" and/or "the Regional Archives." Wherever used, the term "National Archives Field Branches" has been replaced with the term "the Regional Archives."

For NARA-1, Researcher Application Files, the Federal Records Centers and National Personnel Records Center are deleted as locations since the records are not retained there. The retention period has been changed to 25 years. The retention period for NARA-2, Reference Request Files created in the process of providing records to researchers in the research rooms has also been changed to 25 years.

For NARA-5, Conference and Related Activities files, the Categories of Individuals Covered by the System is expanded to include participants or potential participants in "training courses offered or sponsored by NARA." The Categories of Records description is begin modified to include "copies of training requests (SF-182 or equivalent)." At certain locations, it is expedient to maintain training request information in addition to "biographical information" presently covered by the notice. This proposed change will expand the categories of records in NARA-5. These proposals are major changes for which an Altered System Report has been submitted to Congress and OMB. Minor changes are being made to add 601 D Street NW, Washington, DC as a location, and add the Assistant Archivist for Records Administration as a system manager.

For NARA-11, Credentials, Passes and Licenses, the categories of individuals covered by the system is proposed to be expanded to include contractors to NARA. This is a major change for which an Altered Systems Reprot has been submitted to the Congress and OMB. Minor changes to NARA-11 are made to delete Optional Form 55, U.S. Government Identification, from the Categories of Records since the form is not maintained, and the Retention and Disposal section is updated to clarify the various disposal instructions for the records.

For NARA-14, Payroll and Time and Attendance Reporting System, reference to the Personnel Information Resources System (PIRS) under System Location, is deleted. This automated system is covered by the Office of Personnel Managment Governmentwide system notice OPM/GOVT-1. Because NARA-14 is maintained under a reimbursable agreement with the General Services Administration (GSA), the System Manager and Address is changed from the Director, Personnel Services Division, NARA, to the Chief, National Payroll Center (6BCY-N), P.O. Box 419277, Kansas City, MO 64141. The Notification Procedure and Records Access Procedure are changed in the same manner. NARA employees may continue to obtain information or request access from their supervisor.

For NARA-15, Editorial Freelance Vendor File, the System Manager and Address, and Record Access Procedure sections are modified to add the Chief, Archival Publications Staff, Office of the National Archives (NN-E) as a system manager. For NARA-16, Library Circulation Files, the name of the organization responsible for the system has been changed to Reference Services Branch to reflect a recent reorganization. The location of the records has been modified to include the Washington National Records Center.

For NARA-17, Grievance Records, the last sentence in Categories of Records is rewritten for clarification to read "This system also includes files and records of

grievances filed under the negotiated grievance procedures."

For NARA 19, Workers Compensation Case Files, the System Location is revised to indicate location in the Employee and Labor Relations Branch (NAPL), as well as administrative offices. The System Manager and Address is revised to indicate the Chief, Employee and Labor Relations Branch (NAPL) for the Washington, DC area and administrative officers for field locations.

For NARA 20, Reviewer/Consultant File, the location of the system has been changed to the National Archives Building, Washington, DC. The National Historical Publications and Records Commission, which is responsible for the records, has been relocated there.

NARA 21, OPM Governmentwide Notices is deleted because this notice describes notices issued by Office of Personnel Management (OPM). Although OPM Governmentwide systems are maintained by NARA, the notification, access and amendment procedures for these systems are only governed by OPM rules. Therefore, it is unnecessary to publish them as NARA systems.

In NARA 23, Investigation Case Files, the routine uses section is clarified to indicate the existing purposes of the routine uses: making determinations resulting from authorized investigations and documenting such investigations. Two system managers and locations are being added: The Director, Legal Services Staff (NSL) and the Inspector General (NG). The safeguards are revised to indicate the minimum procedures in effect at the three locations.

Also, the addresses and locations in the appendix are revised to reflect the latest organizational change, relocations and editorial corrections.

Except as indicated for NARA 5, and NARA 11 above, none of these changes alter the purposes for which the systems were created, nor do they constitute major changes requiring New or Altered Systems Reports under the Privacy Act or OMB Circular No. A-130.

Dated: May 1, 1989.

**Don W. Wilson,**

*Archivist of the United States.*

**National Archives and Records Administration (NARA) Privacy Act Notice of Systems**

NARA 1. Researcher Application Files.
NARA 2. Reference Request Files.
NARA 3. Donors of Historical Materials Files.
NARA 4. National Archives Committees Files.
NARA 5. Conference and Related Activities Files.
NARA 6. Mailing List Files.
NARA 7. Mandatory Review of Classified Documents Request Files and Freedom of Information Act Request Files.
NARA 8. Restricted and Classified Records Access Authorization Files.
NARA 9. Authors Files.
NARA 10. Employee Drug Abuse/Alcoholism Files.
NARA 11. Credentials, Passes, and Licenses.
NARA 12. Emergency Notification Roster and Files.
NARA 13. Defunct Agency Records.
NARA 14. Payroll and Time and Attendance Reporting System.
NARA 15. Editorial Freelance Vendor File.
NARA 16. Library Circulation Files.
NARA 17. Grievance Records.
NARA 18. General Law Files.
NARA 19. Workers Compensation Case Files.
NARA 20. Reviewer/Consultant File.
NARA 22. Employee Related Files.
NARA 23. Investigation Case Files.
NARA 24. Personnel Security Files.

**NARA 1**

**SYSTEM NAME:**

Researcher Application Files.

**SYSTEM LOCATION:**

This system of records is located in the National Archives Building, the Regional Archives, and the Presidential Libraries. The addresses are listed in the appendix following the NARA Notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Researchers who apply to use records in the National Archives, the Regional Archives, and the Presidential Libraries.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Applications to use records including name, address, telephone number, occupation, research topic, educational level, and field of interest.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2108, 2203(f)(1), and 2907.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records are used by employees of NARA who have a need for the records in the performance of their duties to identify and record the individuals who use records in the National Archives and other repositories listed above, to provide a means of contacting the individual if additional information of research interest to him or her is found, and to mail notices of events and programs of interest to users of the records in the National Archives. The routine use statements A, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in card files and file folders.

**RETRIEVABILITY:**

Filed alphabetically at each location by name of individual.

**SAFEGUARDS:**

During normal hours of operation, records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

**RETENTION AND DISPOSAL:**

Records are cut off annually, held one year, and retired. They are destroyed when 25 years old. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

NARA officials with responsibility for this geographically dispersed system of records are the Assistant Archivist for the National Archives at the National Archives Building, the directors of the Presidential Libraries, and the directors of the Regional Archives. The address for these locations are listed in the appendix following the NARA Notices.

**NOTIFICATION PROCEDURE:**

Information may be obtained from the officials cited above at the appropriate repository where individuals have used records.

**RECORD ACCESS PROCEDURES:**

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the directors of the Presidential Libraries, or the directors of the Regional Archives, depending on where individuals have used records. In-person requests may be made during business hours listed for each location in the appendix following the NARA Notices. For written requests, the individual should provide full name, address, and telephone number, and the approximate dates records were used. For personal visits, individuals should be able to provide some acceptable identification, such as a driver's license or student or employee identification. Only general inquiries may be made by telephone.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial

determiantions are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Researchers.

## NARA 2

**SYSTEM NAME:**

Reference Request Files.

**SYSTEM LOCATION:**

This system of records is located in the National Archives Building, the National Audiovisual Center, the Presidential Libraries, the Washington National Records Center, the Federal Records Centers, the National Personnel Records Center, and the Regional Archives. The addresses are listed in the appendix following the NARA Notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Researchers and correspondents requesting information from the records in the National Archives, the National Audiovisual Center, Presidential Libraries, the Washington National Records Center, the Federal Records Centers, the National Personnel Records Center and the Regional Archives.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Correspondence, reference slips, receipts for money, deposit account records, reproduction orders, reference logs, lending files, and reference files pertaining to requests for information, including all or parts of the following: Requester's name, address, telephone number, occupation, research topic, educational level, and field of interest.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2108, 2203(f)(2), and 2907.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records are used by employees of NARA who have a need for the records in the performance of their duties to record requests for information and the responses to those requests; to maintain control over information requests received and answered; to enable later contact with the requester if required; to assist in the preparation of standard replies to similar questions; to facilitate preparation of statistical and other reports; to maintain control of records being used; to establish researcher accountability for records; to record payment for reproduction orders and funds placed on deposit; to record loans of materials or records from the above locations; and, when requested by a researcher, to write recommendations for researchers for grants or employment. The routine use statements A, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in card files and file folders.

**RETRIEVABILITY:**

The records within this system are primarily retrieved by name.

**SAFEGUARDS:**

During normal working hours of operation, records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards an/or doors are secured and all entrances are monitored by electronic surveillance equipment.

**RETENTION AND DISPOSAL:**

Records which are:

(1) Created in the administration of loans are cut off after the return of the materials, held one year, and destroyed.

(2) Created in the process of providing reference service by mail are cut off annually, held two years, and destroyed.

(3) Created in the process of providing records to researchers in National Archives research rooms are cut off annually, held one year and retired. They are destroyed when 25 years old.

These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

Depending on where the records are located, the system managers are the Assistant Archivist for the National Archives, the Director of the National Audiovisual Center, the directors of the Presidential Libraries, the director of the Washington National Records Center, the directors of the Federal Records Center, the director of the National Personnel Records Center and the directors of the Regional Archives, at the addresses listed for these locations in the appendix following the NARA Notices.

**NOTIFICATION PROCEDURE:**

Information may be obtained from the officials listed above at the appropriate repository where individuals have used records or directed inquiries. The addresses are listed in the appendix following the NARA Notices.

**RECORD ACCESS PROCEDURE:**

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the Director of the National Audiovisual Center, the directors of the Presidential Libraries, the director of the Washington National Records Center, the directors of the Federal Records Center, the director of the National Personnel Records Center or the directors of the Regional Archives, depending on where individuals used records or directed inquiries. In-person requests may be made during normal business hours listed for each location in the appendix following the NARA notices. For written requests, provide full name, address, telephone number, and the approximate dates of the correspondence or transaction. For personal visits, individuals should be able to provide some acceptable identification, such as a driver's license or student or employee identification. Only general inquiries may be made by telephone.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Researchers, correspondents, and employees of the National Archives.

## NARA 3

**SYSTEM NAME:**

Donors of Historical Materials Files.

**SYSTEM LOCATION:**

This system of records is located in the National Archives Building and the Presidential Libraries. The addresses are listed in the appendix following the NARA Notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Donors and potential donors of papers or other historical materials to the National Archives and Presidential Libraries.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Correspondence, deeds of gift, deposit agreements, accession files, accession cards, administrative files, inventories of museum objects, oral history use agreements, tapes, and transcripts, all of which are related to the solicitation and preservation of donations. Also included are biographical data on donors as well as their addresses, telephone numbers, and occupations.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2111 and 2112.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records are used by employees of NARA who have a need for the records in the performance of their duties primarily to record solicitation efforts and accessioning of papers and other historical materials for preservation in the above locations; to maintain control over the accessions program; to facilitate future solicitations of gifts; to record deeds of gift; and to record agreements of use. The routine uses of records also include releasing biographical material about donors and prospective donors to the public as well as the routine use statements A, F, and G, described in the appendix following the NARA Notices.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders; sound recordings.

**RETRIEVABILITY:**

Filed alphabetically at each location by name of donor.

**SAFEGUARDS:**

Buildings have security guards, and records and other materials are maintained in areas accessible only to authorized personnel of NARA.

**RETENTION AND DISPOSAL:**

Records are permanent, in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

Depending on where the records are maintained the system managers are the Assistant Archivist for the National Archives and the Assistant Archivist for Presidential Libraries at the National Archives Building, and the directors of the Presidential Libraries. The addresses are listed in the appendix following the NARA Notices.

**NOTIFICATION PROCEDURE:**

Information may be obtained from the officials listed above at the appropriate repository where individuals have donated materials or from which they have received requests for donations. The addresses are listed in the appendix following the NARA Notices.

**RECORD ACCESS PROCEDURES:**

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the Assistant Archivist for Presidential Libraries, or a director of a Presidential Library depending on which repository the individual has been associated with. In-person requests may be made during normal business hours listed for each location in the appendix following the NARA Notices. For written requests, provide full name, address, telephone number, and the approximate dates of the correspondence or transaction. For personal visits individuals should be able to provide some acceptable identification such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Donors, potential donors, and employees of the National Archives.

**NARA 4**

**SYSTEM NAME:**

National Archives Committees Files.

**SYSTEM LOCATION:**

This system of records is located in the National Archives building, 7th and Pennsylvania Avenue, NW., Washington, DC.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Former, current, and prospective advisory committee members.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Correspondence with and biographical information about former, current, and prospective advisory committee members including all or parts of the following: name, address, telephone number, education, professional vita, and publications.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2104(f).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records are used by employees of NARA who have a need for these records in the performance of their duties to review professional qualifications of prospective committee members; to document activities of the committees themselves: to serve as a mailing list of current and past members; to record the comittee members' role; and to help formulate advisory committee policy. Biographical material relating to advisory committee members is made available to the public for purposes of publicizing the membership and activities of the committees. The routine use statement F, described in the appendix following the NARA Notices, also applies to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders.

**RETRIEVABILITY:**

Filed alphabetically by name of individual.

**SAFEGUARDS:**

During normal hours of operation, records are maintained in areas accessible only to authorized personnel of NARA. After hours, the building has security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

**RETENTION AND DISPOSAL:**

These records are cut off after each meeting, held five years, and offered to the National Archieves. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

The NARA official with overall responsibility for the system records is the Assistant Archivist for Management and Administration (NA), National Archives Building, 7th and Pennsylvania Avenue, NW., Washington, DC.

**NOTIFICATION PROCEDURE:**

Information may be obtained from the official listed above at the address listed above.

**RECORD ACCESS PROCEDURES:**

Requests for these records should be addressed to the Assistant Archivist for Management and Administration (NA). In-person requests may be made during normal business hours listed in the appendix, following the NARA Notices. For written requests, provide full name, address, telephone number, and if applicable, dates of service. For personal visits, individuals should be able to provide some acceptable identification, such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Former, current, and prospective advisory committee members, associates of committee members, and employees of the National Achives.

**NARA 5**

**SYSTEM NAME:**

Conference and Related Activities Files.

**SYSTEM LOCATION:**

This system of records is located in the National Archives Building; the Office of Records Administration at 601 D Street, NW., Washington, DC; Presidential Libraries; Washington National Records Center; Federal Records Centers; National Personnel Records Center; and the Regional Archives. The addresses are listed in the appendix following the NARA Notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Participants or potential participants in symposia, conferences, lectures, and training courses offered or sponsored by NARA.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Biographical information about individuals involved in these activities including name, address, telephone number, area of expertise, research interest, occupation, education, and publications. Also, copies of training requests (SF–182 or equivalent).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2104, 2109, and 2204.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records are used by employees of NARA who have a need for the records in the performance of their duties in the various archival programs indicated above; to provide a record of previous activities; to promote the use of archival materials; to provide mailing lists; to facilitate publication of the activity's proceedings; and to register persons attending the activity. The routine use statement F, described in the appendix following the NARA Notices, also applies to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in card files and file folders.

**RETRIEVABILITY:**

Filed alphabetically at each location by name of individual.

**SAFEGUARDS:**

During normal hours of operations, records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

**RETENTION AND DISPOSAL:**

These records are cut off after the event, held for one year, and destroyed. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

NARA officials with responsibility for this geographically dispersed system of records are the Assistant Archivist for the National Archives and the Assistant Archivist for Public Programs at the National Archives Building, the Assistant Archivist for Records Administration at 601 D Street, NW., Washington, DC; the directors of the Presidential Libraries; the director of the Washington National Records Center; the directors of the Federal Records Centers; the director of the National Personnel Records Center; and the directors of the Regional Archives at the addresses listed in the appendix following the NARA Notices.

**NOTIFICATION PROCEDURE:**

Information may be obtained from the officials listed above at the appropriate location which sponsored the activity which the individual attended or in which he or she participated. The addresses are listed in the appendix following the NARA Notices.

**RECORD ACCESS PROCEDURES:**

Requests for these records should be addressed to the Assistant Archivist for the National Archives; the Assistant Archivist for Public Programs; the Assistant Archivist for Records Administration; the directors of the Presidential Libraries; the director of the Washington National Records Center; the directors of the Federal Records Centers; the director of the National Personnel Records Center; or the directors of the Regional Archives. In-person requests may be made during normal working hours listed for each location in the appendix following the NARA Notices. For written requests, provide full name, address, telephone number, and the dates of activity. For personal visits, provide some acceptable identification, such as a driver's license or an employee identification card. Only general inquiries may be made by telephone.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Participants, attendees, and employees of the National Archives.

**NARA 6**

**SYSTEM NAME:**

Mailing List Files.

**SYSTEM LOCATION:**

This system of records is located in the National Archives Building, Presidential Libraries, National Audiovisual Center, and the Regional Archives. The addresses are listed in the appendix following the NARA Notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Researchers; buyers of NARA products and those making inquiries or receiving price quotations on possible orders; tourists; government officials; professional colleagues; professionals in related fields, such as librarians and teachers; and others with an interest in National Archives activities.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Mailing lists include primarily the individual's name and address. Some lists also include telephone number, title, occupation, and institutional affiliation. Some mailing lists include type and subject of materials purchased, date purchased, and dollar value.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2109, 2112, 2307, 2902, and 2904.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The mailing lists are used by employees of NARA who have a need for the records in the performance of their duties, to address newsletters, announcements, programs, and material about special events; to bill researchers for reproduction orders; and to mail press releases and other information. On occasion the mailing lists are donated to or exchanged with private and public organizations to further scholarship and NARA programs. The routine use statement F, described in the appendix following the NARA Notices, also applies to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in card files, index cards, address plates, magnetic cards, punch cards, cassettes, and magnetic tape.

**RETRIEVABILITY:**

Filed alphabetically at each location by name of individual.

**SAFEGUARDS:**

During normal hours of operation, these records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

**RETENTION AND DISPOSAL:**

These mailing lists are reviewed annually and updated. Outdated information is purged. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

Officials responsible for this geographically dispersed system of records are the Assistant Archivist for Management and Administration, the Assistant Archivist for the National Archives, the Assistant Archivist for the Presidential Libraries, and the Assistant Archivist for Public Programs at the National Archives Building, and the Assistant Archivist for Records Administration at 601 D Street, NW., Washington, DC. Other officials are directors of the Presidential Libraries, and the directors of the Regional Archives. The addresses for these locations are listed in the appendix following the NARA Notices.

**NOTIFICATION PROCEDURE:**

Information may be obtained from the officials cited above at the appropriate location in which the individual has expressed an interest or in which he or she has a potential interest. The addresses are listed in the appendix following the NARA Notices.

**RECORD ACCESS PROCEDURES:**

Requests from individuals to access records should be addressed to the Assistant Archivist for Management and Administration, the Assistant Archivist for the National Archives, the Assistant Archivist for Presidential Libraries, the Assistant Archivist for Public Programs, the Assistant Archivist for Records Administration, the directors of the Presidential Libraries, or the directors of the Regional Archives, depending on which NARA activity maintains the specific records. In-person requests may be made during normal business hours listed for each location in the appendix following the NARA Notices. For written requests, provide full name, address, and telephone number, and the approximate date of communications with the repository. For personal visits, individuals should be able to provide some acceptable identification, such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Individuals expressing an interest in Archives activities and NARA employees.

**NARA 7**

**SYSTEM NAME:**

Mandatory Review of Classified Documents Request Files and Freedom of Information Act Request Files.

**SYSTEM LOCATION:**

This system of records is located in the National Archives Building, Presidential Libraries, Washigton National Records Center, Federal Records Centers, and the Regional Archives. The addresses are listed in the appendix following the NARA Notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Researchers requesting mandatory review of security classified documents and requesting records under the Freedom of Information Act.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Requests for records under the Freedom of Information Act include requestor's name, address, and material requested. Requests for mandatory review of classified documents include requestor's name, address, telephone number, occupation, employer, and research topic.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Executive Order 12356, April 2, 1982 (3 CFR, 1982 Comp., p. 166) and 5 U.S.C. 552, as amended.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records are used by employees of NARA who have a need for the records in the performance of their duties to record requests for access to security-classified records and requests to obtain records under the Freedom of Information Act; to record the status of each request; to record actions taken on requests, and to compile information for statistical reports. Records in this system may be made available for access review to the agency that created the documents requested under the Freedom of Information Act or a Mandatory Review request. The routine use statements A, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in card files and file folders.

**RETRIEVABILITY:**

Filed alphabetically at each location by name of individual.

**SAFEGUARDS:**

During normal hours of operation, these records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

**RETENTION AND DISPOSAL:**

Records are cut off annually, held one year, and retired. They are subsequently destroyed in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

NARA officials with responsibility for this geographically dispersed system of records are the Assistant Archivist for the National Archives and the Assistant Archivist for Management and Administration at the National Archives Building, the directors of the Presidential Libraries, the director of the Washington National Records Center, the directors of the Federal Records Centers, and the directors of the Regional Archives, at the addresses listed for these locations in the appendix following the NARA Notices.

**NOTIFICATION PROCEDURE:**

Information may be obtained from the officials listed above at the appropriate repository where individuals have requested mandatory review of classified records or have requested records under the Freedom of Information Act. The addresses are

listed in the appendix following the NARA Notices.

**RECORD ACCESS PROCEDURES:**

Requests for these records should be addressed to the Assistant Archivist for Management and Administration, the Assistant Archivist for the National Archives, the directors of the Presidential Libraries, the director of the Washington National Records Center, the directors of the Federal Record Centers, or the directors of the Regional Archives, depending on where the individual requested the mandatory review or requested records under the Freedom of Information Act. In-person requests may be made during normal business hours listed for each location in the appendix following NARA Notices. For written requests, provide some acceptable identification. Only general inquiries may be made by telephone.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Researchers who have requested mandatory review of records or who have requested records under the Freedom of Information Act.

## NARA 8

**SYSTEM NAME:**

Restricted and Classified Records Access Authorization Files.

**SYSTEM LOCATION:**

This system of records is located in the National Archives Building, Presidential Libraries, Washington National Records Center, National Personnel Records Center, Federal Records Centers, and the Regional Archives. The addresses are listed in the appendix following the NARA Notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Researchers who apply to use agency-restricted, donor/restricted, or classified records in the locations listed above.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Applications and letters of authorization to use restricted and/or classified records, including name, address, telephone number, occupation, employer, security clearance, social security number, date and place of birth, purpose, field of interest, citizenship, intention to publish, and type of publication.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2108 and 2204.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records are used by employees of NARA who have a need for the records in the performance of their duties to control access to restricted materials; to maintain a record of requests for access; and to authorize access to restricted/classified materials. Records in this system may be made available for access review to agencies whose restricted records are the subject of an accesss request. The routine use statements A, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in card files and file folders.

**RETRIEVABILITY:**

Filed alphabetically at each location by name of individual.

**SAFEGUARDS:**

During normal hours of operation, these records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

**RETENTION AND DISPOSAL:**

These records relating to private individuals requesting access are cut off annually, held one year, and retired. After 14 additional years they are destroyed. Records relating to agency officials requesting access are destroyed on supersession or obsolescence of the authorization document, or on transfer or sparation of the individual concerned. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

NARA officials with responsibility for this system of records are the Assistant Archivist for the National Archives at the National Archives Building, the directors of Presidential Libraries, the director of the Washington National Records Center, the director of the National Personnel Records Center, the directors of the Federal Record Centers and the directors of the Regional Archives, at the addresses listed for these locations in the appendix following the NARA Notices.

**NOTIFICATION PROCEDURES:**

Information may be obtained from the officials listed above at the appropriate repository where individuals have applied for access to records. The addresses are listed in the appendix following the NARA Notices.

**RECORD ACCESS PROCEDURE:**

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the directors of the Presidential Libraries, the directors of the Washington National Records Center, the director of the National Personnel Records Center, the directors of the Federal Records Centers or directors of the Regional Archives, depending on where the individual submitted his or her application for access to the records. In-person requests may be made during normal business hours listed for each location in the appendix following the NARA Notices. For written requests, provide full name, address, telephone number, and the approximate dates the application was made. For personal visits, individuals should be able to provide some acceptable identification, such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR 1202.

**RECORD SOURCE CATEGORIES:**

Researchers and agency officials.

## NARA 9

**SYSTEM NAME:**

Authors Files.

**SYSTEM LOCATION:**

This system of records is located in the National Archives Building, Presidential Libraries, and the Regional Archives. The addresses are listed in the appendix following the NARA Notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Authors whose publications are based on National Archives holdings and authors who have submitted manuscripts which have been published or considered for publication in *Prologue: The Journal of the National Archives.*

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Biographical information about the authors including name, address, telephone number, occupation,

education, and research interests, and manuscript copies of writings.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2307.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records are used by employees of NARA who have a need for the records in the performance of their duties to provide an indication of areas of interest in archival holdings and the extent to which the scholarly community relies on National Archives holdings as primary source material; and to maintain a record of manuscripts which *Prologue* has rejected or accepted and published. The routine use statement F, described in the appendix following the NARA Notices, also applies to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**RETRIEVABILITY:**

Filed alphabetically at each location by name of individual.

**SAFEGUARDS:**

During normal hours of operation, these records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured, and all entrances are monitored by electronic surveillance equipment.

**RETENTION AND DISPOSAL:**

Disposition of these records shall be in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

NARA officials responsible for this geographically dispersed system of records are the Assistant Archivist for the National Archives and the Assistant Archivist for Public Programs at the National Archives Building, the directors of the Presidential Libraries, and the directors of the Regional Archives. The addresses are listed in the appendix following the NARA Notices.

**NOTIFICATION PROCEDURE:**

Information may be obtained from the official listed above at the appropriate repository where individuals have used records or submitted manuscripts for publication. The addresses are listed in the appendix following the NARA Notices.

**RECORD ACCESS PROCEDURE:**

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the Assistant Archivist for Public Programs, the directors of the Presidential Libraries, or the directors of the Regional Archives. In-person requests may be made during normal business hours listed for each location in the appendix following NARA notices. For written requests, provide full name, address, telephone number, and the title of publication. For personal visits, individuals should be able to provide some acceptable identification such as a driver's license or an employee identification card. Only general inquiries may be made by telephone.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Authors and NARA employees.

## NARA 10

**SYSTEM NAME:**

Employee Drug Abuse/Alcoholism Files.

**SYSTEM LOCATION:**

This system of records in located in the personnel offices of NARA at the addresses listed in the appendix following the NARA Notices; in the offices of designated counselors; and in the offices of supervisors who supervise employees suspected or known to have drug abuse problems (including alcoholism).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

NARA employees who have been suspected or known to have an alcohol or drug abuse problem.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system of records includes referrals for counseling, counseling files, and referrals for rehabilitative assistance.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

21 U.S.C. 1101 et seq. and 5 U.S.C. 7901.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records in this system of records are used to document that supervisors have properly dealt with employees whose work is affected by alcohol or other drug abuse; to communicate information to personnel having a need for the information in connection with their duties, such as medical or health personnel, alcohol or other drug abuse counselors and program administrators, and qualified service organizations; to provide a basis for meeting reporting requirements to the Office of Personnel Management; and to disclose information to the Department of Justice or other appropriate Federal agencies in defending claims against the United States, when the claim is based upon an employee's mental or physical condition and is alleged to have arisen because of the activities of NARA in connection with such individual. Such disclosure will be restrictively made; in particular, disclosures of information pertaining to an individual with a history of alcohol or other drug abuse will be limited in compliance with the restrictions of the confidentiality of Alcohol and Drug Abuse Patient Records regulation, 42 CFR Part 2.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file drawers or cabinets.

**RETRIEVABILITY:**

Filed alphabetically at each location by name of individual.

**SAFEGUARDS:**

When not in normal use by an authorized person, these records are stored in lockable metal file cabinets or in secured rooms.

**RETENTION AND DISPOSAL:**

These records are maintained for 1 year after the employee's last contact with the counselor, or until the employee's separation or transfer, whichever comes first. These records are destroyed by shredding or burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

The Director of Personnel at 601 D Streets NW., Washington, DC. Mailing address: National Archives and Records Administration (NAP), Washington, DC 20408.

**NOTIFICATION PROCEDURE:**

Current NARA employees may obtain information about whether they are part of this system of records from their supervisor or from their personnel officer at the appropriate address listed in the appendix following the NARA Notices, or from the NARA Director of Personnel at the address noted above, whichever is applicable. Former NARA employees should direct requests to gain access to information pertaining to them to the appropriate NARA personnel officer at the address listed in the

appendix. For identification requirements refer to the NARA regulations outlined in 36 CFR Part 1202.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Supervisors, counselors, personnel specialists, and the employees themselves.

**NARA 11**

**SYSTEM NAME:**

Credentials, Passes, and Licenses.

**SYSTEM LOCATION:**

This system of records is maintained by the Administrative Services Division, National Archives Building, 7th and Pennsylvania Avenue NW., Washington, DC; the Director of the Washington National Records Center, 4205 Suitland Road, Suitland, Maryland; and by the Administrative Officers at other NARA facilities listed in the appendix following the NARA Notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All NARA employees, contractors and volunteers whose assigned responsibilities require the issuance of credentials for identification and security purposes, or a license to operate a motor vehicle.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

1. Standard Form 47, Physical Fitness Inquiry for Motor Vehicle Operators (Name, date of birth, title of position, home address, agency medical inquiry, applicant's signature and date, signature of designated official, and date).

2. NA Form 6006, Request for and Record of Credential or Pass (Name, description of individual, SSN, and place of employment).

3. NA Form 6000, National Archives Identification Card (Photo, signature of employee, name of employee, signature of issuing official, date issued, identification serial number, height, weight, color eyes, color hair, and date of birth).

4. NA Form 7001, Application for Motor Vehicle Operator's identification Card (SF 46) (Name, organization, type of vehicle, personal data and driving record, applicant's signature and date, physical fitness certification by signature of certifying official, and certification of eligibility by signature of certifying official).

5. Of 7, Property Pass (Name, building, description of property, agency, and effective date).

6. . NA Form 6009, Parking Control Record (Name, address, agency, correspondence symbol, office telephone number, and length of service).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2104.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records in this system are used primarily to facilitate the issuance and control of cards, parking permits, building passes, drivers licenses, and similar credentials. The routine use statements A, B, and F, described in the appendix following the NARA Notices, also apply to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper forms.

**RETRIEVABILITY:**

By name.

**SAFEGUARDS:**

When not in use by an authorized person, these records will be stored in lockable metal file cabinets or in secured areas.

**RETENTION AND DISPOSAL:**

Credential and pass records are destroyed 3 months after expiration, revocation or return to issuing office. Motor vehicle records are destroyed 3 years after employee separation or rescission of certificate, and parking control records when 3 years old. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

The official NARA responsible for this system of records is the Director of Administrative Services, 7th and Pennsylvania Avenue NW., Washington, DC. Since this is a geographically dispersed system, individuals may also gain access to it by contacting the Administrative Officers at locations listed in the appendix following the NARA Notices or the Director, Washington National Records Center (NCW), Washington, DC 20409.

**NOTIFICATION PROCEDURE:**

The addresses of the NARA offices to which inquiries should be addressed and addresses at which an individual may request whether a system contains records pertaining to himself or herself are shown in the appendix following the NARA notices. Individuals should provide name, social security number, period of employment, and position held to assist the office in locating the record.

**RECORD ACCESS PROCEDURE:**

Individuals can obtain information on the procedures for gaining access to or contesting records from the Director of Administrative Services, the Director of the Washington National Records Center, or the Administrative Officers at NARA facilities, as shown in the appendix following the NARA Notices.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Information is provided by the employee, contractor or volunteer being issued the credential and by the issuing official.

**NARA 12**

**SYSTEM NAME:**

Emergency Notification Rosters and Files.

**SYSTEM LOCATION:**

This system of records is maintained in the Administrative Services Division, 7th and Pennsylvania Avenue NW., Washington, DC and in all NARA facilities outside the Washington, DC metropolitan area listed in the appendix following the NARA Notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

NARA officials at division director level and above, and NARA employees with emergency assignments.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records consist of roster of NARA officials; NARA employee emergency assignments; and essential employees's residence telephone numbers. Information includes name, office and home telephone numbers, home address, title and emergency assignment.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2104.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records in this system are used primarily to maintain current directory information on key NARA officials or

for use by the Central Office contact point during weekends, holidays, and emergencies; to provide essential telephone service to key employees during emergencies; and to notify officials and employees of emergency conditions.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper.

**RETRIEVABILITY:**

Indexed by name.

**SAFEGUARDS:**

When not in use by an authorized person, these records will be stored in lockable metal file cabinets or in secured areas.

**RETENTION AND DISPOSAL:**

Disposition of records shall be in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

The NARA official with overall responsibility for the system of records is the Director of Administrative Services, 7th and Pennsylvania Avenue NW., Washington, DC. Since this is a geographically dispersed system of records, individuals may gain access to it by contacting the officials at locations listed in the appendix following the NARA Notices.

**NOTIFICATION PROCEDURE:**

NARA employees may obtain information as to whether they are part of this system of records from the Director of Administrative Services or the appropriate director of a Presidential Library, Federal Records Center, Regional Archives, the Washington National Records Center or National Personnel Records Center listed in the appendix following the NARA Notices.

**RECORD ACCESS PROCEDURES:**

An individual can obtain information on the procedures for gaining access to records from the Director of Administrative Services or the appropriate director of a Presidential Library, Federal Records Center, Regional Archives, the Washington National Records Center, or National Personnel Records Center listed in the appendix following the NARA Notices.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Information is provided by subject individuals and their supervisors.

**NARA 13**

**SYSTEM NAME:**

Defunct Agency Records.

**SYSTEM LOCATION:**

This system of records is located in the Federal records centers at the locations listed in the appendix following the NARA Notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Employees of defunct agencies and individuals who may have had dealings with the defunct agencies.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records other than those covered by Governmentwide systems which are arranged or can be retrieved alphabetically by name or other personal identifiers.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2108.

**ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM:**

The routine use of statements A, B, C, F, and G, described in the appendix following the NARA notices, apply to this system of records. The records, if unscheduled for disposition, are routinely used during the appraisal process.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders and card files, microfilm records in reels, and computer records on tapes. All records stored in record center containers.

**RETRIEVABILITY:**

Records are retrieved generally by name or social security number.

**SAFEGUARDS:**

When not in use by an authorized person, the records are stored in record center containers located in Federal records center storage areas.

**RETENTION AND DISPOSAL:**

Records appraised as permanent will be transferred to the custody of the Office of the National Archives. Records appraised as temporary will be destroyed immediately or after a fixed period of time, whichever is approved by the Archivist of the United States.

**SYSTEM MANAGER(S) AND ADDRESS:**

The system manager is the Deputy Archivist of the United States, 7th and Pennsylvania Avenue NW., Washington, DC. Mailing address: National Archives and Records Administration (ND), Washington, DC 20408.

**NOTIFICATION PROCEDURE:**

Requests for assistance should be made to the Deputy Archivist of the United States, National Archives and Records Administration (ND), Washington, DC 20408.

**RECORD ACCESS PROCEDURES:**

NARA procedures for record access are contained in 36 CFR Part 1202.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Upon termination of an agency, the agency transfers its records to the custody of NARA.

**NARA 14**

**SYSTEM NAME:**

Payroll and Time and Attendance Reporting System.

**SYSTEM LOCATION:**

This system of records is located in the NARA offices wherever there are timekeepers and at the addresses listed in the appendix following the NARA Notices. An automated series of records in this system, the Payroll Information Processing System (PIPS), is maintained for NARA by the General Services Administration under a reimbursable agreement.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former NARA employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system provides for reporting each employee's pay status as either on the job time or as paid or unpaid time, including absences without authorized leave. Accordingly, records include but are not limited to name, home address, telephone number, work location, social security number, hours of duty, and payroll and attendance information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C., Part III (sec 2101–8901), is the authority for the overall system. Specific authority for use of social security

numbers is contained Executive Order 9397, 26 CFR 31.6011(b)2, and 26 CFR 31.6109–1.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

To the extent necessary, the records are available outside NARA to monitor and document grievance proceedings, EEO complaints, and adverse actions; and to conduct counseling sessions. The information contained in this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation at any stage of the legislative coordination and clearance process. A record from this system of records may be provided to the Office of Personnel Management in its production of summary descriptive statistics for which these records are collected and maintained, or for related work studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in a way to make individuals identifiable by inference. The routine use statements A, B, C, D, E, F, G, and H, described in the appendix following the NARA Notices, also apply to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders, card files, and cabinets; microfilm records in reels and cabinets; microfiche in cabinets; magnetic tapes and cards in cabinets and storage libraries; and computer records within a computer and attached equipment.

**RETRIEVABILITY:**

Filed alphabetically by name.

**SAFEGUARDS:**

Stored in guarded buildings and/or in controlled areas.

**RETENTION AND DISPOSAL:**

Disposition of these records will be in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, National Payroll Center, General Services Administration, 1500 E. Bannister, Kansas City, MO 64131. Mailing Address: Chief, National Payroll Center (6BCY–N), P.O. Box 419277, Kansas City, MO 64414.

**NOTIFICATION PROCEDURE:**

Current NARA employees may obtain information about this system of records from their supervisor or from the address listed above. Former NARA employees may obtain information at the address listed above.

**RECORD ACCESS PROCEDURES:**

Requests from current or former NARA employees to access records should be directed to the employe's superior or to the Chief, National Payroll Center at the address noted above, whichever is applicable. For written requests, former NARA employees should provide full name, social security number, address, telephone number, and approximate dates and places of employment. For identification requirements, refer to the agency regulations as outlined in 36 CFR Part 1202.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

The individuals themselves, other NARA employees, supervisors, other Federal agencies, and management officials.

**NARA 15**

**SYSTEM NAME:**

Editorial Freelance Vendor File.

**SYSTEM LOCATION:**

The system is located in the National Archives Building.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Former and current freelance vendors qualified to perform editorial services.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Correspondence with the biographical information about former and current editorial freelance vendors, including all or parts of the following: name, address, telephone number, education, professional vita, samples of work, assignments and evaluations of work done for NARA, and purchase order documents.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2104.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records are used by the employees of NARA who have a need for the records in the performance of their duties to review professional qualifications of freelance contract editors; to make editorial assignments to freelance contract editors; to review progress being made on an assignment; to evaluate the quality of work performed during an assignment; and to account for money spent on contract editorial work.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders.

**RETRIEVABILITY:**

Filed alphabetically by name of individual.

**SAFEGUARDS:**

System is in a locked file cabinet.

**RETENTION AND DISPOSAL:**

Disposition of these records will be in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

The officials responsible for this system are the Director, Publications Division (NEP) and the Chief, Archival Publications Staff (NN-E) in the National Archives Building. The address for this location is listed in the appendix following the NARA notices.

**NOTIFICATION PROCEDURES:**

Information may be obtained from the applicable system manager.

**RECORD ACCESS PROCEDURES:**

Requests for these records should be addressed to the Director, Publications Division, Office of Public Programs or the Chief, Archival Publications Staff, Office of the National Archives, as appropriate. In-person requests may be made during normal business hours. For written requests, provide full name, address, telephone number, and data span. For personal visits, individuals should provide some acceptable identification, such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Former and current freelance vendors qualified to perform editorial services and NARA employees.

**NARA 16**

**SYSTEM NAME:**

Library Circulation Files.

**SYSTEM LOCATION:**

This system of records is located in the Reference Services Branch in the National Archives Building and the Washington National Records Center. The addresses are listed in the appendix following the NARA notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All NARA employees who have borrowed books and other materials from the Library.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Specialized forms giving the names of individuals, materials borrowed, and dates of loan.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2104.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records are primarily used by the Reference Services Branch staff for controlling the circulation of library monogrphs and serials. The routine use statements A and F, described in the appendix following the NARA Notices, apply to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file trays.

**RETRIEVABILITY:**

Filed alphabetically by name.

**SAFEGUARDS:**

Records are stored in an area available to authorized Reference Services Branch personnel only.

**RETENTION AND DISPOSAL:**

Disposition of records is in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

The Chief, Reference Services Branch (NNRS), 7th and Pennsylvania Avenue, NW, Washington, DC. Mailing address: National Archives and Records Administration (NNRS), Washington, DC 20408.

**NOTIFICATION PROCEDURE:**

NARA employees may obtain information about whether they are part of this system of records from the Library staff at the address listed above.

**RECORD ACCESS PROCEDURES:**

Requests from NARA employees to gain access to information pertaining to them should be directed to the Chief, Reference Services Branch (NNRS), 7th and Pennsylvania Avenue NW., Washington, DC. For identification requirements refer to the agency regulations as outlined in 36 CFR Part 1202.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

NARA employees borrowing books and other materials from the National Archives Library.

**NARA 17**

**SYSTEM NAME:**

Grievance Records.

**SYSTEM LOCATION:**

These records are located in the personnel offices of NARA at the location listed in the appendix following the NARA Notices or designated offices in NARA where the grievances were filed.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current or former NARA employees who have submitted grievances with NARA in accordance with the Office of Personnel Management (OPM) Regulations (5 CFR Part 771) or a negotiated procedure.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system of records contains records relating to grievances filed by NARA employees under the OPM regulations. These case files contain all documents related to grievances including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision, and related correspondence and exhibits. This system also includes files and records of internal grievances filed under negotiated grievance procedures.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 1302, 3301, and 3302; E.O. 10577 (3 CFR 1954–1958 Comp., p. 218); E.O. 10987 (3 CFR 1959–1963 Comp., p. 519).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records in this system of records are used to disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify an individual, inform the source of the purpose(s) of the request and identify the type of information requested. They are also used to provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive presentation concerning personnel policies, practices, and matters affecting work conditions. The routine use statements D, F, G, and H, described in the appendix following the NARA Notices, also apply to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

These records are maintained in file folders.

**RETRIEVABILITY:**

These records are retrieved by the names of the individuals on whom they are maintained.

**SAFEGUARDS:**

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

**RETENTION AND DISPOSAL:**

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

**SYSTEM MANAGER(S) AND ADDRESS:**

The Director, Personnel Service Division, 601 D Street NW., Washington, DC. Mailing address: National Archives and Records Administration (NAP), Washington, DC 20408.

**NOTIFICATION PROCEDURE:**

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may, however, contact the NARA personnel, or other designated office, where the action was processed regarding the existence of such records on them. They must furnish the following information for their records to be located and identified: Name, date of birth, approximate date of closing of the case and kind of action taken, and the organization component involved.

**RECORD ACCESS PROCEDURES:**

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, an individual may request access to the official copy of the grievance file by contacting the NARA personnel or other designated office

where the action was processed. Individuals must provide the following information for their records to be located and identified: Name, date of birth, approximate date of closing of the case, kind of action taken, and organizational component involved. Individuals requesting access must also follow the NARA regulations as outlined in 36 CFR Part 1202 regarding access to records.

**CONTESTING RECORD PROCEDURES:**

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determine if the record accurately documents the action of NARA's ruling on the case and will not include a review of the merits of the action, determination, or finding. Individuals wishing to request amendment of their records to correct factual errors should contact the NARA personnel or designated office where the grievance was processed. Individuals must furnish the following information for their records to be located and identified: Name, date of birth, approximate date of closing of the case, kind of action taken, and organizational component involved. Individuals must also follow the NARA Privacy Act regulations outlined in 36 CFR Part 1202 regarding amendment to records.

**RECORD SOURCE CATEGORIES:**

Information in this system of records is provided by the individual on whom the record is maintained, by testimony of witnesses, by agency officials, and from related correspondence from organizations or persons.

**NARA 18**

**SYSTEM NAME:**

General Law Files.

**SYSTEM LOCATION:**

This system of records is maintained by the Legal Service Staff, National Archives Building, 7th and Pennsylvania Avenue NW., Washington, DC. Mailing address: National Archives and Records Administration (NSL), Washington, DC 20408.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The system covers one or more of the following categories of individuals: NARA employees, past and present; other Federal agency employees; members of the public (including individuals, corporations, and firms); witnesses in litigation; persons who have Freedom of Information and Privacy Act requests and persons about whom such requests have been made; persons pursuing tort claims against the Government or who are involved in litigation with NARA and/or have filed grievances.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system covers one or more of the following categories of records: Name of individual; position description, grade, salary; SSN; work history; complaint; history of the case; applicable law; working papers of attorneys; testimony of witnesses; background investigation materials, records subject to complaint, request, or litigation; correspondence; damage reports; contracts, accident reports, pleadings; affidavits; credit ratings; medical diagnoses and prognoses; doctor's bills; estimates of repair costs; invoices; litigation reports; financial data; and other data.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 552 as amended; 5 U.S.C. 552a; 5 U.S.C., Part II; 5 U.S.C., Chapter 33; 5 U.S.C. 5108, 5314–5316 and 42 U.S.C. 20003, et seq.; 5 U.S.C. 7151–7154; 5 U.S.C. 7301; 5 U.S.C. 7501, note (adverse actions); 5 U.S.C., Chapter 77; 11 U.S.C.; 28 U.S.C. 1291, 1346(b)(c), 1402(b), 1504, 2110, 2401(b), 2402, 2411(b), 2412(c), 2671–2680; 31 U.S.C. 191; 31 U.S.C. 951–953, 341 U.S.C. 240–243; E.O. 6166; E.O. 10577; E.O. 11491; E.O. 11787.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Records are used to give general legal advice, as requested, throughout NARA and to prepare attorneys for hearings and trials, to reference past actions, and to maintain internal statistics. Information may be released to the Department of Justice in review, settlement, defense, and prosecution of claims, complaints, and law suits involving contracts, torts, debts, bankruptcy, personnel adverse action, EEO, unit determination, unfair labor practices, and Freedom of Information and Privacy Act requests. The routine use statements A, B, C, E, F, and G, described in the appendix following the NARA notices, also supply to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper.

**RETRIEVABILITY:**

Manual, by name.

**SAFEGUARDS:**

Records are stored in secured buildings; available to authorized persons only.

**RETENTION AND DISPOSAL:**

Disposition of records shall be in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

The system manager for the system is: Director, Legal Services Staff (NSL).

**NOTIFICATION PROCEDURE:**

NARA notification procedures are contained in 36 CFR Part 1202.

**RECORD ACCESS PROCEDURES:**

NARA procedures for record access are contained in 36 CFR Part 1202.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Information in this system of records comes from one or more of the following sources: Federal employees and private parties involved in torts, contracts, personnel actions, unfair labor practices, and debts concerning the Federal Government; general law texts and sources; Dun and Bradstreet and other sources of financial information; law enforcement officers; and witnesses.

**NARA 19**

**SYSTEM NAME:**

Workers Compensation Case Files.

**SYSTEM LOCATION:**

This system of records is located in the Employee and Labor Relations Branch, 601 D Street, NW., Washington, DC; in administrative offices of field units; and in the offices of all supervisors who have had employees injured on the job or employees with other occupational health problems. The addresses for these locations are listed in the appendix following the NARA Notices.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

NARA employees who have sustained injuries or other occupational health problems.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains accident reports (including CA–1 & 2: Federal Employees Notice of Injury or Occupational Disease); claims for compensation for injury or occupation disease (CA–4); and

claims for continuance of compensation on account of disability (CA–8).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. Chap. 81 (Compensation for Work Injuries) and 5 U.S.C. 7203 and 7901.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records in this system of records are used to identify and record those employees who have sustained injuries or other occupational health problems and provide information required by applicable law to be disclosed to a Federal, State, or local public health service agency concerning individuals who have contracted certain communicable diseases or conditions. Such information is used to prevent further outbreak of the disease or condition and is used in connection with a claim for benefits filed by an employee. The routine use statements A, B, C, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file cabinets.

**RETRIEVABILITY:**

Filed alphabetically at each location by name.

**SAFEGUARDS:**

When not in use by an authorized person, these records are stored in lockable metal file cabinets or in secured rooms.

**RETENTION AND DISPOSAL:**

Disposition of records shall be in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Employee and Labor Relations Branch, 601 D Street NW., Washington, DC. Mailing address: National Archives and Records Administration (NAPL), Washington, DC 20408.

**NOTIFICATION PROCEDURE:**

Current NARA employees may obtain information about whether they are a part of this system of records from their supervisor or from their administrative officer at the appropriate address listed in the appendix following the NARA Notices, or from the Chief, Labor and Employee Relations Branch at the address noted above, whichever is applicable. Former NARA employees may obtain information from the appropriate administrative officer at the addresses listed in the appendix.

**RECORD ACCESS PROCEDURES:**

Requests from current NARA employees to gain access to information pertaining to them should be directed to their supervisor or to their administrative officer at the appropriate address listed in the appendix following the NARA Notices, or to the Chief, Labor and Employee Relations Branch at the address noted above, whichever is applicable. Former NARA employees should direct requests to gain access to information pertaining to them to the appropriate administrative officer at the address listed in the appendix. For identification requirements, refer to the agency regulations as outlined in 36 CFR Part 1201.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Information in this system of records is provided by the individuals to whom the records pertain, by supervisors required to complete various forms, or by the personnel specialists who prepare various records or claims.

**NARA 20**

**SYSTEM NAME:**

Reviewer/Consultant File.

**SYSTEM LOCATION:**

This system of records is located at the National Historical Publications and Records Commission, 7th and Pennsylvania Avenue NW., Washington, DC.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Archival reviewers and consultants who apply to serve as consultants or reviewers for the National Historical Publications and Records Commission's (NHPRC) records grant program.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Biographical information about the reviewers and consultants including name, address, telephone number, education, professional vita, publications, archival skills, archival and historical records experience, and program evaluation experience.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

44 U.S.C. 2501–2506.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The biographical material is used by NHPRC staff principally in the records grant program for selecting reviewers to evaluate proposals received by NHPRC and for proposing possible archival consultants for those individuals who have received grants. The routine use statement F, described in the appendix following the NARA Notices, also applies to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders.

**RETRIEVABILITY:**

Filed alphabetically by name of individual.

**SAFEGUARDS:**

During normal hours of operation, records are maintained in areas accessible only to authorized personnel of NARA. After hours, the building has security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

**RETENTION AND DISPOSAL:**

Records are destroyed when no longer needed for administrative purposes.

**SYSTEM MANAGER(S) AND ADDRESS:**

The official responsible for the system is the Executive Director, National Historical Publications and Records Commission, 7th and Pennsylvania Avenue, NW., Washington, DC. Mailing address: National Historical Publications and Records Commission (NP), Washington, DC 20408.

**NOTIFICATION PROCEDURE:**

Inquiries by individuals as to whether the system contains a record pertaining to themselves should be addressed to the system manager.

**RECORD ACCESS PROCEDURES:**

Requests from individuals for access to records should be addressed to the system manager. In-person requests may be made during normal business hours. For written requests individuals should provide full name, address, telephone number, and approximate date of communication with the Commission. For personal visits, individuals should be able to provide some acceptable identification such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Archival experts who have volunteered to serve as reviewers or consultants.

**NARA 22**

**SYSTEM NAME:**

Employee Related Files.

**SYSTEM LOCATION:**

This system of records may be maintained at the supervisory or administrative offices at all NARA facilities.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Former and current NARA employees, applicants for employment, volunteer workers, and relatives of employees of the National Personnel Records Center.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system consists of a variety of employee related records maintained by operating officials for the purpose of administering personnel matters affecting their employees and uncompensated workers. The documents include, but are not limited to, information on the individuals relating to name, social security number, birth date, home and emergency addresses and telephone numbers, personnel actions, professional registration, qualifications, training, congressional employee relief bills, injuries, employment history, awards and other recognition, counseling, warnings, reprimands, grievances, appeals, conduct, leave, pay, attendance, work assignments, performance, assessments, applications for permits and passes, indebtedness complaints, travel, and outside employment. The documents include military service data on employees of the National Personnel Records Center and their relatives accumulated by operating officials in administering the records security program at the Center. This system does not include official personnel files which are covered by the Office of Personnel Management's systems of records OPM/GOVT-1 through 10.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Titles 5 and 31 U.S.C. generally.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records in this system of records are used to initiate requests for personnel actions, to plan and schedule training, to counsel employees on their performance, to establish a basis for proposing recommendations for disciplinary actions, and to carry out personnel management responsibilities in general. The routine use statements A, B, C, D, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders and card files, magnetic tape and disks, and computer printout.

**RETRIEVABILITY:**

The records within this system are primarily retrieved by name.

**SAFEGUARDS:**

When not in use by an authorized person, these records are stored in lockable file cabinets, lockable desk drawers, and/or in secured rooms.

**RETENTION AND DISPOSAL:**

Records are reviewed annually, documents are updated, and irrelevant documents destroyed. No copies of records are retained in this system after the original or copies of the same records have been purged from the Official Personnel Folders. When an employee leaves the agency through transfer or other separation, the records in this system are immediately forwarded to the office maintaining the Official Personnel Folder. There the records are screened to ensure that there are no records that should be permanently filed in the Official Personnel Folder. The records in this system are then destroyed.

**SYSTEM MANAGER(S) AND ADDRESS:**

Administrative officers in NARA field facilities and all NARA supervisors maintaining employee related files. The addresses of Administrative officers and NARA supervisors are listed in the appendix following the NARA Notices.

**NOTIFICATION PROCEDURE:**

Information about whether an individual is a part of this system of records may be obtained from the supervisors at the appropriate repository where the individuals have records. If not known, general inquiries should be made to the appropriate Head of the Offices or Staffs. Their addresses are listed in the appendix following the NARA Notices.

**RECORD ACCESS PROCEDURES:**

Requests from current NARA employees to gain access to information pertaining to them should be directed to their supervisor or to their personnel officer at the appropriate address listed in the appendix following the NARA Notices, or to the Director, Personnel Services Division at the address noted above, whichever is applicable. Former NARA employees should direct requests to gain access to information pertaining to them to the appropriate administrative officer at the address listed in the appendix. For identification requirements refer to the agency regulations as outlined in 36 CFR Part 1202.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

The individuals themselves, other employees, supervisors, personnel records, and third parties submitting indebtedness complaints.

**NARA 23**

**SYSTEM NAME:**

Investigation Case Files.

**SYSTEM CLASSIFICATION:**

Some of the material contained in the system has been classified in the interests of the national security pursuant to Executive Order 12356.

**SYSTEM LOCATION:**

Investigative case files are maintained by the office conducting the investigation. There are three locations for this system: The Administrative Services Division (NAS) and the Legal Services Staff (NSL) at the National Archives Building, and the Inspector General (NG) at 601 D Street, NW., Washington, DC. Mailing address: National Archives and Records Administration, Washington, DC, 20408.

**CATEGORIES OF INDIVIDUALS IN THE SYSTEM:**

Individuals covered by the system are employees, applicants for employment, and former employees of NARA and advisory committee members. Also included are researchers, employees of contractors performing custodial or guard services in buildings under NARA jurisdiction, individuals who have been the source of a complaint or an allegation that a crime has taken place, witnesses having information or

evidence concerning an investigation and suspects in criminal, administrative, or civil actions.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Investigative files contain information such as name, date and place of birth, experience, and investigatory material.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. App. Section 2 et seq.; Executive Order 10450; Executive Order 11478; Executive Order 11246; Executive Order 12356; and 40 U.S.C. 276a through a-7, 276c, 318(a) through (d), and 327 through 331.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records are used to make determinations resulting from authorized investigations and to document such investigations. The routine use statements A, B, C, and G, described in the appendix following the NARA Notices, apply to this system of records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in files and file folders.

**RETRIEVABILITY:**

Records are retrieved by name from files that are indexed alphabetically and filed numerically by case number or location and incident.

**SAFEGUARDS:**

These records are maintained in lockable cabinets in rooms that are secured at the close of the business day, in guarded buildings, with access limited to authorized personnel.

**SYSTEM MANAGER(S) AND ADDRESS:**

The system managers are the Director of Administrative Services (NAS) and the Director, Legal Services Staff (NSL) at the National Archives Building, and the Inspector General (NG) at 601 D Street, NW., Washington, DC. Mailing address: National Archives and Records Administration, (followed by the appropriate mail routing code in parentheses), Washington, DC 20408.

**NOTIFICATION PROCEDURE:**

Inquiries made by individuals as to whether the system contains a record pertaining to themselves should be addressed to the appropriate system manager at the addresses and locations listed above.

**RECORD ACCESS PROCEDURES:**

Requests from individuals for access to records should be addressed to the Director of Administrative Services (NAS), the Director, Legal Services Staff (NSL) or the Inspector General, as appropriate. Requests should include full name (maiden name where appropriate), address, and date and place of birth. Only general inquiries may be made by phone.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing intitial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Individuals, employees, informants, law enforcement agencies, other government agencies, intelligence sources, employers, references, co-workers, neighbors, and educational institutions.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5), this system of records is exempt from subsections (c)(3); (d); (e)(1); (E)(4) (G), (H), and (I); and (f) of the Privacy Act of 1974. The system is exempt:

a. To the extent that the system consists of investigatory material compiled for law enforcement purposes; however, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a person who furnished information to the Government under an express promise that the identity of the person would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the person would be held in confidence; and

b. To the extent the system of invetigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified material, but only to the extent that the disclosure of such material would reveal the identity of a person who furnished information to the Government under an express promise that the identity of the person would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the person would be held in confidence.

This system has been exempted to maintain the efficacy and integrity of lawful investigations conducted pursuant to the responsibilities of the Administrative Services Division, the Legal Services Staff and the Inspector General in the areas of law enforcement, Federal employment, Government contracts, and access to security classified information.

**NARA 24**

**SYSTEM NAME:**

Personnel Security Files.

**SYSTEM CLASSIFICATION:**

Some of the material contained in the system has been classified in the interests of the national security pursuant to Executive Order 12356.

**SYSTEM LOCATION:**

Personnel security files are maintained in the Personnel Services Division (NAP), 601 D Street, NW., Washington, DC. Records relating to violations of information security regulations are maintained by the Administrative Services Division (NAS), National Archives Building, 7th and Pennsylvania Avenue, NW., Washington, DC.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSEM:**

Individuals covered by the system are employees, applicants for employment, and former employees of NARA. Also included are researchers, experts or consultants, and employees of contractors performing services under NARA jurisdiction.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Personnel security files contain information such as name, date and place of birth, address, social security number, education, occupation, experience, and investigatory material. Information security files contain records of security violations which may include employees' names and positions.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Executive Order 10450, as amended; Executive Order 12356; 31 U.S.C. 686; and 40 U.S.C. 318 (a) through (d).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The records in this system of records are used as a basis for issuance of security and ADP clearance and for recommending administrative action against employees found to be in violation of NARA information security regulations. The routine use statements

A and F, described in the appendix following the NARA notices, also apply to this system of records

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders and microfiche in cabinets.

**RETRIEVABILITY:**

Paper records are retrieved manually by name from files that are indexed alphabetically and filed numerically by location and incident. Microfiche records are filed alphabetically or by social security number.

**SAFEGUARDS:**

Records are stored in locked, alarmed room and/or three-way combination dial safes with access limited to authorized employees. Information is released only to officials on a need-to-know basis.

**RETENTION AND DISPOSAL:**

Disposition of these records is in accordance with the NARA Records Maintenance and Disposition Manual.

**SYSTEM MANAGER(S) AND ADDRESS:**

The official responsible for the personnel security files is the Director of Personnel Services (NAP), 601 D Street, NW., Washington, DC (Mailing address: National Archives and Records Administration (NAP), Washington, DC 20408). The official responsible for files relating to violations of information security regulations is the Director of Administrative Services (NAS), 7th and Pennsylvania Avenue, NW., Washington, DC.

**NOTIFICATION PROCEDURE:**

Inquiries by individuals as to whether the system contains a record pertaining to themselves should be addressed to the applicable system manager.

**RECORD ACCESS PROCEDURES:**

Requests from individuals for access to records should be addressed to the applicable system manager and should include full name (maiden name where appropriate), address, and date and place of birth. Only general inquiries may be made by telephone.

**CONTESTING RECORD PROCEDURES:**

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

**RECORD SOURCE CATEGORIES:**

Individuals, employees, informants, law enforcement agencies, other Government agencies, employees references, co-workers, neighbors, educational institutions. and intelligence sources.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

In accordance with 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5), the personnel security case files in this system of records are exempt from subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) of the Privacy Act of 1974, as amended. The system is exempt:

a. To the extent that the system consists of investigatory material complied for law enforcement purposes; however, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a person who furnished information to the Government under an express promise that the identity of the person would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the person would be held in confidence; and

b. To the extent the system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified material, but only to the extent that the disclosure of such material would reveal the indentity of a person who furnished information to the Government under an express promise that the identity of the person would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the person would be held in confidence.

This system has been exempted to maintain the efficacy and integrity of lawful investigations conducted pursuant to the Administrative Services Division's and the Personnel Services Division's responsibilities in the areas of Federal employment, Government contracts, and access to security classified information.

**Appendix**

The following routine use statements will apply to National Archives and Records Administration notices where indicated:

A. Routine Use-Law Enforcement: In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records, may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

B. Routine Use-Disclosure When Requesting Information: A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

C. Routine Use-Disclosure of Requested Information: A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, conducting a security or suitability investigation, classifying a job, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

D. Routine Use-Grievance, Complaint, Appeal: A record from this system of records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Office of Personnel Management in accordance with its responsibility for evaluation of Fdereal personnel management. To the extent that official personnel records in the custody of NARA are covered within the system of records published by the Office of Personnel Management as Governmentwide records, those records will be considered as a part of that Governmentwide system. Other official personnel records covered by notices

published by NARA and considered to be separate systems of records may be transferred to the Office of Personnel Management in accordance with official personnel programs and activities as a routine use.

E. Routine Use-Congressional Inquiries: A record from this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

F. Routine Use-NARA Agents: A record from this system of records may be disclosed as a routine use to an expert, consultant, or a contractor of NARA to the extent necessary for them to assist NARA in the performance of its duties.

G. Routine Use-Department of Justice/Courts: A record from this system of records may be disclosed to the Department of Justice or in a proceeding before a court or adjudicative body before which NARA is authorized to appear, when: (a) NARA, or any component thereof; or, (b) any employee of NARA in his or her official capacity; or, (c) any employee of NARA in his or her individual capacity where the Department of Justice of NARA has agreed to represent the employee; or (d) the United States, where NARA determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or by NARA before a court or adjudicative body is deemed by NARA to be relevant and necessary to the litigation, provided, however, that in each case, NARA determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

H. Routine Use-MSPB, FLRA, and EEOC: Information from this system of records may be disclosed to officials of the Merit Systems Protection Board or Federal Labor Authority, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

**Appendix—Addresses of Locations**

*Washington, DC Metropolitan Area Facilities*

National Archives Building. 7th and Pennsylvania Avenue, NW., Washington, DC. Mailing Address: National Archives and Records Administration, Washington, DC 20408.

National Audiovisual Center. 8700 Edgeworth Drive, Capitol Heights, MD 20743–3701.

Office of the Federal Register. 1100 L Street, NW., Washington, DC. Mailing Address: National Archives and Records Administration (NF), Washington, DC 20408.

Office of Federal Records Centers. 1730 K Street, NW., Washington, DC. Mailing Address: National Archives and Records Administration (NC), Washington, DC 20408.

Office of Records Administration. 601 D Street, NW., Washington, DC. Mailing Address: National Archives and Records Administration (NI), Washington, DC 20408.

Personnel Services Division. 601 D Street, NW., Washington, DC. Mailing Address: National Archives and Records Administration (NAP), Washington, DC 20408.

Pickett Street Annex. 841–885 South Pickett Street, Alexandria, VA. Mailing Address: National Archives and Records Administration, Washington, DC 20408.

Washington National Records Center. 4205 Suitland Road, Suitland, MD. Mailing Address: Washington National Records Center, Washington, DC 20409.

*Presidential Libraries*

Herbert Hoover Library, Parkside Drive, West Branch, IA 52358.

Franklin D. Roosevelt Library, 259 Albany Road, Hyde Park, NY 12538.

Harry S. Truman Library, 1200 North McCoy, Independence, MO 64050.

Dwight D. Eisenhower Library, Southeast Fourth Street, Abilene, KS 67410.

John F. Kennedy Library, Columbia Point, Boston, MA 02125.

Lyndon Baines Johnson Library, 2313 Red River Street, Austin, TX 78705.

Gerald R. Ford Library, 1000 Beal Avenue, Ann Arbor, MI 48109–2114.

Gerald R. Ford Museum, 303 Pearl Street, NW., Grand Rapids, MI 49504.

Jimmy Carter Library, One Copenhill Avenue, Atlanta, GA 30307.

Nixon Presidential Materials Project Staff, 845 South Pickett Street, Alexandria, VA. Mailing Address: National Archives and Records Administration (NLNP), Washington, DC 20408.

Reagan Presidential Materials Staff, 9055 Exposition Drive, Los Angeles, CA 90034.

*Federal Records Centers and Regional Archives at the Same Location*

380 Trapelo Road, Waltham, MA 02154.

Building 22, Military Ocean Terminal, Bayonne, NJ 07002–5388.

1557 St. Joseph Avenue, East Point, GA 30344.

7358 South Pulaski Road, Chicago, IL 60629.

2312 East Bannister Road, Kansas City, MO 64131.

501 West Felix Street, (Mailing address: P.O. Box 6216), Fort Worth, TX 76115.

Denver Federal Center, Building 48 (Mailing address: P.O. Box 25307), Denver, CO 80225.

1000 Commodore Drive, San Bruno, CA 94066.

24000 Avila Road, (Mailing address: P.O. Box 6719), Laguna Niguel, CA 92677–6719.

6125 Sand Point Way, NE., Seattle, WA 98115.

*Regional Archives Not Located with Federal Records Center*

9th and Market Streets, Room 1350, Philadelphia, PA 19107.

*Federal Records Centers Not Located with Regional Archives*

5000 Wissahickon Avenue, Philadelphia, PA 19144.

3150 Springboro Road, Dayton, OH 45439.

National Personnel Records Center, Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO 63118.

National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132.

[FR Doc. 89–10986 Filed 5–8–89; 8:45 am]
BILLING CODE 7515–01–M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Advisory Board on Arts Education; Establishment

In accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–463) and General Services Administration regulations issued pursuant thereto (41 CFR Part 101–6), and under the authority of section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 959 (a)(4)), notice is hereby given that establishment of the Advisory Board on Arts Education has been approved by the Acting Chairman of the National Endowment for the Arts for a period of two years from the date this Charter is filed. This committee will make recommendations on the activities and efforts being undertaken regarding recommendations in the report "Toward Civilization"; on the development of proposals for a master plan for arts assessment as part of the National Assessment of Educational Progress; on the development of a plan to identify, recognize, and reward exemplary school and district arts programs; and, on reports to the President and Congress, as appropriate.

The committee will report its recommendations to the Chairman of the Arts Endowment.

The function of this advisory committee cannot be performed by the Arts Endowment, an existing advisory committee or other means, such as public hearing. Neither the agency nor any existing advisory committee possesses sufficient expertise or breadth of representation to offer such advice. Other means, such as public hearings, are not suitable for obtaining the necessary advice. Therefore, the establishment and use of this advisory committee is in the public interest.

This charter will be filed with the standing Committees of the Senate and the House of Representatives having legislative jurisdiction over the Arts

Endowment and with the Library of Congress.

May 3, 1989.

**Yvonne Sabine,**

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 89-11046 Filed 5-8-89; 8:45 am]

BILLING CODE 7537-01-M

## Advisory Board on Arts Education; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Advisory Board on Arts Education to the Chairman of the National Endowment for the Arts will be held on May 22, 1989, from 8:50 p.m.-9:50 p.m. and on May 23, 1989, from 8:30 a.m.-3:30 p.m. at the Sears House, 633 Pennsylvania Avenue, NW., Washington, DC.

This meeting will be open to the public on a space available basis. The topic for discussion will be policy issues.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

May 3, 1989.

**Yvonne M. Sabine,**

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 89-11047 Filed 5-8-89; 8:45am]

BILLING CODE 7537-01-M

## Expansion Arts Advisory Panel; Meeting

Pursuant to section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Community Foundation Initiative Section) to the National Council on the Arts will be held on June 7, 1989, from 9:15 a.m.-5:30 p.m. in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 7, 1989 from 9:15 a.m.-10:00 a.m. and from 4:00 p.m.-5:30 p.m. The topics for discussion will be policy issues.

The remaining portion of this meeting on June 7, 1989 from 10:00 a.m.-4:00 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

May 3, 1989.

**Yvonne M. Sabine,**

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 89-11048 Filed 5-8-89; 8:45 am]

BILLING CODE 7537-01-M

## Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Rural Arts Initiative Section) to the National Council on the Arts will be held on May 31, 1989, from 9:15 a.m.-5:30 p.m. in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 31, 1989, from 9:15 a.m.-10:00 a.m. and from 4:00 p.m.-5:30 p.m. The topics for discussion will be policy issues.

The remaining portion of this meeting on May 31, 1989, from 10:00 a.m.-4:00 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

May 3, 1989.

**Yvonne M. Sabine,**

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 89-11049 Filed 5-8-89; 8:45 am]

BILLING CODE 7537-01-M

## Expansion Arts Advisory Panel; Meeting

Pursuant to section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Services to the Field Section) to the National Council on the Arts will be held on June 1, 1989, from 9:15 a.m.-5:30 p.m. in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 1, 1989 from 9:15 a.m.-10:30 a.m. and from 4:30 p.m.-5:30 p.m. The topics for discussion will be policy issues.

The remaining portion of this meeting on June 1, 1989 from 10:30 a.m.-4:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to section (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the

Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

May 3, 1989.

**Yvonne M. Sabine,**

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 89–11050 Filed 5–8–89; 8:45 am]

BILLING CODE 7537–01–M

## Folk Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Folk Arts Advisory Panel to the National Council on the Arts will be held on June 6–9, 1989, from 9:00 a.m.–6:00 p.m. in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Wahsington, DC 20506.

A portion of this meeting will be open to the public on June 8, 1989 from 1:30 p.m.–3:30 p.m. The topics for discussion will be policy issues.

The remaining portion of this meeting on June 6–7, 1989, from 9:00 a.m.–6:00 p.m. and on June 8, 1989, from 9:00 a.m.–1:30 p.m. and from 3:30 p.m.–6:00 p.m. and on June 9, 1989, from 9:00 a.m.–6:00 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts. 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/62–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

May 3, 1989.

**Yvonne M. Sabine,**

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 89–11052 Filed 5–8–89; 8:45 am]

BILLING CODE 7537–01–M

## Inter-Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Artists Projects: New Forms Section) to the National Council on the Arts will be held on May 30–June 3, 1989, from 9:30 a.m.–9:00 p.m. in Rooms 714 and 716 and June 4, 1989, from 9:30 a.m.–5:00 p.m. in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 4, 1989 from 9:30 a.m.–noon. The topics for discussion will be guidelines.

The remaining portion of this meeting on May 30–June 3, 1989, from 9:30 a.m.–9:00 p.m. and June 4, 1989, from noon–5:00 p.m. is for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

May 3, 1989.

**Yvonne M. Sabine,**

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 89–11051 Filed 5–8–89; 8:45 am]

BILLING CODE 7537–01–M

## Office of Public Partnership Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Office of Public Partnership Advisory Panel (State Programs Section) to the National Council on the Arts will be held on June 1, 1989, from 9:00 a.m.–5:30 p.m., and June 2, 1989. from 9:00 a.m.–1:00 p.m. in Room M–14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 1, 1989 from 9:00 a.m.–9:30 a.m. and from 11:00 a.m.–5:30 p.m. and on June 2, 1989, from 9:00 a.m.–1:00 p.m. The topics for discussion will be policy issues.

The remaining portion of this meeting on June 1, 1989, from 9:30 a.m.–11:00 a.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituences, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202–682–5532, TTY 202–682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202–682–5433.

May 3, 1989.

**Yvonne M. Sabine,**

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 89–11053 Filed 5–8–89; 8:45 am]

BILLING CODE 7537–01–M

## Theater Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Artistic Advancement Section) to the National Council on the

Arts will be held on June 1, 1989, from 9:30 a.m.–6:30 p.m. in Room MO–7 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 1, 1989, from 9:30 a.m.–10:00 a.m. and from 5:30 p.m.–6:30 p.m. The topics for discussion will be policy and guidelines.

The remaining portion of this meeting on June 1, 1989, from 10:00 a.m.–5:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202–682–5532, TTY 202–682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202–682–5433.

May 3, 1989.

**Yvonne M. Sabine,**

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 89–11054 Filed 5–8–89; 8:45 am]

BILLING CODE 7537-01-M

## NUCLEAR REGULATORY COMMISSION

### Agency Information, Collection Activities Under Office of Management and Budget Review

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of the Ofice of Management and Budget Review of information collection.

**SUMMARY:** The NRC has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. Title of the information collection: "Proposed Amendments to 10 CFR Part 72 to Permit Storage of Spent Fuel in NRC-Approved Casks at Nuclear Power Reactor Sites"

3. The form number if applicable: None.

4. How often the collection is required. Once for each power reactor licensee. Once every 20 years for each vendor for cask design approval and reapproval.

5. Who will be required to ask to report: Power reactor licensees, whenever they store spent fuel under the general license. Storage cask vendors, whenever they request NRC approval for a cask decision.

6. An estimate of the number of responses: Four power reactor licensees per year for the next 10 years; on average, one cask vendor per year for the nexty 10 years.

7. An estimate of the total number of hours needed to complete the requirements or requests: 536 hours annually for an estimated four power reactor licensees and about 2,448 hours annually for an estimated one cask vendor.

8. The average burden per response is: An estimated 134 hours for a power reactor licensee and 2,448 hours for a cask vendor.

9. An indication of whether section 3504(h), Pub. L. 96–511 applies: No.

10. *Abstract:* The proposed rule would amend 10 CFR Part 72 to provide for the storage of spent fuel under a general license at reactor sites in casks approved by NRC. The general license would only apply to holders of power reactor operating licenses. The proposed rule also contains criteria for obtaining NRC approval of storage cask designs.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW., Washington, DC, Lower Level.

Comments and questions should be directed to the OMB reviewer, Nicolas B. Garcia, Paperwork Reduction Project (3510–0132), Office of Management and Budget, Washington, DC 20503. Comments can also be communicated by telephone at (202) 395–3084.

NRC Clearance Officer is Brenda J. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 2nd day of May 1989.

For the Nuclear Regulatory Commission.

**Joyce A. Amenta,**

*Designated Senior, Official for Information Resources Management.*

[FR Doc. 89–11103 Filed 5–8–89; 8:45 am]

BILLING CODE 7590-01-M

**[Docket No. 50–397]**

### Washington Public Power Supply System; Denial of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Washington Public Power Supply System (license) for an amendment to Facility Operating License No. NPF–21, issued to the licensee for operation of the Nuclear Project No. 2 in Benton County, Washington. The Notice of Consideration of Issuance of Amendment was published in the **Federal Register** on January 29, 1986 (51 FR 3721).

The amendment, as proposed by the licensee, would remove Technical Specification (TS) requirements pertaining to the Reactor Core Isolation Cooling System. The licensee has argued that the automatic depressurization system in conjunction with the low pressure emergency core cooling systems provides adequate backup to the high pressure core spray systems. The Commission issued an Interim Policy Statement on Technical Specification Improvements (52 FR 3788, February 6, 1987) in which it declared that technical specifications should contain limiting conditions for operation, action statements and surveillance requirements for the Reactor Core Isolation Cooling System because operating experience and probabilistic risk assessment have generally shown this system to be important to public health and safety. Therefore this amendment request is denied on the basis of the Commission Interim Policy Statement.

By June 8, 1989 the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or 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, 2120 L Street NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street NW., Washington, DC 20005–3502, and G. E. Doupe, Esq., Washington Public Power Supply System, P.O. Box 968, 3000 George Washington Way, Richland, Washington 99532, attorneys for the licensee.

For further details with respect to this action, see (1) the application for amendment dated October 4, 1985, and supplemental letters dated December 5, 1985 and August 4, 1986, and (2) the Commission's Safety Evaluation forwarded to the licensee by letter dated May 2, 1989, which are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland, this 2nd day of May, 1989.

For the Nuclear Regulatory Commission.

**Robert B. Samworth,**

*Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects*

[FR Doc. 89–11104 Filed 5–8–89; 8:45 am]

BILLING CODE 7590–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–26778; File No. SR–Amex–89–9]**

## Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by American Stock Exchange, Inc., Relating to a Delivery Fee for Delivery of Shares to Equity Index Participation Holders

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 April 17, 1989, the American Stock Exchange, Inc. ("Amex") 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 Amex. 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 Amex is establishing a delivery fee under Amex Rule 905F of $.02 per share to be paid in connection with delivery of shares to Equity Index Participation ("EIP") holders in connection with exercise of the "delivery privilege."

The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex 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 Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

(1) Purpose

The Commission has approved the Amex's proposal to trade EIPs based on the S&P 500 Index and the Major Market Index (File No. SR–Amex–88–10; Securities Exchange Act Release No. 26709, April 11, 1989). Under Amex Rule 905F, EIP holders are permitted to exercise the "delivery privilege" once each quarter (prior to the third Friday of March, June, September and December) and thereby receive physical delivery of shares of the component stocks included in the index (subject to certain restrictions specified in Rule 905F). The "delivery privilege" is permitted for EIP holders that submit notice of exercise of the minimum number of EIPs—the "delivery unit"—specified by the Exchange for exercise of the "delivery privilege" (*i.e.*, 50,000 EIPs per delivery unit for the S&P 500 Index, and 25,000 EIPs per unit for the Major Market Index).

Rule 905F provides that the holder exercising the "delivery privilege" shall pay a delivery fee, established by the Exchange from time to time, to the party making physical delivery of the shares. Procedures of the Options Clearing Corporation (OCC) relating to payment of the delivery fee are set forth in OCC Rule 1907.

The delivery fee is a service fee to compensate persons holding short positions and physical delivery facilitators required to make delivery of shares to EIP holders for costs, including transaction charges, which can reasonably be expected to be incurred by short positions or facilitators in making delivery. In addition, the delivery party may incur some market risk in the event that such party is required to purchase index stocks on an exchange or in the over-the-counter market and is unable to purchase such stocks at the opening price, which is the price upon which the liquidating index value in respect of a particular class of EIPs is derived. A fee of $.02 per share is competitive with fees currently paid by large institutional investors in connection with trading of stock index portfolios.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)5 in particular in that it promotes just and equitable principles of trade and section 6(b)(4) in that it provides for the equitable allocation of reasonable dues, fees, and other charges among Exchange members and other persons using Exchange facilities.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change will impose no burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 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 Amex. All submissions should refer to the file number in the caption above and should be submitted by May 30, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 2, 1989.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89-10997 Filed 5-8-89; 8:45 am]

BILLING CODE 8010-01-M

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**[Rel. No. 34-26767; File No. SR-BSE-86-3]**

## Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Clarifying Amendments to Various Rules of the Board of Governors of the Boston Stock Exchange

### I. Introduction

On September 22, 1986, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), 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 designed to update certain of the Rules of the Exchange's Board of Governors and eliminate outdated material therein. Amendment No. 1, submitted by the BSE on April 10, 1989, adds clarifying amendments to the original filing.

Notice of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 24563, June 5, 1987) and by publication in the **Federal Register** (52 FR 22869, June 16, 1987). The Commission received no comments on the proposed rule change.

### II. Description of the Proposal

On July 24, 1986, the BSE Board of Governors approved revisions to certain of its Rules. The proposed amendments clarify and update several areas of the BSE rules, including the definitional section and rules pertaining to dealings on the exchange. The first category, "Definitions", includes *inter alia* proposed changes and clarifying amendments to the Exchange's definition of the terms "Board of Governors", "Floor Officials", "Member", and "Control". The changes also set forth the power of Floor Officials to supervise active openings and unusual situations. With respect to the proposed definition of "control", Amendment No. 1 clarifies that the Exchange's definition of "control" is limited in its application to Exchange Rules and therefore will have no application outside the limited province of the BSE's Rules. Amendment No. 1 also adds a definition of "person" to the Exchange's roster of defined entities.

The proposed rule change would define certain bids and offers as specified orders, including, for example, "All or None Orders", "Fill or Kill Orders", "Market Orders", and "Not Held Orders". Amendment No. 1 clarifies that the making of "all or none" bids or offers is prohibited in stocks. Amendment No. 1 also clarifies that a specialist may not accept "not held" orders.

The second category of revisions under the proposed rule change falls under the rubric of "Dealings on the Exchange". The proposed rule change *inter alia* specifies that only BSE-approved securities may be traded on the Exchange. The rule change also sets the settlement dates for contracts made on the Exchange, as well as makes clarifying amendments to the Exchange's rules of priority and precedence. Moreover, for ease of reference, the proposed rule change incoporates into the Exchange's rules Commission Rule 11Ac1-1, which governs the dissemination of quotations for reported securities. The proposed rule change also adds a variety of interpretations regarding the duties of specialists and members with respect to their order handling activities.

The rule change would also establish a procedure to suspend and resume trading in all securities as appropriate. Under this procedure the Chairman, Vice Chairman and Floor Governors by majority vote would have the power to suspend trading in securities on the Exchange. Amendment No. 1 clarifies that the new authority to suspend trading extends to "any and all" BSE-listed securities, but only where appropriate "in the public interest". If the suspension would continue for more than one day, a special meeting of the Board of Governors would have to be called. Finally, the proposed rule change would clarify the availability to members or member-organizations of minutes or other records of the Board of Governors in connection with a disciplinary action taken against such a member of member-organization.

### III. Discussion and Conclusion

The Commission believes that the proposed rule change is consistent with section 6(b) of the Act, and the rules and regulations thereunder applicable to a national securities exchange. More specifically, the Commission believes that the proposed rule change is consistent with section 6(b)(5) of the Act, which requires exchange rules to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest. The Commission agrees with the BSE that the proposed rule change eliminates outdated and duplicative material, thereby clarifying existing Exchange Rules. Moreover, the new provisions should similarly serve to clarify and establish existing BSE policies and procedures, such as procedures for the suspension of trading, not previously set forth in the Exchange's published Rules. We note also that the Commission received no comments from either BSE members and member organizations of BSE-listed companies concerning these proposed rule changes. Accordingly, the Commision views as appropriate the Exchange's revisions to the Rules of its Board of Governors.

*It is Therefore Ordered,* pursuant to section 19(b)(2) of the Act, that the above mentioned rule change is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89-11100 Filed 5-8-89; 8:45 am]

BILLING CODE 8010-01-M

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240 19b-4.

[3] See 17 CFR 200.30-3(a)(44).

[34-26768; GSCC-89-02]

## Self-Regulatory Organizations; Order Approving Proposed Rule Change By the Government Securities Clearing Corp. Regarding Cancellation of Trade Data

April 28, 1989.

On March 9, 1989, the Government Securities Clearing Corporation ("GSCC") filed a proposed rule change (File No. SR-GSCC-89-2) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("the Act"),[1] to authorize GSCC to enhance its comparison system by implementing a trade cancellation feature. On March 24, 1989, the Commission published notice of the proposed rule change in the **Federal Register** to solicit comments from interested persons.[2] To date no comments have been received. This Order approves the proposal.

### I. Description

The proposed rule change amends GSCC's rules which authorizes GSCC to implement a trade cancellation feature as part of its comparison system. The proposal will allow members to cancel an uncompared trade or delete such trade data and replace the deleted data with corrected data by submitting the appropriate instruction to GSCC. The proposal also will allow members to cancel compared trades, but only if both parties to the trade submit matching cancellation requests.

Members may submit cancellation instructions as part of their daily trade information submission to GSCC by magnetic tapes, terminal transmissions, or computer-to-computer linkages. All trade data will come into GSCC through Data-track, a system which automatically copies the member's transmission for GSCC's on-site records and for storage at an off-site location before processing the request. This will ensure the preservation of both the original trade submission and the cancellation instructions.

Before cancelling an uncompared trade, the cancellation instructions must contain the same terms as the original trade submission, as well as the unique identification number assigned to that trade by GSCC. To cancel a compared trade, both parties to the trade must submit cancellation requests. Those requests must match the original trade instructions, including the unique identification number assigned to that trade. If by the end of the day only one side has submitted an instruction to cancel a compared trade or if both cancellation requests do not match the original trade instructions, GSCC will not cancel the original trade and instead, GSCC will reject the cancellation instruction and will delete the cancellation request from the system. Each day GSCC will provide members with a list of the trades that were cancelled and any cancellation requests that were submitted but not implemented as part of GSCC's daily trade reports. Only the party that submitted a cancellation request for an uncompared trade would receive notice of the cancellation because the alleged contra side never submitted trade data for this cancelled uncompared trade.

### II. GSCC's Rationale

GSCC believes the proposal is consistent with section 17A of the Act because it will provide members with the ability to correct errors in trade data. GSCC believes that this trade correction feature will enhance the trade resolution process, increase the number of compared trades, and, thereby, promote the prompt and accurate clearance and settlement of securities transactions.

### III. Discussion

The Commission believes that the proposal is consistent with section 17A of the Act because it will assist GSCC in fulfilling its responsibility to facilitate the prompt and accurate clearance and settlement of government securities trades. The Commission agrees with GSCC that the trade correction feature will enhance the trade resolution to process and thus increase the number of compared trades.

The Commission believes that certain safeguards are necessary to assure that the cancellation feature does not affect adversely GSCC's ability to safeguard securities and funds within its custody or control. GSCC has designed the cancellation feature to prevent a member from refusing to honor its trades, while allowing a member the flexibility to correct its errors. A member unilaterally can cancel any uncompared trade it submitted,[3] but cannot cancel a compared trade unless the contra party also submits a cancellation instruction. Requiring both parties to submit cancellation instructions to cancel compared trades is an important safeguard that prevents a member from using the cancellation feature to negate its obligation to settle a trade it made, but later wishes to dishonor.

The proposal also creates an audit trail. This audit trail allows a member to know which cancellation instructions were implemented and which instructions were not implemented. The Commission believes that the audit trail is an important feature to assure that members have the necessary information to independently assess the integrity of, not only GSCC's system, but their own in-house systems.

### IV. Conclusion

*It is therefore Ordered,* pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-GSCC-89-2) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

*Secretary.*

[FR Doc. 89-10998 Filed 5-8-89; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78s(b)(1)

[2] *See* Securities Exchange Act Release No. 26641 (March 17, 1989), 54 FR 12304 (March 24, 1989).

[3] The cancellation feature allows a member to cancel incorrect trade data which results in an uncompared trade and submit correct trade data which presumably will match the trade data submitted by the contra side and create a matched trade.

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[Rel. No. 34-26776; File No. SR-NASD-89-15]

## Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Registration of Principals and Representatives

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 23, 1989 the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change and an amendment thereto on April 25, 1989 as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD has proposed amendments to Schedule C to the By-Laws that would require members to submit applications for and maintain the registrations of only such persons who intend to engage or are engaged in the investment banking or securities business for the members. The full text of the proposed rule changes, with the proposed additions italicized, read as follows:

Schedule C of the NASD By-Laws

II

REGISTRATION OF PRINCIPALS

(1) Registration Requirements

(a) All Principals Must be Registered—All persons (associated with) *engaged or to be engaged in the investment banking or securities business of* a member who are to function as principals shall be registered as such with the Corporation in the category of registration appropriate to the function to be performed as specified in Part II, section (2) hereof. Before their registrations can become effective, they shall pass a Qualification Examination for Principals appropriate to the category of registration as specified by the Board of Governors. *A member shall not maintain a principal registration with the Corporation for any person (i) who is no longer active in the member's investment banking or securities business, (ii) who is no longer functioning as a principal, or (iii) where the sole purpose is to avoid the examination requirement prescribed in section (1)(c) hereof. A member shall not make application for the registration of any person as principal where there is no intent to employ such person in the member's investment banking or securities business. A member may, however, maintain or make application for the registration as a principal of a person who performs legal, compliance, internal audit, or similar responsibilities for the member or a person engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.*

* * * * *

III

REGISTRATION OF REPRESENTATIVES

(1) Registration Requirement

(a) All Representatives Must be Registered—All persons (associated with) *engaged or to be engaged in the investment banking or securities business of* a member who are to function as representatives shall be registered as such with the Corporation in the category of registration appropriate to the function to be performed as specified in Part III, section (2) hereof. Before their registration can become effective, they shall pass a Qualification Examination for Representatives appropriate to the category of registration as specified by the Board of Governors. *A member shall not maintain a representative registration with the Corporation for any person (i) who is no longer active in the member's investment banking or securities business, (ii) who is no longer functioning as a representative, or (iii) where the sole purpose is to avoid the examination requirement prescribed in section (2)(c) hereof. A member shall not make application for the registration of any person as representative where there is no intent to employ such person in the member's investment banking or securities business. A member may, however, maintain or make application for the registration as a representative of a person who performs legal, compliance, internal audit, or similar reponsibilities for the member, or a person who performs administrative support functions for registered personnel, or a person engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.*

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**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

In response to certain recommendations of the NASD Regulatory Review Task Force, the Qualifications Committee of the NASD Board of Governors has undertaken to review the NASD qualification system and to consider additional means to maintain an appropriate level of knowledge and professionalism for persons associated with NASD members. This review has not only addressed the adequacy of existing NASD qualifications standards, but has also considered issues relating to the need to afford reasonable assurance to the investing public that registered persons remain knowledgeable about products and services available to investors, as well as applicable rules, regulations, and policies governing the investment banking and securities business.

The NASD proposes to amend Part II, section k(1)(a) and Part III, section (1)(a) of Schedule C to the By-Laws to require that members register only persons who are engaged or will engage in the investment banking or securities business on behalf of the member in the capacities of principal and representative. The proposed rule change would specifically prohibit members from maintaining registrations for persons who no longer function as principals or representatives of the firm and who no longer are active in the member's investment banking or securities business, or who wish to avoid the reexamination requirement applicable to persons who are not registered for more than two years.

Members also would be prohibited from sponsoring an application for registration where there is no intent to maintain the applicant's employment with the member after examination. The NASD believes this rule change is fully consistent with the historic intent of the qualification and registration program and that the proposed rule change is necessary to prevent such unacceptable practices as "parking" registrations and using NASD membership to gain a competitive advantage in operating a commercial training business.

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Securities Exchange Act, as amended (the "Act"). In pertinent part, section 15A(b)(6) mandates that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest, among other things. The NASD believes the proposed rule changes are fully consistent with the NASD's longstanding commitment to assuring the investing public that registered persons remain knowledgeable about products and services available to investors as well as applicable rules, regulations and policies governing the securities business.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The NASD does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

Written comments were solicited in NASD Notice to Members 88-90 (November 1988).[1] Ten (10) commentators addressed the proposed rule changes. Two (2) commentators generally favored the proposal, five (5) commentators generally favored the proposals if certain amendments were made and three (3) generally opposed the proposal. Four (4) commentators, while not objecting to the proposals, expressed concern as to the meaning of the terms "actively engaged" (discussed below) and "representative". The term "representative" is defined in subsection (1)(b) of Part III to Schedule C. One firm indicated that it registers anyone who has direct contact with the public or who handles customer records or accounts. Another firm indicated that it routinely registers non-producing personnel such as in-house legal counsel, compliance examiners and internal auditors, among others. Both firms questioned whether they would be precluded from doing so in the future if the proposed amendments were adopted. In response to this comment, the original proposal was amended to allow a member to maintain or make application for the registration of persons who perform legal, compliance, internal audit, or similar responsibilities for the member.

A third commentator requested clarification as to how the NASD will "gauge whether an individual is actively engaged in the securities business". The purpose of the proposed rule changes, as stated in Notice to Members 88-90, is to prevent "parking" of registrations by persons not active in the member's business. Thus, the NASD believes it is sufficient if an associated person is involved in any of the member's securities activities. A fourth commentator noted that the initial proposal would cause the member to re-register and re-qualify for examination employees who were transferred out of the United States to its parent organization which was engaged in the securities business in Japan, and then were retransferred to the company's U.S. operations. In response to this comment, the NASD amended its proposal to allow for a member to maintain or make application for the registration of those persons who are engaged in the investment banking in securities business of a foreign securities affiliate or subsidiary.

Three (3) commentators opposed the proposal. One of these, a bank member, made reference to "licenses maintained in reserve" without explaining what this means and pointed to the confiscation of a substantial corporate investment if the proposal is adopted. A reference was also made by this commentator to "persons holding securities licenses" who "may be required to have securities licenses if Glass-Steagall is repealed or other financial services reform legislation passes in the next Congress". This statement supported a recommendation that the purpose would be better served by imposing a continuing education requirement.

A second negative commentator, an insurance company member, noted that this proposal would require an insurance company to requalify individuals who are rotated among the company's operations and who return to the securities operation after a two year period. This commentator challenged the relevancy of much of the material in the examinations and suggested that it is "unfair of the NASD to place an insurer in the position of having to consider the possibility of retesting in the context of normal personnel decisions".

The NASD considered the referenced statements of the three commentators and determined that requisite knowledge could be best maintained in the public interest by requiring that persons who are not active in the investment banking securities business requalify when they determine to enter or reenter the securities business.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by May 30, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,

*Secretary.*

Dated: May 1, 1989.

[FR Doc. 89-10999 Filed 5-8-89; 8:45 am]

BILLING CODE 8010-01-M

[1] The NASD solicited comments on other proposed changes to Schedule C and these changes are being filed separately.

## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**ACTION:** Notice of Reporting Requirements Submitted for Review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

**DATE:** Comments should be submitted on or before June 8, 1989. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

*Copies*

Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

**FOR FURTHER INFORMATION CONTACT:**

*Agency Clearance Officer:* William Cline, Small Business Administration, 1441 L Street NW., Room 200, Washington, DC 20416, Telephone: (202) 653–8538

*OMB Reviewer:* Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395–7340

*Title:* Candidate for Appointment to SBA, Advisory Councils.

*Form Number:* SBA Form 898.

*Frequency:* On Occasion.

*Description of Respondents:* Individuals seeking appointment to advisory councils.

*Annual Responses:* 1,400.

*Annual Burden Hours:* 1,000.

*Title:* SBA Sponsored Procurement Fairs.

*Form Number:* SBA Form 1674.

*Frequency:* On Occasion.

*Description of Respondents:* Individuals attending SBA sponsored, procurement conferences.

*Annual Responses:* 3,000.

*Annual Burden Hours:* 150.

*Title:* Report of Transactions on Loans Serviced by Banks.

*Form Number:* SBA Form 172.

*Frequency:* On Occasion.

*Description of Respondents:* Banks issuing SBA participation loans.

*Annual Responses:* 5,400.

*Annual Burden Hours:* 10,800.

**William Cline,**

*Chief, Administrative Information Branch.*

[FR Doc. 89–11095, Filed 5–8–89; 8:45 am]

BILLING CODE 8025–01–M

## Region III Maryland Advisory Council; Public Meeting

The U.S. Small Business Administration, Region III Advisory Council, located in the geographical area of Baltimore will hold a public meeting from 3:00 p.m. to 5:00 p.m., on Thursday, May 18, 1989, at the Sheraton Inn, 1910 Dual Highway, Route 40 West, Hagerstown, Maryland, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Charles J. Gaston, District Director, U.S. Small Business Administration, 10 North Calvert Street, 3rd Floor, Baltimore, Maryland 21202, phone (301) 962–2054.

**Jean M. Nowak,**

*Director, Office of Advisory Councils.*

May 3, 1989.

[FR Doc. 89–11096 Filed 5–8–89; 8:45 am]

BILLING CODE 8025–01–M

## BDP Associates, Ltd.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company (SBIC) under the provisions of Section 301(c) of the Small Business Investment Act of 1958, as amended, (the Act), (15 U.S.C. 661, *et seq.*), has been filed by BDP Associates, Ltd. (Applicant), 103 Springer Building, 3411 Silverside Road, Wilmington, Delaware 19810, with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1989).

The officers, directors and sole shareholder of the Applicant are:

| Name | Title |
|---|---|
| Marshall W. Pagan, 7025 Sheaff Lane, Fort Washington, PA 19034. | President, Director. |
| Howard E. Verlin, 107 Arch Street, #3F, Philadelphia, PA 19106. | Secretary, Director. |
| W.W. Keen Butcher, 8811 Towanda Street, Philadelphia, PA 19118. | Director. |
| BDI Associates, L.P., 211 South Broad Street, Philadelphia, PA 19107. | Sole shareholder. |

BDI Associates, L.P. (BDI) is a Delaware limited partnership whose sole general partner is BDI, Ltd., a Delaware corporation wholly-owned by Marshall W. Pagaon. BDI's original limited partner is Enniskillen, a Delaware corporation wholly-owned by Butcher and Company, Inc.

Butcher and Company, Inc., is owned by Howard Butcher (13%), Jonathan Butcher (13%), Fuerst Von Thurn Und Taxis (38%), and others, each owning less than 10% (36%).

The Applicant, a Delaware corporation, will begin operations with a capitalizaiton of $1,000,000, and will conduct its operations principally in the states of Delaware, Pennsylvania and New Jersey.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owner and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and the SBA Rules and Regulations.

Notice is hereby given that any person may on or before June 8, 1989, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

A copy of this notice will be published in a newspaper of general circulation in the Wilmington, Delaware area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

Dated: April 28, 1989.

[FR Doc. 89–11097 Filed 5–8–89; 8:45 am]

BILLING CODE 8025–01–M

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Reports, Forms, and Recordkeeping Requirements; Submittals to OMB on May 1, 1989

**AGENCY:** Department of Transportation (DOT), Office of the Secretary.

**ACTION:** Notice.

**SUMMARY:** This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on May 1, 1989, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

**FOR FURTHER INFORMATION CONTACT:** John Chandler, Annette Wilson, or Cordelia Shepherd, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone, (202) 366–4735, or Gary Waxman or Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395–7340.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under

that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

**Information Availability and Comments**

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the **"FOR FURTHER INFORMATION CONTACT"** paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the **"FOR FURTHER INFORMATION CONTACT"** paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

**Items Submitted for Review by OMB**

The following information collection requests were submitted to OMB on May 1, 1989.

*DOT No.:* 3203.
*OMB No.:* 2125–0040.
*Administration:* Federal Highway Administration.
*Title:* Annual Interstate Maintenance Program.
*Need for Information:* To meet FHWA requirements for each State to certify that the Interstate System is being maintained in accordance with an approved Interstate Maintenance Program.
*Proposed Use of Information:* For FHWA to verify a State's certification of Maintaining the Interstate System.
*Frequency:* Annually.
*Burden Estimate:* 500.
*Respondents:* State highway agencies.
*Form(s):* None.
*Average Burden Hours Per Respondent:* The average burden hour per response for this collection of information is 10 hours.

*DOT No.:* 3204.
*OMB No.:* 2115–0135.
*Administration:* U.S. Coast Guard.
*Title:* Display of Plans.
*Need for Information:* This requirement is needed to minimize danger to ship personnel, and damage to the vessel in the event of shipboard fire, flooding or other emergency situations.
*Proposed Use of Information:* Shipboard personnel will use these plans during routine servicing or maintenance of equipment and system, as well as under emergency conditions. External sources, such as firefighters will also use these plans to become familiar with the vessel and its systems during emergency situations.
*Frequency:* Recordkeeping.
*Burden Estimate:* 437.
*Respondents:* Owners/operators of oceanographic research vessels, large passenger vessels, sailing school vessels, mobile offshore drilling rigs and certain tankers and cargo ships.
*Form(s):* None.
*Average Burden Hours Per Respondent:* .5.

*DOT No.:* 3205.
*OMB No.:* 2115–0554.
*Administration:* U.S. Coast Guard.
*Title:* Intervals for Drydocking and Tailshaft Examinations on Inspected Vessels.
*Need for Information:* This information collection requirement is necessary for the Coast Guard to insure that vessel safey is not compromised.
*Proposed Use of Information:* It is used to (1) evaluate the condition of a vessel and to determine if an extension for drydock examination can be granted without adversely affecting the safety of the vessel; (2) determine the overall condition of a vessel's hull for safety reasons; and (3) provide Coast Guard with ready means to determine to what extent the vessel's hull has deteriorated.
*Frequency:* On occasion.
*Total Estimated Burden:* 1145.
*Respondents:* Vessel owners/operators.
*Form(s):* None.
*Average Burden Hours/Response:* 4 reporting; .25 recordkeeping.

*DOT No.:* 3206.
*OMB No.:* 2115–0086.
*Administration:* U.S. Coast Guard.
*Title:* Application for Tonnage Measurements of Vessels.
*Need for Information:* This information collection requirement is needed as a prerequisite to vessel measurement for documentation purposes. In addition, the information is needed to delegate authority for tonnage measurement to qualified persons.
*Proposed Use of Information:* The Coast Guard uses this information to (1) establish a vessel's register dimensions and tonnages; and, (2) delegate authority to qualified persons to provide tonnage measurement services.
*Frequency:* On occasion.
*Total Estimated Burden:* 40,955.
*Respondents:* Vessel owners and agents.
*Form(s):* CG–5397.
*Average Burden Hours Per Respondent:* 2.16 hours.

*DOT No:* 3207.
*OMB No:* New.
*Administration:* DOT, Office of Inspector General.
*Title:* Technological Transfer of Computer Software, Urban Mass Transportation Administration Transit Operators' Survey. Questionnaire.
*Need for Information:* The information is necessary for the successful completion of Audit Project #964–002, "Technical Transfer of Computer Software Among Transit Operators—UMTA."
*Proposed Use of Information:* The information will be used to evaluate the potential benefits of establishing a clearinghouse for the exchange of transit software between UMTA grantees.
*Frequency:* One time questionnaire.
*Total Estimated Burden:* 800 hours.
*Respondents:* 400 transit operators servicing populations of 200,000 or more.
*Form(s):* Questonnaire.
*Average Burden Hours Per Respondent:* 2 hours.

*DOT No:* 3210.
*OMB No:* 2120–0056.
*Administration:* Federal Aviation Administration.
*Title:* Report of Inspections Required by Airworthiness Directives, FAR Part 39.
*Need for Information:* An AD is issued when an unsafe condition is detected on a specific aircraft type. If the condition is serious enough, and more information is needed to develop corrective action, those aircraft owners/operators are required to report specific information to the FAA.
*Proposed Use of Information:* The FAA will analyze the results of the findings reported and determine if the corrective action called for in the AD has been sufficient to eliminate the unsafe condition, and if not, a new AD to correct the unsafe condition will be issued.
*Frequency:* On occasion.
*Burden Estimate:* 18,750 hours.
*Respondents:* Aircraft maintenance personnel; Aircraft owners/operators.
*Form(s):* N/A.
*Average Burden Hours Per Respondent:* 5 minutes.

*DOT No:* 3211.
*OMB No:* 2125–0030.
*Administration:* Federal Highway Administration.
*Title:* Outdoor Advertising and Junkyard Report.
*Need for Information:* For the State highway agencies to provide the FHWA with annual information on the status of the highway beautification program.

*Proposed Use of Information:* For FHWA to administer and monitor the control of outdoor advertising and junkyards as implemented by the State and mandated by Congress.
*Frequency:* Annually.
*Burden Estimated:* 6,526 hours.
*Respondents:* State Highway agencies.
*Form(s):* FHWA 1424.
*Average Burden Hours Per Respondent:* 0.5 hours.

*DOT No:* 3212.
*OMB No:* 2125–5442.
*Administration:* Federal Highway Administration.
*Title:* Commercial Driver Licensing and Testing Standards.
*Need for Information:* For Federal Highway Administration and State Officials to ensure that commercial motor vehicle operators meet the requirements of 49 CFR Part 383.
*Frequency:* On occasion.
*Burden Estimate:* 2,515,626.
*Respondents:* Motor Carriers.
*Form(s):* None.
*Average Burden Hours Per Respondent:* The average burden hour per response for this collection of information is:
a. For notification of violation, 10 minutes per report;
b. Employment history, 15 minutes per response;
c. Knowledge test, 1.5 hours per test; and
d. Skills test, 1.5 hours per test.

*DOT No:* 3213.
*OMB No:* 2133–0010.
*Administration:* Maritime Administration.
*Title:* U.S. Merchant Marine Academy Application for Admission and Pre-Candidate Questionnaire.
*Need for Information:* To document requests for admission to the U.S. Merchant Marine Academy at Kings Point, New York.
*Proposed Use of Information:* To evaluate applicant eligibility for admission to the U.S. Merchant Marine Academy at Kings Point, NY.
*Frequency:* Other-one time.
*Burden Estimate:* 15,000 hours.
*Respondents:* Individuals seeking admission to the academy.
*Form(s):* KP2–65, KP3–4.
*Average Burden Hours Per Respondent:* 5 hours.

*DOT No:* 3214.
*OMB No:* New.
*Administration:* Research and Special Programs Administration.
*Title:* Emergency Response Communication Standards.
*Need for Information:* To improve the emergency response information requirements in the HMR in order to enhance communication pertaining to the safe handling and identification of hazardous materials involve in transportation incidents.
*Proposed Use of Information:* To assist emergency response personnel in mitigation actions at hazardous materials incidents, and to inform carriers and transportation facility operators of the risks and precautions associated with the materials.
*Frequency:* Each shipment.
*Burden Estimate:* 1,500,000 hours annually.
*Respondents:* Shippers and carriers.
*Form(s):* None.
*Average Burden Hours Per Respondent:* 1 minute.

*DOT No:* 3215.
*OMB No:* 2137–0034
*Administration:* Research and Special Programs Administration.
*Title:* Hazardous Materials Shipping Papers.
*Need for Information:* To improve the emergency response information requirements in the HMR in order to enhance communication pertaining to the safe handling and identification of hazardous materials involved in transportation incidents.
*Proposed Use of Information:* To assist emergency response personnel in mitigation actions at hazardous materials incidents, and to inform carriers and transportation facility operators of the risks and precautions associated with the materials.
*Frequency:* Each shipment.
*Burden Estimate:* 6,288,750 hours annually.
*Respondents:* Shippers and carriers.
*Form(s):* None.
*Average Burden Hours Per Respondent:* 2 minutes 15 seconds.

*DOT No:* 3216.
*OMB No:* 2138–0018.
*Administration:* Research and Special Programs Administration.
*Title:* Form 251 Report of Passengers Denied Confirmed Space.
*Need for Information:* This report supplies DOT with data to monitor air carrier compliance to overbooking regulations.
*Proposed Use of Information:* Data is used to monitor carrier overbooking practices and data is released to public in consumer reports.
*Frequency:* Quarterly.
*Burden Estimate:* 1710 hours.
*Respondents:* Large domestic and foreign air carriers that provide scheduled passenger service.
*Form(s):* RSPA 251.
*Average Burden Hours Per Respondent:* 3.7 hours.
*DOT No:* 3217.
*OMB No:* 2137–0018.
*Admininstration:* Research and Special Programs Administration.
*Title:* Portable Tank Inspection and Testing.
*Need for Information:* Ascertain whether portable tanks have been retested in accordance with the Department's regulations.
*Proposed Use of Information:* Verify portable tanks have not deteriorated due to age or physical abuse to a degree that would render the tanks unsafe for the transportation of hazardous materials.
*Frequency:* Approximately 2–5 years depending on the type of test and container.
*Burden Estimate:* 51,220 hours.
*Respondents:* Owners of portable tanks.
*Form(s):* None.
*Average Burden Hours Per Respondent:* 4.5.

*DOT No:* 3218.
*OMB No:* 2115–0113.
*Administration:* U.S. Coast Guard.
*Title:* Self-Propelled Liquefied Gas Vessel.
*Need for Information:* This information collection is needed to ensure compliance with U.S. regulations in 46 CFR 154 for the design and operation of liquefied gas ships.
*Proposed Use of Information:* The Coast Guard uses the information: (1) as a means to indicate compliance with the standards; (2) as a vehicle for transmitting specific information on special designs not covered by regulations; and, (3) to obtain information necessary to schedule a Letter of Compliance examination. Other requirements are used by vessel personnel and Coast Guard boarding personnel to ensure that the vessel meets safety and operational standards.
*Frequency:* On occasion.
*Burden Estimate:* 4,191.
*Respondents:* Foreign and U.S. flag liquefied gas carriers.
*Forms:* None.
*Average Burden Hours Per Respondent:* 1.84 reporting and 17.06 recordkeeping.

*DOT No:* 3219.
*OMB No:* New.
*Administration:* U.S. Coast Guard.
*Title:* Application for a permit to transport Municipal or Commercial Waste.
*Need for Information :* To insure that trash, medical debris and other unsightly and potentially harmful materials are handled in accordance with the Sure Protection Act of 1988.

*Proposed Use of Information:* To issue permits to vessel owners/operators transporting municipal or commercial waste in the coastal waters of the U.S. The display requirements are used to identify those vessels authorized to transport this waste.

*Frequency:* Once.

*Burden Estimate:* 751.

*Respondents:* Owners/operators of vessels transporting municipal or commercial waste.

*Form(s):* None.

*Average Burden Hours Per Respondent:* .91.

*DOT No:* 3220.

*OMB No:* 2120–0021.

*Administration:* Federal Aviation Administration.

*Title:* Certification: Pilots and Flight Instructors.

*Need for Information:* The information collected is needed to certify that pilots and flight instructors have met the requirements of FAR 61.

*Proposed Use of Information:* The information is used as documentation to certify pilots and flight instructors.

*Frequency:* On occasion.

*Burden Estimate:* 256,695 hours annually.

*Respondents:* Individuals requesting pilot or flight instructor certification.

*DOT No:* 3221.

*OMB No:* 2120–0085.

*Administration:* Federal Aviation Administration.

*Title:* Certification: Certification and Operations FAR 125.

*Need for Information:* The information is needed to document applicant's eligibility and compliance.

*Proposed Use of Information:* The information is used as background for the issuance of operations specifications and a certificate.

*Frequency:* On occasion.

*Burden Estimate:* 28,733 hours annually.

*Respondents:* FAR 125 Air carriers.

*Form(s):* None.

*Average Burden Hours Per Respondent:* See breakdown below

| | |
|---|---|
| Annual Application | 60 hours per response |
| Changes | 2 hours per response |
| Flight Plans | .2 hours per response |
| Manuals | 80 hours per response |
| Revisions to Manuals | 2.5 hours per response |
| Check Pilot | .5 hours per response |
| Emergency Operations | 1.5 hours per response |
| Mechanical Irregularities. | .2 hours per response |
| Load Manifest | .25 hours per response |
| Crewmember Records | 4 hours per response |
| Flight Release Form | .1 hours per response |
| Maintenance Log Entries. | 12 hours per response |
| Report of Defects | .2 hours per response |
| Airworthiness Release | .1 hours per response |

*DOT No:* 3222.

*OMB No:* New.

*Administration:* National Highway Traffic Safety Administration.

*Title:* Certification: Survey of Automobile Dealerships.

*Need for Information:* To identify dealerships that make retrofit kits available to customers.

*Proposed Use of Information:* Congress has requested NHTSA to provide information on current and future availability of rear seat lap/shoulder belt retrofit kits. These kits are available for purchase from manufacturers to consumers; the cost and the willingness of dealers to install these kits and eduate the public on its benefits.

*Frequency:* One time only.

*Burden Estimate:* 375 hours.

*Respondents:* 2250.

*Form(s):* None.

*Average Burden Hours Per Respondent:* .17 hours.

Issued in Washington, DC on May 1, 1989.

**Robert J. Woods,**

*Director of Information Resource Management.*

[FR Doc. 89–10977 Filed 5–8–89; 8:45 am]

BILLING CODE 4910–62–M

## Coast Guard

**[CGD 89–040]**

### Chemical Transportation Advisory Committee Meeting

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** The Chemical Transportation Advisory Committee (CTAC) will hold a meeting on Wednesday, June 7, 1989 in Room 2230, U.S. Department of Transportation Headquarters, Nassif Building, 400 Seventh Street SW., Washington, DC. The meeting is scheduled to begin at 9:00 a.m. and end at 4:00 p.m.

The agenda for the meeting follows:

1. Call to order.
2. Opening remarks.
3. U.S. Coast Guard Initiatives.
4. Presentation of new members.
5. Committee activities.
6. Subcommittee reports: a. Vapor Control, b. Marine Occupational Safety and Health, c. Coal Transportation.
7. Future Subcommittee Tasks.
8. International Activities.
9. Any other business.
10. Closing Remarks.
11. Adjournment.

Attendance is open to the public. Members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director of CTAC no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

**FOR FURTHER INFORMATION CONTACT:** Commander R. W. Tanner or Mrs. D. M. Anderson, U.S. Coast Guard Headquarters (G–MTH–1), 2100 Second Street SW., Washington, DC, 20593 (202) 267–1577.

Dated: May 1, 1989.

**J.D. Sipes,**

*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.*

[FR Doc. 89–10978 Filed 5–8–89; 8:45 am]

BILLING CODE 4910–14–M

## Federal Aviation Administration

### Environmental Impact Statement; Dallas/Fort Worth International Airport; Dallas/Fort Worth, TX

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

**ACTION:** Notice of correction of date and address of scoping meeting.

**SUMMARY:** This notice corrects the date and address previously published in the **Federal Register**, April 21, 1989, (54 FR 16180) for a public scoping meeting to be held in Euless, Texas, on May 22, 1989, at the Euless High School Auditorium, Euless, Texas. The date and place of the Euless meeting have been changed to May 24, 1989, at Trinity High School Auditorium. The time for the meeting remains unchanged: beginning at 7 p.m. There are no changes in address or time for the agency meeting on May 22, 1989, or for the public scoping meeting in Grapevine, Texas, on May 23, 1989.

**FOR FURTHER INFORMATION CONTACT:** Agencies may contact: Ms. Mo Keane, Airport Environmental Specialist, ASW–612B, Federal Aviation Administration, Southwest Regional Office, Fort Worth, Texas 76193–0612. Telephone (817) 624–5606. Public may contact: Mr. Jeffrey Bunting, Noise Compatibility Planner, Dallas/Fort Worth International Airport, P.O. Drawer DFW, Dallas/Fort Worth International Airport, Texas 76261.

Dated: April 25, 1989.

**Gene L. Faulkner,**

*Manager, Airports Planning Branch.*

[FR Doc. 89–11037 Filed 5–8–89; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE-89-19]

## Petition for Exemption; Summary and Disposition

**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: May 29, 1989.

**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 CONTACT:** 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 May 2, 1989.

**Denise Donohue Hall,**

*Manager, Program Management Staff, Office of the Chief Counsel.*

### Petitioners for Exemption

*Docket No.:* 25868
*Petitioner:* Regional Airline Association
*Regulations Affected:* 14 CFR 121.337 and 121.417(c)(1)
*Description of Relief Sought/ Disposition:* To allow petitioner's member airlines a 6-month extension, until January 6, 1990, to comply with the requirements for protective breathing equipment and training in the use of that equipment.

*Docket No.:* 25464
*Petitioner:* Alyeska Air Service
*Regulations Affected:* 14 CFR 43.3(a)
*Description of Relief Sought/ Disposition:* To allow pilots employed by petitioner to perform the preventive maintenance functions of removing and/or replacing the passenger seats and seat belts of aircraft used in Part 135 operations.

*GRANT, April 14, 1989, Exemption No. 5042*

[FR Doc. 89-11038 Filed 5-8-89; 8:45 am]
BILLING CODE 4910-13-M

## National Highway Traffic Safety Administration

[Docket No. 88-09; Notice No. 2]

## Periodic Motor Vehicle Inspection; Publication of Interim Final Study Report

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of publication of Interim Final Study Report.

**SUMMARY:** This notice is being issued to announce the completion of an interim final report on the effectiveness of State periodic motor vehicle inspection (PMVI) programs. This action is in response to Congressional direction, and reflects NHTSA's interest in addressing the effectiveness of State periodic motor vehicle inspection programs. NHTSA requests comments on this Interim Final Report. Following the close of the comment period, NHTSA will publish a notice announcing the completion and availability of the Final Report.

**DATES:** Comments on this Interim Final Report are due no later than June 8, 1989.

**ADDRESS:** Written comments should refer to the docket number of this notice and should be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours are 8:00 a.m. to 4:00 p.m.]

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph P. Grillo or Sam Luebbert, Office of Enforcement and Emergency Services, Room 5119, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Mr. Grillo, (202) 366-1739; Mr. Luebbert, (202) 366-2676. .

**SUPPLEMENTARY INFORMATION:** The Conference Report on the Continuing Resolution for Fiscal Year 1988 (Pub. L. 100-202) directs that NHTSA conduct a comprehensive evaluation of the effectiveness of State motor vehicle safety inspection programs in (1) reducing highway crashes that result in injuries and deaths, and (2) limiting the number of defective or unsafe motor vehicles on the highways. In April 1988, NHTSA submitted a plan describing the study methodology and timetable to appropriate Congressional committees. On August 22, 1988, NHTSA announced two public hearings and invited the submission of written comments on the subject. 53 Fed. Reg. 31951 (1988). Detailed background information on PMVI and on the current study is provided in the August 22, notice and, in the interest of brevity, will not be repeated here. NHTSA held the public hearings on September 27, 1988, in Washington D.C. and on October 5, 1988, in Lakewood, Colorado. NHTSA heard testimony and received written comments to the docket from sixty-two respondents, including States, national organizations, and interested individuals.

In accordance with Congressional direction and the submitted plan, the interim final report contains a review of the literature; analysis of crash data; assessment of current PMVI programs; and, a summary of the public comments received in response to the August 22 **Federal Register** notice and at the public hearings. A copy of this interim final report has been sent to Congress. Copies of this interim final report have also been sent to all those who provided comments and who testified at the public hearings. Anyone else interested in obtaining a copy of this report may do so by requesting one from NHTSA. Contact Mr. Joseph P. Grillo at the above address.

NHTSA expects to submit a final report to Congress by June 1989. In order to benefit from comments which interested parties and the public may make, we invite the submission of comments on the interim final report. All comments submitted in response to this notice will be considered by the agency. Following the close of the comment period, NHTSA will publish a notice announcing the completion and availability of the final report.

It is requested, but not required, of interested persons that ten copies of each comment be submitted. All comments must not exceed fifteen pages in length. (49 CFR 553.21). Necessary attachments may be appended to these suggestions without regard to the fifteen page limit. This limitation is intended to encourage commenters to present their views in a concise fashion.

All comments received before the close of business on the comment closing date listed above will be considered and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. The agency will continue to file relevant information as it becomes available. It is recommended that interested persons continue to examine the docket for new material. Those persons desiring to be notified upon receipt of their comments by the docket should include a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Issued on: May 4, 1989.

**George L. Reagle,**

*Associate Administrator for Traffic Safety Programs.*

[FR Doc. 89-11101 Filed 5-4-89; 2:28 pm]

BILLING CODE 4910-59-M

## Research and Special Programs Administration

**[Inconsistency Ruling No. IR-27; Docket IRA-44]**

## Colorado Regulations on Transportation of Radioactive Materials

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** Inconsistency Ruling No. IR-27; Correction.

In FR Doc. 89-9556 beginning on page 16326 in the issue of Friday, April 21, 1989, make the following corrections:

On page 16327, in the first column, in the small print quotation, the first word on the fourth line should be changed to "being".

On that same page, in the third column, in the fourth-to-last line, "October" should be spelled correctly.

On page 16331, in the first column, the second sentence of the second full paragraph should be changed to: "For example, it may require immediate oral or telephonic accident/incident reports for emergency response purposes."

On page 16332, in the first column, in the third-to-last line, "occupied" should be spelled correctly.

On that same page, in the second column, on line 17, "HRM" should be changed to "HMR".

On that same page, in the second column, in the second line of the last full paragraph, "consistent" should be changed to "inconsistent".

On that same page, in the second column, in the seventh line of the last full paragraph, "MHTA" should be changed to "HMTA".

On that same page, in the third column, the first sentence of the second full paragraph should be changed to: "Under these standards, the State's "permit fee" (Rule NT 8(c) and the first seven words of NT 8(d)) is similar to Vermont's $1,000 fee for spent nuclear fuel shipments found inconsistent in IR-15, *supra*, and is itself inconsistent because it represents payment for a permit which has been determined elsewhere in this ruling to be inconsistent."

On page 16333, in the third column, the final paragraph concerning appeals should be in large type face.

Issued in Washington, DC on May 3, 1989.

**Alan I. Roberts,**

*Director, Office of Hazardous Materials Transportation.*

[FR Doc. 89-11112 Filed 5-8-89; 8:45 am]

BILLING CODE 4910-60-M

**[Docket No. 89-2W; Notice 1]**

## Transportation of Natural and Other Gas by Pipeline; Petition for Waiver

The Tennessee Gas Pipeline Company has petitioned the Office of Pipeline Safety (OPS) for a waiver from compliance with the uprating limitation of 49 CFR 192.553(d) to permit the maximum allowable operating pressure (MAOP) of eight transmission line segments of the Niagara Spur shown on drawings TO-E11-230B-100- 2A, 3, 3A, 5, and 8 to be increased to 877 psig from the current 760 psig. These line segments are located in four Class 3 areas in Erie and Niagara Counties, New York, and range from 241 to 3,274 feet in length.

According to the petition, the Niagara Spur was constructed in 1954 in accordance with the "USAS B31.8 Standard Code for Pressure Piping, Gas Transmission and Distribution Piping Systems," a code of industry consensus standards for the safety of gas piping systems. Pipe in the Niagara Spur is 20 inches in diameter, and was manufactured according to API Standard 5LX requirements. Most of the pipe is 0.281-inch grade X52, but there is some heavier 0.500-inch grade X50 at road crossings and other places. The Company does not know the design pressure of the line, but the B31.8 Code would have allowed 1,053 psig based on a design factor of 0.72. The pipeline was tested to 1,130 psig before operation began in 1954. The Company also points out that the line is coated and cathodically protected against corrosion, and has had no leaks in more than 34 years of service.

When the Federal gas pipeline safety standards in 49 CFR Part 192 took effect in November 1970, the company established 760 psig as the MAOP of the line under § 192.619. Subsequently, population growth caused the eight segments described above to be in Class 3 locations. Thereafter, in 1987, the entire line was hydrostatically tested to at least 1,328 psig for eight hours, without leakage, a pressure level equivalent to slightly more than 90 percent of the 0.281-inch grade X52 pipe's specified minimum yield strength (SMYS).

Under §§ 192.553 and 192.555, which apply to increasing a pipeline's MAOP (uprating), the 1,328 psig pressure test and other steps performed by the Company (including a review of the line's design, test, and operating history; internal inspection by a smart pig; and replacement of areas showing impaired serviceability) made all but the eight Class 3 segments of the line eligible for operation at 877 psig (60 percent SMYS for the 0.281-inch grade X52 pipe). The eight Class 3 segments are restricted from operation at this pressure by § 192.553(d), which provides, in relevant part, that "a new maximum allowable operating pressure * * * may not exceed the maximum that would be allowed * * * for a new segment of pipeline constructed of the same materials in the same location." In accordance with § 192.619(a), the MAOP of a new pipeline in a Class 3 location constructed of 0.281-inch grade X52 pipe line that in the Niagara Spur may not be higher than 731 psig, or the design pressure based on a 0.50 design factor.

After the 1,328 psig presure test, two additional segments of the Niagara Spur changed to Class 3 locations. In contrast to the previous eight segments, these two additional segments were already eligible to operate at 877 psig when they changed to Class 3. Under § 192.611(a), which allows some latitude in determining MAOP when class location changes occur, the two additional segments may operate at the MAOP of 877 psig in Class 3, without regard for the uprating limitation (731 psig) under § 192.553(d).

In support of its waiver request, the Company states that the current 760 psig MAOP is not adequate to accommodate additional gas to be received from TransCanada Pipelines, Ltd. via the Niaraga Spur as authorized by the Federal Energy Regulatory Commission (Docket No. CP 87-131). This additional gas can be accommodated either by uprating the eight Class 3 segments to

877 psig or by replacing the eight segments with new pipe at an estimated cost of $1.2–1.5 million.

OPS believes that § 192.553(d) should be waived to permit the proposed uprating, because the eight Class 3 segments are not materially different, with respect to design, construction, test, operation, maintenance, and leak history, from the two other Class 3 segments in the same line that are eligible for an MAOP of 877 psig. The distinguishing factor is merely the timing of the 1,328 psig qualifying pressure test and other steps required for uprating. Had uprating been performed before the eight segments changed to Class 3, the segments could have been confirmed under § 192.611(a) to operate at 877 MAOP without restriction by § 192.553(d).

Interested persons are invited to comment on the proposed waiver by submitting in duplicate such data, views, or arguments as they may desire. Communications should identify the Docket and Notice numbers in the heading of this document, and be submitted to Dockets Unit, Room 8417, Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590.

All comments received before June 8, 1989 will be considered before final action is taken. Late filed comments will be considered so far as practicable. All comments will be available for inspection at the Dockets Unit between the hours of 8:30 a.m. to 5:00 p.m., before and after the closing date for comments. No public hearing is contemplated, but one may be held at a time and place set in a Notice in the **Federal Register** if requested by an interested person desiring to comment at a public hearing and raising a genuine issue.

(49 U.S.C. 1672; 49 CFR 1.53(a), Appendix A of Part 1, and Appendix A of Part 106)

Issued in Washington, DC on May 3, 1989.

**Richard L. Beam,**

*Director, Office of Pipeline Safety.*

[FR Doc. 89–10979 Filed 5–8–89; 8:45 am]

BILLING CODE 4910–60–M

# Sunshine Act Meetings

Federal Register
Vol. 54, No. 88
Tuesday, May 9, 1989

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).

**NUCLEAR REGULATORY COMMISSION.**

**DATE:** Weeks of May 8, 15, 22, and 29, 1989.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**MATTERS TO BE CONSIDERED:**

**STATUS:** Open and Closed.

*Week of May 8*

*Wednesday, May 10*
10:00 a.m.—NPOC Briefing on the State of the Nuclear Industry (PUBLIC MEETING)
2:00 p.m.—Briefing on Status of Operator Licensing Activities in the Area of Requalification Exams (PUBLIC MEETING)
3:30 p.m.—Affirmation/Discussion and Vote (PUBLIC MEETING) (if needed)

*Week of May 15*—Tentative

*Monday, May 15*
2:00 p.m.—Briefing on Interim Report on Accident Study for Plutonium Air Transport Packages (PUBLIC MEETING)
*Thursday, May 18*
3:30 p.m.—Affirmation/Discussion and Vote (PUBLIC MEETING) (if needed)
*Friday, May 19*
10:00 a.m.—Briefing on Final Rule and Regulatory Guide for Maintenance of Nuclear Power Plants (PUBLIC MEETING)

*Week of May 22*—Tentative

*Thursday, May 25*
3:30 p.m.—Affirmation/Discussion and Vote (PUBLIC MEETING) (if needed)

*Week of May 29*—Tentative

*Wednesday, May 31*
10:00 a.m.—Discussion of Management—Organization and Internal Personnel Matters (Closed—Ex. 2)
2:00 p.m.—Briefing on Technical Specifications Improvement Program (PUBLIC MEETING)
*Thursday, June 1*
10:00 a.m.—Briefing by Executive Branch (Closed—Ex. 1)
2:00 p.m.—Periodic Briefing on Operating Reactors and Fuel Facilities (PUBLIC MEETING)
4:00 p.m.—Affirmation/Discussion and Vote (if needed) (PUBLIC MEETING)
*Friday, June 2*
9:30 a.m.—Briefing on Basic Quality Assurance in Radiation Therapy (PUBLIC MEETING)

**ADDITIONAL INFORMATION:**

By a vote of 4-0 (Commissioner Carr was not present) on May 3, the Commission determined pursuant to 5 U.S.C. 552b(e) and Sec. 9.107(a) of the Commission's rules that Commission business required that "Reconsideration of Seabrook Decomissioning Funding Order CLI-88-10" (PUBLIC MEETING) scheduled for May 3, be held on less than one week's notice to the public.

**Note:** Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING) (301) 492-0292

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661

**William M. Hill, Jr.**

*Office of the Secretary.*

[FR Doc. 89-11242 Filed 5-8-89 8:45 am]
BILLING CODE 7590-01-M

federal register

Tuesday
May 9, 1989

Part II

# Department of Transportation

Coast Guard

46 CFR Part 125 et al.

Offshore Supply Vessels Including Liftboats; Notice of Proposed Rulemaking

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**46 CFR Parts 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 170, and 174**

**[CGD 82-004 and CGD 86-074]**

**RIN 2115-AA77**

## Offshore Supply Vessels Including Liftboats

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes regulations for inspection and certification of new offshore supply vessels (OSVs). These regulations would consolidate existing OSV standards and policy into a single subchapter and make specific revisions to accommodate the unique characteristics of these vessels, their methods of operation, and the types of service in which they are engaged. Specific rules are also proposed for liftboats, which are self-elevating OSVs. Liftboats have experienced a high rate of casualties, and specific regulations are needed to address their design, stability, construction, and operating procedures.

**DATES:** Comments on this notice must be received on or before September 6, 1989.

**ADDRESSES:** Comments should be mailed to Executive Secretary, Marine Safety Council (G-LRA-2/3600) (CGD 82-004/CGD 86-074), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001. The comments and materials referenced in this notice will be available for examination and copying between 8 a.m. and 4 p.m., Monday through Friday, except holidays at the Marine Safety Council, U.S. Coast Guard, Room 3600, 2100 Second Street, SW., Washington, DC 20593-0001. Comments may also be hand delivered to this address.

A draft Regulatory Evaluation has been placed in the public docket for this rulemaking, and may be inspected and copied at the Marine Safety Council, at the address listed above.

**FOR FURTHER INFORMATION CONTACT:** LCDR Michael M. Rosecrans, Office of Merchant Marine Safety, Security and Environmental Protection (G-MTH-4/13), Room 1304, U.S. Coast Guard Headquarters, Washington, DC 20593-0001, (202) 267-2997.

**SUPPLEMENTARY INFORMATION:**

### Request For Comments

Interested persons are invited and encouraged to participate in this proposed rulemaking by submitting written views, data, or arguments. As discussed later in this preamble, the Coast Guard considered input from many sources to develop proposed regulations which would best address both the safety and operational needs of OSVs. The Coast Guard seeks input on all aspects of the proposed regulations from vessel owners, operators, architects, and builders, and from material vendors, insurers, surveyors, and other persons involved with OSVs. Comments concerning the proposed regulations, including additional costs they may impose upon OSVs are requested.

Persons submitting comments should include their names and addresses, identify this notice as CGD 82-004/CGD 86-074 and the specific section or paragraph of the proposal to which each comment applies, 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 this proposal. No public hearing is planned, but one may be held if a written request for a hearing is received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

This notice of proposed rulemaking (NPRM) contains a complete set of regulations that would be applied to new OSVs, including liftboats, in lieu of other existing regulations. The regulations, as drafted, contain numerous changes and relaxations to standards presently applied to existing OSVs. Existing OSVs would have the option of meeting the requirements of this NPRM in its entirety, or continuing compliance with, and certification under, existing regulations and policy determinations that apply to existing OSVs.

### Prior ANPRMS

Two advance notices of proposed rulemaking (ANPRMs) have been published in this rulemaking. In 1983, an ANPRM was published to provide an early opportunity for public comment on a preliminary draft of a comprehensive set of inspection and certification requirements to be applied to new OSVs. This draft was published in the **Federal Register** of February 14, 1983 (48 FR 6636). Twenty-four comments were received on various technical aspects of the proposal and many of their recommendations have been incorporated into this NPRM.

In 1987, a second ANPRM was published asking for specific information to assist in developing specialized regulations for self-elevating OSVs (liftboats). This ANPRM was published in the **Federal Register** of April 16, 1987 (52 FR 12439). Fourteen comments were received and a discussion of their recommendations and concerns is provided later in this preamble.

### Drafting Information

The principal persons involved in drafting this proposal are LCDR Michael M. Rosecrans, Project Manager, Office of Merchant Marine Safety, Security and Environmental Protection and William R. Register, Project Counsel, Office of the Chief Counsel.

### RIN Number

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

### Discussion of the Proposed Regulations

This NPRM contains proposed regulations for new offshore supply vessels (OSVs). The regulations would apply to conventionally designed OSVs as well as to self-elevating OSVs. Most of these vessels conduct operations in the Gulf of Mexico, although some also operate worldwide.

Conventional OSVs have traditionally provided a wide range of supply and support services to offshore oil and mineral extractive industries. Self-elevating OSVs, which are commonly known as liftboats, are more specialized in their operations. These vessels have built-in jacking systems which allow them to be "jacked up" above the ocean's surface to become, in effect, stationary platforms for a temporary period. Once "jacked up," these vessels perform specific support functions, such as maintenance and construction, on behalf of adjacent offshore structures.

a. Conventional OSVs

Conventional OSVs are predominantly motor propelled, of less than 500 gross tons, and engaged in short voyages. Prior to October 6, 1980, these vessels were—

(a) Inspected by the Coast Guard as cargo and miscellaneous vessels under 46 CFR Subchapter I, if over 15 gross tons and carrying freight for hire;

(b) Inspected by the Coast Guard as small passenger vessels under 46 CFR Subchapter T, if less than 100 gross tons

and carrying more than six passengers for hire; or

(c) Not inspected by the Coast Guard under a "bareboat charter" arrangement.

The Subchapter I vessels were known as supply boats. Typically, these vessels were of steel construction, carried large amounts of deck cargo, and carried up to 16 persons in addition to the crew on domestic voyages as permitted by 46 U.S.C. 3304 (formerly 46 U.S.C. 882). The Subchapter T vessels were known as crew boats. Typically, these vessels were of aluminum or steel construction, relatively swift, carried limited, but significant, amounts of deck cargo, and carried a large number of passengers.

Pub. L. 96–378, which was enacted on October 6, 1980, made significant changes to the way in which conventional OSVs were to be inspected by the Coast Guard. (In 1983, the provisions of Pub. L. 96–378 were consolidated, without substantive change and recodified in Title 46, Subtitle II. Its provisions are now contained principally in 46 U.S.C. 2101(19), 2101(21)(C), 3301(3), 3302(g), 3306, 3307, 3501, and 8301). Among the changes mandated by Pub. L. 96–378 were the following:

(1) A controversial feature of the offshore support industry for many years had been its use of contractual arrangements involving bareboat charters coupled with operating agreements in order to operate without a Coast Guard Certificate of Inspection. Public Law 96–378 eliminated this controversy by requiring all OSVs to be inspected.

(2) Pub. L. 96–378 defined an OSV as being any vessel that regularly carries goods, supplies, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources, is propelled by machinery other than steam (*i.e.*, is a motor vessel), is not a small passenger vessel regulated under 46 CFR Subchapter T, and is between 15 and 500 gross tons. (This definition has been retained in 46 U.S.C. 2101(19)).

(3) Pub. L. 96–378 categorized conventional OSVs as follows:

(i) Pre-1979 OSVs, *i.e.*, those that were operating in support of the offshore industry on or before January 1, 1979, or that were contracted for on or before that date and entered into service before October 6, 1980.

(ii) All other OSVs.

Since 1980, 355 conventional OSVs have been certificated under Subchapter I or T.

(4) Each conventional OSV, other than a pre–1979 OSV, is currently subject to inspection as follows:

(i) A vessel of above fifteen and less than one hundred gross tons is subject to Coast Guard inspection under Subchapter T.

(ii) A vessel of one hundred gross tons and less than five hundred gross tons is subject to Coast Guard inspection under Subchapter I.

(5) Each pre–1979 OSV continues to be subject to inspection under Subchapter I or Subchapter T as applicable. On October 20, 1980, the Coast Guard published rules (45 FR 69242) requiring that pre-1979 OSVs be registered with an Officer in Charge, Marine Inspection on or before January 6, 1981, and that they be certificated not later than two years from the date of registration. These vessels are not subject to existing regulations relating to major structural changes or major equipment replacements unless compliance is necessary to remove an especially hazardous condition. The legislative history of Pub. L. 96–378 states, in part, that OSVs should "conform as closely as possible to inspection standards applied to new vessels." However, it was recognized that it would not be practical to require major structural or equipment changes on OSVs that were previously uninspected. Therefore, pre–1979 OSVs are not subject to rules, regulations, or standards that require major structural or equipment changes unless the Coast Guard determines that those changes are necessary to remove an unreasonable risk to the vessel or the crew.

b. Liftboats

The Coast Guard is also proposing additional regulations that would apply specifically to new self-elevating OSVs (liftboats). The high rate of casualties experienced by these vessels requires that specific regulations be developed that address their design, stability, construction, and operating procedures. The Coast Guard anticipates that promulgation and enforcement of the regulations proposed in this NPRM would significantly improve the safety record of liftboats.

In April 1987, the Coast Guard published an ANPRM regarding establishment of inspection and certification criteria for liftboats. (This ANPRM is referenced above under "Prior ANPRMs"). As stated in the 1987 ANPRM, the need for regulations was based on the high incidence of casualties involving liftboats, and upon specific safety recommendations made by the National Transportation Safety Board (NTSB) in its review of liftboat casualties.

A Coast Guard review of the available casualty history from 1980 to 1987 was conducted in advance of the 1987 ANPRM. The review showed that over 20% of the approximately 250 vessels in the liftboat fleet had been involved in reported casualties resulting in the loss of 10 lives, 33 serious injuries, constructive total loss of 13 vessels, and overall physical damage exceeding $20 million. Many of these casualties were directly attributable to design inadequacies or improper operating procedures. The results of the 1987 review have been incorporated into the draft Regulatory Evaluation referenced above under **"ADDRESSES"**. The review is also discussed in more detail in the following paragraphs.

Prior to the 1987 ANPRM, liftboats were regulated primarily under the provisions of 46 CFR, Subchapter C, which contains safety the provisions of 46 CFR. Subchapter C, which regulations for uninspected vessels. Virtually all liftboats were under 300 gross tons and were, at that time, believed to generally provide only contract services to the offshore industry; *i.e.*, these vessels and their crews were chartered by an operator to perform a particular function or task in support of offshore drilling or production activities. Since these vessels were less than 300 gross tons and were not known to be carrying passengers and/or freight for hire, they were considered exempt from the requirements for inspection and certification under the general provisions of Title 46, U.S.C. (Chapter 33 of Subtitle II).

The high incidence of casualties involving liftboats reflected in the 1987 review made it clear that the requirements in 46 CFR, Subchapter C, were ineffective for promoting their safe operation. Further, the review showed that these vessels have been routinely carrying goods, supplies, equipment, and offshore workers to offshore structures, in addition to performing their traditional function as construction and maintenance support vessels for offshore structures. Accordingly, a determination was made to subject liftboats to Coast Guard inspection as OSVs under 46 U.S.C. 3301(3). Interim guidance for applying the requirements of Subchapters I and T to existing liftboats was recently published in Navigation and Vessel Inspection Circular 8–81, Change 1 (NVIC 8–81, CH–1), discussed more fully below.

c. Specialized OSVs

The 1987 ANPRM proposed that regulations for liftboats and other non-conventional OSVs be pursued in two distinct phases, *i.e.*, phase I to address liftboats and phase II to address

specialized OSVs engaged in dive support, painting, and sand blasting, etc. An analysis of the casualty histories and operation of these specialized OSVs, conducted as a part of the effort to prepare this NPRM, shows that, unlike for liftboats, additional regulations are not needed for these vessels. The requirements being proposed for new conventional OSVs should be sufficient to promote the safe operation of these specialized vessels. Consequently, the Coast Guard does not intend to take further specific action on phase II of the 1987 ANPRM.

d. Existing OSVs

The Coast Guard has historically made an effort to allow owners and operators of existing vessels, coming under inspection for certification for the first time, to continue operation without being unduly penalized by newly promulgated regulations, provided their operations can be conducted safely. Existing conventional OSVs, including pre-1979 OSVs, are inspected and certificated under guidance provided in Navigation and Vessel Inspection Circular (NVIC) 8–81, "Initial and Subsequent Inspection of Uncertificated Offshore Supply Vessels Under Pub. L. 96–378". Also, additional guidance for inspecting liftboats has been recently published as Change 1 to NVIC 8–81. This additional guidance was developed specifically to address the hazards contributing to the high number of liftboat casualties.

Change 1 to NVIC 8–81 extends to liftboats the same considerations permitted for conventional OSVs, *i.e.*, relaxation of certain provisions of 46 CFR Subchapter I or T. The Coast Guard is conscious of the economic hardship potentially imposed upon owners and operators of existing uninspected vessels when coming under inspection initially. This is especially true for liftboats because of a currently depressed offshore industry. Consequently, in keeping with the intent of Pub. L. 96–378, existing liftboats are treated differently than new liftboats. NVIC 8–81, CH–1, does not address some areas that can only be addressed in the design stage, such as main hull strength and damage stability, since modification of existing vessels to meet recognized standards in these and other areas is very costly. NVIC 8–81, CH–1, does not generally require modification of an existing liftboat, but may limit the area and conditions of operation based upon the vessel design, including leg strength and stability. There are in excess of 50 liftboats that have recently applied for initial inspection for certification using the guidance of NVIC 8–81, CH–1.

Change 1 to NVIC 8–81 includes specific guidance on the following topics as they relate to liftboats;

1. Specific stability and structural criteria, including leg strength.
2. A vessel operating manual, readily usable by the crew, addressing various operating modes under differing environmental and loading conditions.
3. Liftboat jacking systems.
4. Lifesaving equipment.
5. Firefighting equipment.
6. Minimum crew provisions.

Both NVIC 8–81 and 8–81, Change 1 are available for inspection and copying in the public docket. Also, copies may be obtained by contacting: Commanding Officer, Marine Safety Center, 2100 Second St. SW., Washington DC 20593–0100, Attn: NVICs, Phone: (202) 267–0444/0795. The cost of NVIC 8–81 is $2.50 and the cost of NVIC 8–81, CH–1, is $1.75. Payment for these orders may only be made by check or money order payable, in advance, in U.S. dollars, to "Treasury of the United States".

e. Intent

The regulations proposed in this NPRM would apply to new OSVs, *i.e.*, OSVs contracted for after final regulations are published and take effect. Additionally, existing OSVs, including pre-1979 OSVs, would have the option of being certificated under these proposed regulations.

Many of the regulations in this proposal are similar to corresponding requirements in 46 CFR Subchapters I and T. Every effort has been made to select the most appropriate of these regulations to apply to OSVs. Where possible, existing regulations have been modified to consider the unique operation of OSVs and to recognize many of the policies developed for these vessels throughout the years where equivalent levels of safety have been demonstrated. Editorial modifications have also been made in instances where existing regulations are confusing or not clear enough to explain proposed application to an OSV.

The regulations in this NPRM that would apply specifically to liftboats address many of the same provisions listed above for NVIC 8–81, CH–1. The large majority of existing vessels have applied for restricted service based upon their original designs. However, new liftboats would enjoy a wider and less restrictive scope of operation than those certificated using the guidance of NVIC 8–81, CH–1, because structural strength and stability standards proposed in this NPRM would be considered prior to construction.

f. Associated Regulatory Projects

There are several rulemaking projects currently under development that would apply to OSVs. As those projects are completed, the regulations in this NPRM would be revised accordingly. The following ongoing regulatory projects have been taken into account in preparing this NPRM:

(1) CGD 84–069 "Lifesaving Equipment", which proposes to consolidate lifesaving regulations presently found in individual vessel subchapters in a new Subchapter W. The proposed lifesaving requirements in Part 128 of the 1983 ANPRM have been removed from this NPRM as a result. Many of the proposed requirements for inspection and testing of lifesaving equipment and the proposed requirements for drills in the NPRM for CGD 84–069 are similar to provisions in this NPRM. Proposed Subchapter W was published as an NPRM on April 21, 1989, 54 FR 16198.

(2) CGD 83–026(a) "Fire Protection Equipment", which similarly proposes to consolidate existing fire protection requirements presently found in individual vessel subchapters in a new Subchapter K. The fire protection requirements in Part 132 of this NPRM would be affected and eventually relocated.

(3) CGD 79–059 "Offshore Cranes". This project addresses crane certification, periodic testing, and operator qualifications for offshore cranes and was published as a notice of proposed rulemaking on February 14, 1986 (51 FR 5547).

(4) CGD 85–080 "Small Passenger Vessel Inspection and Certification" was published as an NPRM on January 30, 1989; 54 FR 4412. Many of the proposals in this NPRM are similar to the proposed requirements in CGD 85–080.

(5) CGD 82–004(a) "Alternative Provisions for Reinspection of Offshore Supply Vessels in Foreign Ports" was published as an NPRM on May 17, 1988 (53 FR 17477).

(6) CGD 84–043 "Portable Tanks for the Transportation of Hazardous Materials by Vessel". This project addresses the carriage of hazardous materials in portable tanks, often utilized on OSVs.

(7) CGD 87–031 "Posting Requirements on Inspected Vessels" was published as an ANPRM November 24, 1987 (52 FR 31786).

The requirements of the Final Rules listed below have been incorporated into this NPRM.

(8) CGD 81-030 "Vital System Automation" was published as a Final Rule on May 18, 1988, (53 FR 17820).

(9) CGD 84-024 "Intervals for Drydocking and Tailshaft Examination on Inspected Vessels" was published as a Final Rule on August 24, 1988, (53 FR 32225). Drydocking and associated inspection intervals proposed in this NPRM are similar to CGD 84-024.

(10) CGD 87-013 "Anchor Requirements for Certain Vessels", was published as a Final Rule on June 6, 1988 (53 FR 20623).

(11) CGD 80-044 "Hazardous Materials Used as Ship's Stores" was published as a Final Rule on March 10, 1988 (53 FR 7745).

(12) CGD 87-031a "Posting Requirement for Placard of Lifesaving Signals and Breeches Buoy Instructions, Form CG-811" was published as a Final Rule on July 22, 1988 (53 FR 27686).

(13) CGD 81-059 "Licensing of Maritime Personnel", which includes manning requirements for Offshore Supply Vessels. These requirements were published as a Final Rule on January 4, 1989 (54 FR 125).

(14) CGD 84-099 "Operating a Vessel While Intoxicated" was published as a Final Rule on December 14, 1987 (52 FR 47526).

(15) CGD 86-067 "Programs for Chemical Drug and Alcohol Testing on Commercial Vessel Personnel" was published as a Final Rule on November 21, 1988 (53 FR 47064).

g. Source of Proposed Rules

The cross reference table which follows shows how the proposed regulations relate to those currently in the Code of Federal Regulations. In some instances, new provisions have been combined with existing requirements. The table also references applicable Navigation and Vessel Inspection Circulars (NVICs) and pertinent provisions in the Coast Guard's Marine Safety Manual (CG-495). The references are not complete in every instance but rather provide a citation to the principal provisions from which the proposed OSV regulation was drawn in whole or in part. The table includes certain abbreviations:

NVIC—Navigation and Vessel Inspection Circular.
MSM—Marine Safety Manual.
IMO Res.—International Maritime Organization Resolution.

Some proposed regulations have more than one reference. For example, the references for proposed § 127.100 are "91.55-1, NVIC 10-82." These notations indicate that the proposal has been derived in part from both sources, *i.e.*, that part of the proposal was derived from 46 CFR 91.55-1 and that part of it is based upon NVIC 10-82.

Section numbers refer to 46 CFR unless noted otherwise. Section numbers in parentheses refer to proposed regulations addressed previously, the docket number is included except for those from CGD 85-080 "Small Passenger Vessel Inspection and Certification".

| Proposed regulation: | References |
|---|---|
| 125.100 | New, NVIC 8-81, CH-1. |
| 125.110 | (90.05-35 CGD 84-043), MSM Vol II Chapter 11.J.7. |
| 125.120 | 49 CFR Subchapter C. |
| 125.130 | 92.01-5. |
| 125.140 | (90.27-1 CGD 84-069). |
| 125.150 | Subpart 90.10 (175.400). |
| 125.160 | 90.15-1. |
| 125.170 | New. |
| 125.180 | 175.20-5 (175.510). |
| 125.190 | 175.30-1 (175.560). |
| 126.100 | 91.27-15. |
| 126.110 | 91.30-1. |
| 126.120 | Subpart 91.05 (176.202). |
| 126.130 | Subpart 91.37. |
| 126.140 | Part 108, NVIC 8-81, CH-1. |
| 126.150 | Subpart 91.40, Subpart 176.15 (176 Subpart F). |
| 126.160 | Subpart 91.45. |
| 126.170 | 91.50-1. |
| 126.180 | New. |
| 126.190 | New. |
| 126.210 | 91.01-1 (176.100). |
| 126.220 | 176.01-5 (176.103). |
| 126.230 | 176.01-10 (176.105). |
| 126.240 | 91.01-5. |
| 126.250 | 91.01-10. |
| 126.260 | 91.01-15. |
| 126.270 | (176.120). |
| 126.310 | 91.20-1. |
| 126.320 | 91.20-5. |
| 126.330 | 91.20-10. |
| 126.340 | 91.20-15, NVIC 8-81, CH-1. |
| 126.350 | 91.20-20, Subpart 176.05. 91.25-35 (91.20-20 CGD 84-069) (176.402). |
| 126.410 | 91.25-1. |
| 126.420 | 91.25-5. |
| 126.430 | 91.25-10, NVIC 8-81, CH-1. |
| 126.440 | 91.25-15 (91.25-15 CGD 84-069). |
| 126.450 | 91.25-20. |
| 126.460 | 61.10-5. |
| 126.470 | 91.25-35. |
| 126.510 | 91.27-1. |
| 126.520 | 91.27-5. |
| 127.100 | 91.55-1, NVIC 10-82. |
| 127.110 | 91.55-5, 91.55-10 (177.202) 177.05-1, 109.121. |
| 127.120 | 91.55-15. |
| 127.210 | 92.01-10, NVIC 8-81, CH-1. |
| 127.220 | Subpart 92.05 (177.500). |
| 127.230 | 93.01-1. |
| 127.240 | Subpart 92.10, MSM Volume IV Chapter 5.C. |
| 127.250 | 92.15-10. |
| 127.260 | 92.15-15. |
| 127.270 | 92.20-10. |
| 127.280 | Subpart 92.20, Subparts 177.25 & .30. |
| 127.310 | 92.25-5. |
| 127.320 | 92.25-10. |
| 127.330 | 92.25-15. |
| 127.410 | (177.1010). |
| 127.420 | (177.1020). |
| 127.430 | (177.1030). |

| Proposed regulation: | References |
|---|---|
| 128.110 | New. |
| 128.120 | 56.01-10. |
| 128.130 | New. |
| 128.210 | 56.60. |
| 128.220 | New. |
| 128.230 | 56.50-95. |
| 128.240 | New, 56.60, 58.30. |
| 128.310 | New, 58.01-10. |
| 128.320 | New, 58.10-5. |
| 128.410 | Subpart 58.20. |
| 128.420 | 56.50-96. |
| 128.430 | (182.423). |
| 128.440 | New, 56.50-50, 56.50-55. |
| 128.450 | New, 56.20-15, 56.50-60. |
| 128.460 | New. |
| 129.100 | (183.130). |
| 129.110 | (183.115), 90.25-1. |
| 129.120 | (183.130). |
| 129.200 | (183.200). |
| 129.210 | (183.210). |
| 129.220 | (183.220). |
| 129.310 | (183.310). |
| 129.315 | Subpart 111.10. |
| 129.320 | (183.320). |
| 129.323 | (183.322). |
| 129.326 | (183.324). |
| 129.330 | (183.330). |
| 129.340 | (183.340). |
| 129.350 | (183.350). |
| 129.360 | (183.360). |
| 129.370 | (183.370). |
| 129.375 | (183.370). |
| 129.380 | (183.380). |
| 129.390 | (183.390). |
| 129.395 | (183.392). |
| 129.410 | (183.410). |
| 129.420 | New. |
| 129.430 | (183.420), 111.75-15. |
| 129.440 | 183.30-5 (183.432), Subpart 112.43. |
| 129.450 | 183.30-1 (183.430). |
| 129.510 | (183.520). |
| 129.520 | 111.05 (183.530). |
| 129.530 | (183.530). |
| 129.540 | 111.103. |
| 129.550 | (183.200, 202, and 210). |
| 129.560 | New. |
| 130.110 | Subchapters F & J (184.602). |
| 130.120 | Subchapters F & J (183.510). |
| 130.130 | Subpart 58.25. |
| 130.140 | Subchapters F & J. |
| 130.210 | NVIC 8-81, CH-1. |
| 130.220 | 96.13-1. |
| 130.230 | Subchapter F (184.210, 220). |
| 130.240 | Subpart 96.30. |
| 130.250 | Subpart 96.07 (CGD 87-013). |
| 130.310 | (184.404). |
| 130.320 | (184.410). |
| 130.330 | 185.20-35 (184.420). |
| 130.340 | 96.17-1 (184.402). |
| 130.400 | NVIC 1-78. |
| 130.410 | NVIC 1-78. |
| 130.420 | NVIC 1-69. |
| 130.430 | NVIC 1-78. |
| 130.440 | NVIC 1-78. |
| 130.450 | NVIC 1-69. |
| 130.460 | NVIC 1-78. |
| 130.470 | NVIC 1-78. |
| 130.480 | NVIC 1-69, NVIC 1-78. |
| 131.110 | 4.05. |
| 131.210 | 97.30-1. |
| 131.220 | 97.30-5. |
| 131.230 | 97.30-10. |
| 131.310 | (185.502). |
| 131.320 | (185.506). |
| 131.330 | (185.510). |
| 131.340 | (185.512). |
| 131.350 | (185.514). |
| 131.360 | (185.530). |

| Proposed regulation: | References |
|---|---|
| 131.410 | 97.14-5 (97.14-5 CGD 84-069). |
| 131.420 | 97.14-10 (97.14-5 CGD 84-069). |
| 131.505 | 97.15-3. |
| 131.510 | 97.15-5. |
| 131.515 | 97.15-10. |
| 131.520 | 97.15-20. |
| 131.525 | 97.15-30. |
| 131.530 | 97.15-35 (97.15-35 CGD 84-069). |
| 131.535 | (97.15-40 CGD 84-069). |
| 131.540 | (97.90-20 CGD 84-069). |
| 131.545 | (97.90-30 CGD 84-069). |
| 131.550 | (97.90-40 CGD 84-069). |
| 131.555 | (97.90-50 CGD 84-069). |
| 131.560 | (97.90-60 CGD 84-069). |
| 131.565 | (97.90-70 CGD 84-069). |
| 131.570 | (97.90-73 CGD 84-069). |
| 131.575 | (97.90-75 CGD 84-069). |
| 131.580 | (97.90-80 CGD 84-069). |
| 131.585 | (97.90-90 CGD 84-069). |
| 131.590 | 97.15-60. |
| 131.610 | 97.35-3 (97.35-15 CGD 84-069). |
| 131.620 | 97.35-5 (97.35-15 CGD 84-069). |
| 131.630 | 97.35-10. |
| 131.710 | 97.34-5. |
| 131.720 | 97.34-10. |
| 131.730 | 97.34-15. |
| 131.740 | 97.34-20. |
| 131.800 | 97.37-3. |
| 131.805 | 97.37-5. |
| 131.810 | 97.37-7. |
| 131.815 | 97.37-9. |
| 131.820 | 97.37-10. |
| 131.825 | 97.37-13. |
| 131.830 | 97.37-15. |
| 131.835 | 97.37-23. |
| 131.840 | 97.37-25. |
| 131.845 | 97.37-33. |
| 131.850 | 97.37-35. |
| 131.855 | 97.37-37 (97.37-37 CGD 84-069). |
| 131.860 | 97.37-37 (97.37-39 CGD 84-069). |
| 131.865 | 97.37-40 (97.37-40 CGD 84-069). |
| 131.870 | 97.37-40 (97.37-42 CGD 84-069). |
| 131.875 | 97.37-43 (97.37-43 CGD 84.069). |
| 131.880 | 97.37-45. |
| 131.885 | 97.37-47. |
| 131.890 | 97.37-55. |
| 131.893 | (185.610). |
| 131.896 | 111.103. |
| 131.899 | (177.610). |
| 131.910 | 97.40-5. |
| 131.920 | 97.40-10. |
| 131.930 | 97.40-15. |
| 131.940 | Subpart 42.13, NVIC 8-81, CH-1. |
| 131.1005 | 97.03-1. |
| 131.1010 | 97.05-1. |
| 131.1015 | Subpart 97.10. |
| 131.1020 | Part 15. |
| 131.1025 | 97.50-1. |
| 131.1030 | Subpart 97.11. |
| 131.1035 | 97.75-1. |
| 131.1040 | (184.704). |
| 131.1045 | 97.36-1. |
| 131.1050 | Subpart 97.43. |
| 131.1055 | 97.53-1. |
| 131.1060 | 97.16-1. |
| 131.1065 | 97.20-1. |
| 131.1070 | 97.23-1. |
| 131.1075 | 97.25-1. |
| 131.1080 | 97.27-5. |
| 131.1085 | 108.121, NVIC 8-81, CH-1. |
| 132.100 | 95.05-5, 95.10-1. |
| 132.110 | 95.10-15. |
| 132.120 | 95.10-5. |
| 132.130 | 95.10-10 (181 Subpart C). |
| 132.210 | 95.50-5. NVIC 6-72, CH-1. |
| 132.220 | 95.50-10. |
| 132.230 | 95.50-15. |
| 132.240 | 95.50-20. |
| 132.310 | 95.05-10. |
| 132.320 | Part 108, NVIC 8-81, CH-1. |
| 132.330 | Subpart 95.10. |
| 132.340 | 95.01-5. |
| 132.350 | 91.25-20, NVIC 6-72, CH-1. |
| 132.360 | Subpart 95.60. |
| 132.370 | MSM Vol II Chap 11.I. |
| 174.180 | New. |
| 174.185 | 170.173, MSM Volume IV Chapter 6.E IMO Res. A.469(XII). |
| 174.190 | Subpart 171.085. |
| 174.195 | New, 171.095, IMO Res. A.469(XII). |
| 174.200 | New, IMO Res. A.469(XII). |
| 174.205 | IMO Res. A.469(XII). |
| 174.210 | MSM Volume IV, Chapter 6.I. |
| 174.215 | 42.15-70. |
| 174.220 | 178.35-1. |
| 174.225 | 56.50-95. |
| 174.240 | New, NVIC 8-81, CH-1. |
| 174.245 | 174 Subpart C, NVIC 8-81, CH-1. |
| 174.250 | 174.045, NVIC 8-81, CH-1. |
| 174.255 | Subpart 42.13. NVIC 8-81, CH-1. |

h. Discussion of Specific Provisions, Including Comments on the 1983 ANPRM

*Section 125.110 Hazardous Materials in Bulk*

The 1983 ANPRM proposed carriage of Grades D and E combustibles in amounts not to exceed 20% of an OSV's deadweight. Two commenters stated that this 20% limitation was a severe reduction in the quantities of these products that have been traditionally and safely carried in OSVs. The 20% limitation has been in effect since 1979 when the Coast Guard first defined "limited quantities" as specified in § 90.05-35. However, the Coast Guard reviewed the casualty history of OSVs and there was no mention of Grade E drilling fluids in any casualty report. Further, carriage of below deck liquid cargo, such as Grade E drilling fluids, is considered to be as safe an operation, if not safer, than carriage of above deck cargo on an OSV. Therefore, the proposed 20% limitation on the carriage of Grade E drilling fluids and fuel has been deleted in the NPRM.

The International Maritime Organization (IMO) Subcommittee on Bulk Chemicals has finalized *Guidelines for the Transport and Handling of Limited Amounts of Hazardous and Noxious Liquid Substances in Bulk on Offshore Support Vessels. The Guidelines* have been approved by the Marine Environment Protection Committee and submitted to the Maritime Safety Committee for concurrence and forwarding to the Assembly for final approval. The effective date internationally will be six months after adoption by the Assembly.

The *Guidelines* would apply to a restricted group of hazardous and/or noxious liquids, including flammable liquids with a flashpoint not exceeding 60 degrees C., when carried in bulk on offshore "support" vessels and would recommend alternative standards from the rules contained in the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk and International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk. The basic provisions of the *Guidelines* would limit carriage of hazardous and/or noxious liquids in bulk to a volume corresponding to 40% of an OSV's deadweight, using a cargo specific gravity of 1.0 but, not more than a volume of 800 cubic meters.

The Coast Guard intends to implement the *Guidelines* after they become applicable internationally. The standards in the *Guidelines* be incorporated into these proposed rules at a later date. The *Guidelines* have been included in the rulemaking docket. Persons desiring to view the *Guidelines* or comment on them may do so by following the procedures under **"ADDRESSES"** above.

*Section 126.180 Carriage of offshore workers*

While the primary purpose of an OSV is not the carriage of offshore workers to and from offshore activities, it has traditionally been one of their expected functions. The method of transportation currently used to travel to and from most platforms and MODUs is helicopter, but OSVs may be used to ferry offshore workers when the drilling contractor does not provide helicopter services or when helicopters can not fly, such as at night or during severe weather. The flexibility to carry offshore workers is seen as essential to the role of the OSV.

The 1983 ANPRM proposed to allow up to 150 offshore workers to be carried on an OSV. Existing OSVs typically carry up to 16 offshore workers and do not have the need or the space to carry the large number of offshore workers proposed in the 1983 ANPRM. This NPRM proposes to allow up to 36 offshore workers to be carried in order to allow increased flexibility for new OSVs consistent with the stability standards being proposed for these vessels. For additional discussion, see

the explanation of proposed § 174.205 below.

*Section 126.250 Period of Validity*

The 1983 ANPRM proposed that an OSV over 100 gross tons be fully inspected at least once every 3 years, coupled with one reinspection during each 3 year inspection period. The purpose of the reinspection was to assure compliance with 46 U.S.C. 3307(3), which requires that each OSV 100 gross tons and over be inspected every two years. The NPRM has been revised to require an inspection for certification every two years for these vessels, with one reinspection during the two year period. Reconsideration of the 3 year inspection interval and the procedures involved in conducting a reinspection during the 3 year inspection period led to the conclusion that a reinspection would not suffice as an adequate biennial inspection of the type mandated by 46 U.S.C. 3307(3).

The ANPRM also proposed a three year inspection interval for vessels under 100 gross tons, as permitted by 46 U.S.C. 3307(2). The casualty history for OSVs under 100 gross tons does not indicate that a 3 year inspection interval is appropriate. Consequently, the NPRM has been revised to require a two year inspection interval for these vessels.

*Section 127.280 Construction and Arrangement of Crew and Offshore Worker Spaces*

One comment on the 1983 ANPRM recommended that minimum standards specifying crew and offshore worker accommodations be included. The comment suggested 30 square feet per crew member on vessels over 100 gross tons and 20 square feet per crew member on vessels under 100 gross tons. Where berths are provided for offshore workers a 20 square foot minimum was recommended. The comment further recommended that four crew members be allowed per room. The ANPRM included no minimum space requirements other than requiring quarters and accommodations to be of sufficient size and to be provided with suitable equipment. The Coast Guard concurs with the intent of this recommendation as minimum specifications will ensure suitable habitability conditions.

This section has been revised to include specific requirements for vessels 100 gross tons and over. On such vessels, quarters would be required for crew essentially as proposed by the commenter, and for offshore workers, as well, when the intended operation is to exceed 24 hours in duration. Quarters for offshore workers would not be permitted to berth more than 6, would be required to provide at least 20 square feet of deck area, at least a volume of 140 cubic feet per person accommodated, and clear headroom of at least 6 feet 3 inches. These proposed rules are similar to current policy. The proposed requirements for crew quarters are similar to those of 46 CFR Subchapter I.

No specific requirements are included for vessels less than 100 gross tons. Current policy regarding vessels less than 100 gross tons operating in support of the offshore industry is to leave the suitability of quarters to the cognizant Officer in Charge, Marine Inspection. This policy has been incorporated in the NPRM.

**Part 127—Subpart D—Window Construction and Visibility**

Glass and other glazing material used in windows would have to be of the type that would not break into dangerous fragments if fractured. Additionally, they would have to be strong enough to withstand wave and wind loads appropriate for the intended location. Pilothouse windows would have to comply with an industry standard which prescribes minimum light transmission and maximum distortion. Currently, there are no requirements for window visibility.

Present Coast Guard policy is to require design calculations and justification of window strength if the windows could be subject to wave loading.

An industry standard for window visibility would be incorporated by reference. This subpart is similar to that of proposed Subchapter T.

*Lifesaving Equipment*

The ANPRM contained detailed requirements for lifesaving equipment. Those requirements have been removed in this NPRM, as previously stated. Proposed 46 CFR Subchapter W will contain requirements for lifesaving equipment for OSVs. Consistent with the revised inspection, testing, and drill requirements that accompany Subchapter W, additional rules are proposed in this NPRM in § 126.350 and Part 133, Subparts B, C, D, and E. Additionally, § 199.405 would exempt liftboats from the requirements for launching appliances for liferafts.

*Rescue Boat*

Two commenters on the 1983 ANPRM discussed the practicality of a requirement for a rescue boat. One comment recommended that rescue boats be required in all cases. A second comment recommended that the rescue boat requirement be deleted entirely as rescue boats are cumbersome to maneuver in rough seas and are, therefore, of little value. This comment stated that current OSVs have greater maneuverability, lower freeboards, and adequate visibility from the bridge to enable rescues with the use of life floats.

Section 199.262 of proposed Subchapter W would require a rescue boat for an OSV in ocean service unless exempted by the provisions of § 199.410. (An inflatable rescue boat could meet the requirements for the rescue boat required by proposed § 199.262, if approved by the Commandant (G-MVI) as meeting the requirements of Regulation III/30.2 and III/47 of SOLAS). Section 199.410 would allow certain special purpose ships, including OSVs, to be exempt from the requirements for rescue boats.

**Part 128—Marine Engineering Equipment and Systems**

The proposed marine engineering equipment and systems requirements are based on 46 CFR Subchapter F. Considering the size of OSVs, strict compliance with Subchapter F is not considered necessary. In order to provide more flexibility to designers and builders, relaxations and equivalencies have been established over the years and have been implemented in the form of policy statements. The requirements in this part reflect many of those policy statements. In summary, Class II piping systems are divided into two categories; vital and non-vital. Class II non-vital piping systems would not be required to comply with the material and pressure design requirements of Subchapter F; whereas, Class II vital piping systems would be required to comply with those requirements, but flexibility would be given in the selection of materials for required systems. A Class I piping system would continue to be required to comply with Subchapter F.

*Section 128.310 Fuel*

Fuel would be required to have a flashpoint exceeding 110 degrees F. This would preclude propulsion engines or auxiliaries from being powered by gasoline, except engines for rescue boats. Current rules do not contain such a requirement. Diesel engines are already the industry standard and this requirement is not expected to cause an inconvenience but is added as a safety consideration.

*Section 128.450 Liquid Mud Systems*

Liquid mud systems, including Grade E liquid mud systems, would be allowed

to have resiliently seated valves of the Category A type. This would affect vessels over 100 gross tons, since smaller vessels generally do not carry drilling fluids due to space limitations. Currently, 46 CFR Subchapter F requires a valve with a metal to metal seat. Liquid mud is abrasive and over the course of time scores the metal to metal seating surfaces of shutoff valves requiring replacement or disassembly and repair.

**Part 129—Electrical Engineering Equipment and Systems**

The requirements of 46 CFR Subchapter J (Electrical Engineering Regulations) are proposed for vessels 100 gross tons and over. Where appropriate, relaxations have been made to those requirements to allow less costly installations and provide for less complicated electrical distribution systems. Strict compliance with Subchapter J is not considered necessary for vessels less than 100 gross tons. The proposed electrical engineering requirements for these vessels are similar to those in proposed Subchapter T.

**Part 130—Marine Engineering Equipment and Systems**

Part 130 includes requirements for automation of unattended machinery spaces. These requirements would apply only to OSVs of 100 gross tons and over. In general, the guidelines in NVIC 1-78, "Automation of Offshore Supply Vessels of 100 Gross Tons and Over," have been restated in this part.

*Section 130.120 Propulsion Machinery Controls*

Each OSV would be required to have propulsion controls in the pilothouse. This requirement is added to specify existing industry standard practice. Currently, there is no requirement for pilothouse control, although all OSVs are so fitted.

*Section 130.130 Steering Systems on Vessels Less Than 100 Gross Tons*

OSVs less than 100 gross tons would have minimum design requirements under this proposed rule. Currently, OSVs certificated under 46 CFR Subchapter T must only provide suitable steering apparatus. The proposed rules are similar to those in proposed 46 CFR Subchapter T. There is expected to be little impact on OSV designs because of this proposed rule, since most existing OSVs certificated under 46 CFR Subchapter T meet its provisions.

*Section 130.140 Steering Systems on Vessels of 100 Gross Tons and Over*

OSVs would be required to be equipped with a steering system meeting the requirements of 46 CFR Subchapter F, as currently required by 46 CFR Subchapter I, or have a hydraulic helm unit. Provisions for steering the vessel when going astern would be required for vessels with a hydraulic helm unit.

Since the mid 1970's, the Coast Guard has accepted hydraulic helm units on OSVs. These units are relatively simple mechanically and have proven to be reliable. Most OSVs are already equipped with hydraulic helm units and many have steering stations within the pilothouse arranged for operation when facing aft over the weather deck, for use when backing up to an offshore platform or MODU.

*Sections 130.130 and 130.140 Steering Gear*

For vessels less than 100 gross tons, the steering system must be able to shift the rudder from 35 degrees on one side to 30 degrees on the other side in 28 seconds or less while moving ahead at the maximum service speed. For vessels 100 gross tons and over, each of two main steering pumps and drive motors must be able to meet that same performance standard. While this requirement has not been applied to OSVs previously, existing OSVs already meet this performance standard. The purpose of this proposed requirement is to specify what is considered to be the minimum level of performance for a steering system on OSVs which operate in coastal waters where congestion is heaviest.

*Section 130.310 Radar*

Each OSV 100 gross tons and over would be required to be equipped with a general marine radar. It is believed that in excess of 95% of existing OSVs of this size are presently equipped with radar. However, the requirement is included to ensure all new vessels over 100 gross tons meet the minimum level of safety considered necessary by the industry and the Coast Guard.

This proposed requirement is contained in proposed 46 CFR Subchapter T for some small passenger vessels. The proposed requirements for radar and other navigational equipment in § 130.130 satisfy the National Transportation Safety Board recommendation M-78-074: Require vessels carrying more than six passengers for hire and engaged in the offshore oil industry to have electronic navigation equipment including radar, loran and a fathometer. This proposed rule is also in keeping with the intent of their recommendations M-87-003 and M-84-024 for increased navigational equipment on vessels on extended routes.

*Section 130.320 Electronic Position Fixing Device*

Each OSV in ocean or coastwise service would be required to be equipped with an appropriate electronic position fixing device. There is presently no such requirement. The importance of this equipment has been recognized by industry since most OSVs over 100 gross tons are already so equipped.

*Section 131.350 Station Bill*

A station bill would be required for each OSV with a required crew of four (04) or more, including the master, by this proposed rule. A station bill has not been required for OSVs previously because it was felt that the small number of crew enabled the master to keep all crew members informed of their duties. Frequent crew changes distinguish OSVs from other vessels. A station bill is considered necessary to ensure that the master formally assigns responsibilities to the crew. This will also ensure that offshore workers know who is in charge of mustering them in the event they must abandon ship. The benefit that results from this proposal is better organization and less confusion during an emergency.

*Section 131.330 Emergency Instructions*

An emergency instruction placard is not now required for OSVs, but would be required under this proposal. Such a placard would provide the crew and offshore workers with relevant information concerning proper procedures and precautions to take in emergency situations. The emergency instruction placard would be required to address the particular equipment, arrangement and operation of each individual vessel. This placard is considered necessary due to the number of offshore workers that would be permitted and the amount of turn over in workers for offshore jobs. The benefit of this requirement would be assurance that each of the crew and each offshore worker had at least a minimum of information on emergency situations available and would prevent confusion in the event of an emergency situation.

**Part 174—Subpart G Stability**

This rulemaking proposes watertight integrity and stability requirements specific to OSVs. For requirements that

are applicable to all vessel types, it refers to 46 CFR Part 170.

*Section 174.185 Intact Stability Requirements*

The stability criteria proposed in this section is a righting energy analysis which has been applied by the Coast Guard to OSVs since 1974. As an alternative to this criterion, the proposed regulation would permit compliance with § 170.173 of Subchapter S, which is similar to the IMO recommended criterion for OSV's contained in Resolution A.469(XII).

*Sections 174.195 Machinery Space Bulkheads and 174.200 Machinery Space Damage Stability*

Each OSV would be required by these sections to show that it could survive side damage with a 30 inch transverse extent (penetration) of damage between the forward and aft engine room bulkheads.

Because of engine room size, most existing OSV designs could not meet the damage survival requirements proposed if the engine room were assumed damaged. Survival of the proposed side damage in the area of the engine room could be met if the engine room were not flooded or if the size of the engine room were decreased. Designers of OSVs do not expect to reduce the size of already cramped engine rooms, but instead would find a method of meeting the damage requirements by preventing the assumed damage from extending into the engine room. To prevent the engine room from being flooded, there must be longitudinal bulkheads outboard of the engine room for the length of the engine room with no access to the engine room within 30 inches of the side shell. No major changes are expected to existing OSV designs as a result of these proposed requirements since nearly all OSV designs currently include wing tanks outboard of the engine room.

This proposal is in keeping with IMO Resolution A.469(XII) and should not require major redesign of OSVs. Review of casualty data has shown that damage to the engine room in low energy type collisions with fixed objects is the most likely cause of loss of the vessel due to uncontrolled flooding. A vessel designed to meet the 30 inch collision penetration standard in the engine room would be less likely to be lost due to minor collision damage.

*Section 174.205 Additional Damage Stability Requirements*

Each vessel carrying more than 16 offshore workers would be required to demonstrate survival of side damage with a 30 inch transverse extent of damage anywhere throughout the length of the vessel except in locations having transverse watertight bulkheads.

This is a change from the 1983 ANPRM which would have allowed up to 150 offshore workers to be carried but require the transverse extent of damage to be B/5 (where B is the maximum beam of the vessel at the deepest draft).

In reducing the number of offshore workers that would be permitted on an OSV, the level of subdivision and damage stability was reconsidered. The B/5 transverse extent of damage was reduced to 30 inches and is considered to be a reasonable level of safety for vessels of this size, configuration, and operating method carrying the limited number of offshore workers proposed. Review of the casualty history of OSVs shows collisions and groundings to be of the low energy type. This justifies a reduction to the proposed transverse extent of damage of 30 inches versus the B/5 value required of other vessels of similar size.

*Section 174.210 Watertight Bulkhead Doors*

This section proposes to permit Class 1 hinged watertight doors in required watertight bulkheads in lieu of Class 3 sliding watertight doors as required in 46 CFR Subchapter S. One comment on the 1983 ANPRM suggested that this section be modified to require Class 2 sliding watertight doors in lieu of Class 1 hinged watertight doors as specified in the 1983 ANPRM. Transit through watertight bulkheads on OSVs is an operational necessity and the requirements proposed in this section are considered to provide an adequate level of safety for these vessels, while permitting the necessary operational flexibility. Requiring a Class 2 watertight door is not considered necessary as a Class 1 watertight door should provide adequate safety.

A second commenter suggested that there was no need for indicating lights on Class 1 doors. This suggestion was not adopted. Class 1 doors would be permitted provided they are equipped with lights which indicate on the bridge if the door is opened or closed. The watertight integrity of subdivision bulkheads necessitates that doors be opened only when used for transit and indicator lights will allow the vessel operator to ensure that watertight doors are closed as required.

i. Liftboats

*Discussion of Comments on the 1987 ANPRM for Liftboats and Proposals Relating to Those Comments*

The Coast Guard received 14 separate letters in response to the proposal to inspect and certificate liftboats as OSVs. All of the letters expressed general approval of the proposed action. One letter was unsigned and therefore not included in the docket.

Three commenters expressed concern about the impact of new regulations on existing liftboats. The Coast Guard is cognizant of the difficulties encountered when attempting to impose "new" requirements on existing vessels. Consequently, as previously discussed and consistent with the provisions of this NPRM, owners of existing liftboats will be afforded the option of complying with these regulations or may choose inspection under the previously established alternative means of compliance provided by NVIC 8-81, CH-1. The provisions of NVIC 8-81, CH-1, represent a suitable level of safety for existing liftboats and reflect the "as built" condition of these vessels.

*Hazardous Materials.* The 1987 ANPRM discussed the possibility of developing standards for the transportation of hazardous materials aboard liftboats. Carriage of hazardous materials by liftboats does not significantly differ from that of conventional OSVs and is adequately addressed by the NPRM.

*Crew Requirements.* Licensing, crew requirements, and training issues were each mentioned six times. Three comments suggested a reduction in the number of crew currently required for conventional OSVs of corresponding tonnage. These comments stated that liftboat owners/operators have been penalized simply because they did not take advantage of certain exemptions afforded to OSVs under existing admeasurement regulations in 46 CFR, Subchapter G. However, one comment from an operator of a liftboat noted that on numerous occasions, he and his crew were required to work in excess of 12 hours a day without benefit of relief. Six commenters suggested that liftboat crews were not adequately trained to handle all the potential emergency situations that might be expected to occur. It is apparent from the 1987 casualty review that a lack of or insufficient number of qualified crew members has contributed to certain liftboat casualties. This NPRM includes provisions for liftboats to be adequately crewed with properly licensed and documented personnel. The Coast

Guard does not agree that owners/operators are being unduly penalized because they have not taken advantage of tonnage exemptions. The 1987 casualty review showed that, in many circumstances, even the minimum crew requirements applicable to vessels less than 100 gross tons were not being followed.

Proposed § 131.1020 would require all OSVs, including liftboats, to be adequately manned as specified by the law and the manning regulations of 46 CFR Part 15 for OSVs. This requirement incorporates NTSB recommendation M-86-119 to require a liftboat, whether operating on the outer continental shelf or elsewhere, to be under the control of a licensed officer or operator. This recommendation superseded NTSB recommendation M-85-113 for the Coast Guard to seek legislative authority to license persons-in-charge of liftboats. Since liftboats have been determined to be OSVs, as previously discussed, no additional authority is needed.

*Stability.* Five comments were received concerning liftboat stability. Four of the five commenters favored adoption of the 70 knot wind heeling criteria already in effect for certain MODUs in 46 CFR, Subchapter S. One commenter recommended consideration of a 50 knot criteria. Stability of liftboats is a critical concern, particularly when the vessels are in a transition mode to or from an elevated condition. Proposed 46 CFR 174, Subpart H would require liftboats in "restricted" service to meet a 70 knot severe storm criteria and a 60 knot criteria for normal operating conditions. Liftboats in "unrestricted" service would have to meet a 100 knot criteria for severe storm conditions and a 70 knot criteria for normal operating conditions. Additionally, liftboats would be required to meet the intact and damage stability criteria for OSVs of Part 174, Subpart G. Regardless of route, liftboats would be required to demonstrate a downward force on each footing when supported on the bottom under a 100 knot wind for severe storm conditions, and a 70 knot wind for normal operating conditions.

The proposed requirements comply with NTSB recommendation M-85-112 to establish stability criteria for liftboats. Casualties occurring while elevated or when in transition to or from an elevated position have resulted in 45% of the total liftboat casualties reported, 70% of the associated deaths, and in excess of 60% of the total monetary loss.

*Leg Strength.* Five comments were received concerning liftboat leg strength. All pointed to the lack of an established industry standard and a need for one. The commenters suggested developing a required constant value for the "K" factor, or effective length factor, for use with the rules of the American Bureau of Shipping for leg strength. This "K" factor accounts for support conditions at the seabed and essentially determines the maximum safe length of leg permitted between the jacking guide structure of the liftboat and the seabed while elevated. Suggested values for this constant ranged from 1.65 to 2.0. One commenter also indicated that leg strength design criteria should be "certified at the expense of the owner."

The NPRM proposes to adopt the leg strength criteria applicable to self-elevating MODUs contained in the American Bureau of Shipping (ABS) "Rules for Mobile Offshore Drilling Units" with an effective length factor, "K", of not less than 2.0.

Proposed § 127.110 would require plans of liftboat legs, details of supporting structure, and calculations to be submitted for review and approval. Liftboat leg failures have accounted for approximately 18% of the total liftboat casualties reviewed and account for 23% of the monetary loss from these casualties.

*Jacking Systems.* Five comments were received concerning liftboat jacking systems. Four of the five comments suggested certain inherent problems with the hydraulics employed and recommended that requirements be promulgated to make them "fail-safe". The fifth comment recommended installation of an audible alarm to signal development of a potentially hazardous adverse list or trim condition. One commenter included a recommendation that the American Gear Manufacturers Association (AGMA) Standard 218.01 "Rating the Pitting Resistance and Bending Strength of Spur and Helical Involute Gear Teeth" be adopted to assure that a reasonable criteria be employed in the design of any given rack and pinion jacking system.

Proposed § 126.340, § 126.430, and § 128.130 recognize that liftboat jacking systems are critical elements of these vessels and have a documented history of failure, totaling approximately 16% of the casualties identified in the 1987 casualty review and 20% of the deaths. Consequently, they are identified as "vital" systems and would be thoroughly inspected at the initial inspection for certification and at each subsequent inspection for certification. This would serve to reduce the number of casualties involving liftboat jacking systems.

Proposed § 128.240 would address the standards to which all liftboat hydraulic systems must be designed including the hydraulic jacking systems.

Proposed § 128.460 would incorporate AGMA Standard 218.01 by reference to assist a designer in determining minimum jacking system gear strength. Additionally, it would require that each jacking system be designed and constructed so that any single component failure will not result in the vessel's uncontrolled descent.

Proposed § 130.210 would require that each control system for a liftboat jacking system be designed so that loss of power or failure of any one component will sound a visual and audible alarm and will not result in the vessel's uncontrolled descent.

*Operating Manual.* Four comments advised that there is little information available to the liftboat operator with respect to (1) changing operating modes, (2) adding required preload ballast to achieve adequate leg penetration into the seabed, (3) calculating deck load, and (4) addressing the myriad of emergency situations that may confront personnel aboard the vessel. All felt most of this could be satisfactorily addressed in an operating manual, which would be readily accessible and usable by the crew. The NPRM proposes to require that an approved operating manual be on board all liftboats.

Proposed § 131.1085 would require each liftboat to have a Coast Guard approved operating manual readily available and usable by the person-in-charge and the crew. This requirement incorporates NTSB recommendations M-84-004 and M-85-114 for the Coast Guard to require a liftboat to have an operating manual which sets forth the operating limitations while engaged in outer continental shelf activities with respect to imposed environmental, loading, and stability conditions. The 1987 casualty review indicated that liftboats may become hazardous when operated beyond design limitations. The operating manual proposed would explain the operating limits and provide guidance pertaining to various emergency situations.

*Cranes.* Three commenters stated that cranes have proven to be an inherent safety hazard on liftboats and indicated there are no industry wide safety standards followed concerning the installation, testing, and servicing of these devices.

Proposed § 126.140 would require liftboat cranes to be designed, installed, maintained, and tested in accordance with the same provisions established for MODUs, specifically the American Petroleum Institute (API) Recommended Practices (RP) 2C and 2D.

**Draft Regulatory Evaluation**

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and significant under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). A draft regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected and copied at the address listed under **ADDRESSES**. Copies may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

*Costs for Conventional OSVs.* As of December 1987, there were 584 OSVs certificated, 407 of which were over 100 gross tons. In evaluating the effect of these proposed regulations, all additional costs and benefits of these regulations were assumed in constant dollars.

The cost to construct a conventional OSV under these proposed regulations compared to existing regulations, expressed as a percentage of the initial construction cost for each OSV would be:

Approximately 2.3% for conventional OSVs less than 100 gross tons.

Approximately 0.5% for conventional OSVs 100 gross tons and over.

Assuming 90 large OSVs and 50 small OSVs would be built in the 6 years after these proposed rules become effective, the cost of these proposed regulations to the OSV industry would be approximately $0.8 million per year.

The principal benefits of these regulations would be a vessel better equipped, with the authorization to carry more than twice as many offshore workers and twice as much liquid drilling fluid, increased safety for offshore workers and crew due to the damage stability requirements, a vessel less likely to suffer damage that would result in total loss of the vessel, and a crew better prepared to deal with emergencies. The economic benefit of the safety improvements and operational flexibility offered by these proposed rules is difficult to quantify, as they are dependent on vessel design, operational procedures, and contractual arrangements. However, based upon the modest assumption that these regulations would result in a 30% reduction in damage costs associated with vessel casualties, it is estimated that the overall benefits of these proposed regulations would more than offset the additional construction costs imposed.

*Costs for Liftboats.* It is anticipated that the proposed regulations for new liftboats would affect small business entities. These vessels have not been previously required to be designed and built to Coast Guard inspection standards. Unlike conventional OSVs, the Coast Guard's experience with liftboats is based primarily on casualty investigations. Therefore, the Coast Guard has no accurate mechanism for determining additional costs which may be incurred by owners of new liftboats required to meet these proposed rules. In the 1987 ANPRM, the Coast Guard requested information concerning anticipated additional costs that might be borne by liftboat owners and operators resulting from newly imposed inspection requirements. There was no data associated with costs submitted to the docket.

Several designers, builders, and owners of liftboats were contacted during preparation of this NPRM. The individuals contacted estimated that a large liftboat of less than 300 gross tons with legs 200 feet in length would cost between $2–$4 million to design and construct. The cost to design and construct a liftboat less than 100 gross tons was estimated to be approximately $1 million. These individuals believe that if new regulations were considered in the initial design, the impact of non-recurring costs associated with construction of a liftboat would be minimal—not more than 5% above the current estimated construction cost. This additional construction cost would amount to less than $50,000 for a liftboat less than 100 gross tons and between $100,000 and $200,000 for a liftboat more than 100 gross tons. Examples of additional non-recurring costs that would be incurred as a result of this NPRM include:

1. Submittal of vessel plans to the Coast Guard.
2. Preparation and submittal of a comprehensive operating manual to the Coast Guard.
3. Design and construction of a fail-safe jacking system.
4. Upgrading of raw water intake piping systems to supply the firemain systems while elevated.
5. Compliance with increased lifesaving equipment requirements.

There would be no recurring costs to liftboat operators associated with these proposed rules, in addition to costs already being incurred by existing liftboats. Recurring costs associated with crew salaries, periodic testing and drydocking, and other expenses due to biennial inspections and reinspections would not be affected by the regulations proposed in this NPRM.

The benefit of casualties and fatalities prevented is the savings to the liftboat industry offered by these proposed rules and is drawn from the annual averages for the liftboat fleet for the period 1981 to 1986. If these rules reduce the average cost per casualty for liftboats to a value comparable to conventional OSVs, this will mean a reduction of approximately 75-87% in the cost of casualties to liftboats. This reduced cost of casualties will amount to approximately $72,900 for a liftboat less than 100 gross tons which exceeds the estimated $50,000 additional design, construction, and outfitting costs. Similarly, for liftboats over 100 gross tons, the reduced cost of casualties will be approximately $183,100, which is within the range of the expected cost increase of $100,000-$200,000.

It is difficult to gauge the impact of these proposed rules on the liftboat industry as a whole since there are no plans for new liftboat construction according to those consulted and the Coast Guard has only informal estimates of the additional construction costs which may be incurred. New liftboats would enjoy some unquantifiable benefits heretofore limited to conventional OSVs, *i.e.*, carriage of unlimited quantities of Grade E liquid drilling fluids and up to 36 offshore workers. These unquantifiable benefits when added to the anticipated reductions in casualty costs discussed above, outweigh the estimated additional construction costs.

As previously stated, information concerning additional costs that may be borne by the liftboat industry as a result of this NPRM is limited. Specific cost data concerning compliance with these proposed rules is requested. All economic information submitted before the expiration of the comment period will be considered before final action is taken on this proposal. The regulations may be changed in light of economic data submitted.

**Environmental Analysis**

The Coast Guard has considered the environmental impact of this proposed rulemaking and concluded that preparation of an environmental impact statement is not necessary. A draft environmental assessment has been prepared and a finding of no significant impact is anticipated.

**Federalism Assessment**

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 through 612), the Coast Guard has considered whether this rulemaking is likely to have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses which are not dominant in their field and which would otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

There are currently 72 owners that own only one conventional OSV (12% of conventional OSVs). The Coast Guard does not anticipate that there would be more than 17 owners that would own one new OSV (3 per year based upon 12% of the anticipated 140 new conventional OSVs to be built in the 6 years after these rules are finalized). The additional out of pocket expense for initial construction would not exceed 2.5%, as previously discussed, even if none of the operational flexibility or safety improvements (and other unquantifiable benefits) were realized. These proposed rules would not result in additional recurring operational costs.

In the case of liftboats, the additional initial construction costs will be higher, approximately 5% of the estimated construction cost, based upon the best information available to the Coast Guard. There would be no additional recurring cost to liftboat operators due to these proposed rules. There are currently 5 liftboat owners that own only one liftboat (2% of the liftboat fleet). The Coast Guard estimates that there would be no more than 1 new liftboat owner with only one liftboat in the 6 years after these rules are finalized based upon the current percentage.

Based upon these estimates, the Coast Guard certifies that the proposed regulations would not have a significant economic impact on a substantial number of small entities.

However, if you feel that your business qualifies as a small entity and would suffer significant, negative, economic impact, please explain why your business qualifies as a small entity and to what degree the proposed regulations would economically affect your business. Cost data submitted will be thoroughly evaluated before publication of the final rule.

### Paperwork Reduction Act

This rulemaking contains information collection requirements in the following sections of 46 CFR:

| | | |
|---|---|---|
| 126.120 | 131.525 | 131.930 |
| 126.150 | 131.530 | 131.940 |
| 126.160 | 131.535 | 131.1030 |
| 126.170 | 131.545 | 131.1045 |
| 126.230 | 131.550 | 131.1050 |
| 126.240 | 131.565 | 131.1055 |
| 126.260 | 131.570 | 131.1085 |
| 126.270 | 131.590 | 132.110 |
| 126.320 | 131.610 | 132.130 |
| 126.330 | 131.620 | 132.220 |
| 126.420 | 131.630 | 132.360 |
| 126.510 | 131.805 | 174.210 |
| 126.530 | 131.810 | |
| 127.100 | 131.815 | |
| 127.110 | 131.820 | |
| 128.120 | 131.825 | |
| 128.210 | 131.830 | |
| 128.220 | 131.835 | |
| 128.240 | 131.840 | |
| 129.220 | 131.845 | |
| 129.320 | 131.850 | |
| 129.375 | 131.855 | |
| 130.130 | 131.860 | |
| 130.470 | 131.865 | |
| 131.210 | 131.870 | |
| 131.310 | 131.875 | |
| 131.320 | 131.880 | |
| 131.330 | 131.885 | |
| 131.340 | 131.890 | |
| 131.350 | 131.893 | |
| 131.505 | 131.898 | |
| 131.510 | 131.910 | |
| 131.515 | 131.920 | |

The information collection requirements have been submitted to the Office of Management and Budget (OMB) for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*). Persons desiring to comment on these regulations should submit their comments to: Office of Regulatory Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, ATTN: Desk Officer, Coast Guard. Persons submitting comments to OMB are also requested to submit a copy of their comments to the Coast Guard as indicated under **ADDRESSES.**

### List of Subjects

*46 CFR Part 125*

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Administrative practice and procedures, and Authority delegation.

*46 CFR Part 126*

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Reporting requirements, Law enforcement, and Authority delegation.

*46 CFR Part 127*

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Reporting requirements, and Authority delegation.

*46 CFR Part 128*

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration,

and Hazardous materials transportation, Main and auxiliary machinery.

*46 CFR Part 129*

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, and Electric power.

*46 CFR Part 130*

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Vessel control and automation.

*46 CFR Part 131*

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, Reporting requirements, Penalties, Navigation (water), and Operations.

*46 CFR Part 132*

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, and Fire prevention.

*46 CFR Part 170*

Marine safety, Reporting and recordkeeping requirements, Vessels.

*46 CFR Part 174*

Marine safety, Vessels, Offshore supply vessels, Oil and gas exploration, Hazardous materials transportation, and Stability.

1. In consideration of the foregoing. the Coast Guard proposes to amend Chapter I of Title 46 of the Code of Federal Regulations by adding a new Subchapter L, consisting of Parts 125 through 136, to read as set forth below.

## SUBCHAPTER L—OFFSHORE SUPPLY VESSELS

## PART 125—GENERAL PROVISIONS

Sec.

125.100 Applicability.
125.110 Hazardous materials in bulk.
125.120 Packaged hazardous materials.
125.130 Load line requirements.
125.140 Lifesaving appliances and arrangements.
125.150 Definitions.
125.160 Equivalents.
125.170 Incorporation by reference.
125.180 Notice of deficiencies and requirements.
125.190 Right of appeal.

**Authority:** 46 U.S.C. 3306, 3307, 5115; 49 U.S.C. App. 1804; 49 CFR 1.46.

### § 125.100 Applicability.

(a) Except as provided by paragraph (c) of this section, this subchapter applies to each United States flag offshore supply vessel that—

(1) Is contracted for on or after [*Insert the effective date of these regulations*]; and

(2) Carries 36 or less offshore workers.

(b) Each offshore supply vessel (OSV) contracted for prior to [*Insert the effective date of these regulations*] must be constructed in accordance with—

(1) The regulations in effect prior to [*Insert the effective date of these regulations*] (46 CFR Subchapter I or Subchapter T);

(2) Navigation and Vessel Inspection Circular 8–81, CH–1, Initial and Subsequent Inspection of Uncertificated Existing Offshore Supply Vessels Under Pub. L. 96–378;

(3) For liftboats contracted for prior to [*Insert the effective date of these regulations*], Navigation and Vessel Inspection Circular 8–81,CH–1; or

(4) The regulations in this subchapter.

(c) Certain regulations in this subchapter apply only to limited categories of vessels. Specific applicability statements are provided at the beginning of those regulations.

### § 125.110 Hazardous materials in bulk.

(a) Except as provided in this section, a vessel may not carry hazardous materials in bulk without the approval of the Commandant (G–MTH).

(b) A vessel may carry the following in fixed independent tanks or integral tanks:

(1) In integral tanks:

(i) Grade D combustible liquids listed in § 30.25–1 of this chapter in quantities not to exceed 20 percent of the vessel's deadweight.

(ii) Grade E combustible liquids listed in § 30.25–1 of this chapter in quantities not to exceed 20 percent of the vessel's deadweight, except that drilling fluids and excess fuel oil may be carried without limit.

(2) In fixed independent tanks on deck: Grade B and lower grade flammable and combustible liquids listed in § 30.25–1 of this chapter in quantities not to exceed 20 percent of the vessel's deadweight.

(c) A vessel may carry hazardous materials in portable tanks in accordance with Parts 64 and 98 of this chapter. A portable tank may be filled or discharged on board a vessel if authorized by an endorsement on the vessel's Certificate of Inspection.

### § 125.120 Packaged hazardous materials.

Packaged hazardous materials, including hazardous materials in portable tanks, may be carried if prepared, loaded, and stowed in accordance with the requirements of 49 CFR Chapter I, Subchapter C.

### § 125.130 Load line requirements.

Each vessel subject to load line assignment, certification, and marking under Subchapter E of this chapter must meet the requirements in Subchapter E in addition to the requirements in this subchapter.

### § 125.140 Lifesaving appliances and arrangements.

Lifesaving appliances and arrangements must comply with Subchapter W of this chapter.

### § 125.150 Definitions.

(a) "Accommodations" include the following:

(1) A space used as a messroom.

(2) A lounge.

(3) A sitting area.

(4) A recreation room.

(5) Quarters.

(6) A toilet space.

(7) A shower room.

(b) "Approved" means approved by the Commandant unless otherwise stated.

(c) "Bulkhead deck" means the uppermost deck to which transverse watertight bulkheads and the watertight shell extend.

(d) "Cargo gear" includes masts, stays, booms, winches, cranes, elevators, conveyors, and standing and running gear that form a part of the shipboard equipment used in connection with the loading and unloading of the vessel.

(e) "Coast Guard District Commander" means an officer of the Coast Guard designated by the Commandant to command all Coast Guard activities within a Coast Guard district described in 33 CFR Part 3, which include the inspection, enforcement, and administration of vessel safety and navigation laws and regulations.

(f) "Coastwise" refers to a route that is not more than 20 nautical miles offshore on any of the following waters:

(1) Any ocean.

(2) The Gulf of Mexico.

(3) The Caribbean Sea.

(4) The Gulf of Alaska.

(5) Other similar waters as may be designated by the Coast Guard District Commander.

(g) "Commandant" means the Commandant of the Coast Guard or an authorized representative of the Commandant.

(h) "Commanding Officer, Marine Safety Center" means an officer of the Coast Guard designated by the Commandant to command all Coast Guard activities within the Marine Safety Center, which includes

commercial vessel plan review to ensure compliance with applicable laws, regulations, and standards.

(i) "Damp or wet locations" include the following:

(1) A location exposed to the weather.

(2) A machinery space.

(3) A cargo space.

(4) A location within a galley, a laundry, or a public washroom or toilet room that has a bath or shower normally exposed to splashing, water washdown, or other wet conditions.

(5) An area directly inside of an access door to a weather deck if the access door is not protected against rain or spray by an overhanging deck or by other means.

(6) Other spaces with similar moisture levels.

(j) "Deadweight" means, when measured in water of specific gravity 1.025, the difference in long tons between—

(1) The displacement of the vessel at "lightweight" as defined in § 170 Subpart F of this chapter; and

(2) The displacement of the vessel at the deepest load waterline, on even trim.

(k) "Gas free" means free from dangerous concentrations of flammable or toxic gases.

(l) "International voyage" means a voyage between a country to which the International Convention for the Safety of Life at Sea (SOLAS), 1974 applies and a port outside that country.

(m) "Jacking system" means any type of mechanical or electrical system used in elevating a liftboat.

(n) "Length", when used in terms of vessel length, has the same meaning that is provided in § 42.13–15(a) of this chapter.

(o) "Liftboat" means an offshore supply vessel with movable legs capable of raising its hull above the surface of the sea.

(p) "Marine inspector" means any person of the Coast Guard designated as such by the Officer in Charge, Marine Inspection to perform duties with respect to the inspection, enforcement, and administration of vessel safety and navigation laws and regulations.

(q) "Ocean" refers to a route which is more than 20 nautical miles offshore on any of the following waters:

(1) Any ocean;

(2) The Gulf of Mexico;

(3) The Caribbean Sea;

(4) The Gulf of Alaska; and,

(5) Other similar waters as may be designated by the Coast Guard District Commander.

(r) "Officer in Charge, Marine Inspection" or "OCMI" means any person so designated by the Commandant to be in charge of an inspection zone for the performance of duties with respect to the inspection, enforcement, and administration of vessel safety and navigation laws and regulations.

(s) "Offshore supply vessel" means a vessel that—

(1) Is propelled by machinery other than steam;

(2) Is not within the description of a passenger carrying vessel in 46 U.S.C. 2101(22) or 46 U.S.C. 2101(35);

(3) Is of more than fifteen and less than five hundred gross tons; and

(4) Regularly carries goods, supplies, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

(t) "Offshore worker" means any one of the following persons who is carried on board an offshore supply vessel, except for the Master or a bona fide member of the crew who has contributed no consideration for carriage on board and is paid for services on board:

(1) The owner or his representative.

(2) An employee of the owner, or of a subcontractor to the owner, employed in the business of the owner.

(3) A charterer of the vessel or his representative.

(4) An employee of the charterer, or of a subcontractor to the charterer, employed in the business of the charterer.

(5) A person employed in some phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel.

(6) A bona fide guest who has contributed no consideration for carriage on board.

(u) "Quarters" means any space where sleeping accommodations are provided.

(v) "Recognized classification society" means the American Bureau of Shipping (ABS) or any other classification society recognized by the Commandant.

(w) "Restricted service" means service in areas that are within 12 hours of a harbor of safe refuge or a location where a liftboat may be elevated to meet the 100 knot wind severe storm criteria of § 174.250(e) of this chapter.

### § 125.160 Equivalents.

Substitution for fittings, materials, equipment, arrangements, calculations, information, or tests required in this subchapter may be accepted by the OCMI, the Commanding Officer, Marine Safety Center, the Coast Guard District Commander, or the Commandant if the substitution provides an equivalent level of safety.

### § 125.170 Incorporation by reference.

(a) In this subchapter portions or the entire text of certain industrial and government agency standards and specifications are referred to as the governing requirements for materials, equipment, tests, or procedures to be followed. These standards and specification requirements specifically referred to in this subchapter are the governing requirements for the subject matters covered unless specifically limited, modified, or replaced by other regulations in this subchapter.

(b) Materials are incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a). To enforce any edition other than the one listed in paragraph (c) of this section, notice of the change must be published in the **Federal Register** and the material made available to the public. All approved material is on file at the Office of the Federal Register, Washington, DC 20408 and at the U.S. Coast Guard, Marine Technical and Hazardous Materials Division, 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (c) of this section.

(c) The material approved for incorporation by reference in this subchapter, and the sections affected, are:

| | |
|---|---|
| American Bureau of Shipping (ABS), 45 Eisenhower Dr., Paramus, NJ 07652: | |
| Rules for Building and Classing Steel Vessels, Under 61 Meters (200 Ft) in Length (1983) | § 127.210: |
| Rules for Building and Classing Steel Vessels (1988) | § 127.210 |
| Rules for Building and Classing Aluminum Vessels (1975) | § 127.210 |
| Rules for Building and Classing Mobile Offshore Drilling Units (1985) | § 127.210 |
| American Gear Manufacturers Association, 101 S. Peyton St., Alexandria, VA 22314–2839: | |
| Std. 218.01–1982—Rating the Pitting Resistance and Bending Strength of Spur and Helical Involute Gear Teeth | § 128.460 |
| American National Standards Institute (ANSI), United Engineering Center, 345 East 47th St., New York, NY 10017: | |
| B31.1–1986—American National Standard Code for Pressure Piping, Power Piping | § 128.240 |

Z26.1–1983—Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways ..... § 127.430
American Society of Mechanical Engineers (ASME), 345 East 47th St., New York, NY 10017:
ASME Boiler and Pressure Vessel Code—1989 ..... § 128.240
American Society for Testing and Materials (ASTM), 1916 Race St., Philadelphia, PA 19103:
D93–1980—Test for Flash Point by Pensky-Martens Closed Tester ..... § 128.310
American Yacht and Boat Council (AYBC), P.O. Box 747, 405 Headquarters Dr., Suite 3, Millersville, MD 21108–0747:
A–3–1970—Recommended Practices and Standards Covering Galley Stoves ..... § 129.550
A–7–1970—Recommended Practices and Standards Covering Boat Heating Systems ..... § 129.550
E–1–1972—Grounding of Direct Current Systems ..... § 129.120
E–8–1985—Alternating Current (AC) Electrical Systems on Boats ..... § 129.120
E–9–1985—Direct Current (DC) Electrical Systems on Boats ..... § 129.120
International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, England:
Resolution [LSR20/20, Annex 9], "Guidelines Concerning the Use and Fitting of Retro-Reflective Materials on Lifesaving Appliances", June 1987 ..... § 131.855 § 131.875
National Fire Protection Association (NFPA), 60 Batterymarch Park, Quincy, MA 02269:
70–1984—National Electrical Code ..... § 129.320 § 129.340 § 129.370
306–1988—Control of Gas Hazards on Vessels ..... § 126.170
1963–1985—Screw Threads and Gaskets for Fire Hose Connections ..... § 132.130
302–1984—Motor Craft ..... § 129.550
Underwriters Laboratories, Inc. (UL), 333 Pfingsten Rd., Northbrook, IL 60062:
UL 19–1978—Woven Jacketed, Rubber Lined Fire Hose ..... § 132.130
UL 486A–1978—Electric Wire Connectors and Soldering Lugs for Use with Copper Conductors ..... § 129.340
UL 489–1986—Molded-Case Circuit Breakers and Circuit Breaker Enclosures ..... § 129.380
UL 595–1980—Marine Type Electric Lighting Fixtures ..... § 129.410
Commanding Officer, Marine Safety Center, 2100 Second Street SW., Washington, DC 20593–0100:
Navigation and Vessel Inspection Circular 8–81, CH–1, Initial and Subsequent Inspection of Uncertificated Offshore Supply Vessels under Pub. L. 96–378 ..... § 125.100

**§ 125.180 Notice of deficiencies and requirements.**

(a) If during the inspection of a vessel, the vessel or its equipment is found not to conform to the requirements of law or the regulations in this subchapter, the marine inspector will point out the identified deficiencies and discuss applicable requirements with the owner or operator. The marine inspector will list all the requirements which have not been met and present the list to the owner, operator, or their representative on board.

(b) In any instance, where the owner or operator of a vessel wants further clarification or reconsideration of any requirement imposed by a marine inspector, the OCMI may be contacted.

**§ 125.190 Right of appeal.**

Any person aggrieved by any decision or action of any OCMI, may appeal the decision or action to the Coast Guard District Commander having jurisdiction, and to the Commandant under the provisions of § 2.01–70 of this chapter.

## PART 126—INSPECTION AND CERTIFICATION

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**Authority:** 46 U.S.C. 3306; 33 U.S.C. 1321(j); E.O. 11735, 38 FR 21243, 3 CFR 1971–1975 Comp., p. 793; 49 CFR 1.46.46.

### Subpart A—General

**§ 126.100 Inspectors not limited.**

The marine inspector may at any time require that a vessel and its equipment meet any test or inspection deemed necessary to determine if they are suitable for the service in which they are to be employed.

**§ 126.110 Inspection after accident.**

(a) An inspection is made by a marine inspector—

(1) Every time an accident occurs or a defect is discovered which affects—

(i) The safety of the vessel; or

(ii) The effectiveness or completeness of its lifesaving equipment, fire fighting or other equipment; or

(2) Whenever any important repairs or renewals are made.

(b) The inspection is made to determine—

(1) What repairs or renewals must be made;

(2) That the material and the workmanship used to accomplish the repairs or renewals are satisfactory; and

(3) That the vessel complies with the regulations in this subchapter.

**§ 126.120 Permit to proceed to another port for repair.**

(a) When a vessel is not in compliance with its Certificate of Inspection or fails to comply with a regulation of this subchapter, the OCMI may permit the vessel to proceed to another port for repair if in the judgment of the OCMI the trip can be completed safely even if the Certificate of Inspection of the vessel has expired or is about to expire.

(b) Form CG–948, "Permit to Proceed to another Port for Repairs," is issued by the OCMI to the owner, operator, or the master of the vessel stating the conditions under which the vessel may proceed to another port. The permit is issued only upon the written application of the owner, managing operator, or master, and after the vessel's Certificate of Inspection is surrendered to the OCMI.

(c) The permit will state upon its face the conditions under which it is issued and whether or not the vessel is permitted to carry cargo or offshore workers.

(d) The permit must be carried in a manner similar to that described in § 126.240 of this chapter for a Certificate of Inspection.

**§ 126.130 Inspection of cargo gear.**

Cargo gear, if installed, must comply with the requirements in Part 91 of this chapter.

**§ 126.140 Cranes.**

Cranes, if installed, must comply with the requirements in §§ 107.258, 107.259, 107.260, 108.601, 109.437, 109.439, 109.521, 109.525, and 109.527 of this chapter.

**§ 126.150 Drydocking.**

(a) Except for extensions authorized by the Commandant (G–MVI), each vessel must be placed in drydock or hauled out for examination at intervals not to exceed twice in any five year period with no single interval exceeding three years.

(b) The owner or operator must notify the OCMI whenever the vessel is to be placed on a drydock. The OCMI, upon notification, determines whether to assign a marine inspector to examine the underwater portion of the vessel.

(c) At each drydocking required by paragraph (a) of this section, a tailshaft survey must be conducted as required in § 61.20–5 of this chapter, if the vessel is of 100 gross tons and over.

(d) For a vessel of less than 100 gross tons, the propeller or tailshaft must be drawn for examination, if deemed necessary by the OCMI.

**§ 126.160 Repairs and alterations.**

(a) No repairs or alterations to the hull, machinery, or equipment which affect the safety of the vessel are to be made without the knowledge of the OCMI.

(b) Except as provided in paragraph (d) of this section, drawings of repairs or alterations must be approved by the OCMI, or Commanding Officer, Marine Safety Center when directed by the OCMI, before work is started.

(c) When the OCMI deems necessary, the repairs or alterations must be inspected by a marine inspector.

(d) Submission of drawings is not required for repairs in kind, but the applicable drawings approved under Subpart A of Part 127 of this subchapter must be made available to the marine inspector upon request.

**§ 126.170 Inspection and testing required when making alterations, repairs, or other operations involving riveting, welding, burning, or like fire producing actions.**

(a) The provisions of Standard for Control of Gas Hazards on Vessels to be Repaired, NFPA No. 306, must be used as a guide in conducting the inspections and issuances of certificates required by this section.

(b) Until an inspection has been made to determine that the operation can be undertaken safely, no alterations, repairs, or other operations involving riveting, welding, burning, or like fire producing actions may be made.

(c) Inspections must be conducted as follows:

(1) In ports or places in the United States or its territories and possessions, the inspection must be made by a marine chemist certificated by the National Fire Protection Association. If the services of a certified marine chemist are not reasonably available, the OCMI, upon the recommendation of the contractor and the owner or operator of the vessel, may authorize another person to make the inspection. If the inspection indicates that operations can be undertaken safely, a certificate setting forth the spaces covered and any necessary qualifications, must be issued by the person performing the inspection before the work is started. The qualifications must include any requirements necessary to maintain safe conditions in the certified spaces and must include any necessary additional tests and certifications. The qualifications must include precautions necessary to eliminate or minimize hazards that may be present from protective coatings or residues from cargoes.

(2) In all ports or places outside of the United States or its territories and possessions, where a marine chemist or other person authorized by the OCMI is not reasonably available, the inspection must be made by the master, owner, or operator of the vessel and a proper entry must be made in the vessel's logbook.

(d) The master must obtain a copy of each certificate issued by the person doing the inspection described in paragraph (c)(1) of this section. The master, insofar as the persons under his control are concerned, must maintain a safe condition on the vessel by full observance of all qualifications and requirements listed in the certificate issued under paragraph (c)(1) of this section.

**§ 126.180 Carriage of offshore workers.**

(a) Offshore workers may be carried on an offshore supply vessel in accordance with the regulations in this subchapter. The maximum number of offshore workers authorized to be carried will be endorsed on the vessel's Certificate of Inspection.

(b) No more than 12 offshore workers may be carried on board a vessel certificated under this subchapter when on an international voyage.

**§ 126.190 Carriage of passengers.**

(a) No passengers may be carried on a vessel except in an emergency.

(b) For the purpose of this section, a passenger is any person who is not listed in § 125.150(t) of this chapter and who is neither—

(1) The master; nor

(2) A bona fide member of the crew engaged in the business of the vessel who has contributed no consideration for carriage on board and is paid for services on board.

## Subpart B—Certificate of Inspection

**§ 126.210 When required.**

Except as provided in §§ 126.120 and 126.260 of this chapter, no offshore supply vessel may be operated without a valid Certificate of Inspection.

**§ 126.220 Description.**

The Certificate of Inspection issued to a vessel describes the vessel, the route which it may travel, the minimum crew required, the minimum fire extinguishing and lifesaving equipment required to be carried, the maximum number of offshore workers and total persons which may be carried, the name of the owner and operator, and such other conditions of operations as may be determined by the OCMI.

**§ 126.230 How to obtain or renew.**

(a) A Certificate of Inspection is obtained or renewed by making application for an initial or periodic inspection on Form CG–3752, "Application for Inspection of U.S. Vessel," to the OCMI of the marine inspection zone in which the inspection is to be made. Form CG–3752 may be obtained at a U.S. Coast Guard Marine Safety Office or Marine Inspection Office.

(b) The application for initial inspection of a vessel being newly constructed or converted must be

submitted prior to the start of construction or conversion.

(c) The construction, arrangement, and equipment of each vessel must be acceptable to the OCMI as a prerequisite to the issuance of the initial Certificate of Inspection. Acceptance is based on the information, specifications, drawings, and calculations available to the OCMI, and on the successful completion of the initial inspection for certification.

(d) A Certificate of Inspection is renewed by the issuance of a new Certificate of Inspection.

(e) The condition of the vessel and its equipment must be acceptable to the OCMI, as a prerequisite to the Certificate of Inspection renewal. Acceptance is based on the condition of the vessel as found at the periodic inspection for certification.

**§ 126.240 Posting.**

The Certificate of Inspection must be framed under glass or other suitable transparent material and posted in a conspicuous place on the vessel.

**§ 126.250 Period of validity.**

(a) The master, owner, or operator may apply for an inspection and issuance of a new Certificate of inspection at any time during the period of validity of the current Certificate. Certificates of Inspection are issued for a period of two years.

(b) Certificates of inspection may be revoked or suspended by the Coast Guard for failure to comply with the regulations in this subchapter or other applicable laws or regulations.

**§ 126.260 Temporary Certificate.**

If necessary to prevent delay of the vessel, a "Temporary Certificate of Inspection," Form CG–854, containing all information listed in § 126.220 of this chapter, may be issued pending the issuance and delivery of the regular Certificate of Inspection. A temporary Certificate must be carried in the same manner as the regular Certificate.

**§ 126.270 Certificate of Inspection amendment.**

(a) A certificate amending a Certificate of Inspection may be issued at any time by any OCMI. The "Certificate of Inspection Amendment," Form CG–858, may be issued to authorize and record a change in the character of a vessel or in its route, equipment, etc., from that specified in the current Certificate of Inspection.

(b) A request for a Certificate of Inspection Amendment must be made to the OCMI by the owner or operator of the vessel at any time there is a change in the character of the vessel or in its route, equipment, ownership, etc., as specified on its current Certificate of Inspection.

(c) The OCMI may require an inspection prior to the issuance of a Certificate of Inspection Amendment.

(d) A Certificate of Inspection Amendment is part of the certificate that it amends, and must be carried with the Certificate of Inspection.

## Subpart C—Initial Inspection

**§ 126.310 Prerequisite to Certificate of Inspection.**

The initial inspection is a prerequisite to the issuance of the original Certificate of Inspection.

**§ 126.320 When made.**

(a) The initial inspection is not made until after receipt of the written application of the owner or builder of the vessel to the OCMI in whose zone the vessel is located. The application must be on Form CG–3752, Application for Inspection of U.S. Vessel.

(b) The initial inspection is made at a time and place mutually agreed to by the party requesting the inspection and the OCMI. The owner or builder must be present during the inspection.

**§ 126.330 Plans.**

Before construction is started, the owner, operator, or builder must develop plans indicating the proposed arrangement and construction of the vessel. The list of plans to be developed and the required disposition of these plans is set forth in Part 127 of this chapter.

**§ 126.340 Scope of inspection.**

The initial inspection normally consists of a series of inspections conducted during the construction of the vessel. These inspections are done to determine whether the vessel was built in accordance with developed plans and in compliance with applicable regulations. Items normally included in these inspections are:

(a) Arrangements.
(b) Materials.
(c) Structure.
(d) Pressure vessels and their appurtenances.
(e) Piping.
(f) Main and auxiliary machinery.
(g) Liftboat jacking systems.
(h) Steering apparatus.
(i) Electrical installations.
(j) Lifesaving equipment.
(k) Fire detecting and extinguishing equipment.
(l) Pollution prevention equipment.
(m) Watertight integrity.
(n) Workmanship.
(o) Verification of valid certificates issued by the Federal Communications Commission, if required.
(p) Lights and signals as required by the applicable navigation rules.

**§ 126.350 Specific tests and inspections.**

(a) The applicable tests and inspections set forth in Subpart D of this part must be made during the initial inspection.

(b) The following specific tests and inspections must also be conducted in the presence of the marine inspector:

(1) Installation of carbon dioxide or Halon fire extinguishing piping—see § 95.15–15 of this chapter.

(2) Hydraulic helm unit steering systems. These systems must be tested in the manual mode, with the hydraulic pumps secured, for smooth, efficient operation by one man.

(3) Installation of lifeboats, rescue boats, davits, and winches—the following tests and inspections and the tests and inspections in § 126.440(a)(5) through § 126.440(a)(9) of this chapter must be conducted for each initial inspection for certification. The tests and inspections under paragraph (b)(3)(i) of this section must also be conducted when each new davit, winch, or other launching appliance is installed on the vessel. The test under paragraph (b)(3)(ii) of this section must also be conducted when each new freefall lifeboat or rescue boat is installed on the vessel. The inspection under paragraph (b)(3)(vi) of this section must also be conducted when each new lifeboat, rescue boat, liferaft, davit, winch, or other launching appliance is installed on the vessel. The test under paragraph (b)(3)(vii) of this section must also be conducted when each new life buoy quick release device is installed on the vessel.

(i) Each launching appliance using falls and a winch for a rescue boat, davit-launched liferaft, or lifeboat including any auxiliary davit system for a free-fall lifeboat must be tested as follows:

(A) The lifeboat, rescue boat or davit-launched liferaft must be loaded with all of its equipment or the deadweight equivalent. In addition, the davit-launched liferaft must be loaded with a 165 lb. weight to simulate the load of one person. A davit-launched liferaft need not be used for this test if an appropriate test weight is used. The boat or liferaft must be lowered from the embarkation station and launched into the water using the normal launching procedure. If a test weight is substituted for the davit-launched liferaft, the weight must be "launched" onto a

surface that will support its weight. The rescue boat must then be loaded with the deadweight equivalent of its full rescue boat complement using a weight of 165 lb. per person. In the case of a lifeboat or rescue boat launching appliance, the boat must then be recovered by the launching appliance. In the case of a liferaft launching appliance, the hand-operated quick-return mechanism must be used to recover the fall.

(*1*) There must be no deformation of or damage to the launching appliance or its connections to the vessel.

(*2*) The lowering speed must meet § 199.153(j) of this chapter, and the falls must meet § 199.153(g) of this chapter. For a multiple drum winch, the falls must wind off the drums at the same rate when lowering, and wind onto the drums evenly in a level wrap at the same rate when hoisting.

(*3*) The release mechanism control in a boat must open all hooks simultaneously and release the boat into the water.

(*4*) The automatic disengaging apparatus for a davit-launched liferaft must open and release the liferaft or test weight after the apparatus is set to open automatically and the liferaft or test weight is set onto a supporting surface.

(*5*) The recovery of the boat must meet § 199.153(l) of this chapter, and if the boat is a rescue boat, § 199.160(d) of this chapter.

(*6*) For each launching device equipped to recover a boat by power, including a launching device with a portable power source, the limit switches or other safety devices must automatically de-energize power before the boat reaches the stops to avoid overstressing the falls and davits.

(*7*) The hand-operated recovery gear for a lifeboat or rescue boat launching appliance must be capable of moving the boat into its stowed position where the boat can be safely and properly secured.

(*8*) The operation of the hand-operated quick-return mechanism on a davit-launched liferaft launching appliance must be smooth, rapid, and easy enough for one person to recover the fall.

(B) If the lowering of a lifeboat or rescue boat is controlled from within the boat by a control wire wound on an auxiliary drum on the winch, the launching of the boat must be tested with the boat loaded as under paragraph (b)(3)(i)(A) of this section, but with an operator inside.

(*1*) The mass of the control wire must be sufficient to overcome the friction of the sheaves used on the control wire when the launching appliance is being operated by the on-deck controls.

(*2*) The control wire must properly operate the winch brake.

(*3*) The winch brake must not be affected by the mass of the fully extended control wire.

(*4*) There must be sufficient length of control wire available inside the boat to operate the winch brake during all stages of lowering.

(*5*) The free end of the control wire must be retained within the boat until the boat is released from the falls by the operator.

(C) The test procedure under paragraph (b)(3)(i)(A) of this section must be repeated with the lifeboat, rescue boat or liferaft loaded with weight equivalent to all of its equipment and full complement of persons, plus 10% of the total weight of the loaded boat or liferaft. In the case of a davit-launched liferaft, the automatic disengaging apparatus must be set to release. The on-deck launching controls must be used for this test, with the boat or liferaft being stopped after it has reached its maximum lowering speed, and then at approximately 6 foot intervals. In the case of a lifeboat or rescue boat, when the boat reaches a position just above the water, it must be released from the falls using the on-load release mechanism control.

(*1*) There must be no deformation of or damage to the launching appliance or its connections to the vessel.

(*2*) The lowering speed must meet §§ 199.153(i) and 199.153(k) of this chapter, and the falls must meet § 199.153(g) of this chapter.

(*3*) The launching appliance must bring the boat or raft to a stop within 39 inches by application of the brake by the winch counterweight alone.

(*4*) The brake action must be smooth and stop the lowering when applied.

(*5*) The brake must be continually applied unless the operator, or a mechanism activated by the operator, releases the brake control.

(*6*) The boat or raft must begin to lower without additional force each time the brake is released.

(*7*) The release mechanism control in a boat must open all hooks simultaneously and release the boat into the water.

(*8*) The automatic disengaging apparatus for a davit-launched liferaft must not release the liferaft or test weight until the liferaft or test weight is set on the surface of the water, a dock or other supporting surface.

(D) The release apparatus for a davit-launched liferaft must be tested to determine that it will release under a towing strain. The liferaft or test weight loaded as required under paragraph (b)(3)(i)(C) of this section must be suspended just above the surface and the release apparatus set to open automatically. A horizontal towing strain sufficient to pull the falls 5° from vertical must be applied to the liferaft or test weight and the liferaft lowered. The release apparatus must release the liferaft or test weight as it is set onto the supporting surface.

(E) If any winch brake surface is exposed to the weather, the test under paragraph (b)(3)(i)(C) of this section must be conducted with the brake surfaces dry and repeated with the brake surfaces wet. The brake must stop the winch when the brake surface is wet, but the stopping distance requirement does not apply.

(ii) Each free-fall launched lifeboat and launching system must be tested as follows with the vessel at its lightest seagoing draft:

(A) The lifeboat loaded with only its normal equipment or the deadweight equivalent of the equipment, must be launched into the water. After launching, the boat must be retrieved and examined.

(*1*) The free-fall release mechanism must operate properly and release the boat from the launching appliance.

(*2*) The launching system must operate smoothly, must launch the boat into the water at the intended angle, and must not show any evidence of improper operation.

(*3*) The lifeboat must not show any evidence of instability in the air or in the water.

(*4*) There must be no deformation of or damage to the lifeboat, the launching appliance or its connections to the vessel.

(B) The procedure under paragraph (b)(3)(ii)(A) of this section must be repeated with each seat in the lifeboat loaded with 165 lb. of deadweight properly secured in place to simulate the weight of one person.

(*1*) The inspections required under paragraphs (b)(3)(ii)(A)(*1*) through (b)(3)(ii)(A)(*4*) of this section must be performed.

(*2*) Each seat and its mounting arrangement is closely inspected by the marine inspector. There must be no deformation or damage to any seat or its mounting arrangements.

(*3*) If the marine inspector has reason to believe that the boat is not being launched in a safe and proper manner, the inspector may order the test under this paragraph (paragraph (b)(3)(ii)(B) of this section) to be repeated with the boat instrumented with acceleration monitoring equipment. The data must be

compared with the approval test data to determine whether or not the boat is being launched in a safe and proper manner.

(C) The procedure under paragraph (b)(3)(ii)(A) of this section must be repeated with at least one operator aboard the lifeboat. The rest of the seats in the lifeboat must be empty, loaded with deadweight, or with personnel to the satisfaction of the inspector. The launching of the lifeboat must be completely controlled by the personnel in the lifeboat.

(*1*) The inspections required under paragraphs (b)(3)(ii)(A)(*1*) through (b)(3)(ii)(A)(*4*) of this section must be performed.

(*2*) There must be no injury to any of the personnel in the lifeboat.

(iii) Each lifeboat and rescue boat must be operated in the water for at least 2 hours. During this time, the propulsion system must be operated both forward and astern. At least 1 hour of this running time must be with the propulsion system operating at full speed. Each boat system such as any powered bilge pump, water spray system, or air supply system must be operated.

(A) The boat and each of its systems must operate properly without overheating or being damaged.

(B) The boat must not have any evident leakage through the hull or around any through-hull fitting.

(iv) An abandon-ship simulation must be held to determine that all survival craft required for abandonment by the total number of persons permitted on board, can be launched with their full complement of persons and equipment within 10 minutes from the time the abandon-ship signal is given.

(A) This simulation must include loading and launching of sufficient survival craft to demonstrate that the requirement can be met.

(B) This test is not required if the Coast Guard has witnessed a successful test on a sister vessel with the same lifesaving appliance arrangements.

(v) One lifeboat and one rescue boat of each type on board must be launched with the vessel proceeding at a speed of approximately 5 knots. No particular loading of the boat is required. The boat must not give any indication that it is unstable or out of control during the launching procedure.

(vi) The installation of each lifeboat, rescue boat, liferaft and launching appliance is inspected to determine that it meets each condition of its approval, as listed on its Certificate of Approval (Form CGHQ 10030).

(vii) The quick release device for ring life buoys required for certain vessels under § 199.70(c) of this chapter, must be tested to demonstrate that the ring life buoy and its attachments drop clear of the side of the vessel when released. A self-activating smoke signal is not required for this test if a dummy device of comparable size and weight is used.

## Subpart D—Inspection for Certification

### § 126.410 Prerequisite to reissuance of Certificate of Inspection.

An inspection for certification is a prerequisite to the reissuance of a Certificate of Inspection.

### § 126.420 When made.

An inspection for certification is not made until after receipt of the written application of the owner, operator, or master of the vessel to the OCMI in whose zone the vessel is located. The application must be on Form CG.3752, "Application for Inspection of U.S. Vessel."

### § 126.430 Scope of inspection.

The inspection for certification is made by a marine inspector to determine whether the vessel is in satisfactory condition and fit for the service for which it is intended. Items normally included in these inspections are:

(a) Structure.
(b) Watertight integrity.
(c) Pressure vessels and their appurtenances.
(d) Piping.
(e) Main and auxiliary machinery.
(f) Steering apparatus.
(g) Lifeboat jacking systems.
(h) Electrical installations.
(i) Lifesaving equipment.
(j) Work vests.
(k) Fire detecting and extinguishing equipment.
(l) Pollution prevention equipment.
(m) Sanitary condition.
(n) Fire hazards.
(o) Verification of valid certificates issued by the Federal Communications Commission, if required.
(p) Lights and signals as required by the applicable navigation rules.

### § 126.440 Lifesaving equipment.

(a) At each inspection for certification, the following inspections and tests must be conducted in the presence of a marine inspector, or as otherwise directed by the OCMI:

(1) Each air tank provided for buoyancy on a lifeboat, liferaft, buoyant apparatus or life float, must be tested and demonstrated to be airtight.

(2) Each lifeboat and rescue boat gravity davit including each auxiliary davit system for a free-fall lifeboat, and each davit-launched liferaft launching device must be used to lower the boat or liferaft from its stowed position to a point near the water using the on-deck launching appliance controls. This test must be conducted twice; once with the boat or liferaft loaded with all equipment and additional weight of not more than one person, and a second time with the weight of a full load of persons and equipment. A davit-launched liferaft need not be used for this test, if an appropriate test weight is used. During the lowering, the brake must be applied and released at least five times.

(i) The launching appliance must bring the boat, liferaft, or test weight to a stop by application of the brake by the winch counterweight alone.

(ii) The brake action must be smooth and stop the lowering when applied.

(iii) The brake must be always applied unless the operator, or a mechanism activated by the operator, releases the brake.

(iv) Lowering must begin without additional force each time the brake is released.

(3) Each lifeboat and rescue boat on a davit must be lowered to a point just above the water and evenly loaded until the total weight of the boat equals the "B" weight on the boat data plate. If the boat is equipped with mechanical disengaging apparatus, the release mechanism control must be operated and must open all hooks simultaneously and release the boat into the water properly. There must be no evident damage or deformation of the boat, the launching appliance, or its connections to the vessel.

(4) Each free-fall launched lifeboat and launching system must be tested with the lifeboat loaded with only its normal equipment or the deadweight equivalent of the equipment. The lifeboat must be launched into the water. After launching, the boat must be retrieved and examined

(i) The free-fall release mechanism must operate properly and release the boat from the launching appliance.

(ii) The launching system must operate smoothly, must launch the boat into the water at the intended angle, and must not show any evidence of imporper operation.

(iii) The lifeboat must not show any eficence of instability in the air or in the water.

(iv) There must be no deformation of or damage to the lifeboat, the launching appliance or its connections to the vessel.

(5) The procedure under paragraph (a)(4) of this section must be repeated with each seat in the lifeboat loaded with 165 lb. of deadweight properly secured in place to simulate the weight of one person.

(i) The inspections required under paragraphs (a)(4)(i) through (a)(4)(iv) of this section must be performed.

(ii) Each seat and its mounting arrangements must be closely inspected. There must be no deformation or damage to any seat or its mounting arrangements.

(6) If the inspector has reason to believe that the free-fall boat is not being launched in a safe and proper manner, the inspector may order the test under paragraphs (a)(4) and (a)(5) of this section to be repeated with the boat instrumented with acceleration monitoring equipment. The data must be compared with the approval test data to determine whether or not the boat is being launched in a safe and proper manner.

(7) The procedure under paragraph (a)(4) of this section must be repeated with at least one operator aboard the lifeboat. The rest of the seats in the lifeboat must either be empty, loaded with deadweight, or with personnel to the satisfaction of the marine inspector. The launching of the lifeboat must be completely controlled by the personnel in the lifeboat.

(i) The inspections required under paragraphs (a)(4)(i) through (a)(4)(iv) of this section must be performed.

(ii) There must be no injury to any of the personnel in the lifeboat.

(8) Each davit-launched liferaft launching appliance must be loaded with a weight equal to the liferaft loaded with its full load of persons and equipment. The weight must be lowered to a point just above the water, dock or other surface that will support the weight. The automatic disengaging apparatus control must be set to release, and must open when the weight is lowered to and supported by the surface. There must be no evident damage or deformation of the release mechanism, launching appliance, or its connections to the vessel.

(9) Each lifejacket, immersion suit, and work vest must be examined to determine that it is in serviceable condition. Each lifejacket, immersion suit, and work vest not in serviceable condition must be either repaired, or destroyed and removed from the vessel. The marine inspector may mark the lifejackets and immersion suits to indicate that they have been inspected and passed.

(10) The control apparatus for each electrically controlled launching appliance winch must be opened, inspected, and determined to be in serviceable condition.

(11) Each inflatable liferaft and inflatable lifejacket must be inspected to determine that it has been serviced under § 97.90–80 of this chapter.

(12) Each hydrostatic release unit must be inspected to determine that it has been serviced under § 131.585 of this chapter.

(13) Each other item of lifesaving equipment on the vessel must be inspected to determine that it is in serviceable condition. Each item not in serviceable condition must be repaired or replaced. Each item of survival equipment with an expiration date on it must be replaced if the expiration date has passed.

(14) An abandon-ship drill must be held. The marine inspector specifies the nature of the emergency to be simulated.

**§ 126.450 Fire extinguishing equipment.**

At each inspection for certification the marine inspector determines whether the tests and inspections required by § 132.350 of this chapter have been performed.

**§ 126.460 Dry bulk cargo tanks.**

Dry bulk cargo tanks that are pressure vessels are inspected in accordance with § 61.10–5(b) of this chapter.

**§ 126.470 Marine engineering equipment.**

The inspection procedures for marine engineering systems contained in Subchapter F of this chapter must be followed.

## Subpart E—Reinspection

**§ 126.510 When made.**

(a) At least one reinspection must be made by a marine inspector on each vessel holding a Certificate of Inspection. This reinspection must be made between the tenth and fourteenth month of the period for which the Certificate is valid.

(b) The owner, operator, or master must contact the OCMI to arrange for this inspection but no written application is required.

**§ 126.520 Scope of reinspection.**

In general, the scope of the reinspection is of less detail than that described in § 126.430 of this part for the inspection for certification, unless it is determined a major change has occurred since the last inspection.

# PART 127—CONSTRUCTION AND ARRANGEMENTS

### Subpart A—Plan Approval

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Authority: 46 U.S.C. 3306, 5115; 49 CFR 1.46.

## Subpart A—Plan Approval

**§ 127.100 General.**

Plans listed in § 127.110 must be submitted for approval after an Application for Inspection is made in accordance with the provisions of § 126.320 of this chapter.

**§ 127.110 Plans and specifications required for new construction.**

Each applicant for an original Certificate of Inspection and approval of plans must submit three copies of the following plans:

(a) *General.* (1) Specifications.

(2) General Arrangement Plans.

(3) Safety Plan (Fire Control Plan).

(4) Lifesaving Equipment Plan.

(5) Operating Manual for Liftboats.

(b) *Hull structure.* (1) Midship Section.

(2) Booklet of Scantling Plans.

(3) Arrangement of Ports, Doors, and Airports.

(4) Hatch Coamings and Covers in Weather and Watertight Decks.

(5) Scuppers and Drains Penetrating Shell Plating.

(6) Booklet of Standard Details.

(7) Legs, Details of Supporting Structure, and Structural calculations.

(c) *Subdivision and stability.* For plans required for subdivision and stability, see Subchapter S of this chapter.

(d) *Marine engineering.* (1) Piping diagrams of all Class I systems.

(2) Piping diagrams of the following Class II systems (the builder's certification of Class II non-vital piping systems must accompany the piping diagrams in accordance with § 128.220(c) of this chapter:)

(i) Fuel oil service, transfer and fill systems.

(ii) Fire main. Carbon Dioxide, and Halon systems.

(iii) Bilge systems.

(iv) Ballast systems.

(v) Fluid power and control systems.

(vi) Through hull penetrations and shell connections.

(vii) Sanitary systems.

(viii) Vents, sounding tubes, and overflows.

(ix) Compressed air systems.

(3) Steering and steering control systems.

(4) Propulsion and propulsion control systems.

(5) Piping diagrams of all systems containing flammable or combustible liquids with a flash point of less than 200 degrees F. as determined by an acceptable test method under 49 CFR 173.115(d), and all other hazardous liquids including—

(i) Cargo oil systems;

(ii) Combustible drilling fluid systems (e.g. oil based liquid mud); and

(iii) Cargo transfer systems for fixed independent or portable tanks.

(e) *Electrical engineering.* (1) For each vessel less than 100 gross tons, the following plans must be submitted:

(i) Arrangement of electrical equipment (plan and profile) with equipment identification as necessary to show compliance with the regulations in this subchapter.

(ii) Electrical one line diagram that includes wire types and sizes, overcurrent device rating and setting, and electrical equipment enclosure type (dripproof, watertight, etc.)

(iii) Switchboard plans required by § 110.25–1 (e) and (f) of this chapter.

(2) For each vessel of 100 gross tons and over, the plans required by § 110.25 of this chapter must be submitted.

(f) *Automation.* On a vessel 100 gross tons and over, where automated systems are provided to replace specific personnel in the control and observation of the propulsion systems and machinery spaces, or to reduce the level of crew associated with the engine department, the following plans must be submitted:

(1) Plans necessary to demonstrate compliance with Part 130 Subpart D of this chapter.

(2) Automation test procedure.

(3) Operations manual.

### § 127.120 Procedure for submittal of plans.

(a) The plans, information, and calculations required by this part must be submitted to—

(1) The OCMI in the zone where the vessel is to be built or altered; or

(2) The Commanding Officer, Marine Safety Center, 2100 Second Street SW., Washington, DC, 20593–0100.

(b) If a vessel is to be constructed, altered, or repaired outside of the United States, the owner or operator must contact the Commandant (G–MVI), 2100 Second Street SW., Washington, DC 20593–0001 for a determination as to the office to which plans should be submitted.

## Subpart B—Construction and Arrangements

### § 127.210 Structural standards.

(a) Except as provided in paragraphs (c) and (e) of this section, compliance with the structural rules established by the American Bureau of Shipping are acceptable.

(b) Each liftboat must meet the requirements of ABS "Rules for Building and Classing Mobile Offshore Drilling Units" as follows:

(1) Legs and supporting structure must meet the requirements of § 3.11.

(2) When performing the calculations required by § 3.11, the vessel must be assumed to be in the most adverse loading conditions described in §§ 3.5 and 3.9.

(3) In considering column buckling in accordance with § 3.11, the effective length factor, K, used must not be less than 2.0.

(4) For single rack jacking systems when performing the calculations in accordance with §§ 3.5 and 3.9, the additional bending moment caused by eccentric loading of the legs must be included.

(c) Any classification society, or other established standard, acceptable to the Commandant (G–MTH) may be used.

(d) When submitting the plans required by § 127.110, the standard used in the design of the vessel should be specified.

(e) If no established design standard is used, detailed design calculations must be submitted with the plans required by § 127.110 of this section.

### § 127.220 General fire protection.

(a) Each vessel must be designed to minimize fire hazards, insofar as is reasonable and practicable.

(b) Internal combustion engine exhausts, galley uptakes, and similar sources of ignition must be kept clear of and insulated from any woodwork and other combustible matter.

(c) Paint lockers and similar compartments must be constructed of steel or must be wholly lined with metal.

(d) Except as provided in paragraph (e) of this section, when a compartment containing the emergency source of electric power, or vital components thereof, adjoins a space containing either the ship's service generators or machinery necessary for the operation of the ship's service generators, all common bulkheads and decks must be of "A–60" Class construction as defined by § 72.05–10 of this chapter.

(e) The "A–60" Class construction required by paragraph (d) of this section need not be installed if the emergency source of power is contained in a small ventilated battery locker that is—

(1) Located above the main deck;

(2) Located in the open; and

(3) Has no boundaries contiguous with other decks or bulkheads.

### § 127.230 Subdivision and stability.

Each vessel must meet the applicable requirements in Subchapter S of this chapter.

### § 127.240 Means of escape.

(a) There must be at least two means of escape from each of the following spaces:

(1) Each space that is accessible to offshore workers.

(2) Crew accommodations and each space where the crew may normally be employed.

(b) At least one of the two means of escape must—

(1) Be independent of watertight doors in bulkheads required by Part 174 of this chapter to be watertight; and

(2) Lead as directly to the open deck as practicable.

(c) The two means of escape required by paragraph (a) of this section must be as remote as practicable from each other so as to minimize the possibility of one incident blocking both escapes.

(d) Except as provided in paragraph (e) of this section, a vertical ladder and deck scuttle may not be designated as one of the means of escape required by paragraph (a) of this section.

(e) A vertical ladder and deck scuttle may be used as the second means of escape if—

(1) The primary means of escape is a stairway or passageway;

(2) The installation of an additional stairway or passageway is impracticable;

(3) The scuttle is located where stowed deck cargo could not interfere;

(4) The scuttle is fitted with a quick-acting release and a hold-back to hold the scuttle in the open position; and

(5) The scuttle meets the location, strength, and coaming height requirements of Subchapter E of this chapter.

(f) Each vertical ladder must—

(1) Have rungs that are—

(i) At least 16 inches (41 centimeters) in length;

(ii) Not more than 12 inches (30 centimeters) apart, uniform for the length of the ladder; and

(iii) At least 7 inches (18 centimeters) from the nearest permanent object in back of the ladder.

(2) Have at least 4½ inches (11.5 centimeters) clearance above each rung except when unavoidable obstructions are encountered; and

(3) Be made of incombustible materials.

(g) No means may be provided for locking doors giving access to either of the two required means of escape, except that crash doors or locking devices, capable of being easily forced in an emergency, may be employed, provided a permanent and conspicuous notice to this effect is attached to both sides of the door. This paragraph does not apply to an outside door to a deckhouse if the door is locked only by a key that is under the control of one of the vessel's officers, provided the door is always operable from the inside.

(h) Each stairway must be of sufficient width to provide an effective escape route for the number of persons having access to those stairs.

(i) Each interior stairway, other than within the machinery spaces or cargo holds, must have a minimum width of 28 inches and the angle of inclination of the stairway with the horizontal must not exceed 50 degrees.

(j) Dead end corridors, or the equivalent, more than 40 feet in length are not permitted.

(k) Vertical access must be provided between the various weather decks by means of permanently inclined ladders. The angle of inclination of these ladders with the horizontal must not exceed 70 degrees.

**§ 127.250 Ventilation for enclosed spaces.**

(a) All enclosed spaces within the vessel must be properly vented or ventilated. Means must be provided to close off all vents and ventilators.

(b) A means must be provided for stopping all fans in ventilation systems serving machinery and cargo spaces and for closing all doorways, ventilators and annular spaces around funnels and other openings to such spaces, from outside these spaces, in case of fire.

**§ 127.260 Ventilation for accommodations.**

(a) All accommodations must be adequately ventilated in a manner suitable for the purpose of the space.

(b) Each vessel 100 gross tons and over must be provided with a mechanical ventilation system unless it can be shown to the satisfaction of the OCMI that a natural system, such as through the opening of windows, ports, doors, etc., will provide adequate ventilation in all ordinary weather conditions.

**§ 127.270 Location of pilothouse and accommodations.**

(a) Crew and offshore worker quarters and the pilothouse must not be located forward of the collision bulkhead required by § 174.190 of this chapter.

(b) Except as provided in paragraph (c) of this section, no section of the deck of crew or offshore worker accommodations may be below the deepest load waterline.

(c) The deck of crew or offshore worker accommodations may be below the deepest load waterline if—

(1) The vessel complies with the damage stability requirements in § 174.205 of this chapter;

(2) Each vertical escape permitted by § 127.240 of this chapter is above the final equilibrium waterline when subject to the damage prescribed by § 174.205 of this chapter; and

(3) The overhead of the accommodations at the location of at least one vertical escape is at least 12 inches above the final equilibrium waterline when subject to the damage prescribed by § 174.205 of this chapter.

(d) A hawse pipe or chain pipe must not pass through crew or offshore worker accommodations.

(e) There must be no direct access, except through solid, close-fitted doors or hatches between crew or offshore worker accommodations, and chain lockers, cargo, or machinery spaces.

(f) There must be no access, vents, or sounding tubes from fuel or cargo oil tanks opening into crew or offshore worker quarters and accommodations, except that sounding tubes and access openings may be located in corridors.

(g) Crew quarters must be located separately and independently of quarters and accommodations accessible to offshore workers unless an alternative arrangement is approved by the OCMI.

**§ 127.280 Construction and arrangement of crew and offshore worker accommodations.**

(a) The following offshore worker accommodations must be provided on each vessel:

(1) Each offshore worker on board must be provided with adequate fixed seating. Seating meeting this requirement must not be intended for any other use. Seating in crew accommodations does not satisfy this requirement. Fixed seats must be installed such that sufficient spacing is provided to allow for ready escape in case of fire or other casualty. The following are minimum requirements:

(i) Aisles not over 15 feet in length must not be less than 24 inches wide.

(ii) Aisles over 15 feet in length must not be less than 30 inches wide.

(iii) Where the seats are in rows, the distance from seat front to seat front must not be less than 30 inches.

(2) If the intended operation of a vessel is to carry offshore workers on board for more than 12 hours, at least the equivalent of aircraft style reclining seats must be provided.

(3) If the intended operation of a vessel is to carry offshore workers on board for more than 24 hours, quarters must be provided. Each stateroom for use by offshore workers must—

(i) Not berth more than six persons;

(ii) Not have clear head room less than 6 feet 3 inches; and

(iii) Be of such size that there is at least 20 square feet of deck area and a volume of at least 140 cubic feet for each person accommodated. In measuring staterooms, any equipment contained therein for use by the occupants is not to be deducted from the total volume or from the deck area.

(4) Toilets and washbasins for use of offshore workers must be separate from those for use by the crew and must meet the requirements of paragraph (b)(3) of this section.

(b) The following requirements apply to crew accommodations on a vessel 100 gross tons and over:

(1) Quarters for the crew must be divided into staterooms, no one of which may berth more than four persons.

(2) Each stateroom must be of such size that there are at least 30 square feet of deck area and a volume of at least 210 cubic feet for each person accommodated. The clear headroom must not be less than 6 feet 3 inches. In measuring staterooms, any equipment contained therein for use by the occupants is not to be deducted from the total volume or from the deck area.

(3) There must be at least one toilet, one washbasin, and one shower or bathtub for each eight members or portion thereof in the crew who do not occupy a stateroom to which a private or a semiprivate facility is attached.

(c) Each crew member and offshore worker on a vessel of less than 100 gross

tons must be provided with accommodations of sufficient size, adequate construction, and with suitable equipment to provide for their protection and accommodation in a manner practicable for the size, facilities, and service of the vessel.

(d) The boundary bulkheads and decks separating crew and offshore worker accommodations from machinery spaces must be of "A" Class construction as defined in § 92.07-5 of this chapter.

(e) The OCMI determines and records on the vessel's Certificate of Inspection the number of offshore workers that may be carried after reviewing the arrangement drawings required by § 127.110 of this chapter.

(f) If during the life of the vessel it comes to the attention of the OCMI that the accommodations provided for crew or offshore workers are inadequate for the actual or intended operation of the vessel, and if in the judgment of the OCMI the safety of the vessel or personnel on board is endangered, the OCMI may reduce the number of offshore workers permitted or may impose additional requirements.

### Subpart C—Rails and Guards

#### § 127.310 Where rails required.

(a) Each vessel must have efficient guard rails or bulwarks on decks and bridges. The height of rails or bulwarks must be at least 39½ inches from the deck except that where this height would interfere with the normal operation of the vessel, a lesser height may be approved by the OCMI.

(b) At exposed peripheries of the freeboard and superstructure decks, the rails must consist of at least three courses, including the top. The opening below the lowest course must not be more than 9 inches. The courses must not be more than 15 inches apart. On other decks and bridges the rails must be in at least two courses, including the top, approximately evenly spaced.

(c) If it can be shown to the satisfaction of the OCMI that the installation of rails of the required height is impracticable, rails of a lesser height, or in some cases grab rails, may be accepted.

#### § 127.320 Storm rails.

Suitable storm rails must be installed in all passageways and at the deckhouse sides where persons on board have normal access. They must be installed on both sides of passageways over six feet in width.

#### § 127.330 Guards in dangerous places.

Suitable hand covers, guards, or rails must be installed in way of all exposed and dangerous places such as gears, machinery, etc.

### Subpart D—Window Construction and Visibility

#### § 127.410 Safety glazing materials.

Glass and other glazing material used in windows must be of material which will not break into dangerous fragments if fractured.

#### § 127.420 Strength.

Windows, port holes, and their means of attaching to the hull or deck house, must be capable of withstanding the maximum load from wave and wind conditions they are expected to encounter due to their location on the vessel and the authorized route of the vessel.

#### § 127.430 Pilothouse visibility.

(a) Windows and other openings at the pilothouse must be of sufficient size and properly located to provide adequate view for safe operation in all operating conditions.

(b) Glass or other glazing material used in windows at the pilothouse must have a light transmission of not less than 70 percent according to Test 2 of ANSI Z26.1, "Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways," and must comply with Test 15 of ANSI Z26.1 for Class I Optical Deviation.

## PART 128—MARINE ENGINEERING EQUIPMENT AND SYSTEMS

### Subpart A—General

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128.110 System and equipment design.
128.120 Plan approval.
128.130 Vital systems.

### Subpart B—Material and Pressure Design

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128.230 Hull and watertight bulkhead penetrations—materials and pressure design.
128.240 Hydraulic or pneumatic power and control systems—materials and pressure design.

### Subpart C—Main and Auxiliary Machinery

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128.440 Bilge systems.
128.450 Liquid mud systems.
Sec.
128.460 Liftboat jacking systems.

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

### Subpart A—General

#### § 128.110 System and equipment design.

(a) Except as provided in this part, the design, installation, inspection, and testing of machinery, pressure vessels and piping systems must comply with the requirements of Subchapter F of this chapter.

(b) This part includes requirements for equipment and systems commonly found on an offshore supply vessel. If additional or unique systems, *i.e.* low temperature cargoes, etc. are to be installed, they must meet the requirements of Subchapter F of this chapter.

#### § 128.120 Plan approval.

The plans required by Subchapter F of this chapter need not be submitted if the plans listed in § 127.110(d) of this chapter have been submitted.

#### § 128.130 Vital systems.

(a) For the purpose of this subchapter, the following are vital systems:

(1) Fuel oil service, transfer and fill systems.

(2) Fire main, carbon dioxide, and Halon systems.

(3) Bilge systems.

(4) Ballast systems.

(5) Steering and steering control systems.

(6) Propulsion system and its necessary auxiliaries and control systems.

(7) Liftboat jacking systems.

(8) Cargo transfer and control systems for portable tanks or fixed independent tanks in accordance with § 125.110 of this chapter.

(9) Ship's service and emergency electrical generation systems and their auxiliaries.

(10) A marine engineering system identified by the OCMI as being crucial to the survival of the vessel or to the protection of the personnel on board.

(b) For the purpose of this subchapter, a system not identified in paragraph (a) of this section is a non-vital system.

### Subpart B—Material and Pressure Design

#### § 128.210 Class II vital systems—materials.

Except as provided in §§ 128.230 and 128.240, of this chapter, in lieu of meeting the material requirements in Part 56 of this chapter, materials used in Class II vital piping systems may be accepted by the OCMI or Commanding Officer, Marine Safety Center if shown

to provide a level of safety equivalent to materials selected in accordance with § 56.60 of this chapter.

**§ 128.220 Class II non-vital systems—materials and pressure design.**

(a) Except as provided in §§ 128.230, 128.240, and 128.320 of this chapter, a Class II non-vital piping system need not comply with the material and pressure design requirements of Subchapter F of this chapter.

(b) Piping for salt water service must be of a corrosion resistant material, hot dip galvanized, or a minimum of extra heavy schedule in wall thickness.

(c) Each Class II non-vital system must be certified by the builder as suitable for its intended service. This written certification must be submitted with the plans required by § 127.110(d) of this chapter.

(d) The OCMI will review the particular installation of each system for the safety hazards identified in § 56.50–1 (a), (b)(1), and (c) through (k) of this chapter and prescribe additional requirements as appropriate.

**§ 128.230 Hull and watertight bulkhead penetrations—materials and pressure design.**

(a) Piping penetrations in bulkheads required by this subchapter to be watertight must meet the material and pressure design requirements of Subchapter F of this chapter.

(b) All overboard discharges and shell connections, up to and including required shut-off valves, must meet the material and pressure design requirements of Subchapter F of this chapter.

**§ 128.240 Hydraulic or pneumatic power and control systems—materials and pressure design.**

(a) Standard piping components (e.g. pipe runs, fittings, flanges, standard valves, etc.) for hydraulic or pneumatic power and control systems must meet the material and pressure design requirements of §§ 128.110, 128.210, or 128.220 of this chapter, as appropriate.

(b) Non-standard hydraulic or pneumatic components (e.g. control valves, check valves, relief valves, regulators, etc.) may be accepted if the component is certified by the manufacturer as suitable for marine service and if—

(1) The component meets all of the material and pressure design requirements of Subparts 56.60 and 58.30 of this chapter and its service is limited to the manufacturer's rated pressure; or

(2) The service of the component is limited to ½ the manufacturer's recommended maximum allowable working pressure or ⅒ the component's burst pressure. Burst pressure testing is described in ANSI Standard B31.1, Paragraph 104.7.A and must be conducted in accordance with Paragraph A–22, Section I, ASME Boiler and Pressure Vessel Code. Written certification of burst test results must be submitted with the plans required by § 127.110(d) of this chapter.

## Subpart C—Main and Auxiliary Machinery

**§ 128.310 Fuel.**

(a) Except as provided in paragraph (b) of this section, each internal combustion engine installed on a vessel, whether used for main propulsion or auxiliaries, must be driven by fuel having a flashpoint exceeding 110 degrees F. as determined by ASTM D93.

(b) The use of fuels with a flashpoint lower than 110 degrees F. must be specifically approved by the Commandant (G–MTH), with the exception of engines for gasoline powered rescue boats.

**§ 128.320 Exhaust systems.**

In a diesel engine exhaust system, the material requirements of § 58.10–5 (d)(1)(i) of this chapter need not be met if the installation is certified as required in § 128.220(c) of this chapter.

## Subpart D—Design Requirements Pertaining to Specific Systems

**§ 128.410 Ships service refrigeration systems.**

A self-contained unit for air conditioning or for refrigerated ship stores spaces need not meet the requirements in §§ 58.20–5, 10, 15, 20(a), and 20(b) of this chapter if—

(a) A fluorocarbon refrigerant allowed by Part 147 of this chapter is used;

(b) Certification is provided by the manufacturer that the unit is suitable for its intended purpose; and

(c) Electrical wiring meets the applicable requirements of Subchapter J of this chapter.

**§ 128.420 Keel cooler installations.**

(a) Except as provided in this section, keel cooler installations must meet the requirements of § 56.50–96 of this chapter.

(b) Approved metallic flexible connections may be located below the deepest load waterline if the system is a closed loop below the waterline and its vent is located above the waterline.

(c) Fillet welds may be used in the attachment of channels and half round pipe sections to the bottom of the vessel.

(d) Short lengths of approved non.metallic flexible hose may be used at machinery connections fixed by metallic hose clamps provided that—

(1) The clamps are of a corrosion resistant material;

(2) The clamps do not depend on spring tension for their holding power; and

(3) Two clamps are used on each end of the hose or one hose clamp is used and the pipe ends are expanded or beaded to provide a positive stop against hose slippage.

**§ 128.430 Grid cooler installations.**

(a) Hull penetrations for grid cooler installations must be made through a cofferdam or at a seachest and must be provided with isolation valves fitted as close to the sea inlet as possible.

(b) Grid coolers must be suitably protected against damage from debris and grounding by recessing the unit into the hull or by the placement of protective guards.

**§ 128.440 Bilge systems.**

If the steering room, engine room, centerline passageway, forward machinery space, and compartment containing the dry mud tanks are the only below deck spaces required to be fitted with bilge suctions, the vessel may be equipped to the standards of §§ 56.50–50 and 56.50–55 of this chapter applicable to a dry cargo vessel less than 180 feet in length.

**§ 128.450 Liquid mud systems.**

(a) Liquid mud piping systems may use resiliently seated valves of the Category A type under the requirements of §§ 56.20–15 and 56.50–60 of this chapter.

(b) Oil based liquid mud tanks must be fitted with tank vents equipped with flame screens. Vents must not discharge to the interior of the vessel.

**§ 128.460 Liftboat jacking systems.**

(a) The requirements of this section apply to each liftboat.

(b) Gears used for elevating a liftboat must comply with the American Gear Manufacturers Association Standard 218.01.

(c) Each jacking system must be designed and constructed so that any single component failure will not result in the vessel's uncontrolled descent.

# PART 129—ELECTRICAL INSTALLATIONS

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**Authority:** 46 U.S.C. 3306; 49 CFR 1.46

## Subpart A—General Provisions

### § 129.100 General.

This part contains requirements for the design, construction, and installation of electrical equipment and systems including power sources, lighting, motors, miscellaneous equipment, and safety systems.

### § 129.110 Applicability.

(a) Except as specifically provided in this part, electrical installations on vessels 100 gross tons and over must comply with the requirements of Subchapter J of this chapter.

(b) Electrical installations on vessels less than 100 gross tons must comply with—

(1) The applicable requirements of this part; or

(2) The requirements of paragraph (a) of this section for vessels 100 gross tons and over.

### § 129.120 Alternative standards.

(a) A vessel of not more than 65 feet in length may comply with the following requirements of the American Yacht and Boat Council Projects, where applicable, instead of complying with the requirements of § 129.340 of this chapter—

(1) E—1, Bonding of Direct Current Systems;

(2) E—8, AC Electrical Systems on Boats; and

(3) E—9, DC Electrical Systems on Boats.

(b) A vessel with an electrical installation operating at less than 50 volts may meet 33 CFR 183.430 instead of § 129.340 of this chapter.

## Subpart B—General Requirements

### § 129.200 General design, installation, and maintenance requirements.

Electrical equipment on a vessel must be installed and maintained to—

(a) Provide services necessary for safety under normal and emergency conditions;

(b) Protect crew, offshore workers, and the vessel from electrical hazards, including fire, caused by or originating in electrical equipment, and electrical shock;

(c) Minimize accidental personnel contact with energized parts; and

(d) Prevent electrical ignition of flammable vapors.

### § 129.210 Protection from wet and corrosive environments.

(a) Electrical equipment used in each of the following locations must be drip proof:

(1) A machinery space.

(2) A location normally exposed to splashing, water washdown, or other wet conditions within a galley, a laundry, or a public washroom or toilet room that has a bath or shower.

(3) Each space with a similar moisture level.

(b) Electrical equipment exposed to the weather must be watertight.

(c) Electrical equipment exposed to salt water must be corrosion-resistant.

### § 129.220 General safety provisions.

(a) Electrical equipment and installations must be suitable for the roll, pitch, and vibration of the vessel underway.

(b) All equipment, including switches, fuses, lampholders, etc., must be suitable for the voltage utilized.

(c) Receptacle outlets of the type providing a grounded pole or a specific direct current polarity must be of a configuration that does not permit improper connection.

(d) All electrical equipment and circuits must be clearly marked and identified.

(e) Any cabinet, panel, box, or other enclosure containing more than one source of power must be fitted with a sign warning persons of this condition and identifying the circuits to be disconnected.

## Subpart C—Power Sources and Distribution Systems

### § 129.310 Power sources.

(a) Each vessel that relies on electricity to power the following loads must have at least two sources of electricity:

(1) The vital systems listed in § 128.130 of this chapter.

(2) Interior lighting.

(3) Communication systems.

(4) Navigation equipment and lights.

(5) Fire protection equipment.

A vessel with batteries of adequate capacity and a generator or alternator, driven by a propulsion engine, complies with this requirement.

(b) Where a generator driven by a propulsion engine is utilized as a source of electrical power, a vessel speed change or throttle movement must not interrupt power to any ship's service load.

### § 129.315 Power sources for vessels 100 gross tons and over.

(a) The requirements of this section apply in lieu of Subpart 111.10 of this chapter.

(b) If a generator is used to provide electrical power for any vital system listed in § 128.130 of this chapter, at least two generating sets must be provided. At least one required generating set must be independent of the main propulsion machinery. A generator that is not independent of the main propulsion plant must meet the requirements of § 111.10-4(c) of this chapter. With any one generating set stopped, the remaining set(s) must provide the power necessary for the loads required by § 129.310 of this chapter.

### § 129.320 Generators and motors.

(a) Each generator and motor must be—

(1) In a location that is accessible, adequately ventilated, and as dry as practicable; and

(2) Mounted above the bilges to avoid damage by splash and to avoid contact with low lying vapors.

(b) Each generator and motor must be designed for an ambient temperature of 50 degrees C. (122 degrees F.) except that—

(1) If the ambient temperature in the space where a generator or motor is located does not exceed 40 degrees C.

(104 degrees F.) under normal operating conditions, the generator or motor may be designed for an ambient temperature of 40 degrees C.; and

(2) A generator or motor designed for 40 degrees C. may be used in a 50 degrees C. ambient location provided the generator or motor is derated to 80 percent of the full load rating, and the rating or setting of the overcurrent device of the generator or motor is reduced accordingly.

(c) A voltmeter and an ammeter, which can be used for measuring voltage and current of a generator that is in operation, must be provided for a generator rated at 50 volts or more. For each alternating current generator, a means for measuring frequency must also be provided. Additional control equipment and measuring instruments must be provided, if needed, to ensure satisfactory operation of each generator.

(d) Each generator must have a nameplate attached to it indicating—

(1) The manufacturer's name, generator type, and frame designation;

(2) Output in kilowatts or horsepower rating;

(3) Kind of rating (continuous, overload, etc.);

(4) Amperes at rated load, voltage, and frequency;

(5) Number of phases, if applicable;

(6) Type of windings (DC);

(7) When intended for connection in a normally grounded configuration, the grounding polarity; and

(8) For a generator derated in accordance with paragraph (b)(2) of this section, the derated capacity.

(e) Each motor must have a nameplate attached to it containing the information required by Article 430 of NFPA 70.

**§ 129.323 Multiple generators.**

When a vessel uses two or more generators to supply ship's service loads, as required by § 129.310(a) of this part, the following requirements must be met:

(a) Each generator must have an independent power source.

(b) The circuit breaker of a generator operated in parallel with another generator must meet the requirements of §§ 111.05–13, 111.12–11(f), and 111.30–19(a) of this chapter.

(c) The circuit breaker of a generator not arranged to be operated in parallel with other generators must be interlocked to prevent that generator from being simultaneously connected to the switchboard with other generators.

**§ 129.326 Dual-voltage generators.**

When a dual-voltage generator is installed on a vessel:

(a) The neutral of a dual-voltage system must be solidly grounded at the switchboard and be accessible for checking the insulation resistance of the generator to ground before the generator is connected to the bus; and

(b) Ground detection must be provided that—

(1) For an alternating current system, meets § 111.05–27 of this chapter; and

(2) For a direct current system, meets § 111.05–29 of this chapter.

**§ 129.330 Distribution panels and switchboards.**

(a) Each distribution panel and switchboard must be in as dry a location as practicable, accessible, adequately ventilated, and protected from falling debris and dripping or splashing water.

(b) Each distribution panel or switchboard must be totally enclosed and of the dead front type.

(c) Each switchboard must have non-conductive handrails.

(d) Each switchboard must be fitted with a dripshield, unless the switchboard is a deck to overhead mounted type which can not be subjected to falling objects or liquids from above.

(e) Distribution panels and switchboards which are accessible from the rear must be protected to prevent a person from accidentally contacting energized parts.

(f) Working space must be provided in front of each main distribution panel and switchboard and in the rear of each main distribution panel and switchboard that is accessible from the rear.

(g) Non-conducting mats or grating must be provided on the deck in front of each switchboard and, if accessible from the rear, on the deck in the rear of the switchboard.

(h) All uninsulated current carrying parts must be mounted on noncombustible, non-absorbent, high dielectric insulating material.

(i) Equipment mounted on a hinged door of an enclosure must be constructed or shielded so that a person will not accidentally contact live parts of the door mounted equipment when the door is open and the circuit energized.

(j) Switchboards and distribution panels must be adequately sized for the expected loads.

**§ 129.340 Cable and wiring.**

(a) Wire, when used in systems greater than 50 volts, must be in a conduit or other enclosure. Conduit used to protect wire must have drain holes to prevent the build up of condensation.

(b) All cable and wire must—

(1) Have stranded copper conductors with sufficient current carrying capacity for the circuit in which they are used;

(2) Be installed in a manner to avoid or reduce interference with radio reception and compass indication;

(3) Be protected from the weather;

(4) Be supported in such a manner as to avoid chafing or other damage;

(5) Not be installed with sharp bends;

(6) Be protected by metal coverings or other suitable means if in areas subject to mechanical abuse;

(7) Be suitable for low temperature and high humidity, if installed in refrigerated compartments;

(8) Not be located in a tank unless the cable or wire provides power to equipment in the tank; and

(9) Have sheathing or insulation compatible with the fluid in a tank when installed in compliance with paragraph (b)(8) of this section.

(c) Cable and wire in power and lighting circuits must be No. 14 AWG or larger. Cable and wire in control and indicator circuits must be No. 22 AWG or larger, or be a ribbon cable or similar smaller conductor size cable recommended for use in low power instrumentation, monitoring, or control circuits by the equipment manufacturer.

(d) Cable and wire for power and lighting circuits must—

(1) Meet section 310–13 of the NFPA 70 except that asbestos insulated cable and dry location cables cannot be used;

(2) Be listed by Underwriters Laboratories Inc. as UL Boat or UL Marine Shipboard cable; or

(3) Meet § 111.60 of this chapter.

(e) Cable or wire serving vital systems listed in § 128.130 of this chapter or emergency loads must be routed as far as practicable from high risk fire areas such as galleys, laundries, and machinery spaces.

(f) Each cable or wire connection or termination for cable must be made within an enclosure and—

(1) Have a pressure-type connector on each conductor;

(2) Have a solder lug on each conductor;

(3) Be made with a pressure-type connector to a flexible lead or conductor; or

(4) Be soldered, brazed, or welded to a flexible lead or cable.

(g) Cable or wire connectors utilized in conjunction with screw-type terminal blocks must be of the captive type such as the ring or the flanged spade type.

(h) A connector or lug of the set screw type must not be used with a stranded conductor smaller than No. 14 AWG except if there is a non-rotating follower that travels with the set screw and

makes pressure contact with the conductor.

(i) Each pressure-type wire connector and lug must meet UL 486A.

(j) Each terminal block must have 6–32 terminal screws or larger.

(k) A cable may be spliced in a non-hazardous location for the following purposes:

(1) To join subassemblies.

(2) For a vessel receiving alterations, to extend a circuit.

(3) If it is of a large size or exceptional length, to facilitate its installation.

(4) To replace a damaged section of the cable if, before replacing the damaged section, the insulation resistance of the remainder of the cable is measured, and it is determined that the condition of the insulation is unimpaired.

(l) All material in a cable splice must be chemically compatible with all other material in the splice and with the materials in the cable.

(m) Ampacities for conductors must meet section 310–15 of NFPA 70, or IEEE Standard 45, as appropriate.

(n) Cable or wire must be sized so that the voltage drop at the load terminals does not exceed 10 percent.

(o) Each armored cable metallic covering must—

(1) Be electrically continuous; and

(2) Be grounded at each end of the run to—

(i) The metallic hull; or

(ii) The common ground plate on a nonmetallic vessel; and

(3) Have final sub-circuits grounded at the supply end only.

(p) A portable cable or wire must be constructed and installed in accordance with the requirements of § 111.60–13 of this chapter.

**§ 129.350 Batteries.**

(a) Where provisions are made for charging batteries, there must be natural or induced ventilation to dissipate the gases generated.

(b) Each battery must be located as high above the bilge as practicable and be secured to protect against shifting with the roll and pitch of the vessel.

(c) Batteries must have free space above them for accessibility and removal.

(d) Connections must be made to battery terminals with permanent type connectors. Spring clips or other temporary type clamps are prohibited.

(e) Batteries must be mounted in trays lined with, or constructed of, lead or other material which is resistant to damage by the electrolyte.

(f) Battery chargers must have an ammeter connected in the charging circuit.

(g) If the batteries are not adjacent to a distribution panel or switchboard which distributes power to the lighting, motor, and appliance circuits, the battery lead must be fused at the battery.

(h) A battery must not be located in the same compartment with a gasoline tank or gasoline engine.

(i) Each battery must be stowed in a room used only for batteries, in a box on deck, or in a box or locker in another space which is well ventilated and protected from falling objects.

**§ 129.360 Semiconductor rectifier systems.**

(a) Each semiconductor rectifier system must have an adequate heat removal system that prevents overheating.

(b) Where a semiconductor rectifier system is used in a propulsion system or in other vital systems it must—

(1) Have a current limiting circuit;

(2) Have external overcurrent protection; and

(3) Meet section 35.84.4 of the American Bureau of Shipping's "Rules for Building and Classing Steel Vessels."

**§ 129.370 Equipment grounding.**

(a) All metallic enclosures and frames of electrical equipment must be permanently grounded to the hull on a metallic vessel. On a nonmetallic vessel the enclosures and frames of electrical equipment must be bonded together to a common ground by a normally non-current carrying conductor.

(b) Metallic cases of instruments and secondary windings of instrument transformers must be grounded.

(c) Equipment grounding conductors must be sized in accordance with section 250–95 of the NFPA 70.

(d) Each nonmetallic mast and top mast must have a lightning ground conductor.

**§ 129.375 System grounding.**

(a) If a grounded distribution system is provided, there must be only one connection to ground, regardless of the number of power sources. This ground connection must be at the main switchboard.

(b) On a metallic vessel, a grounded distribution system must be grounded to the hull. On a nonmetallic vessel the neutral of a grounded system must be connected to a common ground plate.

(c) On a nonmetallic vessel with a grounded distribution system, the common ground plate must have—

(1) Only one connection to the main switchboard; and

(2) The connection to the common ground plate readily accessible.

(d) On a nonmetallic vessel where a ground plate is provided for radio equipment, it must be connected to the common ground plate.

(e) Each insulated grounding conductor of a cable must be identified by—

(1) A green braid or green insulation;

(2) Stripping the insulation from the entire exposed length of the grounding conductor; or

(3) Marking the exposed insulation of the grounding conductor with green tape or green adhesive labels.

(f) A vessel's hull must not carry current as a conductor except for—

(1) An impressed current cathodic protection system; or

(2) A battery system for engine starting.

(g) Cable armor must not be used to ground electrical equipment or systems.

(h) Each receptacle outlet and attachment plug for a portable lamp, tool, and similar apparatus operating at 100 volts or more, must have a grounding pole and a grounding conductor in the portable cord.

**§ 129.380 Overcurrent protection.**

(a) Overcurrent protection must be provided for each ungrounded conductor for the purpose of opening the electric circuit if the current reaches a value that causes an excessive or dangerous temperature in the conductor or conductor insulation.

(b) Each conductor of a control, interlock, or indicator circuit, such as a conductor for an instrument, pilot light, ground detector light, or potential transformer, must be protected by an overcurrent device.

(c) Each generator must be protected by an overcurrent device set at a value not exceeding 115 percent of the generator full-load rating.

(d) Each circuit other than a circuit for a steering gear feeder must be protected against both overload and short circuit.

(e) Each steering gear feeder circuit must be protected by a circuit breaker that meets the requirements of § 111.93–11 (d) and (e) of this chapter.

(f) Each lighting branch circuit must be protected against overcurrent either by fuses or circuit breakers rated at not more than 30 amperes.

(g) Each conductor must be protected in accordance with its current carrying capacity. If the allowable current carrying capacity does not correspond to a standard device size, the next larger overcurrent device may be used provided it does not exceed 150% of the conductor current carrying capacity.

(h) An overcurrent device must be installed to protect each motor

conductor and control apparatus against overcurrent due to short circuit or ground fault. Each overcurrent device must be capable of carrying the starting current of the motor.

(i) An emergency switch must be provided in the normally ungrounded main supply conductor from a battery. The switch must be located as close to the battery as practicable.

(j) The grounded conductor of a circuit must not be disconnected by a switch or circuit breaker, unless the ungrounded conductors are simultaneously disconnected.

(k) A disconnect means must be provided on the supply side of and adjacent to all fuses for the purpose of de-energizing the fuses for inspection and maintenance purposes.

(l) If the disconnect means for a fused circuit is not within sight of the equipment that the circuit supplies, means must be provided for locking the disconnect device in the open position.

(m) Each fuse must be of the cartridge type and be listed by Underwriters Laboratories or another independent laboratory.

(n) Each circuit breaker must meet UL 489 and be of the manually reset type designed for:

(1) Inverse time delay;

(2) Instantaneous short circuit protection; and

(3) Switching duty if the breaker is used as a switch.

(o) Each circuit breaker must indicate whether it is in the open or closed position.

**§ 129.390 Shore power.**

A vessel with an electrical system operating at more than 50 volts, which has provision for shore power, must meet the requirements of this section.

(a) A shore power connection box or receptacle must be permanently installed at a convenient location.

(b) A cable connecting the shore power connection box or receptacle to the switchboard or main distribution panel must be permanently installed.

(c) A circuit breaker must be provided at the switchboard or main distribution panel for the shore power connection.

(d) The circuit breaker, required by paragraph (c) of this section, must be interlocked with the vessel's power sources so that shore power and the vessel's power sources may not be operated simultaneously.

**§ 129.395 Radio installations.**

A separate circuit, with overcurrent protection at the switchboard must be provided for each radio installation.

## Subpart D—Lighting Systems

**§ 129.410 Lighting fixtures.**

(a) Each lighting fixture globe, lens, or diffuser must have a high strength guard or be made of high strength material, except in accommodations, the pilothouse, a galley, or similar location where the fixture is not subject to damage.

(b) A lighting fixture may not be used as a connection box for a circuit other than the branch circuit supplying the fixture.

(c) A lighting fixture must be installed as follows:

(1) Each lighting fixture and lampholder must be fixed. A fixture must not be supported by the screw shell of a lampholder.

(2) Each pendant type lighting fixture must be suspended by and supplied through a threaded, rigid conduit stem.

(3) Each tablelamp, desklamp, floorlamp, or similar equipment must be secured in place so that it cannot be displaced by the roll or pitch of the vessel.

(d) A lighting fixture in an electrical system operating at more than 50 volts must comply with the requirements of UL 595.

**§ 129.420 Lighting branch circuits on vessels 100 gross tons and over.**

On a vessel 100 gross tons and over, each lighting branch circuit must meet the requirements of § 111.75–5 of this chapter, except that—

(a) Appliance loads, electric heater loads, and isolated small motor loads may be connected to a lighting distribution panelboard; and

(b) Branch circuits in excess of 30 amperes may be supplied from a lighting distribution panelboard.

**§ 129.430 Navigation lights.**

(a) A vessel less than 100 gross tons and less than 65 feet in length must have navigation lights that are in compliance with the applicable navigation rules.

(b) A vessel 100 gross tons and over or 65 feet in length or more must have navigation lights that are in compliance with the applicable navigation rules and § 111.75-17(d) of this chapter.

**§ 129.440 Emergency lights.**

(a) A vessel less than 100 gross tons must have adequate emergency lighting fitted along the line of escape to the main deck from accommodations located below the main deck.

(b) The emergency lighting required by paragraph (a) of this section must automatically actuate upon failure of the main lighting system. If a vessel is not equipped with a single source of power for emergency lighting, it must have individual battery powered lights which are—

(1) Automatically actuated upon loss of normal power;

(2) Not readily portable;

(3) Connected to an automatic battery charger; and

(4) Of sufficient capacity for 6 hours of continuous operation.

**§ 129.450 Portable lights.**

Each vessel must be equipped with at least two portable, battery powered lights. One of these lights must be located in the pilothouse and the other at the access to the engine room.

## Subpart E—Miscellaneous Electrical Systems

**§ 129.510 Lifeboat winches.**

Each electric power operated lifeboat winch must meet §§ 111.95 and 160.015 of this chapter.

**§ 129.520 Hazardous areas.**

(a) Each vessel that carries flammable or combustible liquid with a flashpoint below 60 degrees C. (140 degrees F.) or hazardous cargoes on deck or in integral tanks, or is involved in well servicing, must not have electrical equipment installed in pumprooms, hose storage spaces, or within 10 feet of a source of vapor on a weather deck unless the equipment is explosion-proof or intrinsically safe in accordance with § 111.105–9 or § 111.105–11 of this chapter.

(b) Electrical equipment must not be installed in lockers that are used to store paint, oil, turpentine, or other flammable liquids unless the equipment is explosion-proof or intrinsically safe in accordance with § 111.105–9 or § 111.105–11 of this chapter.

(c) Explosion-proof equipment and intrinsically safe systems must meet the requirements of § 111.105 of this chapter.

**§ 129.530 General alarm system.**

On a vessel 100 gross tons and over, a general alarm which meets the requirements of Subpart 113.25 of this chapter must be fitted.

**§ 129.540 Remote stop stations on vessels 100 gross tons and over.**

(a) On a vessel 100 gross tons and over remote stopping systems meeting the requirements of paragraph (b) of this section may be substituted for remote stopping systems required to meet Subpart 111.103 of the chapter.

(b) The following remote stopping stations must be installed:

(1) For each propulsion unit, in the pilothouse.

(2) For each bilge slop or dirty oil discharge pump, at the deck discharge.

(3) For each power ventilation system, outside the space ventilated.

(4) For each fuel oil pump, outside the space containing the pump.

(5) For each combustible and flammable liquid cargo transfer pump, at the transfer control station.

(c) Remote stops required by paragraph (b) of this section may be combined.

**§ 129.550 Cooking and heating equipment.**

(a) Cooking and heating equipment must be suitable for marine use. Equipment designed and installed in accordance with ABYC Standards A-3 and A-7 or Chapter 6 of NFPA 302 complies with this requirement.

(b) The use of gasoline for cooking, heating, or lighting is prohibited.

(c) The use of liquified petroleum gas for cooking, heating, or other purposes must be in accordance with the requirements of § 58.16 of this chapter.

(d) Each electrical space heater must be provided with a thermal cut-out to prevent overheating.

(e) Each heater element of an electric space heater must be of an enclosed type, and the element case or jacket must be made of a corrosion resistant material.

(f) Electrical connections for a cooking appliance must be drip proof.

**§ 129.560 Engine order telegraph systems on vessels 100 gross tons and over.**

An engine order telegraph system is not required on a vessel 100 gross tons and over.

## PART 130—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

**Subpart A—Vessel Control**

130.110 Internal communications for vessels less than 100 gross tons.
130.120 Propulsion machinery controls.
130.130 Steering systems on vessels less than 100 gross tons.
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**Subpart B—Miscellaneous Systems and Equipment**

130.210 Liftboat jacking systems.
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130.460 Location of machinery alarms.
130.470 Fire alarms.
130.480 Test procedure and operations manual.

Authority: 46 U.S.C. 3306, 8105; 49 CFR 1.46.

### Subpart A—Vessel Control

**§ 130.110 Internal communications for vessels less than 100 gross tons.**

Each vessel less than 100 gross tons equipped with an independent auxiliary means of steering, as required by § 130.130(b) of this chapter, must have a fixed means of communication between the pilothouse and the location where the auxiliary means of steering is controlled.

**§ 130.120 Propulsion machinery controls.**

(a) Each vessel must have—

(1) A pilothouse propulsion control system; and

(2) A means at each propulsion engine of readily disabling the pilothouse propulsion control system to permit local operation.

(b) A pilothouse propulsion control system must include controls to—

(1) Control the speed of propulsion machinery;

(2) Control the direction of propeller shaft rotation;

(3) Control propeller pitch, if a controllable pitch propeller is used; and

(4) Shut down main propulsion machinery.

(c) The propulsion control system must be independent of the remote stopping system required by § 129.540 of this chapter.

(d) A propulsion engine control system, including pilothouse control, must be designed so that any one failure of the propulsion control system does not result in an increase in shaft speed or propeller pitch.

**§ 130.130 Steering systems on vessels less than 100 gross tons.**

(a) Each vessel of less than 100 gross tons must have a steering system that meets—

(1) The requirements of § 130.140 of this chapter; or

(2) The requirements of this section.

(b) Except as provided in paragraph (i) of this section, a main and independent auxiliary means of steering must be provided for each vessel.

(c) The main steering gear must be—

(1) Of adequate strength and capable of steering the vessel at all service speeds;

(2) Designed to operate at maximum astern speed without being damaged; and

(3) Capable of moving the rudder from 35 degrees on one side to 30 degrees on the other side in no more than 28 seconds with the vessel moving ahead at maximum service speed.

(d) Control of the main steering gear must be provided from the pilothouse, including control of any necessary ancillary device (motor, pump, valve, etc.). If a power driven main steering gear is used, a pilot light must be provided in the pilothouse to indicate operation of the power units.

(e) The auxiliary steering gear must be—

(1) Of adequate strength;

(2) Capable of steering the vessel at navigable speed; and

(3) Controlled from a location that—

(i) Has communications with the pilothouse; or

(ii) Enables the master to safely maneuver the vessel.

(f) The steering gear must be designed so that transfer from the main steering gear or control to the auxiliary steering gear or control can be achieved rapidly. Any tools or equipment necessary to make the transfer must be readily available. Instructions for transfer procedures must be posted.

(g) Instantaneous short circuit protection for electrical power and control circuits, sized and located in accordance with § 111.93-11 (d) and (e) of this chapter, must be provided.

(h) A rudder angle indicator independent of the steering control system must be provided at the pilothouse steering control station.

(i) An auxiliary steering gear need not be installed if—

(1) The main steering gear and its controls are provided in duplicate; or

(2) Multiple screw propulsion with independent pilothouse propulsion control for each screw and a means to restrain and center the rudder is provided, and the vessel is capable of being steered using the pilothouse propulsion controls.

(j) Each vessel that has duplicate main steering gear power systems in order to comply with paragraph (i)(1) of this section, may use one of the power systems for other purposes if—

(1) Controls for the attached system are located at the pilothouse steering control station;

(2) Full power is available to the steering system when the attached system is not in operation;

(3) The attached system can be isolated from the steering system, and instructions for isolation are posted as to procedure; and

(4) The attached system is materially equivalent to the steering system.

**§ 130.140 Steering systems on vessels 100 gross tons and over.**

(a) Each vessel 100 gross tons and over must have a steering system that meets—

(1) The applicable requirements of Subchapters F and J of this chapter; or

(2) The requirements for a hydraulic helm unit steering system in paragraph (b) of this section.

(b) Each hydraulic helm unit steering system must have the following:

(1) A steering gear of adequate strength and capability to steer the vessel at all service speeds and not be damaged at maximum astern speed.

(2) A hydraulic system of not more than 1800 psi maximum allowable working pressure (MAWP), dedicated to steering service.

(3) Piping materials that comply with the requirements of Subchapter F of this chapter and piping of at least schedule 80 thickness.

(4) All fore and aft runs of piping located as far inboard as practicable.

(5) Rudder stops.

(6) Two steering pumps and drive motors with separate feeders. Each pump must be capable of moving the rudder from 35 degrees on one side to 30 degrees on the other side in not more than 28 seconds with the vessel moving ahead at maximum service speed. A single hydraulic sump is acceptable if it is of the "cascading overflow" type with a centerline bulkhead open only at the top, and if each half has sufficient capacity to operate the system.

(7) Control of the main steering gear from the pilothouse including—

(i) Helm control;

(ii) Control of any necessary ancillary device (motor, pump, valve, etc.); and

(iii) Provisions for adequate visibility and control when going astern.

(8) Multiple screw propulsion with independent pilothouse propulsion control that is capable of steering the vessel.

(9) Dual hydraulic cylinders arranged so that either cylinder can be readily isolated, permitting the other cylinder to remain in service and move all rudders.

(10) The steering alarms and indicators required by § 111.93–13 of this chapter located in the pilothouse.

(11) Instantaneous short circuit protection for electrical power and control circuits sized and located as required by § 111.93–11 (d) and (e) of this chapter.

(12) A rudder angle indicator at the pilothouse steering control station that is independent of the steering control system.

(13) Means to locally start and stop the steering pumps.

(14) Means to isolate any supplementary controls or control stations so as to not impair the reliability and availability of the pilothouse controls required by paragraph (b)(7) of this section.

(15) Manual capability to center and steady the rudder, using the hydraulic helm unit, in the event the vessel loses normal steering power.

(c) In complying with the requirements of paragraph (b) of this section, one set of piping between pumps, helm, and cylinders is acceptable.

## Subpart B—Miscellaneous Systems and Equipment

**§ 130.210 Liftboat jacking systems.**

Each control system for a liftboat jacking system must be so designed that loss of power or failure of any one component will sound a visual and audible alarm and will not result in the vessel's uncontrolled descent.

**§ 130.220 Radiotelegraph and radiotelephone.**

Each vessel must comply with the requirements in 47 CFR Part 80 as applicable.

**§ 130.230 Cooking and heating equipment.**

(a) Doors on cooking appliances must be provided with heavy duty hinges and locking devices to prevent accidental opening in heavy seas.

(b) A cooking appliance must be installed so as to prevent its movement in heavy seas.

(c) For a grill or similar type of cooking appliance, means must be provided to collect grease or fat and to prevent its spillage on wiring or on the deck.

(d) Grab rails must be installed on a cooking appliance when determined by the OCMI to be necessary for safety.

(e) Sea rails, with suitable barriers to prevent accidental movement of cooking pots, must be installed on a cooking range.

(f) Each heater must be so constructed and installed as to prevent the hanging from it of items such as towels and clothing.

**§ 130.240 Protection from refrigerants.**

(a) A gas mask, suitable for protection against each refrigerant used, or a self-contained breathing apparatus must be provided for a refrigeration system exceeding 20 cubic feet of storage capacity using ammonia or other hazardous gas, other than a fluorocarbon, as a refrigerant.

(b) Each refrigeration gas mask must be stowed convenient to but outside of the space containing the refrigeration equipment.

(c) A complete recharge must be carried for each gas mask and self-contained breathing apparatus. The spare charge must be stowed in the same location as the equipment it is to reactivate.

(d) Each self-contained breathing apparatus and gas mask must be of a type approved under Subpart 160.011 of this chapter.

(e) The self-contained breathing apparatus in the fireman's outfit, if the vessel is so equipped, satisfies this requirement.

**§ 130.250 Anchors and chains.**

(a) Each vessel must be fitted with anchors and chains meeting the applicable standards set by the American Bureau of Shipping for Classed Vessels, including equipment, except as permitted by paragraph (b) and (c) of this section.

(b) In addition to the provisions of paragraph (a) of this section, the following requirements and alternatives 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 of the Commandant.

## Subpart C—Navigation Equipment

**§ 130.310 Radar.**

Each vessel 100 gross tons and over must be fitted with a general marine radar in the pilothouse.

**§ 130.320 Electronic position fixing device.**

Each vessel must be equipped with an electronic position fixing device

satisfactory for the area in which the vessel operates.

**§ 130.330 Charts and nautical publications.**

(a) As appropriate for the intended voyage, each vessel must carry adequate and up-to-date—

(1) Charts of large enough scale to make safe navigation possible;

(2) U.S. Coast Pilot or similar publication;

(3) Coast Guard Light List;

(4) Tide Tables published by the National Ocean Service;

(5) Local Notice to Mariners; and

(6) Current Tables published by the National Ocean Service, or a river current publication issued by the U.S. Army Corps of Engineers or a river authority.

(b) Extracts from the publications listed in paragraph (a) of this section for areas to be transited may be provided instead of the complete publication.

**§ 130.340 Compass.**

Each vessel must be fitted with a compass suitable for the intended service of the vessel. Except for a vessel limited to daytime operation, the compass must be illuminated.

## Subpart D—Automation of Unattended Machinery Spaces

**§ 130.400 Applicability.**

This subpart applies to each vessel 100 gross tons and over where automated systems are provided to replace specific personnel in the control and observation of the propulsion system and machinery spaces or to reduce the level of crew associated with the vessel engine department.

**§ 130.410 General provisions**

(a) Arrangements must be such that under all operating conditions, including maneuvering, the safety of the vessel is equivalent to that of the same vessel with the machinery spaces under fully attended direct manual supervision.

(b) Coast Guard acceptance of automated systems to replace specific personnel or to reduce overall crew requirements is predicated upon—

(1) The capabilities of the automated system;

(2) The combination of personnel, equipment, and systems necessary to ensure the safety of the vessel, personnel, and environment in all operating conditions, including maneuvering; and

(3) The ability of the crew to perform all operational evolutions, including emergencies such as fire or control or monitoring system failure.

(c) Equipment provided to replace specific personnel or to reduce overall crew requirements that proves unsafe or unreliable in the judgement of the OCMI, must be immediately replaced or repaired or vessel crew requirements will be modified to compensate for the equipment inadequacy.

**§ 130.420 Controls.**

Each piece of automatically controlled machinery must have an alternate means of control. The alternate means of control must be manual.

**§ 130.430 Pilothouse control.**

Controls must be provided at the pilothouse control station to start a fire pump, pressurize the fire main, and monitor the fire main system pressure.

**§ 130.440 Communications system.**

(a) A communications system must be provided to immediately summon an engineer, or a crew member if no engineer is required to the machinery space in the event of any condition in which an alarm is required by § 130.460 of this chapter.

(b) The communications system must be either—

(1) An alarm system that—

(i) Is dedicated for this purpose;

(ii) Sounds in the crew accommodations and normally manned spaces; and

(iii) Is operable from the pilothouse; or

(2) A voice communication system operated from the pilothouse that contacts the master's stateroom, engineer's stateroom, engine room, and crew accommodations that—

(i) Is a sound powered telephone; or

(ii) Has its power supply from the emergency switchboard or from an independent battery that is continuously charged by its own battery charger.

**§ 130.450 Machinery alarms.**

(a) Each alarm required by § 130.460 of this chapter must be of the self monitoring type that will alarm both visually and audibly upon an open or break in the sensing circuit.

(b) The visual alarm must continue until manually acknowledged and the condition corrected.

(c) Means must be provided to manually silence each audible alarm.

(d) A silenced alarm must not prevent other audible alarms from sounding.

(e) Provisions must be made for testing all audible and visual alarms.

(f) A battery power supply must be provided for the alarm required in § 130.460(a)(8) of this chapter.

**§ 130.460 Location of machinery alarms.**

(a) Audible and visual alarms must be provided at the pilothouse control station to indicate the following:

(1) Loss of propulsion control power.

(2) Loss of steering motor or steering control power.

(3) Engine room fire.

(4) High bilge level.

(5) Low lube oil pressure, for each main propulsion engine and each generator prime mover.

(6) For each main propulsion engine and each generator prime mover, an alarm to indicate the following:

(i) High lube oil temperature.

(ii) High jacket water temperature.

(7) For each reduction gear and each turbocharger with a pressurized oil system, an alarm to indicate low lube oil pressure and high lube oil temperature.

(8) Loss of normal power supply for the alarms listed in this paragraph (paragraph (a)).

(b) Bilge sensors for the high bilge level alarm required in paragraph (a) of this section, must be provided in—

(1) Each space below the deepest load waterline that contains pumps, motors or electrical equipment; and

(2) The compartment that contains the rudder post.

(c) Centralized displays or alarms must be provided in the machinery spaces to allow rapid evaluation of the problem detected by the alarms required in paragraph (a) of this section. Equipment mounted gages or meters are acceptable for this purpose, provided they are grouped in a central location.

**§ 130.470 Fire alarms.**

(a) Each fire detector and control unit must be of a type specifically approved by the Commandant.

(b) The engine room fire alarm circuit must not contain detectors for other spaces.

(c) The number and location of fire detectors must be approved by the OCMI.

**§ 130.480 Test procedure and operations manual.**

(a) A procedure for tests and inspections of automation equipment to be conducted by the operator and the Coast Guard must be submitted in accordance with § 127.110 of this chapter.

(b) The test procedure must be in a sequential checkoff format, include the required alarms, controls, and communications, and provide details of the tests.

(c) Test details must specify equipment status, functions necessary to complete the test, and the expected test results.

(d) The tests must not simulate conditions by misadjustments, artificial signals, or improper wiring.

(e) A detailed operations manual that describes the operation and indicates the location of each system installed to meet the requirements of this part must be submitted in accordance with § 127.110 of this chapter.

## PART 131—OPERATIONS

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**Authority:** 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101, 8105, 10104; E.O. 12234; 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

## Subpart A—Notice of Casualty and Voyage Records

### § 131.110 Notice of casualty.

The requirements for providing notice and reporting of marine casualties and for retaining voyage records are contained in Part 4 of this chapter.

## Subpart B—Reports of Accidents, Repairs, and Unsafe Equipment

### § 131.210 Repairs to unfired pressure vessels.

Before making any repairs to unfired pressure vessels, the master or chief engineer must submit a report covering the nature of the repairs to the OCMI at or nearest to the port where the repairs are to be made.

### § 131.220 Accidents to machinery.

In the event of an accident to an unfired pressure vessel or to machinery tending to render the further use of the item unsafe until repairs are made, or if by ordinary wear these items become unsafe, the master or chief engineer must report this as soon as practicable to the OCMI, or, if at sea, upon arrival at port.

### § 131.230 Notice required before repair.

Except in an emergency, no repairs or alterations may be made to any lifesaving or fire detecting or extinguishing equipment without advance notice to the OCMI. When emergency repairs or alterations have been made, notice must be given to the OCMI, as soon as practicable.

## Subpart C—Preparations for Emergencies

### § 131.310 Crew and offshore worker list.

(a) The master of a vessel must keep a correct list of the names of all persons which embark and disembark from the vessel.

(b) The list required by paragraph (a) of this section must be prepared prior to departing on a voyage and deposited—

(1) At the facility from which the offshore worker embarked; or

(2) Ashore—

(i) In a well marked location at the vessel's normal berthing location; or

(ii) With a representative of the owner or managing operator of the vessel.

### § 131.320 Offshore worker safety orientation.

(a) Before getting underway on a voyage, the master of a vessel shall ensure that suitable public announcements are made informing all offshore workers of—

(1) General explanation of emergency and evacuation procedures;

(2) Location of emergency exits and survival craft embarkation areas;

(3) Stowage location of lifejackets and immersion suits;

(4) Proper method of donning and adjusting lifejackets and immersion suits of the type(s) carried on the vessel including a demonstration of the proper donning of a lifejacket and immersion suit prior to beginning a voyage;

(5) Location of the instruction placards for lifejackets and other lifesaving devices;

(6) Explanation that all offshore workers will be required to don lifejackets and immersion suits when

possible hazardous conditions exist, as directed by the master, but that offshore workers may don lifejackets whenever they feel it necessary;

(7) Possible hazardous conditions that may require the donning of lifejackets and immersion suits;

(8) The type and location of all other lifesaving devices carried on the vessel;

(9) The location and contents of the "Emergency Instructions" required by § 131.330 of this chapter; and

(10) Survival craft to which assigned.

(b) The master of a vessel shall ensure that an offshore worker, who boards the vessel on a voyage after the initial public announcement has been made as required by paragraph (a) of this section, is also informed of the information in paragraph (a) of this section.

### § 131.330 Emergency instructions.

(a) Except as otherwise provided in this section, the master shall prepare and post durable emergency instruction placards in conspicuous places accessible to the crew and offshore workers.

(b) Except when in the judgment of the OCMI the operation of a vessel does not present one of the hazards listed, the emergency instruction placard must contain not less than the applicable portions of the recommended "Emergency Instructions" listed in § 131.340 of this chapter. The emergency instructions must be further designed to address the particular equipment, arrangement, and operation of each individual vessel.

(c) When in the judgment of the OCMI a vessel has no suitable mounting surface, the emergency instructions need not be posted but must be carried aboard the vessel and be available to the crew and offshore workers for familiarization.

### § 131.340 Recommended emergency instruction placard.

The following is a recommended format and content of the Emergency Instruction placard.

**Emergency Instructions**

(1) *Rough weather at sea, crossing hazardous bars, or flooding.* (i) Close all watertight and weathertight doors, hatches, and airports to prevent taking water aboard or further flooding in the vessel.

(ii) Keep bilges dry to prevent loss of stability due to water in bilges. Use power driven bilge pump, hand pump, and buckets to dewater.

(iii) Align fire pumps to use as bilge pump if possible.

(iv) Check all intake and discharge lines, which penetrate the hull, for leakage.

(v) Offshore workers should remain seated and evenly distributed.

(vi) Offshore workers should don lifejackets and immersion suits if the going becomes very rough, the vessel is about to cross a hazardous bar, or when otherwise instructed by the master.

(vii) Never abandon the vessel unless actually forced to do so.

(viii) Prepare survival craft (life floats, (inflatable) rafts, (inflatable) buoyant apparatus, boats) for launching.

(2) *Man overboard.* (i) Throw a ring buoy overboard as close to the person as possible.

(ii) Post a lookout to keep the person overboard in sight.

(iii) Launch the rescue boat and maneuver it to pick up the person in the water, or maneuver the vessel to pick up the person in the water.

(iv) Have a crew member put on a lifejacket, attach a safety line to the crew member, and have the crew member stand by to jump into the water to assist the person overboard if necessary.

(v) If the person overboard is not immediately located, notify the Coast Guard and other vessels in the vicinity.

(vi) Continue searching until released by the Coast Guard.

(3) *Fire.* (i) Cut off air supply to the fire—close hatches, ports, doors, ventilators, etc. and shut off the ventilation system.

(ii) Deenergize the electrical systems supplying the affected compartment, if possible.

(iii) Immediately use a portable fire extinguisher aimed at the base of the flames for flammable liquid or grease fires or water for fires in ordinary combustible materials. Do not use water on electrical fires.

(iv) If fire is in machinery spaces, shut off the fuel supply and ventilation system and activate the fixed extinguishing system, if installed.

(v) Maneuver the vessel to minimize the effect of wind on the fire.

(vi) If unable to control the fire, immediately notify the Coast Guard and other craft in the vicinity.

(vii) Move offshore workers away from fire, have them put on lifejackets, and if necessary, prepare to abandon the vessel.

### § 131.350 Station bill.

(a) A station bill must be posted by the master on a vessel if the vessel's Certificate of Inspection requires more than four crew members, including the master.

(b) The station bill must be posted in the pilothouse and in conspicuous locations in crew and offshore worker's accommodations.

(c) The station bill must set forth the special duties and duty station of each crew member for various emergencies. The duties must, as far as possible, be comparable with the regular work of the individual. The duties must include at least the following and any other duties necessary for the proper handling of a particular emergency:

(1) The closing of hatches, airports, watertight doors, vents, scuppers, and valves for intake and discharge lines which penetrate the hull, the stopping of fans and ventilating systems, and the operating of all safety equipment.

(2) Preparing and launching of survival craft and rescue boats.

(3) Extinguishing of fire.

(4) Mustering of offshore workers including—

(i) Seeing that they are properly dressed and have put on their lifejackets and immersion suits; and

(ii) Assembling the offshore workers and directing them to their appointed stations.

### § 131.360 Responsibilities of licensed or certificated individuals.

Nothing in the emergency instructions or a station bill required by this subpart exempts any licensed or certificated individual from the exercise of good judgment in an emergency situation.

## Subpart D—Manning of Survival Craft and Supervision

### § 131.410 Certificate of proficiency.

A merchant mariner's document endorsement as a lifeboatman or another inclusive rating under Part 12 of this Title is evidence of training in survival craft and serves as a certificate of proficiency. For the purposes of this subpart, a "certificated" person is a person holding a merchant mariner's document with such an endorsement.

### § 131.420 Manning and supervision.

(a) There must be a sufficient number of trained persons on board for mustering and assisting untrained persons.

(b) Except as permitted by paragraph (c)(2) of this section, there must be a sufficient number of deck officers, able seamen, or certificated persons on board to operate the survival craft and launching arrangements required for abandonment by the total number of persons permitted on board.

(c) One person must be placed in charge of each survival craft to be used.

(1) Except as permitted by paragraph (c)(2) of this section, the person in command must be a deck officer, able seaman, or certificated person.

(2) The OCMI, considering the nature of the voyage, the number of persons permitted on board and the characteristics of the vessel, including gross tonnage, may permit persons practiced in the handling and operation of liferafts to be placed in charge of liferafts instead of persons required under paragraph (c)(1) of this section.

(3) A deck officer, able seaman, or certificated person must be designated second-in-command for—

(i) Each lifeboat on a vessel in ocean service; and

(ii) Each lifeboat permitted to carry more than 40 persons.

(d) The person in charge of each survival craft must have a list of the survival craft crew and offshore workers assigned to it and must see that the crew are acquainted with their duties. The second-in-command of a lifeboat must also have a list of the lifeboat crew and offshore workers.

(e) Each motorized survival craft must have a person assigned who is capable of operating the engine and carrying out minor adjustments.

(f) The master must ensure the persons required under paragraphs (a), (b), and (c) of this section are equitably distributed among the vessel's survival craft.

## Subpart E—Tests, Drills, and Inspections

### § 131.505 Steering gear, whistle, and means of communication.

(a) On each vessel making a voyage of more than 48 hours duration, the steering gear, the whistle, and the means of communication between the pilothouse and the engine room must be examined and tested by the master within a period of not more than 12 hours prior to departure. On each other vessel similar examinations and tests must be made at least once in every week.

(b) The date of the test and the condition of the equipment must be noted in the vessel's logbook.

### § 131.510 Drafts and load line markings.

(a) The master of each vessel on an ocean or coastwise voyage must enter the drafts of the vessel, forward and aft, in the vessel's logbook when leaving port.

(b) On a vessel subject to the requirements of Subchapter E of this chapter, at the time of departure from port on an ocean or coastwise voyage the master must insert in the vessel's logbook a statement of the position of the load line mark, port and starboard, in relation to the surface of the water in which the vessel is then floating.

(c) When an allowance for draft is made for density of the water in which the vessel is floating, this density must be noted in the vessel's logbook.

### § 131.515 Periodic sanitary inspections.

(a) The master must make periodic inspections of the quarters, toilet and washing spaces, serving pantries, galleys, etc. to ensure that those spaces are maintained in a sanitary condition.

(b) The master must record the results of these inspections in the vessel's logbook.

### § 131.520 Hatches and other openings.

Before leaving protected waters, the master must ensure that all exposed cargo hatches and other openings in the hull of the vessel are closed, made properly watertight by the use of tarpaulins, gaskets or similar devices, and in all respects properly secured for sea.

### § 131.525 Emergency lighting and power systems.

(a) The master must ensure that the emergency lighting and power systems, where fitted, are operated and inspected at least once in each week that the vessel is operated to ensure that the system is in proper operating condition.

(b) Emergency generators driven by internal combustion engines must be operated under load for at least 2 hours at least once in each month that the vessel is operated.

(c) Storage batteries for emergency lighting and power systems must be tested at least once in each 6-month period that the vessel is navigated to demonstrate the ability of the storage battery to supply the emergency loads for the period of time specified in Table 112.05-5(a) of this chapter. For the purposes of this section an OSV is considered to be a cargo vessel.

(d) The date of each test and the condition and performance of the apparatus must be noted in the vessel's logbook.

### § 131.530 Abandon-ship training and drills.

(a) Abandon-ship training material must be on board each vessel. The training material must consist either of a manual of one or more volumes, or audio-visual training aids, or both.

(1) The training material must contain instructions and information on the lifesaving appliances on the vessel and on the best methods of survival. A training manual must be written in easily understood terms, illustrated wherever possible.

(2) If a training manual is used, a copy must be in each crew messroom and recreation room or in each crew stateroom. If audio-visual training aids are used they must be incorporated in the onboard training sessions under paragraph (d) of this section.

(3) The training material must explain—

(i) The method of donning the lifejackets and immersion suits carried on board;

(ii) Mustering at the assigned stations;

(iii) The proper boarding, launching, and clearing of survival craft and rescue boats;

(iv) The method of launching survival craft from within the survival craft;

(v) The method of releasing the survival craft from launching appliances;

(vi) The method and use of devices for protecting survival craft in launching areas, where appropriate;

(vii) Illumination of the launching areas;

(viii) Use of all survival equipment;

(ix) Instructions for emergency repair of the lifesaving appliances;

(x) The use of radio lifesaving appliances, with illustrations;

(xi) Use of sea anchors;

(xii) Use of engine and accessories, where appropriate;

(xiii) Recovery of survival craft and rescue boats including stowage and securing;

(xiv) The hazards of exposure and the need for warm clothing;

(xv) Best use of the survival craft for survival; and

(xvi) Methods used in retrieving personnel, including the use of helicopter rescue gear (slings, baskets, stretchers), breeches-buoy and shore lifesaving apparatus and vessel's line-throwing apparatus.

(b) An abandon-ship drill must be conducted on each vessel in alternating weeks. If a drill can not be held during the appointed week due to bad weather or other unavoidable reason, the drill must be conducted at the first opportunity following the time when the drill would normally have been held. If the crew changes more often than once in any two week period, an abandon-ship drill must be held as soon after each crew change as practicable.

(1) Any member of the crew excused from an abandon.ship drill must participate in the next drill, so that each member participates in at least one abandon-ship drill each month. If more than 25% of the crew have not participated in an abandon.ship drill on board that particular vessel in the previous month, a drill must be conducted before the vessel leaves port if reasonable and practicable, but not later than 24 hours after the vessel leaves port. The Commandant (G-MVI) may accept other arrangements that are at least equivalent for those vessels where this is impractical.

(2) A muster of the offshore workers must be held on departure. The master must ensure that each offshore worker is assigned to a survival craft and is informed of its location. Each person in charge of a survival craft must maintain

a list of offshore workers assigned to that survival craft.

(3) Each abandon-ship drill must include:

(i) Summoning of offshore workers and crew to survival craft with the general alarm.

(ii) Simulation of an abandon-ship emergency which varies from drill to drill.

(iii) Report of crew and offshore workers to survival craft, preparing for, and demonstrating the duties assigned under the procedure described in the station bill for the particular abandon-ship emergency being simulated.

(iv) Checking to see that offshore workers and crew are suitably dressed.

(v) Checking to see that lifejackets and immersion suits are correctly donned.

(vi) Lowering of at least one lifeboat, or rescue boat, if no lifeboats are required, after any necessary preparation for launching. The lifeboat must be lowered at least to the extent where the davit head has completed its travel and the fall wire has begun to pay out.

(vii) Starting and operating the lifeboat or rescue boat engine.

(viii) Operation of davits used for launching liferafts.

(4) Different lifeboats must, as far as practicable, be lowered to meet paragraph (b)(4)(vi) of this section at successive drills.

(5) Each abandon-ship drill must, as far as practicable, be conducted as if there were an actual emergency.

(6) Each lifeboat must be launched with its assigned operating crew aboard and maneuvered in the water at least once every 3 months during an abandon-ship drill.

(7) Each rescue boat must be launched with its assigned crew aboard and maneuvered in the water—

(i) Once each month, if reasonable and practicable; but

(ii) At least once every 3 months.

(8) If lifeboat and rescue boat launching drills are carried out with the vessel making headway, such drills must, because of the dangers involved, be practiced only in waters where it is safe, under the supervision of an officer experienced in such drills.

(9) At least one drill every 3 months must be held at night, unless the master determines it is unsafe.

(10) Emergency lighting for mustering and abandonment must be tested at each abandon-ship drill.

(c) The master of a vessel carrying immersion suits must make sure that—

(1) Each crew member either—

(i) Wears an immersion suit in at least one abandon-ship drill per month unless it is impracticable due to warm weather; or

(ii) Participates in at least one immersion suit drill per month that includes donning an immersion suit and being instructed in its use;

(2) In each abandon-ship drill, each offshore worker on board is instructed in the use of immersion suits; and

(3) Each offshore worker is told at the beginning of the voyage where immersion suits are stowed on board and is encouraged to read the instructions for donning and use of the immersion suits.

(d) Each crew member on board the vessel must be given training in the use of lifesaving appliances and the duties assigned in the station bill.

(1) Except as provided under paragraph (d)(2) of this section, onboard training in the use of the vessel's lifesaving appliances, including survival craft equipment, must be given to each crew member as soon as possible but not later than 2 weeks after the crew member joins the vessel.

(2) If a crew member is on a regularly scheduled rotating assignment to a vessel, onboard training in the use of the vessel's lifesaving appliances, including survival craft equipment, must be given to the crew member not later than 2 weeks after the time the crew member first joins the vessel.

(3) The crew must be instructed in the use of the vessel's lifesaving appliances and in survival at sea on alternating weeks. normally in the weeks when abandon-ship drills are not held. If individual instruction sessions cover different parts of the vessel's lifesaving system, all the vessel's lifesaving equipment and appliances must be covered within each 2 month period. Each member of the crew must be instructed in at least—

(i) Operation and use of the vessel's inflatable liferafts;

(ii) Problems of hypothermia, first-aid treatment for hypothermia and other appropriate first-aid procedures; and

(iii) Special instructions necessary for use of the vessel's lifesaving appliances in severe weather and severe sea conditions.

(4) Onboard training in the use of davit-launched liferafts must take place at intervals of not more than 4 months on each vessel with davit.launched liferafts. Whenever practicable this must include the inflation and lowering of a liferaft. If this liferaft is a special liferaft intended for training purposes only, and is not part of the vessel's lifesaving equipment, this liferaft must be conspicuously marked.

(e) The date when musters are held, details of abandon-ship drills, drills of other lifesaving appliances and onboard training must be recorded in the vessel's official logbook. Each logbook entry must include the following, as applicable:

(1) The time and date.

(2) Length of drill or training session.

(3) Identification of survival craft used in drills.

(4) Subject of training session.

(5) Statement as to the condition of the equipment used.

(6) If a full muster, drill or training session is not held at the appointed time, the circumstances and the extent of the muster, drill or training session held.

**§ 131.535 Fire fighting training and fire drills.**

(a) A fire drill must be conducted on each vessel in alternating weeks. The fire drill must not be conducted as part of the abandon-ship drill, nor immediately prior to or after the abandon-ship drill. If a fire drill can not be held during the appointed week due to bad weather or other unavoidable reason, the drill must be conducted at the first opportunity following the time when the drill would normally have been held.

(b) Any member of the crew excused from a fire drill must participate in the next drill, so that each member participates in at least one fire drill each month. If more than 25% of the crew have not participated in a fire drill on board that particular vessel in the previous month, a drill must be conducted before the vessel leaves port if reasonable and practicable, but not later than 24 hours after the vessel leaves port. The Commandant (G-MVI) may accept other arrangements that are at least equivalent for those vessels where this is impractical.

(c) Each fire drill must include:

(1) Summoning of offshore workers and crew to their stations with the general alarm.

(2) Simulation of a fire emergency which varies from drill to drill.

(3) Reporting to stations, preparing for, and demonstrating the duties assigned under the procedure described in the station bill for the particular fire emergency being simulated.

(4) Starting of fire pumps and use of a sufficient number of outlets to determine that the system is in proper working order.

(5) Bringing out each breathing apparatus and other item of rescue and safety equipment from the emergency equipment lockers, and demonstrating the use of each item by the person or persons designated to use it.

(6) Operating each watertight door used while the vessel is underway.

(7) Operation of each self-closing fire door.

(8) Closing all fire doors and doors in fire boundaries.

(9) Closing all ventilation closures of spaces protected by a fixed fire extinguishing system.

(d) Each fire drill must, as far as practicable, be conducted as if there were an actual emergency.

(e) The date when fire drills are held, and details of fire fighting training and fire drills must be recorded in the vessel's official logbook. Each logbook entry must include the following, as applicable:

(1) The time and date.

(2) Length of drill or training session.

(3) Number and lengths of hose used.

(4) Subject of training session.

(5) Statement as to the condition of the equipment used.

(6) If a full drill or training session is not held at the appointed time, the circumstances and the extent of the drill or training session held.

**§ 131.540 Operational readiness.**

(a) Except as provided in § 131.545(e) of this chapter, each lifesaving appliance and each item of survival craft, rescue boat, life float, and buoyant apparatus equipment must be in good working order and ready for immediate use before the vessel leaves port and at all times when the vessel is in operation.

(b) Each deck where lifeboats, liferafts, rescue boats, life floats, and buoyant apparatus are stowed or boarded must be kept clear of obstructions that would interfere with the boarding and launching of the lifesaving appliances.

**§ 131.545 Maintenance.**

(a) The manufacturer's instructions for onboard maintenance of lifesaving appliances must be onboard and must include the following for each appliance—

(1) Checklists for use when carrying out the inspections required under § 131.565(a) of this chapter;

(2) Maintenance and repair instructions;

(3) A schedule of periodic maintenance;

(4) A diagram of lubrication points with the recommended lubricants;

(5) A list of replaceable parts;

(6) A list of sources of spare parts; and

(7) A log for records of inspections and maintenance.

(b) The master shall make sure that maintenance is carried out in accordance with the instructions required under paragraph (a) of this section.

(c) For lifesaving appliances constructed on or before July 1, 1986, paragraph (a) of this section need only be complied with to the extent that the manufacturer's instructions are available.

(d) The OCMI may accept, instead of the instructions required under paragraph (a) of this section, a shipboard planned maintenance program that includes the items listed in that paragraph.

(e) If lifeboats and rigid liferafts are maintained and repaired while the vessel is underway, there must be a sufficient number of lifeboats and liferafts available for use on each side of the vessel to accommodate all persons on board.

(f) Except in an emergency, extensive repairs or alterations must not be made to any lifesaving appliance without advance notification of the OCMI. Insofar as possible, each repair or alteration must be made in accordance with the requirements for the lifesaving appliance in Subchapter Q of this chapter. The OCMI may require each lifesaving appliance that has been altered or extensively repaired to be subjected to each test for the appliance in Subchapter Q of this chapter that is affected by the repair or alteration.

(g) The master shall report each emergency repair or alteration to a lifesaving appliance as soon as practicable to the OCMI in the next port in the United States where the vessel calls. If the vessel does not regularly call at ports in the United States, the report must be made to the OCMI responsible for one of the foreign ports where the vessel calls.

(h) A lifeboat or rigid liferaft must not be repaired or reconditioned for use on a vessel other than the one it was originally built for, unless specifically permitted by the OCMI. If required by the OCMI, the repair or reconditioning of the lifeboat or rigid liferaft must be made under the OCMI's supervision.

**§ 131.550 Maintenance of falls.**

(a) Each fall used in a launching appliance must be turned end for end at intervals of not more than 30 months.

(b) Each fall must be renewed when necessary due to deterioration or at intervals of not more than 5 years, whichever is the earlier.

(c) Each fall must have a corrosion-resistant tag with the following permanently marked on it:

(1) The date the new fall was installed.

(2) If the fall has been turned end for end, the date it was turned.

**§ 131.555 Spare parts and repair equipment.**

Spare parts and repair equipment must be provided for each lifesaving appliance and component subject to excessive wear or consumption and that needs to be replaced regularly. These parts and equipment must be kept on board the vessel, or, if the vessel operates daily out of the same shore base, these parts and equipment may be kept at the shore base.

**§ 131.560 Weekly inspections.**

The following tests and inspections must be carried out weekly:

(a) Each survival craft, rescue boat and launching appliance must be visually inspected to make sure it is ready for use.

(b) Each lifeboat engine and rescue boat engine must be run ahead and astern for not less than 3 minutes, unless the ambient temperature is below the minimum temperature required for starting the engine.

(c) The general alarm system must be tested.

(d) Each battery for lifeboat and rescue boat engine starting, searchlights, fixed lifeboat radio installations, and portable radio apparatus must be brought up to full charge at least once each week if—

(1) The battery is of a type that requires recharging; and

(2) The battery is not connected to a device that keeps it continuously charged.

(e) The transmitter of each fixed lifeboat radio installation and portable radio apparatus must be tested at least once each week using a dummy antenna load.

**§ 131.565 Monthly inspections.**

(a) Each lifesaving appliance, including lifeboat equipment, must be inspected monthly using the checklist required under § 131.545(a)(1) of this chapter to make sure it is complete and in good order. A report of the inspection, including a statement as to the condition of the equipment, must be recorded in the vessel's official logbook.

(b) Each emergency position indicating radio beacon (EPIRB) and each search and rescue transponder (SART), other than an EPIRB or SART in an inflatable liferaft, must be tested monthly. The EPIRB must be tested using the integrated test circuit and output indicator to determine that it is operative.

**§ 131.570 Quarterly inspections.**

(a) Each lifeboat winch control apparatus, including motor controllers,

emergency switches, master switches, and limit switches must be examined once each three months.

(b) The examination must include the removal of drain plugs and the opening of drain valves to make sure that enclosures are free of water.

(c) The date of the examination required under this section and the condition of the equipment must be noted in the official logbook.

**§ 131.575 Annual inspection and repair.**

(a) Each lifeboat, rescue boat, rigid liferaft, buoyant apparatus, and life float must be stripped, cleaned, and thoroughly inspected and repaired as needed at least once each year, including emptying and cleaning of each fuel tank, and refilling it with fresh fuel.

(b) Each davit, winch, fall and other launching appliance must be thoroughly inspected and repaired as needed once each year.

(c) Each item of survival equipment with an expiration date must be replaced during the annual inspection and repair if the expiration date has passed.

(d) Each battery used in an item of survival equipment and clearly marked with a date identified as an expiration date must be replaced during the annual inspection and repair if the expiration date has passed.

(e) Except for a storage battery used in a lifeboat or rescue boat, each battery without an expiration date used in an item of survival equipment must be replaced during the annual inspection and repair.

(f) The requirements in this section do not relieve the master or person in charge of the requirement under § 131.540(a) to keep the equipment ready for immediate use.

**§ 131.580 Servicing of inflatable liferafts, inflatable lifejackets and inflated rescue boats.**

(a) Each inflatable liferaft, inflatable lifejacket, and hybrid inflatable lifejacket or work vest must be serviced—

(1) Within 12 months of its initial packing; and

(2) Within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months.

(b) Each inflatable liferaft must be serviced—

(1) Whenever the container of the raft is damaged, or the straps or seal broken; and

(2) In accordance with the servicing procedure under Subpart 160.051 of this chapter.

(c) Each inflatable lifejacket must be serviced in accordance with the servicing procedure under Subpart 160.076 of this chapter.

(d) Each hybrid inflatable lifejacket or work vest must be serviced in accordance with the servicing procedure under Subpart 160.077 of this chapter.

(e) Repair and maintenance of inflated rescue boats must be in accordance with the manufacturer's instructions. All repairs must be made at a servicing facility approved by the Commandant (G–MVI), except for emergency repairs carried out on board the vessel.

**§ 131.585 Periodic servicing of hydrostatic release units.**

(a) Each hydrostatic release unit must be serviced—

(1) Within 12 months of its manufacture and within 12 months of each subsequent servicing, except when servicing is delayed until the next scheduled inspection of the vessel, provided that the delay does not exceed 5 months; and

(2) In accordance with the repair and testing procedures under Subpart 160.062 of this chapter.

(b) The springs of each spring-tensioned gripe used with a hydrostatic release unit must be renewed when the unit is serviced and tested.

**§ 131.590 Firefighting equipment.**

(a) The master must ensure that the vessel's fire fighting equipment is at all times ready for use and that all fire fighting equipment is provided, maintained, and replaced as indicated.

(b) The master must require and have performed at least once in every twelve months the tests and inspections of all portable fire extinguishers, semiportable fire extinguishers, and fixed fire extinguishing systems on board, as described in Tables 132.350(a) and 132.350(b) of this chapter.

(c) The master must keep records of these tests and inspections showing the dates when performed, the number or other identification of each unit tested and inspected, and the name of the person or company conducting the tests and inspections. These records must be made available to the inspector upon request and must be kept for the period of validity of the vessel's current certificate of inspection.

(d) The conduct of tests and inspections required by this section does not relieve the master of his responsibility to maintain the firefighting equipment in proper condition at all times.

## Subpart F—Logbook Entries

**§ 131.610 Logbooks and records.**

(a) Under various statutes or by regulations in this subchapter, each offshore supply vessel must have certain logbooks or records, and, when the occasion arises, the master must make specific entries as required by law or regulations in this chapter.

(b) 46 U.S.C. 11301 states that except a vessel on a voyage from a port in the United States to a port in Canada, a vessel of the United States shall have an official logbook if the vessel is—

(1) on a voyage from a port in the United States to a foreign port; or

(2) of at least 100 gross tons and is on a voyage between a port of the United States on the Atlantic Ocean and on the Pacific Ocean.

(c) The Official Logbook is furnished gratuitously to masters of United States' flag vessels by the Coast Guard, as Form CG–706B or CG–706C, depending upon the number of persons employed as crew. The first several pages of this logbook lists various acts of Congress relating to logbooks and the entries required to be made therein.

(d) When a voyage is completed, or after a specified period of time is completed, the Official Logbook with required entries must be filed with the OCMI, at or nearest the port where the vessel may be.

(e) If an Official Logbook is not required, the owner, operator, or master shall supply an alternate log or record for the purpose of making entries required by law or regulations in this subchapter. This log or record is not filed with the OCMI, but must be kept available for review by a marine inspector for a period of one year after the date to which the records refer.

**§ 131.620 Actions required to be logged.**

The actions and observations listed below must be entered in the vessel's logbook:

(a) Abandon-ship Training and Drills and Fire Drills. As held. See §§ 131.530 and 131.535 of this chapter.

(b) Steering Gear, Whistle, and Means of Communication. Prior to departure. See § 131.505 of this chapter.

(c) Drafts and Load Line Markings. Prior to leaving port; ocean and coastwise voyages only. See § 131.510 of this chapter.

(d) Periodic Sanitary Inspections. The results of periodic sanitary inspections made by the master. See § 131.515 of this chapter.

(e) Hatches and other openings. All openings and closings, or leaving port without closing. Except vessels on

protected waters. See § 131.520 of this chapter.

(f) Emergency Lighting and Power Systems. Weekly and semi-annually. See § 131.525 of this chapter.

(g) Survival Craft Winches. Once every 3 months. See § 131.570 of this chapter.

(h) Cargo gear inspections: At least once a month. See § 91.37-70 of this chapter.

#### § 131.630 Official log entries.

On a vessel that is required by 46 U.S.C. 11301 to have an Official Logbook, all items relative to the crew and offshore workers, as well as with respect to any casualties that may occur, must be entered in the Official Logbook.

### Subpart G—Work Vests

#### § 131.710 Approved unicellular plastic foam work vests.

Each buoyant work vest carried on board must be approved under Subpart 160.053 of this chapter, or Subpart 160.077 of this chapter as a commercial hybrid personal flotation device.

#### § 131.720 Use.

(a) An approved buoyant work vest is considered to be an item of safety apparel and may be carried on board to be worn by a crew member when working near or over the water under favorable working conditions.

(b) The vest may not be accepted in lieu of a lifejacket.

(c) A work vest must not be worn during a drill in lieu of a lifejacket.

#### § 131.730 Shipboard storage.

(a) The master must ensure that a work vest is not stowed where a lifejacket is stowed.

(b) Each space containing a work vest must be marked "WORK VEST".

#### § 131.740 Shipboard inspections.

Each work vest must be subject to examination by a marine inspector to determine its servicability. It may be continued in service if found satisfactory but is not stamped by a marine inspector with a Coast Guard stamp. If a work vest is found not to be in a serviceable condition it must be destroyed in the presence of the marine inspector, if determined not to be repairable.

### Subpart H—Markings for Fire and Emergency Equipment

#### § 131.800 General.

(a) This section prescribes markings necessary for the guidance of persons on board in case of an emergency. The markings may be modified or omitted, particularly on small vessels, if they are unnecessary because of specific circumstances, and if the OCMI approves.

(b) All stateroom notices, directional signs, etc., must be printed in English and in other languages appropriate to the service of the vessel.

(c) Where in this subpart red letters are specified, letters of a contrasting color on a red background are acceptable.

#### § 131.805 General alarm bell switch.

The general alarm bell switch in the pilothouse must be clearly and permanently identified by lettering on a metal plate or with a sign in red letters on a suitable background: "GENERAL ALARM."

#### § 131.810 General alarm bells.

Each general alarm bell must be identified by red lettering at least ½ inch high: "GENERAL ALARM—WHEN BELL RINGS GO TO YOUR STATION."

#### § 131.815 Carbon dioxide or Halon alarm.

Each carbon dioxide or Halon alarm must be conspicuously identified: "WHEN ALARM SOUNDS—VACATE AT ONCE. CARBON DIOXIDE (HALON) BEING RELEASED."

#### § 131.820 Fire extinguishing system branch lines.

The branch line valves of all fire extinguishing systems must be plainly and permanently marked indicating the spaces served.

#### § 131.825 Fire extinguishing system controls.

The control cabinets or spaces containing valves or manifolds for the various fire extinguishing systems must be distinctly marked in conspicuous red letters at least 2 inches high: "CARBON DIOXIDE (HALON) FIRE APPARATUS" as the case may be.

#### § 131.830 Fire hose stations.

Each fire hydrant must be identified in red letters and figures at least two inches high "FIRE STATION NO. 1," "2," " 3," etc. Where the hose is not stowed in the open or behind glass so as to be readily seen, this identification must be so placed as to be readily seen from a distance.

#### § 131.835 Portable fire extinguishers.

(a) Except as provided in paragraph (b) of this section, each portable fire extinguisher must be marked with a number and the location where stowed must be marked with a corresponding number at least ½ inch high.

(b) If only one type and size of portable fire extinguisher is carried, the numbering may be omitted.

#### § 131.840 Emergency lights.

Each emergency light must be marked with a letter "E" at least ½ inch high.

#### § 131.845 Instructions for changing steering gear.

(a) Instructions and diagrams for changing the steering gear and for changing to the alternative control stations must be posted at all steering stations and in the steering engine room, relating in order, the different steps to be taken in changing the steering gear.

(b) The instructions must indicate each clutch or pin to be "in" or "out" and each valve or switch that is to be "opened" or "closed" in shifting to any means of steering for which the vessel is equipped.

(c) The instructions must specify that all steering wheels and rudders must be amidships before changing steering gears or steering stations.

(d) Each clutch, gear, wheel, lever, valve, or switch that is used during the changeover must be numbered or lettered on a metal plate or painted so that the markings can be recognized at a reasonable distance.

#### § 131.850 Rudder orders.

At each steering station, there must be installed a suitable notice on the wheel or device or in some other position as to be directly in the helmsman's line of vision, to indicate the direction in which the wheel or device must be turned for "right rudder" and for "left rudder."

#### § 131.855 Lifeboats and rescue boats.

(a) The following must be plainly marked or painted on each side of the bow of each lifeboat and rescue boat in letters and numbers at least 3 inches high:

(1) The name of the vessel.

(2) The number of the boat. The boats on each side of the vessel must be numbered from forward to aft. If there are boats on both sides of the vessel, the odd numbers must be on the starboard side.

(3) For vessels in ocean service, the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(b) The following must be plainly marked or painted on each side of the bow of each lifeboat and rescue boat in letters and numbers at least 1.5 inches high:

(1) The length and beam of the boat.

(2) The number of persons capacity of the boat. This number must—

(i) Be the number of persons the lifeboat is equipped for; and

(ii) Not be greater than the number of persons the boat is approved for, as shown on its nameplate.

(c) The following must be plainly marked or painted on each lifeboat and rescue boat in at least two places visible from above the boat in letters and numbers not less than 3 inches high:

(1) The number of persons capacity of the boat.

(2) The name of the vessel.

(d) The name of the vessel must be plainly marked or painted on each oar and paddle.

(e) On or before July 1, 1991, each lifeboat and rescue boat must be marked with Type II retro-reflective material approved under Subpart 164.018 of this chapter. The arrangement of the retro-reflective material must meet IMO Resolution [LSR 20/20, Annex 9].

**§ 131.860 Rigid liferafts.**

(a) The following must be plainly marked or painted near one entrance of each rigid liferaft in letters and numbers at least 3 inches high:

(1) The name of the vessel.

(2) The number of the liferaft. Liferafts stowed on the sides of the vessel must be numbered in the same manner as the lifeboats.

(3) For vessels in ocean service, the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(b) The following must be plainly marked or painted near one entrance of each rigid liferaft in letters and numbers at least 1.5 inches high:

(1) Either "SOLAS A Pack" or "SOLAS B Pack" depending upon its equipment under § 199.143(b) or § 199.143(c) of this chapter.

(2) The length of the painter.

(c) The number of persons capacity must be plainly marked or painted over each entrance to each rigid liferaft in letters and numbers at least 4 inches high, in a color contrasting to that of the liferaft. This number must—

(1) Be the number of persons the liferaft is equipped for; and

(2) Not be greater than the number of persons the liferaft is approved for, as shown on its nameplate.

(d) The name of the vessel must be plainly marked or painted on each paddle.

**§ 131.865 Inflatable liferafts.**

The number of the liferaft and the number of persons it is permitted to accommodate must be marked or painted in a conspicuous place in the immediate vicinity of each inflatable liferaft in letters and numbers at least 1.5 inches high. Liferafts stowed on the sides of the vessel must be numbered in the same manner as the lifeboats. This marking must not be on the inflatable liferaft container.

**§ 131.870 Life floats and buoyant apparatus.**

(a) The name of the vessel must be plainly marked or painted on each life float and buoyant apparatus, together with their oars and paddles.

(b) The number of persons capacity must be plainly marked or painted on each life float and buoyant apparatus in letters and numbers at least 1.5 inches high. This number must—

(1) Be the number of persons the device is equipped for; and

(2) Not be greater than the number of persons the device is approved for, as shown on its nameplate.

**§ 131.875 Lifejackets, immersion suits, and ring life buoys.**

(a) Each lifejacket, immersion suit, and ring life buoy must be marked in block capital letters with the vessel's name.

(b) Each container for lifejackets and immersion suits must be marked in letters and numbers at least 2 inches high with the number and identification of the items stowed inside and their size.

(c) Each ring life buoy on a vessel in ocean service must be marked in block capital letters with the name of the port required to be marked on the stern of the vessel under Subpart 67.13 of this chapter.

(d) Each stowage position for a ring life buoy must be marked "LIFE BUOY".

(e) Each lifejacket must be marked with Type I retro-reflective material approved under Subpart 164.018 of this chapter. The arrangement of the retro-reflective material must meet IMO Resolution [LSR 20/20, Annex 9].

(f) On or before July 1, 1991, each ring life buoy must be marked with Type II retro-reflective material approved under Subpart 164.018 of this chapter. The arrangement of the retro-reflective material must meet IMO Resolution [LSR 20/20, Annex 9].

**Note to this section:** Each approved immersion suit is provided with retro-reflective material by the manufacturer of the suit.

**§ 131.880 Fire hose and axes.**

Each fire hose and axe must be marked with the vessel's name.

**§ 131.885 Portable magazine chests.**

Each portable magazine chest must be marked in letters at least 3 inches high: "PORTABLE MAGAZINE CHEST—FLAMMABLE—KEEP LIGHTS AND FIRE AWAY."

**§ 131.890 EPIRBs and SARTs.**

The name of the vessel must be plainly marked or painted on each Emergency Position Indicating Radio Beacon (EPIRB) and on each Search and Rescue Transponder (SART), except for an EPIRB or SART .

(a) In an inflatable liferaft; or

(b) Permanently installed in a survival craft.

**§ 131.893 Watertight doors and watertight hatches.**

Each watertight door in a bulkhead required to be made watertight to comply with the requirements in Part 174 of this chapter, and each watertight hatch, must be marked on both sides in at least 2-inch letters: "WATERTIGHT DOOR—KEEP CLOSED EXCEPT DURING TRANSIT" or "WATERTIGHT HATCH—CLOSE IN EMERGENCY".

**§ 131.896 Remote stop stations.**

The remote stop stations required in § 129.540 of this chapter must be clearly marked as to what system they control.

**§ 131.899 Fire dampers.**

Each fire damper installed in a boundary of a space protected by a fixed fire extinguishing system must be fitted with an indicator showing whether the damper is open or closed, be marked with red letters of at least ½ inch in height stating "VENTILATION FIRE DAMPER" and as appropriate to identify the space served by the fire damper.

## Subpart I—Markings on Vessels

**§ 131.910 Hull markings.**

Each vessel must be marked as required by Parts 67 and 69 of this chapter.

**§ 131.920 Draft marks.**

(a) Each vessel must have the draft of the vessel plainly and legibly marked upon the stem and upon the sternpost or rudderpost or at any place at the stern of the vessel as may be necessary for easy observance. The draft must be taken from the bottom of the keel at the marks to the surface of the water. The bottom of the mark indicates the draft in feet.

(b) In cases where the keel does not extend forward or aft to the location of the draft marks, due to raked stem or cut away skeg, the datum line from which the draft is taken must be obtained by

projecting the line of the bottom of keel forward or aft, as the case may be, to the location of the draft marks.

(c) If a vessel has a skeg or other appendage extending below the line of the keel, the draft at the end of the vessel adjacent to that appendage must be measured to a line tangent to the lowest part of the appendage and parallel to the line of the bottom of the keel.

**§ 131.930 Load line marks.**

Each vessel assigned a load line must have the deck line and the load line marks permanently scribed or embossed as required by Subchapter E of this chapter.

**§ 131.940 Freeboard marks for lifeboats.**

Freeboard marks required by § 174.255 of this chapter must be permanently scribed or embossed and painted white or yellow on a dark background.

## Subpart J—Miscellaneous

**§ 131.1005 Statutory penalties.**

(a) The marine safety and criminal laws provide penalties for the violation of the applicable provisions of this subchapter. Penalty proceedings include the following:

(1) Assessment and collection of civil monetary penalty.

(2) Criminal prosecution where no loss of life results.

(3) Criminal prosecution for manslaughter where loss of life results from violation of statute or regulation or from misconduct, negligence, or inattention to duty.

(4) Libel against vessel.

(b) In addition to the foregoing, 46 U.S.C. Chapter 77 provides for the suspension or revocation of Coast Guard issued licenses, certificates, or documents for acts of incompetence, misconduct, or negligence, or for violation of marine safety statutes or regulations.

**§ 131.1010 Notice to mariners and aids to navigation.**

Masters and mates must acquaint themselves with the latest information published by the Coast Guard and the U.S. Navy regarding aids to navigation.

**§ 131.1015 Persons allowed in pilothouse and on navigation bridge.**

Only persons connected with the navigation of the vessel may be in the pilothouse while underway, unless authorized by the master or mate on watch.

**§ 131.1020 Crew requirements.**

Each vessel must carry the personnel required by Part 15 of this chapter.

**§ 131.1025 Compliance with provisions of Certificate of Inspection.**

The master of the vessel must ensure compliance with all of the provisions of the certificate of inspection. Nothing in this subchapter is to be construed as limiting the master of the vessel from diverting from the route prescribed in the certificate of inspection or from taking other steps necessary and prudent to assist vessels in distress or for other similar emergencies.

**§ 131.1030 Display of stability letter.**

If a stability letter is issued under § 170.120 of this chapter, it must be readily available to the person on watch in the pilothouse of the vessel.

**§ 131.1035 Prevention of oil pollution.**

Each vessel must be operated to meet the requirements in—

(a) Section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321); and

(b) 33 CFR Parts 151, 155, 156 and 159.

**§ 131.1040 Marine sanitation device.**

A vessel with installed toilet facilities must have a marine sanitation device in compliance with 33 CFR Part 159.

**§ 131.1045 Display of plans.**

Each vessel must have permanently exhibited, for the guidance of the master and crew, general arrangement plans showing for each deck the various fire-retardant bulkheads together with particulars of the—

(a) Fire detection systems;

(b) Manual alarm systems;

(c) Fire extinguishing systems;

(d) Fire doors;

(e) Means of ingress to the different compartments; and

(f) Ventilating systems including the—

(1) Positions of the dampers;

(2) Location of the remote means of stopping the fans; and

(3) Identification of the fans serving each section.

**§ 131.1050 Placard of lifesaving signals, helicopter recovery procedures, and breeches buoy instructions.**

Each vessel must have readily available to the person on watch in the pilothouse a placard (Form CG–811) containing instructions for the use of breeches buoys, helicopter recovery procedures, and the lifesaving signals as set forth in Regulation 16, Chapter V, of the International Convention for Safety of Life at Sea, 1974. These signals must be used by vessels or persons in distress when communicating with lifesaving stations and maritime rescue units.

**§ 131.1055 Exhibition of license.**

Each master and licensed officer on a vessel must have his or her license conspicuously displayed as required by 46 U.S.C. 7110.

**§ 131.1060 Use of auto pilot.**

When the automatic pilot is used in areas of high traffic density, conditions of restricted visibility, or any other hazardous navigational situations, the master must ensure that—

(a) It is possible to immediately establish manual control of the vessel's steering;

(b) A competent person is ready at all times to take over steering control; and

(c) The changeover from automatic to manual steering and vice versa is made by, or under, the supervision of the master or officer of the watch.

**§ 131.1065 Whistling.**

The unnecessary sounding of the vessel's whistle is prohibited within any harbor limits of the United States.

**§ 131.1070 Unauthorized lights.**

The master must not authorize or permit the carrying of any lights not required by law that in any way will interfere with the distinguishing of the navigation lights.

**§ 131.1075 Searchlights.**

No person may flash or cause to be flashed the rays of a searchlight or other blinding light onto the bridge or into the pilothouse of any vessel underway.

**§ 131.1080 Lookouts and watches.**

Nothing in this part exonerates any master or officer of the watch from the consequences of any neglect to keep a proper lookout, to maintain a proper fire watch, or from any neglect of any precaution which may be required by the ordinary practice of seamen or by the special circumstances of the case. When circumstances require it, additional watches must be maintained to guard against fire or other danger and to give an alarm in case of accident or disaster.

**§ 131.1085 Liftboat operating manual.**

Each liftboat must have an operating manual which, to the extent practicable, includes the information prescribed in § 109.121(c) of this chapter for operating manuals required for mobile offshore drilling units.

## PART 132—FIRE PROTECTION EQUIPMENT

### Subpart A—Fire Main System

Sec.
132.100 General.
132.110 Piping.
132.120 Fire pumps.
132.130 Fire stations.

### Subpart B—Portable and Semiportable Fire Extinguishers

132.210 Classification.
132.220 Location.
132.230 Spare charges.
132.240 Semiportable fire extinguisher stowage.

### Subpart C—Miscellaneous

132.310 Fixed fire extinguishing systems.
132.320 Helicopter landing decks.
132.330 Fire monitors.
132.340 Equipment installed but not required.
132.350 Tests and inspections of fire extinguishing equipment.
132.360 Fire axes.
132.370 Additional requirements for fixed independent and portable tanks.

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

### Subpart A—Fire Main System

#### § 132.100 General.

(a) Except as provided in paragraphs (b) and (c) of this section, each vessel must be equipped with a fire main system that complies with this subpart.

(b) In lieu of complying with the requirements in paragraph (a) of this section, each vessel 65 feet or less in length and less than 100 gross tons may have a hand operated pump capable of providing an effective stream of water to all parts of the vessel.

(c) In complying with paragraph (b) of this section, a garden hose of at least ⅝ inch nominal inside diameter may be used if the hose is—

(1) Of good commercial grade constructed of an inner rubber tube, plies of braided fabric reinforcement and an outer cover made of rubber or equivalent material; and

(2) Fitted with a commercial garden hose nozzle of good grade bronze or equivalent metal capable of providing a solid stream and a spray pattern.

#### § 132.110 Piping.

(a) All pipe, valves, fittings and flanges must meet the applicable requirements of Part 130 of this chapter. Piping must be—

(1) Hot dipped galvanized;

(2) At least extra heavy schedule; or

(3) Of a suitable corrosion resistant material.

(b) All distribution cut-off valves must be marked as required by § 131.820 of this chapter.

#### § 132.120 Fire pumps.

(a) Except as provided by § 132.100(b) of this chapter, each vessel must be equipped with one power driven fire pump capable of delivering water in all conditions of operation simultaneously from the two highest outlets at a Pitot tube pressure of at least 50 psi (pounds per square inch).

(b) Each fire pump must be fitted on the discharge side with a relief valve set to relieve at 25 psi in excess of the pressure necessary to maintain the requirements of paragraph (a) of this section or 125 psi whichever is greater. A relief valve may be omitted if the pump, operating under shut-off conditions, is not capable of developing pressure exceeding this amount.

(c) The pump required by paragraph (a) of this section may be driven by one of the propulsion engines in a twin engine installation. In a single engine propulsion installation, the pump must be driven by a source of power independent of the propulsion engine.

(d) If two fire pumps are installed, either pump may be used for other purposes provided one pump is kept available for use on the fire main system at all times.

(e) The total area of the pipes leading from a pump may not be less than the discharge area of the pump.

(f) In no case may a pump having a connection to a flammable or combustible liquid line be used as a fire pump.

(g) A pressure gage must be fitted on the discharge side of each fire pump.

(h) If branch lines are connected to the fire main for anchor wash or deck wash purposes, the fire pump must be capable of providing the quantity of water required to comply with paragraph (a) of this section while simultaneously providing water to the anchor wash.

(i) No branch lines may be connected to the fire main for other than fire, anchor or deck wash purposes. Discharge lines for other purposes must lead from a discharge manifold near the fire pump.

(j) If discharge lines are connected to the fire main for fire monitors, they must lead from a fire main discharge manifold near the fire pump.

#### § 132.130 Fire stations.

(a) Except as provided in paragraph (b) of this section, fire hydrants must be of sufficient number and so located that any part of the vessel accessible to persons on board while the vessel is being operated, and all cargo holds, may be reached with at least two effective spray patterns of water from separate outlets. At least one of the spray patterns must be from a single length of hose.

(b) Except as provided in paragraph (c) of this section, all portions of the main machinery spaces must be capable of being reached by at least 2 streams of water, each of which must be from a single length of hose from separate outlets.

(c) For the purpose of this section, a shaft alley is not considered part of the main machinery spaces if it contains no assigned space for the stowage of combustibles.

(d) Each fire hydrant must be numbered as required by § 131.830 of this chapter.

(e) All parts of the fire main located on exposed decks must either be protected against freezing or be fitted with cut-out valves and drain valves so that the entire exposed parts of the piping may be shut off and drained in freezing weather. Except when closed to prevent freezing, the cut-out valves must be sealed open.

(f) The outlets at each fire hydrant must be 1½ inches in diameter and must be positioned so that the hose leads horizontally or downward to minimize the possibility of kinking.

(g) Each fire station hydrant must be equipped with a spanner suitable for use on the hose at that station.

(h) Each fire station hydrant must have at least one length of fire hose. Each fire hose on the hydrant must have a combination solid stream and water spray fire hose nozzle that is approved under Subpart 162.027 of this chapter.

(i) The pipes and fire station hydrants must be so placed that the fire hose may be easily coupled to them. All hydrants must be so located as to be readily accessible. If deck cargo is carried, it must not interfere with access to the fire station hydrants, and the piping must be arranged as far away from the deck cargo as practicable to avoid risk of damage by the cargo.

(j) Each fire station hydrant or "Y" branch must be equipped with a valve so that the hose may be removed while there is pressure on the fire main.

(k) Each fire station hydrant connection must be brass, bronze, or other equivalent metal. Fire hose coupling threads must be of brass or other suitable corrosion resistant material and comply with NFPA 1963.

(l) Fire hose must be 1½ inches in diameter, 50 feet in length, and connected to outlets at all times.

(m) Fire hose, when part of the fire equipment, must not be used for any purpose other than fire extinguishing, fire drills, and testing.

(n) A suitable hose rack or other device must be provided for each fire hose. Each hose rack on a weather deck must be located so as to afford protection from heavy seas.

(o) Each section of fire hose must be lined commercial fire hose that conforms to Underwriters Laboratories, Inc. Standard 19. Fire hose that bears the label of Underwriters Laboratories, Inc. as lined fire hose is acceptable.

## Subpart B—Portable and Semiportable Fire Extinguishers

### § 132.210 Classification.

(a) Portable fire extinguishers and semiportable fire extinguishers are classified by a combination letter and number symbol. The letter indicates the type of fire which the unit could be expected to extinguish, and the number indicates the relative size of the unit.

(b) The types of fire are designated as follows:

(1) "A" for fires in ordinary combustible materials where the quenching and cooling effects of quantities of water, or solutions containing large percentages of water, are of first importance.

(2) "B" for fires in flammable liquids, greases, etc., where a blanketing effect is essential.

(3) "C" for fires in electrical equipment where the use of nonconducting extinguishing agent is of first importance.

(c) The number designations for size start with "I" for the smallest to "V" for the largest. Sizes I and II are considered portable fire extinguishers and sizes III, IV, and V which exceed 55 pounds gross weight are considered semiportable fire extinguishers and must be fitted with suitable hose and nozzle or other practicable means so that all portions of the space concerned may be covered. Examples of minimum size graduations (net agent weight) for some of the typical portable and semiportable fire extinguishers are set forth in Table 132.210.

TABLE 132.210

| Classification | | Halon 1211, 1301, & 1211-1301 mixtures pounds | Foam, gallons | Carbon dioxide, pounds | Dry chemical, pounds |
|---|---|---|---|---|---|
| Type | Size | | | | |
| A | II | | 2½ | | |
| B | I | 2½ | | 4 | 2 |
| B | II | 10 | 2½ | 15 | 10 |
| B | III | | 12 | 35 | 20 |
| B | IV | | 20 | 50 | 30 |
| B | V | | 40 | 100 | 50 |
| C | I | 2½ | | 4 | 2 |
| C | II | 10 | | 15 | 10 |

(d) Each portable fire extinguisher and semiportable fire extinguisher must have a name plate giving the name of the item, the rated capacity in gallons or pounds, the name and address of the distributor, and the identifying mark of the actual manufacturer. The name plate must be permanently attached to the extinguisher.

### § 132.220 Location.

(a) Portable fire extinguishers approved under Subpart 162.028 of this chapter and semiportable fire extinguishers approved under Subpart 162.039 of this chapter must be installed in accordance with Table 132.220. The location of the equipment must be to the satisfaction of the OCMI. Nothing in this paragraph is to be construed as limiting the OCMI from requiring additional equipment as deemed necessary for the proper protection of the vessel.

TABLE 132.220.—PORTABLE AND SEMIPORTABLE FIRE EXTINGUISHERS

| Space | Classification (see § 132.210) | Quantity and location |
|---|---|---|
| **Safety areas** | | |
| Communicating corridors | A-II | 1 in each main corridor not more than 150 feet apart. (May be located in stairways.) |
| Pilothouse | C-I | 2 in vicinity of exit. |
| **Service spaces** | | |
| Galleys | B-II or C-II | 1 for each 2,500 square feet or fraction thereof suitable for hazards involved. |
| Paint lockers | B-II | 1 outside space in vicinity of exit. |
| Accessible baggage and storerooms | A-II | 1 for each 2,500 square feet or fraction thereof located in the vicinity of exits, either inside or outside the spaces. |
| Work shops and similar spaces | A-II | 1 outside the space in vicinity of exit. |
| **Machinery spaces** | | |
| Internal combustion propelling machinery spaces | B-II | 1 for each 1,000 brake horsepower, but not less than 2 nor more than 6. |
| | B-III | 1 required.[1] [2] |
| Electric propulsion motor or generators of open type | C-II | 1 for each propulsion motor or generator unit. |
| **Auxiliary spaces** | | |
| Internal combustion | B-II | 1 outside the space in vicinity of exit.[2] |
| Electric emergency motors or generators | C-II | 1 outside the space in vicinity of exit.[2] |

[1] Not required where a fixed carbon dioxide or Halon 1301 system is installed.
[2] Not required on vessels of less than 300 gross tons.

(b) Each semiportable fire extinguisher must be located in the open so as to be readily visible.

(c) Except as provided in paragraph (d) of this section, each portable fire extinguisher must be located in the open or behind glass so as to be readily visible.

(d) A portable fire extinguisher may be placed in an enclosure together with the fire hose, provided the enclosure is marked as required by § 131.830 of this chapter.

(e) Each portable fire extinguisher and its station must be numbered in accordance with § 131.835 of this chapter.

(f) Each portable and semiportable fire extinguisher having a nameplate indicating it is to be protected from freezing must not be located where freezing temperatures may be expected.

**§ 132.230 Spare charges.**

(a) Except as provided in paragraph (b) or (c) of this section, spare charges for portable fire extinguishers must be carried on board the vessel. The number of spare charges for each classification of extinguisher must be equal to at least 50 percent of the number of extinguishers required to be of that classification by § 132.220 of this chapter.

(b) In lieu of meeting the requirements of paragraph (a) of this section, one additional extinguisher of that classification may be provided.

(c) If extinguishers of a particular classification can not be readily recharged by the vessel's personnel, one additional extinguisher of that classification must be provided in lieu of the spare charges required by paragraph (a) of this section for that classification.

(d) Spare charges must be so packaged as to minimize the hazards to personnel while recharging the units.

**§ 132.240 Semiportable fire extinguisher stowage.**

The frame or support of each size III, IV, and V semiportable fire extinguisher must be secured at all times to prevent it from shifting under heavy sea conditions.

## Subpart C—Miscellaneous

**§ 132.310 Fixed fire extinguishing systems.**

(a) Except as provided in paragraph (b) of this section, a fixed carbon dioxide, Halon 1301, or other approved fixed fire extinguishing system must be installed in each paint locker.

(b) A fixed fire extinguishing system need not be installed in a paint locker that is—

(1) Less than 60 cubic feet in volume;

(2) Accessible only from the weather deck; and

(3) Not adjacent to a flammable or combustible liquid tank.

(c) Each fixed extinguishing system installed must meet the requirements in Part 95 of this chapter or be approved by the Commandant (G-MVI).

**§ 132.320 Helicopter landing decks.**

Each vessel with a helicopter landing deck must meet the additional fire fighting requirements of Part 108 of this chapter.

**§ 132.330 Fire monitors.**

(a) Fire monitors that are supplied by the fire main must be fitted with a shut-off valve at the fire monitor and at the connection to the fire main discharge manifold required by § 132.120(j) of this chapter.

(b) All fire monitor piping must meet the requirements in § 132.110 of this chapter.

(c) The fire monitor system must be protected against over pressurization.

**§ 132.340 Equipment installed but not required.**

Installation of fire detection and protection equipment in excess of that required by the regulations in this subchapter is permitted provided that the excess equipment does not endanger the vessel or persons on board in any way. The excess equipment must, at a minimum, be listed and labeled by a nationally recognized testing laboratory.

**§ 132.350 Tests and inspections of fire extinguishing equipment.**

(a) The master must ensure that the tests and inspections described in paragraph (b) of this section are performed—

(1) Every 12 months; or

(2) Not later than the next inspection for certification provided the total time since the date of the last tests and inspections does not exceed 15 months.

(b) The following tests and inspections must be performed as required by paragraph (a) of this section:

(1) Each portable fire extinguisher and semiportable fire extinguisher must be checked as noted in Table 132.350(a). In addition, each portable fire extinguisher and semiportable fire extinguisher must be examined for excessive corrosion and general condition.

(2) Each fixed fire extinguishing system must be checked as noted in Table 132.350(b). In addition, all parts of each fixed fire extinguishing system must be examined for excessive corrosion and general condition.

TABLE 132.350(a).—PORTABLE EXTINGUISHERS AND SEMIPORTABLE EXTINGUISHERS

| Type unit | Test |
|---|---|
| Foam | Discharge. Clean hose and inside of extinguisher thoroughly. Recharge. |
| Carbon dioxide | Weigh cylinders. Recharge if weight loss exceeds 10 percent of weight of charge. Inspect hose and nozzle to ensure they are clear.[1] |
| Dry chemical (cartridge-operated type). | Examine pressure cartridge and replace if end is punctured or if otherwise determined to have leaked or to be in unsuitable condition. Inspect hose and nozzle to see that they are clear. Insert charged cartridge. Be sure dry chemical is free flowing (not caked) and chamber contains full charge. |
| Dry chemical (stored pressure type). | See that pressure gage is in operating range. If not, or if seal is broken, weigh or otherwise determine that full charge of dry chemical is in extinguisher. Recharge if pressure is low or if dry chemical is needed. |
| Halon 1211, 1301, and 1211-1301 mixtures. | See that pressure gage is in operating range. Recharge if pressure is low. If no pressure gage is provided, weigh cylinder. Recharge if weight loss exceeds 10% of weight of charge. Inspect hose and nozzle to ensure they are clear. |

[1] Cylinders must be tested and marked, and all flexible connections and discharge hoses of semiportable carbon dioxide and Halon extinguishers must be tested or renewed as required by §§ 147.60 and 147.65 of this chapter.

TABLE 132.350(b).—FIXED SYSTEMS

| Type system | Test |
|---|---|
| Carbon dioxide and Halon 1301. | Weigh cylinders. Recharge if weight loss exceeds 10 percent of weight of charge.[1] |

[1] Cylinders must be tested and marked and all flexible connections and discharge hoses of semiportable carbon dioxide and Halon extinguishers must be tested or renewed as required by §§ 147.60 and 147.65 of this chapter.

(3) On each fixed fire extinguishing system, all piping controls, valves, and alarms must be checked to ascertain that the system is in operating condition.

(4) The fire main system must be operated and the pressure checked at the most remote and highest outlets. All fire hose must be subjected to a test pressure equivalent to the maximum pressure to which they may be subjected in service, but not less than 100 psi.

**§ 132.360 Fire axes.**

(a) One fire axe is required for a vessel of less than 100 gross tons.

(b) Two fire axes are required for a vessel of 100 gross tons and over.

(c) Fire axes must be located so as to be readily available in the event of an emergency.

(d) If a fire ax is not located in the open, or behind glass, so that it may be readily seen, it may be placed in an enclosure together with the fire hose, provided the enclosure is marked as required by § 131.830 of this chapter.

**§ 132.370 Additional requirements for fixed independent and portable tanks.**

(a) When carrying fixed independent tanks on deck or portable tanks in accordance with § 125.110 of this chapter, the additional requirements of §§ 98.30–37 and 39 of this chapter must also be met.

(b) When carrying portable tanks in accordance with § 125.120 of this chapter, the additional requirements of 49 CFR 176.315 must also be met.

## PART 133—[RESERVED]

## PART 134—[RESERVED]

## PART 135—[RESERVED]

## PART 136—[RESERVED]

## PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

2. The authority citation for Part 170 continues to read as follows:

Authority: 43 U.S.C. 1333, 46 U.S.C. 3306, 3307, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, 49 CFR 1.46.

**§ 170.055 [Amended]**

3. By revising § 170.055(f) to read as follows:

(f) "Downflooding angle" means, except as specified in §§ 171.055(f), 172.090(d), 173.095(e), 174.015(b), and 174.195 the static angle from the intersection of the vessel's centerline and waterline in calm water to the first opening that cannot be closed watertight and through which downflooding can occur.

## PART 174—SPECIAL RULES PERTAINING TO SPECIFIC VESSEL TYPES

4. The authority citation for Part 174 continues to read as follows:

Authority: 42 U.S.C. 9118, 9119, 9153; 43 U.S.C. 1333; 46 U.S.C. 3306, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, 49 CFR 1.46.

5. By adding paragraph (f) to § 174.005 to read as follows:

**§ 174.005 Applicability.**

* * * * *

(f) Offshore supply vessel.

6. By adding new Subparts G and H, consisting of §§ 174.180 through 174.225 and 174.240 through 174.255, to Part 174 to read as follows:

**Subpart G—Special Rules Pertaining to Offshore Supply Vessels**

Sec.

174.180 Specific applicability.
174.185 Intact stability requirements.
174.190 Collision bulkhead.
174.195 Machinery space bulkheads.
174.200 Machinery space damage stability.
174.205 Additional damage stability requirements.
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**Subpart H—Special Rules Pertaining to Liftboats**

174.240 Specific applicability.
174.245 Unrestricted service.
174.250 Restricted service.
174.255 Freeboard requirements for liftboats.

## Subpart G—Special Rules Pertaining to Offshore Supply Vessels

**§ 174.180 Specific applicability.**

Each offshore supply vessel inspected under Subchapter L of this chapter must comply with this subpart.

**§ 174.185 Intact stability requirements.**

(a) In each condition of loading and operation each vessel must be shown by design calculations to meet the requirements of § 170.170 of this chapter, and either § 170.173 of this chapter or paragraphs (b) through (e) of this section.

(b) The area under each righting arm curve must be at least 15 foot-degrees up to the smallest of the following angles:

(1) The angle of maximum righting arm.

(2) The downflooding angle.

(3) 40 degrees.

(c) The downflooding angle must not be less than 20 degrees.

(d) The righting arm curve must be positive to at least 40 degrees.

(e) The freeboard at the stern must be at least equal to the freeboard calculated in accordance with Subchapter E of this chapter or the value taken from Table 174.185, whichever is less.

(f) For the purpose of paragraphs (b) and (d) of this section, at each angle of heel, a vessel's righting arm may be calculated considering either—

(1) The vessel is permitted to trim free until the trimming moment is zero; or

(2) The vessel does not trim as it heels.

(g) For the purpose of paragraphs (b) and (d) of this section, the method of calculating righting arms chosen must be the same for all calculations.

TABLE 174.185.—MINIMUM FREEBOARD AT THE STERN

| LBP (feet) | Stern freeboard (inches) |
|---|---|
| Less than 65 | 12 |
| 65 but less than 100 | 15 |
| 100 but less than 130 | 18 |
| 130 but less than 155 | 20 |
| 155 but less than 190 | 22 |
| 190 but less than 230 | 24 |
| 230 and greater | 26 |

**§ 174.190 Collision bulkhead.**

(a) Each vessel must have a collision bulkhead that complies with this section.

(b) Except as provided in paragraph (g) of this section, the portion of the collision bulkhead that is below the bulkhead deck must be watertight and have no openings in it.

(c) Each portion of the collision bulkhead must be at least 5 percent of the LBP aft of the forward perpendicular.

(d) The collision bulkhead must be no more than 10 feet plus 5 percent of the LBP aft of the forward perpendicular.

(e) The collision bulkhead must extend to the deck above the bulkhead deck if the vessel has a superstructure that extends from a point forward of the collision bulkhead to a point at least 15% of the LBP aft of the collision bulkhead.

(f) The collision bulkhead required by paragraph (e) of this section must have the following characteristics:

(1) The portion of the collision bulkhead above the bulkhead deck must be weathertight.

(2) If the portion of the collision bulkhead above the bulkhead deck is not located directly above the collision bulkhead below the bulkhead deck, then the bulkhead deck between must be weathertight.

(g) Piping penetrations in the collision bulkhead must be kept to a minimum and where fitted must meet the requirements in § 56.50–1(b)(1) and (c), and § 128.230 of this chapter.

**§ 174.195 Machinery space bulkheads.**

(a) Each machinery space bulkhead of each vessel must be watertight to the bulkhead deck.

(b) Except as provided in § 174.210 of this part, each penetration and each opening in a machinery space bulkhead must—

(1) Be kept as high and as far inboard as practicable; and

(2) Except as provided in paragraph (c) of this section, have means to make it watertight.

(c) A penetration in a machinery space bulkhead for a ventilation duct need not have means available to make the bulkhead watertight if—

(1) All portions of the duct are located a distance of at least 30 inches from the side of the vessel; and

(2) The duct is continuously watertight from the penetration to the main deck.

(d) Each piping penetration in the machinery space bulkheads must meet the material and pressure design requirements of Subchapter F of this chapter.

**§ 174.200 Machinery space damage stability.**

(a) Each vessel must be shown by design calculations to meet the requirements in § 174.205 (c) through (f) in each condition of loading and operation assuming damage between the watertight bulkheads required in § 174.195.

**§ 174.205 Additional damage stability requirements.**

(a) *Calculations.* Each vessel carrying more than 16 offshore workers must be shown by design calculations to meet the survival conditions in paragraph (e) of this section in each condition of loading and operation assuming the damage specified in paragraph (b) of this section.

(b) *Character of damage.* (1) Calculations must show that the vessel can survive damage at any location other than to a transverse watertight bulkhead unless—

(i) The transverse watertight bulkhead is located closer than the longitudinal extent of damage specified in Table 174.205(a) to the adjacent transverse watertight bulkhead; or

(ii) The transverse watertight bulkhead has a step or recess that is longer than 10 feet and the step or recess is located within the transverse extent of damage specified in Table 174.205(a).

(2) If paragraph (b)(1)(ii) of this section requires a transverse watertight bulkhead to be damaged, the stepped or recessed portion of the bulkhead must be considered to be damaged in doing the calculations required in paragraph (a) of this section.

(c) *Extent of damage.* For the purpose of paragraph (a) of this section, damage must consist of the penetrations having the dimensions given in Table 174.205(a) except that, if the most disabling penetrations are less than the penetrations described in this paragraph, the smaller penetrations must be assumed.

(d) *Permeability of spaces.* When doing the calculations required in paragraph (a) of this section, the permeability of a floodable space must be as listed in Table 174.205(b).

(e) *Survival conditions.* A vessel is presumed to survive assumed damage if it meets the following conditions in the final stage of flooding:

(1) *Final waterline.* The final waterline, in the final condition of sinkage, heel, and trim, must be below the lower edge of an opening through which progressive flooding may take place, such as an air pipe, a tonnage opening, an opening that is closed by means of a weathertight door or hatch cover, or a tank vent fitted with a ball check valve. This opening does not include an opening closed by a—

(i) Watertight manhole cover;

(ii) Flush scuttle;

(iii) Small watertight cargo tank hatch cover that maintains the high integrity of the deck;

(iv) Watertight door meeting the requirements in § 174.201; or

(v) Side scuttle of the non-opening type.

(2) *Heel angle.* The maximum angle of heel must not exceed 15 degrees.

(3) *Range of stability.* Through an angle of 20 degrees beyond its position of equilibrium after flooding, a vessel must meet the following conditions:

(i) The righting arm curve must be positive.

(ii) The maximum righting arm must be at least 4 inches.

(iii) Each submerged opening must be weathertight. A tank vent fitted with a ball check valve is considered weathertight.

(4) *Progressive flooding.* Pipes, ducts, or tunnels within the assumed extent of damage must be either—

(i) Equipped with arrangements, such as stop check valves, to prevent progressive flooding to other spaces with which they connect; or

(ii) Assumed in the design calculations required in paragraph (a) of this section to permit progressive flooding to the spaces with which they connect.

(f) *Buoyancy of superstructure.* For the purpose of paragraph (a) of this section, the buoyancy of any superstructure directly above the side damage is to be disregarded.

TABLE 174.205(a).—EXTENT OF DAMAGE

Collision Penetration

| | |
|---|---|
| Longitudinal extent (Vessels with LBP not greater than 143 feet). | .1L or 6 feet whichever is longer |
| Longitudinal extent (Vessels with LBP greater than 143 feet). | 10 feet + .03L |
| Transverse extent [1] | 30 inches |
| Vertical extent | From the baseline upward without limit |

[1] The transverse penetration is applied inboard from the side of the vessel, at right angles to the centerline, at the level of the deepest load line.

TABLE 174.205(b).—PERMEABILITY

| Spaces and Tanks | Permeability (Percent) |
|---|---|
| Storeroom | 60 |
| Accommodations | 95 |
| Machinery | 85 |
| Voids and passageways | 95 |
| Consumable liquid tanks | 95 or 0[1] |
| Dry bulk tanks | 95 or 0[1] |
| Other liquid tanks | 95 or 0[2] |

[1] Whichever results in the more disabling condition.

[2] If tanks are partially filled, the permeability must be determined from the actual density and amount of liquid carried.

**§ 174.210 Watertight bulkhead doors.**

(a) This section applies to each vessel with watertight doors in bulkheads that have been made watertight to comply with the requirements in this subchapter.

(b) Except as provided in paragraph (c) of this section, watertight doors must meet the requirements in Subpart H of Part 170 of this subchapter.

(c) A Class 1 door may be installed in any location if—

(1) The door has a quick action closing device operative from both sides of the door;

(2) The door is designed to withstand a head of water equivalent to the depth from the sill of the door to the bulkhead deck but in no case less than 10 feet; and

(3) There is a visual indicator in the vessel's pilothouse indicating whether the door is open or closed.

(d) Watertight doors must be marked in accordance with the requirements in § 131.893 of this chapter.

(e) If a Class 1 door is installed, a restriction will be placed in the vessel's stability letter requiring the master to ensure that the door is closed at all times except when being used for access.

**§ 174.215 Drainage of weather decks.**

The weather deck must have open rails to allow rapid clearing of water, or freeing ports complying with § 42.15.70 of this chapter.

**§ 174.220 Hatches and coamings.**

(a) Each hatch exposed to the weather must be watertight, except that the following hatches may be weathertight:

(1) Each hatch on a watertight trunk that extends at least 12 inches above the weather deck.

(2) Each hatch in a cabin top.

(b) Each hatch cover must—

(1) Have securing devices; and

(2) Be attached to the hatch frame or coaming by hinges, captive chains, or other devices to prevent its loss.

(c) Each hatch that provides access to crew or offshore worker quarters and accommodation spaces must be capable of being opened and closed from either side.

(d) Except as provided in paragraph (e) of this section, a weathertight door with permanent watertight coamings at least 6 inches in height must be provided for each opening located in a deck house or companionway that—

(1) Gives access into the hull; and

(2) Is located in an exposed location.

(e) If an opening in a location specified in paragraph (d) of this section is provided with a Class 1 watertight door, the height of the watertight coaming need only be sufficient to accommodate the door.

**§ 174.225 Hull penetrations and shell connections.**

Except for engine exhausts, each overboard discharge and shell connection must comply with the requirements in § 56.50–95 and § 128.230 of this chapter.

## Subpart H—Special Rules Pertaining to Liftboats

**§ 174.240 Specific applicability.**

Each liftboat inspected under Subchapter L of this chapter must comply with this subpart.

**§ 174.245 Unrestricted service.**

(a) This section applies to each liftboat except a liftboat in restricted service.

(b) Each vessel must meet the requirements of §§ 174.040 through 174.055 of this chapter in each condition of loading and operation.

**§ 174.250 Restricted service.**

(a) This section applies to a liftboat authorized only for restricted service.

(b) Each vessel must be shown by design calculations for each afloat condition of loading and operation to meet the following criteria:

(1) § 174.045 of this chapter, using a "K" value of at least 1.4.

(2) A range of positive stability of at least 10 degrees extending from the angle of the first intercept of the righting moment and wind heeling moment curves to either the angle of the second intercept of those curves, or the angle of heel at which downflooding would occur, whichever angle is less, and

(3) A residual righting energy of at least 5 foot degrees between the angle of the first intercept of the righting moment and wind heeling moment curves to either the angle of the second intercept of those curves, or the angle of heel at which downflooding would occur, whichever angle is less.

(c) For the purposes of this section, each wind heeling moment must be calculated as prescribed in § 174.055 of this chapter using a wind velocity of 70 knots for afloat severe storm conditions and a wind velocity of 60 knots for afloat normal operating conditions.

(d) In meeting paragraph (b) of this section, the initial metacentric height must be at least 1 foot for all afloat leg positions including the full range of leg positions encountered while jacking.

(e) Each vessel must be shown by design calculations to continually exert a downward force on each footing when supported on the bottom with footings and subjected to the forces of waves, currents, and winds of 70 knots for normal operating conditions and 100 knots for severe storm conditions. Waves must be appropriate for the wind conditions and geographic location, and currents must be appropriate for the geographic location.

**§ 174.255 Freeboard requirements for liftboats.**

(a) Each vessel not required to obtain and maintain a load line in compliance with Subchapter E of this chapter, must place marks on each side of the vessel centered at amidships. These marks must consist of a horizontal line 18 inches in length and 1 inch in height. The upper edges of the marks must be located at a distance equal to the authorized freeboard measured vertically below the intersection of the continuation outwards of the upper surface of the weather deck and the outer surface of the shell. This distance must not be less than 24 inches.

(b) The marks required by paragraph (a) of this section may not be submerged in any condition of loading or operation.

Dated: January 9, 1989.

**Clyde T. Lusk, Jr.,**

*Vice Admiral, U.S. Coast Guard, Acting Commandant.*

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May 9, 1989

Part III

# Department of Education

34 CFR Part 205

Chapter 1—Migrant Education Coordination Program for State Educational Agencies; Final Regulations

## DEPARTMENT OF EDUCATION

### 34 CFR Part 205

**RIN 1810-AA42**

### Chapter 1—Migrant Education Coordination Program for State Educational Agencies

**AGENCY:** Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Secretary amends the regulations governing discretionary grants that may be made under the Chapter 1—Migrant Education Coordination Program for State Educational Agencies (SEAs). These amendments are needed to implement section 1203 of the Elementary and Secondary Education Act of 1965, as amended by Title I of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100-297). These regulations implement the provision of that statute that permits discretionary grants, in addition to contracts, for the purpose of improving interstate and intrastate coordination of migrant education programs.

**EFFECTIVE DATE:** These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph P. Bertoglio, Office of Migrant Education, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 2145, FOB #6, Washington, DC 20202-6135. Telephone No. (202) 732-4758.

**SUPPLEMENTARY INFORMATION:** In Title I of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100-297), Congress amended the migrant education program by enacting a new Chapter 1, Part D, Subpart 1, "Programs for Migratory Children" within Title I of the Elementary and Secondary Education Act of 1965. These proposed final regulations amend regulations published in the **Federal Register** on July 29, 1983, as 34 CFR Part 205, which implemented the provisions for coordination of migrant education activities contained in section 143 of Title I of the Elementary and Secondary Education Act of 1965. At that time, section 143 authorized grants or contracts to be issued to undertake coordination activities. Pub. L. 99-159, enacted November 22, 1985, rescinded the Department's authority to issue grants and limited coordination activities to those undertaken by contracts. However, section 1203(a) of the Elementary and Secondary Education Act of 1965, as amended, reinstates the Department's authority to support coordination activities through grants or contracts.

These regulations amend the existing 34 CFR Part 205 to implement the following technical amendments that now govern grants made under the program:

- The reference to applicable definitions in § 205.4 is changed to reflect the inclusion of all applicable definitions in § 201.3.
- The reference to the Education Department General Administrative Regulations in § 205.3 is changed to include those sections that are presently applicable.
- Section 205.10 is amended to indicate that grants may be awarded for up to three years.
- Citations of authority have been updated to reflect the new statute.

The statute makes two other changes in the way the Chapter 1—Migrant Education Coordination Program for SEAs will operate. First, in authorizing the Secretary to award grants or contracts to support coordination activities, section 1203(a)(1) of the Act directs the Secretary both to consult with the States and to obtain their approval. In addition, section 1203(a)(3) of the statute specifically directs the Secretary to award grants or contracts to develop and establish a national program of credit exchange and accrual for migrant students. While the Secretary intends to implement the first provision through discussions with the National Association of State Directors of Migrant Education, and the credit exchange and accrual program through the established Chapter 1—Migrant Education Coordination Program for SEAs, the Secretary has determined that neither provision requires rulemaking.

#### Waiver of Notice of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. These amendments merely incorporate updated references and authority citations and, in § 205.10, indicate that grants will be awarded in consultation with and with the approval of the States for up to three years. Because all of these changes are statutorily required, public comment could have no effect on these changes. The Secretary has determined under 5 U.S.C. 553(b)(B) that publication of a proposed rule is unnecessary and contrary to the public interest.

#### Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

#### Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities.

These regulations contain only technical amendments and would not have a significant impact on these entities.

#### Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

#### Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

#### List of Subjects in 34 CFR Part 205

Coordination, Education, Education for the disadvantaged, Elementary and secondary education, Grant programs—education, Migratory children, Migrant workers, State education agencies.

Dated: April 20, 1989.

(Catalog of Federal Domestic Assistance Number 84.144 Migrant Education Interstate and Intrastate Coordination Program)

**Lauro F. Cavazos,**

*Secretary of Education.*

The Secretary amends Part 205 of Title 34 of the Code of Federal Regulations as follows:

## PART 205—[AMENDED]

1. The title for Part 205 is revised to read as follows:

## PART 205—CHAPTER 1—MIGRANT EDUCATION COORDINATION PROGRAM FOR STATE EDUCATIONAL AGENCIES

2. The authority citation for Part 205 is revised to read as follows:

**Authority:** 20 U.S.C. 2783, unless otherwise noted.

### § 205.1 [Amended]

3. Section 205.1 is amended by removing the words "The Migrant Education Interstate and Intrastate Coordination Program" and adding, in their place, the words "Chapter 1—Migrant Education Coordination Program for State Educational Agencies", and revising the authority citation to read as follows:

(Authority: 20 U.S.C. 2733)

### § 205.2 [Amended]

4. The authority citation for § 205.2 is revised to read as follows:

(Authority: 20 U.S.C. 2783)

5. Section 205.3 is revised to read as follows:

### § 205.3 Regulations that apply.

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), Part 79 (Intergovernmental Review of Department of Education Programs and Activities), Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, and Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(b) The regulations in this Part 205.

(Authority: 20 U.S.C. 2783)

### § 205.4 [Amended]

6. Section 205.4 is amended by removing "204" and adding, in its place, "201".

7. The authority citation for § 205.4 is revised to read as follows:

(Authority: 20 U.S.C. 2783)

### § 205.5 [Amended]

8. The authority citation for § 205.5 is revised to read as follows:

(Authority: 20 U.S.C. 2783)

### § 205.10 [Amended]

9. Section 205.10 is amended by adding after the word "grants" the words "for a period not to exceed three years" and revising the authority citation to read as follows::

(Authority: 20 U.S.C. 2783)

### § 205.20 [Amended]

10. The authority citation for § 205.20 is revised to read as follows:

(Authority: 20 U.S.C. 2783)

### § 205.21 [Amended]

11. The authority citation for § 205.21 is revised to read as follows:

(Authority: 20 U.S.C. 2783)

### § 205.22 [Amended]

12. The authority citation for § 205.22 is revised to read as follows:

(Authority: 20 U.S.C. 2783)

### § 205.30 [Amended]

13. The authority citation for § 205.30 is revised to read as follows:

(Authority: 20 U.S.C. 2783)

### § 205.31 [Amended]

14. The authority citation for § 205.31 is revised to read as follows:

(Authority: 20 U.S.C. 2783)

### § 205.32 [Amended]

15. The authority citation for § 205.32 is revised to read as follows:

(Authority: 20 U.S.C. 2783)

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Part IV

# Department of Health and Human Services

## Office of Human Development Services

**Administration for Native Americans; Availability of Financial Assistance; Notice**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Human Development Services

[Program Announcement No. 13612-901]

### Administration for Native Americans; Availability of Financial Assistance

**AGENCY:** Administration for Native Americans (ANA), Office of Human Development Services (OHDS).

**ACTION:** Announcement of availability of competitive financial assistance for American Indian, Native Hawaiian, and Native American Pacific Islanders social and economic development projects.

**SUMMARY:** The Administration for Native Americans announces the anticipated availability of fiscal year 1990 funds for social and economic development projects. Financial assistance provided by ANA is designed to strengthen the self-sufficiency of Native American tribes and organizations through the support of both social and economic development projects and the strengthening of local governance capabilities.

**DATES:** The closing dates for receipt of applications are October 6, 1989, February 2, 1990, and May 18, 1990.

**FOR FURTHER INFORMATION CONTACT:** Lucille Dawson (202) 245–7727 or Sharon McCully (202) 245–7714, Administration for Native Americans, Office of Human Development Services, Department of Health and Human Services, 200 Independence Avenue SW., 338F, Washington, DC 20201–0001

**SUPPLEMENTARY INFORMATION:**

### A. Introduction and Program Purpose

The purpose of this program announcement is to announce the anticipated availability of financial assistance to promote self-sufficiency for Indian Tribes and American Indian, Native Hawaiian, and Native American Pacific Islanders' groups through support of local governance, social and economic development projects. Funds will be awarded under section 803(a) of the Native American Programs Act of 1974, as amended, Pub. L. 93–644, 88 Stat. 2324, 42 U.S.C. 2991b.

Proposed projects will be reviewed on a competitive basis against the evaluation criteria in this announcement.

The purpose of the financial assistance provided by ANA under the Native American Programs Act (the Act) is to promote social and economic self-sufficiency for American Indians, Alaska Natives, Native Hawaiians, and Native American Pacific Islanders (American Samoan Natives and indigenous peoples of Guam and the Commonwealth of the Northern Mariana Islands). For the purposes of this program announcement, the term "Native American" will be used to include all eligible groups under the Act except for Alaskan Native groups. ANA will publish a separate Fiscal Year 1990 program announcement for Alaskan Native applicants.

ANA believes that responsibility for achieving self-sufficiency rests with the governing bodies of Indian tribes and in the leadership of Native American groups. The development of self-sufficiency requires strengthening governmental responsibilities, economic progress, and improvement of social systems which protect and enhance the health and well-being of individuals, families and communities.

Achievement of self-sufficiency is based on the community's ability to plan, organize, and direct resources in a comprehensive manner to achieve long-range community goals. ANA bases its program and policy initiatives on the following three program goals:

(1) Governance: to assist tribal governments, Native American institutions, and local leadership to exercise local control and decision-making over their resources;

(2) Economic Development: to foster the development of stable, diversified local economies and economic activities which will provide jobs, promote economic well-being, and reduce dependency on public funds and social services;

(3) Social Development: to support local access to, control of, and coordination of services and programs which safeguard the health and well-being of people, and which are essential to a thriving and self-sufficient community.

To accomplish these goals, ANA supports tribal governments and other Native American organizations in the development and implementation of community-based, long-term governance and social and economic development strategies (SEDS) aimed at promoting the self-sufficiency of their own communities. This approach is based on two fundamental principles:

(1) The local community and its leadership are responsible for determining their own goals, setting priorities, and planning and implementing programs aimed at achieving those goals; the unique mix of socio-economic, political, and cultural factors involved in each community makes such self-determination necessary; the local community is in the best position to apply its own cultural, political, and socio-economic values in deciding on long-term strategies and programs;

(2) Economic and social development are interrelated, and development in one area should be balanced with development in the other in order to enhance self-sufficiency. Without a careful balance of the two, the community's development efforts may be jeopardized. Expansion of social services, without providing opportunities for employment and economic development, may lead to greater dependency. Conversely, inadequate social services can seriously impede productivity and economic development.

### B. Proposed Projects to be Funded

The fundamental task which Native American communities face is developing enduring social and economic strategies in keeping with local goals, resources, and cultural values. ANA is interested in assisting local communities in the implementation of projects that are a part of long-range strategies to achieve social and economic self-sufficiency. ANA expects its applicants to have undertaken a long-range planning process that addresses the community's development and encourages social and economic growth for the community. Such long-range planning must consider the maximum use of available resources, directing those resources at opportunities and addressing issues that hinder progress.

ANA encourages applicants to consider innovative approaches to achieve the specific governance and social and economic goals of the community, and to use non-ANA resources including human, natural, and financial ones to strengthen and broaden the proposed project's impact in the community.

All projects funded by ANA must be completed, self-sustaining or supported with other than ANA funds at the end of the project period. ANA's funding of specific projects is not for those programs which operate indefinitely or have need for ANA funding on a recurring basis.

*Goal 1: Governance.* Effective governance is a necessary foundation and condition for social and economic development of Indian tribes and Native American groups. Efforts to achieve effective governance include: (1) Strengthening the effectiveness of tribal governments; (2) increasing the ability of tribes and Native American groups and organizations to plan, develop, and administer a comprehensive program

supportive of community social and economic self-sufficiency; and (3) increasing awareness of the legal rights and benefits to which Native Americans are entitled, either by virtue of treaties, the Federal trust relationship, legislative authority, or as citizens of a particular state or of the United States.

Under the governance goal, ANA strongly encourages tribal councils and other governing bodies to strengthen and streamline their institutional management in order to develop and implement social and economic development strategies and to improve the day-to-day management of programs. By improving such capabilities, Indian Tribes and Native American groups can better define and achieve the goals of their people and promote greater efficiency and effectiveness in the use of available resources.

*Goal 2: Economic development* is the long-term mobilization and management of economic resources to achieve a diversified economy characterized by widespread distribution of economic resources, services, and benefits; participation of community members in the productive activities and economic investments of the community; and pursuit of economic interests in ways that balance economic gain with social development.

*Goal 3: Social Development* is the mobilization and management of resources for the social benefit of community members, and involves the establishment of institutions, systems, and practices that contribute to the social environment desired by the community. This includes the development of, access to, and local control over the institutions that protect the health and welfare of individuals and families, and preserve the values, language, and culture of the community.

Building on the foundation of strong local governance, ANA supports tribal governments' and other Native American organizations' efforts to achieve coordinated and balanced development and implementation of social and economic development strategies. These interrelated strategies should coordinate and direct all resources (Federal and non-Federal) toward locally determined priorities, and affect the community and its members in ways that promote greater economic and social self-sufficiency. In addition, these combined strategies should provide an independent source of revenue to the community which will assist the applicant in decreasing dependency on public funds.

**C. Eligible Applicants**

Current ANA grantees (with the exception of Alaskan Native grantees) whose project period terminates in Fiscal Year 1990 (October 1, 1989–September 30, 1990) are eligible to apply for a grant award under this program announcement. (The Project Period is noted in Block 9 of the "Financial Assistance Award".)

Additionally, the following organizations are eligible to apply provided they are not current ANA grantees:

- Federally recognized Indian Tribes;
- Consortia of Indian Tribes;
- Incorporated non-Federally recognized Tribes;
- Incorporated nonprofit multi-purpose community-based Indian organizations;
- Urban Indian Centers;
- Public and nonprofit private agencies serving Native Hawaiians;
- National or regional incorporated nonprofit Native American organizations with Native American community-specific objectives;
- Public and nonprofit private agencies serving native peoples from Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands. The populations served may be located on these islands or in the United States. Funding for Native American Pacific Islanders projects is subject to the availability of specific appropriations during FY 1990.

This program announcement does not apply to current grantees with multi-year projects when applying for continuation funding for their second or third budget periods.

Alaska Native applicants are not eligible under this program announcement because a separate program announcement for Fiscal Year 1990 funding will be published specifically for Alaska Native applicants.

**D. Available Funds**

Approximately $10 million of financial assistance is available under this program announcement for American Indian and Native Hawaiian projects. This program announcement is being issued in anticipation of appropriation of the necessary funds and is contingent upon that appropriation.

Up to $500,000 is available under this announcement for Native American Pacific Islanders projects, subject to the availability of FY 1990 specific appropriations, as provided for in section 816(c) of the Act, as amended.

Each tribe or Native American organization is eligible to receive no more than one grant award under this announcement.

**E. Multi-Year Projects**

Applicants may apply for projects of up to 36 months duration. A multi-year project, one extending more than 12 months, affords grantees the opportunity to undertake more complex and in-depth projects than can be completed in one year. Applicants are encouraged to develop multi-year projects. However, applicants should note that a multi-year project is a project on a single theme that requires more than 12 months to complete. It is not a series of unrelated projects presented in chronological order over a three year period. Funding after the first budget period of a multi-year project is non-competitive.

The budget period for each multi-year project grant will be 12 months. The non-competitive funding for the second and third years will depend upon the grantee's progress in achieving the objectives of the project according to the approved work plan, the availability of Federal funds, and compliance with applicable statutory, regulatory and grant requirements.

**F. Grantee Share of Project**

Grantees must provide at least 20 percent of the total approved cost of the project, which may be cash or in-kind contributions. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The method to compute the non-Federal share is shown in the Application Kit. An itemized budget detailing the applicant's non-Federal share and its source must be included in the application. A request for a waiver of the non-Federal share requirement may be submitted in accordance with § 1336.50(b)(3) of the Native American Program Regulations.

**G. Intergovernmental Review of Federal Programs**

This program is not covered by Executive Order 12372.

**H. The Application Process**

*Availability of Application Forms*

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. The application kits containing the necessary forms may be obtained from: Edith Clark, Administration for Native Americans, Office of Human Development Services, DHHS, Room 344F, Hubert H. Humphrey Building, 200 Independence Avenue,

SW., Washington, DC 20201–0001, Attention: No. 13612–901, (202) 245–7730.

*Application Submission*

One signed original and two copies of the grant application including all attachments, must be hand delivered or mailed to: Department of Health and Human Services, Office of Human Development Services, Discretionary Grants Management Branch, Hubert H. Humphrey Building, Room 345F, 200 Independence Avenue SW., Washington, DC 20201–0001, Attention: ANA 13612–901.

The application shall be signed by an individual authorized to act for the applicant tribe or organization and to assume the applicant's obligations under the terms and conditions of the grant award, including Native American Program statutory and regulatory requirements.

*Application Consideration*

The Commissioner of the Administration for Native Americans determines the final action to be taken with respect to each grant application received under this announcement.

The following points should be taken into consideration by all applicants:

- Incomplete applications and applications that do not conform to this announcement will not be accepted for review. Applicants will be notified in writing of any such determinaton by ANA.
- Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process. An independent review panel evaluates each application against the published criteria. The results of this review assist the Commissioner in making final funding decisions.
- The Commissioner's decision also takes into account the comments of the ANA staff, State and Federal agencies having performance related information, and other interested parties.
- The Commissioner makes grant awards consistent with the purpose of the Act, all relevant statutory and regulatory requirements, this Program Announcement, and the availability of funds.
- After the Commissioner has made decisions on all applications, unsuccessful applicants will be notified in writing within approximately 120 days of the closing date. Successful applicants are notified through an official Financial Assistance Award (FAA). The award will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of the non-Federal matching share requirement.

**I. Review Process and Criteria**

Applications submitted in a timely manner under this program announcement will undergo a pre-review to determine:

- That the applicant is eligible in accordance with the Eligible Applicant Section of this announcement;
- That the application proposes project objectives which are responsive to the Program Announcement; and,
- That the application materials submitted are sufficient to allow the panel to undertake an in-depth evaluation. All required materials and forms are listed in the Grant Application Checklist in the Application Kit.

Applications which pass the pre-review will be evaluated and rated by an independent review panel on the basis of five evaluation criteria. These criteria are used to evaluate the quality of a proposed project and to determine its likelihood of success. A proposed project should reflect the purposes of ANA's SEDS philosophy and program goals (as described under *Introduction and Program Purpose* of this announcement) and increase the probability of greater self-sufficiency for a specific tribe or Native American community. The five programmatic and management criteria are closely related to each other and are considered in judging the overall quality of an application. Points will be given only to applications which are responsive to this announcement and these criteria. The five evaluation criteria are:

*(1) Long-Range Goals and Available Resources (15 points)*

(a) The application presents long-range goals, within the context of the community's comprehensive social and economic development goals, which the proposed project addresses. (Inclusion of the community's entire development plan is not necessary.)

(b) Available resources (other than ANA) which will assist and be coordinated with the project are described. These resources may be human, natural or financial, and may include other Federal and non-Federal resources.

*(2) Organizational Capabilities and Qualifications (10 Points)*

Position descriptions or resumes of key personnel, including those of consultants, are included. Position descriptions specifically describe the job and are clearly related to the project. Resumes indicate that the proposed staff are qualified to carry out the project activities. Either a position description or a resumed set forth the qualifications that the applicant believes are necessary for overall quality management.

*(3) Project Objectives, Approach and Activities (45 Points)*

The application proposes specific project objectives and activities. The Objective Work Plan includes project objectives and activities for *each* budget period proposed and demonstrates that these objectives and activities:

- Are measurable and quantifiable;
- Are based on a fully described and locally determined balanced strategy for governance and for social and economic development;
- Clearly address the community's long-range goals;
- Can be accomplished with available or expected resources during the proposed project period;
- Indicate when the objective and major activities under each objective will be accomplished; and
- Specify who will conduct the activities under each objective.

*(4) Results or Benefits Expected (20 Points)*

The proposed project will result in specific, measurable outcomes for each objective which will clearly contribute to the overall development of the community and its members. The specific information provided on expected outcomes for each objective is the basis upon which the outcomes can be evaluated at the end of each budget year.

*(5) Budget (10 Points)*

There is a budget for each budget period requested. The budget fully explains and justifies the line items in the budget categories in Section B of the Budget Information. Sufficient detail is included to facilitate determination of allowability and relevance to the project. The funds requested are commensurate with the scope of the project. For business development projects, the proposal has demonstrated that the expected return on the funds used to develop the project provides a reasonable profit within a future specified time frame.

**J. Guidance to Applicants**

The following points are provided to assist applicants in developing a competitive application.

*(1) Program Guidance*

• ANA reviewers of applications have indicated they are better able to judge the feasibility and practicality of a proposed economic development project when the applicant has utilized a business plan to discuss the project. ANA has included sample business plans in the application kit. It is strongly suggested that an applicant use these as a guide in the development of an application. The more information given a review panel on a proposed business project, the better able it is to evaluate the potential for success.

• ANA does not fund on the basis of need. ANA funds projects presenting the strongest prospects for fulfilling a community's governance, social or economic development.

• In discussing the problems of the community being addressed in the application, sufficient background and/or history of the community concerning these problems should be included so that the suitability of the proposed project will be understood by reviewers.

• The project proposal must clearly identify in measurable terms the expected results of the project and its positive and continuing impact on the community.

• In the ANA Program Narrative, section A of the application package, *Resources Available to the Proposed Project*, the applicant should address any specific financial circumstances which may impact on the project, such as any monetary or land settlements made to the applicant and any restrictions on the use of those settlements. The specific reasons for seeking ANA funds must be explained when the applicant appears to have other resources to support the proposed project and chooses not to use them.

• Supporting documentation or other testimonies from concerned interests other than the applicant should be used to provide support for the feasibility of the project.

*(2) Technical Guidance*

• The application's Form 424 must be signed by the applicant's representative authorized to act with full authority on behalf of the applicant.

• ANA suggests that the pages of the application be numbered sequentially from the first page. This allows for easy reference during the review process. Simple tabbing of the sections of the application is also helpful to the reviewers.

• Two copies of the application plus the original are required.

• Applicants are encouraged to have someone other than the author apply the evaluation criteria and score the application prior to its submission in order to gain a better sense of the application's quality and potential competitiveness.

• There is no maximum or minimum amount of Federal funds that may be requested.

• For purposes of developing an application, applicants should plan for a project start date approximately 120 days after the closing date under which the application is submitted.

• ANA will not fund essentially identical projects serving the same constituency.

• ANA will accept only one application from any one applicant. If an eligible applicant sends in two applications, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.

• An application from a Federally recognized tribe must be from the governing body.

• The Cover page (included in the Kit) should be the first page of an application.

• The Approach page (Section B of the ANA Program Narrative) for each objective proposed should be of sufficient detail to become a daily or weekly staff guide or responsibilities should the applicant be funded.

• If a profit-making venture is being proposed, profits must be reinvested in the business in order to decrease or eliminate ANA's future participation. Such revenue must be reported as general program income. A decision will be made at the time of grant award regarding appropriate use of program income. (See 45 CFR Part 74 and Part 92.)

• Applicants proposing multi-year projects must fully describe annual project objectives and activities. Separate Objective Work Plans (OWP) must be presented for each project year and a separate itemized budget of the Federal and non-Federal costs of the project for each budget period must be included.

• Applicants for multi-year projects must justify the entire time-frame of the project (i.e., why the project needs funding for more than one year) and describe the results to be achieved by the end of each budget period of the total project period.

• The applicant should specify the entire project period length on the first page of the Form 424, Block 13, not the length of the first budget period. Should the application's contents propose one length of project period and the Form 424 specify a conflicting length of project period, ANA will consider the project period specified on the Form 424 as governing.

• Line 15a of the 424 should specify the Federal funds requested for the first *Budget Period*, not the entire project period.

*(3) Projects or Activities That Generally Will Not Meet the Purposes of This Announcement*

• Projects which support a grantee in providing training and/or technical assistance (T/TA) to other tribes or Native American organizations ("third party T/TA"). However, the purchase of T/TA by a grantee for its own use or for its members' use (as in the case of a consortium), where T/TA is necessary to carry out project objectives, is acceptable.

• Feasibility studies, business plans, marketing plans or written materials such as manuals that are not an essential part of the applicant's long-range development plan. ANA is not interested in funding "wish lists" of business possibilities. ANA expects evidence of solid investment of time and thought on the part of the applicant to any development of business plans, etc.

• Creation of social service programs or expansion or continuation of existing social service delivery programs.

• Core administrative functions or other activities that essentially support the applicant's administrative functions.

• Project goals which are not responsive to one or more of the three ANA goals (Governance, Economic Development, Social Development).

• Project plans or strategies that do not meet the needs of the local community.

• Proposals from consortia of tribes that are not specific in regard to support from and roles of member tribes.

• Projects which should be supported by other Federal funding sources appropriate and available for the proposed activity.

• Activities that will not be completed by the end of the project period; or

• Activities that will not be self-sustaining at the end of the project period; or

• Projects that will not be supported by other than ANA funds at the end of the project period.

• Lack of demonstrated coordination with non-ANA resources.

• Lack of a justification or explanation for requesting ANA funds, or a lack of discussion of other resources and revenues for use in the project.

• The purchase of real estate (see 45 CFR 1336.50(e)) or construction (see

HDS Grants Administration Manual Ch.3, E.).

ANA will critically evaluate applications within which the acquisition of major capital equipment (whether oil rigs or computers/word processing equipment), franchises or the payment of management fees are major components of the Federal share of the budget. During negotiation, such expenditures may be deleted from the budget of an otherwise approved application.

ANA will also critically evaluate projects reflecting heavy reliance on use of outside consultants, especially where consultants have prepared the application and have provided a major role for themselves in the proposed project.

**K. Paperwork Reduction Act of 1980**

Under the Paperwork Reduction Act of 1980, Pub. L. 96–511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for ANA grant applications under the Part IV narrative by OMB.

**L. Due Date for Receipt of Applications**

The closing dates for applications submitted in response to this program announcement are October 6, 1989, February 2, 1990, and May 18, 1990.

**M. Receipt of Applications**

Applications must either be hand delivered or mailed.

*Deadlines.* Applications mailed through the U.S. Postal Service or a commercial delivery service shall be considered as meeting an announced deadline if they are either:

(1) Received on or before the deadline date at the address specified in the Application Submission Section, or

(2) Sent on or before the deadline date and received in time for the ANA independent review. (Applicants are cautioned to request a legibly dated receipt from a commercial carrier or U.S. Postal Service or a legible postmark date from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

*Late applications.* Applications which do not meet the criteria in the above paragraph of this section are considered late applications and will be returned to the applicant. ANA shall notify each late applicant that its application will not be considered in the current competition.

*Extension of deadlines.* ANA may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread distribution of the mails. However, if ANA does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

(Catalog of Federal Domestic Assistant Program Number 13.612 Native American Programs)

Date: April 13, 1989.

**Dominic J. Mastrapasqua,**

*Acting Commissioner, Administration for Native Americans.*

Approved: April 25, 1989.

**Donna N. Givens,**

*Acting Assistant Secretary for Human Development Services.*

[FR Doc. 89–10987 Filed 5–8–89; 8:45 am]

BILLING CODE 4130-01-M

federal register

Tuesday
May 9, 1989

Part V

# Department of Transportation

## Urban Mass Transportation Administration

## UMTA Sections 3 and 9 Grant Obligations; Notice

## DEPARTMENT OF TRANSPORTATION

### Urban Mass Transportation Administration

### UMTA Sections 3 and 9 Grant Obligations

**AGENCY:** Urban Mass Transportation Administration (UMTA), DOT.

**ACTION:** Notice.

**SUMMARY:** The Department of Transportation and Related Agencies Appropriations Act, 1989, Pub. L. 100-457, signed into law by President Reagan on September 30, 1988, contained a provision requiring the Urban Mass Transportation Administration to publish an announcement in the **Federal Register** each time a grant is obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property receiving each grant.

This notice provides the information as required by statute.

**FOR FURTHER INFORMATION CONTACT:** Edward R. Fleischman, Chief, Resource Management Division, Department of Transportation, Urban Mass Transportation Administration, Office of Grants Management, 400 Seventh Street, SW., Room 9305, Washington, DC 20590, (202) 366-2053.

**SUPPLEMENTARY INFORMATION:** The section 3 program was established by the Urban Mass Transportation Act of 1964 to provide capital assistance to eligible recipients in urban areas. Funding for this program is distributed on a discretionary basis. The section 9 formula program was established by the Surface Transportation Assistance Act of 1982. Funds appropriated to this program are allocated on a formula basis to provide capital and operating assistance in urbanized areas. Pursuant to the statute UMTA reports the following grant information:

SECTOR 3 GRANTS

| Transit Property | Grant Number | Grant Amount | Obligation Date |
|---|---|---|---|
| Santa Rosa County, FL, Milton, FL | FL-03-0102 | $31,998 | 03-10-89 |
| Metropolitan Dade County, Miami, FL | FL-03-0085 | 115,500,000 | 03-23-89 |
| Jacksonville Transportation Authority, Jacksonville, FL | FL-03-0101 | 3,984,750 | 04-01-89 |
| Massachusetts Bay Transportation Authority, Boston, MA | MA-03-0154 | 6,318,750 | 02-27-89 |
| Massachusetts Bay Transportation Authority, Boston, MA | MA-03-0155 | 10,256,250 | 02-27-89 |
| City of Charlotte, Charlotte, NC | NC-03-0023 | 12,270,000 | 03-30-89 |
| Southeastern Pennsylvania Transportation Authority, Philadelphia, PA | PA-03-0196 | 3,750,000 | 02-27-89 |
| Southeastern Pennsylvania Transportation Authority, Philadelphia, PA | PA-03-0203 | 6,262,500 | 02-27-89 |
| Tidewater Transportation District Commission, Norfolk, VA | VA-03-0041 | 9,450 | 02-27-89 |
| Houston Metropolitan Transit Authority, Houston, TX | TX-03-0127 | 52,500 | 03-09-89 |
| Houston Metropolitan Transit Authority, Houston, TX | TX-03-0126 | 400,000 | 03-20-89 |
| Greene County, Greene County, New York | NY-03-0248 | 495,000 | 04-21-89 |

SECTION 9 GRANTS

| Transit Property | Grant Number | Grant Amount | Obligation Date |
|---|---|---|---|
| City of Anchorage, Anchorage, AK | AK-90-X006 | $841,000 | 03/31/89 |
| Tuscaloosa County Parking and Transit Authority, Tuscaloosa, AL | AL-90-X027-02 | 72,310 | 03/30/89 |
| City of Montgomery, Montgomery, AL | AL-90-X039-01 | 216,036 | 03/31/89 |
| Pine Bluff Transit Company, Pine Bluff, AR | AR-90-X016 | 349,432 | 03/29/89 |
| City of Little Rock, Little Rock, AR | AR-90-X017 | 250,000 | 03/29/89 |
| Central Arkansas Transit Authority, Little Rock, AR | AR-90-X018 | 1,543,339 | 03/30/89 |
| City of Phoenix, Phoenix, AZ | AZ-90-X022 | 7,134,766 | (1) |
| Metropolitan Transit Development Board, San Diego, CA | CA-90-X110-03 | 3,000,000 | (1) |
| Riverside Transit Agency, San Bernardino-Riverside, CA | CA-90-X311 | 386,846 | 03/31/89 |
| Riverside Transit Agency, San Bernardino-Riverside, CA | CA-90-X312 | 1,986,552 | 03/31/89 |
| City Corona, Los Angeles, CA | CA-90-X314 | 98,000 | 03/31/89 |
| Omnitrans, San Bernardino, CA | CA-90-X317 | 6,160,081 | 03/31/89 |
| Stockton Metropolitan Transit District, Stockton, CA | CA-90-X318 | 1,407,000 | 03/31/89 |
| Long Beach Public Transportation Company, Los Angeles—Long Beach, CA | CA-90-X319 | 656,000 | 03/30/89 |
| Metropolitan Transit Commission, San Francisco—Oakland, CA | CA-90-X321 | 2,800,000 | 03/29/89 |
| Sonoma County, Santa Rosa, CA | CA-90-X323 | 324,000 | 03/31/89 |
| San Francisco Bay Area Rapid Transit District, San Francisco—Oakland, CA | CA-90-X325 | 3,647,200 | 03/31/89 |
| Metropolitan Transit Development Board, San Diego, CA | CA-90-X327 | 11,525,636 | (1) |
| Golden Gate Bridge, Highway and Transportation District, San Francisco, CA | CA-90-X328 | 8,050,332 | 03/31/89 |
| Southern California Rapid Transit District, Los Angeles, CA | CA-90-X329 | 86,855,850 | 03/29/89 |
| Monterey-Salinas Transit, Monterey, CA | CA-90-X331 | 3,397,587 | 03/31/89 |
| Santa Rosa, Santa Rosa, CA | CA-90-X332 | 883,690 | 03/31/89 |
| Orange County Transit District, Los Angeles, CA | CA-90-X334 | 15,087,790 | 03/30/89 |
| City of Fairfield, Fairfield, CA | CA-90-X337 | 294,551 | 03/31/89 |
| City of Gardena, Los Angeles, CA | CA-90-X340 | 160,800 | 03/31/89 |
| North County Transit District, San Diego, CA | CA-90-X341 | 4,846,331 | 03/31/89 |
| Central Contra Costa Transit Authority, San Francisco, CA | CA-90-X342 | 2,494,265 | 03/31/89 |
| Golden Empire Transit District, Bakersfield, CA | CA-90-X343 | 2,457,321 | 03/31/89 |
| Yolo County, Sacramento, CA | CA-90-X345 | 166,938 | 04/14/89 |
| Santa Cruz Metropolitan Transit District, Santa Cruz, CA | CA-90-X347 | 669,734 | 03/31/89 |
| Alameda-Contra Costa County Transit District, San Francisco-Oakland, CA | CA-90-X348 | 16,637,507 | 03/31/89 |
| Santa Barbara Metropolitan Transit District, Santa Barbara, CA | CA-90-X349 | 1,701,846 | 03/31/89 |
| Denver Regional Transportation District, Denver, CO | CO-90-X045 | 15,590,414 | 03/31/89 |
| City of Fort Collins, Fort Collins, CO | CO-90-X046 | 823,980 | 03/30/89 |
| City of Colorado Springs, Colorado Springs, CO | CO-90-X047 | 1,626,300 | 03/30/89 |

SECTION 9 GRANTS—Continued

| Transit Property | Grant Number | Grant Amount | Obligation Date |
|---|---|---|---|
| City of Pueblo, Pueblo, CO | CO-90-X048 | 117,840 | 03/30/89 |
| Connecticut Department of Transportation, Hartford, CT | CT-90-X129 | 1,011,805 | 03/31/89 |
| Greater New Haven Transit District, New Haven, CT | CT-90-X130 | 1,025,912 | 03/31/89 |
| Connecticut Department of Transportation, Hartford, CT | CT-90-X131 | 9,221,944 | 03/29/89 |
| Greater Bridgeport Transit District, Bridgeport, CT | CT-90-X132 | 81,600 | 03/31/89 |
| Connecticut Department of Transportation, Hartford, CT | CT-90-X133 | 139,040 | 03/31/89 |
| Town of Stratford, Bridgeport, CT | CT-90-X134 | 160,000 | 03/31/89 |
| Orange-Seminole-Osceola Transportation Authority, Orlando, FL | FL-90-X054-02 | 627,444 | 03/30/89 |
| Jacksonville Transportation Authority, Jacksonville, FL | FL-90-X041-03 | 1,376,320 | 02/21/89 |
| Jacksonville Transportation Authority, Jacksonville, FL | FL-90-X124 | 3,625,919 | 03/30/89 |
| Broward County Board of Commissioners, Miami, FL | FL-90-X125 | 8,684,795 | 03/31/89 |
| Lakeland Area Mass Transit District, Lakeland, FL | FL-90-X126 | 1,189,358 | 03/31/89 |
| City of Augusta, Augusta, GA | GA-90-X030-01 | 166,636 | 03/31/89 |
| Consolidated Government of Columbus, Columbus, GA | GA-90-X036-02 | 29,397 | 03/30/89 |
| Metropolitan Atlanta Rapid Transit Authority, Atlanta, GA | GA-90-X048 | 18,377,897 | 03/31/89 |
| Douglas County, Atlanta, GA | GA-90-X049 | 358,700 | 03/30/89 |
| City of Honolulu, Honolulu, HI | HI-90-X006 | 12,272,219 | 03/31/89 |
| City of Boise, Boise, ID | ID-90-X015 | 650,599 | 02/06/89 |
| City of East Dubuque, Dubuque, IL | IL-90-X134 | 4,071 | 03/31/89 |
| Springfield Mass Transit District, Springfield, IL | IL-90-X135 | 912,336 | 03/31/89 |
| Champaign-Urbana Mass Transit District, Champaign-Urbana, IL | IL-90-X136 | 723,200 | 03/31/89 |
| Pekin Municipal Bus Service, Peoria, IL | IL-90-X137 | 107,562 | 03/31/89 |
| Rock Island County Metropolitan Mass Transit District, Davenport, IL | IL-90-X138 | 617,334 | 03/31/89 |
| Chicago Transit Authority, Chicago, IL | IL-90-X139 | 15,501,040 | 03/31/89 |
| Chicago Transit Authority, Chicago, IL | IL-90-X140 | 25,980,762 | 03/31/89 |
| Commuter Rail Division of the Regional Transportation Authority, Chicago, IL | IL-90-X141 | 25,064,090 | 03/31/89 |
| Regional Transportation Authority, Chicago, IL | IL-90-X142 | 49,602,014 | 03/31/89 |
| City of Indianapolis, Indianapolis, IN | IN-90-X031-05 | 2,058,822 | (1) |
| Indianapolis Public Transportation Corporation, Indianapolis, IN | IN-90-X114 | 4,487,356 | (1) |
| City of Anderson, Anderson, IN | IN-90-X119 | 656,727 | 03/31/89 |
| Transit Authority of the Lexington-Fayette Urban County Government, Lexington, KY | KY-90-X041 | 545,600 | 03/31/89 |
| City of Lafayette, Lafayette, LA | LA-90-X090 | 630,000 | 03/29/89 |
| City of New Orleans, New Orleans, LA | LA-90-X092 | 8,266,197 | 03/30/89 |
| Berkshire Regional Transit Authority, Pittsfield, MA | MA-90-X089 | 456,590 | 03/30/89 |
| Pioneer Valley Transit Authority, Springfield, MA | MA-90-X091 | 3,162,403 | 03/30/89 |
| Merrimack Valley Regional Transit Authority, Lawrence-Haverhill, MA | MA-90-X093 | 1,221,345 | 03/31/89 |
| Brockton Area Transit Authority, Brockton, MA | MA-90-X094 | 1,202,323 | 03/31/89 |
| Greater Attleboro-Taunton Regional Transit Authority, Providence-Pawtucket-Warwick, R.I.-MA | MA-90-X095 | 1,833,000 | (1) |
| Mass Transit Administration, Baltimore, MD | MD-90-X037 | 17,284,554 | 03/31/89 |
| Greater Portland Transit District, Portland, ME | ME-90-X041 | 370,000 | 03/31/89 |
| Maine Department of Transportation, Statewide, ME | ME-90-X042 | 109,560 | 03/31/89 |
| Bay County Metropolitan Transportation Authority, Bay City, MI | MI-90-X109 | 423,421 | 03/31/89 |
| Kalamazoo Metro Transit, Kalamazoo, MI | MI-90-X110 | 1,240,072 | 03/31/89 |
| City of Lansing, Lansing, MI | MI-90-X111 | 1,698,720 | 03/31/89 |
| Jackson Transit System, Jackson, MI | MI-90-X112 | 539,542 | 03/31/89 |
| Battle Creek Transit System, Battle Creek, MI | MI-90-X113 | 405,526 | 03/31/89 |
| Duluth Transit Authority, Duluth, MN | MN-90-X037 | 464,200 | 03/31/89 |
| Metropolitan Transit Commission, Minneapolis, MN | MN-90-X038 | 13,752,933 | 03/31/89 |
| St. Cloud Metropolitan Transit Commission, St. Cloud, MN | MN-90-X039 | 366,909 | 03/31/89 |
| City of East Grand Forks, East Grand Forks, MN | MN-90-X040 | 74,750 | 03/30/89 |
| City of Springfield, Springfield, MO | MO-90-X053 | 873,736 | 03/31/89 |
| City of Columbia, Columbia, MO | MO-90-X054 | 28,800 | 03/31/89 |
| Bi-State Development Agency, St. Louis, MO | MO-90-X055 | 10,304,228 | 03/31/89 |
| City of Jackson, Jackson, MS | MS-90-X025 | 223,480 | 03/30/89 |
| City of Hattiesburg, Hattiesburg, MS | MS-90-X026 | 156,929 | 03/30/89 |
| Gaston County, Gastonia, NC | NC-90-X086 | 89,880 | 03/27/89 |
| City of Charlotte, Charlotte, NC | NC-90-X088 | 2,960,640 | 03/28/89 |
| City of Durham, Durham, NC | NC-90-X090 | 64,000 | 03/27/89 |
| City of Fargo, Fargo, ND | ND-90-X018 | 508,203 | 03/30/89 |
| City of Grand Forks, Grand Forks, ND | ND-90-X019 | 402,240 | 03/30/89 |
| Omaha Metro Area Transit, Omaha, NE | NE-90-X021 | 2,248,352 | 03/31/89 |
| City of Nashua, Nashua, NH | NH-90-X014-02 | 2,738 | 03/30/89 |
| City of Nashua, Nashua, NH | NH-90-X018-02 | 20,000 | 03/30/89 |
| New Jersey Transit Corporation, Statewide, NJ | NJ-90-X026-01 | 3,782,412 | (1) |
| Delaware River Port Authority, Philadelphia, NJ | NJ-90-X027 | 2,483,084 | 03/27/89 |
| City of Albuquerque, Albuquerque, NM | NM-90-X024 | 1,582,218 | 03/29/89 |
| Rockland County Legislature, New York, NY | NY-90-X142-01 | 97,800 | (1) |
| New York Metropolitan Transportation Authority, New Yrok, NY | NY-90-X149-01 | 55,646,949 | (1) |
| Utica Transity Authority, Utica, NY | NY-90-X156 | 518,883 | 03/27/89 |
| City of Long Beach, New York, NY | NY-90-X157 | 515,198 | 03/27/89 |
| Chemung County Transit System, Elmira, NY | NY-90-X158 | 404,432 | 03/27/89 |
| Capital District Transportation Authority, Albany, NY | NY-90-X159 | 5,668,412 | 03/27/89 |
| Putnam County, New York, NY | NY-90-X160 | 350,560 | 03/31/89 |
| Southwest Ohio Regional Transit Authority, Cincinnati, OH | OH-90-X115 | 372,000 | 03/31/89 |
| City of Akron, Akron, OH | OH-90-X116 | 5,036,400 | 03/31/89 |
| City of Youngstown, Youngstown, OH | OH-90-X117 | 2,121,634 | 03/31/89 |
| Central Oklahoma Transportation and Parking Authority, Oklahoma City, OK | OK-90-X029 | 436,800 | (1) |
| Salem Area Mass Transit District, Salem, OR | OR-90-X027 | 825,400 | 03/31/89 |
| Rogue Valley Transportation District, Medford, OR | OR-90-X030 | 311,976 | 04/03/89 |

SECTION 9 GRANTS—Continued

| Transit Property | Grant Number | Grant Amount | Obligation Date |
|---|---|---|---|
| Centre Area Transportation Authority, State College, PA | PA-90-X160 | 1,487,093 | 03/27/89 |
| Southeastern Pennsylvania Transportation Authority, Philadelphia, PA | PA-90-X161 | 20,558,720 | 02/23/89 |
| Cambria County Transit Authority, Johnstown, PA | PA-90-X162 | 551,325 | 03/27/89 |
| Erie Metropolitan Transit Authority, Erie, PA | PA-90-X163 | 1,124,880 | 03/27/89 |
| City of Washington, Pittsburgh, PA | PA-90-X164 | 142,399 | 03/27/89 |
| Rhode Island Department of Transportation, Providence, RI | RI-90-X012-01 | 320,000 | 03/30/89 |
| City of Bristol, Bristol, TN | TN-90-X072 | 106,600 | 03/27/89 |
| Brazos Valley Community Action Agency, Byran-College Station, TX | TX-90-X129-01 | 48,000 | 03/31/89 |
| City of Houston, Houston, TX | TX-90-X145 | 20,117,337 | 03/31/89 |
| City of El Paso, El Paso, TX | TX-90-X148 | 8,321,439 | 03/31/89 |
| City of Sherman, Sherman, TX | TX-90-X149 | 50,676 | 03/29/89 |
| Utah Transit Authority, Salt Lake City, UT | UT-90-X013 | 3,372,496 | (1) |
| Peninsula Transportation District Commission, Hampton, VA | VA-90-A057 | 688,292 | 03/27/89 |
| City of Longview, Longview, WA | WA-90-X089 | 560,000 | 03/31/89 |
| Pierce County Public Transportation Benefit Area, Tacoma, WA | WA-90-X092 | 8,397,046 | 02/24/89 |
| Clark County Public Transportation Benefit Area, Portland, WA | WA-90-X093 | 1,376,800 | 03/31/89 |
| Ben Franklin Transit, Richland, WA | WA-90-X094 | 319,027 | 03/31/89 |
| City of Seattle, Seattle, AW | WA-90-X095 | 22,521,368 | 04/03/89 |
| Milwaukee County Transit System, Milwaukee, WI | WI-90-X094-02 | 1,040,000 | 03/31/89 |
| City of Appleton, Appleton, WI | WI-90-X101 | 1,064,680 | 03/31/89 |
| City of Janesville, Janesville, WI | WI-90-X102 | 322,310 | 03/31/89 |
| City of Waukesha, Milwaukee, WI | WI-90-X103 | 671,321 | 03/31/89 |
| City of Superior, Superior, WI | WI-90-X104 | 129,897 | 03/31/89 |

[1] The Section 9 grants shown with no obligation date are awaiting 13(c) certification from the Department of Labor. After receipt of the certification the grants will be obligated.

Issued on: May 1, 1989.

**Alfred A. DelliBovi,**

*Administrator.*

[FR Doc. 89-10980 Filed 5-8-89; 8:45 am]

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Federal Register

Tuesday
May 9, 1989

Part VI

# Department of Transportation

National Highway Traffic Safety Administration

49 CFR Parts 564 and 571

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment and Matter Incorporated by Reference; Final Rules and Notice of Proposed Rulemaking

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

**[Docket No. 85-15; Notice 8]**

**RIN 2127-AC53**

## Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This notice amends the headlighting requirements of Standard No. 108 by deleting certain external dimensions for sealed beam headlamps, lifetime requirements for sealed beam headlamps and standardized replaceable light sources, photometric requirements for headlamps designed to conform to SAE J579a, and certain durability requirements for headlamps. A new category is added, headlamps without dimensional requirements. Two new sizes of sealed beam headlamps petitioned for by General Motors Corporation and GTE Sylvania are the first systems eligible for inclusion in this category, to be known as "integral beam headlamps." An on-vehicle mechanical aim alternative to existing off-vehicle mechanical aim is also adopted. The effect of these amendments is to eliminate design restrictions not necessary for safety, resulting in a more performance oriented standard, as required by the National Traffic and Motor Vehicle Safety Act. The amendments should encourage innovation in headlighting systems.

**EFFECTIVE DATE:** The effective date of the rule is June 8, 1989, except for paragraphs S7.2 and S7.6(i) which are effective December 1, 1989. The approval of the Director of the Federal Register for certain publications incorporated by reference is effective June 8, 1989.

**ADDRESS:** Petitions for reconsideration of the rule should refer to the docket number and notice and be submitted to: Administrator, National Highway and Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Richard Van Iderstine, Office of Rulemaking, NHTSA, (202-366-5280).

**SUPPLEMENTARY INFORMATION:** The publication of this final rule completes some aspects of rulemaking initiated on October 22, 1985, when NHTSA published a notice of Request for Comments that concentrated on certain areas of the headlighting requirements of Standard No. 108 (50 FR 42735, with extension of comment time at 51 FR 1542 and correction at 51 FR 2536). Subsequently, a Notice of Proposed Rulemaking responding to the comments submitted on the October 1985 request was published on December 29, 1987 (52 FR 49038), presenting NHTSA's recommendations for short term simplification of the headlighting requirements of Motor Vehicle Safety Standard No. 108.

### I. Photometric Performance

The initial headlighting photometric requirements of Standard No. 108, effective January 1, 1968, were those of SAE Standard J579a, August 1965. They remained the sole photometrics permissible for motor vehicles other than motorcycles until 1978 when the standard was amended to allow optional compliance with the photometrics of SAE Standard J579c, December 1974 (now December 1978). The principal difference between the two SAE requirements is the allowance of up to 100% more total candela on the upper beam of the J579c lamps. Also, the lower beam of a J579c lamp is aimed more to the left and has a higher intensity, and the upper beam is aimed higher. These differences proved of such benefit and interest to the consumer that, by the early 1980's, virtually all original equipment headlamps were designed to conform to J579c; as a result, there is very little market today for even replacement headlamps designed to conform to J579a. As NHTSA commented in its 1985 notice, "The existence of three photometric requirements, one of which is for all practical purposes nearly obsolete, promotes unnecessary confusion and serves no apparent safety purposes." (50 FR 42739). The agency therefore proposed the elimination of SAE J579a from Standard No. 108 in December 1987. This proposal was supported by virtually all commenters, and Standard No. 108 is being amended to delete SAE J579a.

### II. Elimination of Certain Dimensional Specifications

From its beginning, Standard No. 108 has incorporated by reference detailed SAE drawings prescribing dimensions for most types of sealed beam headlamps. More recently, in the absence of SAE references, detailed drawings have been directly incorporated into the Standard. These dimensions relate to the fit of the lamp into the housing, the size and shape of the lamp and retaining rings, seating plane lugs, electrical prongs, and headlamp mounting ring notches. The primary rationale for their incorporation has been to ensure compatibility between original and replacement equipment, so that proper replacement equipment shall be readily available, shall fit only in the proper receptacle to assure a photometrically correct system, and shall perform with the equivalence of the original lighting equipment.

NHTSA tentatively concluded that most dimensional specifications for new types of non-standardized headlighting systems were not necessary for motor vehicle safety. Accordingly in December 1987, NHTSA proposed two means for dealing with headlamp dimensions. First, for existing standardized sealed beam headlighting systems, the agency proposed deleting dimensions that are not necessary for interchangeability. The agency decided that requirements necessary for interchangeability should be retained for existing sealed beam systems in order to ensure that replacement headlamps manufactured after the effective date of the final rule will in fact fit. Consequently, the agency proposed incorporating by reference SAE Standard J1383 APR85 *"Performance Requirements for Motor Vehicle Headlamps"* which retains only those dimensional requirements necessary for interchangeability of Type A through Type E headlamps, and deleting the SAE standards that are incorporated by reference in Tables I and III of Standard No. 108 which have been the source of excess dimensional requirements. Commenters generally agreed with these deletions and the incorporation of J1383, and Standard No. 108 has been amended accordingly. However, dimensions for Types F, G, and H headlamps are not included in J1383, and remain unchanged from those presently in Standard No. 108.

Additionally, as part of its analysis of issues relating to dimensions, NHTSA proposed a new category of headlighting system, to be known as an "integral beam headlighting system." The integral beam headlamp is not required to have industry or Federally standardized dimensions, yet is similar in concept to existing sealed beam headlighting systems. The integral beam headlamp is defined as incorporating a lens, reflector and light source in an indivisible unit, but is not necessarily "sealed" since this is a design-related aspect. All new headlamp systems that do not have replaceable bulbs will be treated as integral beam systems as of the amendment of Standard No. 108.

Comments supported the proposal and it has been adopted. NHTSA sought

comments on the issue of availability of replacement parts of new systems. Some commenters expressed concern about the availability of replacement parts for dimensionally unregulated headlamps, but provided no actual indication that such has occurred in practice after a short time has passed following introduction of new lamps or light sources. The agency believes that experience in practice should not differ from that of replaceable bulb headlamps, whose dimensions are also unregulated, and where no problem of availability has been reported.

Headlamps that will be able to take advantage of the new integral beam category are a sealed beam system of four 55×135 mm headlamps petitioned for by General Motors Corporation, and a system developed by GTE Sylvania of eight miniature headlamps, which Sylvania refers to as "Multi-beam". The adoption of this rule constitutes the granting of the petition by Sylvania (the GM petition was previously granted).

Essentially, the design of the size and shape of an integral beam headlighting system is left to the vehicle or lighting manufacturer. The photometric performance required of integral beam headlighting systems is that prescribed by either SAE J579c (using either two or four headlamps per system), or Type F photometry of Figure 15 or 17 of Standard No. 108 (using two or more headlamps per system). The environmental performance required of this system is that presently required of existing replaceable bulb headlighting systems. However if the lamp is of a "sealed" design, the manufacturer is relieved of certifying compliance to certain performance requirements that do not apply to sealed lamps.

For aim retention upon lamp replacement, the integral beam headlighting will have a common aiming and mounting plane, which will result in greatly reduced aiming error upon headlamp replacement. It will perform in much the same manner as the present standardized replaceable light source in that the lamp may be replaced with little effect on headlamp aim. This common aiming and mounting plane is also presently specified for the most recently permitted sealed beam headlighting systems, Types F, G, and H.

To ensure mechanical aimability, the integral beam systems will have either aiming pads for use with existing off-vehicle mechanical aimers, or fiducial marks with an integral on-vehicle aiming and mounting mechanism. The use of fiducial marks (as an option to present lens-mounted aiming pads) permits greater headlamp styling freedom, and can potentially provide better aim retention depending on the manufacturers' actual designs. The specification for fiducial marks is a recognition that they are acceptable substitutes for the aiming pads that are presently found on the lenses of headlamps and are used for the purpose of determining photometric conformance to Standard No. 108, and for mechanical aiming purposes. As discussed in Section V below, the agency has adopted this requirement for either aiming pads or fiducial marks for all new headlighting system designs of both integral beam and replaceable bulb types.

Because NHTSA does not specify the dimensions of integral beam headlamps, they are not required to be standardized. They will, however, have to meet all headlamp performance requirements such as photometry, environmental degradation, and aimability. Under the rule, a manufacturer seeking to introduce a new integral beam system can do so without the necessity of petitioning for an amendment of Standard No. 108.

### III. Life Expectancy of Headlamps

Standard No. 108 at present is regulatorily inconsistent, specifying average design life requirements for its standardized replaceable light sources, and two of its sealed beam systems, but not for the remaining six sealed beam systems designed to conform to SAE J579c. For regulatory consistency, NHTSA noted in the NPRM that the standard should either extend average design life requirements to all headlighting systems, or delete them for those presently covered. As the agency noted in its October 1985 notice, other options are to delete longevity requirements but require manufacturers to rate life expectancy on the bulb package, to require that the headlamp last the life of the vehicle, and to retain the existing requirements. The agency believes that the competitive forces of the marketplace will encourage manufacturers to maintain, or improve, the life-expectancy of light sources. Therefore the agency proposed that all longevity requirements be deleted. However, because life of a light source has an influence on the total number of lamp outages during the life of a vehicle, thus possibly some influence on crash risk as well, NHTSA sought specific comments on whether or not the absence of an average design life requirement would have a discernible effect on the actual life of light sources in headlighting systems. Because filament life and lumen output (and hence photometric performance) are inversely related, NHTSA envisions that trade-offs could occur, with performance gains for lesser lamp life. With the apparent need of vehicle manufacturers for headlamps with minimum vertical height, low-profile lamps may have to sacrifice some longevity in order to achieve the required minimum photometric specifications. These trade offs have cost, quality, and performance effects on headlighting systems, their manufacturers, and their users. Therefore, NHTSA solicited comment on the proposed deletion of average design life requirements in order to understand more completely how these trade offs may affect safety.

Of the 23 comments on this issue, 14 opposed deletion of design life requirements. The basis for the opposition was the potential for the decrease in life expectancy of headlamps. The agency is concerned about this issue but in the absence of proof that this will occur finds this a speculative argment. Those headlamps manufactured today without a Federal design life requirement appear to have a life equivalent to those with a required average design life. Therefore, the majority of the comments notwithstanding, NHTSA has decided to adopt the proposed deletion.

### IV. Durability

As a further simplification of headlighting requirements relating to durability and aim retention, NHTSA proposed deletion of certain portions of SAE J580 DEC86 "Sealed Beam Headlamp Assembly," which were adopted in the initial standard (SAE J580a, June 1966), and which may no longer be necessary for safety. These deletions included paragraphs 3.3 (vibration test), 6.1.3 (test for 20 cycles of full range aim adjustment), 6.3.1 (test for 20 cycles of retaining ring removal and installation), 6.2 and subparagraphs and 6.5 and subparagraphs (the inward force test and torque deflection test, respectively, except for all headlamps using externally applied mechanical aimers).

Durability tests exercise a headlighting system's ability to withstand the anticipated environment in service while still providing acceptable roadway illumination. The deletions for 20-cycle aim range and retaining ring installation were deemed to be of little significance to safety. The deletion of inward force and torque deflection is appropriate for headlighting systems which do not use externally applied aimers, since these tests are intended to show resistance to the effects of the weight and application of external aimers. North American Philips

Lighting Corporation was in favor of retaining the inward force and force deflection tests, not only for guarding against the misaim of headlamps from the force of headlamp aimers, but also to ensure against misaim if force is applied against the headlamp when the vehicle is pushed by hand. NHTSA believes that vehicle manufacturers will be cautious enough to design vehicles to withstand the likelihood of misaim in this event, and, considering the deletion appropriate only for headlamps which do not have aiming pads for external mechanical aimers, has adopted the proposed modification of applicability of inward force and torque deflection tests. Commenters generally supported the proposed deletions for aim range and retaining ring installation; however, the State of Minnesota stated its belief that some form of test is necessary to assure that the lamps can be reaimed throughout their life and survive in real world conditions. The agency agrees, but notes that the tests proposed for deletion do not appear to prevent long term deterioration of aimability. Little relevant information on this issue was presented by any other commenter, and consequently they are being deleted as proposed.

As NHTSA noted in the NPRM's preamble, the proposal for deletion of the vibration test was not as straightforward, and the comments received were mixed. While vibration testing is intended to anticipate such on-vehicle vibration effects as broken or cracked lenses, reflectors, light source mountings or aim hardware, NHTSA was of the opinion that the existing vibration procedure may not accurately test the lamp system for these adverse effects. Despite this, the present test procedure has produced signal lamp failures that were also found in vehicles-in-use. Since this procedure currently applies to all lighting devices, and not just headlighting systems, NHTSA noted that it was difficult to justify deletion for headlamps only. However, no headlamp vibration test failures have been found to date (although Ford in its petition for rulemaking (now pending) to adopt the 9007 as a standardized replaceable light source implied that the HB1 light source may experience burnout from vibration). Consequently, it is currently not known whether there is a safety benefit from vibration testing of headlighting systems. The agency requested comment on deletion or development of a more correlated vibration performance specification. Ford argued that there is no reason to retain the vibration test. GTE/Sylvania recommended development of a vibration test more correlated to safety. Saab suggested adoption of SAE J575 for a vibration test, while Stanley Electric thought SAE J1383 would be better, since it was specifically written for headlamps. The comments varied widely, and NHTSA has decided to retain the current requirement with which the industry is familiar. The agency urges manufacturers to work toward development of a more correlated vibration performance specification.

Two other durability tests concerned NHTSA, the Temperature Cycle Test (numbered S8.6.1 in the Proposal's revised format), and the Impact Test (S8.8). Presently these remain as part of the requirements by headlighting systems since the purpose of these requirements continues to be a valid. However, NHTSA is concerned that the requirements may not fully reflect the real world. The temperature range may be too small in view of the ambient environmental temperatures that occur in the United States and in today's high temperature engine compartments. The impact energy also appears too low to simulate accurately the actual stone damage that can occur. NHTSA sought comment on these procedures, and if appropriate, a more correlated set of procedures or performance requirements. Few commented on the temperature test, but Stanley Electric recommended even higher performances. It also supported deletion of the impact test, as did many other commenters. It thought that it provided little in terms of safety, given the typical impact resistance of plastic lenses. The agency has decided to retain the temperature test as written, but will consider proposing to amend the procedure in a future rulemaking proceeding. Also, in a companion notice under preparation on the longer term aspects of headlighting simplification, the agency will formally propose deletion of the impact test.

## V. Headlamp Aimability and Aim

A further aspect of Standard No. 108 to which the agency turned its attention in the NPRM was headlamp aimability. Currently, headlamps must be capable of mechanical aim using equipment specified by SAE J602. However, with the proliferation in sizes and shapes of headlighting systems permissible under Standard No. 108 since 1983 has come a corresponding proliferation in adapters necessary for mechanical aimers to perform their purpose. This has created confusion, difficulty, and higher potential for aiming error. The agency therefore developed a general aiming performance requirement that would permit headlamps to be aimed by means other than use of existing mechanical aimers and lens-mounted aiming pads if the new methods could perform as well as existing mechanical aimers, and if no excessive off-vehicle equipment would be required. One example of a new method for vertical aim inspection would be a spirit level incorporated in the headlamp housing which, when the vehicle attitude was horizontal and the air bubble was centered properly, would indicate proper vertical aim.

Under the proposal, and adopted in the final rule, each headlamp will have fiducial marks (or aiming pads if its manufacturer chose to retain its existing design) for the purpose of determining the reference axis to be used for photometric performance testing; such marks will also be the aiming reference when the headlamp is installed on the vehicle. The headlamp is then installed in the vehicle using a mounting/aiming mechanism incorporating vertical and horizontal aiming adjustments and optional aiming references. It is aimable using either conventional off-vehicle mechanical aimers or, should the manufacturer so decide, by optional on-vehicle aimers which use only a floor slope measurement as the off-vehicle reference. The on-vehicle aiming mechanism is a termed a "vehicle headlamp aiming device", or "VHAD". Vehicle manufacturers commenting on the subject were unanimously in favor of the concept of a vehicle based aiming performance requirement. However, many felt that the requirement proposed was overly stringent and unnecessary for safety. Lamp manufacturers were generally agreeable to the proposal but also had recommendations for modifications to the proposal.

The agency disagrees that the VHAD proposal is restrictive. The proposal was based specifically on the performance of the mechanical headlamp aiming device performance currently specified in SAE Standard J602 OCT80 "Headlamp Aiming Device for Mechanically Aimable Sealed Beam Headlamp Units". All existing headlamp designs allowed by Standard No. 108 have been required to be aimable with aiming devices meeting the SAE standard. In order for the present level of safety to be maintained, any new mechanical aiming method must have at least the accuracy of the method presently in use. Therefore, the agency is adopting the requirements based on J602 performance as proposed. The proposal for aiming instructions of the VHAD was not specific in detail in an attempt to provide the widest latitude for manufacturers. The actual proposed text

of the VHAD has been rewritten in part to clarify the agency's intent.

Under the proposal, headlamp aim accuracy was to be verified upon completion of the manufacture of the vehicle. Many manufacturers claimed that they could not meet it under those circumstances. General Motors presented quality assurance data showing that most of its production can meet the +/− 4 inch horizontal and vertical performance that is required in most States, but not the tighter aim tolerance that was proposed. Ford claimed that the proposed factory aiming requirement cannot be achieved by today's state-of-the-art equipment. NHTSA appreciates that between the time headlamps are aimed on a vehicle assembly line and when again checked by quality assurance inspectors, the vehicle could have settled, causing errors in aiming. Upon reflection, the proposed requirement appears impracticable because of its tighter aim tolerance, and it has not been adopted.

Another issue of concern to vehicle manufacturers was the transfer of range of aim adjustment from the performance of a headlighting system in a laboratory to the system as installed on a vehicle. NHTSA firmly believes that aiming range performance met under test conditions must be replicated when a headlighting system is used in real world conditions, and the NPRM was meant to clarify NHTSA's intent. The benefit to safety of such a requirement is that headlamps could continue to be aimable at the extremes of changes in vehicle attitude. Vehicle manufacturers are concerned that a large adjustment range will require a correspondingly large opening surrounding the headlamp; the smaller the adjustment range, the smaller the opening. NHTSA has modified the aim range to accommodate these concerns.

In countries other than the United States, the opening surrounding the lamp has been eliminated by fixing the headlamp housing and lens to the car body and by providing a movable reflector inside the headlamp housing to accommodate aiming the headlamp's beam. Nissan commented that the on-vehicle aimability performance proposal would allow headlamps with movable reflectors, an approach desirable from its standpoint. NHTSA agrees that this is true, provided that headlamps of this design comply with the photometric performance requirements with the lens in all possible positions relative to the position of the reflector, as all headlamps under Standard No. 108 must. Paragraph S7.7.2.2 has been added to clarify this. Nissan questioned, however, whether Standard No. 108 would permit replaceable bulb headlamps to have adjustable reflectors because the definition requires a bonded lens and reflector assembly, and its interpretation is that the lens must always be bonded directly to the reflector. This is not always true. NHTSA does not interpret the standard as prohibiting reflector assemblies with movable reflectors because a replaceable bulb headlamp is defined in pertinent part as one "comprising a bonded lens and reflector *assembly*" (emphasis added). The definition does not specify the portion of the assembly that must be bonded to the lens. The "assembly" as currently used in the industry incorporates internal light shields, gear boxes for changing the direction of rotation of aiming screws that are incorporated, and other hardware.

However, with respect to the aim adjustment range that so concerned some commenters, NHTSA believes that the original proposal may be modified with no detriment to safety. Under the proposal, the aim range required was (in pertinent part) from "the greater of the following: +/− 4 deg. V or the full range of vehicle pitch * * *." The text now reads in pertinent part "+/− 4 degrees vertical in the laboratory, and on the vehicle, not less than the full range of vehicle pitch." This modification results in performance essentially identical to that achieved on vehicles today, and is deemed proper for the on-vehicle aim range.

As part of the proposal, NHTSA used the most recent SAE Standards and Recommended Practices for reference. Many of these updated references include performance or aspects not currently incorporated in Standard No. 108. Consequently, exceptions where necessary were stated in the NPRM so that the requirements that have been adopted are essentially identical to those which currently exist.

Finally, as part of the revision of Standard No. 108, NHTSA is separating the Scope and Purpose sections in line with its practice in a majority of the safety standards and reorganizing the various headlighting requirements into a new section S7 "Headlighting Requirements". Of necessity, the remaining sections of the standard have been renumbered.

## VI. Consumer Information

Because of the increasing variety of headlamps available today and those that may result from the integral beam amendments, NHTSA proposed that identifying information, sufficient to ensure proper replacement, be made available to the consumer at the time a vehicle was purchased. In response, Nissan suggested that the manufacturer's part number could be marked on original and replacement headlamps, obviating the need for an amendment to the consumer information regulations. NHTSA had already in essence proposed such a requirement when it proposed adoption of SAE J1383 which incorporates equipment marking. Given that replacement headlamp light sources are standardized for performance and interchangeability, and that headlamp housings are now designed to be vehicle-specific, the agency has decided that little reason exists to require identification information in any location other than on the object itself. For those devices that are vehicle-specific, replacement parts should always be available at the appropriate dealership. For those items presently standardized by Standard No. 108, ready availability already exists. Accordingly, NHTSA is not adopting the amendments proposed for 49 CFR Part 575, but is specifying appropriate equipment marking.

## VII. Miscellaneous Amendments

Certain minor amendments are necessary for full allowance of the new GM small rectangular headlamp system. The system generally meets the photometrics of present Figure 15 of Standard No. 108, except that the upper beam test point values at 2 1/2D–V and 2 1/2D–12R and 12L apply to the lower beam headlamp and not to the upper beam headlamp, and the upper beam test point value at 1 1/2D–9R and 9L is 1,000 candela (See S7.4(a)). Paragraph S5.5.8 permits headlighting systems designed to conform with Figure 15 to be wired so that the lower beam remains permanently activated when the upper beam is activated; this section is amended to require such an activation for headlamps meeting the excepted photometrics of Figure 15. Similar accommodations are made in paragraphs S7.4(d), S7.4(h), and the second sentence of S7.7.2.1.

As noted previously, the amendments will allow a system of miniature headlamps, petitioned for by GTE Sylvania, in which two such lamps provide a single beam. Amendments of terminology appear required for implementation of the Sylvania system. Where appropriate (for example, as in lens marking) the term "beam contributor" is used in place of "headlamp," because a single device provides only half of the beam.

Clarifying amendments are also adopted. With respect to aiming pad

location, NHTSA has said that it expected the aiming pad pattern to be located on the lower beam part of a headlamp lens. However, there is no need for such a requirement, and S7.7.5.1(d)(1) states that "The aiming pads need not be centered at the geometric center of the lens or on the optical axis." Proposed S7.7.5.1(e) has been adopted with language intended to assure that the locating plates and the aiming pads to which they will interface are compatible. Paragraph S7.7.5 has not been adopted exactly as proposed; it now addresses headlamp wipers. These are permitted for intergral beam headlighting systems and replaceable bulb headlamps as long as the applicable photometric performance can be met with the wiper stopped in any location in front of the lens. Pursuant to a comment by Ford Motor Company that the standard should not restrict the VHAD to be solely an "at the headlamp" indicator or adjustment (a headlamp system could be designed to be aimed from the driver's seat or by automatic means) paragraph S7.7.5.2(a)(iii) adds language that distinguishes between direct reading analog indicators and remote reading indicators.

The following proposals have also been adopted, though not necessarily under the section numbers indicated in the NPRM: a new marking requirement for the HB1 standardized replaceable light source, to assure proper identification and for consistency with the marking requirements for HB3 and HB4 light sources; a pressure sealing test requirement for the HB1 light source, to assure the intended sealing performance, and for consistency with HB3 and HB4 light sources; and integral beam headlamps which do not have both an integral mounting and aiming mechanism and a VHAD must incorporate common or parallel mounting and aiming planes, intended to eliminate a major source of aiming error that occurs upon headlamp replacement. However, this proposal (proposed S7.4(j)) was design restrictive as written but as adopted has been replaced with a more performance-oriented requirement that achieves the same result: Any headlamp or beam contributor that does not have a VHAD as an integral and indivisible part of its housing shall meet a lamp replacement test, under which photometric performance must be met when any correctly aimed and photometrically conforming lamp or beam contributor is removed from its mounting and aiming mechanism and replaced without reaim by another conforming lamp or beam contributor of the same type.

## VIII. Impacts

NHTSA has considered this rule and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" but is significant under Department of Transportation regulatory policies and procedures. A Regulatory Evaluation (RE) has been prepared and placed in the Docket. The amendments are intended to relieve a regulatory burden unnecessary for safety by affording manufacturers greater flexibility in the design of headlighting systems. This is likely to result in an increase in the number of types of headlamps on motor vehicles. An increase in the number of types of headlamps could affect to some degree the volume of business of some small gas or service stations that currently carry replacement headlamps in stock, by causing them to carry only the most popular types. However, the inability to stock parts has been a developing trend, and many stations have converted to a "gas only" operation and others order parts from distributors on an "as needed" basis.

NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act. It is not anticipated that the rule will have a significant effect upon the environment. The design and composition of headlamps are not expected to change from those presently in production. However, should this rulemaking result in headlamps or bulbs with a shorter life, there will be a greater demand for replacement headlamps or bulbs and a corresponding increase in materials necessary for their manufacture. This possibility is speculative.

Additionally, with the movement away from Federal regulation of dimensions for the interchangeability of headlamps, the only source of vehicle-specific replacement headlamps may become the vehicle manufacturer and its authorized dealers, although this possibility also is speculative.

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact upon a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions will not be significantly affected since the price of new vehicles and replacement headlamps should be minimally impacted by the substitution of one type of headlighting system for another.

The equipment marking requirements in this rule are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Accordingly, these requirements are being submitted to the OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 "Federalism", and it has been determined that the final rule does not have sufficient federalism implications to warrant preparation of a federalism assessment. To the extent that a State law covering the same aspect of performance as the rule is not identical to it, it will be preempted, pursuant to the specific preemption provisions of 15 U.S.C. 1392(d). However, the agency is not aware of any State laws that conflict with the rule.

## IX. Effective Dates

Because of the need to relieve design restrictions and encourage innovation, it is hereby found for good cause shown that an effective date earlier than 180 days after publication of the final rule is in the public interest, and the amendment is effective 30 days after its publication in the **Federal Register**. However because the marking requirements of paragraphs S7.2 and S7.6(i) are mandatory, by their terms those sections shall not become effective until December 1, 1989. Marking requirements currently in effect remain unchanged.

## List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Incorporation by reference.

The engineer and lawyer primarily responsible for this rule are Richard Van Iderstine and Taylor Vinson respectively.

In consideration of the foregoing, 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, "Lamps, Reflective Devices, and Associated Equipment" is amended as follows:

## PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read as follows:

**Authority:** 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50, and 501.4

2. The text of 49 CFR 571.108 (Paragraphs S1 through S8) is revised as follows:

**§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.**

S1. *Scope.* This standard specifies requirements for original and replacement lamps, reflective devices, and associated equipment.

S2. *Purpose.* The purpose of this standard is to reduce traffic accidents and deaths and injuries resulting from traffic accidents, by providing adequate illumination of the roadway, and by enhancing the conspicuity of motor vehicles on the public roads so that their presence is perceived and their signals understood, both in daylight and in darkness or other conditions of reduced visibility.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (except pole trailers and trailer converter dollies), and motorcycles, and to lamps, reflective devices, and associated equipment for replacement of like equipment on vehicles to which this standard applies.

S4. *Definitions.*

"Aiming Reference Plane" means a plane which is perpendicular to the longitudinal axis of the vehicle and tangent to the forward most aiming pad on the headlamp.

"Flash" means a cycle of activation and deactivation of a lamp by automatic means continuing until stopped either automatically or manually.

"Headlamp test fixture" means a device designed to support a headlamp or headlamp assembly in the test position specified in the laboratory tests and whose mounting hardware and components are those necessary to operate the headlamp as installed in a motor vehicle.

"Integral Beam Headlamp" means a headlamp comprising an integral and indivisible optical assembly including lens, reflector, and light source, that is neither a standardized sealed beam headlamp designed to conform to paragraph S7.3 nor a replaceable bulb headlamp designed to conform to paragraph S7.5.

"Replaceable bulb headlamp" means a headlamp comprising a bonded lens and reflector assembly and one or two standardized replaceable light sources.

"Seasoning" means a process of energizing the filament of a headlamp, at design voltage, for a period of time equal to 1 percent of average rated laboratory life.

"Standardized replaceable light source" means an assembly of a capsule, base, and terminals that meets the requirements of S7.6.

S5. *Requirements.*

S5.1 *Required motor vehicle lighting equipment.*

S5.1.1 Except as provided in succeeding paragraphs of this S5.1.1, each vehicle shall be equipped with at least the number of lamps, reflective devices, and associated equipment specified in Tables I and III, as applicable. Required equipment shall be designed to conform to the SAE Standards of Recommended Practices referenced in those tables. Table I applies to multipurpose passenger vehicles, trucks, trailers, and buses, 80 or more inches in overall width. Table III applies to passenger cars and motorcycles and to multipurpose passenger vehicles, trucks, trailers, and buses, less than 80 inches in overall width.

S5.1.1.1 A truck tractor need not be equipped with turn signal lamps mounted on the rear if the turn signal lamps at or near the front are so constructed (double-faced) and so located that they meet the requirements for double-faced turn signals specified in SAE Standard J588e, *Turn Signal Lamps,* September 1970.

S5.1.1.2 A truck tractor need not be equipped with any rear side marker devices, rear clearance lamps, and rear identification lamps.

S5.1.1.3 Intermediate side marker devices are not required on vehicles less than 30 feet in overall length.

S5.1.1.4 Reflective material conforming to Federal Specification L-S-300, *Sheeting and Tape, Reflective; Non-exposed Lens, Adhesive Backing,* September 7, 1965, may be used for side reflex reflectors if this material as used on the vehicle, meets the performance standards in either Table I or Table IA of SAE Standard J594f, *Reflex Reflectors,* January 1977.

S5.1.1.5 The turn signal operating unit on each passenger car, and multipurpose passenger vehicle, truck, and bus less than 80 inches in overall width shall be self-canceling by steering wheel rotation and capable of cancellation by a manually operated control.

S5.1.1.6 Each stop lamp manufactured to replace a stop lamp that was designed to conform to SAE Standard J586b, *Stop Lamps,* June 1966, may also be designed to conform to J586b. It shall meet the photometric minimum candlepower requirements for Class A red turn signal lamps specified in SAE Standard J575d, *Test for Motor Vehicle Lighting Devices and Components,* August 1967. Each such lamp manufactured for use on a passenger car and on a multipurpose passenger vehicle, truck, trailer or bus less than 80 inches in overall width shall have an effective projected luminous area not less than 3½ square inches. If multiple compartment lamps or multiple lamps are used, the effective projected luminous area of each compartment or lamp shall be not less than 3½ square inches; however, the photometric requirements may be met by a combination of compartments or lamps.

S5.1.1.7 Each turn signal lamp manufactured to replace a turn signal lamp that was designed to conform to SAE Standard J588d, *Turn Signal Lamps,* June 1966, may also be designed to conform to J588d, and shall meet the photometric minimum candlepower requirements for Class A turn signal lamps specified in SAE Standard J575d, *Tests for Motor Vehicle Lighting Devices and Components,* August 1967. Each such lamp manufactured for use on a passenger car and on a multipurpose passenger vehicle, truck, trailer or bus less than 80 inches in overall width shall have an effective projected luminous area not less than 3½ square inches. If multiple compartment lamps or multiple lamps are used, the effected projected luminous area of each compartment or lamp shall be not less than 3½ square inches; however, the photometric requirements may be met by a combination of compartments or lamps. Each such lamp manufactured for use on a multipurpose passenger vehicle, truck, trailer or bus 80 inches or more in overall width shall have an effective projected luminous area not less than 12 square inches.

S5.1.1.8 For each motor vehicle less than 30 feet in overall length, the photometric and minimum candlepower requirements for side marker lamps specified in SAE Standard J592e *Clearance, Side Marker, and Identification Lamps,* July 1972, may be met for all inboard test points at a distance of 15 feet from the vehicle and on a vertical plane that is perpendicular to the longitudinal axis of the vehicle and located midway between the front and rear side marker lamps.

S5.1.1.9 A boat trailer whose overall width is 80 inches or more need not be equipped with both front and rear clearance lamps provided an amber (to front) and red (to rear) clearance lamp is located at or near the midpoint on each side so as to indicate its extreme width.

S5.1.1.10 Multiple license plate lamps and backup lamps may be used to fufill the requirements of the SAE Standards applicable to such lamps referenced in Tables I and III.

S5.1.1.11 A parking lamp, tail lamp, stop lamp, or turn signal lamp shall meet the minimum percentage specified in Figure 1a of the corresponding minimum allowable value specified in Figure 1b. The maximum candlepower output of each stop, turn signal, tail and parking lamp shall not exceed that prescribed in Figure 1b. The values specified in Figure 1a and Figure 1b are substituted for those specified in Table 1 of the following SAE Standards: J222 *Parking Lamps*, J585e *Tail Lamps* (maximum at H or above), J585c *Stop Lamps*, and J588e *Turn Signal Lamps*, except that motorcycle turn signal lamps need meet only one-half of the minimum photometric values specified in Figure 1b.

S5.1.1.12 A parking lamp, tail lamp, stop lamp or turn signal lamp is not required to meet the minimum photometric value at each test point specified in this standard if the sum of the percentages of the minimum candlepower measured at the test points is not less than that specified for each group listed in Figure 1c.

S5.1.1.13 Each passenger car, and each multipurpose passenger vehicle, truck, and bus of less than 80 inches overall width, shall be equipped with a turn signal operating unit designed to complete a durability test of 100,000 cycles.

S5.1.1.14 A trailer that is less than 30 inches in overall width may be equipped with only one tail lamp, stop lamp, and rear reflex reflector, which shall be located at or near its vertical centerline.

S5.1.1.15 A trailer that is less than 6 feet in overall length, including the trailer tongue, need not be equipped with front side marker lamps and front side reflex reflectors.

S5.1.1.16 A lamp designed to use a type of bulb that has not been assigned a mean spherical candlepower rating by its manufacturer and is not listed in SAE Standard J573d, *Lamp Bulbs and Sealed Units*, December 1968, shall meet the applicable requirements of this standard when used with any bulb of the type specified by the lamp manufacturer, operated at the bulb's design voltage. A lamp that contains a sealed-in bulb shall meet these requirements with the bulb operated at the bulb's design voltage.

S5.1.1.17 Except for a lamp having a sealed-in bulb, a lamp shall meet the applicable requirements of this standard when tested with a bulb whose filament is positioned within ±.010 inch of the nominal design position specified in SAE Standard J573d, *Lamp Bulbs and Sealed Units*, December 1968, or specified by the bulb manufacturer.

S5.1.1.18 A backup lamp is not required to meet the minimum photometric values at each test point specified in Table I of SAE Standard J593c, *Backup Lamps*, February 1968 if the sum of the candlepower measured at the test points within each group listed in Figure 2 is not less than the group totals specified in that figure.

S5.1.1.19 Each variable load turn signal flasher shall comply with voltage drop and durability requirements of SAE Standard J590b, *Turn Signal Flashers*, October 1965 with the maximum design load connected, and shall comply with starting time, flash rate, and percent current "on" time requirements of J590b both with the minimum and with the maximum design load connected.

S5.1.1.20 The lowest voltage drop for turn signal flashers and hazard warning signal flashers measured between the input and load terminals shall not exceed 0.8 volt.

S5.1.1.21 A motor-driven cycle whose speed attainable in 1 mile is 30 mph or less need not be equipped with turn signal lamps.

S5.1.1.22 A motor-driven cycle whose speed attainable in 1 mile is 30 mph or less may be equipped with a stop lamp whose effective projected luminous lens area is not less than 3½ square inches and whose photometric output for the groups of test points specified in Figure 1 is at least one-half of the minimum values set forth in that figure.

S5.1.1.23 Each tail lamp manufactured to replace a tail lamp designed to conform to SAE Standard J585d, *Tail Lamps*, August 1970, may also be designed to conform to J585d.

S5.1.1.24 Each turn signal lamp manufactured to replace a turn signal lamp (on a motorcycle) that was designed to conform to SAE Standard J588d, *Turn Signal Lamps*, June 1966, may also be designed to conform to J588d.

S5.1.1.25 Each turn signal lamp on a motorcycle manufactured on and after January 1, 1973, shall have an effective projected luminous area of not less than 3½ square inches.

S5.1.1.26 Note 6 of Table 1 in SAE Standard J588e, *Turn Signal Lamps*, September 1970, does not apply. A stop lamp that is not optically combined with a turn signal lamp shall remain activated when the turn signal is flashing.

S5.1.1.27 Each passenger car manufactured on or after September 1, 1985, shall be equipped with a high-mounted stop lamp which:

(a) Shall have an effective projected luminous area not less than 4½ square inches.

(b) Shall have a signal visible to the rear through a horizontal angle from 45 degrees to the left to 45 degrees to the right of the longitudinal axis of the vehicle.

(c) Shall have the minimum photometric values in the amount and location listed in Figure 10, instead of those in Table 1 of SAE Recommended Practice J186a, *Supplemental High-Mounted Stop and Rear Turn Signal Lamps*, September 1977.

(d) Need not meet the requirements of paragraphs 3.1.6 Moisture Test, 3.1.7 Dust Test, and 3.1.8 Corrosion Test of SAE Recommended Practice J186a if it is mounted inside the vehicle.

(e) Shall provide access for convenient replacement of the bulb without the use of special tools.

S5.1.1.28 Instead of the headlamps specified by Table III, a motorcycle may be equipped with one half of any headlighting system specified in S7 which provides both a full upper beam and full lower beam, and where more than one lamp must be used, the lamps shall be mounted vertically, with the lower beam as high as practicable. When installed on a motorcycle such half system need not meet the aiming requirements specified in S7.

S5.1.2 Plastic materials used for optical parts such as lenses and reflectors shall conform to SAE Recommended Practice J576c, May 1970, except that:

(a) Plastic lenses used for inner lenses or those covered by another material and not exposed directly to sunlight shall meet the requirements of paragraphs 3.4 and 4.2 of SAE J576c, when covered by the outer lens or other material;

(b) After the outdoor exposure test, the haze and loss of surface luster of plastic materials used for lamp lenses shall not be greater than 30 percent haze as measured by ASTM-1003-61, *Haze and Luminous Transmittance of Transparent Plastic*; and

(c) After the outdoor exposure test, plastic materials used for reflex reflectors shall meet the appearance requirements of paragraph 4.2.2 of SAE J576c.

S5.1.3 No additional lamp, reflective device or other motor vehicle equipment shall be installed that impairs the effectiveness of lighting equipment required by this standard.

S5.1.4 Each school bus shall be equipped with a system of either:

(a) Four red signal lamps designed to conform to SAE Standard J887, *School Bus Red Signal Lamps*, July 1964, and installed in accordance with that standard; or

(b) Four red signal lamps designed to conform to SAE Standard J887, *School*

*Bus Red Signal Lamps*, July 1964, and four amber signal lamps designed to conform to that standard, except for their color, and except that their candlepower shall be at least 2½ times that specified for red signal lamps. Both red and amber lamps shall be installed in accordance with SAE Standard J887, except that:

(i) Each amber signal lamp shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus; and

(ii) The system shall be wired so that the amber signal lamps are activated only by manual or foot operation, and if activated, are automatically deactivated and the red signal lamps automatically activated when the bus entrance door is opened.

S5.1.5 The color in all lamps, reflective devices, and associated equipment to which this standard applies shall comply with SAE Standard J578c, *Color Specification for Electric Signal Lighting Devices*, February 1977.

S5.2 *Other requirements.*

S5.2.1 The words "it is recommended that," "recommendations," or "should be" appearing in any SAE Standard or Recommended Practice referenced or subreferenced in this standard shall be read as setting forth mandatory requirements, except that the aiming pads on the lens face and the black area surrounding the signal lamp recommended in SAE Standard J887, *School Bus Red Signal Lamps*, July 1964, are not required.

S5.2.2 The words "Type 1 (5¾")," "Type 2 (5¾")," "Type 2 (7")," "Type 1A," "Type 2A," and "Type 2B" appearing in any SAE Standard or Recommended Practice reference or subreferenced in this standard shall also be read as setting forth requirements respectively for the following types of headlamps: 1C1, 2C1, 2D1, 1A1, 2A1, and 2B1.

S5.3 *Location of required equipment.*

S5.3.1 Except as provided in succeeding paragraphs of S5.3.1, each lamp, reflective device, and item of associated equipment shall be securely mounted on a rigid part of the vehicle other than glazing that is not designed to be removed except for repair, in accordance with the requirements of Table I or III and in location specified in Table II (multipurpose passenger vehicles, trucks, trailers, and buses 80 or more inches in overall width) or Table IV (all passenger cars, and motorcycles, and multi-purpose passenger vehicles, truck, trailers and buses less than 80 inches in overall width), as applicable.

S5.3.1 Except as provided in S5.3.1.1.1, each lamp and reflective device shall be located so that it meets the visibility requirements specified in any applicable SAE Standard or Recommended Practice. In addition, no part of the vehicle shall prevent a parking lamp, taillamp, stop lamp, turn signal lamp, or backup lamp from meeting its photometric output at any applicable group of test points specified in Figures 1c and 2, or prevent any other lamp from meeting the photometric output at any test point specified in any applicable SAE Standard or Recommended Practice. However, if motor vehicle equipment (e.g., mirrors, snow plows, wrecker booms, backhoes, and winches) prevents compliance with this paragraph by any required lamp or reflective devices, an auxiliary lamp or device meeting the requirements of this paragraph shall be provided.

S5.3.1.1.1 Clearance lamps may be mounted at a location other than on the front and rear if necessary to indicate the overall width of a vehicle, or for protection from damage during normal operation of the vehicle, and at such a location they need not be visible at 45 degrees inboard.

S5.3.1.2 On a truck tractor, the red rear reflex reflectors may be mounted on the back of the cab, at a minimum height not less than 4 inches above the height of the rear tires.

S5.3.1.3 On a trailer, the amber front side reflex reflectors and amber front side marker lamps may be located as far forward as practicable exclusive of the trailer tongue.

S5.3.1.4 When the rear identification lamps are mounted at the extreme height of a vehicle, rear clearance lamps need not meet the requirement of Table II that they be located as close as practicable to the top of the vehicle.

S5.3.1.5 The center of the lens referred to in SAE Standard J593c, *Backup Lamps*, February 1968, is the optical center.

S5.3.1.6 On a truck tractor, clearance lamps mounted on the cab may be located to indicate the width of the cab, rather than the overall width of the vehicle.

S5.3.1.7 The requirement that there be not less than 4 inches between a front turn signal lamp and a low beam headlamp, specified in SAE Standard J588e, *Turn Signal Lamps*, September 1970, shall not apply if the sum of the candlepower values of the turn signal lamp measured at the test points within each group listed in Figure 1c is not less than two and one-half times the sum specified for each group for yellow turn signal lamps.

S5.3.1.8 Each high-mounted stop lamp shall be mounted with its center on the vertical centerline of the passenger car as the car is viewed from the rear. The lamp may be mounted at any position on the centerline, including the glazing. If the lamp is mounted inside the vehicle, means shall be provided to minimize reflections from the light of the lamp upon the rear window glazing that might be visible to the driver when viewed directly, or indirectly in the rearview mirror. If the lamp is mounted below the rear window, no portion of the lens shall be lower than 6 inches below the rear window on convertibles, or 3 inches on other passenger cars.

S5.4 *Equipment combinations.*

S5.4.1 Two or more lamps, reflective devices, or items of associated equipment may be combined if the requirements for each lamp, reflective device, and item of associated equipment are met, except that no clearance lamp may be combined optically with any taillamp or identification lamp, and no high-mounted stop lamp shall be combined with any other lamp or reflective device.

S5.5 *Special wiring requirements.*

S.5.5.1 Each vehicle shall have a means of switching between lower and upper beams that conforms to SAE Recommended Practice J564a *Headlamp Beam Switching*, April 1964 or to SAE Recommended Practice J565b, *Semi-Automatic Headlamp Beam Switching Devices*, February 1969. Except as provided in S5.5.8, the lower and upper beams shall not be energized simultaneously except momentarily for temporary signalling purposes or during switching between beams.

S5.5.2 Each vehicle shall have a means for indicating to the driver when the upper beams of the headlamps are on that conforms to SAE Recommended Practice J564a, April 1964, except that the signal color need not be red.

S5.5.3 The tail lamps on each vehicle shall be activated when the headlamps are activated in a steady-burning state.

S5.5.4 The stop lamps on each vehicle shall be activated upon application of the service brakes. The high-mounted stop lamp on each passenger car shall be activated only upon application of the service brakes.

S5.5.5 The vehicular hazard warning signal operating unit on each vehicle shall operate independently of the ignition or equivalent switch, and when activated, shall cause to flash simultaneously sufficient turn signal lamps to meet, as a minimum, the turn signal lamp photometric requirements of this standard.

S5.5.6 Each vehicle equipped with a turn signal operating unit shall also have an illuminated pilot indicator. Failure of one or more turn signal lamps to operate shall be indicated in accordance with

SAE Standard J588e, *Turn Signal Lamps*, September 1970, except when a variable-load turn signal flasher is used on a truck, bus, or multipurpose passenger vehicle 80 or more inches in overall width, on a truck that is capable of accommodating a slide-in camper, or on any vehicle equipped to tow trailers.

S5.5.7 On each passenger car and motorcycle, and on each multipurpose passenger vehicle, truck, and bus of less than 80 inches overall width:

(a) When the parking lamps are activated, the tail lamps, license plate lamps, and side marker lamps shall also be activated; and

(b) When the headlamps are activated in a steady-burning state, the tail lamps, parking lamps, license plate lamps and side marker lamps shall also be activated.

S5.5.8 On a motor vehicle equipped with a headlighting system designed to conform to the photometric requirements of Figure 15, the lamps marked "L" or "LF" may be wired to remain permanently activated when the lamps marked "U" or "UF" are activated. On a motor vehicle equipped with an Integral Beam headlighting system meeting the photometric requirements of paragraph S7.4(a)(2), the lower beam headlamps shall be wired to remain permanently activated when the upper beam headlamps are activated.

S5.5.9 The wiring harness or connector assembly of each headlamp system shall be designed so that only those filaments necessary for meeting lower beam photometrics are energized when the beam selector switch is in the lower beam position, and that only those filaments necessary for meeting upper beam photometrics are energized when the beam selector switch is in the upper beam position.

S5.5.10 The wiring requirements for lighting equipment in use are:

(a) Turn signal lamps, hazard warning signal lamps, and school bus warning lamps shall be wired to flash;

(b) High-mounted stop lamps on passenger cars manufactured on or after August 1, 1984, but before September 1, 1986, may flash when the hazard warning system is activated.

(c) Headlamps and side marker lamps may be wired to flash for signaling purposes;

(d) A motorcycle headlamp may be wired to allow either its upper beam or its lower beam, but not both, to modulate from a higher intensity to a lower intensity in accordance with section S5.6;

(e) All other lamps shall be wired to be steady-burning.

S5.6 *Motorcycle headlamp modulation system.*

S5.6.1 A headlamp on a motorcycle may be wired to modulate either the upper beam or the lower beam from its maximum intensity to a lesser intensity provided that:

(a) The rate of modulation shall be 240 ± 40 cycles per minute.

(b) The headlamp shall be operated at maximum power for 50 to 70 percent of each cycle.

(c) The lowest intensity at any test point shall be not less than 17 percent of the maximum intensity measured at the same point.

(d) The modulator switch shall be wired in the power lead of the beam filament being modulated and not in the ground side of the circuit.

(e) Means shall be provided so that both the lower beam and upper beam remain operable in the event of a modulator failure.

(f) The system shall include a sensor mounted with the axis of its sensing element perpendicular to a horizontal plane. Headlamp modulation shall cease whenever the level of light emitted by a tungsten filament light operating at 3000° Kelvin is either less than 270 lux (25 foot-candles) of direct light for upward pointing sensors or less than 60 lux (5.6 foot-candles) of reflected light for downward pointing sensors. The light is measured by a silicon cell type light meter that is located at the sensor and pointing in the same direction as the sensor. A Kodak Gray Card (Kodak R-27) is placed at ground level to simulate the road surface in testing downward pointing sensors.

(g) When tested in accordance with the test profile shown in Figure 9, the voltage drop across the modulator when the lamp is on at all test conditions for 12 volt systems and 6 volt systems shall not be greater than .45 volt. The modulator shall meet all the provisions of the standard after completion of the test profile shown in Figure 9.

(h) Means shall be provided so that both the lower and upper beam function at design voltage when the headlamp control switch is in either the lower or upper beam position when the modulator is off.

S5.6.2(a) Each motorcycle headlamp modulator not intended as original equipment, or its container, shall be labeled with the maximum wattage, and the minimum wattage appropriate for its use. Additionally, each such modulator shall comply with S5.6.1 (a) through (g) when connected to a headlamp of the maximum rated power and a headlamp of the minimum rated power, and shall provide means so that the modulated beam functions at design voltage when the modulator is off.

(b) Instructions, with a diagram, shall be provided for mounting the light sensor including location on the motorcycle, distance above the road surface, and orientation with respect to the light.

S5.7 *Replacement Equipment.*

S5.7.1 Each lamp, reflective device, or item of associated equipment manufactured to replace any lamp, reflective device, or item of associated equipment on any vehicle to which this standard applies, shall be designed to comform with this standard.

S5.7.2 Unless otherwise specified in this standard, each lamp, reflective device, or item of associated equipment to which section S5.7.1 applies may be labeled with the symbol DOT, which shall constitute a certification that it conforms to applicable Federal motor vehicle safety standards.

S6. *Subreferenced SAE Standards and Recommended Practices.*

S6.1 SAE Standards and Recommended Practices subreferenced by the SAE Standards and Recommended Practices included in Tables I and III and paragraphs S5.1.4 and S5.5.1 are those published in the 1970 edition of the SAE Handbook, except that the SAE standard referred to as "J575" is J575e, *Tests for Motor Vehicle Lighting Devices and Components*, August 1970, for stop lamps, tail lamps, and turn signal lamps designed to conform to SAE Standards J586c, J585d/J585e, and J588e, respectively, and for high-mounted stop lamps designed to conform to SAE Recommended Practice J186a. The reference in J585e to J256 does not apply. For headlamps, unless otherwise specified in this standard, the version of SAE Standard J575 is JUN80, and the version of SAE Standard J602 is OCT80.

S6.2 Requirements of SAE Standards incorporated by reference in this standard, other than J576b and J576c, do not include test for warpage of devices with plastic lenses.

S7 *Headlighting requirements.*

S7.1 Each passenger car, multipurpose passenger vehicle, truck, and bus shall be equipped with a headlighting system designed to conform to the requirements of S7.3, S7.4, or S7.5.

S7.2 The lens of each original equipment and replacement equipment headlamp, and each beam contributor manufactured on or after December 1, 1989, shall be marked with the symbol "DOT," either horizontally or vertically, which shall constitute the certification required by 15 U.S.C. 1403. The lens of each headlamp and each beam contributor manufactured on or after December 1, 1989, shall also be marked

with the manufacturer's or importer's name and/or trademark registered with the U.S. Patent Office, and each headlamp or beam contributor with its voltage, and with its part or trade number.

S7.3 *Sealed beam headlighting system.* A sealed beam headlighting system shall be designed to meet the requirements of one of the following subparagraphs of S7.3.2 through S7.3.9. In references to Figures in SAE J1383 APR85 for headlamp dimensional requirements, only those dimensions marked "I" for interchangeability are applicable.

S7.3.1 The lens of each sealed beam headlamp designed to conform to S7.3.2 through S7.3.6 shall be marked according to paragraph 5.4.3 through 5.4.5 of SAE Standard J1383 APR85 *Performance Requirements for Motor Vehicle Headlamps.*

S7.3.2 *Type A headlighting system.* A Type A headlighting system consists of two Type 1A1 and two Type 2A1 headlamps and associated hardware, which are designed to conform to the following requirements:

(a) SAE Standard J1383 APR85 *Performance Requirements for Motor Vehicle Headlamps*, with the following exceptions:

(1) Paragraphs 1, 2.1.2, 2.8.2, 3, 4.1.1, 4.1.3, 4.4, 4.6, 4.8 through 4.18, 5.1.1, 5.1.3, 5.1.5, 5.1.7 through 5.1.16, 5.2.2, 5.3.5, 5.4.1, 5.4.2, and 6 through 6.4 do not apply.

(2) In paragraph 5.3.2, the words "and retaining rings" are omitted.

(3) In paragraphs 4.5.2 and 5.1.6, the words "either Table 1 or Table 2 of SAE J579 DEC84 as appropriate" are substituted for "Table 3."

(b) SAE Standard J580 DEC86 *Sealed Beam Headlamp Assembly* (except paragraphs 3, 4.1.1, 5.1.1.1, 5.1.2.3, and the second sentence of 5.1.6); in 5.2.1, delete the words "and retaining rings;" the correct reference is SAE J1383 Figures 6, 9, 12 and 14.

(c) After a vibration test conducted in accordance with paragraph S8.9, there shall be no evidence of loose or broken parts, other than filaments, visible without magnification.

(d) The maximum wattage at 12.8 volts (design voltage): Single filament headlamp, 55 watts on the upper beam; dual filament headlamp, 43 watts on the upper beam and 65 watts on the lower beam.

S7.3.3 *Type B headlighting system.* A Type B headlighting system consists of two Type 2B1 headlamps and associated hardware, which are designed to conform to the following requirements:

(a) The requirements of paragraphs S7.3.2 (a) through (c).

(b) The maximum wattage at 12.8 volts (design voltage): 70 watts on the upper beam and 60 watts on the lower beam.

S7.3.4 *Type C headlighting system.* A Type C headlighting system consists of two Type 1C1 and two Type 2C1 headlamps and associated hardware, which are designed to conform to the requirements of paragraph S7.3.2 (a) through (d).

S7.3.5 *Type D headlighting system.* A Type D headlighting system consists of two Type 2D1 headlamps and associated heardware, which are designed to conform to the requirements of paragraph S7.3.2 (a) through (c).

S7.3.6 *Type E headlighting system.* A Type E headlighting system consists of two Type 2E1 headlamps and associated hardware, which are designed to conform to the requirements of paragraph S7.3.2 (a) through (c).

S7.3.7 *Type F headlighting system.* A Type F headlighting system consists of two Type UF and two Type LF headlamps and associated hardware, which are designed to conform to the following requirements:

(a) Figures 11, 12, 13, and 14 as appropriate.

(b) The photometric requirements of Figure 15 of this standard. A reaim tolerance of +/− ¼ degree is allowed for any test point on the Type LF lamp when tested alone, but is not allowed on the Type UF lamp when tested alone. For the test point 10U–90U, measurement shall be from the normally exposed surface of the lens face.

(c) SAE Standard J1383 APR85 *Performance Requirements for Motor Vehicle Headlamps*, Sections 2.4, 2.5, 2.6, 4.1, and 4.1.4.

(d) When tested in accordance with section (c), the mounted assembly (either Type UF or Type LF headlamps, respective mounting ring, aiming ring, and aim adjustment mechanism) shall be designed to conform to the requirements of Figure 15 for upper or lower beams respectively without reaim when any conforming Type UF or LF headlamp is tested and replaced by another conforming headlamp of the same Type.

(e) SAE J580 DEC86 *Sealed Beam Headlamp Assembly* with the following exceptions:

(1) Section 2.2 Mounting Ring reads: "the adjustable ring upon which the sealed beam unit is mounted and which forces the sealed beam unit to seat against the aiming ring when assembled into a sealed beam assembly."

(2) The definition "2.3 Aiming Ring" reads: "The clamping ring that retains the sealed beam unit against the mounting ring, and that provides an interface between the unit's aiming/seating pads and the headlamp aimer adapter (locating plate)."

(3) Section 4.1.1 Vibration Test does not apply.

(4) Section 5.1.1.1 does not apply.

(5) Section 5.1.2.1 reads: "When the headlamp assembly is tested in the laboratory, a minimum aiming adjustment of +/− 2.5 degrees shall be provided in the horizontal plane and +/− 4 degrees in the vertical plane."

(6) Section 5.1.2.2 concludes: "* * * through an angle of +/− 2.5 degrees and +/− 4 degrees respectively."

(7) Section 5.1.6 is retitled "Retaining Ring/Aiming Ring Tests," and add: "92 x 150 mm . . . 0.340 in (8.6 mm)."

(8) Figures 2, 3, and 4 do not apply, and the reference to them in section 4.5 is replaced by "Figure 16, Deflectometer, of Federal Motor Vehicle Safety Standard No. 108."

(f) A lens for a Type F headlamp incorporating an upper beam shall be labeled "UF". A lens for a Type F headlamp incorporating a lower beam shall be labeled "LF". The face of letters, numbers, or other symbols molded on the surface of the lens shall not be raised more than 0.020 in (0.5 mm), and shall be placed no closer to the photometric center of the lens than 2.75 in. (70 mm.). The marking shall be molded in the lens and shall be not less than ¼ in. (6.35 mm) in size.

(g) The maximum wattage at 12.8 volts (design voltage): 70 watts on the upper beam and 60 watts on the lower beam.

(h) Type F headlamps may be mounted on common or parallel seating and aiming planes to permit simultaneous aiming of both headlamps provided that when tested with any conforming Type UF and LF headlamps according to Section S10:

(1) The assembly (consisting of the Type UF and LF headlamps, mounting rings, the aiming/seating rings, and aim adjustment mechanism), shall be designed to conform to the test point values of Figure 15.

(2) There shall be no provision for adjustment between the common or parallel aiming and seating planes of the two lamps.

(i) After a vibration test conducted in accordance with paragraph S8.9, the Type F system shall show no evidence of loose or broken parts, other than filaments, visible without magnification.

S7.3.8 *Type G headlighting system.* A Type G headlamp system consists of two Type 1G1 headlamps and two Type 2G1 headlamps each of which is

designed to conform to the following requirements:

(a) Figures 18 and 21.

(b) SAE Standard J1383 APR85 *Performance Requirements for Motor Vehicle Headlamps* (except paragraphs 1, 2.1.2, 2.8.2,3, 4.1.1, 4.1.3, 4.4, 4.6, 4.8 through 4.18, 5.1.1, 5.1.3, 5.1.5 through 5.1.16, 5.2.2, 5.3.5 through 6.4). In paragraph 5.3.2 the words "and retaining rings" are omitted. In paragraph 4.5.2, the words "either Table 1 or Table 2 of SAE J579 DEC84, as appropriate" are substituted for the words "Table 3."

(c) SAE Standard J580 DEC86 *Sealed Beam Headlamp Assembly*, with the following exceptions:

(1) Sections 2.2, 2.3, 4.1.1, 5.1.1.1, 5.1.2.3, 5.1.6, and 5.2.1.

(2) Section 4.5 reads: "*Torque Deflection Test.* The headlamp assembly to be tested shall be mounted in the designed vehicle position and set at nominal aim (0.0). A special adapter (Figure 22) for the deflectometer (Figure 3) shall be clamped onto the headlamp assembly. A torque of 20 in/lbs (2.25 N-m) shall be applied to the headlamp assembly through the deflectometer, and a reading on the thumb wheel shall be taken. The torque shall be removed and a second reading on the thumb wheel shall be taken."

(d) After a vibration test conducted in accordance with paragraph S8.9, there shall be no evidence of loose or broken parts, other than filaments, visible without magnification.

(e) The maximum wattage at 12.8 volts (design voltage) for the 1G1 and 2G1 upper beam is 55 watts and 43 watts respectively; for the 2G1 lower beam, 65 watts.

(f) A lens for a Type G headlamp incorporating only part of an upper beam shall be labeled 1G1. A lens for a Type G headlamp incorporating both part of an upper beam and a lower beam shall be labeled 2G1. The face of letters, numbers, or other symbols molded on the surface of the lens shall not be raised more than 0.020 in. (0.5 mm.), and shall be placed no closer to the geometric center of the lens than 2.75 in. (70 mm.). The marking shall be molded in the lens and shall be not less than ¼ in. (6.35 mm) in size.

S7.3.9 *Type H headlighting system.* A Type H headlamp system consisting of two Type 2H1 headlamps and associated hardware, which are designed to conform to the following requirements:

(a) Paragraph S7.3.8 (a) through (d).

(b) The maximum wattage at 12.8 volts (design voltage): 70 watts on the upper beam and 60 watts on the lower beam.

(c) A lens for a Type H headlamp incorporating both and upper beam and a lower beam shall be labeled 2H1. The face of letters, numbers, or other symbols molded on the surface of the lens shall not be raised more than 0.020 in. (0.5 mm), and shall be placed no closer to the geometric center of the lens than 2.75 in. (70 mm.) The marking shall be molded in the lens and shall be not less than ¼ in. (6.35 mm) in size.

S7.4 *Integral Beam Headlighting System.* An integral beam headlighting system shall be designed to conform to the following requirements:

(a) The system shall provide in total not more than two upper beams and two lower beams of the performance described in one of the following:

(1) Figure 15;

(2) Figure 15 except that the upper beam test point values at 2½D–V and 2½D–12R and 12L shall apply to the lower beam headlamp and not to the upper beam test point value at 1½D–9R and 9L shall be 1,000;

(3) Figure 17;

(4) Table 1 of SAE J579 DEC84; or

(5) Table 2 of SAE J579 DEC84.

(b) In a four-headlamp system, each upper beam headlamp and each lower beam headlamp shall be designed to conform to the photometrics of one of the following:

(1) Figure 15;

(2) Figure 15 with the exceptions specified in subsection (a) of this section; or

(3) Table 2 of SAE J579 DEC84.

(c) In a two-headlamp system, each headlamp shall be designed to conform to the photometrics of one of the following:

(1) Figure 17; or

(2) Table 1 of SAE J579 DEC 84.

(d) In a system in which there is more than one beam contributor providing a lower beam, and/or more than one beam contributor providing an upper beam, each beam contributor in the system shall be designed to meet only the photometric performance requirements of paragraph S7.4(a)(1) based upon the following mathematical expression: conforming test point value = 2(Figure 15 test point value)/total number of lower or upper beam contributors for the vehicle, as appropriate. The system shall be designed to use the Vehicle Headlamp Aiming Device (VHAD) as specified in paragraph S7.7.5.2.

(e) The lower and upper beams shall be provided only as follows where each headlamp contains two light sources:

(1) The lower beam shall be provided either by the most outboard light source (or the uppermost if arranged vertically), or by all light sources.

(2) The upper base shall be provided either by the most inboard light source (or the lowermost if arranged vertically), or by all light sources.

(f) The lower and upper beams shall be provided only as follows where each headlamp contains a single filament:

(1) The lower beam shall be provided by the most outboard headlamps (or the uppermost if arranged vertically), and the lens of each such headlamp shall be permanently marked with the letter "L."

(2) The upper beam shall be provided by the most inboard headlamps (or lowermost if arranged vertically), and the lens of each such headlamp shall be permanently marked with the letter "U."

(g) A tolerance of +/− ¼ degree reaim tolerance during photometric performance tests is permitted for any headlamp. The test point 10U–90U shall be measured from the normally exposed surface of the lens face.

(h) A headlamp or beam contributor designed to meet S7.4(b) and S7.7.5.1 may be mounted in an assembly to permit simultaneous aiming of the beam(s) contributors, provided that with any complying contributor the assembly complete with all lamps meets the appropriate photometric requirements when tested in accordance with S10.

(i) Each integral beam headlamp system shall be designed to conform to the applicable photometric performance requirements in subsections (a) through (d) of this section when tested in accordance with Sections 4.1 and 4.1.4 of SAE Standard J1383 APR85 with any headlamps intended for use in such system. The term "aiming plane" means "aiming reference plane," or an appropriate vertical plane defined by the manufacturer as required in paragraph S7.7.1.

(j) The system shall be aimable in accordance with the requirements of paragraph S7.7. A system that incorporates any headlamp or beam contributor that does not have a VHAD as an integral and indivisible part of the headlamp or beam contributor shall be designed so that the appropriate photometrics are met when any correctly aimed and photometrically conforming headlamp or beam contributor is removed from its mounting and aiming mechanism, and is replaced without reaim by any conforming headlamp or beam contributor of the same type.

(k) A headlamp with a glass lens need not meet the abrasion resistance (S8.2), chemical resistance (S8.3), or impact (S8.8) tests. If, in addition to a glass lens, the headlamp uses a non-plastic reflector, it need not meet the internal heat test of paragraph S8.6.2. A

headlamp of sealed design as verified in paragraph S8.10 *Sealing* need not meet the corrosion (S8.4), dust (S8.5), or humidity (S8.7) tests, however, the headlamp shall meet the requirements of paragraphs 4.1, 4.1.2, 4.4 and 5.1.4 for corrosion and connector of SAE Standard J580 DEC86 *Sealed Beam Headlamp Assembly.*

(1) When tested according to any of the procedures indicated in subparagraphs (i) through (viii) each headlamp or beam contributor shall meet the appropriate requirement:

(i) After an abrasion test conducted in accordance with paragraph S8.2, the headlamp shall meet the photometric requirements applicable to the headlamp system under test.

(ii) After a chemical resistance test involving exposure to any of the fluids listed in paragraph S8.3, there shall be no surface deterioration, coating delamination, fractures, deterioriation of bonding materials, color bleeding or color pickup visible without magnification, and the headlamp shall meet the photometric requirements applicable to the headlamp system under test.

(iii) After a corrosion test conducted in accordance with paragraph S8.4 there shall be no evidence of external or internal corrosion or rust visible without magnification. Loss of adhesion of any applied coating shall not occur more than 0.125 in. (3.2 mm) from any sharp edge on the inside or outside. Corrosion may occur on terminals only if the current produced during the test of paragraph S8.4(c) is not less than 9.7 amperes.

(iv) After a dust test conducted in accordance with paragraph S8.5, the headlamp shall meet the photometric requirements applicable to the headlamp system under test.

(v) The headlamp shall first meet the requirements of subparagraph (A) and then those of subparagraph (B).

(A) After a temperature cycle test conducted in accordance with paragraph S8.6.1, the headlamp shall show no evidence of delamination, fractures, entry of moisture or deterioration of bonding material, color bleeding, warpage or deformation visible without magnification or lens warpage greater than .118 in (3 mm) when measured parallel to the optical axis at the point of intersection of the axis of each light source with the exterior surface of the lens, and it shall meet the photometric requirements applicable to the headlamp system under test.

(B) After an internal heat test conducted in accordance with paragraph S8.6.2. there shall be no lens warpage greater than .118 in (3 mm) when measured parallel to the optical axis at the point of intersection of the axis of each light source with the exterior surface of the lens, and it shall meet the photometric requirements applicable to the headlamp system under test.

(vi) After a humidity test conducted in accordance with paragraph S8.7, the inside of the headlamp shall show no evidence of delamination or moisture, fogging or condensation visible without magnification, and the headlamp shall meet the photometric requirements applicable to the headlamp system under test.

(vii) After an impact test on a headlamp with a plastic lens, conducted in accordance with paragraph S8.8, there shall be no fracture of the adhesion of the lens coating or delamination of materials visible without magnification, and the lens shall not be broken, cracked, or chipped.

(viii) After a vibration test conducted in accordance with paragraph S8.9, there shall be no evidence of loose or broken parts, other than filaments, visible without magnification.

S7.5 *Replaceable Bulb Headlamp System.* Each replaceable bulb headlamp system shall be designed to conform to the following requirements:

(a) The system shall provide only two lower beams and two upper beams and shall incorporate not more than two standardized replaceable light sources in each headlamp.

(b) The photometrics as specified in subsections (c) through (f) below using any standardized replaceable light source of the type intended for use in such system.

(c) The test requirements of sections 4.1 and 4.1.4 of SAE J1383 APR85, using the photometric requirements specified in (a) through (c). The term "aiming plane" means "aiming reference plane," or an appropriate vertical plane defined by the manufacturer as required in paragraph S7.7.1. A ¼ degree reaim tolerance is permitted for any test point. The test point 1OU–9OU shall be measured from the normally exposed surface of the lens face.

(d) For a headlamp equipped with one or two Type HB1 light sources, the following requirements apply:

(1) There shall be no mechanism that allows adjustment of an individual light source or, if there are two light sources, independent adjustment of each reflector.

(2) The lower and upper beams of a headlamp system consisting of two lamps, each containing two light sources, shall be provided as follows:

(i) The lower beam shall be provided in one of the following ways:

(A) By the outboard light source (or the upper one if arranged vertically) designed to conform to the lower beam requirements of Table 1 of SAE Standard J579 DEC84; or

(B) By both light sources, designed to conform to the lower beam requirements of Table 1 of SAE Standard J579 DEC84.

(ii) The upper beam shall be provided in one of the following ways:

(A) By the inboard light source (or the lower one if arranged vertically) designed to conform to the upper beam requirements of Table 1 of SAE Standard J579 DEC84; or

(B) By both light sources, designed to conform to the upper beam requirements of Table 1 of SAE Standard J579 DEC84.

(3) The lower and upper beams of a headlamp system consisting of four lamps, each containing a single light source, shall be provided as follows:

(i) The lower beam shall be provided by the outboard lamp (or upper one if arranged vertically), designed to conform to the lower beam requirements of Table 1 of SAE Standard J579 DEC84. The lens of each such headlamp shall be marked with the letter "L."

(ii) The upper beam shall be provided by the inboard lamp (or lower one if arranged vertically), designed to conform to the upper beam requirements of Table 1 of SAE Standard J579 DEC84. The lens of each such headlamp shall be marked with the letter "U."

(e) The following requirements apply to a headlamp system equipped with Type HB3 and HB4, HB1 and HB3, or HB1 and HB4 light sources:

(1) There shall be no mechanism that allows adjustment of an individual light source, or, if there are two light sources, independent adjustment of each reflector.

(2) The lower and upper beams of a headlamp system consisting of two lamps, each containing two light sources (Type HB3 and HB4, or Type HB1 with HB3 or HB4) shall be provided only as follows:

(i) The lower beam shall be provided in one of the following ways:

(A) By the outboard light source (or the uppermost if arranged vertically) designed to conform to the lower beam requirements of Figure 17; or

(B) By both light sources, designed to conform to the lower beam requirements of Figure 17.

(ii) The upper beam shall be provided in one of the following ways:

(A) By the inboard light source (or the lower one if arranged vertically) designed to conform to the upper beam requirements of Figure 17; or

(B) By both light sources, designed to conform to the lower beam requirements of Figure 17.

(3) The lower and upper beams of a headlamp system consisting of four lamps, using Type HB3 and HB4, HB1 and HB3, or HB1 and HB4 light sources, each containing only a single light source, shall be provided only as follows:

(i) The lower beam shall be produced by the outboard lamp (or upper one if arranged vertically), designed to conform to the lower beam requirements of Figure 15. The lens of each such headlamp shall be permanently marked with the letter "L."

(ii) The upper beam shall be produced by the inboard lamp (or lower one if arranged vertically), designed to conform to the upper beam requirements of Figure 15. The lens of each such headlamp shall be marked with the letter "U."

(f) Each lens reflector unit manufactured as replacement equipment shall be designed to conform to the requirements of paragraphs (e) and (f) of this section when any standardized replaceable light source appropriate for such unit is inserted in it.

(g) The lens of each replaceable bulb headlamp using Type HB3 or HB4 light sources, or Type HB1 light sources in conjunction with Type HB3 or HB4 light sources within a headlamp system on a motor vehicle, shall permanently display the Type designation(s) for that light source on the lens in front of each light source.

(h) The system shall be aimable in accordance with paragraph S7.7.

(i) Each headlamp shall meet the requirements of paragraphs S7.4 (k) and (l), except that the sentence in (k) to verify sealing according to S8.10 *Sealing* does not apply.

S7.6 *Standardized Replaceable Light Sources.* Each standardized replaceable light source shall be designed to conform to the following requirements:

(a) A type HB1 light source shall be designed to conform to the dimensions specified in Figure 3 and shall incorporate a silicone O-ring. Its maximum power on the lower beam shall be 50 watts, and on the upper beam, 70 watts. Its luminous flux in lumens shall be 700+/−15% on the lower beam and 1200+/−15% on the upper beam.

(b) A Type HB3 light source shall be designed to conform to the dimensions specified in Figure 19. Its maximum power on the upper beam shall be 70 watts. Its luminous flux in lumens shall be 1700+/−12% on the upper beam.

(c) A Type HB4 light source shall be designed to conform to the dimensions specified in Figure 20. Its maximum power shall be 60 watts on the lower beam, and its luminous flux in lumens on the lower beam shall be 100 +/− 15%.

(d) The filament of a light source shall be seasoned before measurement of maximum power and luminous flux.

(e) Measurement of maximum power and luminous flux shall be made with the direct current test voltage regulated within one quarter of one percent. The test voltage shall be design voltage, 12.8v. The measurement of luminous flux shall be in accordance with the Illuminating Engineering Society of North America, LM–45; *IES Approved Method for Electrical and Photometric Measurements of General Service Incandescent Filament Lamps* (April 1980), shall be made with the black cap installed on Type HB1 and HB4, and shall be made with the electrical conductor and light source base shrouded with an opaque white colored cover, except for the portion normally located within the interior of the lamp housing. The measurement of luminous flux for the Types HB3 and HB4 shall be with the base covered with a white cover shown in Fugures 19–1 and 20–1. The white covers are used to eliminate the likelihood of incorrect lumen measurement that will occur should the reflectance of the light source base and electrical connector be low.

(f) The capsule, lead wires and/or terminals, and seal on each Type HB1, Type HB3, and Type HB4 light source shall be installed in the base so as to provide an airtight seal. Such a seal exists when no air bubbles shall appear on the low pressure (connector) side after the light source has been immersed in water for one minute while inserted in a cylindrical aperture of 1.350 to 1.346 in. (34.30 to 34.2 mm) (Type HB1), or 0.796 +/− 0.004 in (20.22 +/− 0.10 mm) (Type HB3), or 0.875 +/− 0.004 in (22.2 +/− 0.1 mm) (Type HB4) and subjected to a minimum air pressure of 70kPa (10 P.S.I.G) on the glass capsule side.

(g) After the force deflection test conducted in accordance with S9, the permanent deflection of the glass envelope shall not exceed 0.005 in. (0.13 mm) in the direction of the applied force.

(h) A general tolerance shall apply to Figure 3 as follows: +/− 0.004 in. (0.10 mm) to all linear dimensions and +/− 1 degree 00 minutes to all angular dimensions except for referenced dimensions and unless otherwise specified.

(i) Each standardized light source manufactured on or after December 1, 1989, shall be marked with the symbol DOT horizontally or vertically, which shall constitute the certification required by 15 U.S.C. 1403, and its base marked with its HB Type designation, and either with the manufacturer's or importer's name or with the manufacturer's or importer's trademark that is registered with the U.S. Patent Office.

S7.7 *Aimability Performance Requirements.*

S7.7.1 Each headlamp (other than a headlamp designed to conform to paragraph S7.3), or beam contributor, shall be equipped with fiducial marks, aiming pads or similar references of sufficient detail and accuracy for determination of an appropriate vertical plane to be used with the photometric procedures of SAE J1383 APR85 for correct alignment with the photometer axis when being tested for photometric compliance, and to serve for the aiming reference when the lamp is installed on a motor vehicle. The fiducial marks, aiming pads, or similar references are protrusions, bubble vials, holes, indentations, ridges, scribed lines, or other readily identifiable marks established and described by the vertical or lamp manufacturer.

S7.7.2 Each headlamp shall be installed on a motor vehicle with a mounting and aiming mechanism that allows aim inspection and adjustment of both vertical and horizontal aim, and is accessible for those uses without removal of any vehicle parts, except for protective covers removable without the use of tools.

S7.7.2.1 When installed on the vehicle, adjustment of one aim axis through its full on-vehicle range shall not cause the aim of the other axis to deviate more than +/− 0.76 degree. If this performance is not achievable, a label meeting the requirements of paragraph S7.7.5.2(b) shall be attached adjacent to each Vehicle Headlamp Aiming Device (VHAD).

S7.7.2.2 If a headlamp is aimed by moving the reflector relative to the lens and headlamp housing, or vice versa, it shall conform with the photometrics applicable to it with the lens at any position relative to the reflector within the aim range limits of paragraph S7.7.3 and S7.7.4 or any combination.

S7.7.3 When a headlamp system is tested in a laboratory, the range of its vertical aim shall not be less than +/− 4 degrees from the nominal correct aim position for the intended vehicle application. When installed on a motor vehicle, the range of vertical aim shall be not less than the full range of pitch of the vehicle on which the headlamp system is installed. The installed range of pitch angle shall as a minimum be determined from unloaded vehicle weight to gross vehicle weight rating,

and incorporate pitch angle effects from maximum trailer or truck loadings, the full range of tire intermix sizes and suspensions recommended and/or installed by the vehicle manufacturer, and the anticipated effects of suspension sag and variable passenger loading. The vertical aim adjustment mechanism shall be continuously adjustable over the full range.

S7.7.4 When a headlamp system is tested in a laboratory, the range of its horizontal aim shall not be not less than 2.5 degrees from the nominal correct aim position for the intended vehicle application.

S7.7.5 When a headlamp system is installed on a motor vehicle, it shall be aimable with either an externally applied aiming device or on-vehicle headlamp aiming devices installed by the vehicle manufacturer. When activated in a steady-burning state, headlamps shall not have any styling ornament or other feature, such as a translucent cover or grill, in front of the lens. Headlamp wipers may be used in front of the lens provided that the headlamp system is designed to conform with all applicable photometric requirements with the wiper stopped in any position in front of the lens.

S7.7.5.1 *External aiming.* Each headlamp system that is capable of being mechanically aimed by externally applied headlamp aiming devices shall be mechanically aimable using the equipment specified in SAE Standard J602 OCT80 *Headlamp Aiming Device for Mechanically Aimable Sealed Beam Headlamp Units* without the removal of any ornamental trim rings, covers, wipers or other vehicle parts.

(a) Each headlamp system that is designed to use such external aiming devices shall not deviate more than 0.30 degree when a downwad torque of 20 lb.-in. (2.25 N-m) is applied to the headlamp in its normal operating position, through the lamp's mechanical axis at the plane of the forwardmost aiming pad.

(b) When a headlamp is installed on a motor vehicle, its aim in any direction shall not change by more than 0.30 degree nor shall the lamp recede more than 0.1 in. (2.5 mm.) after being subjected to an inward force of 50 pounds (222 newtons) applied evenly to the lens parallel to the mechanical axis.

(c) Each headlamp system mounting and aiming mechanism shall be subjected to a salt spray (fog) test in accordance with ASTM B117–73 *Method of Salt Spray (Fog) Testing* for a period of 50 hours, consisting of two successive 25 hour periods of 24 hours exposure followed by 1 hour of drying. At the end of 50 hours, the headlamp system shall be capable of meeting any of the applicable requirements of paragraph S7.7.

(d) Each headlamp system which is designed to use the Headlamp Aiming Device Locating Plates with adjustable legs for the 100 × 165 mm unit and the 142 × 200 mm unit, and which has adjustable length legs, shall meet the requirements of subparagraphs (1) and (2) below.

(1) The lens shall have three aiming pads which meet the requirements of Figure 4, *Dimensional Specifications for Location of Aiming Pads on Replaceable Bulb Headlamp Units.* The aiming pads need not be centered at the geometric center of the lens, or on the optical axis. Except as provided in subparagraph (2), a whole number, which represents the distance in tenths of an inch (i.e. 0.3 inch=3) from the aiming reference plane to the respective aiming pads which are not in contact with that plane, shall be inscribed adjacent to each respective aiming pad on the lens. The height of these numbers shall be not less than .157 inch (4 mm). If there is interference between the plane and the area of the lens between the aiming pads, the whole number represents the distance to a secondary plane. The secondary plane shall be located parallel to the aiming reference plane and as close to the lens as possible without causing interference.

(2) If the most forward aiming pad is the lower inboard aiming pad, then the dimensions may be placed anywhere on the lens. The dimension for the outboard aiming pad (Dimension F in Figure 4) shall be followed by the letter "H" and the dimension for the center aiming pad shall be followed by the letter "V." The dimensions shall be expressed in tenths of an inch.

(e) Each headlamp may be designed to use the nonadjustable Headlamp Aiming Device Locating Plate for the 100×165 mm unit, the 142×200 mm unit, the 146 mm diameter unit, or the 178 mm diameter unit of SAE J602, or the 92×150 mm Type F unit, and incorporate lens mounted aiming pads as specified for those units in Figures 10, 13, 5, or 7 respectively in SAE J1383 APR85, or Figure 11 of this standard for the Type F unit. If so designed, no additional lens marking is necessary to designate the type of plate or dimensions.

S7.7.5.2 *On-vehicle aiming.* Each headlamp system that is capable of being aimed by equipment installed on the vehicle shall include a Vehicle Headlamp Aiming Device (VHAD) that conforms to the following requirements:

(a) *Aim.* The VHAD shall provide for headlamp aim inspection and adjustment in both the vertical and horizontal axes.

(1) *Vertical aim:* The VHAD shall include the necessary references and scales relative to the horizontal plane to assure correct vertical aim for photometry and aiming purposes. An off-vehicle measurement of the angle of the plane of the ground is permitted. In addition, an equal number of graduations from the "O" position representing angular changes in the axis in the upward and downward directions shall be provided.

(i) Each graduation shall represent a change in the vertical position of the mechanical axis not larger than 0.19 degree (1 in. at 25 ft.) to provide for variations in aim at least 1.2 degrees above and below the horizontal, and have an accuracy relative to the zero mark of less than 0.1 degree.

(ii) The VHAD shall be marked to indicate headlamp aim movement in the upward and downward directions.

(iii) Each graduation shall indicate a linear movement of the scale indicator of not less than 0.05 in. (1.27 mm) if a direct reading analog indicator is used. If a remote reading indicator is provided, it shall represent the actual aim movement in a clear, understandable format.

(iv) The vertical indicator shall perform through a minimum range of +/−1.2 degrees.

(vi) Means shall be provided in the VHAD for compensating for deviations in floor slope not less than 1.2 degrees from the horizontal that would affect the correct positioning of the headlamp for vertical aim.

(vi) The graduations shall be legible under an illumination level not greater than 30 foot candles, measured at the top of the radiator, by an observer having 20/20 vision (Snellen), and shall permit aim adjustment to within 0.19 degree (1 in. at 25 ft.).

(2) *Horizontal aim.* The VHAD shall include references and scales relative to the longitudinal axis of the vehicle necessary to assure correct horizontal aim for photometry and aiming purposes. An "O" mark shall be used to indicate alignment of the headlamps relative to the longitudinal axis of the vehicle. In addition, an equal number of graduations from the "O" position representing equal angular changes in the axis relative to the vehicle axis shall be provided.

(i) Each graduation shall represent a change in the horizontal position of the mechanical axis not greater than 0.38 degree (2 in. at 25 ft.) to provide for variations in aim at least 0.76 degree (4 in. at 25 ft.) to the left and right of the longitudinal axis of the vehicle, and

shall have an accuracy relative to the zero mark of less than 0.1 degree.

(ii) The VHAD shall be marked to indicate headlamp aim movement in the left and right directions.

(iii) The graduations shall be legible under an illumination level not greater than 30 foot candles, measured at the top of the radiator, by an observer having 20/20 vision (Snellen), and shall permit aim adjustment to within 0.38 degree (2 in. at 25 ft.).

(iv) The horizonal indicator shall perform through a minimum range of +/−0.76 degree (4 in. at 25 ft.); however, the indicator itself shall be capable of recalibration over a movement of +/−2.5 degrees relative to the longitudinal axis of the vehicle to accommodate any adjustment necessary for recalibrating the indicator after vehicle repair from accident damage.

(b) *Aiming instructions.* The instructions for properly aiming the headlighting system using the VHAD shall be provided on a label permanently affixed to the vehicle adjacent to the VHAD, or in the vehicle operator's manual. The instructions shall advise that the headlighting system is properly aimed if the appropriate vertical plane (as defined by the vehicle manufacturer) is perpendicular to both the longitudinal axis of the vehicle, and a horizontal plane when the vehicle is on a horizontal surface, and the VHAD is set a "0" vertical and "0" horizontal. Should a remote indicator or a remote indicator and adjuster be provided, the instructions shall be placed in the operator's manual, and may also be placed on a label adjacent to the VHAD.

(c) *Testing the VHAD.*

(1) The headlamp assembly (the headlamp(s) and the integral or separate VHAD mechanism) shall be mounted on a level goniometer, aligned to a photometer located not less than 60 ft. (18.3 m) from the VHAD assembly. The assembly shall be mechanically aimed using the VHAD in accordance with the manufacturer's instructions as provided with the vehicle on which the VHAD is intended to be used. A ¼ degree reaim is permitted in any direction at any test point to allow for variations in readings between laboratories. The test shall be conducted in accordance with the procedures of paragraphs 4.1 and 4.1.4 of SAE J1383 APR85. Under these conditions the mounted headlamp assembly shall be designed to conform to the photometric requirements appropriate for the headlamp system under test.

(2) When tested in accordance with subsection (1) of this section, with any replacement headlamp unit(s) or light sources intended for use in the system under test, the VHAD and headlamp system shall be designed to conform to the photometric performance requirements appropriate for the system under test.

(3) The same VHAD and associated headlamp(s) (or headlamp assembly) shall be rigidly mounted in a headlamp test fixture and comply with the following laboratory test procedures:

(i) Each graduation on the horizontal and vertical aim scales shall be checked and any variation from the correct aim shall not exceed +/− 0.2 degree, and +/− 0.1 degree respectively.

(ii) With the aiming plane horizontal and vertical and with the scale on the device set at 0, the aimer shall be adjusted before each of the following tests to assure that the indicators are centered at 0.

(iii) The VHAD and an unlighted headlamp assembly shall be stabilized at 20 +/− 5 degrees F (−7 +/− 3 degrees C) in a circulating air environmental test chamber. After a period of 30 minutes, when measured at that soak temperature, the variation from correct horizontal of vertical aim shall not exceed +/− 0.2 degree, and +/− 0.1 degree, respectively.

(iv) The VHAD, and the headlamp assembly with its highest wattage filament (or combination of filaments intended to be used simultaneously) energized at its design voltage, shall then be stabilized at 100 +/− 5 degrees F (38 +/− 3 degrees C) in a circulating air environmental test chamber. After a period of 30 minutes, when measured at that soak temperature, the variation from correct horizontal and vertical aim small not exceed +/− 0.2 degree, and +/− 0.1 degree, respectively.

(v) The VHAD and an unlighted headlamp assembly shall then be placed in a circulating air environmental test chamber and exposed to a temperature of 140 +/− 5 degrees F (60 +/− 3 degrees C) for 24 hours, followed by a temperature of −40 +/− 5 degrees F (−40 +/− 3 degrees C) for 24 hours and then permitted to return to room temperature, after which the VHAD and headlamp assembly shall show no damage which would impair its ability to perform as specified herein. The variation from correct horizontal or vertical aim shall not exceed +/− 0.2 degree, and +/− 0.1 degree, respectively.

(vi) The VHAD and headlamp assembly shall then be tested according to the corrosion test procedure of paragraph S7.7.5.1(c).

(vii) The VHAD and headlamp assembly shall then be tested for photometric compliance as specified in paragraphs S7.7.5.2(c)(1) and (2).

S8 *Tests and Procedures for Integral Beam and Replaceable Bulb Headlighting Systems.* When tested in accordance with the following procedures, each integral beam headlamp shall meet the requirements of paragraph S7.4, and each replaceable bulb headlamp shall meet the requirements of paragraph S7.5.

S8.1 *Photometry.* Each headlamp to which paragraph S8 applies shall be tested according to paragraphs 4.1 and 4.1.4 of SAE Standard J1383 APR85 for meeting the applicable photometric requirements, after each test specified in paragraphs S8.2, S8.3, S8.5, S8.6.1, S8.6.2, and S8.7. A ¼ degree reaim is permitted in any direction at any testpoint.

S8.2 *Abrasion.* (a) A headlamp shall be mounted in the abrasion test fixture in the manner indicated in Figure 5 with the lens facing upward.

(b) An abrading pad meeting the requirements in paragraphs (c)(1) through (c)(4) of this section shall be cycled back and forth (1 cycle) for 11 cycles at 4 ± 0.8 in. (10 cm ± 2 cm) per second over at least 80 percent of the lens surface, including all the area between the upper and lower aiming pads, but not including lens trim rings and edges.

(c) (1) The abrading pad shall be not less than 1.0 ± .04 in. (2.5 cm ± .1 cm) wide, constructed of 0000 steel wool, and rubber cemented to a rigid base shaped to the same vertical contour of the lens. The "grain" of the pad shall be perpendicular to the direction of motion.

(2) The abrading pad support shall be equal in size to the pad and the center of the support surface shall be within ± .08 in. (± 2 mm) of parallel to the lens surface.

(3) The density of the abrading pad shall be such that when the pad is mounted to its support and is resting unweighted on the lens, the base of the pad shall be no closer than .125 in. (3.2 mm) to the lens at its closest point.

(4) When mounted on its support and resting on the lens of the test headlamp, the abrading pad shall then be weighted such that a pad pressure of 2.0 ± .15 psi (14 ± 1 KPa) exists at the center and perpendicular to the face of the lens.

(d) A pivot shall be used if it is required to follow the contour of the lens.

(e) Unused steel wool shall be used for each test.

S8.3 *Chemical resistance.* (a) The entire exterior lens surface of the headlamp in the headlamp test fixture and top surface of the lens-reflector joint shall be wiped once to the left and once to the right with a 6-inch square soft cotton cloth (with pressure equally

applied) which has been saturated once in a container with 2 ounces of a test fluid as listed in paragraph (b). The lamp shall be wiped within 5 seconds after removal of the cloth from the test fluid.

(b) The test fluids are:

(1) ASTM Reference Fuel C, which is composed of Isooctane 50 volume % and Toluene 50 volume %. Isooctane must conform to A2.7 in Annex 2 of the Motor Fuels Section of the *1985 Annual Book of ASTM Standards,* Vol. 05.04, and Toluene must conform to ASTM specification D362–84, *Standard Specification for Industrial Grade Toluene.* ASTM Reference Fuel C must be used as specified in:

(i) Paragraph A2.3.2 and A2.3.3 of Annex 2 to *Motor Fuels, Section 1* in the *1985 Annual Book of ASTM Standards;* and

(ii) OSHA Standard 29 CFR 1910.106—*Handling Storage and Use of Flammable Combustible Liquids.*

(2) Tar remover (consisting by volume of 45% xylene and 55% petroleum base mineral spirits).

(3) Power steering fluid (as specified by the vehicle manufacturer for use in the motor vehicle on which the headlamp is intended to be installed).

(4) Windshield washer fluid consisting of 0.5% monoethanolamine with the remainder 50% concentration of methanol/distilled water by volume.

(5) Antifreeze (50% concentration of ethylene glycol/distilled water by volume).

(c) After the headlamp has been wiped with the test fluid, it shall be stored in its designed operating attitude for 48 hours at a temperature of 73° F ± 7° (23° C ± 4°) and a relative humidity of 30 ± 10 percent. At the end of the 48-hour period, the headlamp shall be wiped clean with a soft dry cotton cloth and visually inspected.

S8.4 *Corrosion.* (a) A connector test shall be performed on each filament circuit prior to the test in subparagraph (b) according to Figure 1 and SAE Standard J580 DEC86. The power source shall be set to provide 12. 8 volts and the resistance shall be set to produce 10 amperes.

(b) The headlamp with connector attached to the terminals, unfixtured and its designed operating attitude with all drain holes, breathing devices or other designed openings in their normal operating positions, shall be subjected to a salt spray (fog) test in accordance with ASTM B117–73, *Method of Salt Spray (Fog) Testing,* for 240 hours, consisting of ten successive 24-hour periods. During each period, the headlamp shall be mounted in the middle of the chamber and exposed for 23 hours to the salt spray. The spray shall not be activated during the 24th hours. The bulb shall be removed from the headlamp and from the test chamber during the one hour of salt spray deactivation and reinserted for the start of the next test period, at the end of the first and last three 23-hour periods of salt spray exposure, and at the end of any two of the fourth through seventh 23-hour periods of salt-spray exposure. The test chamber shall be closed at all times except for a maximum of 2 minutes which is allowed for removal or replacement of a bulb during each period. After the ten periods, the lens reflector unit without the bulb shall be immersed in deionized water for 5 minutes, then secured and allowed to dry by natural convection only.

(c) Using the voltage, resistance and pretest set up of paragraph (a) the current in each filament circuit shall be measured after the test conducted in paragraph (b).

S8.5 *Dust.* The headlamp, mounted on a headlamp test fixture, with all drain holes, breathing devices or other designed openings in their normal operating positions, shall be positioned within a cubical box, with inside measurements of 35.4 in. (900 mm) on each side or larger if required for adequate wall clearance, i.e., a distance of at least 5.9 in. (150 mm) between the headlamp and any wall of the box. The box shall contain 9.9 lb. (4.5 kg) of fine powdered cement which conforms to the ASTM C150–77 specification for Portland Cement. Every 15 minutes, the cement shall be agitated by compressed air or fan blower(s) by projecting blasts of air for a two-second period in a downward direction so that the cement is diffused as uniformly as possible throughout the entire box. This test shall be continued for five hours after which the exterior surfaces of the headlamp shall be wiped clean.

S8.6 *Temperature and internal heat test*—A headlamp with one or more replaceable standardized light sources shall be tested according to paragraphs S8.6.1 and S8.6.2. Tests shall be made with all filaments lighted at design voltage that are intended to be used simultaneously in the headlamp and which in combination draw the highest total wattage. These include but are not limited to filaments used for turn signal lamps, fog lamps, parking lamps, and headlamp lower beams lighted with upper beams when the wiring harness is so connected on the vehicle. If a turn signal is included in the headlamp assembly, it shall be operated at 90 flashes a minute with a 75 ± 2% current "on time." If the lamp produces both the upper and lower beam, it shall be tested in both the upper beam mode and the lower beam mode under the conditions above described, except for a headlamp with a single HB1 light source.

S8.6.1 *Temperature cycle.* A headlamp, mounted on a headlamp test fixture, shall be subjected to 10 complete consecutive cycles having the thermal cycle profile shown in Figure 6. During the hot cycle, the lamp, shall be energized commencing at point "A" of Figure 6 and de-energized at point "B." Separate or single test chambers may be used to generate the environment of Figure 6. All drain holes, breathing devices or other openings or vents of the headlamps shall be in their normal operating positions.

S8.6.2 *Internal Heat Test.* (a) The headlamp lens surface that would normally be exposed to road dirt shall be uniformly sprayed with any appropriate mixture of dust and water or other materials to reduce the photometric output at the H–V test point of the upper beam (or the ½D–1½R test point of the lower beam as appropriate) to 25 ± 2% of the output originally measured in the photometric test conducted pursuant to paragraphs S7.4(i), or S7.5 (a) through (e), as applicable. A headlamp with a single HB1 light source shall be tested on the upper beam only. Such reduction shall be determined under the same conditions as that of the original photometric measurement.

(b) After the photometric output of the lamp has been reduced as specified in paragraph (a), the lamp and its mounting hardware shall be mounted in an environmental chamber in a manner similar to that indicated in Figure 7 "Dirt/Ambient Test Setup." The headlamp shall be soaked for one hour at a temperature of 95 + 7 −0 degrees F (35 + 4 −0 degrees C) and then the lamp shall be energized according to paragraph S8.6 for one hour in a still air condition, allowing the temperature to rise from the soak temperature.

(c) The lamp shall be returned to a room ambient temperature of 73 + 7 −0 degrees F (23 + 4 −0 degrees C) and a relative humidity of 30 ± 10% and allowed to stabilize to the room ambient temperature. The lens shall then be cleaned.

S8.7 *Humidity.* The headlamp mounted on a headlamp test fixture shall be placed in a controlled environment consisting of a temperature of 100 + 7 −0 degrees F (38 + 4 −0 degrees C) with a relative humidity of not less than 90%. All drain holes, breathing devices, and other designed openings shall be in their normal operating positions. The headlamp shall be subjected to 20 consecutive 6-hour

test cycles. In each cycle it shall be energized for 1 hour at design voltage with the highest combination of filament wattages that are intended to be used including a turn signal flashing at 90 flashes per minute with a 75 ± 2% current "on time", if so equipped, and then de-energized for 5 hours. After completion of the last cycle, the lamp shall be soaked for 1 hour at 73 ± 7 −0 degrees F (20 ± 4 −0 degrees C) and relative humidity of 30 ± 10% before it is removed for photometric testing. The headlamp shall be tested for photometrics at 10 ± 1 minutes following completion of the humidity test.

S8.8 *Impact.* The headlamp shall be rigidly mounted in a headlamp test fixture on the seating lugs with the mechanical axis (bulb socket axis) vertical, and the lens upward. The seating plane of the test fixture shall consist of oakwood 0.5 inch (13 mm) thick. One impact shall be delivered to the center of the lens on the mechanical axis using a steel ball bearing with a diameter of .9055 in. (23 mm) weighing 1.76 oz. (50 grams), dropped freely from a distance of 15.75 in. (40 cm) from the bottom of the ball to the surface of the lens, at the intersection of the ball trajectory and the mechanical axis of the headlamp.

S8.9 *Vibration:* A vibration test shall be conducted in accordance with the procedures of SAE Standard J575e *Tests for Motor Vehicle Lighting Devices and Components* August 1970, and the following: the table on the adapter plate shall be of sufficient size to completely contain the test fixture base with no overhang. The vibration shall be applied in the vertical axis of the headlamp system as mounted on the vehicle. The filament shall not be energized.

S8.10 *Sealing.* An unfixtured headlamp in its design mounting position shall be placed in water at a temperature of 176 +/− 5 degrees F (60 +/− 3 degrees C) for one hour. The headlamp shall be energized in its highest wattage mode, with the test voltage at 12.8 +/− 0.1 V. during immersion. The lamp shall then be de-energized and immediately submerged in its design mounting position into water at 32 +5 −0 degrees F (0 +3 −0 degrees C). The water shall be in a pressurized vessel, and the pressure shall be increased to 10 psi (69 kPa), upon placing the lamp in the water. The lamp shall remain in the pressurized vessel for a period of thirty minutes. This entire procedure shall be repeated for four cycles. Then the lamp shall be inspected for any signs of water on its interior. During the high temperature portion of the cycles, the lamp shall be observed for signs of air escaping from its interior. If any water occurs on the interior or air escapes, the lamp is not a sealed lamp.

S9. *Deflection test for standardized replaceable light sources.*

With the light source rigidly mounted in a fixture in a manner indicated in Figure 8, a force 4.0 ± 0.1 pounds (17.8 ± 0.4N) is applied at a distance "A" from the reference plane perpendicular to the longitudinal axis of the glass capsule and parallel to the smallest dimension of the pressed glass capsule seal. The force shall be applied (using a rod with a hard rubber tip with a minimum spherical radius of .039 in (1 mm)) radially to the surface of the glass capsule in four locations in a plane parallel to the reference plane and spaced at a distance "A" from that plane. These force applications shall be spaced 90 degrees apart starting at the point perpendicular to the smallest dimension of the pressed seal of the glass capsule. The bulb deflection shall be measured at the glass capsule surface at 180 degrees opposite to the force application.

S10. *Simultaneous Aim Photometry Tests*

(a) *Type F Headlamp Systems.* The assembly shall be located on a goniometer placed not less than 60 feet (18.3m) from the photometer. The LF unit shall be aimed mechanically by centering the unit on the photometer axis and by aligning the aiming plane of the lens perpendicular to the photometer axis. Then the assembly shall be moved in a plane parallel to the established aiming plane of the LF headlamp until the UF headlamp is centered on the photometer axis. Photometry measurements of the UF photometry unit shall be completed using the aiming plane so established, and the procedures of section S4.1 and 4.1.4 Standard J1383 APR83, and Figure 15. A reaim tolerance of ± ¼ degree is permitted in any direction at any test point.

(b) *Integral Beam Headlamp Systems.* The assembly used for simultaneously aiming more than one integral beam headlamp shall be placed on a test fixture on a goniometer located not less than 60 feet (18.3 m.) from the photometer. The assembly shall be aimed by centering the geometric center of the lower beam lens(es) on the photometer axis and by aligning the photometer axis to be perpendicular to the aiming reference plane or appropriate vertical plane defined by the manufacturer of any lower beam contributor. Photometric compliance of the lower beam shall be determined with all lower beam contributors illuminated and in accordance with sections 4.1 and 4.1.6 of SAE Standard J1383 APR83, and Figure 15. The assembly shall then be moved in a plane parallel to the established aiming plane of the lower beam until the assembly is located with the geometric center of the upper lens(es) on the photometer axis. Photometric compliance for upper beam shall now be determined using the figure and procedure specified for the lower beam. During photometric testing, a ¼ degree reaim is permitted in any direction at any test point.

3. The item "Headlamps" of Tables I and III are amended by deleting all specification for number and type under the second column and all references to SAE materials under the final column in each Table, and by adding "See S7." to the second column.

4. The footnotes in Tables I, II, and III, are revised by changing the prefix of each from "S4" to "S5".

5. Footnote 2 in Table IV is changed to read "S5.1.1.15".

Issued on April 26, 1989.

**Howard M. Smolkin,**

*Managing Director.*

[FR Doc. 89-10442 Filed 4-27-89; 8:45 am]

BILLING CODE 4910-59-M

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**49 CFR Part 571**

## Federal Motor Vehicle Safety Standards; Matter Incorporated by Reference

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The purpose of this notice is to add the Illuminating Engineering Society of North America to the other standards-setting organizations whose materials have been approved for incorporation by reference into the Federal motor vehicle safety standards.

**EFFECTIVE DATE:** The effective date of this amendment is June 8, 1989.

**FOR FURTHER INFORMATION CONTACT:** Taylor Vinson, Office of Chief Counsel, NHTSA (202-366-5263).

**SUPPLEMENTARY INFORMATION:** Section 571.5 of Title 49 of the Code of Federal Regulations establishes the procedural requirements for incorporation by reference into the Federal motor vehicle safety standards of materials not set

forth in full in the standards. These materials are generally standards, test methods, and data that do not appear elsewhere in the **Federal Register** or Acts of Congress. The primary examples of this type of material are standards of the Society of Automotive Engineers (SAE).

This notice amends paragraph (b) *Availability* of § 571.5 to add the Illuminating Engineering Society of North America ("IES") to the other organizations listed in that paragraph, and to provide the address of that organization to interested persons. One of the test methods of the IES is used in Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment,*[1] to measure the luminous flux of light sources used in replaceable bulb headlamps.

[1] Editorial Note: Published elsewhere in this issue.

Because this amendment is technical in nature and neither establishes nor relieves a Federal regulatory requirement, it is hereby found pursuant to 5 U.S.C. 553(b) that notice and public comment upon the amendment is unnecessary. For the same reason, the amendment is neither major nor significant under Departmental guidelines, and has no environmental or Federalism impacts, or effect under the Regulatory Flexibility Act.

**List of Subjects in 49 CFR Part 571**

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

## PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read as follows:

**Authority:** 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. In § 571.5, paragraph (b)(6) is redesignated as (b)(7).

3. In § 571.5 a new paragraph (b)(6) is added to read as follows:

**§ 571.5 Matter incorporated by reference.**

* * * * *

(b) * * *

(6) *Test methods of the Illuminating Engineering Society of North America (IES).* They are published by the Illuminating Engineering Society of North America. Copies can be obtained by writing to: Illuminating Engineering Society of North America, 345 East 47th St., New York, NY 10017.

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Issued on: April 28, 1989.

**Jeffrey R. Miller,**

*Deputy Administrator.*

[FR Doc. 89-11044 Filed 5-8-89; 8:45 am]

BILLING CODE 4910-59-M

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Parts 564 and 571**

**[Docket No. 85-15; Notice]**

**RIN 2127-AB 87**

## Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment; Replaceable Light Source Dimensional Information

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** This notice proposes to amend the headlighting requirements of Standard No. 108 to make them more performance oriented. Current photometric and design requirements for original equipment sealed beam and integral beam headlamps and replaceable light sources would be retained, but the amended requirements could serve as an optional means of compliance. Under the proposal, roadway illumination systems would conform with roadway illumination requirements, instead of the individual lamps or light sources being designed to conform with photometric requirements applicable to specific types. NHTSA is proposing two sets of roadway illumination requirements for the lower beam, but only one would be adopted. Both sets of proposed specifications originate in a computer model of test points based upon illumination of target areas representative of those in the driving environment as, for example, pedestrians on roadways, lane markings, and signs. One of the specifications proposed includes only those test points that are compatible with existing photometric specifications. The other specification proposed is based upon a better illumination of target areas, and illumination of a larger locational range of targets. With either, the manufacturer of a vehicle would have complete freedom to determine the number and character of frontal lighting devices needed to provide the requisite minimum light to illuminate the target areas. However, to ensure that replaceable light sources intended for replacement purposes would have the dimensions and performance of the original light source, manufacturers of original equipment light sources, whether intended for replaceable bulb headlamps or roadway illumination devices, would be required to file dimensional information with NHTSA in a public docket pursuant to a new regulation, proposed Part 564, *Replaceable Light Source Dimensional Information.* The notice implements NHTSA's tentative conclusion that Standard No. 108 is at present overly design restrictive. The intended benefit of the change is to afford manufacturers greater opportunities for design freedom and innovation, and to relieve them of the burden of petitioning for changes in Standard No. 108 when new frontal lighting systems are developed. A further change proposed is deletion of the impact test for headlamps, and an updating of the SAE J575 test procedure referenced by Standard No. 108 based upon comments to an earlier NPRM on headlamp simplification.

**DATES:** Comment closing date for the proposal is November 9, 1989. The effective date of the final rule would be 6 months to a year after publication of the final rule in the **Federal Register.**

**ADDRESS:** Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 8 a.m. to 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Richard Van Iderstine, Office of Rulemaking, NHTSA (202-366-5280).

**SUPPLEMENTARY INFORMATION:** As NHTSA stated in a Notice of Proposed Rulemaking published on December 29, 1987 (52 FR 49038, Docket 85-15; Notice 4), "In the past 5 years, the proposal and adoption of additional headlighting systems and their light sources have constituted the major rulemaking actions with respect to [Federal Motor Vehicle Safety] Standard No. 108," and that in part these actions initiated NHTSA's desire to move to a more performance oriented standard.

Docket 85-15 was established on October 22, 1985 (50 FR 42735) to receive comments that concentrated on certain areas of the headlighting requirements of Standard No. 108. An NPRM, published on December 27, 1987, presented NHTSA's recommendations for short term simplification, most significantly in the area of aimability performance, with removal of some dimensional, durability, and photometric requirements that appeared no longer necessary for motor vehicle safety. A final rule based upon that proposal is being published concurrently with this NPRM appearing elsewhere in this issue. The NPRM published today presents the agency's recommendation for long term simplification of Federal headlighting requirements. This takes the form of a vehicle-based roadway illumination performance standard.

### Need for a More Performance-Oriented Standard

The history to date of the headlighting requirements of Standard No. 108 may be divided into two chapters. The first covers the years 1968-1983. During this period, the only headlamps permitted were of sealed beam construction. The dimensions and photometric specifications for these headlamps were those specified by the Society of Automotive Engineers (SAE), and incorporated by reference in Standard No. 108. Beginning in 1983, Standard No. 108 was amended to allow another kind of headlamp, one that was no longer indivisible, and in which the light source could be replaced. Dimensions were no longer specified for the lamp itself, but only the light source to ensure standardization. During this period, several additional types of sealed beam headlamps have been adopted as well. However, at no time in the history of Standard No. 108 have manufacturers been free to adopt any type of headlamp or light source without first petitioning NHTSA to conduct a rulemaking proceeding to amend Standard No. 108 to make it responsive to their requests.

A third chapter of Standard No. 108, one in which only roadway illumination performance is specified, begins with the issuance of this notice. NHTSA is proposing an optional set of requirements under which manufacturers may use any type of headlighting system or light source they develop without the need of petitioning for changes. Illumination would be provided by "roadway illumination devices" or "RIDs", and a roadway illumination system of such devices is termed a "RIS" in this notice. If the proposed amendments are adopted, future headlighting systems could be developed in conformance with the roadway illumination performance specifications, and it would no longer be necessary to petition for the adoption of further design-specific sealed beam headlighting systems or replaceable light sources. The roadway illumination specifications eventually adopted would offer vehicle manufacturers an option to the photometrics of SAE J579c and Figures 15 and 17 of Standard No. 108.

### Approach

NHTSA has approached the issue of performance-oriented roadway illumination from two directions. It seeks comments on each; however, only one approach would be chosen for the final rule. Additionally, NHTSA seeks comments on whether the approach selected should be mandatory for all

motor vehicles at some time in the future. The specifications that are fundamental to the development of each approach were produced by computer models of driver-visibility needs. Situations that commonly occur in the motoring environment and where illumination is necessary to maintain the current level of safety were selected. They were chosen and prioritized from analysis of accident data including fatalities and injuries occurring during night driving. These situations included the necessity to stay within lane boundaries, to avoid pedestrians on the side of the roadway, to illuminate signs, and to avoid objects in the roadway. The development of these models and explanation of their use are contained in a Technical Paper which has been entered into the docket. From these models, test points and related illumination levels were developed.

The plan for the development of this performance-oriented standard was announced in a Request for Comments that was published on August 14, 1987 (52 FR 30393). The details of this plan were further expanded at a public meeting on this subject on September 2, 1987, which was announced in the same notice.

The plan, as outlined in the notice and at the meeting, is based on the visibility needs of night driving. As noted above, the basic needs are to stay on the roadway, to avoid pedestrians and other objects, and to see signs. A review of these needs, including a detailed analysis of accident files, led the agency to evaluate the lighting requirements associated with these driving needs for a variety of conditions and situations. These conditions include the presence of either an approaching or a following glare-producing vehicle, and driving on curved and hilly roads as well as straight-level roads.

The evaluation consisted of using a computer model of visibility to determine the necessary amount of light that the vehicle must produce to enable the driver to see important features, such as pedestrians and lane markers. The necessary amount of light for each of a large number of driving situations was determined. In those driving situations where there was a glare-producing vehicle, the maximum amount of light that should be produced by the glare-producing vehicle was also determined. The criteria used in these determinations include: the amount of light needed to see a pedestrian for a distance equal to the stopping distance for a specified speed, the amount of light needed to see a sign at a distance which corresponds to 5 seconds of travel or the necessary stopping distance for a stop sign, and the light necessary to see a lane marker at a distance which corresponds to 2 seconds of travel.

The result of this evaluation was a set of roadway illumination specifications which consisted of over a thousand individual values. A compliance procedure that includes such a large number of test points would clearly be impracticable. For this reason, the agency condensed the large number of values to a more realistic number of values which could be used for determining compliance. Two methods for performing the condensation were developed and applied to the data.

The first method consisted of establishing a priority ranking of driving situations. This ranking was determined from the analysis of accident data. The relative priority of the driving situations was then used to eliminate lighting specifications for the lower-priority driving situations. The basis for this elimination was the concept that if two driving situations result in lighting specifications which are closely spaced, the higher priority situation will preempt the lower priority situation. The number of points was then further reduced by judiciously combining points that were close together. The final set of specifications from this approach is shown in Figure X–1. This set of specifications covers a broader area in front of the vehicle and contains higher intensity light near the center of the roadway than the current requirements in Standard No. 108. It also contains minimum intensity specifications for the light that illuminates signs. There is not a similar specification in the current requirements. The agency believes that if this set of photometric values is adopted there will be an improvement in the lighting needed for nighttime driving which may in turn lead to a reduction in nighttime accidents.

The second method for condensing the number of values consisted of comparing each value with a set of values which corresponds to the average light output from a large number of lamps, mounted between 22 inches and 32 inches from the ground with a four foot separation, that meet the current requirements of Standard No. 108. The application of this method resulted in elimination of any point where the value exceeded the average value for the corresponding point. As with the first method, the number of points was reduced further by judiciously combining points which are close to each other. The resulting set of specifications is shown as Figure X–2. This set of specifications is compatible with the average output of current lamps. However, it also includes minimum values for the light that illuminates signs.

The specifications which result from either of these methods are expressed as either a minimum or a maximum amount of illumination at specified points in front of the vehicle. An underlying condition that was part of the modeling is that only intensities which correspond to acceptable levels of glare are included. This fundamental constraint will have the effect of limiting the heights at which some lower beam lighting units can be mounted. Lamps could still be mounted above 32 inches but they could not exceed light levels in the glare zone.

As for the upper beam, intended to be used only in the absence of other vehicles, conversion to a vehicle-based performance is not necessary to assure adequate roadway illumination. The proposed specifications, identical under each alternative for lower beam, are those being implemented in the Final Rule being published concurrently with this NPRM, for S7.4 Integral Beam Headlighting System and S7.5 Replaceable Bulb Headlamp System. NHTSA believes that these photometric requirements will provide enough freedom of design that a vehicle-based illumination requirement is not necessary. NHTSA is, however, providing an additional vehicle oriented means for upper beam performance: each side of the vehicle shall provide an upper beam that meets the requirements of Figure 17.

The application of the upper beam requirements of S7.4 and S7.5 would be accompanied by the removal of horizontal and vertical location restrictions that now apply. The use of lower beam with upper beam permitted when using the photometry of Figure 15, however, would not be permitted in a RIS. The concern is that excessive foreground illumination could occur if the lower and upper beams were to be activated simultaneously. As presently specified, upper beam photometry of Figure 15 has been specifically modified to permit simultaneous beam use without excessive foreground illumination. Excessive foreground illumination may occur should the lower and upper beam of a RIS be simultaneously activated. This could occur as a result of the upper beam RID's being placed substantially below the lower beam RID's, causing the light from the upper beam to strike the ground closer to the vehicle than would normally occur, since the upper beam RID's location would be unregulated.

The resultant increase in foreground light could far exceed the levels of today's headlighting systems. NHTSA is concerned that this would be detrimental to the driver's ability to see targets down the road. Therefore a prohibition is proposed that would disallow simultaneous beam use.

The Notice proposes that the new systems "conform" to the roadway illumination requirements rather than being "designed to conform" as individual headlamps are today. Design language was introduced in Standard No. 108 when it became effective in the late 1960s because headlamp manufacturers felt that it was economically infeasible to manufacture every headlamp to conform with the photometrics specified for every test point. Normal variability in manufacturing processes, even with quality control considerations, would cause a number of test point failures. This in turn, they feared, would lead to noncompliance determinations by NHTSA and the consequent notification and remedy required by the National Traffic and Motor Vehicle Safety Act. Although NHTSA emphasized that it would exercise discretion in noncompliance determinations, it adopted the "design to conform" language, not only for photometrics but also for all aspects of lamp design. Originally it applied only to the two sealed beam headlighting systems then existing, but amendments permitting new headlighting systems have also included "design to conform" language. The presence of "design to conform" language constitutes a lack of objectivity which could inhibit enforcement of the standard. The Act requires the safety standards to establish minimum performance levels irrespective of design, and in proposing that roadway illumination systems "conform" to the new photometric specifications NHTSA seeks to implement the intent of the statute. Because the new standard is performance-oriented, this appears to be an appropriate time and place to require conformance.

Because of the performance orientation of NHTSA's proposed roadway illumination requirements, as long as the requisite light is provided at each specific point, it would no longer be material to specify the number, type, size, or location of lamps providing that light. However, to ensure adequate lighting should any RID in the RIS fail, the remainder of the system would be required to produce not less than 40% of the light required. The vehicle-based specifications, however, do have one aspect that would affect design. One effect is that since the illumination performance is based on drivers' safety needs instead of considerations of headlamp design, the illumination performance requirement is sensitive to glare light which originates from headlamps that are located higher than the driver eye height chosen for the model. This eye height is 3.5 feet, and is the American Association of State Highway and Transportation Officials (AASHTO) design guideline for highway sight-distance for hills and curves. As a practical matter, this means that headlamp mounting height may in effect be limited to a maximum of 3.5 feet, which would affect heavy trucks of conventional (as contrasted with aerodynamic) design.

**Test Procedures**

Although Standard No. 108 establishes original equipment headlighting requirements, it is the headlamps that are tested for conformance, individually and not as part of a vehicle headlighting system. A fundamental difference between the existing standard and the NPRM is the proposal of a systems approach. The term "headlamp" would no longer be used. The proposal refers to a "Roadway Illumination System" or "RIS." The RIS would consist of two or more "roadway illumination devices" (RIDs), which would not necessarily be headlamps as known today. Each RID need not produce a specific upper or lower beam, provided that a combination of RIDs would supply in total the prescribed roadway illumination at each specified point. Provision is made for a required minimum level of system illumination to accommodate the possibility of individual RID failure. If RID locations and number are similar to those used on passenger cars today, the required performance of a RID system (RIS) would also be similar. But if RID height above ground and distance from vehicle centerline differ markedly, or an asymmetrical arrangement were adopted, the designer would face a greater challenge in designing the RIS to provide the requisite roadway illumination performance.

The test procedure for lower beam would work in the following fashion. The individual RID Test Points would be determined according to certain mathematical expressions that would be provided. By using the location of each RID relative to the Vehicle Reference Point (that point on the road surface below the intersection of the vehicle's longitudinal axis and the vertical plane which is perpendicular to the longitudinal axis and tangent to the forwardmost RID lens face), and the Roadway Test Points, the vector from each RID to each Roadway Illumination Test Point could be determined. The vector components would constitute the RID Test Point. The level of illumination for an individual RID would be determined by the lamp designer. However, the combination of illumination from each RID on the vehicle at a Roadway Illumination Test Point would be governed by the illumination value for that Roadway Illumination Test Point.

Readers will note that the impact test has been deleted from the series of proposed requirements and test procedures. This will apply to all replaceable bulb headlamps with plastic lenses, not only those developed and used under the proposed roadway illumination performance requirement. In its NPRM on short-term headlighting simplification published on December 29, 1987 (52 FR 49038), the agency asked for comments on the test but did not propose its deletion; however, the comments received suggested deletion on the basis that plastics used for headlamp lenses were sufficiently impact-resistant.

Finally, with respect to test procedures, NHTSA is proposing that, unless otherwise specified (such as for the vibration test), the version of SAE J575 applicable to headlamp testing and Type F simultaneous aim photometry tests be changed from that of June 1980 to that of July 1983. This provides a more comprehensive and up to date test procedure.

The proposed options are intended to increase the flexibility of manufacturers in selecting methods of compliance and to encourage innovation without compromising safety. NHTSA believes that the proposed requirements for each option would achieve these goals. However, the agency seeks comments on whether the requirements would in fact do so, and on the likelihood that manufacturers would take advantage of both options.

**Aftermarket Considerations**

The change to a specification based upon performance means that the design of replaceable light sources would no longer be specified in Standard No. 108. To ensure that replaceable light sources manufactured for replacement are interchangeable with those used as original equipment, and that photometric performance equivalent to the original is provided, NHTSA is proposing new Part 564, *Replaceable Bulb Dimensional Information.* This would require

manufacturers of replaceable bulbs used as original equipment in the headlighting or roadway illumination systems to submit to the agency dimensional information as specified in the regulation, such as filament position dimensions and tolerances, dimensions pertaining to the filament capsule and its supports, and bulb base interchangeability dimensions and tolerances. The agency has established information dockets relative to tire rim combinations (Standard No. 109), and vehicle identification number (49 CFR Part 565), and has found that they have worked well to date. This information would be submitted not later than 30 days after a light source entered production. Updating would be required upon changes to the light source. The regulation would cover only filament-type replaceable light sources, as the agency has insufficient information about the characteristics of other types to include them.

In the past, the process of adding headlight designs, one by one, to the standard, necessitated NHTSA's analyzing, and querying manufacturers about, rulemaking petitions concerning design-specific headlighting devices. That process often resulted in the indentification and correction of potential hardware problems and led to design improvements. Under the proposal, headlight designs would no longer have to be added to the standard in that manner, and thus there would be no occasion for the agency to discover design problems in the course of analyzing petitions and querying manufacturers. NHTSA invites comments on whether SAE, the International Standards Organization (ISO), or some other group or mechanism can assure that any potential problems in new designs are identified and corrected. Also, NHTSA invites comments on whether, if the proposal were adopted, the agency could or should continue to be involved in the specifics of headlamp designs.

**Assessment of Impacts and Request for Comments**

NHTSA has preliminarily considered the economic impacts of this rulemaking proposal and has made a tentative determination that it is not major within the meaning of Executive Order 12291 "Federal Regulation," but is significant under Department of Transportation regulatory policies and procedures.

The proposed roadway illumination requirements would afford an alternative to motor vehicle manufacturers, who could choose to meet them, or to continue to meet the present requirements. In addition, within the optional roadway illumination requirements, two alternative illumination specifications are presented. A Preliminary Regulatory Evaluation of these alternatives has been prepared and is available in the docket for this rulemaking at the address listed above under **ADDRESSES.** As indicated in the Evaluation, it appears that the safety benefits of the proposed alternatives would exceed the safety benefits associated with existing design requirements, and that it would be possible to achieve the benefits of the proposal within the current cost levels of today's headlighting systems. Because of an absence of detailed information on benefits and costs, further analysis of the expected benefits in relation to the costs of the alternatives is needed for use in arriving at final decisions in the rulemaking. Accordingly, in order to determine the extent of any impacts, the agency requests the following information for use in preparing the final regulatory evaluation:

1. The ability of headlighting systems meeting current requirements to comply with either of the proposed optional requirements.

2. The production feasibility and costs of headlighting systems that would comply with each of the proposed optional requirements.

3. Indentification of the portion of the commenter's vehicle production which, tentatively, might be certified to the vehicle-based requirement.

4. The difference in compliance costs between certifying to the current lamp-based requirements, and the proposed vehicle-based requirements.

5. Suggestions for alternative compliance methods that would achieve the goal of eliminating the "design to conform" language without imposing excessive cost burdens.

6. Further information regarding the effects on safety that are associated with the optional performance requirements.

7. Other consumer benefits or disbenefits associated with the increased design flexibility of the optional vehicle-based requirements, e.g. changes in aerodynamic drag, driver comfort and convenience, repair or replacement cost, etc.

8. With respect to the destandardization of replaceable bulbs for headlamps, comments on the effect of the development of new replaceable bulbs, their cost, and the availability or replacements.

9. Whether a greater or lesser number of dimensions should be proposed under Part 564 than are included in this proposal.

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. It is not anticipated that a rule based on the proposal would have a significant effect upon the environment. The design and composition of headlamps and roadway illumination devices might change from those presently in production, but it is not anticipated that the types and quantities of materials used in their construction would change.

The agency has also considered the impacts of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant impact upon a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions would be significantly affected only if the price of new vehicles and headlamps is more than minimally impacted.

This proposal has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The replaceable bulb dimensional identification requirements in this proposal (proposed Part 564) are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Accordingly, these proposed requirements are being submitted to the OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Comments on the proposed information collection requirements should be submitted to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for NHTSA. It is requested that comments sent to the OMB also be sent to the NHTSA rulemaking docket for this proposed action. Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage

commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the docket section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the closing date indicated above, will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

**List of Subjects in 49 CFR Part 571**

Imports, Motor vehicle safety, Motor vehicles.

The engineer and lawyer primarily responsible for this proposal are Richard Van Iderstine and Taylor Vinson respectively.

In consideration of the foregoing, it is proposed that 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* be amended as follows:

## PART 571—[AMENDED]

1. The authority citation for Part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

**§ 571.108 [Amended]**

2. Paragraph S4 Definitions would be amended by adding the definitions of "Roadway Illumination Device" and "Roadway Illumination Systems" between the definition of "Replaceable Bulb Headlamp" and "Seasoning," to read as follows:

"Roadway Illumination Device" or "RID" means any lamp installed on a motor vehicle which contributes to meeting the illumination requirements of Figure X-1 (Figure X-2).

"Roadway Illumination System" or "RIS" mean a forward lighting system consisting of RIDs.

3. Paragraph S5.1.1.28 would be revised to read:

S5.1.1.28 Instead of the headlamps specified by Table III, a motorcycle may be equipped with one half of any headlighting system specified in S7 which provides both a full upper beam and full lower beam, and where more than one lamp must be used, the lamps shall be mounted vertically, with the lower beam as high as practicable. When installed on a motorcycle such half system need not meet the aiming requirements specified in S7. A motorcycle shall not be equipped with a RID or RIS.

4. Paragraph S5.5.8 would be amended by adding the following sentence at the end thereof:

On a motor vehicle equipped with a roadway illumination system conforming to the upper beam specifications of Figure 15, the system shall not be wired to permit simultaneous activation of upper and lower beams.

5. Paragraphs S7.1 and S7.2 would be revised to read:

*S7 Headlighting requirements*

S7.1 Each passenger car, multipurpose passenger vehicle, truck, and bus shall be equipped with a headlighting system designed to conform to the requirements of S7.3 (sealed beam systems), S7.4 (integral beam systems), or S7.5 (replaceable bulb systems), or a system that conforms to S7.7 (RIS).

S7.2 The lens of each original or replacement headlamp, or beam contributor, manufactured on or after December 1, 1989, or RID manufactured on or after [the effective date of the final rule], shall be marked with the symbol "DOT", either horizontally or vertically, which shall constitute the certification required by 15 U.S.C. 1403. It shall also be marked with the manufacturer's or importer's name and/or trademark registered with the U.S. Patent Office. Each headlamp or beam contributor, manufactured on or after December 1, 1989, or RID manufactured on or after [the effective date of the final rule], shall also be marked with its voltage and part number or trade number.

6. The following revisions would be made in Paragraph S7.4(k):

(a) The first sentence would be revised to read "A headlamp with a glass lens need not meet the abrasion resistance test (S8.2) or the chemical resistance test (S8.3)."

(b) In subparagraph (k)(1), the numeral "(vii)" would be changed to "(vi).

(c) Subparagraph (k)(vii) would be deleted.

(d) Subparagraph (k)(vii) would be renumbered "(k)(viii)" and its reference to "S8.9" changed to "S8.8."

7. Paragraph S7.7 would be renumbered S7.8, with corresponding appropriate renumbering of its subparagraphs, and a new Paragraph S7.7 would be added to read:

S7.7 *Roadway Illumination System (RIS).* A motor vehicle may be equipped with a RIS which, when installed, shall provide illumination as specified in S7.7.1.

S7.7.1 *Roadway Illumination Performance.* A RIS, whether consisting of original or replacement RIDs, or any combination thereof, shall provide a lower beam which meets the requirements of Figure X-1 (Figure X-2), and an upper beam which meets the requirements of one of the following: an integral beam headlighting system (S7.4), a replaceable bulb headlighting system (S7.5), or a system that provides twice the candela values of Figure 17. A RIS shall conform when tested in accordance with S8.1.2, and S8.1.3. The failure of any RID contributing to the lower beam shall not result in the sum of the measured illumination of any roadway illumination test points (which are minimums) being less than 40% of the sum of the required illumination for those test points.

S7.7.2 Each RID shall meet the requirements of either S7.4 *Integral Beam Headlighting System* or S7.5 *Replaceable Bulb Headlamp System,* except that S7.4 (a) through (h), and S7.5 (a) through (f), and (h) do not apply. In S7.5(g) the word "conform" is substituted for the words "be designed to conform." The word "conform" is also substituted for the words "designed to conform" wherever that phrase appears in S7.4 and S7.5.

S7.7.3 Table II and Table IV do not apply to a RIS. At least one RID contributing to or providing the lower beam shall be mounted on each side of the vertical centerline of a vehicle, at the same height, and as far apart as practicable.

8. Paragraphs S8 and S8.1 would be revised to read:

*S8 Tests and Procedures for Integral Beam and Replaceable Bulb Headlamps, and RIS*

When tested in accordance with the following procedures, each integral beam headlamp shall meet the requirements of paragraph S7.4, each replaceable bulb headlamp shall meet the requirements of paragraph S7.5, and each RID of a RIS shall meet the requirements of S7.7.

S8.1 *Photometry.* Each headlamp to which paragraph S8 applies, or RID, shall meet the appropriate requirements when tested in accordance with the following procedures.

S8.1.1 *Headlamps.* Each headlamp shall be tested according to paragraph 3.5, Photometric Design Requirements of SAE Standard J579 DEC84 for meeting the applicable photometric performance, after each of the tests specified in paragraphs S8.2, S8.3, S8.5, S8.6.1, S8.6.2, and S8.7.

S8.1.2 *RID Lower Beam.* Each RID of a RIS (and any RID intended for its replacement) shall comply with this requirement when tested according to the procedures of paragraph 3.5, Photometric Design Requirements of SAE Standard J579 DEC84 and paragraph 4.6 Photometry, of SAE Standard J575 JUL83 after it has been tested according to each test specified in paragraphs S8.2, S8.3, S8.5, S8.6.1, S8.6.2, and S8.7. A ¼ degree reaim of any RID is permitted to allow for errors between test laboratories. The RIS complies if, at each test point of Figure X-1 (Figure X-2), the sum of the illumination provided by the RIDs in their design mounting position on a vehicle meets the vehicle illumination performance specified in Figure X-1 (Figure X-2). In calculating this performance, the verification of compliance shall include consideration of the nominal design location of each RID including manufacturing tolerances, and all variances in height of the RIDs attributable to any and all options authorized by the manufacturer for installation on the vehicle, and to any and all conditions of vehicle loading.

S8.1.2.1 The photometric performance of the lower beam of a RIS is determined by taking the vehicle-referenced performance of Figure X-1 (Figure X-2), and converting it to a RID-referenced performance. The following mathematical expressions shall be used in the conversion for each test point:

RIDHA=arc tan {[DIST*SIN(HORIZ ANGLE)-SEP]/[DIST*COS(HORIZ ANGLE)]}

RIDVA=arc tan {[DIST*tan(VERT ANGLE)-HT]/DIST)}

RIDHA is the horizontal angle of the RID's beam that illuminates the Roadway Test Point.

RIDVA is the vertical angle of the RID's beam that illuminates the Roadway Test Point.

DIST is the straight line distance in feet from the Vehicle Reference Point to the Roadway Test Point.

VEHICLE REFERENCE POINT is the point on the road surface below the intersection of the vehicle's longitudinal axis and the vertical plane which is perpendicular to the longitudinal axis and tangent to the forwardmost RID lens face.

ROADWAY TEST POINT is any point specified in Figure X-1 (X-2) in front of the vehicle where a target exists that needs a specified level of illumination.

HORIZ ANGLE is the angle in degrees between the vehicle's longitudinal axis at the Vehicle Reference Point and the line from the Vehicle Reference Point to the Roadway Test Point measured in the horizontal plane. As used in Figure X-1 (X-2), "Positive" is to the right, as viewed by the driver.

VERT ANGLE is the angle in degrees measured in a vertical plane between a horizontal plane through the Vehicle Reference Point and the line from the Vehicle Reference Point to the Roadway Test Point. As used in Figure X-1 (X-2), "Positive" is upward, as viewed by the driver.

SEP is the horizontal distance in feet from the vehicle's longitudinal axis to the photometric axis of the RID. As used in Figure X-1 (X-2), right is "Positive" as viewed by the driver.

HT is the vertical distance in feet from the road surface to the photometric axis of the RID.

Test point intensities in candela are determined by multiplying the required target illumination in foot-candles by the square of the target distance in feet:

TARGET ILLUM. x. (TARGET DIST) $^2$ =SCREEN CANDELA

S8.1.3 *Roadway Illumination Devices, Upper Beam.* The RIDs comprising the upper beam shall be tested for upper beam compliance using the procedures of paragraph 3.5, Photometric Design Requirements of SAE Standard J579 DEC84, paragraph 4.6, Photometry of SAE Standard J575 JUL83, after the tests specified in paragraphs S8.2, S8.3, S8.5, S8.6.1, S8.6.2, and S8.7. The RIDs shall be tested for conformance with the photometry appropriate for the configuration of Integral Beam System or Replaceable Bulb System that comprises the RIS. If the photometry is that of Figure 17, the RIDs for each side of the vehicle shall be placed in a test fixture that replicates their design locations on the vehicle. The test fixture shall be placed on the goniometer such that the centroid of the RID(s) optical axis (axes) is aligned with the photometer axis. The assembly of RIDs shall be correctly aimed in accordance with the photometric test procedures referenced in this section. If the RIDs are aimable with a Vehicle Headlamp Aiming Device as specified in S7.8.5.2, the goniometer alignment procedures of that section shall be used. The RID assembly so configured shall conform to Figure 17. A RIS shall comply with any combination of original or replacement RIDs. A ¼ degree reaim of any RID assembly is permitted to allow for errors between test laboratories.

9. In the last sentence of paragraph S6.1, and in paragraph S10(a), with reference to SAE J575 the words "JUN80" would be changed to "JUL83".

10. Figure X-1 or Figure X-2 would be added as follows:

FIGURE X-1.—ROADWAY ILLUMINATION TEST POINTS

[Vehicle Coordinate System]

| Target illuminance (fc) | Target distance (ft) | Horizontal angle (deg) | Vertical angle (deg) |
|---|---|---|---|
| >=2.158 | 161.45 | −2.13 | 0.00 |
| >=1.002 | 190.36 | 2.41 | 0.30 |
| >=1.184 | 165.76 | −6.80 | 0.00 |
| >=1.391 | 122.03 | 6.34 | 0.00 |
| >=0.927 | 122.77 | 0.73 | 0.00 |
| >=0.595 | 117.49 | 2.93 | 0.00 |
| >=0.610 | 64.13 | −3.53 | 0.00 |
| >=0.578 | 63.75 | −7.21 | 0.00 |
| >=0.386 | 63.75 | 7.23 | 0.00 |
| >=0.345 | 64.13 | 3.55 | 0.00 |
| >=0.002 | 472.70 | 12.50 | 0.50 |
| >=0.002 | 468.58 | −14.50 | 0.50 |
| >=0.002 | 476.67 | 0.00 | 3.50 |
| >=0.002 | 472.11 | 13.50 | 2.50 |
| >=0.002 | 467.80 | 15.00 | 3.50 |
| >=0.002 | 470.60 | −13.50 | 3.50 |
| >=0.002 | 466.52 | −16.00 | 2.00 |
| >=0.002 | 462.82 | 18.50 | 2.00 |
| >=0.002 | 289.00 | −8.50 | 5.00 |
| >=0.002 | 213.62 | 9.50 | 6.50 |
| >=0.002 | 216.20 | −3.00 | 6.50 |
| >=0.002 | 146.67 | 0.00 | 9.50 |
| >=0.002 | 147.16 | 4.50 | 9.50 |
| <=0.058 | 180.80 | −3.33 | 1.11 |
| <=0.228 | 72.39 | 2.16 | 2.51 |
| <=0.064 | 123.02 | −8.39 | 1.63 |
| <=0.059 | 122.29 | −4.93 | 1.64 |
| <=0.162 | 72.09 | −2.05 | 3.21 |
| <=0.146 | 72.11 | 0.00 | 3.21 |
| (*) | 32.00 | 0.00 | 0.00 |

*Target Illuminance <=0.0625 times the sum of the actual system target illuminance values measures at the 64.13, 63.75, 63.75, and 64.13 foot targets.

NOTE.—When designing the system, the RID intensity values are to be apportioned by the lighting designer among the RID(s) within the system so that the total system illuminance at each test point above falls within the required limits, and accommodates the minimum necessary illumination in the event of failure of any one RID in the lighting system.

FIGURE X-2.—ROADWAY ILLUMINATION TEST POINTS

[Vehicle Coordination System]

| Target illuminance (fc) | Target distance (ft) | Horizontal angle (deg) | Vertical angle (deg) |
|---|---|---|---|
| >=1.003 | 166.75 | 2.74 | 0.00 |
| >=0.485 | 161.75 | 2.53 | 0.46 |
| >=1.620 | 84.93 | 6.50 | 0.61 |
| >=0.842 | 117.49 | 2.93 | −0.56 |
| >=0.524 | 123.27 | 0.22 | 0.47 |
| >=0.812 | 93.44 | −1.00 | 0.00 |
| >=0.814 | 88.20 | −3.90 | 0.00 |
| >=0.319 | 101.84 | −3.38 | 0.58 |
| >=0.712 | 55.15 | 7.83 | 0.79 |
| >=0.481 | 65.22 | 8.91 | 1.81 |
| >=0.290 | 63.75 | −7.21 | 0.00 |
| >=0.002 | 481.22 | −9.00 | 2.00 |
| >=0.002 | 472.11 | 13.50 | 2.50 |
| >=0.002 | 468.58 | −14.50 | 0.50 |
| >=0.002 | 476.67 | 0.00 | 3.50 |
| >=0.002 | 394.06 | −14.00 | 2.50 |
| <=0.07 | 247.62 | 4.70 | 0.81 |
| <=0.256 | 131.04 | −1.19 | 1.38 |
| <=0.219 | 115.04 | 3.23 | 2.65 |
| <=0.176 | 101.44 | 0.00 | 2.28 |
| <=0.033 | 180.77 | −4.74 | 2.32 |
| <=0.064 | 123.02 | −8.39 | 1.63 |
| <=0.059 | 122.29 | −4.93 | 1.64 |
| <=0.158 | 71.11 | 0.00 | 4.23 |
| <=0.044 | 120.69 | −6.40 | 3.23 |
| (*) | 32.00 | 0.00 | 0.00 |

*Target illuminance <=0.0116 times the actual target illuminance measured at the 93.44 foot target.

NOTE.—When designing the system, the RID intensity values are to be apportioned by the lighting designer among the RID(s) within the system so that the total system illuminance at each test point above falls within the required limits, and accommodates the minimum necessary illumination in the event of failure of any one RID in the lighting system.

11. A new Part 564 would be adopted to read as follows:

## PART 564—REPLACEABLE LIGHT SOURCE DIMENSIONAL INFORMATION

Sec.

564.1 Scope.
564.2 Purpose.
564.3 Applicability.
564.4 Definitions.
564.5 Reporting requirements.
Appendix A to Part 564.

**Authority:** Secs. 103, 112, 119; Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1401, 1407; delegations of authority at 49 CFR 1.50 and 501.8 and Secretary's delegation of authority at 49 CFR 1.4(c).

### § 564.1 Scope.

This part requires manufacturers of original equipment replaceable light sources used in headlighting or roadway illumination systems to submit dimensional information as specified in this part.

### § 564.2 Purpose.

The purpose of this part is to ensure that replacement equipment replacement light sources are interchangeable with original equipment light sources and provide the same performance, and that redesigned or newly developed light sources are designated as distinct and different and noninterchangeable with previously existing light sources.

### § 564.3 Applicability.

This part applies to manufacturers of replaceable light sources that are used as original equipment in motor vehicle headlighting or roadway illumination systems.

### § 564.4 Definitions.

All terms defined in the Act and the rules and standards issued under its authority are used as defined therein. Specifically, "Roadway Illumination Device" or "RID" and "Roadway Illumination System" or "RIS" are used as defined in § 571.108 Motor Vehicle Safety Standard No. 108 *Lamps, Reflective Devices, and Associated Equipment.*

### § 564.5 Reporting requirements.

(a) Each manufacturer of a replaceable light source used as original equipment in a headlighting system or roadway illumination system (RIS) on a motor vehicle shall furnish the information specified in Appendix A to this part to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Attn: Replaceable Light Source Docket.

(b) The information required under paragraph (b) of this section shall be submitted not later than 30 days after the manufacture of a replaceable light source begins. A new submission is required each time a new light source is introduced, or an existing one is modified, but such submission shall not be accepted unless the information indicates that it is not interchangeable with any light source for which information has been filed.

(c) Information submitted under this section is made available for public inspection not later than the date on which a vehicle equipped with a new or revised replaceable light source is offered for sale.

### Appendix A to Part 564

*Required Dimensions for Replaceable Light Sources*

I. Filament Position Dimensions and Tolerances using the three dimensional Filament Tolerance Box
  A. Low beam filament tolerance box dimensions and relation of this box to the bulb base reference plane and centerline
    1. Axial location of filament tolerance box relative to the bulb base reference plane
    2. Vertical location of filament tolerance box relative to the bulb base centerline
    3. Transverse location of filament tolerance box relative to the bulb base centerline
    4. Filament tolerance box dimensions
  B. High beam filament tolerance box dimensions and relation of this box to the bulb base reference plane and centerline
    1. Axial location of filament tolerance box relative to the bulb base reference plane
    2. Vertical location of filament tolerance box relative to the bulb base centerline
    3. Tranverse location of filament tolerance box relative to the bulb base centerline
    4. Filament tolerance box dimensions
II. Dimensions Pertaining to Filament Capsule and Capsule Supports
  A. Maximum length from reference plane to tip of filament capsule
  B. Maximum radial distance from bulb base centerline to periphery of filament capsule and/or supports
  C. Location of black cap relative to low beam filament tolerance box/or other to-be-specified reference
  D. Size, length, shape, or other pertinent features and dimensions for providing undistorted walls for the filament capsule
III. Bulb Base Interchangeability Dimensions and Tolerance
  A. Angular locations, diameters, key/keyway sizes, and any other interchangeability dimensions for indexing the bulb base in the bulb holder
  B. Diameter, width, depth, and surface finish of seal groove, surface, or other pertinent sealing features
  C. Diameter of the bulb base at the interface of the base and its perpendicular reference surface
  D. Dimensions of features related to retention of the bulb base in the bulb holder such as tabs, keys, keyways, surfaces, and etc.
IV. Bulb Holder Interchangeability Dimensions and Tolerance
  A. Mating angular locations, diameters, key/keyway sizes, and any other interchangeability dimensions for indexing the bulb base in the bulb holder
  B. Mating diameter, width, depth, and surface finish of seal groove, surface, or other pertinent sealing features
  C. Mating diameter of the bulb holder at the interface of the bulb base aperture and its perpendicular reference surface
  D. Mating dimensions of features related to retention of the bulb base in the bulb holder such as tabs, keys, keyways, surfaces, and etc.
V. Wiring Harness Connector to Bulb Base Interchangeability Dimensions and Tolerances
  A. Maximum depth of harness connector insertion into bulb base
  B. Location of electrical pins in bulb base
  C. Dimensions of electrical pins in bulb base—length, diameter, width, thickness and etc.

D. Fit of harness connector into bulb base providing all necessary dimensions, key/keyway controls, and dimensions, tapers and etc.
F. Dimensions and location of locking features for wiring harness connector to bulb base
G. Identification of high, low and common terminals
VI. Seal Specifications (if used instead of the pressure test)
A. Type
B. Material
C. Dimensions
VII. Electrical Specifications For Each Filament at 12.8 volts
A. Maximum power (in watts)
B. Luminous Flux with tolerance (in lumens)
VIII. Bulb Markings/Designation
A. ANSI number, ECE identifier, Manufacturer's part number, individually or in any combination.

Issued on: April 26, 1989.

**Barry Felrice,**

*Associate Administrator for Rulemaking.*

[FR Doc. 89-10443 Filed 4-27-89; 8:45 am]
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federal register

Tuesday
May 9, 1989

Part VII

# Department of Housing and Urban Development

**Office of Assistant Secretary for Fair Housing and Equal Opportunity**

**24 CFR Part 111**

**Fair Housing Assistance Program; Final Rule**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Office of the Assistant Secretary for Fair Housing and Equal Opportunity**

**24 CFR Part 111**

**[Docket No. R-89-1404; FR-2403]**

**RIN No. 2529-AA33**

## Fair Housing Assistance Program

**AGENCY:** Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the existing system of administrative funding for State and local agencies' participation in the Fair Housing Assistance Program (FHAP). The rule replaces the current system of competitive and non-competitive funding with a single non-competitive funding approach. This new comprehensive approach gives recipients an increased ability to plan a long-term program that is more suitable to their fair housing enforcement needs and gives HUD the ability to improve administration of the FHAP.

**EFFECTIVE DATE:** June 19, 1989.

**FOR FURTHER INFORMATION CONTACT:** Maxine B. Cunningham, Director, Federal, State, and Local Programs Division, Office of Fair Housing Enforcement and Section 3 Compliance, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone number (202) 755-0455 (V and TDD). (This is not a toll-number.)

**SUPPLEMENTARY INFORMATION:**

### Information collection requirements

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2529-0005. Public reporting burden for each of these collections of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the preamble heading.

*Other Matters.* Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., Room 10276, Washington, DC 20410, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

### Statutory basis

Establishment of the Fair Housing Assistance Program (FHAP) is authorized under section 817 of the Fair Housing Act (Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3617, formerly section 816; redesignated as section 817 by section 8 of the Fair Housing Amendments Act of 1988, Pub. L. 100-430, 102 Stat. 1619, 1625 (approved September 13, 1988)). Section 817 provides, among other things, that the Secretary may utilize the services of responsible State and local agencies in the enforcement of the Fair Housing laws, and "may reimburse such agencies and their employees for services rendered to assist him in carrying out" the Fair Housing Act.

The Federal-State-local approach to eliminating housing discrimination is further enhanced by section 810(f)(3)(A). Section 810(f)(3)(A) provides that "The Secretary may certify an agency [for the referral of complaints of discriminatory housing practices] * * * if the Secretary determines that:

(i) The substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

(ii) The procedures followed by such agency;

(iii) The remedies available to such agency; and

(iv) The availability of judicial review of such agency's action;

are substantially equivalent to those created by and under [Title VIII].

Since promulgation of the proposed rule on September 7, 1988, the Fair Housing Amendments Act of 1988 was adopted, adding two new protected classes to the prohibitions on discrimination contained in Title VIII. The new legislation makes it unlawful to discriminate in the sale, rental or financing of housing because of handicap or familial status. Title VIII previously outlawed discrimination because of race, color, religion, sex, or national origin. This rule now reflects the inclusion of "handicap" and "familial status" as additional protected classes. See § 111.115(a)(6).

### The proposed rule

The Department published a proposed rule (53 FR 34668, September 7, 1988) that discussed the need for revision of the existing FHAP and that described, among other things, the new funding approach to be adopted. The rule invited public comment on the proposed revisions. Ten comments were received—seven from State agencies, two from local agencies, and one from an association representing human rights agencies. These comments and the Department's responses are summarized below.

*Public Comments*

General

One commenter made the general observation that the current system of competitive and non-competitive funding has worked well, rewarding with Type II funding those agencies that have operated an "excellent program." The commenter argued that the rationale advanced for revising the FHAP is flawed in many ways. Especially troubling to the commenter is the possibility that the ability of successful programs to continue carrying out effective antidiscrimination programs would be seriously affected. The commenter's fear is that funding may be reduced for programs as a result of the rule's creating the requirement to divide up the "pool of money" among more agencies, regardless of merit.

The Department has carefully considered this commenter's arguments, but remains persuaded that the success of fair housing enforcement efforts would be better served by the comprehensive funding approach adopted in this rule, and discussed at length in the preamble to the proposed rule. See 53 FR 34668. Further, the Department believes that the additional eligibility criteria in § 111.113 estabished for all otherwise eligible agencies in the incentive component decrease the likelihood of fostering any disproportionate weight which might be due to "grantsmanship".

Three other comments generally supported the need for revising the FHAP to make it a non-competitive program. One commenter questioned whether the "FHAP will be improved administratively except at the headquarters level," fearing "lengthy applications for funds and time-consuming reporting regarding overall fund usage." The Department does not view the rule's requirements as imposing unnecessarily burdensome requirements on agencies. However, responsible management of Federal funds requires that HUD is fully apprised of the intended and actual use of funds disbursed to local and State agencies.

**Training funds**

Several of the commenters took issue with the provision (§ 111.105(b)(1)) relating to training funds. Proposed § 111.105(b)(1) provided that "All contributions agencies will receive the same amount of financial support for HUD-sponsored or HUD-approved fair housing training subject to a demonstration of need." Commenters contended that it would be inequitable to give all agencies, regardless of size, the same amount of training funds. In their view, training funds should be awarded based on, among other things, the number of personnel assigned to process housing discrimination complaints and the complexity of the complaints investigated by an agency. A further comment in this regard was that HUD should adopt a broader approach to the use of training funds to include any activity that would further the "administration of justice." Another commenter urged HUD to allow training funds to be used not only for HUD-sponsored training, but for any public or private training that increases an agency's ability to enforce its fair housing laws. In a final note, a commenter proposed a formula for awarding training funds based on the amount of incentive funds received by an agency.

The Department recognizes that these comments offer attractive policy choices, but after due consideration HUD has decided to retain the proposed language of § 111.105(a)(1). In HUD's view, any formula that is developed to apportion training funds among the various agencies will result in larger agencies receiving an increased share while at the same time decreasing the share that goes to smaller agencies. More particularly, the Department views its provision of training funds as intended to *support* agencies' training efforts, not subsidize their total training costs. This provision is consistent with HUD's current policy of supporting, without subsidizing in full, local agency efforts to improve the efficiency of their fair housing enforcement personnel.

The requirement to train a certain number of persons now found in § 111.105(b)(1) will ensure that only agencies that achieve a required level of participation in HUD-sponsored training will receive the training funds. To promote clarity in the rule, the phrase "subject to a demonstration of need" in proposed § *111.105(b)(1) has been replaced by this new requirement.*

Finally, the necessity for HUD approval of the expenditure of FHAP funds for any training other than HUD-sponsored training will ensure that expenditures are better accounted for, and will decrease the potential for misuse of funds. HUD's approval of other training will be based on the Department's concurrence with the agency's need for training. As in the past, all approved training must relate to the administration of an agency's fair housing program.

**Incentive funds**

Several comments were received on § 111.105(b)(3) relating to "Incentive funds." One commenter was concerned that the census data that HUD would use may be outdated, and thus inaccurate. Another commenter argued that local and State government funding should be the only non-federal funding for enforcement of fair housing laws. The commenter pointed out that funding is seldom earmarked specifically for fair housing law enforcement, but rather for salaries, rent, etc., thus making it difficult to determine the portion that is specifically budgeted for fair housing activities. These factors, along with the fact that often a State or local government contribution is in-kind, and not in cash, make it difficult to develop and implement a fair matching funds formula. This commenter also urged HUD to consider, besides population, the size and relative amount of fair housing enforcement activity of different jurisdictions in determining funding levels.

Another commenter found the matching concept in § 111.105(b)(3) to be a "mystery", because each agency was proposed to be paid a fixed amount, notwithstanding the rule's reference to population size and number of cases processed. This commenter also expressed skepticism about whether the new funding approach actually would be non-competitive, pointing to the rule's allowing "cash contributions from non-Federal sources" as promoting competition and divisiveness among agencies for State and local funds. The commenter's final criticism of the matching formula was that it implicitly countenanced the raising of private funds by agencies which, in the commenter's view, is not "an appropriate action [for] a public agency."

In response to these comments, the Department would underscore that proposed § 111.105(b)(3) added parenthetically that "HUD will use the most *recent* census data to determine a jurisdiction's population." (Emphasis supplied.) To allay the commenter's misgivings, the cited sentence has been revised to read, in relevant part, "the most recent available U.S. census data." It should be emphasized that the phrase "the most recent available U.S. census data" is not limited to the decennial census, but contemplates the latest updated population figures, thereby allowing HUD to calculate the incentive component more accurately.

Because of the several infirmities raised by commenters with respect to the matching formula, the rule has been revised to remove the provision relating to "HUD's matching of the cash contributions generated from non-Federal sources." Also removed is the language that indicated HUD would provide a formula to be used to distribute matching incentive funds. Instead of a formula, the rule now provides that an applicant for incentive funds must certify, on the basis of the supporting documentation submitted, that the agency qualifies for incentive funds because a minimum percentage of funds expended by the agency for fair housing activities during the agency's most recently concluded fiscal year was from non-Federal sources. The minimum percentage will be set forth in the annual Notice of Funding Availability (NOFA). This provision was removed from § 111.105(b)(3) of the proposed rule and now more appropriately appears, as revised, in a new paragraph (e)(3) of § 111.111 of this final rule.

HUD is unsure of the point of the comment that allowing contributions from non-Federal sources would promote competition and divisiveness among agencies. If the commenter means that this provision would encourage competition among fair housing agencies for non-Federal dollars, HUD disagrees. If the commenter means that fair housing agencies will be competing with other State and local agencies for non-Federal (*i.e.*, State and local) funds, HUD would respond that such "competition" is a necessary function of the budget process in virtually every State and locality. The rule's reference to "non-Federal" funds contemplated funds appropriated from a public source, as opposed to funding from private (*i.e.*, non-governmental) sources. (Except that, for purposes of this rule, Community Development Block Grant (CDBG) funds used to support fair housing activities will be treated as non-Federal funds.)

In the Department's view, using private funds to assist in the enforcement of fair housing laws is not an inappropriate action for a public agency, if such action is permissible under the relevant laws of the agency's jurisdiction. Nothing in this rule discourages private citizens from donating, and States and localities from

accepting, funds to support fair housing activities.

A commenter speculated that "State and local agencies in those states with both kinds of agencies [*i.e.*, State and local fair housing agencies] will receive proportionately more money than those states having only a state level enforcement agency." The commenter sought assurance that HUD will ensure that incentive "funds are not provided to two or three agencies at different levels for the same population."

To the extent there are two or more fair housing agencies within a larger political jurisdiction which itself has smaller political jurisdictions each with its own fair housing agency, HUD will award incentive funds based on the population of each local jurisdiction served by the respective fair housing agencies.

**Complaint processing funds**

On the issue of "Complaint processing funds" (§ 111.105(b)(2)), a commenter pointed out that the rule does not provide for an additional contribution if an agency processed more dual-filed cases in a contract year than in the previous year on which the funding was based.

HUD acknowledges that, because of budgetary constraints, additional contributions may not be forthcoming within a contract year although, as the commenter observed, more dual-filed cases may have been processed in that year. The following fiscal year, an agency's contributions portion could increase proportionately, reflecting the previous year's caseload. The Department would add that the intent of this section is to advise participating agencies of the period to be used in calculating case processing levels. Also, HUD has determined that, for administrative convenience, it would be better to use HUD's fiscal year as the period of reference for determining the amount of complaint processing funds. Section 111.105(b)(2) now reflects that change.

**Funding of capacity building agencies**

Section 111.105(a), "Funding of capacity building agencies," has been revised, and now provides that an application for funds from a capacity building agency must state the objectives and activities to be carried out by the applicant. These activities must include participation in HUD-sponsored training, complaint monitoring and reporting systems (CMRS), and case processing. The application also must show any other activities proposed to be undertaken by the applicant. This revision will ensure that HUD is fully apprised of the intended use of funds given to these agencies, as it is with the other agencies the Department funds.

**Applications**

Commenters contended that the application process in § 111.111(a) would be unwieldly and expensive, consuming more resources than the grant itself. Complaint was voiced in particular with reference to the requirement of preapplication citizen comments and alternative project proposals. It is the agencies that are charged with monitoring fair housing matters, the commenters argued, not citizens. Thus, if the proposed provision remains, it could result in citizens' and organizations' dictating to agencies about the structure and development of their fair housing programs.

In the Department's view, citizen participation in the development of a fair housing program would be beneficial to all. However, the Department is mindful also that agencies with expert knowledge and relevant experience should be instrumental in designing the programs that they have ultimate responsibility for enforcing. To achieve these two complementary goals, the rule has been revised by removing the last sentence in proposed § 111.111(a), and substituting the following language: "Eligible agencies must, upon request by a responsible party, make available a copy of the application submission."

A new paragraph (e)(3) is added in § 111.111 to state that an applicant for incentive funds must certify, on the basis of the supporting documentation submitted, that the agency qualifies for incentive funds because a minimum percentage of funds spent by the agency for fair housing activities in the agency's most recently concluded fiscal year was from non-Federal sources. Also in § 111.111, paragraph (f)(2) has been revised to include language that more clearly spells out current practice with respect to the awarding of funds.

**Additional eligibility criteria**

A comment suggested that since the rule did not specify, in proposed § 111.113(a)(1), "a stated number of dual-filed complaints," and since, in the commenter's view, it would be inappropriate to do so in a NOFA, HUD should publish a proposed rule setting forth the minimum number of complaints that would be acceptable. Another commenter recommended that both received and initiated complaints be accepted and counted towards a minimum number of ten cases that, in the commenter's view, would be necessary for an agency to qualify for funding under § 111.113(a)(1). Proposed § 111.113(a)(1) provided that:

(a) In addition to the criteria set forth in § 111.107, applicants for incentive funds must demonstrate that they have, during a 12 consecutive month period designated by HUD in the NOFA—

(1) Processed a stated minimum number of dual-filed complaints. The number of complaints (which will be based on separate minimums for States and for localities) will be set forth in the NOFA. To be considered a processed complaint, a complaint must have been filed in accordance with 24 CFR 105.15–105.17 and accepted for closure by the Regional Office;

HUD does not believe that the absence of a stated minimum in the proposed rule requires publication of another proposed rule announcing the minimum. The proposed rule clearly gave notice that agencies would have to process a minimum, though unstated, number of complaints. Since agencies were so informed, they were thus free to comment on, or suggest (as one commenter did) a figure that they believed should be an acceptable minimum. Only one commenter chose to do so, and its suggestion was limited to a minimum for local agencies only, not for State agencies. More importantly, while the Department would have considered any suggested minimums, the Department would not have bound itself to accept any, because the task of setting a minimum in this regard is one that is fully committed to this Department's discretion in its position as administrator of the FHAP.

There is a further reason not to include a stated minimum in this rule. HUD's experience is that there is wide fluctuation from year to year in the number of dual-filed complaints processed. Consequently, HUD believes that the minimum number of dual-filed complaints should not be fixed in a regulation, thus eliminating the costly requirement of annually revising the regulation to accommodate the changing minimums. The annual minimum will be discussed with all fair housing agencies at the annual FHAP policy conference, and HUD's determination will be based on the amount of funds appropriated. The announcement of the minimum will be made in the NOFA.

Both received and initiated complaints may count towards the minimum if they otherwise meet the processing requirements of the rule. The final rule will continue to count only "processed complaints" because support of the complaint processing activities of State and local agencies is the primary

purpose of the FHAP. Receipt of a complaint does not mean that processing will occur. In fact, some received complaints are waived to HUD for HUD processing.

HUD is suspending application of paragraphs (a)(2) and (a)(3) in § 111.113 during the first year of effectiveness of this rule—that is, otherwise eligible applicants for incentive funds will not have to comply with these provisions during the first year of this rule's implementation. This action is being taken as a transitional move to allow both the Regional Offices and fair housing agencies time to adjust to these new requirements, and to ensure that all Regional Offices apply the same criteria in evaluating agencies' performance with respect to these provisions.

**Miscellaneous**

New language in § 111.107(a) now states that agencies entering into agreements with HUD as interim agencies *after* the enactment of the Fair Housing Amendments Act of 1988 are eligible for capacity building funds only. As revised, § 111.107(a) now conforms to § 115.11, as amended by the final rule implementing the Fair Housing Amendments Act of 1988 published on January 23, 1989 (54 FR 3232, 3316). Section 115.11 provides, among other things, that "In no event shall this period [*i.e.*, the period designating an agency as an "interim agency" for the referral of housing discrimination complaints] extend more than two years beyond the date of entry into the agreement for interim referrals or other utilization of services."

Paragraph (b) of proposed § 111.115 has been removed in this final rule because, in the Department's view, it was too prescriptive.

**Other matters**

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 and have been assigned OMB Control Number 2529–0005. Sections 111.105, 111.107, 111.111, 111.117, and 111.123 of this rule have been determined by the Department to contain collection of information requirements. Information on these requirements is provided as follows:

TABULATION OF ANNUAL REPORTING BURDEN

Final Rule—Fair Housing Assistance Program 24 CFR Part 111

| Description of information collection | Section of 24 CFR Part 111 affected | Number of respondents | Number of responses per respondents | Total annual responses | Hours per response | Total hours |
|---|---|---|---|---|---|---|
| Application submission (2529–0005) | 111.105(a), (b)(1), (b)(2), and (b)(3), 111.107; 111.111. | 70 | 1 | 70 | 38 | 2,660 |
| Cooperative agreement voucher submission and narrative (2529–0005). | 111.117(b)(1), 111.117(b)(2), 111.117(b)(3), and 111.117(b)(4). | 120 | 4 | 480 | 4 | 1,920 |
| Recordkeeping for reports (2529–0005) | 111.117(c) and 111.123 | 70 | N.A. | 1 | 8 | 560 |
| Total annual burden | | | | | | 5,140 |

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 implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates 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.

In accordance with 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. The rule provides for the award of Federal funds to State and local government fair housing agencies; it does not impose any economic burdens on small entities.

*Executive Order 12606, the Family.* The General Counsel, as the Designated Official under Executive Order 12606, *the Family,* has determined that this rule will not have potential significant impact on family formation, maintenance, and general well-being, and, therefore, is not subject to review under the Order. The rule implements a statutory provision that is intended to promote cooperation between the Federal government and State and local fair housing enforcement agencies in their attempt to eliminate unlawful discriminatory housing practices; any effect on families thus would be a salutary one.

*Executive Order 12612, Federalism.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that this rule will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal government, or on the distribution of power and responsibilities between them and other levels of government. Thus rule is intended to promote a cooperative effort between the Federal government and State and local governments with respect to eliminating discrimination in housing. The Federal government will provide financial assistance, and cooperation is voluntary on the part of State and local governments, but such cooperation will not result in diminution of the sovereign powers of cooperating States and their political subdivisions.

This rule is listed as Item No. 1007 in the Department's Semiannual Agenda of Regulations published on April 24, 1989 (54 FR 16708, 16738) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.401.

**List of Subjects in 24 CFR Part 111**

Fair housing; Cooperative agreements; Grant programs: housing and community development.

Accordingly, the Department revises 24 CFR Part 111 to read as follows:

## PART 111—FAIR HOUSING ASSISTANCE PROGRAM

Sec.

111.101 Definitions.
111.103 Purpose.
111.105 Funding.
111.107 Agency threshold eligibility criteria.
111.109 Program administration.
111.111 Application for participation in the FHAP.
111.113 Additional agency eligibility criteria for the incentive component.
111.115 Eligible activities under the capacity building and incentive components.
111.117 Standards for annual program review.
111.119 Uncommitted funds.
111.121 Reporting and recordkeeping requirements.
111.123 Corrective and remedial action.

**Authority:** Fair Housing Act (42 U.S.C. 3600–20); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

### § 111.101 Definitions.

As used in this Part, the following terms have the meaning indicated:

"Agency" means a State or local fair housing enforcement agency which is certified (or considered to be certified) as a substantially equivalent agency under 24 CFR Part 115 (including any agency which is a party to an agreement for interim referrals under § 115.11).

"Assistant Secretary" means the Assistant Secretary for Fair Housing and Equal Opportunity.

"Capacity building agency" means an agency that is in its first or second year of participation in the FHAP.

"Capacity building funds" are funds that HUD will provide to an agency during the agency's first two years of participation in the FHAP to support development or enhancement of the agency's fair housing enforcement program, including the agency's complaint processing, training, technical assistance, complaint monitoring and reporting systems, and educational and outreach activities.

"Complaint processing funds" means funds provided to an agency to support the processing of housing discrimination complaints.

"Contributions agency" means an agency that has previously received capacity building awards for two years.

"Dual-filed complaint" means a complaint that has been filed with both HUD and an agency.

"FHAP" means the Fair Housing Assistance Program.

"HUD" means the U.S. Department of Housing and Urban Development.

"Incentive funds" are funds awarded an agency by HUD based on the population of the jurisdiction served by the agency.

"NOFA" means Notice of Funding Availability.

### § 111.103 Purpose.

The purpose of the Fair Housing Assistance Program (FHAP) is to provide assistance to State and local fair housing enforcement agencies. This assistance is designed to provide support for complaint processing, training, technical assistance, data and information systems, and other fair housing projects. The intent of the program is to build a coordinated intergovernmental enforcement effort to further fair housing, and to encourage States and localities to assume a greater share of the responsibility for administering their fair housing laws.

### § 111.105 Funding.

For purposes of funding under this Part, HUD separates all eligible agencies into two categories—"capacity building agencies" and "contributions agencies" (see § 111.101). Funding levels may be subject to modification in succeeding fiscal years to reflect variations in annual appropriations for the FHAP. Funding levels will be announced by NOFAs published in the **Federal Register.**

(a) *Funding of capacity building agencies.* Capacity building agencies are eligible to receive capacity building funds only. HUD will give a fixed amount of these funds, during the first two years of an agency's participation in the FHAP, to all capacity building agencies that submit an acceptable application. The application must demonstrate, in HUD's determination, that the agency has (or will receive) a sufficient volume of complaint activity to justify HUD's provision of funds for complaint processing activities. The application must state the objectives and activities to be carried out by the applicant which must include participation in HUD-sponsored training, complaint monitoring and reporting systems (CMRS), case processing, and any other fair housing activities proposed by the applicant. All activities must address or have ultimate relevance to matters affecting fair housing which are cognizable under the Fair Housing Act (42 U.S.C. 3600–20). Agencies having current requisite CMRS capability, as set forth in the request for application, may meet the CMRS requirement by describing this capability.

(b) *Funding of contributions agencies.* Contributions agencies are eligible to receive training funds, complaint processing funds, and incentive funds.

(1) *Training funds.* All contributions agencies will receive the same amount of financial support for HUD-sponsored or HUD-approved fair housing training, subject to participation by a required number of persons in such training.

(2) *Complaint processing funds.* Contributions agencies will receive support for complaint processing based solely on the number of dual-filed housing discrimination complaints actually processed by an agency. The agency's prior year complaint processing performance will be used in determining the total amount of funding for the agency, in accordance with specific unit reimbursement levels to be determined administratively by HUD. For purposes of FHAP Fiscal Year 1989 funding, the level of an agency's complaint processing will be determined by reference to the number of dual-filed complaints processed by the agency in the best 12 consecutive months during an 18-month period designated by HUD. Thereafter, the level of complaints will be determined by the number of dual-filed complaints processed by the agency during HUD's previous fiscal year.

(3) *Incentive funds.* A contributions agency that meets the additional criteria for incentive funds set forth in § 111.113 may apply annually for incentive funds, describing those projects that would benefit their jurisdiction. The amount of funds awarded to an agency will be based on the population of the jurisdiction served by the agency, and on the projects proposed and the cost of implementing those projects. (HUD will use the most recent available U.S. census data to determine a jurisdiction's population.)

(Approved by OMB under Control No. 2529–0005)

### § 111.107 Agency threshold eligibility criteria.

To be eligible to participate in the FHAP, an agency first must meet the following criteria:

(a) The State or local fair housing law administered by the agency must have been recognized (and such recognition must continue to be outstanding) as providing rights and remedies that are substantially equivalent to those provided by Title VIII of the Civil Rights Act of 1968, as implemented by 24 CFR 115.6 (or, as implemented by 24 CFR 115.4, as in effect before October 8, 1984), or the Department must have

entered into an agreement regarding interim referrals of complaints to an agency or other utilization of the services of such agency as described in 24 CFR 115.11, before September 13, 1988, the date of enactment of the Fair Housing Amendments Act of 1988. (Agencies that enter into agreements with the Department as interim agencies for the referral of complaints or other utilization of services subsequent to the enactment of the Fair Housing Amendments Act of 1988 (Pub. L. 100-430, approved September 13, 1988) are eligible for capacity building funds only.)

(b) The agency must have executed a written Memorandum of Understanding with the Department which, at a minimum, describes the working relationship to be in force between the agency and the Department. An agreement in accordance with 24 CFR 115.11 may constitute such a Memorandum of Understanding.

(c) The agency must demonstrate to HUD procedures acceptable for cooperating with other FHAP-funded agencies having concurrent jurisdiction;

(d) The agency must not unilaterally reduce the level of financial resources currently committed to fair housing complaint processing. Budget and staff reductions occasioned by legislative action outside the control of the agency will not, alone, result in a determination of ineligibility. However, HUD will take such actions into consideration in assessing the ongoing viability of an agency's fair housing program.

(e) The agency must participate in training sponsored by HUD and designed in consultation with HUD staff and agency representatives to provide uniform skills and technical knowledge.

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**§ 111.109 Program administration.**

(a) The FHAP will be administered by the Office of the Assistant Secretary for Fair Housing and Equal Opportunity.

(b) Notices of Funding Availability (NOFAs) under this program will be published in the **Federal Register**. Such notices will announce, among other things, methods to determine the level of funds available for capacity building, complaint processing, training, and incentive purposes.

(c) All agencies that receive support under this program must conform to reporting and record maintenance requirements determined appropriate by the Assistant Secretary. Procedures for monitoring funding instruments will be established by the Assistant Secretary. Funding instruments will include terms under which HUD may recapture funds where agencies fail to report, to maintain appropriate records, or to abide by other terms and conditions included in the agreement or contract.

(d) All State and local agencies that receive financial assistance under the Fair Housing Assistance Program must conduct audits in accordance with 24 CFR Part 44. The financial management systems used by recipients must provide for audits in accordance with OMB Circular A-128—Audits of State and local governments (Copies of OMB Circular A-128 are available from EOP, Publications, NEOB, Room 2200, 726 Jackson Place, NW, Washington, DC 20503.

(e) Agencies receiving support (financial assistance in the form of grants or cooperative agreements) under this program shall comply with requirements and standards contained in 24 CFR Part 85.

**§ 111.111 Application for participation in the FHAP.**

(a) *General.* Complete information on all application requirements will be included in the NOFAs published in the **Federal Register**. Application kits will be available from the designated HUD Office upon request at the time of publication of the NOFA. Citizens and organizations wishing to participate in the development of proposals for incentive funds should contact the substantially equivalent fair housing enforcement agency in their jurisdiction. The fair housing enforcement agency must provide, upon request, information regarding its intention to apply for funds, proposed use of these funds, and any deadline for submission of comments. Eligible agencies must, upon request by a responsible party, make available a copy of the submitted funding application.

(b) *Statement of intent to apply for incentive funds.* In order that the Department may be able to determine an appropriate formula for incentive funds before issuance of a NOFA, HUD may request administratively that contributions agencies submit, by a date certain, a statement of intent to apply for incentive funds, along with a copy of the agency's fair housing budget from the previous fiscal year. (Agencies that fail to make a timely submission may be denied incentive funds. A statement of intent will not be required from agencies that are not eligible for, or that elect not to receive, incentive funds.)

(c) *Contents of application.* Each agency must submit an application in narrative form signed by the head of its fair housing agency (or his or her designee). The application must include—

(1) A description of the applicant agency's proposed activities and objectives;

(2) A schedule for completion and estimated cost of each proposed activity;

(3) Any additional information that may be requested in the NOFA for the FHAP published in the **Federal Register**.

(4) For all capacity building applicants, information to justify the amount of funds requested, including the need for activities proposed and the number of fair housing complaints processed during the previous fiscal year; and

(5) for all applicants for incentive funds, data from the most recently concluded fiscal year showing the amount of funds spent on the applicant's fair housing program and the amount spent from non-Federal sources.

(d) *Deadline for submission of applications.* After receipt of the Department's appropriation for the FHAP, HUD will publish a NOFA in the **Federal Register**, establishing a deadline for submission of applications. This deadline ordinarily will be 45 days after publication of the NOFA.

(e) *Certifications.* The applicant must certify that:

(1) The submission of the application is authorized under State or local law (as applicable), and the applicant possesses the legal authority to carry out the activities proposed in the application.

(2) The agency will adhere to a written agreement (Memorandum of Understanding or Interim Agreement) governing all fair housing referral activity and complaint processing between the agency and the appropriate HUD Regional Office.

(3) An applicant for incentive funds also must certify, on the basis of the supporting documentation submitted, that the agency qualifies for incentive funds because a minimum percentage of funds spent by the agency for fair housing activities in the agency's most recently concluded fiscal year was from non-Federal sources. (Agencies that spend less than this minimum percentage of non-Federal money for fair housing activities will not qualify for incentive funds. The minimum percentage of expenditures that must be from non-Federal sources will be set forth in the NOFA.)

(f) *Review of application.* (1) An application for funding will be considered approved as of the date of HUD's written offer to the applicant to enter into a Cooperative Agreement. HUD and the State or local government agency will execute a Cooperative

Agreement with respect to the funding. The award will be obligated when the Cooperative Agreement Officer in HUD has signed the Cooperative Agreement.

(2) With respect to applications for funding that the responsible HUD Regional Office has found to contain deficiencies, the Regional Office will notify the applicant in writing of the deficiencies found. The applicant must, within 20 days from receipt of notification from the Regional Office, correct the deficiency or supply the additional information that the Regional Office requests. HUD may consider an applicant's failure to respond appropriately within the 20-day period as an abandonment of the application.

(3) If the applicant is notified by the Regional Office that, notwithstanding its attempt to correct the deficiency or supply the requested information, the applicant has failed to do so in the determination of the Regional Office, the applicant may appeal this determination to the Assistant Secretary for Fair Housing and Equal Opportunity.

(4) The Assistant Secretary may reverse the determination of the Regional Office and approve the application unless the Assistant Secretary makes one or more of the following determinations:

(i) The application proposes ineligible activities, or is otherwise deficient (see § 111.115);

(ii) The application was not received within the time period established by the NOFA;

(iii) The application does not include all the information required by the NOFA or application kit; or

(iv) The application does not contain evidence or information sufficient to support the proposed activities.

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**§ 111.113 Additional agency eligibility criteria for the incentive component.**

(a) In addition to the criteria set forth in § 111.107, an applicant for incentive funds must have, during a 12-consecutive-month period designated by HUD in the NOFA—

(1) Processed a stated minimum number of dual-filed complaints. The number of complaints (which will be based on separate minimums for States and for localities) will be set forth in the NOFA. To be considered a processed complaint, a complaint must be cognizable under the Fair Housing Act (42 U.S.C. 3600-20) and accepted by the Regional Office as meeting the processing requirements under the Cooperative Agreement.

(2) Performed satisfactorily in the timely submission of vouchers (except that this provision will not be implemented in FY 1989);

(3) Completed administrative processing of complaints in a timely manner (except that this provision will not be implemented in FY 1989);

(4) engaged in comprehensive and thorough investigative activities relative to complaints dual-filed with HUD; and

(5) Spent (as certified by the head of the agency) during the agency's most recently concluded fiscal year a certain percentage of funds other than Federal funds in support of fair housing activities. This percentage must be no less than the minimum percentage, as determined by HUD and set forth in the NOFA, of all funds expended by the applicant for fair housing activities.

For purposes of paragraph (a)(2), a voucher is not submitted "timely" if it is received in the Regional Office, as evidenced by the date stamped thereon, after close of business of the fifteenth day after the date stipulated in the funding instrument for a recipient's submission of the voucher.

(b) Satisfaction of the criteria specified in paragraph (a) of this section will be determined by HUD based on its annual evaluation under Part 115 of this title and through monitoring under FHAP cooperative agreements in effect during the 12-month period designated by HUD.

**§ 111.115 Eligible activities under the capacity building and incentive components.**

(a) The primary purpose of capacity building and incentive funds is to support activities that produce increased awareness of fair housing rights and remedies. All activities proposed for funding must address, or have ultimate relevance to, matters affecting fair housing which are cognizable under the Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. 3600-20). These activities include, but are not limited to, the following:

(1) Activities designed to develop and implement outreach efforts to heighten public awareness of all forms of housing discrimination prohibited under the Fair Housing Act and of fair housing rights and responsibilities.

(2) Activities designed to create, modify, or improve local, regional, or national information systems concerned with fair housing matters.

(3) Activities designed to improve an agency's capability to ensure fair housing through new or redirected approaches to the agency's internal structure or compliance techniques.

(4) Activities to develop and conduct a testing and auditing program for specific protected classes or special market areas for fair housing enforcement or litigation.

(5) Activities designed to identify new or subtle practices of housing discrimination and to implement programs to eliminate such practices.

(6) Activities designed to address violence and intimidation related to equal housing opportunity. These activities may include education, technical assistance, or the development of programs for prevention and response.

(7) Activities designed to coordinate fair housing enforcement efforts of government enforcement agencies with various community resources which have an impact on the prevention or elimination of discriminatory housing practices.

(8) Technical assistance activities to enable agencies to work with private fair housing groups, educational institutions, the real estate industry, and other private and governmental entities to eliminate or prevent housing discrimination.

(9) Activities to provide services to aggrieved individuals, consistent with rights and remedies under applicable Federal, State, and local laws and ordinances prohibiting discrimination in housing.

(10) Affirmative marketing activities to inform persons of housing opportunities with respect to government-assisted housing and the private housing market.

(11) Activities designed to improve investigations of systemic discrimination for further processing by State and local agencies, HUD, or the Department of Justice.

(12) Fair housing training for enforcement agency staff.

(13) Activities designed to create, modify, or improve an agency's complaint information and monitoring capacity, to make its system compatible with HUD's for internal monitoring of fair housing complaint activity.

**§ 111.117 Standards for annual program review.**

(a) HUD will conduct an annual review of a recipient's performance in carrying out the funded activities proposed in its incentive or capacity building application. HUD will rely primarily on information obtained from the recipient's records and reports, findings from on-site monitoring, audit reports, and information generated from the requirements for the disbursement of funds for the FHAP. HUD also may

consider relevant information pertaining to a recipient's performance gained from other sources, including final court decisions, interested organizations' and citizens' comments, and evaluation or research studies. (HUD will give a recipient the opportunity to respond before considering negative comments from citizens and organizations.)

(b) The annual review will examine whether the recipient—

(1) Has carried out its activities in a timely manner, including the expenditure of funds allocated for activities, as proposed in the application;

(2) Has a continuing capacity to carry out its activities in a timely manner;

(3) Has met the objectives that the proposed activities were designed to address, as set forth in the application; and

(4) Has complied with all certifications and assurances required by HUD.

(c) A program performance review is required in addition to the assessment provided for under Part 115 of this title for continued substantial equivalency.

(Approved by OMB under Control No. 2529–0005)

**§ 111.119 Uncommitted funds.**

FHAP funds may become available following the initial round of funding after publication of a NOFA, as a result of agency failures to submit timely applications. HUD may award these funds to an agency which received certification after a HUD-prescribed deadline, or to an agency that was determined to be ineligible for incentive funds at the time of application but that subsequently demonstrated its eligibility.

**§ 111.121 Reporting and recordkeeping requirements.**

(a) *Reports to HUD.* Recipients shall report on their activities and expenditures in such format and at such times as the Assistant Secretary may prescribe. In addition to periodic reports regarding complaint processing and training activities, agencies receiving capacity building funds or incentive funds must report on the progress and results of activities funded in whole or in part under these FHAP components. Such reporting requirements will be incorporated in each Cooperative Agreement or contract.

(b) *Records to be maintained.* Each recipient shall maintain records specified by the Assistant Secretary that clearly document its performance under the award. The Assistant Secretary will issue administrative instructions prescribing the form of these records and the specific elements necessary to document performance.

(c) *Public disclosure of records and documents.* Recipients must provide for full and timely disclosure of records and documents relating to their FHAP activities, consistent with applicable Federal, State, and local laws regarding personal privacy and obligations of confidentiality. Documents relevant to a recipient's program must be made available at the recipient's office during normal working hours for public reivew upon request, except that documents with respect to on-going fair housing complaint investigations will be exempt from public review. The Secretary, the Inspector General of HUD, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to all books, accounts, reports, files, and other papers of recipients with respect to FHAP payments for surveys, audits, examinations, excerpts, and transcripts.

**§ 111.123 Corrective and remedial action.**

(a) If HUD makes a preliminary determination that a recipient has not met the program review standards set forth in § 111.117, the recipient will be given notice of this determination and an opportunity to show that it has done so, within the time prescribed by HUD and on the basis of demonstrable facts and data.

(b) If a recipient fails to demonstrate to HUD's satisfaction that it has met program review standards, HUD will request the recipient to submit and comply with proposals for action to correct, mitigate, or prevent performance deficiencies, including:

(1) Preparing and following a schedule of actions for carrying out the affected fair housing activities;

(2) Establishing and following a management plan that assigns responsibilities for carrying out the remedial actions;

(3) Canceling or revising activities likely to be affected by a performance deficiency before expending amounts for the activities;

(4) Redistributing FHAP awards that have not yet been expended to other eligible activities; and

(5) Suspending disbursement of program amounts for affected activities for a period of not more than 60 days.

(c) HUD may condition the use of FHAP award amounts with respect to an agency's succeeding fiscal year's allocation on the satisfactory completion by a recipient of appropriate corrective action. When the use of funds is so conditioned, HUD will specify the deficiency, the required corrective actions, and the time allowed for taking these actions. Failure of a recipient to complete the actions as specified will result in a reduction or withdrawal of the recipient's allocation in an amount not to exceed the amount conditionally granted.

(Approved by OMB under Control No. 2529–0005)

Dated: May 1, 1989.

**Thomas D. Casey,**

*Acting General Deputy Assistant Secretary for Fair Housing and Equal Opportunity.*

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Part VIII

# Department of Justice

## Office of Juvenile Justice and Delinquency Prevention

## Program Plan for Fiscal Year 1989; Notice

## DEPARTMENT OF JUSTICE

### Office of Juvenile Justice and Delinquency Prevention

### Program Plan for Fiscal Year 1989

**AGENCY:** Office of Juvenile Justice and Delinquency Prevention, Justice.

**ACTION:** Notice of publication of the Office of Juvenile Justice and Delinquency Prevention Program Plan for Fiscal Year 1989.

**SUMMARY:** The Office of Juvenile Justice and Delinquency Prevention is publishing its Program Plan for Fiscal Year 1989 in order to inform the public of the program priorities that the Office will pursue during the current fiscal year.

**FOR FURTHER INFORMATION CONTACT:** D. Elen Grigg, Information Specialist, Office of Juvenile Justice and Delinquency Prevention. Telephone: (202) 724–7573.

**SUPPLEMENTARY INFORMATION:**

#### Overview

Recent amendments to the Juvenile Justice and Delinquency Prevention Act of 1974 have significantly affected the programs of the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The new amendments, passed by Congress on November 18, 1988 (as subtitle F of title VII of the Anti-Drug Abuse Act of 1988, Pub. L. 100–690, 102 Stat. 4181):

- Resulted in a reduction in discretionary funds and an increase in formula grant funds;
- Mandated a number of special new studies; and
- Expanded peer review and competition requirements.

The amendments, known as the Juvenile Justice and Delinquency Prevention Amendments of 1988, reauthorized the programs administered by the Office for another four years. OJJDP was originally established by the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974.

The 1988 amendments altered OJJDP's previous funding structure by increasing the mandatory Part B formula grants program allocation from a minimum of 61 percent of OJJDP's total budget for title II programs to 70 percent. The program's overall appropriation was not increased to support this higher level of formula funding, resulting in a sharply reduced discretionary fund allocation.

#### Mandated Studies and Reports

The amendments require OJJDP to begin, and complete within three years, three special studies concerning:

- Conditions in juvenile detention and correctional facilities and the extent to which they comply with national standards;
- Obstacles to the recovery by legal custodians of children who have been removed by a noncustodial parent; and,
- Village and tribal justice systems' treatment of Indian and Alaskan native juveniles accused of committing crimes on or near reservations, and the availability of community-based alternatives to incarceration for these youth.

In addition, the amendments require that OJJDP publish several reports annually, including a program plan. The first program plan, reflecting FY 1990 programs, is due December 31, 1989. The Office will also publish two expanded annual reports: one provides both a review of OJJDP activities and a detailed summary and analysis of data regarding juveniles in custody; the other, a comprehensive report on missing and exploited children issues and programs.

#### Competition and Peer Review Process

The 1988 amendments also changed OJJDP's competition and peer review requirements by mandating competition and/or peer review for projects seeking continuation funding beyond an existing project period.

OJJDP published for public comment proposed rules for its revised competition and peer review procedures in the February 7, 1989, **Federal Register**. Final regulations will be published in the **Federal Register** in the near future.

#### OJJDP's 1989 Programs

The three mandated studies and the expanded reports, combined with the decrease in discretionary funds resulting from the 1988 amendments, have forced a cut-back in FY 1989 discretionary programming. The Office has reduced the level of funding for continuation projects and, at this time, is not able to consider funding for new programs in FY 1989 beyond the mandated studies.

OJJDP's continuation programs target several important juvenile justice concerns, including drug and alcohol use; juvenile delinquency and serious juvenile crime; school-based programs; statistics about juveniles; missing, exploited, and abused children; and training and technical assistance.

Although their primary focus differs, the programs share a common goal: To reduce fragmentation in juvenile justice operations and to promote systemwide coordination and cooperation. Following is a list of planned competitive programs as well as those programs OJJDP has identified as eligible for continuation funding this fiscal year.

#### Competitive Programs

OJJDP is competing seven programs during FY 1989:

"American Indian and Alaska Native Youths: Study of Tribal and Alaskan Native Justice Systems" is a research program to determine how juveniles accused of committing offenses on or near Indian reservations and Alaskan Native villages are treated by tribal and village justice systems that perform law enforcement functions. A solicitation for applications will be announced in the **Federal Register**.

"Minority Youth in the Juvenile Justice System" will address methods for communities to assess the extent to which minority juveniles are disproportionately detained or confined in secure juvenile detention or correctional facilities, jails or lockups. It will develop strategies for communities to respond accordingly with appropriate prevention, diversion, and reintegration programs.

"Research Program on Juvenile Taken into Custody" will summarize and analyze data about juveniles in custody, including type of offender, offense, race, gender, age, type of facility, and information about the number of juveniles who die in custody. A solicitation for applications, announced in the **Federal Register**, February 16, 1989, closed March 27, 1989. Anticipated project startup date is May 1, 1989.

"Study to Evaluate Conditions in Juvenile Detention and Correctional Facilities" is a research program to examine such facilities and the extent to which they meet national standards, and to make recommendations to improve conditions in these facilities. A solicitation for applications will be announced in the **Federal Register**.

"Study of Obstacles to Recovery and Return of Parentally Abducted Children" will document the major problems parents encounter when trying to recover a child abducted by a noncustodial parent and will identify ways of dealing with those obstacles. A solicitation for applications will be announced in the **Federal Register**.

"National Resource Center and Clearinghouse" is a national clearinghouse to help missing children and their families. It operates a toll-free telephone line, provides technical assistance to families and law enforcement agencies, and disseminates information to help missing and exploited children. OJJDP awarded a cooperative agreement to the National Center for Missing and Exploited Children (NCMEC) and the Public Administration Service following a

national competition announced in the December 29, 1989, **Federal Register.**

"Nonparticipating States Initiative" provides resources to those States that are not participating in the JJDP Act to establish programs and services to separate juveniles from adults in institutions, remove status offenders from secure detention, and eliminate the use of adult jails and lockups for confining juveniles.

**Continuation Programs**

The Office has identified the following programs as eligible for continuation funding in FY 1989:

*Illegal Drugs and Alcohol*

"Boys Clubs Gang Prevention Program" will help selected Boys Clubs target their programs to prevent youth from becoming involved with gangs. The clubs will reach out to youth who are at high risk of drug and alcohol abuse and who are involved in the sale and distribution of drugs.

"Community Based Anti-Drug Capacity Building Demonstration Program Phase II" will help communities fight drug abuse by identifying and highlighting, through a satellite teleconference, effective small neighborhood-based programs from around the country that focus on anti-drug abuse prevention, treatment, and rehabilitation. The teleconference will help promote greater public support and understanding of these programs.

"Congress of National Black Churches Anti-Drug Abuse Program" will work with church leadership in metropolitan areas besieged with juvenile drug use and trafficking to mobilize community residents to join with local and state law enforcement and social service agencies to develop a plan to rid their communities of drugs. This is a joint program with the Bureau of Justice Assistance.

"Prevention and Intervention for Illegal Drug Use and AIDS Among High Risk Youth" will assess the problem of illegal drug use and AIDS among runaways, exploited, and homeless youth, and develop model programs to help public and private agencies provide services to these youth.

"Promising Approaches for the Prevention, Intervention, and Treatment of Illegal Drug and Alcohol Use Among Juveniles" is identifying risk factors that increase involvement in illegal drugs and promising prevention and intervention efforts that target these risk factors; this information will be used to develop model programs to help communities respond to illegal drug use by high risk youth.

"Reaching at Risk Youth in Public Housing" is determining the most effective approaches of establishing Boys and Girls Clubs in public housing projects as a way of offering at-risk youth positive alternatives to becoming involved in delinquent behavior and drug trafficking. Boys Clubs of America will test these methods in four clubs and develop a training curriculum to encourage other cities to establish Boys Clubs in public housing.

"Serious Habitual Offender Comprehensive Action Program (SHOCAP)" helps jurisdictions develop coordinated systemwide procedures to identify, track, and control juveniles who repeatedly commit crimes so that the juvenile justice system can concentrate and direct its resources to more effectively respond to this population. OJJDP awarded a cooperative agreement to the Public Administrative Service following a national competition announced in the October 3, 1988, **Federal Register.**

"Super Teams" is a drug prevention program utilizing peer counseling and professional athletes. It is a program where student leaders are selected, support for the program is obtained from school personnel and parents, and students are trained to combat peer pressure and use techniques to influence other youngsters to refrain from abusing alcohol and drugs.

"Testing Juvenile Detainees for Illegal Drug Use" will develop model policies and procedures for incorporating drug testing into the procedures juvenile detention facilities use to diagnose a juvenile's involvement with drugs and to classify or determine the level of detention and treatment needed.

"Urine Testing of Juvenile Detainees to Identify High Risk Youth: A Prospective Study—Followup Phase" is assessing the use of urine testing in detention programs to identify youth at risk for short-term recidivism, future delinquency, and drug use, and to develop intervention strategies.

"Youth Drug and Alcohol Abuse: Introduction of Effective Strategies Systemwide" is providing training to five communities to develop and implement a planning strategy to coordinate activities to combat drug and alcohol abuse by juveniles.

*Juvenile Delinquency and Serious Juvenile Crime*

"DSO II: Assessing the Effects of the Deinstitutionalization of Status Offenders" is evaluating the impact of deinstitutionalization policies on youth, the juvenile justice system, and other youth-serving agencies.

"Evaluation of Private Sector Corrections Initiative for Serious Juvenile Offenders" is assessing the effectiveness of selected innovative private sector corrections programs that have been designed as alternatives to traditional institutional programs.

"Juvenile Gang Suppression and Intervention Program" is identifying the nature and extent of the youth gang problem across the nation, identifying resources and promising programs that communities can use to suppress and control juvenile gang activity, and developing model progams and training and technical assistance to transfer the models to cities experiencing gang problems.

"National Juvenile Firesetter/Arson Control Prevention Program" is defining the scope and nature of juveniles' involvement in arson and firesetting and identifying promising programs in order to provide States and communities with model programs to prevent and reduce acts of juvenile arson.

"Post-Adjudication Nonresidential Intensive Supervision Program" is identifying promising and effective intensive supervision programs and developing training and technical assistance to facilitate replication of these program models in communities across the country.

"Private Sector Probation Initiative" is providing technical assistance to selected state juvenile justice administrators to help them assess their needs and, where appropriate, develop operational plans to transfer public sector services to the private sector.

"Program of Research on the Causes and Correlates of Delinquency" is identifying factors that lead to positive socialization or a delinquent lifestyle, identifying characteristics of at-risk children, and examining the etiology of drug use.

"Proyecto Esperanza/Project Hope" is assessing programs that strengthen families and provide crisis intervention and is designing and testing model programs for Hispanic youth and their families.

"Victims and Witnesses in the Juvenile Justice System" is developing models for establishing specialized services to help victims participate in the juvenile justice process, increase victim satisfaction with the juvenile justice system, improve juvenile court processing of offenders, and enhance dispositional alternatives.

*Statistics About Juveniles*

"Children in Custody Census" will describe the organizational characteristics of public and private

juvenile residential facilities and provide demographic and offense characteristics of juveniles in those facilities.

"The National Juvenile Court Data Archive" collects and disseminates data about local, State, and Federal juvenile court activities. Juvenile courts can use this data to compare their activities and practices with juvenile courts in other jurisdictions.

*School Based Programs*

"Cities in Schools" is a major public/private partnership with programs in 31 cities aimed at dropout prevention and reducing school violence. CIS helps communities develop local and state public/private partnerships and provides training and technical assistance to local sites.

"Law-Related Education (LRE)" teaches elementary and secondary students about the law, the legal system, and what it means to be citizens. Recently LRE began emphasizing to students the legal consequences of using illegal drugs and alcohol, and is testing a drug curriculum in 21 States. It will be available for use in all States during the 1989–90 school year.

"National School Safety Center" helps schools respond more effectively to gangs, drugs, and violence by providing technical assistance, training, and resource materials to school administrators, law enforcement officials, youth serving agencies, and community leaders.

"School Crime and Discipline Research and Development Program" is identifying significant legislation, case law, and litigation as they relate to development of schools' disciplinary and crime control policies and procedures; developing discipline and crime control codes based on the analysis of relevant law; implementing the codes in selected schools; and measuring their impact.

*Missing, Exploited, and Abused Children*

"Child Victim as a Witness Research and Development Program" is testing various techniques for improving the juvenile justice system's handling of child victims in order to enhance the understanding of the effects of court policies and procedures on child witnesses.

"Court Appointed Special Advocates (CASA), a National Training and Technical Assistance Project" provides trained volunteers to serve as advocates for exploited, abused, or neglected children whose home placement is being decided by the courts. The program's goal is to ensure that a child's right to a safe permanent home is acted upon by the courts in a sensitive and expedient manner.

"Families of Missing Children: Psychological Consequences and Promising Interventions" is studying effective treatment strategies that help lessen the adverse consequences of abduction and sexual exploitation for the parents, the missing child, and other siblings.

"Followup to National Conference on Child Sexual Exploitation" is providing technical assistance to help selected communities implement programs and strategies that were presented at a national conference sponsored by OJJDP to help communities effectively respond to child sexual exploitation and abuse.

"National Center for the Prosecution of Child Abuse" provides prosecutors with technical assistance, training, and information about ways to more effectively prosecute child physical and sexual abuse cases, and helps social service agencies improve their services to child victims.

"National Studies of the Incidence of Missing Children" is developing valid and reliable national estimates of the numbers of children reported or known to be missing in a year and establishing profiles of missing children and the characteristics of the "missing" incident.

"Permanent Families for Abused and Neglected Children: A National Training and Technical Assistance Project" works with State Permanency Planning Task Forces to address both the legal and social issues associated with foster care as well as the need for permanent homes for children in foster care; and collaborates with the national CASA program to expand court advocate programs for these youth.

"Reunification of Missing Children" is identifying promising strategies that can help a child and his/her family adjust to being reunited after a missing incident.

"Training and Technical Assistance for Private Volunteer Organizations Serving Missing and Exploited Children" provides training and technical assistance in organizational and financial management to help nonprofit missing children agencies strengthen their operations, improve their services, and become self sufficient.

*Training and Technical Assistance*

"Exploring Careers in Criminal Justice and Law Enforcement" provides opportunities for youth in the Boy Scouts National Explorer Program to learn about careers in criminal justice or law enforcement by working directly with law enforcement agencies.

"Juvenile Court Training" offers basic and specialized training in juvenile and family court judges and personnel to keep them up to date on important management, legal and social issues that can help juvenile courts operate more efficiently.

"Juvenile Justice Clearinghouse" keeps juvenile justice practitioners, researchers, and the public informed about OJJDP programs and current juvenile justice issues by providing reports, program descriptions, training or technical assistance materials, and by operating a toll-free informational number (1–800–638–8736).

"Juvenile Justice Prosecution Project" provides workshops for chief prosecutors to educate them about their role in the juvenile justice system and to help them develop sound policies regarding the prosecution of juvenile cases.

"Juvenile Justice Resource Center" provides technical services and assistance to OJJDP and its grantees, and OJJDP's Concentration of Federal Effort (CFE) and Missing Children's programs.

"Juvenile Justice Training and Technical Assistance for State and Local Law Enforcement Agencies" helps law enforcement personnel better understand the juvenile justice system by providing training on a variety of issues including child abuse and sexual exploitation, techniques for handling and treating juveniles, steps for fighting drug abuse, and procedures for managing their departments' juvenile units and improving police productivity.

"Juvenile Justice Training for Court Personnel" provides specialized workshops to help juvenile justice court personnel improve their skills in processing juveniles through the justice system and to help develop programs to meet the needs of juveniles.

"Management Training and Technical Assistance in Nonprofit Organization Management" provides training and technical assistance to help nonprofit youth-serving agencies upgrade their management and resource skills.

"National Conference of State Juvenile Justice Advisory Groups" will be held in Reno, Nevada from May 7–10, 1989. OJJDP is providing financial and technical assistance to an organization to conduct an annual conference relating to the activities of the State Advisory Groups (SAGs) and to fulfill the responsibilities as mandated in section 241(f) of the JJDP Act.

"Prosecutor Training in Juvenile Justice" provides training for juvenile prosecutors in practical trial and case handling skills, and helps them prioritize delinquency cases and process them more efficiently.

"Restitution Education, Specialized Training, and Technical Assistance (RESTTA)" provides training, information, and technical assistance to help jurisdictions implement restitution programs nationwide. The program also includes a National Restitution Resource Center, operated through the Juvenile Justice Clearinghouse.

"Technical Assistance to Juvenile Courts" provides information and technical assistance tailored to the specific needs of juvenile justice practitioners. A curriculum for probation officers and a substance abuse screening instrument for juvenile intake and probation officers are two major initiatives of this program.

"Training and Technical Assistance for Juvenile Detention and Corrections" provides informational films and materials, policy guidelines, regional workshops, and supports an annual national forum to help juvenile detention administrators respond to critical issues. The availability of public and private resources, risk assessment, and drug resources and treatment are being addressed in FY 1989.

Date: April 26, 1989.

Approved:

**Diane M. Munson,**

*Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.*

[FR Doc. 89-11102 Filed 5-8-89; 8:45 am]

BILLING CODE 4410-19-M

Federal Register

Tuesday
May 9, 1989

Part IX

# International Trade Commission

**Lime From Mexico; Import Investigation; Notice**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 332-271]**

### Lime From Mexico; Import Investigation

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of investigation and scheduling of public hearing.

**SUMMARY:** Following receipt on February 8, 1989, of a request from the U.S. Trade Representative (USTR), the Commission instituted investigation No. 332-271 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) (the act). As requested by USTR, the Commission will report to the President on the probable economic effect on an industry in the United States of revocation by the Department of Commerce of the outstanding countervailing duty order on lime from Mexico, provided for in subheadings 2522.10.00, 2522.20.00 and 2522.30.00 of the Harmonized Tariff Schedule of the United States. In accordance with USTR's request, the Commission will submit its report to the President within 150 days of the date of the request, or by July 10, 1989.

**EFFECTIVE DATE:** February 8, 1989.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Haines (202-252-1200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000

Background and Scope of Investigation: On February 8, 1989, the Commission received a request from the USTR (copy attached) to "conduct an investigation into, and report to the President on whether, the probable economic effect on an industry in the United States of revocation by the Department of Commerce of the outstanding countervailing duty order on lime from Mexico, 49 FR 35672, would be such that (1) an industry in the United States would be materially injured, or would be threatened with material injury, or (2) the establishment of an industry in the United States would be materially retarded." USTR further stated that the terms used in its request are defined at 19 U.S.C. 1677.

Public Hearing: The Commission will hold a public hearing in connection with this investigation beginning at 10:00 a.m. on May 18, 1989, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. All persons will have the opportunity to appear by counsel or in person, to present information, and to be heard.

Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, not later than the close of business (5:15 p.m.) on May 10, 1989. If the number of persons requesting an opportunity to appear by counsel or in person is large, limitation of time for the presentation of oral testimony is in the public interest to ensure that all viewpoints are aired. Accordingly, in scheduling appearances at the hearing, the time to be allotted to witnesses for the presentation of oral testimony will be limited. The Commission will determine appropriate allocations of time based on the number of persons requesting an opportunity to appear. Questioning of witnesses will be limited to members of the Commission and its staff and witnesses should be prepared to provide additional information in response to such questioning.

Any written materials presented at the hearing must be submitted in accordance with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

Written Submissions: Interested persons are invited to submit written statements in the form of one prehearing and/or one posthearing statement (as described below) concerning the investigation, in lieu of, or in addition to, appearances at the public hearing. Commercial or financial information that a submitter desires that the Commission treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

A signed original and fourteen (14) copies of each written statement must be submitted to the Commission in accordance with section 201.8(d) of the Commission's rules (19 CFR 201.8(d)). All written submissions, except for confidential business information, will be made available for inspection by the public during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Persons who intend to submit a written statement to the Commission should so inform the Secretary of the Commission no later than the close of business on May 10, 1989. To be assured of consideration by the Commission, a prehearing statement should be submitted not later than the close of business on May 15, 1989. Posthearing statements must be submitted not later than the close of business on May 25, 1989.

The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who have requested an opportunity to appear at the public hearing or who have indicated an intention to submit a written statement. The service list will be made available to the public on May 11, 1989. The Commission encourages all persons or counsel therefor filing a written statement with the Commission to serve a non-confidential copy of such statement on each person on the service list.

Release of Data: A public version of the tables prepared for inclusion in the Commission's report will be released to the persons on the service list on May 5, 1989.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

Issued: May 8, 1989.

[FR Doc. 89-11296 Filed 5-8-89; 11:04 am]

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